

Title:

**Domestic Violence Policy & Procedure**

Issue Date: 14.07.2009

Approved by : **Strategic Manager Housing Needs**

Signature :

Approved by : **Director of Housing Services – Newham Homes**

Signature :

### **Manual Outline and Scope**

This Policy and Procedure document deals with Domestic Violence.

For the purposes of this document the term “Domestic Violence” is abbreviated to “DV”.

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**i) Version Control**

<u>Date</u>	<u>Version No.</u>	<u>Reason for Amendment</u>
12.08.1999	0.1	Draft
19.10.1999	1.0	First Issue
26.10.2006	2.0	DV Policy reviewed in light of CBL, focus on perpetrator action re-organisation
05.06.2009	3.0	Complete review
14.07.2009	3.1	Updated post consultation

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- Child Protection Procedure
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- Vulnerable Tenants Procedure
- Homelessness Strategy
- Allocation Policy
- Community Housing Manual

**iv) References to Forms**

- Newham Domestic Forum Form (DV1)

**v) Abbreviations**

DV	Domestic Violence
FJC	Family Justice Centre
NDVF	Newham Domestic Violence Forum
DV1	Domestic Violence Assessment Form
LSC	Local Service Centre
CC	Contact Centre
NSM	Neighbourhood Services Manager – Newham Homes
HNS	Head of Neighbourhood Services – Newham Homes
HOC	Housing Options Centre
TSO	Tenancy Services Officer – Temporary Accommodation
HAO	Homeless Assessment Officer
RSL	Registered Social Landlord
CBL	Choice Based Lettings Agency
TMO	Tenant Management Organisation
CTPFI	Canning Town Private Finance Initiative - Pinnacle
FGPFI	Forest Gate Private Finance Initiative – Swann
C&ASB	Crime & Anti-Social Behaviour Service

## 1.0 Introduction

The aim of this procedure is to provide a framework for dealing with issues relating to domestic violence (DV), on a multi-agency approach. This partnership approach to dealing with DV involve the following agencies: Newham Housing and Public Protection (H&PP), the two Tenant Management Organisations (TMO), Canning Town PFI (CTPFI), Forest Gate PFI (FGPFI) Newham Homes, Customer Services, Crime and Anti-Social Behaviour Services (C&ASB), Newham Family Justice Centre (FJC), Children and Young People's Services, Adult Services, the Police, the Newham Domestic Violence Forum (NDVF) members and other voluntary sector agencies.

For the purpose of this policy and procedure H&PP, TMOs, PFIs and Newham Homes will collectively be referred to as Newham Housing Services.

The term 'housing officer' will be used generically to refer to neighbourhood services managers, tenancy services officers, PFI and TMO officers and RSL housing officers. When the term neighbourhood services manager (NSM) is used it will apply to Newham Homes, PFI and TMO housing officers managing council housing.

The term 'managing agent' will be used to refer to Newham Homes, TMO and PFI providers.

## 2.0 Objectives

This procedure seeks a proper and effective response to individual cases of DV. It is intended to complement other responsive policies and procedures used within Newham Council services. The main objectives of this procedure are that:

- Tenants, leaseholders and other residents should be able to live in quiet and safety;
- Complaints of DV should be investigated and support offered to all clients;
- DV clients are kept safe and enabled to take action;
- Where possible action should be taken against perpetrators;
- Complaints should be dealt with in a sympathetic, consistent, prompt, sensitive and objective manner.

## 3.0 Key Principles

Key principles for housing officers and all other staff dealing with complaints of DV are:

1. To treat all complaints of DV seriously and sensitively;
2. To take a "client orientated" approach - though if there are concrete reasons to doubt what the client is saying, then more detailed enquiries should be made - but without putting them at risk;
3. To note that this policy also applies to lesbian, gay, bisexual and transgender relationships and recognise that the legislation is gender-neutral;
4. To gather information that will:
  - enable serious harassment or violence cases to be dealt with as a matter of urgency;
  - ensure that all cases are dealt with appropriately.

5. This policy recognises the need for a high level of confidentiality in dealing with cases of DV, please refer to Caldicott Policy for further guidance. It is essential that information is not given to anyone without the consent of the client, unless there are child protection concerns or high risk of harm, and that information held on computerised and manual systems within the service is secured from improper use;
6. To use both interpretation and translation services as the need arises. However if it is not possible to use Language Line and a delay arises because of the need to book an interpreter, the complainant must not be sent back to a violent situation within the home;
7. To give information about other agencies and services able to deal with DV;
8. To refer clients to, and/or liaise with other agencies and service areas where necessary;
9. To deal with all requests for re-housing in line with relevant legislation and the Council's Housing Allocations Policy.
10. To take legal action where appropriate, having got the necessary information and obtained the appropriate consent, and without putting the client at risk;
11. To maintain proper records, and have effective systems in place to follow cases through to a conclusion and to ensure action is taken;
12. To respond to all incidents, keeping clients informed about what is happening and any decisions taken in a way agreed with the client;
13. To arrange/attend case specific meetings as needed with partner agencies where particular issues require attention;
14. To provide staff training, including induction and refresher training.

#### 4.0 Definition

Due to the scope of services covered within the procedure (both general service provision and housing specialist services) Newham Housing Service has two DV definitions. These are as follows:

##### **The GLA definition of DV (Nov 05) is:**

'Any incident of threatening behaviour, violence or abuse (psychological, physical, sexual, financial or emotional) between adults who are or have been intimate partners or family members, regardless of gender or sexuality.' 'This definition incorporates issues such as forced marriage, female genital mutilation and so called 'honour' killings, as well as elder abuse when committed within the family or by an intimate partner'. It should 'be seen as a pattern of abusive and controlling behaviour through which the abuser seeks power over the victim'.

##### **The Housing Act 1996 definition of DV is:**

It is not reasonable for a person to continue to occupy accommodation if it is probable that this will lead to domestic violence against her/him, or against:

- a) a person who normally resides with her/him as a member of his family, or
- b) any other person who might reasonably be expected to reside with her/him.

For this purpose "domestic violence", in relation to a person, means violence from a person with whom he is associated, or threats of violence from such a person which are likely to be carried out.

The 1996 Housing Act defines the types of relationships in which DV could occur.

A person is “associated”<sup>1</sup> with another person if:

- a) they are or have been married to each other;
- b) they are cohabitants or former cohabitants;
- c) they live or have lived in the same household;
- d) they are relatives;
- e) they have agreed to marry one another (whether or not that agreement has been terminated);
- f) In relation to a child, each of them is a parent of the child or has, or has had, parental responsibility for the child.

If a child has been adopted or has been freed for adoption by virtue of any of the enactment's mentioned in section 16 (1) of the Adoption Act 1976<sup>2</sup>, two persons are also associated with each other for the purposes of this Part if:

- a) one is a natural parent of the child or a parent of such a natural parent, and
- b) the other is the child of a person:
  - i) who has become parent of the child by virtue of an adoption order or who has applied for an adoption order; or
  - ii) With whom the child has at any time been placed for adoption.

#### 4.1 General guidance note - Domestic Violence or Sexual Harassment?

The first decision that an officer needs to take is whether a particular case falls within the DV policy. If the case fits within the criteria detailed above, i.e. it falls within the definition of DV and the alleged perpetrator is an “associated person”, then this procedure should be applied. Where a case does not fall within the DV definition then officers should refer to the Crime & Anti-Social Behaviour Procedure. If the officer has any doubts about this, s/he should investigate as much as possible, look at the definition of sexual harassment and seek advice from her/his line manager as soon as possible.

<sup>1</sup> The definition of ‘associated’ persons’.....’ they have or have had an intimate personal relationship with each other which is or was of significant duration’.

*Domestic Violence, Crimes and Victims Act 2004, Chapter 28. Section 4, Extension of Part 4 of 1996 Act to non-cohabiting couples*

<sup>2</sup> In this section -

“adoption order” has the meaning given by section 72(1) of the “Adoption Act 1976:

“child” means a person under the age of 18 years;

“cohabitants” means a man and a woman who, although not married to each other, are living together as husband and wife, and “former cohabitants” shall be construed accordingly;

“parental responsibility” has the same meaning as in the Children Act 1989; and

“relative”, in relation to a person, means-

(a) the father, mother, stepfather, stepmother, son, daughter, stepson, stepdaughter, grandmother, grandfather, grandson or granddaughter of that person’s spouse or former spouse, or the brother, sister, uncle aunt, niece or nephew (whether of the full blood or of the half blood or by affinity) of that person or of that person’s spouse or former spouse, and includes in relation to a person who is living or has lived with another person as husband and wife, a person who would fall within paragraph (a) or (b) if the parties were married to each other.

## 5.0 Domestic Violence Policy

Newham Housing Services aims to work in partnership with other social landlords as well as statutory and voluntary organisations to identify and improve services. All staff will promote a partnership approach to domestic violence issues and will assist with referrals to agencies and other council services. Newham Housing Services will make every effort to participate in multi-agency training initiatives and actively promote joint training with other council services.

Newham Housing Services will work in partnership with the FJC to provide support and risk assessments for all clients who approach us for assistance, including out of borough approaches to the HOC; with the exception of male victims who will be referred to NAADV where support is required.

The assessment carried out by the FJC will be accepted by Newham Housing Services as a true and accurate assessment and will be used to determine what assistance can be provided.

This policy aims to ensure:

- a sensitive, confidential, consistent and prompt response;
- a flexible range of services to assist people to live in safety and security;
- officers receive support and training to enable them to take appropriate action;
- clarification of responsibility;
- services are monitored; and
- a partnership approach within all relevant sections of Newham Housing Services, Children & Young People Services, FJC and other agencies.

In order to maintain consistency, Newham Housing Services will adopt the definition as used by the GLA (see section 4.0).

The housing service will be delivered in a manner that complies with the Council's equal opportunities policy.

## 5.2 Training

Dealing with DV requires a complex set of skills for an officer to effectively deal with a customer. As part of our multi-agency approach to dealing with DV, all relevant officers and managers will be provided with training opportunities.

This procedure should be included as part of the induction for new staff dealing with clients.

DV training will be provided as follows:

- Generic Training (1 day), provided by the FJC, for all staff involved in assisting DV clients
  - What is DV?
  - Who does DV affect? Inc. diversity
  - Interventions
  - FJC overview
  - How does DV manifest?
  - Remedies
  - Options
  - Child protection links
- Policy Training (1 day) for all staff involved in implementing the policy & procedure
- Legal Options Training (1) for all staff involved in giving advice about legal/tenancy options to include perpetrator action

- ISYS Training on modules relevant to DV (1/2) for all staff using iSYS

Refresher training of ½ day will be arranged every 2 years.

### **5.3 Public Information**

Our domestic violence policy, including agencies that provide advice and support, will be published through:

- The Tenants Handbook
- NDVF leaflets, posters, booklets, and website
- Individual agency information
- Newham website
- Newham Homes website

## 6.0 The Procedure - The Role of Services

Each service area plays an important role in the overall service that Newham provides for cases of DV. Newham Housing Services will primarily use Newham's Family Justice Centre (FJC) to carry out risk assessments of all DV clients. Where the FJC are unable to do the risk assessment they will redirect the client to another agency. The DV Forum website details the other agencies available: [www.newhamdvf.org.uk/contact.html](http://www.newhamdvf.org.uk/contact.html).

Ideally we would want all clients experiencing DV to approach the FJC, who would then assist them to access other Council services. However, where clients have not approached the FJC first then they would normally go to a Local Service Centre (LSC), where a referral will be made to the FJC. Where the client has approached another service first these will make the referral to the FJC.

If the client approaches a service other than the LSC a referral should be made to the FJC.

Even if the client is only requesting advice or information about DV a referral should still be made to the FJC for advice and assistance on the full range of housing and legal options available to them. The client will be given supporting information where appropriate by the FJC.

Where the FJC incur interpreter costs for clients that would normally have been seen by Housing Services, they will re-charge the service.

In all cases of DV, staff will adopt a sympathetic but realistic approach to any interviews. At every stage of the procedure the client will be asked if they wish to deal with an alternative officer e.g. where a male is reporting DV they may wish to be seen by a male officer or vice versa.

Where clients require out of hours assistance there are several options, they can contact:

- The Police
- Newham Emergency Services, or
- Refuge 24 hour helpline

## 6.1 Landlord Contacts

LBN Council Tenant/non-tenant in council property	Neighbourhood Services Manager and/or Head of Neighbourhood Services
Council Tenant/non-tenant in council property in a PFI area	PFI Housing Manager and/or Contract Manager
Council Tenant/non-tenant in council property in the TMO areas	TMO Housing Officer and/or TMO Manager
Private (owned or rented), Hostel Tenant or Leaseholder	Housing Options Centre
HPU Leased Tenant	Tenancy Services Officer and /or Tenancy Services Team Leader
Housing Association Tenants	See below
Out of borough approaches	Housing Options Centre
<u>Housing Association Tenants</u>	

Where the client is a housing association tenant the relevant housing association should be contacted to establish whether they can provide assistance. Where they are not able to provide assistance the HOC will take on the responsibility.

### Stage 1

## **6.2 The Role of the Local Service Centre (LSC) & Contact Centre (CC)**

Following a report of DV the customer services officer will undertake an initial interview with the client, recording information on the Carefirst system. The customer services officer will:

- Establish whether the client is a private resident, an RSL tenant, a council tenant with secure accommodation or a tenant in leased temporary accommodation;
- Explain that Newham has a DV service that carries out all initial assessments of need and then assists them through other processes to get assistance, including housing (except for men (see below));
- Refer the client by telephone to the FJC or arrange for the client to speak with the FJC Advisor by phone in emergencies;
- Ensure that the information is recorded on Carefirst and the Customer Tracking System;
- If the client is a secure, non-secure, introductory or temporary council tenant the Housing Officer must be notified via iSYS (when this goes live);
- If the client is a tenant with a temporary leased accommodation, a notification must be sent to the relevant Housing Officer within the Temporary Accommodation Team.

Where men approach and LSC/CC they should be referred to the HOC (see section 6.5), as the FJC do not provide a service for men.

### Stage 2

## **6.3 The Role of the Family Justice Centre (FJC)**

The FJC will carry out an in-depth face to face interview with the client discussing the recent incidents of DV and their housing circumstances, including a risk assessment. They will provide general advice and advocacy including possible options available to them.

During the assessment the DV advisor will:

1. Complete the DV risk assessment (DV1);
2. Determine clients relationship with the perpetrator(s);
3. Establish the details of the DV or threat of DV;
4. Assess the severity of the case;
5. Determine what action has been taken so far to deal with the situation;
6. Determine what support is required and arrange this;
7. Discuss the options available, including legal and housing options;
8. Discuss the Sanctuary Scheme and make the referral where appropriate;
9. Assist with arranging accommodation with friends, family or refuge;
10. Discuss the risk assessment with the Housing Officer to agree the next steps;
11. Refer to HOC where emergency accommodation is agreed as necessary in liaison with the Housing Officer if appropriate.

During the assessment the DV1 will be completed, including details of their situation and notes of any previous reports and action taken at the time. It should also show details of all the

housing options explained and discussed along with the outcome. This assessment should take place before Newham Housing Services make any decision regarding housing assistance.

Where the client has an interest or involvement in a council tenancy, secure, non-secure, introductory or temporary, the DV advisor will contact and work with the Housing Officer to address the tenancy issues. The housing officer has the responsibility to discuss the tenancy obligations and options and to take perpetrator action where agreed (see section 6.4)

The FJC will liaise with the appropriate housing officer (see sect. 6.1) to agree on whether it is unreasonable/reasonable for the victim to return to their home.

If the client cannot return to their home, alternative accommodation should be sought from relatives/friends, refuge or hostels.

If no alternative accommodation is found B&B accommodation may be considered. The FJC will refer the client direct to the HOC where an assessment will be undertaken, and if needed, temporary accommodation will be arranged (see section 6.5).

The FJC should explain to the client that only the Housing Options Centre (HOC), and not the housing officer, can provide temporary accommodation.

Once the assessment/advice has been carried out the FJC will:

- fax the completed DV1 to the relevant housing officer, where the client is leaving a tenancy or wanting to pursue some form of action;
- fax the completed DV1 to the HOC, where emergency accommodation is required or are seeking homeless assistance;
- give the client a copy of the completed DV1, where safe to do so;

Where the client does not consent for their information to be shared with the Housing Service the FJC will advise them that they would need to be fully re-interviewed by a housing officer before any assistance is offered.

Where emergency accommodation is not required the FJC will continue to monitor the situation providing advice and support. Either during the initial assessment or at a following appointment the following areas of advice and assistance will be provided:

1. Crime prevention
2. Victim support
3. Legal advice
4. Routes to alternative housing – Choice Based Lettings, MoveUK, Bond Scheme
5. Referrals to other agencies

The FJC will share information with Housing Services where the client is leaving a tenancy (regardless of whether they are the tenant or not) or wants to take some form of action.

The FJC will continue to provide the support and assistance that the client requires. The FJC will notify the Housing Officer when they cease to be involved with the client.

### Emergency Assessments

Where there is not time for the client to be seen face to face for an interview by the FJC, due to the lateness in the day for example, arrangements will be made for the client to speak with a FJC DV advisor on the telephone. During the telephone conversation the DV advisor will assess the urgency of the situation, the risk involved, and the options available.

Where a referral to the HOC is required the DV advisor will complete a shortened DV1 with the information already collected and contact the HOC by phone to arrange assistance (see section 6.4).

### Referrals

Where the FJC feels that support would be better provided elsewhere this will be discussed and arranged in conjunction with the client.

There may also be times where the FJC is not able to take on a client due to gender or times of high demand on their service. In these circumstances the FJC will refer the client to another agency that is best placed to provide the advice and support outlined above.

### FJC Contact Details

64-66 West Ham Lane, Stratford, E15 4PT.  
020 3373 3137  
dvteam@newham.gov.uk

## **6.4 The Role of Teams Managing Council Housing**

The housing officer may become aware of a tenant/leaseholder at risk of DV through one or more agencies e.g. the LSC, the FJC voluntary agencies, the HOC, Adults Culture & Community, or in person. In a small number of cases a tenant/leaseholder may report DV directly to the housing officer.

The housing officer should check that a referral has been made to the FJC and where it has contact them for an update on the case.

If a referral has not yet been made to the FJC the housing officer should carry out an initial interview completing the DV1 and refer the client to the FJC for a detailed assessment, advice and support; sending the DV1 to them. Where the situation warrants immediate action the FJC can do an initial assessment on the telephone.

At whatever point the housing officer becomes involved with a DV client a discussion about repairs and security should be initiated and appropriate action taken, regardless of any subsequent referrals to other agencies or sections.

The housing officer should provide advice and assistance on the following:

- taking actions against the perpetrator (via the Crime and ASB Team);
- tenancy obligations and options;
- the need for security measures e.g. security fixtures (locks on windows and doors, spy hole etc.), fast-track repairs, Newham Secure Homes;
- re-housing options.

The housing officer will take the necessary action to enforce relevant sections of the tenancy agreement that are breached by the perpetrator with the Crime & Anti-Social Behaviour service.

Where the client has an interest or involvement in a council tenancy the FJC will contact the housing officer to arrange an appointment for the client to go through tenancy specific issues listed above.

The FJC will share detailed information with the housing officer if the person is planning to leave the property or wishes to take some form of action, or where the client has requested it.

#### Council Tenants not Returning to Property

The housing officer will need to have discussed the tenancy issues with the client including the implications of leaving the tenancy and the possibility of an urgent transfer, before the HOC will take responsibility for the client. This could usually happen the same day the client approaches the FJC, but definitely within one working day.

The housing officer will contact HOC and inform them that they have had the discussion with the client and confirm that they are not able to assist them with retaining the tenancy. Until this is done any costs relating to B&B will be the responsibility of the managing agent (i.e. Newham Homes, PFIs and TMOs) and will be charged back to them.

***Secure council tenants should be advised not to give up their tenancy until they have been accepted as homeless by the HOC in writing.***

Once a homeless duty has been accepted the tenant will be advised to serve a notice to quit in order to end their tenancy. Housing benefit can only be paid on two residencies for a maximum of 4 weeks (see section 10.5) as the client does not intend to return to their tenancy. If the tenant refuses to do this the Head of Neighbourhood Services (or other senior manager) will decide what should happen with the tenancy. It may be possible to seek possession without the tenant serving notice to quit and this will need to be considered.

Officers must ensure that adequate liaison is maintained with the FJC and other council services and agencies in the interest of the client. For example, where children are involved child protection issues must be discussed, and ensure adequate liaison with Children & Young People's Services to address them (refer to the Child Protection Procedure).

#### B&B Bookings

The client should not be disadvantaged by issues around paying for B&B. Where the client requires B&B accommodation this will be arranged by the HOC as outlined in section 6.5.

Where responsibility for the client has not formally been handed over to HOC by the housing officer as detailed above the managing agent will bear the costs of the B&B.

Where an urgent transfer decision is pending all B&B costs will be the responsibility of the managing agent.

Where an urgent transfer has been agreed costs relating to interim accommodation will be the responsibility of the landlord.

#### Case Monitoring, Review & Closure

The housing officer should ensure that all cases of DV are recorded on the appropriate IT systems (e.g. iSYS, Customer Tracking, ICLipse).

Information regarding the alleged perpetrator must also be logged onto iSYS, and communicated to the appropriate officer within the C&ASB service.

All DV cases must be reviewed at one to one meetings with the line manager and an action plan developed for each case.

A decision to close the case will be taken when all tenancy issues have been resolved. Any such decision will be made following a check with the FJC.

## 6.5 The Role of the Housing Options Centre (HOC)

### Lead Responsibility in HOC for DV

One of the Prevention and Advice Team Leaders will act as the main point of contact for DV agencies. The named team leader will designate a deputy. The team leader and their deputy will monitor DV cases that the Prevention and Advice teams have. They will also liaise with the Assessment team leaders to ensure that they have a comprehensive overview of DV cases that the HOC is dealing with.

The team leader with DV responsibility will:

- Attend MARAC meetings;
- Organise quarterly policy review meetings with NDVF members;
- Organise joint training session with Forum members at least once a year, to update on policy and procedure changes at HOC;
- Attend/arrange case specific meetings as required with partner agencies;
- Inform the DV Forum if the main HOC contact or their deputy change, through the FJC;
- Liaise regularly on DV cases with the FJC;
- Monitor quality and consistency of referrals via the DV1.

### Referrals to HOC

These will ordinarily come from the FJC. Should an applicant approach an LSC/CC she will be referred to the FJC for an assessment. This includes out of borough approaches and council tenants. Should an applicant approach HOC directly she will be referred to the FJC for an assessment

The one exception is where the client is male. The LSC/CC will refer all male clients experiencing DV directly to the HOC to carry out the assessment. Where the client requires some form of support they will be referred to an appropriate agency.

Having carried out an initial assessment the FJC will call the HOC before sending a client, to give a brief overview of the situation and why a referral to the HOC is necessary. The FJC will send the completed DV1 to the HOC at the time of the referral. Where there has not been time to complete a full assessment the FJC DV advisor will provide initial information over the telephone to duty senior.

The referral by the FJC may be a full referral to HOC for housing assistance or it might be for short-term B&B so that a full assessment can be carried out on the next working day to go over what the client's options are.

The FJC can send clients to the HOC up until 3.30pm, after which the HOCs reception doors are closed.

The assessment carried out by the FJC will be accepted by the HOC as a true and accurate assessment and will be used to determine what assistance can be provided.

On some occasions the FJC will have to refer clients to an alternative DV agency for the DV assessment these agencies should do the same level of assessment and complete a DV1, which will be available to HOC.

#### B&B Bookings & Out of Hours

Where the client requires emergency accommodation for one night in order to see the FJC again or to approach the HOC the following day, the FJC can phone the duty senior up until 4.45pm. Where a telephone B&B booking is agreed the client would need to present the necessary documentation to prove identity and income the following working day.

After 5pm all requests for assistance must be made to the Emergency Duty Team either through the Council's out of hours number or by going to the Police.

The HOC has an out of hours officer who deals with all requests for emergency B&B from the Emergency Duty Team between the hours of 5pm to 8am.

#### Direct Approaches to HOC

There will be rare occasions where a DV client comes directly to the HOC. The client will not be asked to leave the HOC and go somewhere else unless it has been agreed with the agency. Usually in these situations contact will be made with the FJC to carry out an initial assessment on the telephone. The client should be given some privacy for this call, preferably in an interview room. Once the assessment is completed the HOC officer will need to call the FJC DV advisor for direction.

Where it is too late in the day for the FJC to even do a telephone assessment, and there are no other options, the HOC will arrange emergency B&B accommodation so that the FJC can carry out the assessment on the next working day, unless the client is ineligible.

#### Documents Required by HOC

The HOC normally needs to see proof of identity and proof of eligibility for the client and their accompanying family members. It is recognised that when someone is fleeing violence, this may not be possible. Where a customer has fled without the required documentation, B&B may be provided for one night to enable the client to arrange access to their previous address with the police to obtain the documentation needed to assess their homeless application. If it is not possible for the Police to help, HOC will extend the B&B for 7 nights in order to give time to obtain copies of birth certificates and confirmation of benefits.

#### Non-Eligible Clients

Where clients are determined not to be eligible for assistance by the HOC, it is possible that other sections in the Council can assist.

If the client has children then a referral can be made to the Children's Assessment & Investigation Team (CAIT) under the Children's Act.

If the client is a vulnerable adult, including pregnant women, a referral can be made to Adult Services under the National Assistance Act.

### 6.5.1 The Prevention and Advice Team

The FJC carry out an assessment role and will only refer to the HOC if the client does not wish to explore any other options.

Should a referral to the HOC be the most appropriate option for the client this will be made to the Homeless Prevention Team. An officer from this team will arrange to interview the client. Most interviews will take place at the HOC. If the client does not feel safe attending the HOC an alternative venue will be arranged.

The officer who interviews the client will accept the DV assessment provided by the FJC as the basis for the interview. During the interview this officer will go over and confirm the details provided and discuss the re-housing options available. The officer will also obtain any information that is not included on the DV1 that is required to provide assistance but will not expect the applicant to repeat in great detail the information contained in the assessment relating to the DV.

Should the client wish to pursue accommodation in the private sector she will be offered assistance under the Councils Bond Scheme subject to the approval of a senior officer. If approved the clients details will be referred to the Housing Initiatives Team within the HOC. An officer within this team will then assist the client to obtain accommodation under the scheme.

Where the client has social housing and agrees to take a Bond Scheme property the initiatives officer will notify the relevant landlord and the Housing Benefit Service once the new tenancy has been signed.

Should the client not wish to take advantage of the Bond Scheme or any other option which may be available she will be invited to pursue a homeless application and a referral will be made to officer in the Assessment Team within the HOC. .

### 6.5.2 The Assessment Team

The role of the Assessment Team is to carry out assessments under the Housing Act 1996 Part VII. If the person being assisted wishes to pursue an application under this legislation interim accommodation will be provided if there is evidence to suggest that a client is eligible, homeless and in priority need pending completion of enquiries into the application.

The purpose of these enquiries is to determine whether a full homeless duty is owed towards the client. If so the client will be notified of this in writing. Where the client had any kind of tenancy the HAO will notify the landlord and the Housing Benefit Service of the decision.

When a full homeless duty is accepted the client will be nominated for long term temporary accommodation or if the client is willing to accept alternative accommodation in the private sector a qualifying offer will be made. If the client requires long term temporary accommodation, a nomination will be made to the Lettings Agency.

The client will be registered on the CBL Allocations Scheme. Should the client retain an interest in a property either through ownership or tenancy, their CBL application will have a note as follows:

Tenant: 'this applicant still has an interest in a council/RSL tenancy'

Owner Occupier: 'this applicant is an owner occupier'

The note will remain until the Assessment Team are satisfied that the client's interest in a property has ended or the client returns to the property.

The homeless duty will be discharged when either they are re-housed to permanent accommodation or there is a change of circumstances which warrants the discharge.

#### Council Tenants who do not wish to retain their tenancy or pursue perpetrator action

The housing officer will contact HOC to confirm that they have had the discussion with the client and that they are not able to assist the client to retain the tenancy or take perpetrator action. If this is the case the HOC will take responsibility for the client (see section 6.4).

If the HOC assist the client under the Bond Scheme or with another housing option or the client pursues a homeless application and a full re-housing duty is accepted the client will be advised to terminate their council tenancy. If the client is in receipt of housing benefit this can only be paid on two tenancies a maximum of 4 weeks as there is no intention to return to the accommodation which the client has fled.

Where the client retains an interest in a tenancy, their CBL application will have a note as follows:

- Tenant: "this applicant still has an interest in a council tenancy".

The note will remain until the Assessment Team are satisfied that the client's interest in the tenancy has ended or the client returns to the property.

The client will be issued with an information sheet that explains the steps they need to take to resolve their situation including their responsibilities and liabilities, at the point they are issued with their acceptance letter.

#### Housing Associations and Private Sector Tenants

The principle stated above in relation to terminating a tenancy and housing benefit being paid on two properties applies to both housing association and private sector tenants in the same way as it applies to council tenants.

#### Single DV clients

Where a client does not have children, careful consideration will be given as to whether they meet the priority need criteria. In order to have a priority need for re-housing such clients have to be vulnerable due to being subjected to DV. The vulnerability test has been developed by the courts and will be applied to every case on its merits.

#### Owner Occupiers

Assistance can be given to owner occupiers fleeing DV. If so and they are registered on the CBL scheme a note will be added to alert Lettings that they still have an interest in a property, as follows:

- Owner-Occupier: "this applicant is an owner-occupier".

The note will remain until the Assessment Team are satisfied that the client's interest in a property has ended or the client returns to the property. Until this time their bids will continue to be given less priority.

The client will be issued with an information sheet that explains the steps they need to take to resolve their situation including their responsibilities and liabilities, at the point they are issued with their acceptance letter.

#### Tenants in Temporary Leased Accommodation

When someone in temporary leased accommodation reports DV to either a tenancy services officer (TSO) or an officer at the HOC this officer will carry out an initial interview completing the DV1 and refer the client to the FJC for a detailed assessment, advice and support; sending the DV1 to them. Where the situation warrants immediate action the FJC can do an initial assessment on the telephone.

Following an assessment by the FJC the DV advisor will contact the Homeless Assessment Team.

If the client is the original homeless applicant the HAO will decide whether a transfer to alternative accommodation should be arranged. The HAO will liaise closely with the TSO throughout. If the client requires a move to alternative accommodation they should be offered the opportunity of accepting a qualifying offer in the private sector. If the client accepts this option the TSO must refer to the Initiatives Team. Where the perpetrator is left in the property, the HAO will review the original homeless application to establish if a duty is still owed to the perpetrator and any of the remaining household. If not, the TSO will serve notice upon discharge of the homeless duty.

If the client is not the original homeless applicant and the perpetrator is living in the property and is an associated person the client will be referred to the FJC and through to the Prevention Team where necessary. The HAO will liaise with the TSO to determine the status of the perpetrator. If no duty is owed to the perpetrator, the TSO will serve notice.

## 6.6 Re-housing

### Choice Based Lettings (CBL)

All properties available through the CBL are allocated on the basis of bids from CBL applicants. The bids received for each property are ranked according to the length of time the households bidding have been registered on the Housing List.

Applicants who have any property-related debts (such as rent arrears, council tax arrears or a housing benefit overpayment) to the Council, either relating to their existing home or a former home, are normally given less priority than other applicants when being considered for offers of accommodation, or when being considered for a nomination to a Registered Social Landlord for housing, until such time as they clear all debts owed.

The Allocation Policy allows for any provision to be considered and waived in exceptional circumstances. This would normally require a full report of the circumstances of the individual case to be prepared by a senior housing officer for consideration by the Strategic Manager Housing Needs.

For further information on debts and CBL refer to the Allocations Policy section 3.

### Urgent Transfers for Council Tenants

If a council tenant with Newham Homes requests an urgent transfer, this should be referred to a panel for assessment. The panel consists of a senior manager in Newham Homes and the

Lettings Agency Manager. It should be noted that it is policy that a victim of DV must be taking perpetrator action to be allowed access to the transfer scheme. Where the council tenant is with a PFI or TMO the decision is made by the Lettings Agency Manager alone.

Where a council tenant has been approved for an urgent transfer and requires accommodation as it has not been possible to arrange to stay with family, friends or in a refuge, the managing agent will request that HOC arrange for accommodation to be provided pending the transfer. The managing agent (i.e. Newham Homes, PFI and TMOs) will be responsible for the costs of the accommodation provided pending the transfer.

The criteria for the award of emergency re-housing status are set out in more detail in the Crime & ASB Staff Casework Manual (section 6.9).

## 6.7 Appeals/Complaints

Clients have a right to make a complaint about the way they have been dealt with or to appeal a decision. There are two main types as follows:

Type of Appeal/Complaint	Action
<p>A client appeals against a decision based on legal definition e.g.</p> <ul style="list-style-type: none"> <li>• Not eligible</li> <li>• Not in priority need</li> <li>• Discharge of duty due to refusal of suitable temporary accommodation</li> </ul>	Action is to pass to the Review Team at the Housing Options Centre
A client makes a complaint about Newham policy/conduct of an officer	Dealt with under the Councils Corporate Complaints procedure.

## 6.8 Monitoring and Record Keeping

All officers are responsible for providing up to date records as follows:

- Full case-notes and relevant documentation to be kept on ICLipse;
- ISYS to be updated with the various stages of the investigation, decisions, current accommodation;
- All vulnerability panel decisions to be kept as word document and on ICLipse (see the Vulnerable Tenants Procedure);
- Ensure that the appropriate DV vulnerability code is flagged on iSYS and this is kept up to date (see the Vulnerable Tenants Procedure);
- Reviews are to be documented by the Housing Options Review Team;
- Data regarding DV cases is kept and reported internally and externally.

Title:

**Domestic Violence Policy & Procedure**

Issue Date: 14.07.2009

**7.0 Procedure Flow Chart – to be produced**

## 8.0 Crime & Anti-Social Behaviour (C&ASB) Service

The C&ASB service has an overall responsibility for co-ordinating the Council's response to complaints of anti-social behaviour and crime across the borough. This may include reporting incidents of DV or taking action against a perpetrator of DV including possession proceedings and obtaining injunctions.

The C&ASB service manages all ASB cases where the Council undertakes perpetrator action; this includes DV. They also manage the professional witness budget and which covers the installation of cameras. Both CCTV and direct surveillance cameras are managed within the service area.

A case officer investigating a case may become aware of DV as a factor either with a victim, witness or perpetrator of ASB. In all cases the service user will be referred to a FJC immediately, which is the first point of contact for dealing with DV, and also to the relevant NSM or TSO.

The Council's emphasis is on identifying and tackling the perpetrator and undertaking work to enable the victim to stay in their home.

## 9.0 When Children are Involved

***Any concerns related to child protection issues must be reported immediately to Children & Young People services, in accordance with the Child Protection Procedure. This includes reporting situations where children have witnessed serious domestic violence, since this is in itself regarded as abusive.***

Situations of DV can often involve children. Most children who witness violence against their mothers do so in isolation and silence. This silence can be compounded by deeply entrenched cultural beliefs in society that it is better not to discuss upsetting events with children.

Boys and girls will not necessarily grow up to be disturbed or abusing adults (the simplistic 'cycle of abuse' theory) but witnessing violence against their mother does leave scars.

### Issues to take into account

- When children are involved, do not interview the client in front of the children;
- Do not use children as interpreters as it could have adverse effects on a child to listen to a parent recount their experiences of abuse;
- Investigate the access issues. For example, under the Children Act, women could be subjected to abuse by contact orders, which permit courts to give fathers access to their children. Ex-partners are sometimes able to find out where a woman is living as a result of contact with the children. This may mean moving a woman more than once, which could be detrimental to her and the children. The caseworker needs to investigate whether the Court awarded a "residence" order, "contact" order or "supervised" contact. Please note that it is very rare for judges to make orders preventing any contact with children (for the father). Caseworkers need to be aware that it is often very difficult for clients in these circumstances to prevent being found. It may be possible for the father to be given only supervised access to the child as a result of the violence. This would mean meeting the child at a centre. However it will still be difficult to prevent him from following them home, or from obtaining the address from the child.
- When there is a court order to disclose the address of the woman, refusal means 'Contempt of Court' and would lead to prosecution.
- In one out of two or three cases where a woman is being abused, at least one child is also being abused, and vice versa.
- Client must be encouraged to seek advice from appropriate organisations, particularly where there are immigration issues or fear of abduction.

## 10.0 Refuges

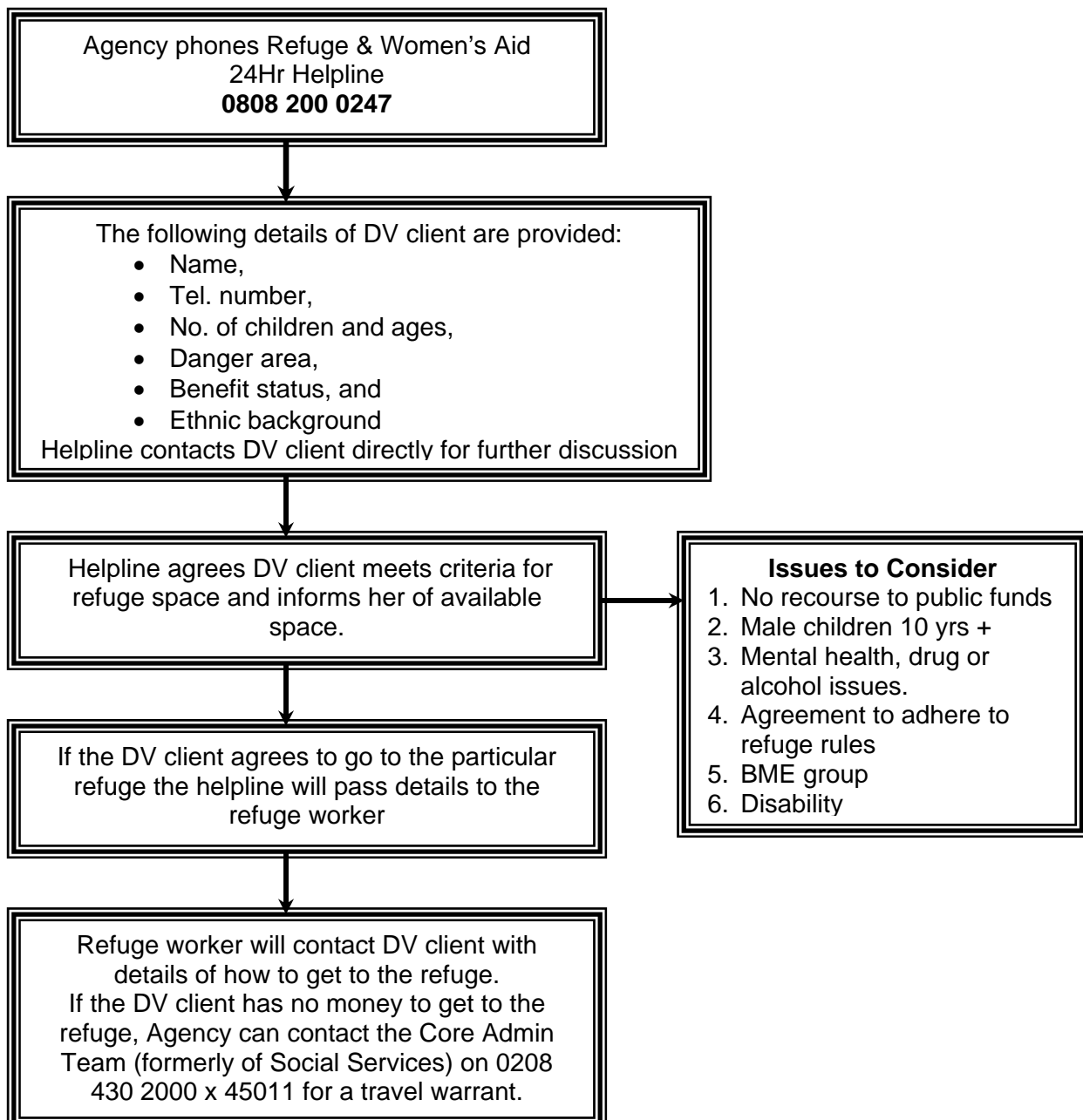
All female clients should be advised of the existence of refuges.

Refuges are emergency hostels for women and children fleeing DV. They provide a range of services to women, from advice on benefits and legal matters to safe temporary housing and support for children.

Most organisations running refuges will seek to place a woman away from her own area in the interests of her own and other residents' safety. It is important to remember that there are not enough refuges, and that they are often full.

Most refuges **do not** accept current drug/alcohol abusers or women with severe mental health problems. Nor do they accept women with boys above a certain age (usually between the age of 10 and 12 years). The GOLD Book is a compilation of the different refuges nationally, outlining what their criteria is and their specific services.

### Flowchart of Refuge Booking Process



## 11.0 Housing Benefit Issues

The Housing Benefit (HB) regulations make specific reference to people in fear of violence. However, officers should remember that regulations which are less specifically targeted to help victims of DV may also be relevant.<sup>3</sup> This guidance covers specific issues that have been raised by Women's Aid.

### 11.1 Definition

A victim of DV for HB purposes is someone who has left their previous home due to violence, or fear of violence perpetrated in the home either by someone who lives there or by anyone from outside the home (for example, a stalker). It also applies to violence or fear of violence occurring outside the home perpetrated by a former member of the claimant's family. Violence outside the home which does not involve a former member of the claimant's family does not qualify for the particular help outlined in this section.

Officers should be satisfied that the claim satisfies the above criteria.

### 11.2 Rent payable for a period before occupation

HB is rarely payable for a dwelling that the claimant has not yet occupied - even if there is a liability to make payments. However, in certain circumstances, a claimant may be treated as having been in occupation for up to four benefit weeks before the move. Victims of DV can get help under this provision if they:

- have a child aged five or less (or qualify for a disability or pensioner premium, or have a disabled child for whom they get a disabled child premium); and
- have made an application to the Social Fund for items or needs, connected with a move to, or setting up of, new accommodation; and
- have delayed the move pending the outcome of the Social Fund application; and
- the claimant has no other rent liability for the period prior to occupation.

Any payments under this provision must be retrospective, after the move has taken place, and a claim for benefit must have been made, or be treated as having been made, for the period of the payment.

In each case, officers must be satisfied that it was reasonable for the claimant to delay the move. It should not be considered reasonable for a move to be delayed while waiting for a decision on a Social Fund application if the claimant could have managed adequately without the item in question. For example, if the application was for items of furniture which, while desirable, are not essential in the short term.

### 11.3 Temporary absence from home

HB and Council Tax benefit may be payable for up to 52 weeks on a home from which a person is temporarily absent, where the person is in fear of violence (see definition above) and satisfies the following conditions:

- the person intends to return to occupy the dwelling as part of their home; and
- the part of the dwelling normally occupied by that person as home is not let or sub-let; and

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<sup>3</sup> "There are other rules, for example about housing benefit for two homes, temporary absence (regulation 7), and liability for rent (regulation 8) which may be helpful given the circumstances of a particular client."

- the period of absence is unlikely to exceed 52 weeks or, in exceptional circumstances, is unlikely substantially to exceed that period.

The first and third conditions must be satisfied throughout the absence. The second will disqualify the benefit for the duration of the arrangement only.

#### 11.4 Overlapping benefit for two homes

HB should normally be paid in respect of a rent liability on one home at any one time. There are, however, a few exceptions to this rule, which may help victims of domestic violence.

##### Fear of violence - benefit on two homes

Where a claimant has:

- left the former home and remains absent from it due to violence, or fear of violence occurring, but
- intends to return to and live in the home at a future date.
- HB may be paid in respect of rental liabilities on both the former home and a temporary home provided that you consider it reasonable to do so.

Payment in these circumstances is subject to an absolute limit of 52 weeks. (You should check regularly that the claimant intends to return to the previous home, and certainly after 26 weeks.)

If the claimant subsequently decides not to return to the former home, payment for the former home should cease. Any benefit paid for the previous home for a period when the claimant intended to return should not be treated as an overpayment.

If the claimant remains liable to make rental payments on the former home and does not intend to return, you should consider whether payments may continue under other regulations.

#### 11.5 Unavoidable overlap for two homes

Where the client has moved into a new home, the authority may consider that liability to make payments for both the old and new homes could not reasonably have been avoided. In this instance, benefit in respect of the former home can be paid for a maximum period of four weeks only, even if dual liability exceeds that period. (It should be noted that if the former home has been relet, then there will be no rental liability even if a period of notice to quit has not been completed.)

#### 11.6 Payment of housing benefit on vacated property

A victim of DV may be treated as occupying the former dwelling as their home for a maximum of four weeks provided that the claimant has an unavoidable liability to make payments on that dwelling and does not have any other home for which they get housing benefit. This provision does not depend on any intention to return to the former home. It offers the victim of violence a "breathing space" of up to four weeks in which to make plans for the future.

#### 11.7 Part Week Claims

Many refuges for victims of DV make a daily charge for their accommodation. In these circumstances you may receive short terms claims for less than a week. Please remember that under the provisions in Housing Benefit Regulation 69, payment may be made for part weeks. You should also be aware that this may mean that the same accommodation may be occupied by more than one family in a week.

### 11.8 Owner Occupiers

There is nothing that allows the Benefit Agency to deduct mortgage payments from income when valuing income. The housing benefit rules allow for some disregards of expenditure, but this is more or less confined to childcare costs or parental contributions to a grant.

However, if the client is eligible for at least some housing benefit, that is, 50p or more, we have discretion to override the effects of the income calculation in "exceptional hardship" cases. The award can be increased to the level of entitlement of an Income Support claimant.

Contact the Housing Benefit Policy Officer for guidance on this in specific cases.

## 12.0 Legal remedies

The local authority may take action against perpetrators of domestic violence, either as the plaintiff or supporting the victim in their claim. The options available will depend, in part, on whether the perpetrator is a council tenant, council leaseholder or private sector tenant or owner-occupier. Case officers should be aware of the role of other agencies, particularly where they have powers to deal with nuisance or harassment. These agencies include, children's services, the primary care trust and the police.

### 12.1 Possession Proceedings against Council tenants

The strongest measure available to the Council where council tenants are concerned is to enforce the tenancy terms and conditions. The tenancy agreement specifies the types of behaviour considered unacceptable, including acts of harassment and nuisance. DV is also covered by clause 3g of the tenancy terms and conditions.

If the terms of the agreement are breached, possession proceedings can be initiated against the tenant, the first step of this process being the service of a Notice (for example, NOSP) in the prescribed format.

### 12.2 Domestic Violence as a Ground for Possession

The Housing Act 1996 introduced a new ground for possession where actual or threatened violence by one partner has forced the other partner to leave the family home. This appears in Schedule 2, Part I of the Housing Act 1985 – Ground 2A.

Ground 2A can be relied upon where the following circumstances are fulfilled:

- (a) the dwelling-house is occupied by a couple who are
  - (i) married;
  - (ii) civil partners;
  - (iii) living together as husband and wife; or
  - (iv) living together as civil partners;
- (b) one or both partners are tenants of the dwelling-house;
- (c) one partner has left because of violence or threats of violence by the other partner towards:
  - (i) that partner;
  - (ii) a family member of that partner who was residing with that partner immediately before they left; and
- (d) the court is satisfied that the partner who has left is unlikely to return.

The violence or threats of violence do not have to be the sole reason for that partner leaving but must be "*the immediate and causative reason*" (Camden LBC v Mallett [2000])

A claim for possession would be initiated by service of a notice of seeking possession (NOSP), which would ordinarily be drafted by Legal Services.

### 12.3 Introductory Tenancies

Where the tenancy is introductory, it can be ended by service of a notice of proceedings for possession. Providing the procedure has been correctly followed, the court must make an order for possession (see the Community Housing Manual)

Caseworkers should be aware that all warning and other letters should refer to the tenant's introductory status. The claim for possession must be made before the tenancy becomes secure but cannot be made until after the date specified in the notice of proceedings for possession.

## 12.4 Actions against Anti-Social Behaviour

All legal action for anti-social behaviour is co-ordinated by the C&ASB division, who will consider what action is appropriate, interview witnesses, take statements and liaise with legal services.

Requests for legal action must be made by referral to the C&ASB division.

Details on the type of action that can be taken can be found in the ASB Manual, section 7.

## 12.5 Children Act 1989 and National Assistance Act 1948

### Children Act 1989

Many clients whose immigration status prevents them from being able to get housing assistance under the Housing Act 1996 (for example, women who leave their partners owing to domestic violence who have no right to reside in the United Kingdom, or unaccompanied minors) can, nevertheless, get housing assistance from social services in limited circumstances.

Social services has a duty under sections 17 and 20 Children Act 1989 to provide accommodation, services in kind or assistance by way of cash payments, to a "*child in need*". A child is in need if:

- (a) he is unlikely to achieve or maintain, or to have the opportunity of achieving or maintaining, a reasonable standard of health or development without the provision for him of services by a local authority;
- (b) his health or development is likely to be significantly impaired, or further impaired, without the provision for him of such services; or
- (c) he is disabled,

It is within the powers of the local authority to provide accommodation for the child with her or his family, and it is the general duty of the local authority to promote the upbringing of a child by the family. This accommodation is likely to be provided by social services in the private sector.

**Schedule 1 Children Act 1989** gives power to the court to order the transfer of a tenancy or other interest where such a transfer is for the benefit of the child. The transfer can be to the person applying for the transfer (parent, guardian, special guardian or person who has been granted a residence order in respect of the child) or the child him/herself. For the purposes of the Act, "*parent*" includes any party to a marriage or civil partnership in relation to whom the child concerned is a child of the family. This would therefore take account of step-parents but not co-habitant partners of a parent.

### National Assistance Act 1948

A local authority, upon the direction of the Secretary of State, owes a duty to accommodate women or men, with or without children, who are in need of care and attention by reason of age, illness, disability, pregnancy or any other circumstance (which could include as a result of domestic violence).

Where the applicant is excluded from benefits by virtue of section 115 Immigration and Asylum Act 1999, s/he is also excluded from the provision of accommodation under the National Assistance Act 1948 where the need for care and attention arises *solely* as a result of destitution or the physical or anticipated physical effects of destitution.

## 12.6 Part IV of the Family Law Act 1996

Part IV of the Family Law Act 1996, came into force on October 1 1997. It concerns DV and occupation of the family home. It sets out the remedies that are available in courts that have jurisdiction over family matters. The Act introduces two types of orders:

**Non-Molestation Orders** which prohibits particular actions such as violence and threats of violence or molestation in general. There is no statutory definition of molestation. In granting such an order, the court must have regards for the health, safety and well-being of the applicant or relevant child. Such an order can be made for a specific period or until further orders (i.e. not time limited).

Where there has been actual violence or a real threat of violence, the Court must attach the power of arrest to the order unless the client is adequately protected without such an order. The order may last for a specified period (often 6 months) or it may last until 'further order', which means the order will continue until either the applicant or the respondent go back to court and ask for the order to be brought to an end. There is no maximum period for which a non-molestation order may last but the court is now very likely to fix a date when the order will end. If the applicant requires the protection to continue after the order expires they need to apply to the court to extend it before it expires.

**Occupation Orders** replaces ouster injunctions, and gives the Court the power to decide who is allowed to occupy the home and direct another party to leave the home.

The Court distinguishes between 'entitled applicants' and 'non-entitled applicants' in deciding what type of order to grant.

### Entitled Applicants

Entitled Applicants are tenants/joint tenants, owners, spouses or civil partners with rights to occupy. Entitled applicants can seek an occupation order against an Associated Person (see Definitions, page 5). The type of order available can be to enforce rights of occupation and/or exclude any other associated person. The order can be time limited or unlimited but will usually be of 6 months duration.

In considering the granting of such an order, the Court will look at the housing needs and resources of the parties and children, their different financial resources, the conduct of the parties, and the likely effect of an order (or lack of one) on the health, safety and well being of the parties or any child.

The Court must make an order if it is satisfied that the applicant or child will suffer significant harm if an order is not made, unless it is shown that the person against whom an order is sought or any other child would suffer greater harm (the balance of harm test). Harm can include ill treatment and impairment of health, and for a child this would also include impairment of development.

### Non-Entitled Applicants

These can include spouses without matrimonial rights, former spouses, cohabitants and former cohabitants. The duration of occupation orders for non-entitled applicants cannot exceed 6 months and can only be renewed once. The Courts will apply the criteria referred to above but in addition will also consider the nature of the relationship, the length of time they have lived together, whether they have children together, and the length of time which has elapsed since they shared a home.

Caseworkers should note that the granting of an occupation order does not prevent a tenant from terminating the tenancy. A client may wish to consider seeking an injunction preventing this.

### Protection of Children

The Act also makes important additions to the Children Act 1989, enabling the courts, in certain circumstances, to add an exclusion requirement for the protection of children when making an emergency protection order or interim care order. This will permit the removal of a suspected abuser from the home instead of having to remove the child.

On the whole, the Family Law Act, part IV, makes the civil law on DV simpler and clearer and it provides better options for protection to a wider range of people experiencing DV.

### Transfer of Tenancies

The Family Law Act also allowed the Court to transfer secure and certain other tenancies between spouses and cohabitants. This extended the provisions of the Matrimonial Homes Act which only applied to the matrimonial home and gave no protection to cohabitants. With regards to Spouses, until the remainder of the Act is implemented, the transfer cannot be any earlier than decree absolute. Spouses with children not intending to divorce should therefore consider using the Children Act (see section above). This situation will change when the parts of the Act relating to the new divorce procedures is implemented.

Cohabitants: where one cohabitant is entitled (as a sole or joint tenant with the other cohabitant) to occupy a dwelling, and they cease to live together as husband and wife, the Court can make an order at any time after they cease to live together. The property must be the matrimonial home, or a home in which they lived together as husband and wife. However in making such a decision, the Court must consider the circumstances in which the tenancy was granted, the suitability of the parties as tenants and in addition to the criteria considered for occupation orders (*this includes the housing needs and resources of the parties and children, their different financial resources, the conduct of the parties, and the likely effect of an order (or lack of one) on the health, safety and well being of the parties or any child. the nature of the relationship, the length of time they have lived together, whether they have children together, and the length of time which has elapsed since they shared a home and the nature of their relationship and in particular the fact that the parties had not given each other the 'commitment involved in marriage'*).

These are:

- a protected or statutory tenancy within the meaning of the Rent Act 1977
- A statutory tenancy within the meaning of the Rent (Agriculture) Act 1976
- a secure tenancy within the meaning of s.79 of the Housing Act 1985
- an assured tenancy or assured agricultural occupancy within the meaning of Part 1 of the Housing Act 1988

The transfer takes place by virtue of the Court order, which vests the tenancy in the name transferee and does not require any additional paperwork such as an assignment or a tenancy agreement.

The Court also has the power to order that compensation be paid by the transferee to the transferor.

## 12.7 Protection from Harassment Act 1997

This Act came into force in June 1997. It is primarily intended to address the problem of stalking and sexual harassment. The definition of harassment according to the Act is 'any action which may cause distress or alarm to the victim'. Although not expressly stated, it may also be

used in situations where a woman is being harassed by her spouse or partner in the context of DV. Recent cases on the types of behaviour regarded as harassment include persistent, abusive telephoning, abuse in public, or uninvited visits to the complainant's house, threats against the complainant and threats to cause damage.

The two new types of offences created under the provisions of the Act include:

- a) Criminal harassment (section 2) which is a summary offence committed by a "*person who pursues a course of conduct in breach of section 1*", which prohibits harassment. The maximum sentence is six months' imprisonment and/or a fine.
- b) Putting people in fear of violence is an offence under section 4.

The Act specifically states that a "*person whose course of conduct causes another to fear on at least two occasions that violence will be used against him is guilty of an offence if he knows or ought to know that his course of conduct will cause the other to fear on each of these occasions.*"

The second provision requires that there be at least two previous occasions that have been reported to the police, on which criminal harassment took place. The courts are given the power to issue a restraining order, when sentencing a person under the act in order to prevent future harassment of the victim. The maximum sentence for breach of this order is five years.

The Act also provides civil remedies to a complainant in the form of injunctions or damages. It requires the complainant to show a course of conduct, whether actual or apprehended, amounting to harassment and that s/he is the actual or intended victim. The concept of apprehended breach applies where one harassing act has taken place, and there is reason to fear that the behaviour will be repeated.

If an injunction has been granted and there is a violation of this order, then a complainant can apply for a warrant. A warrant can be enforced in a manner similar to DV powers of arrest. A breach of the injunction is punishable on conviction with a maximum of five years imprisonment and/or an unlimited fine.

## 12.8 Domestic Violence, Crime and Victims Act 2004

This act extends provisions to combat domestic violence and creating the offence of 'causing or allowing the death of a child or vulnerable adult'.

This act includes:

- Significant new police powers to deal with domestic violence including making it an arrestable, criminal offence to breach a non-molestation order, with a penalty of up to five years in prison.
- Making common assault an arrestable offence.
- Amending the Protection from Harassment Act 1997 to ensure that victims have their say if an application is made to vary or terminate a restraining order that is protecting them from abuse or harassment.
- Strengthening the civil law on domestic violence so that cohabiting same-sex couples have the same protection as heterosexual couples, and extending the availability of non-molestation orders to couples who have never lived together or have never been married.

### 13.0 What You Can Expect of the Police

The Community Safety Unit (CSU) (Tel 020 7275 5889), deals with DV, among other crimes, and are based at Plaistow Police Station, although incidents of violence can be reported to any Police Station or on 999.

The initial response to an emergency call is dealt with by uniformed officers who make an assessment of the situation they are called to, taking necessary action i.e., rendering first aid, obtaining medical assistance, arresting and removing the perpetrator. They will complete a 124d form. This is the form used to record all reported incidents of domestic violence, which includes a detailed risk assessment.

Once the initial report and action have taken place the CSU follow up the case investigation and offer advice regarding civil remedies and the role of voluntary organisations.

In cases of DV the Police will:

- respond as quickly as possible to a call for assistance;
- talk to the perpetrator separately from the victim;
- assess the situation and take appropriate action, making an arrest if appropriate;
- act positively and sensitively to the requests of the victim;
- provide information about local sources of help;
- consider the Crime Prevention Officer attending and providing advice on personal and property security;
- make a risk assessment, considering the use of a panic alarm, mobile phone, answer-phone to screen calls or witness protection;
- refer the victim to a refuge, providing transport where necessary and possible;
- accompany the woman back to her home to protect her if she wishes to collect belongings; however it should be noted that the police can not force entry or insist that property is handed over unless specifically ordered by the county court;
- obtain photographic evidence of injuries and damage;
- make a follow-up visit or further contact by letter in order to offer help and advice and to check on any injury that may have become visible;
- keep the victim regularly informed of the investigation;
- inform the victim when the perpetrator is to be released, charged, placed on bail;
- inform the victim of any action taken including forthcoming court dates;
- keep records of all incidents of DV;

The CSU also liaises with the Child Protection Team in cases where there are children in the family.

#### 14.0 Multi-Agency Risk Assessment Conference (MARAC)

The Police chair the MARAC (multi-agency risk assessment conference) process.

This is organised and held once a month for all high risk DV cases. Emergency MARACs can also be arranged.

In a MARAC local agencies will meet to discuss the highest risk victims in their area. Information about the risks faced by those victims, the actions needed to ensure safety, and the resources available locally is shared and used to create a risk management plan involving all agencies. The aim of the MARAC is to increase the safety, health and wellbeing of the victim – adults and any children.

There is a referral form and anyone can make a referral; they need to be sent to Maria Neaves in the Community Safety Unit at Plaistow Police Station, [Maria.neaves@met.pnn.police.uk](mailto:Maria.neaves@met.pnn.police.uk)

#### 15.0 Male Victims

This procedure note recognises that men can also be victims of DV. It also recognises that the legislation is gender neutral and that men therefore are entitled to help. Such cases should be considered in line with the policy on a case by case basis.

#### 16.0 Allegations made against staff

On occasion, allegations of abuse or an incident involving a member of staff comes to the attention of Newham staff.

Allegations can arise from incidents both the workplace and on occasions from within an individual's private life that may impact on their role as a Newham staff.

All staff have a responsibility to inform the Divisional Director immediately in relation to any incident witnessed or disclosure of abuse by a colleague from within the Local Authority or another agency.

All records relating to the incident or disclosure must be secured and not kept in the normal filing systems, e.g. not held on ICLipse, FLARE.

The Divisional Director will refer the matter to Human Resources Department. If a service user or member of the public makes allegations about an employee that merit investigation, the matter will be progressed under the Conduct and Capability procedure. Some allegations, by their nature, are so serious they could constitute gross misconduct, therefore an employee may be suspended or transferred to alternative work where this facilitates an investigation or where it is deemed contrary to the Council's interest for him/her to remain at work/in his/her post. Please refer to the Council's Conduct and Capability procedure and the Employee Rules and Standards of Conduct.

Staff should be reminded that any information they receive about another employee must remain strictly confidential and must not be discussed with anyone other than the Divisional Director. Any breaches of confidentiality could result in action being taken under the Council's Capability and Conduct procedures.

No further action should be taken by the person witnessing the incident or disclosure unless advised to do so by the Divisional Director.

In the absence of the Divisional Director or in the event of an allegation against the Divisional Director, allegations against Newham staff will be reported to the Divisional Director Human Resources.

## 17.0 Sanctuary Scheme

Newham Council has a Sanctuary Scheme. The intention of the scheme is to provide increased security to the client's home who is at risk of becoming homeless due to DV. The Scheme offers free installations of security measures tailored to their needs and the property involved. This can include locks on windows and doors, new front and rear doors and frames and a full range of door and window security.

There is a referral form for the scheme, which is called 'Newham Safer Homes, Target Hardening scheme'. The referral forms are sent to C&ASB via the dedicated email address [sanctuary@newham.gov.uk](mailto:sanctuary@newham.gov.uk). An assessment will be done by the police Crime Prevention Officer to determine suitability for the scheme.

The FJC will discuss the Sanctuary Scheme with DV clients during the assessment as an option.

The Scheme is only suitable where the client feels safe to remain in their home and a risk assessment is carried out to ensure the circumstances are suitable.

All work is completed with a Crime Prevention Officer and a contractor.

All clients are eligible regardless of their housing tenure as long as:

- the perpetrator not in residence at the property
- the landlord has given permission for the works to take place
- a report has been made to the police about the DV