

Social landlords' use of legal remedies to deal with neighbour nuisance

Over recent years, neighbour nuisance and anti-social behaviour have been highlighted as major problems for social landlords. To date both professional and political responses have focused on the development of legal powers, principally through the use of evictions and injunctions. However, very little is known about whether existing legal remedies are effective or if they are in need of reform. A team at Sheffield Hallam University has now completed the first national study examining how social landlords deal with neighbour nuisance. The research found:

- f** Anti-social behaviour is a dynamic phenomenon, involving a broad range of disruptive behaviour. Some incidents are relatively minor; others cause extreme distress and misery to many people. The underlying causes are frequently complex and behaviour is likely to change over time.
- f** Due to deficiencies in landlords' recording and monitoring systems, it was impossible to measure the scale of the problem or to establish whether anti-social behaviour was increasing or decreasing. Three-quarters of landlords, however, perceived it to be a significant and increasing problem.
- f** Landlords now have extensive legal powers to tackle anti-social behaviour and there was little evidence to support the view that further legal reform is required. All landlords were willing to take possession proceedings and if necessary evict tenants, but many were aware that such action was only partially effective. It might sort out the problem locally, but there was a strong feeling that eviction was effectively a failure. What many people really needed was a range of support services coupled with improved housing management.
- f** Surprisingly, despite recent amendments strengthening the power of injunctions, very few landlords could provide any information about their use. While just under two-thirds of local authorities stated they were prepared to use injunctions, an examination of individual cases showed that in practice they were rarely employed.
- f** Specialist nuisance teams or officers were seen as being crucial in improving organisations' efficiency in dealing with anti-social behaviour. As well as providing a more professional and committed approach, the intervention of specialist officers was valuable in providing training and support to front-line officers.

Introduction

The original brief for the study focused on an evaluation of the reported incidence of anti-social behaviour amongst tenants of social landlords operating in England, and the use of legal remedies to deal with such problems. The study was also designed to examine the strengths and weaknesses of current legal remedies, taking into account the views and experiences of housing professionals, lawyers and tenants - complainants and defendants - who had been centrally involved in anti-social behaviour cases. The lack of a nationally recognised system of classifying, recording and monitoring complaints means that it is simply not possible to verify the scale of the problem or to assess whether or not it is increasing.

The types of behaviour complained about

The problem of neighbour nuisance and anti-social behaviour is difficult to classify. It is clearly a dynamic phenomenon, involving a broad range of disruptive behaviour. *"Anything which interferes with the peaceful enjoyment of the home and surrounding area,"* was a typical summary used by one housing officer. Landlords also talk about types of behaviour which make individuals or the community *"feel threatened, vulnerable, or uneasy"*.

Complaints leading to legal action most commonly involved verbal abuse, noise, unruly children, harassment and violent behaviour. Landlords identified three main types of behaviour as warranting consideration for legal action:

- low level, but persistent behaviour,
- behaviour causing severe distress,
- behaviour having an adverse or potentially adverse effect on the wider neighbourhood.

The size of the problem

A third of local authorities (34 per cent) and over half of Registered Social Landlords (54 per cent) failed to keep any records of the number of complaints received. Only a quarter of Registered Social Landlords (RSLs) were able to provide detailed information on action taken to deal with individual cases. Usually, rather idiosyncratic recording processes were employed at the initial complaint stage, which prevented systematic monitoring of action taken. As one front-line officer explained: *"everyone has their own way of doing things"*.

While landlords experienced many difficulties in accurately monitoring the progress of cases, there were also examples of good practice. Where a specialist unit or officer was employed, detailed recording and monitoring improved. One large local authority had

developed a very consistent reliable computerised system where trends could be easily identified. Computerisation, however, was not necessarily the only tool for improvement. A specialist officer in a medium-sized local authority used a manual system; this was felt to provide some safeguards over the data protection problems associated with computerised records.

Although deficiencies in landlords' recording and monitoring systems meant no attempt could be made to measure the scale of the problem, landlords were asked to give a subjective description of the perceived scale of the problem for their organisation. The majority of landlords reported that neighbour nuisance was a significant problem, with three-quarters of RSLs and local authorities assessing it to be a medium to large one. Perceptions about the size of the problem were affected by regional and organisational factors: landlords operating in inner city and metropolitan areas were *eight times* more likely to see anti-social behaviour as a major problem, compared with non-metropolitan landlords.

The use of evictions and injunctions

Eviction is the most drastic way social landlords can deal with anti-social behaviour. Most landlords only took such action as a last resort, after other methods of resolving the problem had been explored, for example:

- mediation undertaken either by an independent agency or by housing officers,
- responses to complaints using letters, personal visits, in-depth investigations, compromise techniques, education, and support,
- following investigations of complaints some tenants simply abandon their tenancies.

Not all cases, however, were resolved through such methods and over the last five years there has been a significant increase in landlords' use of legal remedies. During the period 1996-8, the number of Notices of Seeking Possession (NSPs) and possession summons issued on the grounds of anti-social behaviour more than doubled.

The effectiveness of eviction

Contrary to landlords' perception that courts were unwilling to grant possession orders, an outright order was found to be the most likely outcome of possession action. In cases involving extremely disturbing anti-social behaviour the granting of such orders could resolve major management problems on estates and ensure more efficient use of resources. But housing officers often felt eviction was only partially effective. They noted its failure to deal with underlying causes of problem behaviour and that it frequently resulted in

the problem being displaced to the private sector. With the increased diversity of providers operating in social housing estates it was not uncommon for households who had been evicted to seek tenancies in the same locality. Thus, despite regaining possession, the nuisance behaviour may continue with landlords having little control over further enforcement action, resulting in a loss of community confidence. As one officer commented:

"In some cases it solves the problem but in others it doesn't because they just move to another address within the community. There are two notable cases I can think of where we've got a possession order, they've been evicted and they've moved to an adjacent street."

The lack of use of injunctions

As an alternative to possession action, landlords can use injunctions. This remedy has the advantage of enabling action to be taken without the threat of eviction and the possible displacement of the problem. Surprisingly, despite recent amendments strengthening the power of injunctions, very few landlords appeared to use them regularly. Those that did were very positive about their benefits. But frequently landlords lacked the necessary knowledge or skills to use them. Commonly, landlords stated "we have not a lot of experience in injunctions - we haven't made use of them."

The use of introductory tenancies and exclusion policies

The development of temporary introductory tenancies created much controversy when first introduced in 1996. At the time of the survey, just under a third of local authorities had adopted introductory tenancies with a further one in ten planning to introduce them in the next twelve months. This compared with one in ten RSLs using starter tenancies, with a further 18 per cent planning to adopt them in the next twelve months.

There were distinct regional variations in the use of temporary tenancies. Nearly half of the landlords using introductory tenancies had subsequently evicted tenants. How far introductory tenancies can be seen as a tool against anti-social tenants must, however, be doubted since most cases for eviction were for rent arrears (68 per cent) rather than for neighbour nuisance (19 per cent). Landlords also expressed many concerns over their effectiveness, with those operating in areas of low demand particularly sceptical of their value.

It is apparent that there is a growing trend for social landlords to exclude households on the grounds of anti-social behaviour. Around a half of all

social landlords (local authorities 52 per cent, RSLs 46 per cent) were found to have formal exclusion policies, with nearly twice as many metropolitan authorities excluding households as non-metropolitan authorities. The criteria for exclusion varied widely between organisations, with some only taking action where tenants had been formally evicted while others would exclude if tenants were even suspected of not being able to abide by the tenancy agreement. The time limit for exclusions also varied. In some organisations, tenants were effectively permanently excluded whereas in others they could be reconsidered after a period of time.

A number of problems were noted with such policies. For example, in unpopular areas excluding households could contribute to a further weakening of demand and increasing levels of empty property. Landlords were also aware that exclusion policies could displace the problem to the private sector.

Tenants' views

Analysis of complainants' and defendants' experiences also provided evidence of the need for improved management of anti-social behaviour. Although some landlords were developing the appropriate specialist skills, many tenants were disappointed by their landlords' response and thought more effective action could have been taken at an earlier stage.

The complainants' perspective

Many complainants endured prolonged periods of anxiety and stress whilst seeking a resolution of problems. In particular, complainants criticised landlords for:

- delays in taking appropriate action,
- lack of adequate support from housing officers,
- failure to provide protection from witness intimidation or adequate witness support.

Complainants needed to be confident that the landlord was treating the complaint seriously and was prepared to take appropriate action.

The perpetrators' perspective

Perpetrators in serious anti-social behaviour cases were found to be likely to have multiple problems. More than two-thirds of defendants were described by housing officers as having particular vulnerabilities or special needs such as mental health problems or other disadvantages. High levels of poverty were also evident, with 90 per cent of defendants dependent on state benefits of some kind. Like complainants, defendants were also critical of the way in which their landlord managed the problem and were concerned about:

- lack of rigorous investigation of complaints,
- inadequate methods of collecting evidence,
- inappropriate action being taken, and
- failure to involve other agencies.

The need for specialist training and support for housing officers

The study highlights the need for landlords to ensure that housing officers have the skills, knowledge and resources to be able to undertake thorough investigations and act in a professional manner when confronted with conflicting accounts of events.

Without such specialist skills there is a danger that inappropriate action may be taken, causing distress and frustration to all involved. The use of specialist units and officers whose work is primarily if not entirely devoted to implementing anti-social behaviour policies is becoming more common. The appointment of dedicated officers coupled with strengthened organisational policy and support says something about the organisation's commitment and direction of limited resources to dealing with problems that otherwise go unreported and unchecked. Specialist services were seen as being crucial in improving the organisation's efficiency in dealing with the problems surrounding anti-social behaviour. As well as providing a more professional and committed approach, the intervention of specialist officers was valuable in providing training and support to front-line officers.

The way forward

The research findings illustrate the many difficulties landlords experienced in developing effective methods of dealing with anti-social behaviour. There are now wide-ranging legal powers available to landlords to tackle neighbour nuisance. While some improvements may be required in the court management of cases, the research found little evidence to support the view that further legal reform is required. The development of strategies to deal effectively with anti-social behaviour, however, requires a greater understanding of the dynamic nature of the problem. Simple solutions are rarely sufficient. Anti-social behaviour can take many forms. Some incidents can be relatively minor, others very serious, causing extreme distress and misery to many people. The underlying causes are frequently complex and individuals' behaviour is likely to change over time.

The research provides a useful benchmark in identifying the ways in which landlords are seeking to deal with this multi-faceted and complicated issue. However, before any further action can be taken

landlords need to develop clear procedures for recording complaints and monitoring action taken to resolve problems. Without such systems it is impossible to establish the scale of the problem, assess whether it is increasing or decreasing, map alternative strategies and develop successful forms of intervention.

About the study

The research involved a number of stages. First, a postal survey was undertaken of two-thirds of all English Local Authorities and two-thirds of all general needs RSLs with over 500 homes. Second, ten in-depth studies examined landlords' anti-social behaviour strategies and their experiences of using legal remedies in their local court(s). In addition, a database of a further 67 individual cases of anti-social behaviour was compiled. Finally, data on tenants' experience of legal remedies and the legal process was obtained through a series of interviews with both complainants and perpetrators.

How to get further information

The full report, **Neighbour nuisance, social landlords and the law** by Caroline Hunter, Judy Nixon and Sigrid Shayer, is published for the Foundation by the Chartered Institute of Housing (ISBN 1 903208 04 1, price £12.95).