Royal Borough of Kensington and Chelsea
Private Sector Tenant Protection from Eviction and Enforcement Policy

1.0 The Tenancy Relation Service provides advice and assistance to private sector tenants in the borough who have been unlawfully evicted or are suffering from harassment, intimidation, abuse or threats to evict from their landlord. The policy sets out what the Tenancy Relation Service may do to prevent unlawful evictions and to support those who are unlawfully evicted.

2.0 Scope of the policy

2.1 The policy covers unlawful eviction, harassment to evict, threats and abuse to evict and intimidation to evict.

2.2 The policy refers to private sector tenants within the borough. This means the property they rent is within the borough boundaries of the Royal Borough of Kensington and Chelsea.

3.0 Legislative framework

3.1 The policy is based on the discretionary powers available under the Protection from Eviction Act 1977. This policy covers unlawful eviction and harassment as defined in Part 1 of The Protection from Eviction Act 1977.

3.2 Part 1 of The Protection from Eviction Act states:

(2) If any person unlawfully deprives the residential occupier of any premises of his occupation of the premises or any part thereof, or attempts to do so, he shall be guilty of an offence unless he proves that he believed, and had reasonable cause to believe, that the residential occupier had ceased to reside in the premises.

(3) If any person with intent to cause the residential occupier of any premises—
(a) to give up the occupation of the premises or any part thereof; or
(b) to refrain from exercising any right or pursuing any remedy in respect of the premises or part thereof; does acts calculated to interfere with the peace or comfort of the residential occupier or members of his household, or persistently withdraws or withholds services reasonably required for the occupation of the premises as a residence, he shall be guilty of an offence.

3.3 The Council has discretionary powers under the Landlord and Tenant Acts 1985 and 1987, which may be advised upon where appropriate by the Tenancy Relations Officer.

4.0 Referrals to the Tenancy Relations Officer

4.1 Referrals to the Tenancy Relations Officer can be made either directly by the individual affected or by a referral from another Council department (such as Customer Service, Housing Advisor, Benefits, or Environmental Health). Referrals may be accepted from the police, solicitors or advice centre.

5.0 Prevention and advice
5.1 Tenants accessing the Tenancy Relations Service will be offered advice on their rights and their security of tenure and the correct procedure for eviction.

5.2 Prevention action which may be taken may include:

- Advice on harassment and illegal eviction
- Advice on legislation cover landlord and tenant relations
- Advice on civil damages and legal process.
- Advice on Housing Benefits and benefits available.
- Advice to leaseholders concerning service charge issues and rights to obtain information concerning their service charge accounts.

5.3 The Tenancy Relations Officer may, with the permission of the tenant, contact the landlord and make them aware of the correct procedure and their obligations under legislation. This contact could be made in person, over the telephone or in writing.

5.4 Where the tenant and landlord agree, the Tenancy Relations Officer may offer to be present at meetings, to encourage communication and dialogue between the tenant and the landlord, and make both parties aware of their rights and obligations.

6.0 Intervention

6.1 The Tenancy Relations Officer may refer the case to other Council departments for remedy if this is suitable, such as Environmental Health in cases of disrepair, the Housing Advice Agency for Rent Assessment Committee applications and for queries about fair rent increases and to solicitors for the pursuant of civil damages or breach of contract.

6.2 The Tenancy Relations Officer may issue warning for potential cases of harassment in the form of a formal letter, outlining the complaint and the evidence, and reminding the landlord of their duties and the legislation.

6.3 The Tenancy Relations Officer may refer cases to Solicitors, with the agreement of the complainant, for the pursuant of an injunction.

7.0 Legal proceedings

7.1 Legal proceedings under the Protection from Eviction Act 1977 can be either criminal or civil proceedings. Local authority powers under the Protection from Eviction Act 1977 are discretionary.

7.2 Legal proceedings, if undertaken, will be the last resort and will not be suggested unless the case passes evidential and public interest tests set out in The Code for Crown Prosecutors.

7.3 The legislation allows for a complainant to take a private prosecution, although in most cases legal aid not will be available.

7.4 The Council will only consider bringing a prosecution where the evidence is sufficient to indicate the likelihood of a successful prosecution and where it is in the public interest.

7.5 An investigation will take place before prosecution is considered. During the investigation, evidence will be collected about the alleged offence and a case built.
7.6 All evidence must be able to be used in court and reliable. The Code for Crown Prosecutors will be used to ensure these requirements are considered\textsuperscript{1}.

7.7 It must be in the public interest for the case to be taken to court. The Code for Crown Prosecutors will be used to ensure these requirements are considered.

7.8 The Tenancy Relations Officer will make the assessment if the evidential test and public interest test have been passed, as outlined in The Code for Crown Prosecutors.

7.9 Tenants will be made aware of any decisions made by the Tenancy Relations Officer in regards to a complaint. This will be done formally in writing.

7.10 If a decision has been made to continue to investigate the case for prosecution, the case will be referred to the Council’s Legal Services, who will re-examine the evidence and review the decision before the case will proceed to court.

7.11 If a decision has been made not to continue to investigate the complaint, the written response will detail why, and other options may be suggested to remedy the situation.

7.12 Civil proceedings can be taken under The Protection from Eviction Act 1977. The Tenancy Relations Officer may refer cases to solicitors for damages or an injunction regarding illegal evictions.

8.0 Appeals and complaints procedure

8.1 The Council has a three-stage complaints process, which can be used in relation to appeals against the application of this policy.

\textsuperscript{1} A copy of The Code for Crown Prosecutors can be found here: http://www.cps.gov.uk/publications/code_for_crown_prosecutors/