

Tenant ASB Briefing for Councillors

This briefing paper provides an overview of the remedies available to the council to deal with tenants who exhibit anti-social behaviour; a term which covers a disparate range of conduct from tensions between neighbours to violent and intimidatory behaviour.

We have a range of powers at our disposal to deal with tenants who exhibit anti-social behaviour (ASB). These powers were extended and strengthened by the Housing Act 1996; the Anti-social Behaviour Act 2003; the Housing Act 2004 and the Anti-social Behaviour, Crime and Policing Act 2014.

We will generally seek to resolve complaints of anti-social behaviour without resorting to legal action. Eviction is generally viewed as a last resort. Where eviction is considered, the requirement for evidence to present to the court can often mean affected tenants having to keep detailed records of the ASB experienced. Where victims of ASB feel unable to give evidence in court, we have the option of taking legal action using hearsay and professional witness evidence.

The Anti-social Behaviour, Crime and Policing Act 2014 includes two new measures which are designed to give victims and communities a say in the way anti-social behaviour is dealt with:

- The Community Trigger which gives victims the ability to demand action, starting with a review of their case, where the locally defined threshold is met.
- The Community Remedy which gives victims a say in the out-of-court punishment of perpetrators for low-level crime and anti-social behaviour.

Informal Remedies:

Early intervention, especially through informal approaches, can be successful in stopping the anti-social behaviour committed by the majority of perpetrators and we use the following informal Remedies:

- **Verbal warnings** – we make clear to the individual what behaviour is causing the issue and what effect this is having on the victim or community and the consequences of non-compliance.
- **Written warnings** - as with a verbal warning, the written warning will contain specifics about what behaviour has occurred and why this is not acceptable, including the impact on any victims or local community.
- **Mediation** - in many cases of anti-social behaviour, mediation can be an effective tool, solving the issue by bringing all parties to the table. This can be very effective in neighbour disputes, family conflicts, lifestyle differences such as noise nuisance complaints and similar situations where it can sometimes be difficult to identify the victim and the perpetrator.
- **Acceptable Behaviour Contracts** - acceptable behaviour contracts (ABCs), sometimes called acceptable behaviour agreements, can be an effective way of dealing with anti-social individuals, especially where there are a number of problem behaviours. They can also be very effective at dealing with young

people early, to nip problem behaviours in the bud before they escalate. ABCs are a written agreement between a perpetrator of anti-social behaviour and the agency or agencies acting locally to prevent that behaviour. The terms of an ABC can be discussed with the perpetrator before they are drafted and signed to encourage compliance. However, there is no formal sanction associated with refusing to sign an ABC, so if an individual does not wish to sign, they cannot be forced to do so. A refusal to sign an ABC may persuade a court that only a civil injunction or a criminal behaviour order will prevent the anti-social behaviour.

- **Yellow and Red Cards** – The Police can issue warning cards to youths causing low-level nuisance in the community. They will speak to parents about their child's behaviour to prevent further nuisance
- **Parenting Contracts** – These are similar to ABCs but are aimed at the parent of a young person that is causing ASB. Parenting Contracts are usually used in conjunction with ABCs.
- **Family Intervention Projects** – This project provides a key worker to help families with complex issues; anti-social behaviour is one of the reasons why support is provided.
- **Floating Support** – We will make a referral to Family Mosaic to help support individuals aged between 16 and 65 and families to sustain their tenancy.

Legal Remedies:

Eviction – where a tenant refuses to take responsibility for changing their behaviour or where the anti-social behaviour is extremely serious, it may be decided that evicting the tenant from the property is the best option. If possession is sought on the grounds of the anti-social behaviour of the tenant, the court must be satisfied, on the basis of the evidence, that it is reasonable and proportionate to do so.

Demotion of Tenancy – A Demotion Order can be used to reduce the rights and security of tenancy where the tenant commits anti-social behaviour. If the ASB persists, quick action can be taken to end their tenancy.

Forfeiture of Leasehold Agreement – If a tenant has purchased their home under the 'Right to Buy' scheme they become a leaseholder. A leaseholder has a leasehold agreement. If a leaseholder or their tenant causes anti-social behaviour forfeiture of the lease can be sought. The County Court can make various orders against the leaseholder, which may include an order to sell the property and fines.

Criminal Prosecution – If the anti-social behaviour is of a criminal nature, we will share information (with the complainant's consent) with the police to help secure a criminal prosecution.

Parenting Order – This is a court order available if there has been a problem with a young person's behaviour. This order is designed to encourage parents to take responsibility for, and help improve, their child's behaviour. It may be imposed where a child is given a Criminal Behaviour Order, convicted of an offence or where the parent is convicted of failing to make sure that their child attends school.

Injunctions – an order set by a court that prohibits an individual from committing certain acts of antisocial behaviour or excludes them from particular areas or places. It can include prohibitions and positive requirements.

Criminal Behaviour Orders – available following a conviction for any criminal offence. They may include positive requirements. A breach is a criminal offence with a maximum penalty 5 years imprisonment.

Dispersal Powers – Police can require a person who has committed, or is likely to commit, ASB causing harassment/alarm/distress to leave a specified area and not return for up to 48 hours. They must get approval by an Inspector or above and can apply to any public space or in common areas of private land with the landlord's/occupiers consent. Officers can confiscate items likely to cause ASB.

Community Protection Notices – the nuisance must be detrimental to the community's quality of life, unreasonable and persistent. The notice must clearly state what behaviour or action is that is having a detrimental effect on the quality of life of those in the local community. It can also include what action is required from the individual and must outline the consequences of not complying. Breach of the notice, without reasonable excuse, is a criminal offence subject to a fixed penalty notice or prosecution.

Public Space Protection Orders – these orders are intended to deal with a particular nuisance or problem in a particular area that is detrimental to the local community's quality of life, by imposing conditions on the use of the area which apply to everyone. Only the Local Authority can issue the order in consultation with Chief Office of Police, Police and Crime Commissioner.

The test would be that the local Authority reasonably believes that the behaviour is detrimental to the local community's quality of life and is persistent.

The order must be in writing, published and outline what behaviour it is seeking to prevent, the prohibitions and requirements and the specified area. It must also state the consequences of not complying. Breach of the order is a criminal offence.

Closure Orders – There are two stages, a closure notice and a closure order. It is available to the Police and Local Authority. The test is a reasonable belief that there is, or is likely to be, a nuisance to members of the public or there is, or is likely to be, disorder in the vicinity of, and related to the premises. They must also believe that the notice is necessary in the interest of preventing the occurrence or reoccurrence of such behaviour. There must be consultation with relevant agencies and the landlord/owner must be informed.

The notice must state that access by any person other than someone who habitually lives there or the owner of the premises is prohibited; state the failure to comply is an offence; give details as to when and where the notice will be considered by the magistrate's court. Within 24 hours the notice must be signed off by a senior officer to extend it for 48 hours. The notice then goes to the magistrate who can make an order for 3 months. It can be extended for a maximum of 6 months.

Recovery of Possession of dwelling house on ASB grounds – there is a new absolute ground for possession and extending the discretionary ground for possession. The absolute ground can be used if any of the following criteria are met:

- the tenant, a member of the tenant's household or a person visiting the property has been convicted of a serious offence as defined in schedule 2A of the amended Housing Act 1985.
- has been found by a court to have breached an injunction to prevent ASB;

- has been convicted for breaching a criminal behaviour order;
- has been convicted for breaching a noise abatement notice or order;
- the tenant's property has been closed for more than 48 hours under a closure order for ASB.

The offence or ASB conduct must have been committed in the property or in the locality of the property, affected a person with a right to live in the locality of the property or affected the landlord or their staff/contractor.

The ground is absolute subject to proportionality and the correct procedure has been used.

Examples of nuisance with the appropriate legal remedies:

In Public open spaces - drunkenness, begging, dogs, general ASB.

Formal tools: Community Protection Notice, Dispersal power; Public Space Protection Order (PSPO)

Bullying;

Informal tools: disciplinary, prevention;

Formal tools: Injunction to prevent Nuisance and Annoyance (IPNA).

Groups hanging around – firstly there must be consideration to a) is the victim vulnerable? b) What impact is the behaviour having on the victim? C) is the behaviour antisocial?

Informal tools: diversionary activities; target hardening.

Formal tools: dispersal power; public spaces protection order.

Drunken Behaviour in public spaces

Formal tools: public spaces protection order (PSPO); dispersal powers; injunction to prevent nuisance of annoyance (IPNA).

Young People:

Informal tools: verbal/written warnings; ABCs; parenting contract; troubled families programme; family intervention projects; multi-systematic therapy;

Formal tools: civil injunction; criminal behaviour order; dispersal power; Tenancy Agreement Enforcement.

Drugs and ASB

Informal tools: Westminster Drugs Project.

Formal tools: closure power; public spaces protection order; dispersal power; injunction to prevent nuisance and annoyance; criminal behaviour order. Tenancy Agreement Enforcement

Litter & Rubbish:

Formal Tools: Community Protection Notice; Tenancy Agreement Enforcement.

Harassment or Intimidation:

Formal tools: Injunction to prevent Nuisance and Annoyance; Criminal Behaviour Order; Tenancy Agreement enforcement.

Noisy Neighbours:

Informal tools: diary sheets; noise monitoring equipment; mediation.

Formal tools: Civil Injunction; Community Protection Order; Public spaces protection order; closure notice/order; Tenancy Agreement enforcement.

