

Tackling anti-social behaviour

Action Frameworks



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Tackling anti-social behaviour

Action Frameworks for:

**Governing bodies/housing
committee members/residents**

Social housing practitioners



Published for the Joseph Rowntree Foundation
by the Chartered Institute of Housing

**Developed by
Judy Nixon and Caroline Hunter**

The Chartered Institute of Housing

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The Joseph Rowntree Foundation

The Joseph Rowntree Foundation has supported this project as part of its programme of research and innovative development projects, which it hopes will be of value to policy makers, practitioners and service users. The facts presented and views expressed in this report, however, are those of the authors and not necessarily those of the Foundation.

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Tackling anti-social behaviour: Action Frameworks
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Published for the Joseph Rowntree Foundation by the Chartered Institute of Housing
ISBN 1 905018 25 8/978 1 905018 25 3 (paperback)
1 905018 10 X/978 1 905018 10 9 (pdf: available at www.cih.org and www.jrf.org.uk)

Graphic design by Jeremy Spencer
Cover illustration by Paul Johnson
Editorial management by Alan Dearling
Printed by Alden Group Limited, Oxford

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Acknowledgements

We would like to thank Sadie Parr for her help in researching the preventative measures in Core Task 3.

Thanks also to John Perry and Alan Dearling for their feedback on the first draft, and to Alison Jarvis for her patience and support through the gestation of this second edition.

Module 1: For governing bodies/housing committee members and residents

How to use the Action Framework

Introduction

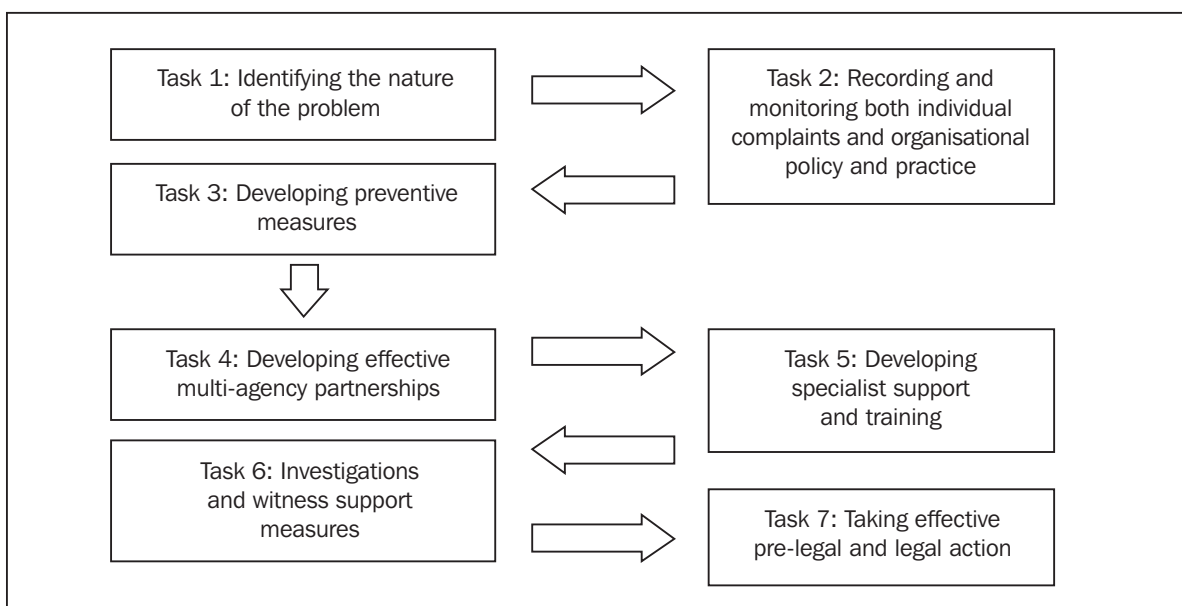
The Action Framework has been designed to enable those involved in social housing governing bodies, housing practitioners, tenants and residents to understand and effectively work with others to tackle the problems caused by anti-social behaviour in their own area. In order to address the differing needs of both policy makers and practitioners the Action Framework consists of two linked modules bound together to avoid them getting misplaced! The two modules are geared towards the different needs of:

- Governing bodies/housing committee members and residents (Module 1)
- Social housing practitioners (Module 2)

Drawing on evaluations into ‘what works’, both modules consists of key questions, practical fact sheets, case studies, activities and links to websites providing other supporting material. While each of the two modules have been designed to be used as a stand-alone resource, as the purchaser of the material it is hoped that you will make copies of relevant tasks and share them with your colleagues.

Both modules share a common format and offer a **process** approach to understanding and tackling complaints about anti-social behaviour. They can be used either individually or in a group situation. They are designed to offer not only information and knowledge, but also to present an interactive method for assessing problems, identifying potential solutions and prioritising options.

In order to highlight the need for a holistic approach to this area of work, and to help develop strong links between strategic policy development and operational issues, the two Action Framework modules have a common structure based on the following **seven core tasks**.



Making use of the frameworks

The Action Framework modules may be used for a number of different purposes:

- To raise awareness of issues prior to developing a strategy for this area of work.
- To develop a strategy and/or review its progress.
- Training and staff development to improve operational work.
- For reference in day to day operational work.
- To improve working between different staff and residents within an organisation.
- To improve strategic and operational working in multi-agency partnerships.

The way they are used will vary depending on the reasons why you are using them, and in some cases you may not need to look at each core task but only focus on particular ones. **However, if this is your first time using them, make yourself aware of the process involved in working through the core tasks.**

Particularly if you have responsibility for training and personal development in this area of work, we would ask that you think carefully about what you are trying to achieve, get to know the structure of the core tasks in a particular module, and choose whether to present the whole Action Framework in one-go, or to utilise it on a sessional basis. Photocopy whichever sections are relevant and appropriate for you and your colleagues.

Whatever your particular use, we would suggest that you:

- familiarise yourself with the material in the Action Framework module;
- identify appropriate core tasks, information and activities for your own work or for those you are working with;
- seek to use the frameworks as a means of informing and improving practice and management systems;
- use the material to identify gaps and weaknesses in your organisation's policy and practice, and in the individual performance for each core task;
- consider opportunities for co-ordination with other key players to draw up an action plan to address these gaps or weaknesses.

Module 1: For governing bodies/housing committee members and residents

Core task 1: The nature of the problem

Anti-social behaviour can seriously damage the quality of life of vulnerable people through the fear of crime and the long-term effects of victimisation. It is also, however, a complex and dynamic problem, which can only be effectively dealt with by the development of a range of complementary forms of action. Quick and effective intervention in neighbour nuisance and anti-social behaviour cases can stop problems from escalating, improve relations between landlord and tenants and help safeguard a landlord's reputation. The Anti-Social Behaviour Act 2003 placed a duty on all social landlords to develop clear procedures and policies to deal with anti-social behaviour and the associated problem of youth nuisance. In order to develop comprehensive, strategic and effective operational responses to the problem it is essential that landlords and tenants work together to collect information about the nature of the problem in their area.

Introduction

In this first core task we consider how landlords define and analyse the particular problems of anti-social behaviour in their area and develop a strategic response under the following headings:

- Defining and measuring anti-social behaviour.
- Racial harassment and anti-social behaviour.
- Action to develop anti-social behaviour policies and procedures.
- Taking action through partnership working.
- Identification of the resources required to take different forms of action.

Defining and measuring anti-social behaviour

Before any practice and management decisions and strategies can be adopted, it is important that governing bodies and residents along with housing officers take time to consider what constitutes anti-social behaviour. In **Core Task 2**, the actual methods of monitoring and recording of anti-social behaviour are considered in greater detail, but to start with it is important to note that there is no commonly agreed definition of what is meant by the term anti-social behaviour.

As the following examples illustrate most policy statements about anti-social behaviour do not attempt to define the nature of the problem but instead focus on the range of behaviours which can be construed as being anti-social.

The Crime and Disorder Act, 1998 formally defines anti-social behaviour in terms of behaviour that:

“...caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household as [the defendant].”

While the Anti-Social Behaviour Act 2003 employs a broader definition that incorporates not only action that is:

“...is capable of causing nuisance or annoyance to any person;”

but also behaviour that:

“...directly or indirectly relates to or affects the housing management functions of a relevant landlord; or consists of or involves using or threatening to use housing accommodation owned or managed by a relevant landlord for an unlawful purpose.” (Anti-Social Behaviour Act 2003).

Both the above definitions of anti-social behaviour (Crime and Disorder Act 1998 and the Anti-Social Behaviour Act 2003) share an approach which concentrates on the impact of behaviours rather than on specific types of behaviours. This means that in practice any behaviour can be classified as being ‘anti-social’ depending on a number of factors, including the context, the location, the tolerance levels of the local community and expectations about quality of life.

This section of the Action Framework highlights the important role that councillors, board members and residents can play to develop sustainable solutions to tackle anti-social behaviour. There are three key issues that social landlords must address in order to effectively tackle anti-social behaviour and the associated problems of youth nuisance:

1. The need to undertake regular reviews of anti-social behaviour policy and procedures based on a clear understanding of the particular nature of the problem in relation to the locality and the local community.
2. The need to forge partnerships with local agencies based on a shared understanding of the problem.
3. The need to ensure there are sufficient resources allocated to this area of work.



Activity

Use the following questions to consider what action councillors, board members and residents can take to ensure that their organisation develops sustainable solutions to deal with the problems of anti-social behaviour and youth nuisance in areas in which their stock is located.

- What action can members and tenants take to help prevent anti-social behaviour and develop effective anti-social behaviour policies?
- How can members and tenants become actively involved in developing partnerships with local agencies based on a shared understanding of the nature of the problem?
- How can members and tenants ensure that their organisation has sufficient resources allocated to this area of work?

In addressing these complex issues you may find it useful to consult the following publication produced by the Local Government Association: *Guidance for Councillors on tackling anti-social behaviour locally*. It is available to download free of charge from the following website: <http://www.lga.gov.uk>

Racial harassment and anti-social behaviour

Racial attacks and harassment are acute forms of anti-social behaviour requiring immediate action. While it is beyond the scope of this publication to provide detailed guidance on what action, committee members, housing practitioners, tenants and residents can take to prevent and tackle racist attacks, many of the actions that can be taken to deal with perpetrators of racial harassment are similar to those that can be employed to deal with wider incidents of anti-social behaviour.

Eviction is the ultimate sanction against tenants who are perpetrators of racial harassment and anti-social behaviour. However, many social landlords report that even where eviction proceedings are successful, such action may not stop the problem behaviour. Detailed guidance on alternatives to eviction for perpetrators of racial

harassment has been developed by RaceActionNet and is available in paper form or through the interactive RaceActionNet website: www.RaceActionNet.co.uk To access the website social landlords must subscribe to RaceActionNet which provides subscribers with a free, on line directory of contacts and activities through which practitioners can share problems and work out solutions to racial harassment.

The Crime Reduction website also provides useful information on the links on the links between racial harassment and anti-social behaviour: <http://www.crimereduction.gov.uk>



Activity

Does your organisation subscribe to RaceActionNet?

If yes, arrange with housing officers to have a demonstration of the information available on the website. If your organisation does not currently subscribe to RaceActionNet, consider the advantages of having access to a forum to exchange views on the most effective methods of tackling racial harassment.

Visit RaceActionNet website on www.RaceActionNet.co.uk to get further information on the links between racial harassment and anti-social behaviour.

Action to develop anti-social behaviour polices and procedures

A recent survey of housing association tenants conducted by the MORI Social Research Institute on behalf of the Housing Corporation found that while most tenants did not consider ASB to be a very or fairly big problem in their neighbourhood a, “...*sizable minorities did consider*” their quality of life to be affected by youth nuisance disorder and other forms of ASB (MORI, 2005).

When asked about their landlords anti-social behaviour policies, over half of the respondents said they knew their landlord had a policy for dealing with ASB, and 20 per cent – one in five – that they did not know. A quarter said that they did not know one way or the other. The full survey findings have been published on the Housing Corporation website, and these can be found on: <http://www.housingcorp.gov.uk/>

The Anti-Social Behaviour Act 2003 places a requirement on all social landlords to prepare both a policy in relation to anti-social behaviour and procedures for dealing with occurrences of anti-social behaviour. (Anti-Social Behaviour Act 2003 s. 12) Further, the act requires social landlords to publish the following documents:

- Statement of policy and procedures on ASB. This statement should outline the landlord’s general approach to ASB and include specific polices for example, in

relation to support for witnesses of ASB, racial harassment, multi-agency partnerships and the use of available legal remedies.

- Summary of current policy and procedures. This document should contain clear information to enable a tenant to understand how the landlord will deal with a complaint of ASB and what is expected of the tenant. For example, it should contain information on how and to whom a complaint of ASB should be made, how contact will be maintained with the complainant and how the progress of the case will be monitored.

Both the statement and the summary should be available in translation and alternative formats, such as Braille and large print. The following questions and fact sheets have been designed to help you evaluate and review your ASB policy.



Activity

Gather together the anti-social behaviour policy and procedure documents used by your organisation and use the following questions to critically evaluate your current policy:

- In order to ensure that your ASB strategy is effective it is good practice to undertake regular reviews of the precise problem to be tackled and outcomes you wish to achieve.
- How often does your organisation undertake reviews of its anti-social behaviour policy?
- Does the policy contain clear objectives and enable the development of local strategic responses?
- Are you provided with regular reports on anti-social behaviour with targets to improve service responses and provision?

Use the following fact sheet to identify the ways to improve your existing anti-social behaviour policy. The fact sheet can also be used to make notes and monitor progress on the development of your organisation's anti-social behaviour policy.

Fact sheet: Developing an effective anti-social behaviour policy	
Task: Policies are statements of principle or intent – “what we will do as an organisation.” Effective anti-social behaviour policies are therefore likely to include:	Task completed: Date
<ul style="list-style-type: none"> • A clear statement recognising the importance of tackling anti-social behaviour and an explicit acknowledgement of its effect on residents and communities. • Details of your aims, attitude and general approach to anti-social behaviour, for example to communicate clearly what standards of behaviour are acceptable. • A definition which includes a description of the type of conduct that can amount to anti-social behaviour. • An outline of any specific commitments made to tenants or the wider community in terms of dealing with ASB, and what service standards can be expected. • Details of the range of services offered to tenants on ASB, and how these will deliver a proportionate and flexible response to the challenges that ASB presents. • An outline of how ASB services fit within the organisational structure. • A clear statement of the standards of behaviour that are expected of tenants, those who live with them, and their visitors. The tenant’s responsibility for the behaviour of people who live with them and visit them should be made clear. Reference should be made to any tenancy clauses relating to ASB or nuisance. • A balance between prevention, enforcement and reintegration approaches. • An evaluation procedure of present organisational practice with regard to anti-social behaviour. • An unequivocal statement that anti-social behaviour will be investigated and that effective and early action will be taken to tackle it. • A commitment to using mediation and arbitration services appropriately to resolve neighbour disputes. • A commitment to victim and witness support. • A statement supporting zero tolerance of racist or other discriminatory behaviour. • A commitment to partnership working with key agencies. 	→

Fact sheet: Developing an effective anti-social behaviour policy – contd.	
Task: Policies are statements of principle or intent – “what we will do as an organisation.” Effective anti-social behaviour policies are therefore likely to include:	Task completed: Date
<ul style="list-style-type: none"> • A commitment to working with residents to resolve anti-social behaviour problems. • A willingness to use a wide range of approaches to tackle the wide range of anti-social behaviour. • An anti-social behaviour policy should have clear links to other related policies on: <ul style="list-style-type: none"> – domestic violence – harassment – maintenance – confidentiality – equal opportunities – tenancy management – lettings – health and safety – community care – resident involvement – development – risk management – regeneration, asset management and planned maintenance – support for vulnerable tenants – youth provision – special needs 	

Source: Adapted from: *Managing Nuisance, Harassment and Anti-social Behaviour, A Framework for RSLs*, p12, Housing Corporation, 2000.

Further formal guidance on the development of ASB policies and strategies is available from the Office of the Deputy Prime Minister and the Housing Corporation. To view the guidance on line visit the following websites:

http://www.odpm.gov.uk/stellent/groups/odpm_housing/documents/page/odpm_house_030458.hcsp

<http://www.housingcorplibrary.org.uk/HousingCorp.nsf/AllDocuments/D886AA54BED01FDD80256EFA0052CB39>

Identifying the particular nature of the problem in your locality

Anti-social behaviour is a complex and dynamic phenomena, the types of activities that may cause people ‘alarm or distress’ will vary from one location to another and are likely to change over time. In order to ensure that your policies and procedures are sufficiently flexible to respond effectively to emerging problems it is useful to undertake regular ASB audits. The questions in the following fact sheet will help you identify what data you need to collect to clarify local trends and anti-social behaviour patterns and the way in which this data can help inform the development of your anti-social behaviour strategy.

Fact sheet: Undertaking a basic audit of your capacity to deal with ASB	
<ul style="list-style-type: none"> Organisational details 	No of units managed and location
<ul style="list-style-type: none"> What types of anti-social behaviour are taking place and where? How many complaints have been received over the last 12 months? Is the problem increasing, staying the same, decreasing? What proportion of time is spent dealing with ASB? 	<p>Number types and rates of incidents</p> <p>Trends</p> <p>Geographical distribution (e.g. ward, beat, estate area)</p> <p>For example , 10%, 20% of total work load</p>
<ul style="list-style-type: none"> Who are the victims? 	<p>Age, gender, ethnicity, area where they live</p> <p>Analysis of patterns of repeat victimisation</p>
<ul style="list-style-type: none"> Who are the offenders? 	<p>Age, gender, ethnicity, area where they live</p> <p>Persistent offending behaviour</p> <p>Risk factors associated with offending behaviour, e.g. mental health problems, out of control children, drug misuse etc.</p>
<ul style="list-style-type: none"> How are incidents of ASB recorded and what forms of monitoring are in place? 	<p>Manual or IT system</p> <p>Categories of ASB used</p> <p>Number of incidents or number of complaints</p>
<ul style="list-style-type: none"> What other information do you need to collect about the general context and particular risk factors? 	Social, economic and environmental factors associated with anti-social behaviour
<ul style="list-style-type: none"> What channels of communication are open to front line officers, tenants, and residents to report the changing nature and location of anti-social behaviour? 	Local social and economic factors and seasonal patterns of social unease, e.g. disturbances during school holidays.
<ul style="list-style-type: none"> Do you have any formal or informal information sharing agreements with any agency? 	List range of agencies and identify any problems in sharing information
<ul style="list-style-type: none"> What action does your organisation take to deal with ASB? (e.g. use of prevention, enforcement and resettlement) 	Identification of gaps in current knowledge and practice
<ul style="list-style-type: none"> What aspects of ASB complaints do you find it most difficult to deal with? 	List main problem areas

Further guidance and advice on methods of collecting data on anti-social behaviour is provided in the Home Office Report on *Defining and Measuring anti-social behaviour* available at: <http://www.homeoffice.gov.uk/rds/antisocial1.html>

Taking action through partnership working

Effective action to tackle anti-social behaviour relies on the development of meaningful partnerships with a number of different agencies. For example, in order to be able to respond to complaints and to evaluate which organisation should take lead responsibility, it is important that your organisation has well-developed operational partnerships with a range of agencies. However, this relies on having considered the establishment of policy and practice on **confidentiality** and **information sharing**. Trust is also vitally important. While detailed information and guidance on how to develop effective partnerships is provided in **Core Task 4** later in this module, the following section highlights how you can begin to identify which agencies you should be seeking to develop a partnership approach with.

Research has highlighted some of the difficulties social landlords experience in developing partnership working. In particular landlords sometimes experience problems in forging close partnerships with the full range of community safety agencies operating in areas in which their stock is located. As part of the process of creating effective working partnerships, it can be useful to undertake a review of partner organisations' current strategies and practical initiatives to tackle anti-social behaviour. Unless your organisation is able to obtain a full picture from all those involved you will not be able to gauge the true extent of the problem in your area.



Activity

The following questions have been designed to help you identify whether your organisation has begun to develop effective anti-social behaviour partnerships:

- What relevant partner organisations have been identified?
- What information have you been provided with about relevant partner organisations?
- In areas in which your stock is located do officers from your organisation play an active role in the development of local crime and disorder reduction partnerships? (see **Core Task 4** for further information on crime and disorder reduction partnerships).
- What role have tenants/councillors/board members taken in developing partnerships? Is there more that you could do?

Action to be taken to ensure that sufficient resources are allocated to this area of work

Anti-social behaviour undoubtedly results in considerable costs for public services. A day count of anti-social behaviour undertaken by the Anti-Social Behaviour Unit in September 2003 estimated that anti-social behaviour cost agencies in England and Wales at least £13.5 million, which equates to an annual cost of around £3.4 billion. At a more local level, Leeds local authority estimated that their annual expenditure to deal with anti-social behaviour was in the region of £3 million-£5 million (Social Exclusion Unit, 2000). It should be noted that none of these estimates takes full account of the costs to victims (both financial and psychological) of anti-social behaviour.

Although it is recognised that developing sustainable interventions to deal with ASB are resource intensive most social landlords find it very difficult to determine the exact costs incurred by housing management services as a result of anti-social behaviour. Very few landlords keep records of the direct or indirect costs associated with action taken to deal with anti-social behaviour and are therefore unable to clearly estimate the resources required to deal with this important area of work. One of the principal direct ASB costs incurred by social landlords is the amount of staff time spent on investigating complaints, devising appropriate interventions including where necessary, preparing for legal action and providing witnesses and victims with support. A recent study into the cost of possession action and evictions by social landlords found that typical housing officer hourly rates (including overheads) in 2004/05 were estimated as being between £30-£35 per hour (Pawson, 2005).

However good your understanding of the particular problems in your area it will be impossible to take effective action unless sufficient resources are allocated to this area of work.



Key questions

- Do you have a dedicated budget for anti-social behaviour work? If yes, is the budget holder the appropriate person?
- Can you identify the resources required in order to develop your anti-social behaviour policy including the provision of training and support to the other key players?
- Could you undertake a cost benefit analysis to establish the cost and effectiveness of different forms of action to deal with anti-social behaviour?
- Do you feel it would be helpful if tenants/councillors/board members were provided with more information and training on developing strategies to deal with ASB? If so, what sort of training or support would you like?
 - Provided in-house?
 - Provided by external specialist trainers?
 - Study visits to areas which have developed innovative ways of dealing with anti-social behaviour?

Sources of further information and guidance

There are a wide range of websites and publications designed to help social landlords, governing bodies and residents develop sustainable solutions to deal with anti-social behaviour. The key sources of information are listed below with further references provided at the end of the module:

Key websites

Office of the Deputy Prime Minister: www.odpm.gov.uk

The National Housing Federation: www.housing.org.uk

The Chartered Institute of Housing: www.cih.org

The Housing Corporation: <http://www.housingcorp.gov.uk>

The Audit Commission: <http://www.audit-commission.gov.uk/>

The Home Office: <http://www.homeoffice.gov.uk/anti-social-behaviour/>

The Local Government Association: <http://www.lga.gov.uk/>

The Crime Reduction website: http://www.crimereduction.gov.uk_

Social Landlords Crime and Nuisance Group: <http://www.slcng.org.uk/>

Module 1: For governing bodies/housing committee members and residents

Core task 2: Monitoring and recording systems

Many landlords experience difficulty in gathering accurate information relating to the scale and impact of methods used to deal with anti-social behaviour in their area. There is a need for landlords to develop common systems for recording complaints and monitoring action taken. Monitoring schemes need to be sufficiently sophisticated to identify the resource implications of different forms of action.

The consistent and accurate recording and monitoring of anti-social behaviour is vitally important. It enables you to:

- Become aware of the extent and nature of problems in your area
- Make informed decisions about targeting scarce resources and developing effective strategies.
- Ensure that your Best Value Performance Plans include local performance indicators and targets in respect of effective anti-social behaviour processes.

In this section of the Action Framework the following aspects of monitoring and recording are considered:

- Monitoring and reviewing ASB strategies.
- Reviewing current methods of recording and monitoring anti-social behaviour policy and practice.
- Links with partner agencies' recording and monitoring systems.
- Overcoming problems in sharing data.

Monitoring and reviewing ASB strategies

In order to ensure that your ASB strategy is effective it is good practice to undertake regular reviews of the precise problem to be tackled and outcomes you wish to achieve:

- Monitoring – refers to the process of keeping track by measuring inputs and outputs.
- Reviewing – refers to finding out whether a particular intervention or strategy has achieved its objectives.

Setting up appropriate monitoring and evaluation frameworks are an essential part of the development of an ASB strategy and cannot simply be tacked on to the end of the process.

Because anti-social behaviour and nuisance cases are complex and dynamic with the nature of complaints likely to change over time, it can be very difficult to collect data on the nature and number of complaints received and to monitor the impact of what action has been taken. In addition to developing specific Quality of Life Performance Indicators and monitoring of individual cases (see further below and **Core Task 6** for details of information that should be collected about individual complaints) there is also a need for social landlords to monitor the impact of their organisational policy and practice.

The following activities have been designed to help you identify what improvements could be made to your current systems of recording and monitoring of anti-social behaviour.



Activity

Consider the following questions to help you identify improvements that could be made to your organisation's current systems of recording and monitoring of anti-social behaviour:

- Do you receive regular reports on the effectiveness and progress of your anti-social behaviour policy and strategies?
- Does your organisation's Best Value Performance Plans include local performance indicators and targets in respect of effective anti-social behaviour processes? If not what methods of recording and monitoring incidents do your officers use? What are their limitations and how could they be improved?
- Do current methods of recording and monitoring incidents enable an analysis of trends to be undertaken? For instance, a comparison between one area/estate and another in terms of number, types, rates of incidence, forms of intervention and outcomes over time?
- How accurate, reliable and representative is the data?
- Can your officers identify what types of anti-social behaviour are taking place? Where? When? Why? Who are the victims? Who are the perpetrators? Do you receive regular reports on this?
- What other relevant sources of data are available? Can your officers identify exclusions by area, type and households, void rates, criminal damage costs, vandalism records, transfer requests etc.? Have you received any information on current trends based on this data?
- Who within the organisation is responsible for data analysis and regular reporting? Do you receive regular reports?

Whatever the system you currently use for monitoring and recording cases of anti-social behaviour it is important that you are able to use the system to clearly identify the nature of the problem in your area and to analyse long-term trends.

In developing, your recording and monitoring systems you also need to consider whether your information systems are compatible with those used by your legal advisors and other agencies that you may want to share information with. More detailed guidance on developing information sharing protocols is provided in **Core Task 4**, but at this stage it is vital to ensure that your information systems are compatible with those used by your legal advisors and other relevant agencies.



Activity

Consider how far your current monitoring and recording systems provide strategic information which you may want to share with other community safety agencies. For example, do you collect the following information on the characteristics of victims and perpetrators of anti-social behaviour:

- Age?
- Gender?
- Ethnicity?
- Geographical distribution of victims and offenders?
- How are different types of anti-social behaviour classified?
- What data is available about actions taken by other social landlords, owner occupiers and private landlords operating in areas in which your stock is located?
- What formal or informal information sharing protocols have been developed with relevant agencies operating in your area?
- Are your information systems compatible with those used by your legal advisors and other agencies that you may want to share information with?

Developing information sharing protocols and overcoming problems in sharing data

In the past many landlords have found that developing effective information sharing protocols with other community safety organisations has been fraught with problems. However, since the introduction of the Crime and Disorder Act 1998 and the development of local crime and disorder reduction partnerships there is now a clearly established framework which should make it easier for organisations to share information about the particular problem of anti-social behaviour in their locality. Section 115 of the Crime and Disorder Act 1998 contains an explicit power for people to disclose information to a number of different agencies including crime and disorder reduction partnerships and in some areas this has resulted in improvements to formal information sharing protocols and the development of more effective methods of information exchange.

In parts of the country the implementation of the Crime and Disorder Act has resulted in improved information sharing procedures, but in other areas there is still a long way to go before effective information sharing protocols are put in place. The problem of developing effective methods of sharing information appear to be particularly acute for registered social landlords operating in a number of different geographical locations since they are required to liaise with a wide range of agencies operating under different guidelines.

In order to help agencies work more closely together the Crime Reduction website has developed a specialist tool kit on developing information sharing protocols and has an interactive template protocol document, to enable organisations to customise their own information sharing protocol on line. The on line version allows the selection of sections that are appropriate, and provides an option to include references to legislation commonly used in crime reduction information sharing protocols. By filling in a series of 15 forms, customising them to your requirement, you will be sent a document which forms a basis for your protocol from which to work.

For further information about creating your own information sharing protocol go to the Crime Reduction website at: http://www.crimereduction.gov.uk/infosharing_guide.htm

A step by step guide to information sharing is also available on the Home Office Together website. It provides guidance on the how information can be shared between the following agencies: the police, local authorities, RSLs, youth offending teams, the national probation service and health providers. It discusses:

- Categories of information that that can be shared (de-personalised and personalised information).
- Legislation that relates to the sharing of personalised information.
- Information sharing protocols.
- Sharing information with witnesses and victims.
- Sharing information with the wider community.

These agreements can be used by communities to set the standards of behaviour by which they expect people to live. If these standards are to be respected, it must be clear to everyone that swift and effective action will be taken against unacceptable behaviour. For more information visit the Together website at: <http://www.together.gov.uk/>



Key questions

Information sharing protocols

- Have information sharing protocols been entered into with all relevant local organisations?
- Are all committee members aware of the protocols?
- Are the protocols monitored and any difficulties in practice addressed by the parties?

Even where information sharing protocols have been put in place, developing an overview of the incidence and extent of anti-social behaviour and youth nuisance in local areas can be hampered by the lack of co-ordinated data collection systems, use of incompatible recording and monitoring systems and more general concerns about data protection.

The table opposite identifies some of the common barriers to sharing information about anti-social behaviour and outlines strategies that can be employed to improve the mapping of anti-social behaviour.

Table: Common barriers to sharing information about anti-social behaviour and methods of improving data sharing

Barriers to sharing data	Strategies to improve data sharing
<ul style="list-style-type: none"> • Different agencies adopt different definitions of the problem. • Concerns over data protection issues. • Data collection problems caused by incompatible IT systems and the lack of coterminous boundaries between agencies. 	<ul style="list-style-type: none"> • Discussion between local agencies regarding the range of interpretations of anti-social behaviour and the development of an agreed working definition. • Networking with other partnerships to establish methods of sharing information and the development of local information sharing protocols. • Agencies would welcome greater dissemination of good practice on information sharing from central government. • Provision of clearer guidance and training on data protection issues to all partner members. • Joint working between key agencies to minimise IT problems. • Use of dedicated surveys and alternative data sources to establish a base line against which crime statistics and other trends can be compared over time. This method of monitoring is particularly valuable since it facilitates an assessment of trends and an evaluation of long-term outcomes.

Module 1: For governing bodies/housing committee members and residents

Core task 3: Developing preventive measures

It is now widely acknowledged that taking action to prevent anti-social behaviour is a fundamental part of effective ASB strategies. From December 2004 all social landlords are required to produce Anti-social Behaviour policies and procedures outlining the range of services offered to deal with anti-social behaviour including details of initiatives that focus on preventing ASB.

Government guidance on preventative approaches to ASB

In 2004 the Office of the Deputy Prime Minister issued guidance for social landlords on how they should prepare, review and publish Anti-social Behaviour policy statements and procedures. The guidance identified prevention as an integral part of any approach to tackling anti-social behaviour:

“Prevention should be an essential part of the landlord’s approach to ASB. Many landlords are already involved in initiatives that focus on prevention of ASB. Where these exist, the Statement of Policies should set out the range of initiatives and the general purpose of those initiatives.”

(ODPM, *Anti-Social behaviour: policy and procedure – Code of Guidance for Local Authorities and Housing Action Trusts*, 2004).

Housing Corporation guidance on preventative approaches to ASB

A Housing Corporation Circular 42/04 issued in the summer of 2004 also stressed the importance of prevention and in particular highlighted the positive effects of support and rehabilitation to achieve long-term changes in the behaviour of ASB perpetrators, and prevent simply displacing the problem elsewhere.

“We recognise that anti-social behaviour often results from a history of drug, alcohol or familial abuse, or mental health issues or a misunderstood disability. As such, we expect to see plans which place emphasis on support and prevention.”

(Peter Dixon, Chairman of the Housing Corporation, *Circular 42/04*).

Moving beyond merely a ‘bricks and mortar’ responsibility for tenants has inevitably made a social landlord’s work more demanding. Increasingly there are real tensions between government guidance and legislation with regard to supporting people in the community and protecting the community from crime and anti-social behaviour. This becomes especially problematic for social landlords and their partner welfare agencies when getting tough on perpetrators of crime, conflicts with providing support for vulnerable tenants. It is also a very real issue when balancing the needs of homeless people who may have multiple social and health problems, with the needs of existing residents.

There are a wide range of preventative measures; some tasks are directly associated with the management of housing while other forms of prevention are more closely linked to the wider role of social landlords in the community. This core task examines a range of different types of preventative action that social landlords can take in relation to:

- Providing specialist support to vulnerable tenants.
- Floating support schemes.
- Dedicated ASB intensive family support provision.
- Providing diversionary activities for children and young people.
- The use of incentives to promote positive behaviours.
- Basic crime prevention and community safety measures.
- Neighbourhood warden schemes.
- Secured by Design measures.
- Targeting letting policies to minimise clashes of lifestyles.
- Excluding people with a history of anti-social behaviour.
- The use of introductory, starter and demoted tenancies.

Further measures that can contribute towards preventing problems from becoming established include the use of mediation, acceptable behaviour contracts, estate agreements and good neighbour declarations. These initiatives are described in detail in **Core Tasks 4 and 6**.

Providing specialist support to vulnerable tenants

Research has shown that:

“Households involved in anti-social behaviour are predominantly characterised as having high levels of vulnerability, including mental health and other disabilities. Most defendants are dependent on state benefits of some kind.” (Hunter *et al.*, 2000).

A wide range of different types of complex support needs are commonly associated with households involved in anti-social behaviour including the following:

- Domestic violence and other forms of physical or sexual abuse.
- Mental ill-health.
- Out of control children.
- Drug dependency.
- Alcohol problems.
- Physical disabilities.
- Learning difficulties.

The earlier that appropriate support and assistance can be offered to new tenants the less likely it is for the tenancy to breakdown due to anti-social behaviour. At the point where a tenancy is being let there is a need for housing officers to undertake basic needs assessments to establish if any members of the household have special support needs. It may be possible for support to be provided by local community groups or by other service providers, principally social services and appropriate voluntary agencies.



Activity

In order to assess how far your policies are able to address the needs of vulnerable applicants consider:

- How does your organisation explain 'nuisance and anti-social behaviour clauses' to new tenants?

- Are the clauses clear and written in plain English and available (as necessary) in other languages? If not, what should be contained in them?

- Have support services for vulnerable tenants been developed in conjunction with any social welfare agencies? If not, could they be?

- Is the allocations procedure linked to assessing special needs and the potential nuisance risk factors of particular tenants? If not, what can be done to move towards a situation where needs and resources can be better matched?

Floating support schemes

A survey of social landlords undertaken in 2002 found that around a third of landlords regularly referred families who had been the subject of ASB complaints to agencies who could provide help in terms of either providing ongoing floating support or by the provision of drug rehabilitation schemes, foyers or family support units. An example of a floating support scheme for young people is provided in the case study box which follows.

Case study: Tees Valley Group floating support scheme

By the mid 1990s the Tees Valley Housing Group recognised that a growing number of young people required independent accommodation but found it very difficult to manage the transition to independent living. In response to this problem a floating support scheme was established to provide support to young people through the provision of a package of tailored support to meet individually identified needs. The aim of the scheme is to provide young people aged between 16-25 with support to obtain and sustain a tenancy. The functions of the service are described as being to:

- Assist people gain access to appropriate services.
- Help people develop and maintain independent living skills.
- Provide individuals with more choice and control over their lives.
- Maximise independence and empowerment.
- Promote social inclusion and facilitate social engagement and community participation.
- Help young people to access work training and education.

The type of personal support offered by the scheme varies according to the needs of the individual client but can include:

- Help in setting up and furnishing a new home.
- Help in accessing relevant services.
- Liaison with family and other organisations.
- Advice on access to educational/training/work opportunities.
- Counselling, emotional support.
- Action to maintain independence and personal well being.
- Advice on benefits, debt management and budgeting.

Although the scheme is resource intensive, employing a total of eight dedicated support workers plus a full time manager, Tees Valley view the investment as being cost effective in terms of both preventing ASB and in terms of ensuring that a vulnerable group of people are able to maintain their tenancies. For example in 2001 four out of five (82 per cent) of young people provided with floating support were successful in establishing and maintaining their tenancies.

Source: *Tackling Anti-social Behaviour in Mixed Tenure Areas*, ODPM, 2003.

Dedicated ASB intensive family support projects

Anti-social behaviour policies are most effective if they incorporate measures to help perpetrators change their behaviour. There may be a small number of households who require intensive support in order to achieve any change and in these circumstances there may be a strong case to develop dedicated ASB resettlement provision. During 2003 a small number of pioneering local authorities, housing associations and charities have set up such provision specifically to provide support for families with children who are at risk of homelessness or eviction due to anti-social behaviour displayed by themselves or visitors to their homes. While each of the schemes has been developed in response to locally identified need they share a number of common features:

- Dedicated ASB resettlement services form part of a well-developed, comprehensive anti-social behaviour strategy that recognises the inter-related nature of prevention, enforcement and resettlement action.
- Projects have been designed specifically to help support families who have been evicted or who are under threat of loss of home as a result of anti-social behaviour.
- They aim to break the cycle of poor behaviour; bring families back into mainstream housing, help children and young people who are perceived to be out of control and provide an alternative solution where other anti-social behaviour interventions have failed.
- The model of provision is based on the resettlement work pioneered by the Dundee Families Project run by NCH in partnership with Dundee City Council. Projects provide a range of services including some or all of the following types of intervention:
 - outreach support to help families address behavioural and other problems in order to maintain their existing accommodation;
 - outreach support in dispersed tenancies managed by the project;
 - intensive support in core accommodation managed by the project.

The costs of providing tenancy support to help people change their behaviour can be considerable and must be evaluated against the direct costs of taking legal action, the potential costs of 'revolving door homelessness' and the considerable hidden costs of doing nothing.

A two year evaluation of the work of six English ASB rehabilitation projects has been undertaken for the ODPM by a specialist team of researchers from Sheffield Hallam University. The study interim results were published by the ODPM in January 2006 (Nixon *et al.*, 2006) and the final evaluation report will be available from Spring 2006.

Floating support schemes and intensive rehabilitation models of provision can both prevent and reduce the incidence of anti-social behaviour. In deciding whether to invest in these types of initiatives the costs of provision to help people change their behaviour must be evaluated against the wide range of costs associated with ASB.



Activity

Parents may need help in supporting their children to change their behaviour. What parenting provision is available in areas in which your stock is located?

Have you developed close operational partnerships with Drug (and alcohol) Action Teams to address problematic drug usage that causes anti-social behaviour?

What further action could you take to ensure that perpetrators are encouraged to change their behaviour?

Could your organisation undertake a cost benefit analysis to establish the cost and effectiveness of different forms of action to deal with anti-social behaviour?

Diversions activities for children and young people

Dealing with youth nuisance

Complaints of anti-social behaviour frequently arise from tenants' concerns about groups of young people gathering near shops and community buildings, or playing ball games in residential areas. The police are often called to deal with these problems and the young people are moved on. Such a solution, while providing temporary respite from the nuisance, can be ineffective in the long term. The problem is likely to simply be displaced to other areas and such action can engender feelings of victimisation in the young people which in turn may result in increasing tensions between social groups within the community. Where youth nuisance is a problem the provision of constructive, motivational and entertaining activities can be a more effective way of diverting young people away from anti-social behaviour. It should also be remembered that as well as potentially being the causes of anti-social behaviour young people are also often the target of anti-social behaviour with young men aged between 16-24 being the most vulnerable to becoming a victim of violent crime (see further information in the *British Crime Survey 2003/04*, www.homeoffice.gov.uk).

An award-winning example of the way in which social housing providers can play a crucial role in the development of youth provision is the Sidmouth Mews Kids Club in Camden. This project has been successful in not only reducing complaints of youth nuisance, but also has contributed to increasing tolerance of the visible presence of young people within the community, which in turn has increased public confidence and feelings of safety.



Activity

Read through the Sidmouth Mews case study below and consider the following questions:

- What is your organisation doing to contribute to the provision of facilities and services for young people?
- What more could be done? And, in what partnerships?
- What other agencies, such as drug and health promotion agencies, youth offending teams, community safety teams etc. might be involved in prevention strategies?

Case study: The provision of youth facilities

The Sidmouth Mews Kids Club in Camden was established to tackle anti-social behaviour caused by young people on the Sidmouth Mews Estate. The project was initiated by complaints that young children were hanging around the estate, creating high levels of noise and nuisance, and in some cases damaging property. A lack of recreational facilities for children in the area was identified and so a multi-agency group including Sidmouth Mews and Regent Square Tenants' and Residents' Associations, Camden Council Housing Department, the District Management Committee and private sector representatives proposed a programme of diversionary activities during the summer holidays and after school.

An appropriate location was identified and a small grant from the Community Involvement Team within Camden Council was procured to buy a snooker table and various board games. Volunteers also approached the Housing Office and asked for funding towards a part time youth worker post.



As well as providing young people with recreational activities, the youth worker and the volunteers have used the club to challenge the children about their behaviour, and to make them aware of the consequences that may arise from such behaviour. Quarterly newsletters inform local residents of the activities and successes of the club and volunteers also encourage all sections of the local community to become involved. Bengali families are regularly invited to visit the club and older white women are often invited to run the club. The aim was to improve the dynamics between certain social groups living on the estate, in particular the Bengali and white sections of the community, and different generations. The club also works closely with the police officer and street wardens who visit the club to engage with the children.

For more information about this project see the Together website:

<http://www.together.gov.uk/home.asp>

Community groups can play a big part in identifying local youth nuisance problems, and helping to agree on some of the underlying causes. They can:

- pass information to the police or council about nuisance or individuals;
- report vandalism and graffiti immediately;
- protect properties with crime prevention measures;
- set up a Neighbourhood Watch group, or keep an eye on each other's homes and vehicles;
- link up with the council community safety officer;
- approach people whose behaviour is causing worry or distress early on, to try and resolve differences amicably.

Action that local residents and community groups can take to deal with youth nuisance

For instance, your organisation could:

- Ask local residents to keep a diary of the nuisance behaviour, noting dates and times, ages and characteristics of the young people in question, and the effects of the problems on themselves and on the neighbourhood as a whole.
- Arrange for members of residents' groups to go on a walkabout, producing a snapshot in writing, photographs or on video of the impact of youth nuisance on your neighbourhood: vandalism, litter, graffiti, burnt-out cars and so on.
- Contact and discuss concerns with your landlord. Ask a local youth worker, community worker or teacher to add to the information you have collected and support your perception of events.
- Find out whether any recent surveys have asked local people about problems in their neighbourhood. If so, check whether youth nuisance or anti-social behaviour were top concerns.

- Ask local youth groups, youth forums or school-based groups to provide young people's perspectives on the problem.

Source: *No Bother! Positive approaches for social landlords, community groups and young people to tackle youth nuisance*, Crime Concern, 2004, at:

http://www.bankofgoodpractice.org/contentmanagement/documents/No_bother-antisocial.pdf

Youth shelters

Providing a facility for young people doesn't necessarily require the costly provision of youth clubs or other structured activities. It may be that young people simply want a safe place to hang out. Many of the problems associated with youth nuisance can be reduced by the provision of a safe place for young people to meet. Research has shown that the most successful youth shelters are those that are linked to some type of sporting facility – these complement each other by becoming a place to go for both physical and social activity. The advantages of this preventative approach to youth nuisance are illustrated in the action taken by Cherwell District Council (see case study below).

Case study: Cherwell District Council – provision of sporting and youth facilities

In response to complaints from residents about youth nuisance, Cherwell Council constructed a number of enclosed basketball courts on larger council estates across the district. Each cost about £40,000 and also serve as a five-a-side football pitch. Around the courts, seating areas have been provided and the whole facility is floodlit until 10 pm. The facilities have proved to be popular recreational and gathering areas for young people and in the neighbourhoods where they are located there has been a dramatic reduction in complaints from residents about youth nuisance and anti-social behaviour. In addition, the cost of repairs to young children's play equipment has dropped by 25 per cent.

The facilities have also had secondary and unplanned use. Late on Friday and Saturday nights, some of the seating areas are also being used by older youths and, occasionally, adults for meeting, eating and drinking. This has not however, been a cause for concern for local residents as the seating areas are far enough away from the housing not to be a nuisance. Although this additional use of the facilities by an older cohort, does mean that the area becomes littered with beer cans and fish and chip papers, this has actually enabled the council to clear away litter more efficiently. The council now only have to attend one location to clean it up. Previously waste was being deposited in residential streets and residents' gardens. The facilities have therefore also helped significantly reduce complaints from residents about noise, litter and damage. Cherwell District Council is expanding the provision believing the expense to be fully worthwhile in providing a much-needed facility.

For further information on this initiative see Hampshire, M and Wilkinson, M (2002) *Youth shelters and Sports Systems: a good practice guide*, London Thames Valley Police available at: <http://www.thamesvalley.police.uk/crime-reduction/shelters.htm>

The provision of dedicated youth workers

Detached youth work can also be an effective way to reach young people who are unlikely to attend youth clubs, but who may be the source of anti-social behaviour or may be perceived by other residents as being threatening or intimidating. The Youth Pod Scheme (PODS) established in April 1997 is an example of how detached youth workers can be successfully employed to engage with 'hard-to-reach' young people who are the subject of complaints by local residents

Case study: 'The Youth Pod Scheme' – the use of detached youth workers to engage 'hard-to-reach' young people

Greater Manchester Police Tameside Division's Youth Strategy Unit in conjunction with Tameside Council developed the idea for the scheme on the assumption that problems of anti-social behaviour were caused predominantly by young people who lacked direction. It was recognised that most of these young people would not join organised and formal facilities such as a youth clubs. A more effective solution was thought to be the provision of a self-contained facility which young people could call their own, in the areas where they already enjoyed gathering but where relationships could also be built with detached youth workers. With this in mind the POD pilot scheme was developed.

The PODs are specially manufactured mobile steel cabins, equipped with heating, lighting, a music centre, information racks, tables, chairs and basic sports and games equipment and have space for around 15-20 young people. They are vandal-proof and take electricity from a mobile generator or mains electricity from nearby council or community buildings and can be placed in the exact area it is needed. They open two evenings a week (Friday and Saturday or Sunday) and are staffed by youth workers who organise activities and outings, provide advice and information and direct young people to more permanent centres.

The PODs have proved to be successful in a number of ways. They allow youth work to be targeted in areas of need and youth workers now reach more young people than before – the young people attending PODS are all new customers for youth workers. This direct contact has also enabled youth workers, and police, to get the direct views of the wants/needs of the young people who feel the street is the place to be and have helped them develop a clearer picture of the causes of anti-social behaviour from young people and the possible remedies.

The PODs are located in areas where there has been concern about ASB for 3-6 months and they are then moved on to other areas of need. An exit strategy is developed for each POD site, with the idea that when the POD moves to another location, young people are left with some sort of provision. Options include use of existing buildings, regular outreach work and/or sports development work. The PODS have proved to be successful. They have been used by hundreds of young people and reported youth nuisance incidents have reduced dramatically where PODs have been in place. A wide range of people including parents, residents, businesses and young view the PODs as something very positive. Youths who have used a POD have enjoyed the experience. Some follow the POD to the next site.

In 2000 the Youth Pod scheme won a British Community Safety Award. More information about the PODs is also available through Tameside's website at:

<http://www.tameside.gov.uk/>

The use of incentive schemes to promote positive behaviour

Following the example of Irwell Valley Housing Association a number of social landlords have adopted an approach to the delivery of housing management services that includes offering incentives to tenants to promote positive behaviour.

Typically incentive schemes reward and encourage positive behaviour through systems of rewards. The Irwell Valley Housing Association Gold Service for example, offers tenants who have clear rent accounts and whose tenancy has not been subject to a notice for anti-social behaviour or other breach of tenancy, an enhanced housing management service including faster response times for repairs. In addition, Gold Service members are eligible for a range of other benefits including vouchers for over 20,000 retail outlets, negotiated discounts with local or national businesses, entry to competitions for tickets for concerts etc.

An ODPM funded study into the transferability of this type of incentive scheme found that:

- The most positive impact of incentive schemes are the way in which tenants who adhere to their tenancy agreements feel valued.
- On the other hand only limited evidence was found to support the view that the use of incentives changes behaviour.
- In order to ensure that benefits resulting from the use of incentive schemes are sustained organisations must be prepared for wider cultural change.
- The use of incentives is not a cheap option – there can be significant costs involved in assessing the suitability of such schemes including undertaking an initial feasibility study, staff training costs, marketing material and member magazines and the costs of the ‘benefits’, i.e. purchasing vouchers, buying prizes and staff time involved in negotiating discounts with local suppliers.
- Size, stock type, location and the degree of vulnerability of tenants are key factors to take into account when considering whether to adopt an incentive scheme.
- For some housing organisations, particularly those with housing stock dispersed over different geographical locations it may be impractical to develop appropriate incentives to make the scheme attractive to tenants.



Key questions

Taking into account the findings from the ODPM study into the transferability of incentive schemes consider the following questions:

Has your organisation considered adopting an incentive scheme to reward positive behaviour? If so why?

- Changing tenant behaviour?
- Changing the organisation's culture?
- Improving performance?
- Tackling hard-to-let stock?
- Improving services to tenants and obtaining greater tenant satisfaction?

What sort of incentives would tenants value?

Is the successful delivery of housing management at the core of your organisation's culture?

If you are interested in finding out more about incentive schemes go to the ODPM website and download the Housing Research Summary Number 191, 2003, *Incentives and Beyond: the Transferability of the Irwell Valley Gold Service to other Social Landlords*.

Crime prevention and community safety

A diverse range of crime prevention and community safety schemes have been developed across the UK by a wide range of agencies and multi-partnership collaborations. The primary players include the following agencies:

- NACRO
- Crime Concern
- The Home Office
- The Crime Reduction Unit
- The Safe Neighbourhoods Unit
- The police
- Social housing landlords

These approaches are at the very heart of the government's crime reduction strategy. The aim is to make communities 'safe' for residents. Crime and disorder reduction partnerships established through the 1998 Crime and Disorder Act play a major part at the local level to help reduce anti-social behaviour through:

- offering deterrents to anti-social behaviour utilising CCTV, effective security of properties, concierge schemes, security patrols in high risk areas etc.;
- involving communities in the discussions and planning involved to adopt effective strategies;
- the work of the multi-agency youth offending and community safety teams in monitoring crime and anti-social behaviour and responding in a co-ordinated way to the problems;
- the development of positive, preventative youth facilities for young people involved in offending or at risk of doing so;
- measures to design out crime and reduce the risk of incidents in existing and new-build schemes.

More detailed information about crime and disorder partnerships is provided in **Core Task 4**.



Key questions

- How far has your organisation engaged in implementing crime prevention and reduction measures?
- What more could be done and with whom?

In the following section of the Action Framework we examine two particular approaches to crime prevention and community safety that are particularly relevant to social landlords:

- The use of security patrols and neighbourhood warden schemes.
- Measures to design out crime and ASB.

The use of security patrols and neighbourhood warden schemes

With increasing anxiety about crime and anti-social behaviour, it is increasingly common for residents' groups, housing associations and local authorities to take some direct responsibility for their own crime prevention and community safety needs. In 2004 the JRF commissioned a study into the use of visible security patrols in residential areas which identified a diverse range of different types of patrols designed to promote community safety, including privately contracted sworn police and community support officers, neighbourhood wardens, voluntary citizens, neighbourhood watch patrols and private security guards.

The following fact sheet outlines the different forms of uniformed patrol schemes that can be used:

Fact sheet: The use of uniformed patrols

The JRF study by Crawford and Lister into the range of initiatives that seek to provide public reassurance through visible patrols in residential areas revealed a diversity of approaches to policing including:

- **Neighbourhood warden schemes:** These tend to emphasise work with residents and environmental improvements rather than with law enforcement or overt policing. They are effective in areas where there is a low level of trust or confidence in the local police.
- **Contracted community safety officer initiatives:** Community safety officer patrols provide reassurance through increased visibility.
- **Contracted sworn police officer schemes:** These are most appropriate where the full powers of a police officer are needed.
- **Special constables:** Special constables are generally unpaid, but have full police powers and provide an alternative police resource that works alongside sworn police officers.
- **Private security patrols:** These emphasise reassurance and information gathering with a greater reliance on technology, such as mobile CCTV cameras. They also work well where residents' reassurance is a key concern.
- **Civilian patrols:** These tend to exist where collective solidarity is well established and police cover is traditionally low, such as in rural areas.

Source: Crawford, A and Lister, S (2004) *Study of visible security patrols in residential areas*, JRF. For more information see:

<http://www.jrf.org.uk/knowledge/findings/socialpolicy/424.asp>

The establishment of super-caretakers, neighbourhood wardens and concierges with a higher profile on local estates has the capacity to have a positive impact on anti-social behaviour. Their presence can act as a deterrent and can reduce harassment especially in ethnically sensitive areas where staff from appropriate ethnic background can be recruited and trained. Further information about the ways in which neighbourhood warden schemes can contribute to the reduction of youth disorder, and address environmental problems such as graffiti and fly tipping is provided in the fact sheet below.

Fact sheet: Neighbourhood warden schemes

In 2004 the Office of the Deputy Prime Minister undertook a national evaluation of the neighbourhood wardens programme. The study concluded that wardens can make a difference to ASB in a variety of ways:

- Patrolling seems to have an immediate, albeit short-term, effect particularly on anti-social behaviour ‘hotspots.’
- Wardens can usefully tap into multi-agency teams and help on the ground.
- Wardens can act as the ‘eyes and ears’ of a local community and can help access services to respond to particular community needs and make the links between the community and the provision of broader neighbourhood management.
- Identifying and building relationships with and working on a one-to-one basis with known ‘troublemakers.’
- Empowering people to take action. Where ASB remains intractable, wardens have been helping residents and police to secure ASBOs.
- Running or assisting in targeted youth work and diversionary activities.
- Interacting with younger children. Working with younger groups to intervene in a cycle of ASB behaviour before it starts. It involves wardens being proactive and developing creative strategies. By building relationships of trust with younger people, wardens are acting as positive role models in communities that have been stripped of institutional infrastructure and authority.
- The report concludes that in almost all areas, warden schemes seem to have made the greatest impact on quality of life and residents’ fear of crime, but also on decreasing litter, graffiti, and fly-tipping.

Further information about the study is available from the ODPM website at:

<http://www.neighbourhood.gov.uk/displaypagedoc.asp?id=293> *Neighbourhood Warden Scheme: Evaluation Key findings and lessons Research Summary 8* (ODPM, 2004a).



Activity

Read the following case study on the Newport Ranger Service and consider:

- What personal experience do you have of street warden services or of using other forms of uniformed patrols in areas where there are high levels of concern about anti-social behaviour and disorder?
- What are the advantages and disadvantages of providing such services?

If you are in a training or team situation it may be worth splitting up into small groups of about four or five, enabling everyone to participate in debate about neighbourhood warden schemes, then reconvening in the larger group and reporting back observations.

Case study: The Newport Estate Ranger Service

“The Rangers aim to prevent anti-social behaviour through their presence, and to stop the escalation of incidents through informal persuasion. Furthermore, evidence is gathered on anti-social tenants for the Housing Officer who can take legal action if required. The Rangers have no special powers, and aim to nip problems of anti-social behaviour in the bud without showing an excessive reaction in order to improve the atmosphere on the estates.” (Jacobson and Saville, 1999: 22).

The Newport Estate Ranger Service was established in 1994 by the Borough Council as a response to the growing problems of anti-social behaviour on estates and increasing number of complaints from tenants.

The scheme is dedicated to preventing anti-social behaviour such as noise nuisance, threatening behaviour, joy-riding, vandalism and neighbour disputes. The wardens are available every day of the year from 2.00pm to midnight. Priority is given to ongoing incidents but in most cases the wardens arrive at the scene within an hour of the call and try to persuade the culprits to modify their behaviour. Incidents of crime are immediately reported to the police; accordingly the activities of the rangers filter out those incidents where a police presence is not required or is not an appropriate use of resources.

The initiative has proved successful and popular among local tenants and has been expanded. It was originally restricted to council estates (approximately 12,500 properties), but was expanded in 2002 and renamed the Community Warden Safety Service. The service is now available to all residents of Newport.

For further information about the Newport Estate Ranger Service see Jacobson and Saville, 1999.

Designing out crime and anti-social behaviour

Anti-social behaviour often occurs in neighbourhoods where housing is badly designed and poorly maintained and where target hardening measures, i.e. measures that have been introduced to make criminal activity more difficult, have not been effectively installed. Crime and anti-social behaviour are more likely to occur where poor design has resulted in inadequate access and movement routes, poor layout, poor levels of surveillance, uncertainty of ownership, low levels of physical protection; very high or very low levels of human activity; and poor levels of management and maintenance.

The ODPM (2004b) have produced a guide to target hardening measures which focuses on the role of planning in tackling crime, the fear of crime and anti-social behaviour *Safer Places – the Planning System and Crime Prevention*. The guide's aim is to show how well-designed places can contribute to the creation of places where people feel safe and secure; where crime and anti-social behaviour, or the fear of crime, doesn't undermine quality of life or community cohesion. The guide is informed by detailed case studies and sets out seven attributes of sustainable communities that are particularly relevant to preventing anti-social behaviour. These are:

- **Access and movement:** places with well defined routes, spaces and entrances that provide for convenient movement without compromising security.
- **Structure:** places that are structured so that different uses do not cause conflict.
- **Surveillance:** places where all publicly accessible spaces are overlooked.
- **Ownership:** places that promote a sense of ownership, respect, territorial responsibility and community.
- **Physical protection:** places that include necessary, well-designed security features.
- **Activity:** places where the level of human activity is appropriate to the location and creates a reduced risk of crime and a sense of safety at all times.
- **Management and maintenance:** places that are designed with management and maintenance in mind, to discourage anti-social behaviour in the present and the future.

Addressing ASB through target hardening is about reducing the opportunities for anti-social behaviour. Measures designed to improve security, reduce anti-social behaviour and make residents feel safer include CCTV, improved lighting, reinforced doors and door entry systems, removal of walls or trees that obscure visibility.

Fact sheet: Planning provisions to prevent crime and disorder

The government continues to place crime and disorder at the centre of the planning process:

- Section 17 of the Crime and Disorder Act 1998 places a requirement on each local authority to consider the likely effect on crime and disorder in their area when drawing up their planning policies.
- The new Planning Policy Statement 1 sets out how the planning system should play a key role in delivering sustainable communities. PPS1 has at its heart the need to plan for safe and sustainable communities. The ODPM (2004b) guide *Safer Places – the Planning System and Crime Prevention* should be used alongside this Planning Policy Statement.

Secured by Design (SBD) is an award scheme run by the Association of Chief Police Officers (ACPO) which aims to encourage housing developers to design out crime when planning new developments or undertaking regeneration work. ACPO recommends SBD as the leading crime reduction tool, aimed at the built environment. Recent research shows it is effective in reducing crime and the fear of crime, and improves residents' quality of life.

Essentially the scheme is aimed at new buildings or the major refurbishment of existing ones in order to ensure that high levels of security are an integral part of the design process. Local Crime Reduction and Architectural Liaison Officers manage Secured by Design applications and can offer advice to ensure that any new build meet the minimum standards for the SBD approval. To obtain this approval, the hardware, such as doors, windows, locks, etc., must meet minimum specifications set by the SBD scheme. The Housing Corporation requires registered social landlords to apply for SBD for all new developments.



Activity

Read the following two case studies and consider the following questions:

- In areas of your stock are there any design changes you could make that would help address problems of disorder and fear of crime?
- What target hardening measures would help you prevent anti-social behaviour?

If you are in a training or team situation it may be worth splitting up into small groups of about four or five, enabling everyone to participate in debate about the role of design and target hardening measures, then reconvening in the larger group and reporting back observations, so that a range of opinions can be considered on what action can be taken.

Case study 1: The use of Secured by Design principles

Swanley's Northview estate was remodelled using Secured by Design principles with the aim of defining and engendering ownership, controlling access and 'target hardening'. The estate comprises ten blocks of 1970s housing. By the mid 1990s, these had become a very poor environment. The outside public areas were not clearly the responsibility of a particular agency, and had become particularly troublesome and the space between residential blocks was vulnerable to crime and anti-social behaviour. The West Kent Housing Association with local residents, architects, and the police, commenced a programme of regeneration with the aim of producing security, sense of place and pride in the community using the following design interventions:

- Creating a sense of neighbourhood to each courtyard between blocks with an entrance portal and colour co-ordination.
- The space between residential blocks that was vulnerable to crime and anti-social behaviour was divided into functional areas with a variety of well-defined land uses, including parking, playgrounds, private gardens, quiet communal gardens and circulation space.
- Controlled access to flats with an entrance canopy.
- Good quality lighting.
- Landscaping with trees and hedges.
- A triple fence at the rear boundary (vertical timber boarded fence either side of weld mesh core).

The outcome was an improved sense of community and morale, and a reduction in crime and anti-social behaviour that was rewarded in 1997 with the Chartered Institute of Housing National Award for Housing and Security. Between September 1996 and September 2000 there was reduction of over 80 per cent in criminal damage, theft from motor vehicle and theft offences. The resulting improvements to the environment have led to major improvements in residents' quality of life.

Further information about this initiative is available from the ODPM website.

Case study 2: Use of CCTV

A second example is of an effective CCTV system designed specifically to tackle ASB and established by Willow Park Housing Trust. Providing safe homes for tenants in multi-storey flats was one of the promises the Trust made at transfer. In response to complaints of nuisance and anti-social behaviour, Willow Park Housing Trust, which owns more than 6,000 homes in the Wythenshawe area of south Manchester, launched a CCTV security and concierge system for tenants. During 2001/02 work on the CCTV access and security system was completed to cover 484 tenants.

Working with the City Council, Greater Manchester Police and Wythenshawe Partnership, a successful bid was made for Home Office funding to extend the CCTV system to businesses, shops and community facilities in Willow Park and adjoining areas. An additional £1.4 million has since been invested in new cameras, fibre optic cabling and expanding control room facilities. The system now covers 630 sheltered housing and multi-storey flats, 90 local shopkeepers, 60 businesses and 6 community buildings, comprises 120 cameras and provides coverage from a 24 hour staffed control room. The Trust has also improved lighting to external and common areas, provided security doors and controlled access to flats and car parks. The result has been significant reduction in complaints of anti-social behaviour.

For further information about this initiative see Lucas *et al.*, 2003.

Allocations and anti-social behaviour

Sometimes social landlords overlook the consequences of age, gender and family composition when making allocations. The location of play facilities near to sheltered accommodation and the moving of single parents and young tenants into flats with poor sound insulation are just two examples of situations likely to result in neighbour conflict. Complaints of noise nuisance in particular may in fact be generated because of a lack of sound insulation, rather than any unacceptable behaviour on the part of tenants.

A way to help prevent anti-social behaviour and disorder is for social landlords to consider whether the outcome of their allocation practices and policies are creating a neighbourhood mix that contributes to problems of community conflict.



Key questions

The Chartered Institute of Housing recommends that: *“Landlords need to be aware of the factors that increase the potential for nuisance arising, such as inadequate home security and poor sound insulation and take steps to prevent this.”* (CIH Good Practice Briefing 14, 1998).

- Have you undertaken an audit of your stock in order to identify particular design or location factors which may give rise to nuisance complaints?
- Are your organisation’s allocations procedures linked to an assessment of the potential nuisance risk factors of property? If not, what can be done to move towards a situation where property location and design are better matched to individual applicant’s requirements?



Activity

The following case study, reproduced from the original JRF research report (Hunter *et al.*, 2000) provides a good example of what can happen if lettings are made without regard to the particular needs of applicants, design features and the tolerance levels of the existing community. Consider how the situation could have been avoided. If you are in a training or team situation it may be worth splitting up into small groups of about four or five, enabling everyone to participate in debate about this ‘case history’, then reconvening in the larger group and reporting back observations regarding what happened to ‘Anne’, so that a range of opinions on what could have been done are aired.

Case study: Anne

Following an argument with her parents, Anne, a teenager, was nominated for a housing association flat. The flat was situated on the first floor in a block occupied predominantly by elderly people. Although the existing residents petitioned the landlord not to go ahead with the allocation Anne was granted the tenancy.

Complaints about noise nuisance started the day she moved in: *“There was a knock on the door asking me to wear slippers when I walked around and to buy earphones to watch the television.”*

Three days after Anne moved, the landlord sent a hand delivered letter in which they asked her to consider terminating her tenancy. Two days later she received a further letter telling her that an expedited court hearing for immediate possession was to be sought. At the possession hearing, held only two weeks after Anne had moved into the property, an outright possession order was granted.

Anne subsequently obtained legal advice and lodged an appeal. At the appeal hearing the judge criticised the way the case had been managed. He stated that what had occurred was: *“...a wholly unreasonable exercise of discretion, a breach of natural justice and plainly wrong.”* The appeal judge asked the landlord to consider transferring Anne to alternative accommodation. This option was declined and in the end Anne was offered accommodation by the local authority.

During the possession process Anne was supported by a youth worker who expressed the view that the problem was caused by Anne being given inappropriate accommodation. In addition to the clash of life styles between Anne and her elderly neighbours, the building had insufficient soundproofing and as Anne had no furniture or carpeting, complaints were inevitable. Anne felt that when the problems started the landlord should have talked to her about the complaints and considered transferring her to alternative accommodation.

Many neighbourhoods with the highest levels of community conflict are areas of low demand. In such areas consideration needs to be given to employing local lettings policies to foster a greater sense of community.

Research by Lemos (2004) has shown that changing letting policies to meet the needs of local communities can help create more balanced communities through reducing racial segregation, intergenerational tension, and the over-concentration of children and young people.



Activity

Read the case study on the development of a local lettings policy in Walsall and consider the following questions:

- Does your organisation have any areas of stock that would benefit from a local lettings policy?
- What are the advantages and disadvantages of local lettings policies?
- What would your objectives be in adopting a local lettings policy?

If you are in a training or team situation it may be worth splitting up into small groups of about four or five, enabling everyone to participate in debate about the advantages and disadvantages of developing a local lettings policy, then reconvening in the larger group and reporting back observations, so that a range of opinions can be considered on what action can be taken.

Case study: The development of a local lettings policy in Walsall

On a small housing association estate in Caldmore, near Walsall problems associated with drugs dealing had become entrenched. The problems appeared to be caused by male tenants and included frequent and numerous visitors, high levels of burglary, property damage, and 'turf war' violence involving guns and knives. There was a rapid turnover of residents on the estate as it gained local notoriety for dealing in heroin and crack cocaine and consequently became stigmatised. In response, an action plan was developed based on a holistic approach to deal with the problems including, legal action against the tenants who were involved in the drug-dealing, as well as a new lettings policy and the refurbishment of the entire block.

Once the flats were emptied, renovated, and security improved it was decided to change the client group who had traditionally been re-housed in the estate in order to establish a sustainable community. A local lettings initiative was agreed with the local authority along with marketing of the development. A show flat was renovated and potential residents were given a choice of wall colours and carpets. The refurbished homes were marketed to local employers, including the local NHS trust. Introductory tenancies were also introduced so that any problems of anti-social behaviour could be quickly dealt with before they took hold. The tenure mix is now very different from the original situation and an undesirable block of flats, which had major problems of nuisance, crime and anti-social behaviour, has been replaced with an attractive development, which has been let to a different client group. As a consequence, vandalism, nuisance and repairs costs have all been considerably reduced.

For more information about this initiative see Lemos, G (2004) *Community Conflict Action Framework*, London: Lemos and Crane.

Excluding people with a history of anti-social behaviour

A further issue related to allocation policies is action that can be taken by social landlords to exclude households from their stock, who have behaved in an anti-social behaviour manner.

Exclusions by local authorities

Allocation to permanent local authority housing and nominations by authorities to registered social landlords (RSLs) is controlled by Part VI of Housing Act 1996. Amendments to Part VI by the Homelessness Act 2002 which specifically addressed the question of anti-social behaviour came into force in January 2003. Two different mechanisms may be used to avoid housing anti-social households:

- People who have behaved in a seriously anti-social manner may be excluded from an allocation of housing altogether under section 160A(7) of Housing Act 1996.
- If not excluded, they may have their priority for housing reduced under section 167 of that Act (which requires authorities to give a 'reasonable preference' to certain groups).

Exclusions by RSLs

Guidance for RSLs on the use of exclusion policies is provided by the Housing Corporation in Circular 07/04: *Tenancy Management Eligibility and Evictions*. While the guidance is not prescriptive on exclusions there is a requirement that associations have a strategy in place to deal with anti-social behaviour and any such policy should include procedures to deal with excluding those with a history of anti-social behaviour. Further the guidance states that RSLs should not operate blanket bans and that:

"Ineligibility for housing on the ground of the applicant's antisocial behaviour should be based on evidence of the behaviour. Evidence might include the previous eviction of an applicant or a member of their household for ASB, or a previous injunction or antisocial behaviour order (ASBO) taken out against the applicant or a member of their household. Previous tenancy enforcement action for ASB should not be taken into account if it occurred two or more years prior to the date of application and the tenant's household has conducted a tenancy satisfactorily in the intervening period." (para 2.2.2., Housing Corporation Circular 07/04).



Key questions to consider

- What are the advantages and disadvantages of using exclusion policies?
- If households are excluded from your stock is this information shared with other landlords?
- If you use exclusions what action do you take to support people excluded because of anti-social behaviour?

Introductory, starter and demoted tenancies

The use of introductory and starter tenancies by social landlords is becoming more common. Providing a reduced form of security of tenure when tenants first move in provides an opportunity to gauge whether or not they are able to conform to tenancy conditions, and is thought to act as an incentive for new tenants to do so. Local authority landlords may do this through the use of 'introductory' tenancies and registered social landlords through the use of 'starter' tenancies, a form of assured shorthold tenancy.

Local authorities: The scope and management of introductory tenancies

If a local authority landlord adopts an introductory tenancy regime **all** new tenancies that would otherwise be secure, with some exceptions, must be treated as introductory tenancies: Housing Act 1996, s. 124(2)

Seeking possession through introductory tenancies

The main advantage of introductory tenancies is that unlike a secure tenancy, where possession for anti-social behaviour is at the court's discretion, provided the landlord has complied with all the procedural requirements, the court must grant possession of an introductory tenancy when sought by the landlord. Landlords must, however, serve notice with reasons and give the tenant the opportunity to have an internal review of the decision to evict.

Extending introductory tenancies

The Housing Act 2004 amended the provisions of introductory tenancies to permit local authorities to extend them for a further six months. In order to extend the trial period two conditions must be met (Housing Act 1996, s. 125A (1) – (3)):

1. The landlord must serve a notice of extension on the tenant at least eight weeks before the original expiry date.
2. The tenant must either have not requested a review, or if they have, the outcome of that review must have been to confirm the decision to extend the trial period. Section 125B makes provisions for reviews.

RSLs: The scope and management of starter tenancies

The security of tenure of RSL tenants is governed by the Housing Act 1988. In theory, RSLs may grant assured shorthold tenancies to any of their tenants. In practice however, they are constrained by the Housing Corporation Regulatory Code and Guidance 2004. Unlike the previous performance standards this does not set out detailed guidance on when it is appropriate to use starter tenancies. Nonetheless it does require (para. 3.5.2) that associations offer "...the most secure form of tenure compatible with the purpose of the housing and the sustainability of the community." In practice this means that starter tenancies should only be used exceptionally and in accordance with the guidance on their use which states that:

"Associations that use assured shorthold tenancies as starter tenancies should do so as part of a managed strategy for dealing with ASB either: across their whole stock; across their stock in a local authority area; or in defined street areas or estates." (Housing Corporation, Regulatory Circular 07/04).

Take-up and impact of introductory and starter tenancies

There has been a variable take-up of introductory and starter tenancies and it is not clear how much they act to prevent anti-social behaviour. It is clear that the majority of evictions from introductory tenancies have been for rent arrears rather than anti-social behaviour, and although they may be useful as part of an overall strategy, care needs to be taken to ensure that evictions do not take place, where previously a suspended order (which is not available against either an introductory or assured shorthold tenant, see **Core Task 7**) would have been sufficient.

Research by the Housing Corporation in 1998 suggests that starter tenancies can be a successful part of a strategy to deal with anti-social behaviour. A summary of the research can be found at: <http://www.housingcorplibrary.org.uk>

Using demoted tenancies

One of the new provisions introduced under Part 2 of the Anti-Social Behaviour Act 2003, which came into force in June 2004, was **demoted tenancies**. Social landlords can apply to the County Court for a demotion order against a secure or assured tenant in order to prevent conduct capable of causing a nuisance annoyance which directly or indirectly affects the housing management functions of the landlord.

In the case of a local authority secure tenancy, if the judge considers it reasonable to make the order, the tenancy will be demoted to what is the equivalent of an introductory tenancy for 12 months. If possession is not sought within the 12 month period the tenancy will become secure again.

If an RSL seeks possession against a secure or an assured tenant the tenancy may be demoted to an assured shorthold tenancy. The assured shorthold will last for 12 months and if no possession proceedings are taken the tenancy will revert to an assured (even if originally secure) tenancy at the end of the 12 month period.

Further detailed guidance on obtaining and managing demoted tenancies is provided in **Core Task 7**.



Key questions to consider

The introduction, development and management of starter, introductory and demoted tenancies requires intensive housing management and partnership work with other community safety agencies.

- What do you hope to achieve by adopting introductory or starter tenancies?
- Can you clearly identify the benefits of adopting starter or introductory tenancies?
- Do you have sufficient staff resources to set up and manage such tenancies?

Do you have clear policies and procedures as to when possession or extension of an introductory or starter should be sought?

References and websites

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ODPM (2004a) *Neighbourhood Wardens Scheme: Evaluation Key findings and lessons, Research Summary 8*, London: ODPM.

ODPM (2004b) *Safer Places: The Planning System and Crime Prevention*, London: ODPM.

Renewal.net (2004) *Addressing the causes of anti-social behaviour*, Renewal.net

Websites

Together: Tackling anti-social behaviour: <http://www.together.gov.uk>

Renewal.net: <http://www.renewal.net/>

<http://www.thamesvalley.police.uk/crime-reduction/shelters.html>

Information about the practice and theory behind youth work can be found at:
www.infed.org/index.htm

Information about the Youth Pod scheme available through Tameside's website:
<http://www.tameside.gov.uk/>

Module 1: For governing bodies/housing committee members and residents

Core task 4: Multi-agency partnerships

Research has shown that while most social landlords are aware of the potential benefits of joint working, in practice forming close partnerships with other organisations can be fraught with problems. Developing multi-agency partnerships is time consuming and difficult to achieve without the support of key officers at both an operational and strategic level. Local crime and disorder reduction partnerships may provide a framework for the development of local multi-agency strategies but equally important is the need to work with tenants and residents to establish acceptable standards of behaviour. Given households involved in anti-social behaviour often have complex social and psychological support needs it is also important for landlords to develop effective partnerships with social service departments and other agencies providing support services, e.g. mediation services, alcohol and drug abuse schemes, the youth services, tenants' and residents' associations.

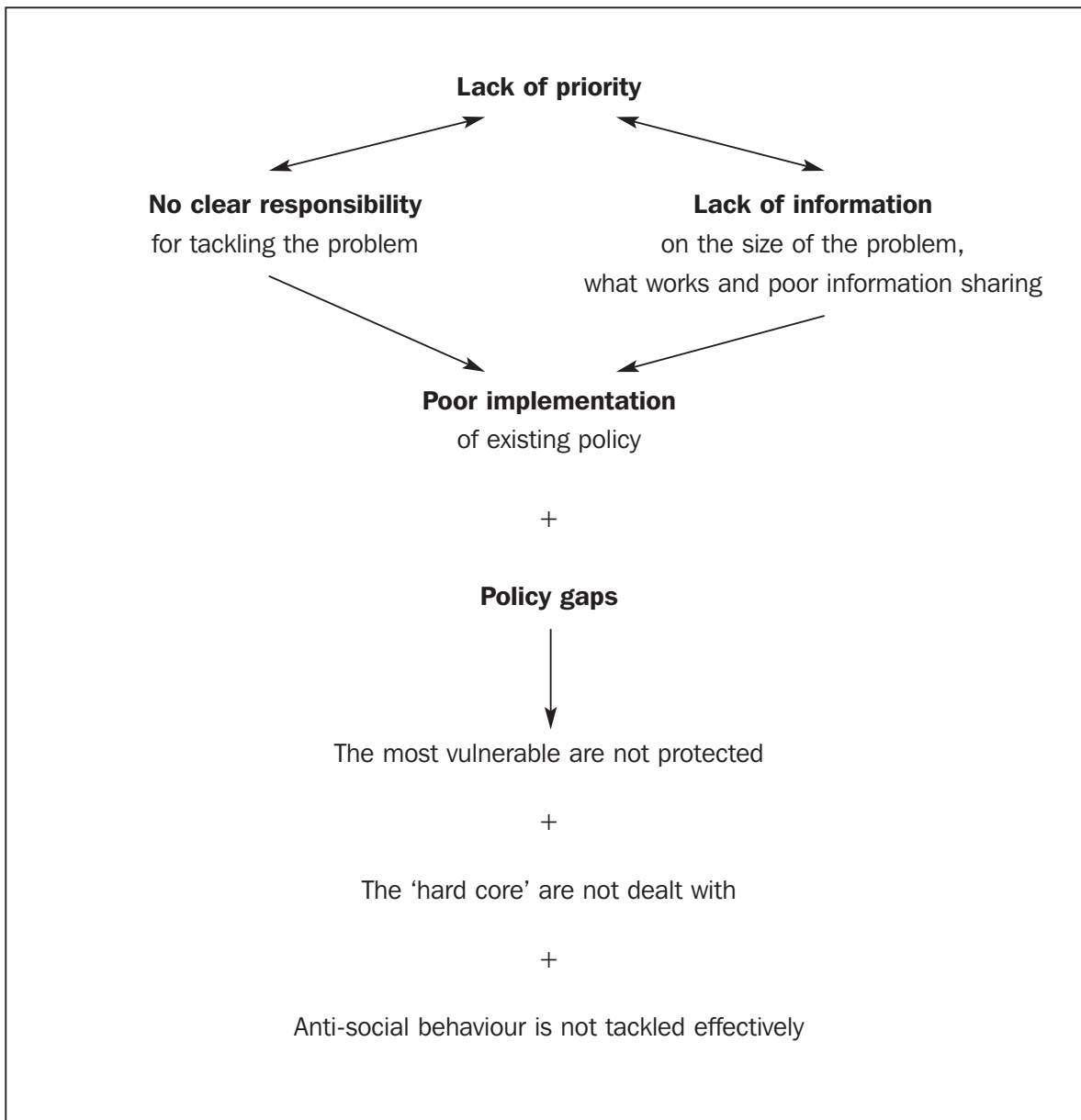
It is now recognised that in order to achieve sustainable solutions to prevent and deal with nuisance behaviours social landlords need to develop a multi-agency approach with input from a range of agencies and local government departments. The evidence suggests that the most successful partnerships work closely with local communities to adopt a problem solving approach, sharing information and are proactive in taking action.

In order to help you improve partnership work this section of the Action Framework focuses on:

- Priority setting to deliver an excellent service.
- Formal partnership agreements.
- Types of crime and disorder reduction partnerships.
- Developing partnerships at an estate or local level.
- Using neighbourhood agreements.
- Resources for partnership working.

Priority setting to deliver an excellent service

The following diagram is from the PAT 8 report (Social Exclusion Unit, 2000) and shows graphically how the problems associated with anti-social behaviour can fall through the multi-agency net, if co-ordination is not working properly at the local level.



Activity

Consider how your organisation can work more effectively to develop multi-agency responses to tackle anti-social behaviour.

- Use the PAT 8 diagram to focus your consideration of the policy and practice implications.

In order for your organisation to achieve an excellent service rating from the Audit Commission it is essential to have developed strong partnerships at a local level involving statutory agencies, other landlords and tenants and residents. The criteria against which your partnership working will be assessed by the Housing Inspectorate are outlined on the next page:

Key line of enquiry (KLoE)	An organisation delivering an excellent service	An organisation delivering a fair service
<ul style="list-style-type: none"> • Have effective partnerships been formed at a local level with statutory agencies, council departments and other landlords to ensure the most appropriate response to ASB and the sharing of information? 	<ul style="list-style-type: none"> • Has strong partnerships with other agencies, e.g. social services, environmental health, the police and other landlords in tackling anti-social behaviour and strong protocols for sharing information. • Is an active member of the strategic partnership, e.g. the crime and disorder or the community safety partnership. • Uses the full range of remedies as appropriate to address ASB, including mediation, injunctions and exclusion orders, acceptable behaviour contracts (ABCs), anti-social behaviour orders (ASBOs), possession proceedings and introductory/starter tenancies – and publicises to the wider community the successful use of such remedies (See further Core Tasks 6 and 7). • Has established good working arrangements with local courts to deliver efficient processes for legal proceedings, including witness protection. • Works with planning departments and/or housing associations to ensure that crime prevention is a key issue in designing estate improvements and new homes. 	<ul style="list-style-type: none"> • Is involved in some partnership working but it is ad-hoc, and largely at the instigation of individual managers, with ad-hoc information sharing arrangements. • Demonstrates only limited evidence of proactive work to ‘design’ out crime and improve security measures for service users where appropriate. • Demonstrates only some successful use of the full range of remedies for ASB and the enforcement of tenancy conditions, so outcomes for service users are not consistent or very systematic, and undertakes limited publicity in the use of remedies to deal with ASB. • Demonstrates only patchy evidence on some estates of systematically managing difficult tenancies or seeking to make sustainable lettings.



Activity

- What evidence is there to support the view that your organisation is delivering an excellent standard of service to tenants and residents in areas in which your stock is located?
- Do you require any additional information about what action has been taken to ensure that service standards in relation to dealing with ASB are improving?
- Can you identify who you need to contact to find out more?

Formal partnership agreements

For many organisations the initial process of developing good relationships with partner organisations is best achieved by informal contact, however, there will quickly come a point where it is necessary to develop formal partnerships arrangements embodied in written agreements.



Key questions

- Which agencies do you need to develop formal partnerships with and what arrangements have been made to develop formal partnerships with those agencies, e.g. the local crime and disorder partnership, the police, social services, youth services, probation, mediation services and other support agencies?
- Have the aims and objectives of partnerships between your organisation and other agencies been agreed and clearly explained to tenants and residents?
- What mechanisms are employed to monitor the implementation of partnership agreements?
- Do these identify any implementation gaps?

For all social landlords one of the most important formal partnership agreements will be the agreement made with the **local crime and disorder reduction partnership**. The following fact sheet provides you with details of the relevant legal provisions regulating crime and disorder partnerships.

Fact sheet: Crime and disorder partnerships: the relevant legal provisions

Local authorities

Crime and Disorder Act 1998, ss. 5 and 6

This places a legal duty on district and unitary local authorities and the police to formulate and implement a strategy for the reduction of crime and disorder in their area. In so doing the authority and police must act in co-operation with the probation committee and health authority in their area, together with other prescribed organisations.

Crime and Disorder Act 1998, s. 17

This section imposes a duty on all local authorities to exercise their functions, “...with due regard to the likely effect of the exercise of those functions on, and the need to do all [they] reasonably can to prevent crime and disorder in [their] area.”

Registered social landlords

Crime and Disorder Act 1998, ss. 5 and 6

Under the Crime and Disorder Strategies (Prescribed Descriptions) Order 1998 (S.I. 1998 No. 2452) registered social landlords in an area are prescribed as organisations with whom the local authority and police must co-operate in the formulation and implementation of their crime and disorder strategy.

Crime and Disorder Act 1998, s. 115

From 18th January 2005 all registered social landlords have the right to receive information from other bodies to support ASBO applications.

Types of crime and disorder reduction partnerships

Recent research in to the operation of crime and disorder reduction partnerships found that a range of different models of partnership working are being developed (ODPM, 2003). Partnerships are established at different levels for different purposes – some are borough wide, while others are specific to implementing local schemes or to co-ordinate interventions to deal with individual perpetrators.

The following three distinct models of partnership working were identified:

- *Strategic partnerships* usually operating at the borough level with the membership comprising of senior representatives from the main statutory agencies including the police authority, the local authority including representatives from housing, social services, education, and the probation service and health service. The main function of these partnerships was to agree strategic priorities to promote community safety and in all of the case study areas, dedicated community safety or crime reduction officers/teams serviced the partnership. Generally, it was reported that these formal strategic partnerships worked best if the representatives had a high degree of seniority within their organisation and therefore had the authority to take action.
- *Operational partnerships* operating at a neighbourhood level or focusing on specific issues of concern. Over recent years a diverse range of neighbourhood or issue based partnerships, many of which have strong links to established statutory agencies, have been set up. Examples of well-developed operational partnerships suggest that building trust and confidence between the partner agencies is central to the success of anti-social behaviour initiatives. But such work is resource intensive both in terms of officer time and in terms of funding for specific initiatives.
- *Partnerships to co-ordinate interventions to deal with individual perpetrators.* A variety of different multi-agency models are being used to deal with individual cases; including case conferencing, ASBO/ABC panels and task forces.

In practice although some successful operational initiatives had been developed in relative isolation from the wider crime and disorder provisions, the most effective strategic and operational interventions occurred when all three levels of partnership working were co-ordinated and connected with clear lines of communication and accountability. Examples of well-developed partnerships, suggests that development of trust and confidence between different agencies takes time and requires agencies to prioritise resources.

Features of successful crime and disorder reduction partnerships

- Development of clear structures which facilitate communication both across different agencies and within the partnership, i.e. both within agencies and across agencies and officers operating at different levels.
- Mature, well-established partnerships were more likely than recently formed partnerships to have developed high degrees of trust and openness between members resulting in clear communication and excellent information sharing protocols.
- Involvement and commitment from senior staff with sufficient authority to implement decisions taken by the partnerships.
- The ability to deal with conflict.
- Carefully planned strategic and operational responses based on reliable information about the nature of the problem combined with analysis of alternative forms of interventions and the associated resource requirements.
- Monitoring and evaluation of interventions combined with clear lines of accountability.
- Willingness to regularly review and change structures in response to the changing nature of the problem.

Source: *Innovative Practice in Tackling anti-social behaviour: guidance for members of Crime and Disorder Reduction Partnerships* (ODPM, 2003a).

Many newly formed partnerships struggle to develop relationships of trust. In these areas, multi-agency working can be hampered by poor co-ordination of initiatives, lack of structural support, weak leadership and lack of direction from the strategic body within the local crime and disorder reduction partnerships. Methods used to overcome such problems included:

Methods to overcome problems with partnership working

- Development of clear lines of communication between all agencies and residents.
- A commitment from both individuals and agencies to ensure continuity of membership of the partnership and the development of clear hand-over arrangements when personnel do change.
- The provision of clear and agreed information sharing protocols and data exchange mechanisms.
- The use of conflict resolution mechanisms, including referring matters to a strategic umbrella body such as the steering group of the crime and disorder partnership.

Source: *Innovative Practice in Tackling anti-social behaviour: guidance for members of Crime and Disorder Reduction Partnerships* (ODPM, 2003a).



Activity

Use the following questions to assess what action you can take to ensure that your organisation develops close strategic and operational partnerships with local community safety agencies:

- What role does your organisation play in the local crime and disorder reduction partnership?
- Who is the named person in your local crime and disorder reduction partnership responsible for co-ordinating action on anti-social behaviour?
- What outputs are expected from the partnership and what is the time-scale for action?
- How will progress be tracked and assessed?

The development of partnerships at an estate or local level

Of equal importance to developing formal partnerships with key agencies there is a need to encourage community based partnerships at an informal estate based level. Increasingly the need to engage local residents in building community involvement to reduce neighbour nuisance and anti-social behaviour is recognised as being a key aspect of anti-social behaviour work. Many communities have a broad range of problems, including: crime and disorder, a high proportion of vulnerable groups, low skills and high levels of unemployment and social deprivation. The best partnerships will work with the community to prioritise and plan local area programmes and initiatives, which tackle these issues. The following questions have been designed to help you identify what action you can take to encourage tenants and residents to become involved in local partnerships.

Fact sheet: Effective measures in dealing with ASB

In 2002 the Tenants Participatory Advisory Service carried out a survey of landlords' and tenants' groups to establish what measures were considered to be most effective in dealing with ASB. The research findings highlight the following eight key issues:

1. Develop a team of specialised officers to tackle ASB, and provide additional training and support for front line officers, (see further **Core Task 5**).
2. Fund and support local community activities as a strong sense of community spirit is a contributory factor in promoting locally enforceable standards of acceptable behaviour.
3. Develop and support tenant involvement at various levels so that tenants can clearly communicate what their priorities are.
4. Involve tenants and residents in developing strategies to deal with ASB.
5. Provide support to people before their behaviour becomes intolerable and develop preventative practices such as early visits and pre-tenancy counselling. Introduce a clear non-harassment clause in all social housing tenancy agreements and attach more importance to enforcing this. Provide accessible information to tenants on the landlord's powers and responsibilities regarding ASB.
6. Involve tenants in ASB partnerships and raise awareness of the range and role of partnerships amongst tenants' groups.
7. As part of ongoing training for tenants and residents consider new ways of helping people accept and live with cultural difference.
8. Have clear, effective ASB policies and procedures on the use of legal remedies and develop a fast track approach to high-risk eviction cases.



Activity

Taking into account the key findings from the TPAS survey of tenants, consider what mechanisms your organisation could introduce to ensure that tenants and residents are fully informed and consulted on the development of strategies to deal with particular neighbourhood problems:

- What action has been taken to consult with tenants' and residents' groups and the local community? E.g. use of public meetings and events, social research including surveys and focus groups, networking with individuals and groups.
- Would the development of neighbourhood agreements help you work with tenants and residents to deal with minor incidents of anti-social behaviour? For more information on neighbourhood agreements see below.

Using neighbourhood agreements to promote partnership working

Neighbourhood agreements can effectively promote service accountability to local communities and develop dialogue between residents and service providers. They can also form a basis for the development of local service partnerships and community plans.

Neighbourhood agreements have been developed to help build good working relationships with service providers and the community they serve and to improve residents' quality of life.

Potential partners

Typically, partners in neighbourhood agreements will include the following agencies:

- Tenants' and residents' groups
- The local authority, including social services
- The police authority
- Registered social landlords
- Local community agencies

In fact, any agency which provides services to an area can become a partner to the agreement.

What are the aims of a neighbourhood agreement?

- To inform residents about who provides local services.
- To try to improve services through use of regular feedback from residents, joint working between service providers, and special initiatives involving residents.
- To inform residents about what service levels they can expect and to ask residents if these are being met.
- To provide residents with the chance to monitor service standards and give service providers feedback on the quality of their services.
- To support community development.
- To strengthen the partnership between residents and service providers and make the unequivocal statement that ASB will not be tolerated and that effective and early action will be taken to tackle it.

What is the role of tenants' and residents' groups?

- To make sure the agreement works.
- To ask for monitoring information on all services covered by the agreement.

- To keep residents informed via regular meetings and newsletters.
- To invite service providers to residents' meetings to discuss particular concerns.
- To work with service providers to continuously improve services.

What is the role of service providers?

- To deliver services to agreed levels of quality.
- To work with residents to improve understanding and delivery of services.
- To provide regular monitoring information.
- To attend residents' meetings to discuss progress.
- To take an active part in making the agreement work.
- To make sure the agreement works.

An example of the type of individual service agreements that can be included in a neighbourhood agreement:

- *Community policing* – The agreement specifies how community policing works, how the police will respond to calls, support for victims of crime and anti-social behaviour, and what local initiatives are being developed.
- *Street and environmental cleaning and refuse collection* – The agreement specifies how the streets and open spaces will be kept clean, how households' rubbish will be dealt with, and how the estate can be kept smart and tidy.
- *Jobs' training and enterprise support* – The agreement describes what support and advice is available to help local residents to get a job or start a new business, find a training course or arrange childcare.
- *Housing services* – The agreement informs residents of what to expect and who to contact about housing services, for example, the agreement covers how housing is managed, standards of service, response time to enquiries, how neighbour disputes are handled, dealing with domestic violence etc.
- *Young people's agreement* – The agreement is drawn up in response to the social needs of children and young people, informing them about activities available, sporting opportunities, after school clubs, dealing with anti-social behaviour, the work of detached youth workers and the youth service.
- *Welfare benefits agreement* – This agreement is designed to increase awareness of, and improved access to, a full range of benefits.

More detailed information about neighbourhood agreements can be found in a report produced for the Joseph Rowntree Foundation – see details in the bibliography or go to the following website: <http://www.jrf.org.uk/knowledge/findings/housing/070.asp>

An example of a joint estate agreement

The Monsall Future Partnership Council and three housing associations have produced a joint estate agreement, which is a common set of standards and targets for service delivery to tenants and residents of all the partner landlords.

The agreement covers how residents can access services and what the service standards and targets are for each service – including sections on anti-social behaviour, allocation of properties, environmental maintenance, and customer care.

Amongst other things, the landlord agrees to:

- pick up litter from communal areas and sweep pavements and communal car parks at least once a month – more often when there is a particular problem;
- remove racist and offensive graffiti within one day and other graffiti within one week;
- inspect the estate monthly with volunteer residents;
- take legal action against residents who break their tenancy agreement where appropriate.

In return, tenants sign up to a community declaration, which includes their agreement to:

- keep an eye on each other's property and report any graffiti, vandalism or other problems within 24 hours;
- use reasonable language with neighbours and visitors;
- try to help and support minority groups on the estate;
- keep gardens and balconies tidy;
- make sure that they or their visitors do not damage other's property;
- make sure that they or their visitors do not damage the estate's environment.

Further sources of advice and guidance on working with tenants and residents

Further guidance and practical examples of how to involve residents in the management and delivery of local community safety is available on the Tenant Participation and Advisory Service (TPAS) website: <http://www.tpas.org.uk/>

For further information on some of the common problems faced by local agencies setting up community safety projects and suggestions as to how to overcome these difficulties go to the NACRO website accessing the briefing on *Setting up neighbourhood community safety projects*: <http://www.nacro.org.uk/data/briefings/nacro-2003021901-csps.pdf>

The Joseph Rowntree Foundation has commissioned research (Sullivan *et al.*, 2001, *Area Committees and neighbourhood management*) into methods of devolving power and influence to communities, which identified four key areas for action:

- The development of community leadership
- Joined up service delivery at a local level
- Support for partnership working
- Acknowledgement of the diversity of our communities

To look at the research findings go to the following website: <http://www.jrf.org.uk/knowledge/findings/government/761.asp>

Resources for partnership working

Developing successful partnerships with local agencies and tenants and residents can be very time consuming and resource intensive. Landlords who have managed to develop successful partnerships stress the importance of gaining senior managers' understanding of the resources required to establish and maintain partnerships. There is also a need for staff from different agencies to understand how their professional cultures and approaches may differ.



Activity

- What resources are needed to ensure that members of governing bodies and tenants are actively involved in anti-social behaviour partnerships? For example, time to attend regular meetings, payment of out of pocket expenses such as baby sitting, bus fares etc., networking and/or ad-hoc informal arrangements?
- Would joint training and seminars on anti-social behaviour help you develop local partnerships?

Sources of further information

Useful websites

Audit Commission website has further information on KLoEs:

<http://www.audit-commission.gov.uk/kloe/housingkloe.asp>

Crime Reduction website on information sharing protocols:

http://www.crimereduction.gov.uk/infosharing_guide.htm

Crime reduction tool kit on using intelligence and information sharing:
<http://www.crimereduction.gov.uk/toolkits/ui00.htm>

Local Government Association/National Housing Federation/ACPO, *Together we can beat it – Guidance on Joint Working Protocol*: <http://www.lga.gov.uk/Publication>

Local Strategic Partnerships – the Neighbourhood Renewal Unit has a dedicated website which contains detailed information on LSPs: www.neighbourhood.gov.uk

Home Office Together website provides detailed guidance on partnership work and partners' roles and responsibilities: <http://www.together.gov.uk>

Home Office Together website provides step by step guide to information sharing:
<http://www.together.gov.uk>

Housing Corporation (2004) *Working with the Police: a Guide for Housing Associations* can be obtained free of charge from the Housing Corporation website:
www.housingcorp.gov.uk

NACRO Briefing *Setting up neighbourhood community safety projects* is available at:
<http://www.nacro.org.uk/data/briefings/nacro-2003021901-csps.pdf>

NACRO has also produced a very useful Briefing on *Building and Sustaining Crime and Disorder Reduction Partnerships*. To download a copy of the briefing go to:
<http://www.nacro.org.uk/data/briefings/nacro-2001062503-csps.pdf>

Tenant Participation and Advisory Service (TPAS) website contains guidance and practical examples of how to involve residents in the management and delivery of local community safety: <http://www.tpas.org.uk/>

Other useful references

Cole, I, McCoulough, E and Southworth, J (2000) *Neighbourhood Agreements in action: A case study of Foxwood*, York: Joseph Rowntree Foundation

ODPM (2003a) *Innovative Practice in Tackling anti-social behaviour: guidance for members of Crime and Disorder Reduction Partnerships*, London: ODPM.

Sullivan, H *et al.* (2001) *Area Committees and neighbourhood management*, York: Joseph Rowntree Foundation.

Module 1: For governing bodies/housing committee members and residents

Core task 5: Specialist support and training

Prompt responses to complaints and early intervention to tackle anti-social behaviour cases can prevent cases from escalating from minor nuisances into seriously disruptive incidents. However, dealing effectively with such cases is often time consuming and requires a high level of knowledge and skills. Specialist teams/officers can provide both practical support and ongoing training and skills development for front line officers. Where specialist services have been provided landlords stated they had been crucial in improving the organisation's efficiency in dealing with anti-social behaviour.

The need for specialist advice and support to tackle anti-social behaviour

The use of specialist units and officers whose work is primarily, if not entirely devoted to co-ordinating and implementing the organisation's anti-social behaviour policy is becoming more common. There are numerous benefits from having dedicated officers working alongside housing officers to deal with problems that otherwise go unreported and unchecked but which cause misery and distress for many residents. The specialist unit or officer can undertake a range of different tasks from co-ordinating multi-agency working, undertaking publicity work, letting the community know about successes, gathering evidence and supporting witnesses to training and advising front line officers.



Activity

Part 1

Use the following questions to critically assess whether your organisation would benefit from the provision of some form of specialist support.

- Does your organisation have the necessary specialist capacity and competencies to deal with anti-social behaviour?
- How good are officers at undertaking thorough, impartial investigations before deciding what action to take in anti-social behaviour cases?



- Do front line officers know which agencies you have partnership arrangements with and how good they are at assessing which agencies to involve in anti-social behaviour cases?
- Do all officers approach nuisance in a consistent way or is action patchy?
- Are officers confident and skilled in taking witness statements and providing witnesses with support?
- Have you ever been prevented from proceeding with legal action because of witness intimidation or lack of evidence?
- Has your organisation designated a named officer with responsibility for developing your policy and operational responses to anti-social behaviour?
- Would the provision of specialist support help you deal with anti-social behaviour cases more effectively?

Part 2

Fill out the following grid in respect of your organisation's ability to tackle anti-social behaviour, in the form of a SWOT analysis.

Strengths	Weaknesses
Opportunities	Threats

Models of provision of specialist anti-social behaviour services

There is a number of different models of specialist anti-social behaviour services. For many landlords the size of the problem will not justify the establishment of a large dedicated anti-social behaviour unit, however the appointment of an individual specialist officer can prove very cost effective in terms of improving the way in which anti-social behaviour cases are tackled.

Three landlords in the study for the Joseph Rowntree Foundation by Hunter *et al.* (2000) operated or had access to, specialist support of some kind. The different types of provision represented three models of specialist support appropriate for different organisations, with different size stock and different perceptions of the scale of the problem.

- **Model 1:** An in-house specialist unit primarily concerned with preparing cases for legal action, developing strategies, encouraging joint working and supporting housing officers deal with individual cases.
- **Model 2:** An in-house individual specialist officer focusing on developing strategy and supporting housing officers to deal with individual cases.
- **Model 3:** An external agency providing support to a number of landlords operating in a specific geographical locality.

Model 1: A large specialist unit

A large metropolitan landlord with tens of thousands of stock established a specialist unit, in November 1995. The unit comprised of two specialist, dedicated solicitors, eight nuisance response officers, three administrative staff and a team leader.

Model 2: A single officer

A smaller authority, with 7,000 stock, managed quite comfortably with one specialist tenancy enforcement officer (TEO). This officer, who had developed a tough reputation in order to be effective, operated within the legal section, but was responsible to the housing department. The TEO also worked with a project team, which included a police liaison officer, an in-house solicitor, as well as housing officers. This team discussed cases on a fortnightly basis.

Both the above models were set up following a review of policy and strategy and resulted in direct improvements in the relationship between housing officers and the organisation's legal department. Both schemes primarily provided a comprehensive evidence collection and witness support services, but also undertook training and gave support to front line housing officers.

For small landlords it may not be financially possible to set up a specialist unit or employ a dedicated anti-social behaviour officer but if the costs were shared with other local landlords an external agency could be set up to provide specialist support.

Model 3: Use of an external agency

The Tenancy Enforcement Support Team (TEST) was set up as a small independent company in 1997 by seven registered social landlords in South London, with the aim of tackling anti-social behaviour. TEST officers see themselves as 'professional laymen', taking referrals from landlords for a 'cost effective' flat fee per case regardless of how long they keep the case open, and what means are used to deal with it. An out of hours service is provided with the team prepared to investigate incidences between 7:30 p.m. to 2:30 a.m., 365 days a year. With only one case worker, one administrator and two part-time case workers for night time duty, they establish the facts from what they regard to be a more independent and possibly more objective perspective, weeding out non genuine complainants, trying to resolve cases and providing evidence. Although at the time of the study TEST did not provide a legal service, they did give some advice to clients about the appropriateness of taking legal action, as well as when to serve a notice of seeking possession.

Since this study the number and ways of providing specialist support have grown. There is a number of private companies which offer support services to social landlords in investigating and processing legal action in anti-social behaviour cases. Another model has been developed by consortia of RSLs coming together to employ an officer or several staff to provide a service to all the RSLs. In Coventry a consortia of 13 RSLs, including a number of national RSLs as well as the LSVT landlord (Whitefriars) came together to develop specialist services to tackle anti-social behaviour in the city. Specialist project officers were employed by the consortium to provide a range of services to members.

One of the key forms of intervention by the consortium project was the provision of a specialist anti-social behaviour case work support service. An evaluation of the service (Nixon *et al.*, 2005) found that:

- The service was widely used by both consortium members and by community safety partner agencies.
- Over two thirds of the enquires (68 per cent) involved the project workers in some form of direct intervention ranging from joint working with individual officers to build their knowledge and capacity, through to taking a lead role in interviewing perpetrators, drafting documents, taking witness statements, liaising with other agencies and attending multi-agency case conferences.
- Consortium members and project workers were very positive about the value of the case work service and felt that it was a successful way of building knowledge and officers' networking.

A summary of the report is available at: <http://www.whitefriarshousing.co.uk/documents/policy-documents/anti-social-behaviour-findings.pdf>

The advantages of providing specialist support

Landlords identified a number of advantages of providing specialist support:

- An enhanced reputation and increased public profile resulting in better landlord and tenant relationships.
- Increased trust from tenants in the ability and determination of their landlord in tackling difficult cases and thereby increasing the likelihood that tenants will come forward as witnesses.
- Increased skills and competencies within the organisation to deal with different types of anti-social behaviour.
- Increased confidence amongst front line officers in undertaking investigations and recommending appropriate action.
- Increased expertise in drawing up formal statements, taking witness statements and giving evidence directly to the court.
- The increased capacity to provide appropriate support to witnesses prior to, during and after the trial.
- The development of consistency of approach and action.
- Increased joint working and formulation of preventative action.

Interviews with households who had suffered from anti-social behaviour confirmed the benefits of employing specialist officers. Almost without exception they felt that such officers provided them with greater support than they had received when only their local housing officers were dealing with their case.



Key questions

- Can your officers provide you with costings for providing different forms of specialist support?
- If you developed a specialist resource, could the service and costs be shared with other local landlords?

The importance of training staff to deal with anti-social behaviour

Whatever type of specialist anti-social behaviour support is provided, housing officers are likely to remain the first point of contact for complainants about neighbour nuisance and anti-social behaviour. It is therefore essential that housing officers be given regular training to ensure that they feel confident in their ability to tackle all types of neighbour nuisance and to know when to refer cases to other key agencies.

Code of Guidance

The Codes require (ODPM, paras. 3.43 and 3.36) that a local authority or RSL statement of policy provides details of landlord's training programmes in respect of ASB.



Key questions

- What is the organisation's policy with regard to training on anti-social behaviour?
- What training do housing officers want and need?
- Who is responsible for organising appropriate training?
- Who provides the training, how often, to whom and on what aspects of dealing with anti-social behaviour?
- How could such services be provided, in-house or shared with other landlords/partners?
- Has consideration been given to providing training for tenants?

References

Hunter, C, Nixon, J and Shayer, S (2000) *Neighbour Nuisance, Social Landlords and the Law*, Coventry/York: CIH/Joseph Rowntree Foundation.

Nixon, J, Hunter, C and Whittle, S (2006) *An evaluation of a model of partnership work to enable RSLs operating in Coventry to access specialist service to tackle anti-social behaviour*, Sheffield Hallam University.

Module 1: For governing bodies/housing committee members and residents

Core task 6: Investigations, early intervention and witness support measures

Introduction

An effective anti-social behaviour policy relies on landlords being able to undertake a thorough investigation of complaints and obtain appropriate evidence prior to deciding what action to take. Early appropriate intervention may prevent more serious problems developing later.

This section of the Action Framework provides an outline of the issues and some questions to consider regarding your organisation's policy framework and adequacy of resources for effective day to day management of cases.

The issues covered are:

- Responding to complaints
- The use of mediation services
- The use of acceptable behaviour contracts (ABCs)
- Using witness report forms and incident diaries
- Using professional witnesses
- Supporting witnesses in the period leading up to a court hearing

Responding to complaints

Whether a complaint is received in person, by phone or letter, it is important that prompt action is taken to investigate the case and respond to the complainant. Recent research has shown that many victims of anti-social behaviour are reluctant to complain, in part because it is not clear who they should complain to or because they feel the complaint will not be taken seriously (Hunter, Nixon and Parr, 2004). Nonetheless officers need to keep an open mind throughout investigations as alleged perpetrators may in fact be victims of anti-social behaviour.

Code of Guidance

Both Codes of Guidance make clear the importance of responding appropriately to complaints and supporting complainants.

The *Guidance on Anti-social Behaviour: Policy and Procedure* from ODPM states that landlords should make it clear how incidents of anti-social behaviour can be reported, and that reporting channels should be made as simple as possible (ODPM, para. 3.12).



Activity

Consider the following questions in order to assess the capacity of your organisation to respond to anti-social behaviour complaints:

- How clear are your procedures on how complaints about anti-social behaviour should be made?
- Are housing officers given specific target times for responding to complaints?
- What guidance is given to housing officers to help them identify the most appropriate response to complaints? (e.g. referrals to other support agencies)
- What is your organisation's policy on making referrals or in obtaining information from others?
- Do you have a clear policy on the use of mediation services prior to taking legal action?
- What policy does your organisation have on the use of acceptable behaviour contracts?
- What training or guidance is provided to front line officers on undertaking investigations and collecting evidence, including taking witness statements, in anti-social behaviour cases?
- What time allowances or support is offered to housing officers engaged in difficult anti-social behaviour cases which require ongoing investigations or witness support?
- Could specialist officers or units undertake investigative work more effectively?
- Are resources available for the use of professional witnesses in appropriate cases?
- What policies and resources are available to provide witness support and protection?

Having a clear policy is important in assuring an appropriate response and can protect landlords from accusations of improper conduct by alleged perpetrators. Where clear guidelines are set down, staff will know, for example, when and in what circumstances alleged perpetrators should be interviewed.

Responding to complaints through mediation

Mediation is increasingly recognised as being a cost effective method of dealing with disputes between neighbours which, if left unresolved, may develop into more intransigent anti-social behaviour problems.

Codes of Guidance

Mediation is one of the appropriate options identified in both Codes of Guidance.

Essentially, mediation services provide help to people who are in dispute, to resolve their differences themselves rather than have a solution imposed on them by their landlord or the courts. Mediation is usually only appropriate when both sides voluntarily chose it. It is not appropriate in cases that involve violence, harassment, or intimidation. Most commonly mediators working for independent, community mediation schemes are volunteers who are recruited from all sections of the community in order to ensure that the mediation service is representative of the community that it serves.

Using acceptable behaviour contracts (ABCs)

When prompt action is taken many problems can be sorted out in discussion with both the complainant and the alleged perpetrator. Sometimes a more formal agreement, such as an acceptable behaviour contract, may help.

“An ABC is a written agreement between a person who has been involved in anti-social behaviour and one or more local agencies whose role it is to prevent such behaviour. ABCs are most commonly used for young people but may also be used for adults.” (A Guide to Anti-Social Behaviour Orders and Acceptable Behaviour Contracts, Home Office).

Codes of Guidance

Acceptable behaviour contracts are one of the appropriate options identified in both Codes of Guidance.

Obtaining and preparing evidence

If cases are to proceed to court, the collection and preparation of evidence will be vital. Any policy and procedure should include the following:

- Use of clear incident diaries
- Staff who are trained in the taking and making of witness statements
- Use of professional witnesses
- Use of CCTV

Using professional witnesses

In some circumstances, it is impossible for tenants and residents to be witnesses and it may be necessary to employ professional witnesses. Some outside agencies offer professional witnessing services, but a number of organisations have started using their own staff and other partnership contacts as volunteers.

Codes of Guidance

If you have a professional witness scheme the Codes of Guidance (paras. 3.13, 3.30) state that policies relating to the scheme should be included in the ASB policy statement.

Supporting witnesses in the period leading up to a court hearing

As already noted, one of the biggest problems landlords experience in tackling anti-social behaviour is persuading people to act as witnesses. As a result of both witness intimidation and tenants' fear of giving evidence, many people are reluctant to attend court hearings. Good practice in evidence collection methods includes both practical measures to support tenants and psychological support to promote confidence amongst individuals and the community as a whole.

Codes of Guidance

The Guidance on Anti-social Behaviour: Policy and Procedure from ODPM and the Housing Corporation both stress (paras. 4.8) that social landlords' policies should include specific measures to support complainants and witnesses. This should include:

- Discussing and planning every stage of any legal action with witnesses
- Providing details of an emergency out of hours contact
- Informing relevant officers (caretakers, wardens etc.) so they can keep a 'lookout'
- Risk assessment of the witnesses' home environment and provision of protection measures
- Facilitation of transport and accompaniment/escort to court
- Provision of support at court
- Provision of ongoing support following resolution of legal action or other measures

Some of these measures will require partnership working with, e.g. the police (see **Core Task 4**).



Key questions

- In what circumstances do you offer re-housing to witnesses?
- What support measures are available to witnesses?
- Are these measures adequate?
- What training on witness support measures is provided to officers?
- What measures do you have in place to continue support to witnesses when legal action has been completed?

References

Hunter, C, Nixon, J and Parr, S (2004) *What works for victims and witnesses of anti-social behaviour* available at:

<http://www.together.gov.uk/article.asp?aid=1296&c=148>

Websites

Neighbour mediation:

<http://www.mediationuk.org.uk/template.asp?lv=2&MenuItemID=46&MenuID=1>

Module 1: For governing bodies/housing committee members and residents

Core task 7: Taking effective legal action

The following section of the Action Framework provides detailed guidance on:

- Tenancy conditions relating to anti-social behaviour
- Factors to consider before taking legal action
- Notices of seeking possession
- Relevant legal provisions to deal with anti-social behaviour

Tenancy conditions relating to anti-social behaviour

Much legal action is based on the terms of the tenancy agreement, and they are an important part of any strategy to deal with anti-social behaviour.

Codes of Guidance

The ODPM and Housing Corporation Codes of Guidance both require (paras. 3.8 and 3.7) that standards of behaviour are made clear to tenants and that “...reference should be made to any tenancy clauses relating to ASB or nuisance.”



Key questions

- When was your tenancy agreement last reviewed?
- Does your tenancy agreement include ‘no harassment’ clauses?
- What action is taken to make tenants aware of the tenancy terms?
- Are tenants aware of what action will be taken if they are breached?

If you are seeking to review your tenancy terms it may be useful to consider some sample terms and also to consider specific issues relating to:

- The protection of staff
- Noise
- Pets
- Cars

Sample terms: general tenancy agreements and conditions

Good practice would suggest that clauses in tenancy agreements dealing with anti-social behaviour should be clear and detailed, both in order to make it clear to tenants the expectations of the landlord and to be most useful in court proceedings when a breach of the tenancy agreement is being relied upon.

An example of a clause which covers a wider range of behaviour and specifically deals with harassment:

“Nuisance:

Not to cause or let anyone who lives in or visits your home cause a nuisance or annoy neighbours, other tenants, residents, members of their household, visitors or employees of the Association.

Harassment:

Not to, or not to let anyone who lives in or visits your home, interfere with the way of life of, or cause offence to another tenant, visitor, neighbour, employee or agent of the Association because of their race, colour, nationality, ethnic or national origin, or because of their religion, sex, sexuality, physical disability, appearance, marital or employment status.”

An example of a clause that defines what is meant in exact terms:

“You are responsible for the behaviour of every person (including children) living in or visiting your home. You are responsible for them in your home, on surrounding land, in communal areas (stairs, lifts, landings, entrance halls, paved areas, shared gardens, parking areas etc.) and in the neighbourhood around your home.

Neither you nor a person residing in or visiting the property must behave in an anti-social manner, or in a manner likely to cause nuisance or annoyance to a person residing, visiting or otherwise engaging in lawful activity in the locality.

The following are deemed by the Council to be examples of anti-social behaviour:

- (a) Use of offensive language.*
- (b) Offensive drunkenness.*
- (c) Using the premises for immoral or illegal purposes, for prostitution, or for the illegal manufacture, sale or use of drugs.*

The following are deemed by the Council to be examples of behaviour likely to cause nuisance or annoyance:

- (a) Excessive domestic noise, whether from radios, television, hi-fis, musical instruments, DIY activity, late night parties or gatherings.*
- (b) The lighting of bonfires in the garden of the premises, the depositing of litter or rubbish on the premises or the estate of which it is a part.*
- (c) Failure to control the behaviour of any domestic pets including taking inadequate precautions to prevent fouling of neighbouring areas.*
- (d) Using the premises for unauthorised business or commercial purposes.*
- (e) The playing of ball games sufficiently close to neighbouring homes so as to cause nuisance, or resulting in damage to Council property including trees and shrubs.*
- (f) The carrying out of maintenance or repairs to motor vehicles other than those normally used for domestic purposes by the tenant or members of their household.”*

Tenancy terms to deal with specific issues

Protection of staff

Unfortunately there is an increasing number of incidents where housing officers are threatened and attacked and tenancy agreements should cover this situation. They should be widely drafted in order to cover attacks outside the locality of the tenant's home (which would come within the Grounds 2 and 14) and ensure protection of staff wherever they are working. In local authorities consideration may also be given to including councillors amongst those who are protected and in RSLs for board members.

Noise

Noise is usually part of a general clause obliging tenants not to cause a nuisance to their neighbours. However, clauses can be more specific by restricting noise at certain times, for example banning loud music being played during the hours of 11 p.m. and 7 a.m. They should also make it clear that unreasonable noise at any time is a nuisance.

Pets

Most tenancy agreements prevent tenants from keeping pets or limit the number of pets that can be kept in one property. Some agreements prohibit tenants from keeping certain types of animal: particular consideration needs to be given to whether dogs should be permitted at all, and if so whether their numbers should be limited. It may also be thought appropriate to prevent the keeping of potentially dangerous animals such as poisonous snakes. Even if not banned outright, the tenancy agreement may require permission to be sought before certain types of pets are allowed. If this is the case it is important to have the appropriate administrative machinery, which also provides for consistent decision-making. Where pets are permitted tenants should always be required to keep them in such a manner that they do not cause a nuisance, and be required to prevent them fouling communal areas. The possibility of disease caused by dog mess in children's play areas is a particular problem. It is important that, where terms are included which limit the right to keep pets, they are consistently enforced, as tenants will very quickly complain if they are being asked to comply when neighbours are not.

Cars

Cars can form a particular problem. A well-drafted tenancy agreement will provide for the following:

1. Parking is only permitted in designated areas.
2. The tenant may only park in a space or garage rented from the council.
3. Only vehicles within specified dimensions can be parked.
4. The tenant must not carry out motor vehicle repairs which are or may be a nuisance.
5. The tenant shall not permit members of his or her family or visitors to park other than as designated.
6. The landlord is permitted to wheel-clamp or tow away vehicles which are not within the designated areas or which are causing an obstruction and to recover the costs incurred.

Factors to consider before taking legal action

A range of legal measures are now available and the ODPM and Housing Corporation Guidance specifies (para. 4.10) that any procedure should include the types of legal and non-legal action which could be taken, and explain the circumstances in which each might be appropriate.

Taking legal action is a serious and potentially expensive step and requires consideration of the following questions:



Key questions

- Does your organisation have a clear policy on when it is appropriate to commence different types of legal action?
- Is that policy clearly communicated to staff?
- Is clear information provided about the range of different legal action taken and its effects so that your organisation can identify the costs of taking legal action and undertake a cost benefit analysis of different types of action?

Notices of seeking possession

Prior to commencing possession or demotion action against secure and assured tenants a notice of seeking possession/demotion must be served, setting out the ground and the particulars of the ground being relied on (Housing Act 1985, s. 83; Housing Act 1988, s. 8). This must give sufficient detail of the alleged behaviour for the tenant to know what he or she needs to do to put it right. While this does not have to include names and details of alleged victims, it should as far as possible set out details of the incidents.

Sometimes the notice of seeking possession/demotion will in itself be enough to stop behaviour, and no further action will need to be taken. Research has shown evidence that some landlords served a notice of possession without considering whether they would be able to go through to a court hearing if the behaviour did not stop. It is important before serving a notice to consider this, since tenants may feel that they can act with impunity if notices are served and then not acted upon when anti-social conduct continues.

Legal provisions to deal with anti-social behaviour

The law relating to anti-social behaviour is complex. The following section provides an outline of the use of the following different legal remedies:

- Injunctions
- Possession/demotion
- Anti-social behaviour orders (ASBOs)

A more detailed explanation of the different remedies is provided in **Core Task 7** Action Framework for officers. That framework also considers briefly new measures relating to the exclusion of the opportunity to have the right to buy and refusal of mutual exchanges. See also **Core Task 3**, earlier, in relation to eviction and extension of introductory tenancies.

These are the measures which may be taken directly by social landlords. It is important to recognise, however, that these are not the only legal measures which may be appropriate. Measures may be taken by other agencies such as the police or local authorities. The Anti-social Behaviour Act 2003 introduced a range of provisions such as dispersal orders, property closure orders, parenting orders, which may be appropriate to deal with particular problems. Powers are also available under Environmental Protection legislation to deal with noise nuisances. Further details of these powers are available at: <http://www.together.gov.uk/category.asp?c=21>

As a social landlord it will be important to work closely with other agencies who may be able to exercise these powers (see **Core Task 4** on partnership working).

Deciding on what legal action to take

While some social landlords have embraced using all types of legal action, others, particularly registered social landlords, have found it difficult to move away from using possession action, as this is what they are most familiar with. If staff are to be encouraged to use the full range of legal action it is important that they are confident in their knowledge (see **Core Task 5** – training), but also have clear guidance as to the factors to take into account in deciding the best action to take. Using alternatives to eviction which stop the behaviour complained of, prevents homelessness and the problem of displacement of the perpetrators to another area (or indeed the same area but a different tenure), where the behaviour may simply continue.



Key questions

- Is your organisation able to access non-housing legal action from other partners?
- Do your procedures provide guidance to officers on how to decide what form of legal action is appropriate?

Injunctions

An injunction is an order of the court generally couched in negative terms, i.e. ordering the person not to behave in a particular way. In order to obtain an injunction the applicant must have a “...*cause of action*”, i.e. show that there is some legal claim against the defendant.

Causes of action. There are two main causes of action used in anti-social behaviour cases:

- **Breach of terms of the tenancy.** An injunction can be sought against a tenant for breach of the terms of their tenancy.
- **Housing Act 1996, s. 153A, 153B** provide an alternative cause of action available against tenants and non-tenants. Injunctions may be sought by both local authorities and RSLs to prevent behaviour which is capable of causing nuisance or annoyance to any person and which directly or indirectly relates to or affects the housing management functions of the relevant landlord or to prevent unlawful use of premises.

Powers of arrest and exclusion orders may be attached to a breach of tenancy injunction or a Housing Act s. 153A or s. 153B injunction if the conduct consists of or includes the use or threatened use of violence or there is a significant risk of harm.

Minors. Injunctions are generally not available against someone under the age of 18.

Enforcement. Enforcement is by committal, under which the court may send someone in breach of an injunction to prison.



Key questions

- Does your organisation have a policy on the use of injunctions including, for example, when they are considered appropriate and what pre-legal investigation must have been carried out?
- What information does your organisation keep on the number of applications for injunctions made, their outcomes, and whether they are breached?
- Does your organisation have a protocol with the police on recording powers of arrest and action to be taken where an injunction is breached?

Possession and demotion

Whether possession or demotion can be obtained depends on the nature of the tenancy. Most tenants of social landlords will be either secure tenants under the Housing Act 1985 or assured tenants under the Housing Act 1988, and possession or demotion must be sought in accordance with those acts. In order to obtain possession or demotion the correct procedure must be used, the behaviour complained of must fall within one of the “...grounds for possession” or the criteria for demotion and the court must be satisfied that it is reasonable to grant possession or demotion.

There are two main relevant grounds for possession:

- Breach of the tenancy agreement (Ground 1, HA 1985, Ground 12, HA 1988)
- Nuisance and annoyance (Ground 2 HA 1985, Ground 14 HA 1988)

Grounds for demotion. Where demotion is sought the ground is the same as that of seeking an injunction under HA 1996, s. 153A or s. 153B, i.e. nuisance or annoyance to any person and which directly or indirectly relates to or affects the housing management functions of the relevant landlord or unlawful use of the premises.

Effect on others. In deciding whether to grant possession or demotion the court must take into account the effect of the behaviour on others.

Other factors in deciding reasonableness. The courts have considered a number of other issues in deciding whether it is reasonable to grant possession:

- i. The behaviour of children can lead to possession even if parents are unable to control it.
- ii. Serious conduct will generally lead to a conclusion that it is reasonable to make a possession order.
- iii. The existence of other remedies against the perpetrator should not affect the question of whether it is reasonable to make a possession order.
- iv. Human Rights Act 1998. The impact of the European Convention on Human Rights, article 8, which provides that “...everyone has the right to respect for his private and family life, his home and his correspondence” was considered *Lambeth L.B.C. v. Howard* [2001] 33 HLR 58, CA, where Sedley L.J. said:

“As this court has said more than once, there is nothing in Article 8, or in the associated jurisprudence of the European Court of Human Rights, which should carry county courts to materially different outcomes from those that they have been arriving at for many years when deciding whether it is reasonable to make an outright or a suspended or no possession order. Nevertheless, as the judge in the present case has demonstrated in the final passage of his judgment, it can do no harm, and may often do a great deal of good, if the exercise is approached for what it is, an application of the principle of proportionality.”

Disabled tenants. The Disability Discrimination Act 1995 must be considered before action is taken. In order to comply with the requirements of the 1995 Act landlords should:

- Prior to seeking possession/demotion consider whether the tenant is suffering from a disability which is causing the behaviour complained of.
- If they conclude that the tenant is suffering from a disability, consider whether it is necessary to serve a notice seeking possession and/or to bring possession/demotion proceedings in order that the health of A (an identified person or persons) is not put at risk.
- Provide objective justification for that opinion.

Suspension or outright possession. A possession order may be outright or suspended. In deciding whether to suspend an order the court should consider what the behaviour of the tenants will be like in the future and the potential difficulties of proving breaches in the future where witnesses have been intimidated

Effect of demotion. The effect of a demotion order for local authority secure tenants is to put them in the same position as an introductory tenant for 12 months (see **Core Task 3**). If possession is not sought within 12 months they will subsequently regain their secure status. On demotion, secure or assured tenants of RSLs become assured shorthold tenants for 12 months. If possession is not sought within 12 months they will become assured tenants (even if initially secure).

Possession or demotion. If the landlord is not sure whether possession or demotion is the better option, both may be sought in the same proceedings.



Key questions

- What are your organisation's policies on using possession and demotion?
- How does your organisation ensure that the requirements of the Disability Discrimination Act 1995 are complied with?
- In what circumstances would your organisation seek suspended possession orders rather than outright orders?
- In what circumstances is demotion sought rather than possession?
- What information is collected on the number of notices of seeking possession served and possession/demotion actions commenced on the grounds of anti-social behaviour and the outcomes of such action? Who is the information considered by?

Anti-Social Behaviour Orders (ASBOs) Crime and Disorder Act 1998, s. 1

An ASBO is a civil order made by a court ordering someone not to behave in a certain manner.

ASBO authorities. ASBOs may be sought by the police, local authorities or RSLs.

Requirements. In order to grant an ASBO the court must be satisfied that:

- The person has acted in an anti-social manner, defined as “...in a manner that caused or was likely to cause harassment, alarm or distress”.
- The harassment, alarm or distress must be caused to one or more persons who are not members of the same household as the person against whom the order is made.
- The order is necessary to protect relevant persons (generally those within the area of the local authority or police area, or in the case of an application by an RSL or HAT residing in or who are within the vicinity of the landlord’s properties) from further anti-social acts or conduct.

Applications. An ASBO can be made in three circumstances:

- By application to the magistrates’ court.
- By application to the county court as part of other (e.g. possession) civil proceedings.
- On conviction in other criminal proceedings.

The order. The order may prohibit the defendant from doing anything which the court considers necessary “...for the purpose of protecting [a] person in the...area from further anti-social acts by the defendant.” An order lasts for at least two years.

Breach. Breach of an order without reasonable excuse is a criminal offence, and on conviction can be punished with imprisonment of up to 5 years.



Key questions

- Who in the crime and disorder partnership is responsible for anti-social behaviour orders?
- Is there a protocol for their use?
- Do you have an agreed procedure for applying for ASBOs?
- What response have you had from other members of the partnership (e.g. police, local authority) to requests for anti-social behaviour orders?
- If you are not happy with the current arrangements what action could you take?
- Do tenants know who to approach if they are aware of behaviour where an ASBO might be appropriate?

Module 1: For governing bodies/housing committee members and residents

Sources of further information

Sources of further information and guidance

There are a wide range of websites and publications designed to help social landlords, governing bodies and residents develop sustainable solutions to deal with anti-social behaviour. The key sources of information are listed below:

Key websites

Office of the Deputy Prime Minister: www.odpm.gov.uk

The National Housing Federation: www.housing.org.uk

The Chartered Institute of Housing: www.cih.org

The Housing Corporation: <http://www.housingcorp.gov.uk>

The Audit Commission <http://www.audit-commission.gov.uk/> has detailed information about Performance Monitoring and Key Lines of Enquiry

The Home Office: <http://www.homeoffice.gov.uk/anti-social-behaviour/>

The Home Office dedicated ASB Together website provides detailed guidance on a wide range of ASB issues including partnership work and partners roles and responsibilities: <http://www.together.gov.uk>

The Local Government Association: <http://www.lga.gov.uk/>

The Crime Reduction website: <http://www.crimereduction.gov.uk> has a range of information including guidance on intelligence and information sharing protocols

The Neighbourhood Renewal Unit has a dedicated website which contains detailed information on local strategic partnerships: www.neighbourhood.gov.uk

The Tenant Participation and Advisory Service (TPAS) website contains guidance and practical examples of how to involve residents in the management and delivery of local community safety: <http://www.tpas.org.uk/>

Information about the practice and theory behind youth work can be found at www.infed.org/index.htm

Information about the Youth Pod scheme is available through Tameside's website: <http://www.tameside.gov.uk/>

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NACRO Briefing: *Setting up neighbourhood community safety projects* is available at:
<http://www.nacro.org.uk/data/briefings/nacro-2003021901-csps.pdf>

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Module 2: For social housing practitioners

How to use the Action Framework

Introduction

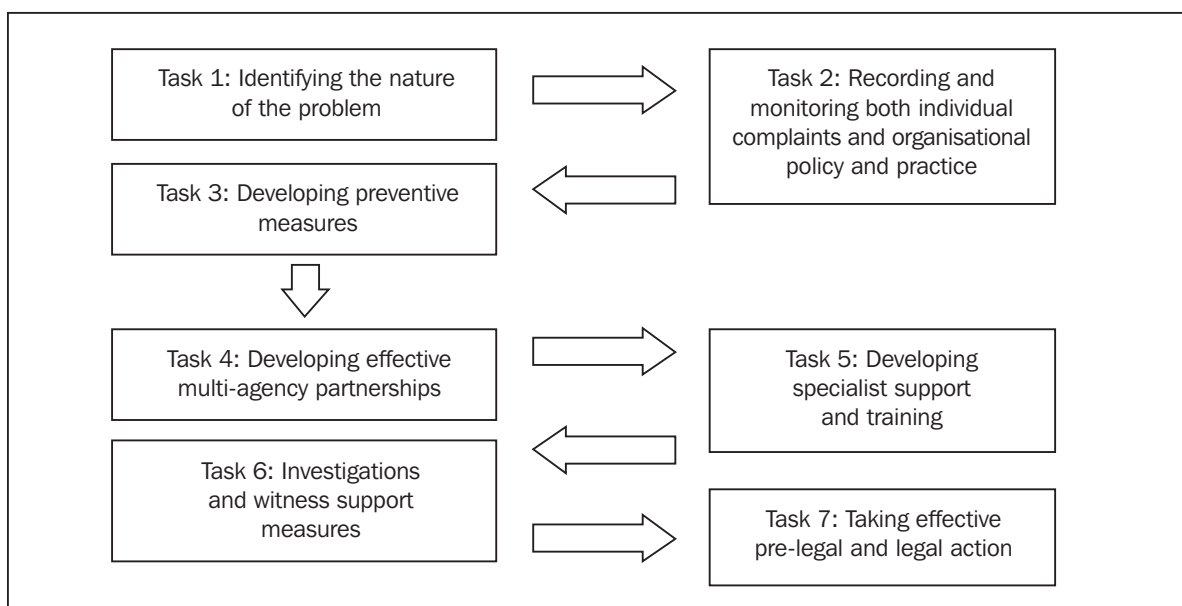
The Action Framework has been designed to enable those involved in social housing governing bodies, housing practitioners, tenants and residents to understand and effectively work with others to tackle problems caused by anti-social behaviour in their own area. In order to address the differing needs of both policy makers and practitioners the Action Framework consists of two linked modules bound together to avoid them getting misplaced! The two modules are geared towards the different needs of:

- Governing bodies/housing committee members and residents (Module 1)
- Social housing practitioners (Module 2)

Drawing on research and evaluations into ‘what works’, both modules consists of key questions, practical fact sheets, case studies, activities and links to websites providing other supporting material. While each of the two modules have been designed to be used as a stand-alone resource, as the purchaser of the material it is hoped that you will make copies of relevant tasks and share them with your colleagues.

Both modules share a common format and offer a **process** approach to understanding and tackling complaints about anti-social behaviour. They can be used either individually or in a group situation. They are designed to offer not only information and knowledge, but also to present an interactive method for assessing problems, identifying potential solutions and prioritising options.

In order to highlight the need for a holistic approach to this area of work, and to help develop strong links between strategic policy development and operational issues, the two Action Framework modules have a common structure based on the following **seven core tasks**.



Making use of the frameworks

The Action Framework modules may be used for a number of different purposes:

- To raise awareness of issues prior to developing a strategy for this area of work.
- To develop a strategy and/or review its progress.
- Training and staff development to improve operational work.
- For reference in day to day operational work.
- To improve working between different staff and residents within an organisation.
- To improve strategic and operational working in multi-agency partnerships.

The way they are used will vary depending on the reasons why you are using them, and in some cases you may not need to look at each core task but only focus on particular ones. **However, if this is your first time using them, make yourself aware of the process involved in working through the core tasks.**

Particularly if you have responsibility for training and staff/personal development in this area of work, we would ask that you think carefully about what you are trying to achieve, get to know the structure of the core tasks in a particular module, and choose whether to present the whole Action Framework in one-go, or to utilise it on a sessional basis. Photocopy whichever sections are relevant and appropriate for you and your colleagues.

Whatever your particular use, we would suggest that you:

- familiarise yourself with the material in the Action Framework module;
- identify appropriate core tasks, information and activities for your own work or for those you are working with;
- seek to use the frameworks as a means of informing and improving practice and management systems;
- use the material to identify gaps and weaknesses in your organisation's policy and practice, and in the individual performance for each core task;
- consider opportunities for co-ordination with other key players to draw up an action plan to address these gaps or weaknesses.

Module 2: For social housing practitioners

Core task 1: The nature of the problem

Anti-social behaviour can seriously damage the quality of life of vulnerable people through the fear of crime and the long-term effects of victimisation. It is also, however, a complex and dynamic problem, which can only be effectively dealt with by the development of a range of complementary forms of action. Quick and effective intervention in neighbour nuisance and anti-social behaviour cases can stop problems from escalating, improve relations between landlord and tenants and help safeguard a landlord's reputation. The Anti-Social Behaviour Act 2003 placed a duty on all social landlords to develop clear procedures and policies to deal with anti-social behaviour and the associated problem of youth nuisance. In order to develop comprehensive, strategic and effective operational responses to the problem it is essential that landlords and tenants work together to collect information about the nature of the problem in their area.

Introduction

In this first core task we consider how landlords define and analyse the particular problems of anti-social behaviour in their area and develop a strategic response under the following headings:

- Defining and measuring anti-social behaviour.
- Racial harassment and anti-social behaviour.
- Action to develop anti-social behaviour policies and procedures.
- Taking action through partnership working.
- Identification of the resources required to take different forms of action.

Defining and measuring anti-social behaviour

Before any practice and management decisions and strategies can be adopted, it is essential that housing officers, along with colleagues and residents take time to consider what constitutes anti-social behaviour. In **Core Task 2**, methods of monitoring and recording of anti-social behaviour are considered in greater detail, but to start with it is important to note that there is no commonly agreed definition of what is meant by the term anti-social behaviour. As the following examples illustrate most policy statements about anti-social behaviour do not attempt to define the nature of the problem but instead focus on the range of behaviours which can be construed as being anti-social.

The Crime and Disorder Act, 1998 formally defines anti-social behaviour in terms of behaviour that:

“...caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household as [the defendant].”

While the Anti-Social Behaviour Act 2003 employs a broader definition that incorporates not only action that is:

“...is capable of causing nuisance or annoyance to any person;”

but also behaviour that:

“...directly or indirectly relates to or affects the housing management functions of a relevant landlord; or consists of or involves using or threatening to use housing accommodation owned or managed by a relevant landlord for an unlawful purpose.”

(Anti Social Behaviour Act 2003).

The definitions of anti-social behaviour outlined in the Crime and Disorder Act 1998 and the Anti-Social Behaviour Act 2003 share an approach which concentrates on the impact of behaviours rather than on specific types of behaviours. This means that in practice any behaviour can be classified as being ‘anti-social’ depending on a number of factors, including the context, the location, the tolerance levels of the local community and expectations about quality of life. Examples of the types of behaviour that are commonly considered to be anti-social are provided below:

“Anti-social behaviour means different things to different people – noisy neighbours which ruin the lives of those around them, ‘crack houses’ run by drug dealers, drunken ‘yobs’ taking over town centres, people begging by cash points, abandoned cars, litter and graffiti, young people using airguns to threaten or intimidate people or people using fireworks as weapons.”

(The White Paper, *Respect and Responsibility – Taking a stand against anti-social behaviour*, Home Office, 2003).

“While there is not an agreed definition of anti-social behaviour, residents know it when they see or hear it. It can be anything from low-level, persistent nuisance to serious violence and other criminal behaviour. It includes all behaviour, which impacts negatively on residents’ quality of life in and around their homes. It is caused both by residents and non-residents and can affect both. Examples are noise nuisance, the fouling of public areas, aggressive and threatening language and behaviour, actual violence against people and property and hate behaviour which targets members of identified groups because of their perceived differences.”

(Department for Transport, Local Government and the Regions (2002) *Tackling anti-social tenants – a Consultation Paper*).

In order to develop a clear understanding of local anti-social behaviour problems it is important that housing officers along with other community safety agencies and local residents work together to identify behaviours that are a particular problem within their neighbourhoods.

Some anti-social behaviour occurs over a long term, while other behaviours are a one-off event. The seriousness of the behaviour can range from a clash of personalities or lifestyles, through to criminal, violent behaviour. A very wide range of behaviours can

be anti-social as has been illustrated in the findings of the Anti-Social Behaviour Unit audit of anti-social behaviour. On Wednesday 10th Sept 2003 the Anti-Social Behaviour Unit at the Home Office undertook a national One Day Count of reports of anti-social behaviour in England and Wales. Over this 24 hour period just over 72,000 reports of anti-social behaviour were received by over 1,500 organisations. Details of the results of the One Day Count can be found at:

<http://www.homeoffice.gov.uk/crimpol/antisocialbehaviour/daycount/index.html>

Based on information collected during the One Day Count the Home Office has developed a typology of anti-social behaviour which may provide a useful starting point for understanding the nature and extent of local problems. The typology, reproduced in the table on the next page, is based on a range of anti-social behaviour definitions currently in use, including those detailed in the CDRP Audits (2001) or Strategies (2002) and definitions used in Home Office funded research and by other government departments. It also draws on the experiences of anti-social behaviour identified by respondents in the 2000 British Crime Survey (BCS). The purpose of the typology is to provide a practical framework and guide to the main categories of behaviour that are widely accepted to be anti-social by both practitioners and the public. The categories are divided into four core areas according to whether they occur in a public space, whether they have a direct or indirect victim and whether the behaviour impacts on the environment. Examples are provided of specific activities, which could fall into each category. A copy of the report *Defining and Measuring anti-social behaviour*, Home Office Development and Practice Report No. 26 can be downloaded from:

<http://www.homeoffice.gov.uk>



Activity

Using the ASB typology outlined in the table on page 90 consider whether you need to review the definitions and descriptions of anti-social behaviour employed by your organisation.

- Does your ASB policy include a written definition of anti-social behaviour?
- Do you need to review the written definition?
- Are tenants clearly informed about how your organisation defines 'anti-social behaviour'?
- Does your ASB policy include a description of the type of conduct that can amount to anti-social behaviour (ASB).
- Examine the examples of anti-social behaviour outlined in the table. Can you identify any additional examples based on local experience? Are these behaviours covered in your organisation's definition of ASB?

A typology of anti-social behaviour			
Misuse of public space	Disregard for community/ personal well-being	Acts directed at people	Environmental damage
<p>Using and selling drugs Taking drugs Sniffing volatile substances Discarding needles/drug paraphernalia Crack houses Presence of dealers or drug dealers</p> <p>Alcohol and solvent abuse</p> <p>Prostitution Soliciting Cards in phone boxes Discarded condoms Kerb crawling Loitering Pestering residents Sexual acts Inappropriate sexual conduct Indecent exposure</p> <p>Abandoned cars, vehicle-related nuisance and inappropriate vehicle use Inconvenient/illegal parking Car repairs on the street/in gardens Setting vehicles alight Joyriding Racing cars Off-road motorcycling Cycling/skateboarding in pedestrian areas/footpaths</p>	<p>Noise Noisy neighbours Noisy cars/motorbikes Loud music Alarms (persistent ringing/malfunction) Noise from pubs/clubs Noise from business/industry</p> <p>Animal related problems Uncontrolled pets and animals</p> <p>Rowdy behaviour Shouting and swearing Fighting Drunken behaviour Hooliganism/loutish behaviour</p> <p>Nuisance behaviour Urinating in public Setting fires (not directed at specific persons or property) Inappropriate use of fireworks Throwing missiles Climbing on buildings Impeding access to communal areas Games in restricted/inappropriate areas Misuse of air guns Letting down tyres</p>	<p>Intimidation/harassment Groups or individuals making threats Verbal abuse Bullying Following people Pestering people Voyeurism Sending nasty/offensive letters Obscene/nuisance phone calls Menacing gestures Can be on the grounds of: Race Sexual orientation Gender Religion Disability Age</p> <p>Aggressive begging</p>	<p>Criminal damage/vandalism Graffiti Damage to bus shelters Damage to phone kiosks Damage to street furniture Damage to buildings Damage to trees/plants/hedges</p> <p>Litter/rubbish Dropping litter Dumping rubbish Fly-tipping Fly-posting</p>

Source: Home Office Research Development and Statistics Directorate.

Anti-social behaviour is a complex and dynamic phenomena, the types of activities that may cause people 'alarm or distress' will vary from one location to another and are likely to change over time. In order to ensure that your policies and procedures are sufficiently flexible to respond effectively to emerging problems it is useful to undertake regular ASB audits. The questions in the following fact sheet will help you identify what data you need to collect to clarify local trends and anti-social behaviour patterns and the way in which this data can help inform the development of your anti-social behaviour strategy.

Fact sheet: Undertaking a basic audit of your capacity to deal with ASB	
<ul style="list-style-type: none"> Organisational details 	Number of units managed and location
<ul style="list-style-type: none"> What types of anti-social behaviour are taking place and where? How many complaints have been received over the last 12 months? Is the problem increasing, staying the same, decreasing? What proportion of time is spent dealing with ASB? 	Number, types and rates of incidents Trends Geographical distribution (e.g. ward, beat, estate area) For example , 10%, 20% of total work load
<ul style="list-style-type: none"> Who are the victims? 	Age, gender, ethnicity, area where they live Analysis of patterns of repeat victimisation
<ul style="list-style-type: none"> Who are the offenders? 	Age, gender, ethnicity, area where they live Persistent offending behaviour Risk factors associated with offending behaviour e.g. mental health problems, out of control children, drug misuse etc.
<ul style="list-style-type: none"> How are incidents of ASB recorded and what forms of monitoring are in place? 	Manual or IT system Categories of ASB used Number of incidents or number of complaints
<ul style="list-style-type: none"> What other information do you need to collect about the general context and particular risk factors? 	Social, economic and environmental factors associated with anti-social behaviour
<ul style="list-style-type: none"> What channels of communication are open to front line officers, tenants, and residents to report the changing nature and location of anti-social behaviour? 	Local social and economic factors and seasonal patterns of social unease, e.g. disturbances during school holidays.
<ul style="list-style-type: none"> Do you have any formal or informal information sharing agreements with any agency? 	List range of agencies and identify any problems in sharing information
<ul style="list-style-type: none"> What action does your organisation take to deal with ASB? (e.g. use of prevention, enforcement and resettlement) 	Identification of gaps in current knowledge and practice
<ul style="list-style-type: none"> What aspects of ASB complaints do you find it most difficult to deal with? 	List main problem areas

Further guidance and advice on methods of collecting data on anti-social behaviour is provided in the Home Office Report on *Defining and Measuring anti-social behaviour* available at: <http://www.homeoffice.gov.uk/rds/antisocial1.html>

Racial harassment and anti-social behaviour

Racial attacks and harassment are acute forms of anti-social behaviour requiring immediate action. While it is beyond the scope of this publication to provide detailed guidance on what action housing practitioners, committee members, tenants and residents can take to prevent and tackle racist attacks, many of the actions that can be taken to deal with perpetrators of racial harassment are similar to those that can be employed to deal with wider incidents of anti-social behaviour.

Eviction is the ultimate sanction against tenants who are perpetrators of racial harassment and anti-social behaviour. However, many social landlords report that even where eviction proceedings are successful, such action may not stop the problem behaviour. Detailed guidance on alternatives to eviction for perpetrators of racial harassment has been developed by RaceActionNet and is available in paper form or through the interactive RaceActionNet website: www.RaceActionNet.co.uk To access the website social landlords must subscribe to RaceActionNet which provides subscribers with an on line directory of contacts and activities through which practitioners can share problems and work out solutions to racial harassment.

The Crime Reduction website also provides useful information on the links on the links between racial harassment and anti-social behaviour:

<http://www.crimereduction.gov.uk/toolkits/as020202.htm>



Activity

When did you last review your racial harassment policy and procedures?

Do your racial harassment procedures incorporate measures to prevent racial harassment?

Does your organisation subscribe to RaceActionNet?

If yes, arrange for your staff to visit the site. If your organisation does not currently subscribe to RaceActionNet, consider the advantages of having access to a forum to exchange views on the most effective methods of tackling racial harassment.

Visit RaceActionNet website on: www.RaceActionNet.co.uk to get further information on the links between racial harassment and anti-social behaviour

Action to develop anti-social behaviour policies and procedures

A recent survey of housing association tenants conducted by the MORI Social Research Institute on behalf of the Housing Corporation found that while most tenants did not consider ASB to be a very or fairly big problem in their neighbourhood a “...sizable minorities did consider” their quality of life to be affected by youth nuisance disorder and other forms of ASB. (MORI, 2005).

When asked about their landlords anti-social behaviour policies, over half of the respondents said they knew their landlord had a policy for dealing with ASB, and 20 percent – one in five – that they did not know. A quarter said that they did not know one way or the other. The full survey findings have been published on the Housing Corporation website, and these can be found on: <http://www.housingcorp.gov.uk>

The Anti-Social Behaviour Act 2003 places a requirement on all social landlords to prepare both a policy in relation to anti-social behaviour and procedures for dealing with occurrences of anti-social behaviour. (Anti Social Behaviour Act 2003 s. 12).

Further, the act requires social landlords to publish the following documents:

- Statement of policy and procedures on ASB. This statement should outline the landlord’s general approach to ASB and include specific policies for example, in relation to support for witnesses of ASB, racial harassment, multi-agency partnerships and the use of available legal remedies.
- Summary of current policy and procedures. This document should contain clear information to enable a tenant to understand how the landlord will deal with a complaint of ASB and what is expected of the tenant. For example, it should contain information on how and to whom a complaint of ASB should be made, how contact will be maintained with the complainant and how the progress of the case will be monitored.

Both the statement and the summary should be available in translation and alternative formats, such as Braille and large print. In addition, the published policies and procedures must reflect the obligations placed on social landlords by other existing legislation, for example:

- The Children’s Act 1989 (s. 27)
- Crime and Disorder Act 1998
- Disability Discrimination Act 1995 (s. 2)
- Homelessness Act 2002
- Race Relations Act 1976
- Human Rights Act 1998

In order to ensure that your ASB strategy is effective it is good practice to undertake regular reviews of the precise problem to be tackled and outcomes you wish to achieve. The following questions and fact sheets have been designed to help you evaluate and review your ASB policy.

**Activity**

Gather together the anti-social behaviour policy and procedure documents used by your organisation and use the following questions to critically evaluate your current policy:

- How often do you review your organisation's anti-social behaviour policy?
- Does the policy contain clear objectives and enable the development of local strategic responses?
- Do you provide tenants councillors/committee members with regular reports on anti-social behaviour with targets to improve service responses and provision?

Use the following fact sheet to identify the ways to improve your existing anti-social behaviour policy. The fact sheet can also be used to make notes and monitor progress on the development of your organisation's anti-social behaviour policy.

Fact sheet: Developing an effective anti-social behaviour policy	
Task: Policies are statements of principle or intent – “what we will do as an organisation.” Effective anti-social behaviour policies are therefore likely to include:	Task completed: Date
<ul style="list-style-type: none"> • A clear statement recognising the importance of tackling anti-social behaviour and an explicit acknowledgement of its effect on residents and communities. • Details of your aims, attitude and general approach to anti-social behaviour, for example to communicate clearly what standards of behaviour are acceptable. • A definition which includes a description of the type of conduct that can amount to anti-social behaviour. • An outline of any specific commitments made to tenants or the wider community in terms of dealing with ASB, and what service standards can be expected. • Details of the range of services offered to tenants on ASB, and how these will deliver a proportionate and flexible response to the challenges that ASB presents. • An outline of how ASB services fit within the organisational structure. • A clear statement of the standards of behaviour that are expected of tenants, those who live with them, and their visitors. The tenant's responsibility for the behaviour of people who live with them and visit them should be made clear. Reference should be made to any tenancy clauses relating to ASB or nuisance. 	→

Fact sheet: Developing an effective anti-social behaviour policy – contd.	
Task: Policies are statements of principle or intent – “what we will do as an organisation.” Effective anti-social behaviour policies are therefore likely to include:	Task completed: Date
<ul style="list-style-type: none"> • A balance between prevention, enforcement and reintegration approaches. • An evaluation procedure of present organisational practice with regard to anti-social behaviour. • An unequivocal statement that anti-social behaviour will be investigated and that effective and early action will be taken to tackle it. • A commitment to using mediation and arbitration services appropriately to resolve neighbour disputes. • A commitment to victim and witness support. • A statement supporting zero tolerance of racist or other discriminatory behaviour. • A commitment to partnership working with key agencies. • A commitment to working with residents to resolve anti-social behaviour problems. • A willingness to use a wide range of approaches to tackle the wide range of anti-social behaviour. • An anti-social behaviour policy should have clear links to other related policies on: <ul style="list-style-type: none"> – domestic violence – harassment – maintenance – confidentiality – equal opportunities – tenancy management – lettings – health and safety – community care – resident involvement – development – risk management – regeneration, asset management and planned maintenance – support for vulnerable tenants – youth provision – special needs 	

Source: Adapted from: *Managing Nuisance, Harassment and Anti-social Behaviour, A Framework for RSLs*, p12, Housing Corporation 2000.

Further formal guidance on the development of ASB policies and strategies is available from the Office of the Deputy Prime Minister and the Housing Corporation. To view the guidance on line visit the following websites:

http://www.odpm.gov.uk/stellent/groups/odpm_housing/documents/page/odpm_house_030458.hcsp

<http://www.housingcorplibrary.org.uk/HousingCorp.nsf/AllDocuments/D886AA54BED01FDD80256EFA0052CB39>

Taking action through partnership working

Effective action to tackle anti-social behaviour relies on the development of meaningful partnerships with a number of different agencies. For example, in order to be able to respond to complaints and to evaluate which organisation should take lead responsibility, it is important that your organisation has well-developed operational partnerships with a range of agencies.

However, this relies on having considered the establishment of policy and practice on **confidentiality** and **information sharing**. Trust is also vitally important but can be hard to achieve as a result of problems arising from different professional orientations. While detailed information and guidance on how to develop effective partnerships is provided in **Core Task 4** later in this module, the following section highlights how you can begin to identify which agencies you should be seeking to develop a partnership approach with.

Research has highlighted some of the difficulties social landlords' experience in developing partnership working. In particular landlords sometimes experience problems in forging close partnerships with the full range of community safety agencies operating in areas in which their stock is located. As part of the process of creating effective working partnerships, it can be useful to undertake a review of partner organisations' current strategies and practical initiatives to tackle anti-social behaviour. Unless your organisation is able to obtain a full picture from all those involved you will not be able to gauge the true extent of the problem in your area.



Activity

- In dealing with complaints which agencies do you have close working relationships with?
- Undertake a review of relevant partner organisations' anti-social behaviour policies and practices. A combination of loosely structured workshops, interviews with key staff and scrutiny of existing policy documents, evaluation reports, etc. can achieve this. The following fact sheet provides you with guidelines on the type of information to collect from partner organisations.

Fact sheet: Undertaking a review of partner organisations' policies and practices

- In areas in which your stock is located what are the anti-social behaviour strategies of the local authority, police, fire service, health boards/trusts, voluntary organisations, and other appropriate agencies?
- Are there any specific anti-social behaviour initiatives being used by different agencies to address particular problems?

The review should also aim to provide answers to the following questions:

- What has been tried, what hasn't been tried?
- What works, what doesn't work (both in your area and in other areas)?
- What are the gaps in provision, what can be built on?
- Is there any over-provision or duplication of effort?

Source: Source: Crime Reduction Tool kits available at: www.crimereduction.gov.uk/toolkits/as0102.htm



Activity

The following questions have been designed to help you identify how to begin to develop effective anti-social behaviour partnerships.

- Which other departments/agencies need to be consulted on the development of an anti-social behaviour strategy?
- Is there a local forum for the development of shared strategic responses, where priorities can be agreed, ideas generated, potential solutions assessed and an action plan produced?
- What is the role of the local crime and disorder partnership? (see **Core Task 4** for further information on crime and disorder partnerships).

Action to be taken to ensure that sufficient resources are allocated to this area of work

Anti-social behaviour undoubtedly results in considerable costs for public services. The One Day Count of anti-social behaviour undertaken by the Anti-Social Behaviour Unit in September 2003 estimated that anti-social behaviour cost agencies in England and

Wales at least £13.5 million, which equates to an annual cost of around £3.4 billion. The cost to the housing association sector of dealing with anti-social behaviour has been estimated at around £212 million per annum. At a more local level, Leeds local authority estimated that their annual expenditure to deal with anti-social behaviour was in the region of £3 million-£5 million. It should be noted that none of these estimates takes full account of the costs to victims (both financial and psychological) of anti-social behaviour.

Although it is recognised that developing sustainable interventions to deal with ASB are resource intensive most social landlords find it very difficult to determine the exact costs incurred by housing management services as a result of anti-social behaviour. Very few landlords keep records of the direct or indirect costs associated with action taken to deal with anti-social behaviour and are therefore unable to clearly estimate the resources required to deal with this important area of work.

However good your understanding of the particular problems in your area it will be impossible to take effective action unless sufficient resources are allocated to this area of work. One of the principal direct ASB costs incurred by social landlords is the amount of staff time spent on investigating complaints, devising appropriate interventions including where necessary, preparing for legal action and providing witnesses and victims with support. A recent study into the cost of possession action and evictions by social landlords found that typical housing officer hourly rates (including overheads) in 2004/05 were estimated as being between £30-£35 per hour (Pawson, 2005).



Key questions

- Do you have a dedicated budget for anti-social behaviour work? If yes, is the budget holder the appropriate person?
- Can you identify the resources required in order to develop your anti-social behaviour policy including the provision of training and support to the other key players?
- Could you undertake a cost benefit analysis to establish the cost and effectiveness of different forms of action to deal with anti-social behaviour?

The following section of the Action Framework provides you with a series of pointers to the cost issues relating to anti-social behaviour.

There are three elements to costing anti-social behaviour:

- the direct costs of action to stop it;
- the indirect costs of action to stop it;
- the cost benefits of stopping it.

Fact sheet: Costing anti-social behaviour

Direct costs: mainstream management core responses

- **Staff costs:** dealing with individual cases can be extremely time consuming and may involve a number of different staff including caretakers, housing officers, area managers, senior staff etc.
- **Investigation of complaints:** talking to complainants, alleged perpetrators and witnesses, recording responses in writing, maintaining clear, separate files on anti-social behaviour, assessing truth of complaint.
- **Establishing an action plan** to take control of cases, engage partner service inputs and to define route to resolution.
- **Telling complainants/witnesses** of preferred courses of action and securing their agreement.
- **Issuing clear verbal and written warnings** to perpetrators citing consequences for them if they don't stop and asking them to stop.
- **Establishing witness support measures** and supporting residents.

Direct costs of specialist interventions

- **Mediation:** mediation can be a cost effective method of resolving neighbour disputes and complaints between neighbours. It is most effective where there is an equivalence of power between participants. Mediation aims to lower conflict and achieve lasting win/win solutions.
- **Provision of specialist ASB tenancy sustainment support:** a growing number of landlords are finding that providing anti-social households with support to change their behaviour can be a very effective method of dealing with disruptive tenants. Initially the costs of providing dedicated ASB support services are high but when weighed against the ongoing costs of dealing with complaints can be a cost effective form of intervention.
- **Costs of neighbourhood/street warden service.**
- **Costs of the provision of diversionary activities** including outreach youth workers, schemes to access "...hard to reach groups and summer play schemes."
- **Provision of CCTV.**

Direct costs of taking legal action

- **The legal costs** associated with injunctions, notices of seeking possession, possession summons and anti-social behaviour orders will vary widely according to whether in-house or commercial solicitors are used, the complexity of the case and whether or not the case is contested. For example, possession hearings can cost anything from £500 to in excess of £10,000 per case. In order to be able to estimate the cost of taking legal action you must undertake rigorous monitoring of the legal costs of all anti-social behaviour cases.
- **Witness support measures:** on top of court and legal fees, court action may incur additional costs, e.g. hiring professional witnesses or supporting key witnesses in the lead up to the final hearing by the provision of temporary re-housing etc.

Indirect costs for landlords

In addition to all the above direct costs there are also a number of important indirect costs that landlords must take into account.



For example:

- repair and replacement costs for vandalism, theft and related casual damage to the physical fabric of the housing stock;
- similar costs for damage to the environs of the housing stock – plantings, hard works, lighting, telephones etc.;
- void costs (rental loss and re-let repair costs):
 - from eviction or abandonment by perpetrators;
 - from re-housing or abandonment by complainants and witnesses to anti-social behaviour;
 - from the development of a poor local reputation affecting either particular properties, or whole neighbourhoods and the consequent reduction in lettings potential;
- disturbances/relocation costs for complainants/witnesses;
- loss of or reduction in control of expenditure by erosion of planned maintenance budgets;
- reduction in capital value of stock holding;
- opportunity costs – the diversion of staff time from alternative work;
- increase in staff stress related illness.

Indirect costs for residents

- loss of goods/replacement costs;
- increase in insurance premiums;
- cost of provision of personal and premises security;
- reduction (for home owners) in value of capital assets.

Indirect costs for other service providers

- costs for cleansing, rubbish removal, graffiti removal etc.;
- costs for critical interventions such as police call outs, fire and ambulance services;
- emergency re-glazing and essential repairs to protect person, personal property and physical fabric from further deterioration;
- costs for supportive interventions for complainants/witnesses;
- anti-social behaviour can have an extremely detrimental affect on victims' health with resulting high costs for the health service;
- decrease in social cohesion and the loss of formal control are likely to result in increased costs for a wide range of agencies.

The cost benefits of stopping anti-social behaviour

Finally, it should be recognised that there are a number of cost benefits from taking decisive action to tackle anti-social behaviour. For example, there will be remission from some or all of the indirect costs and a reduction in the following costs:

- repairs/replacement expenditure;
- environmental expenditure;
- voids rental loss;
- re-let expenditure;
- increase in potential for planned maintenance projects;
- maintenance in value of capital asset;
- reduction in outlay by residents;
- reduction in partner services' expenditure;
- increase in potential for creative, supportive and preventative partner service interventions.



Key questions

To ensure sufficient resources are allocated to this area of work:

With reference to the fact sheet on costing anti-social behaviour and the following questions, consider whether your organisation has allocated sufficient resources to cost effectively tackle anti-social behaviour.

- Over recent years, has there been an increase in complaints about anti-social behaviour? If so has any action been taken to monitor the additional costs incurred by the organisation in this area of work?

- Are front line officers provided with the appropriate resources to identify and deal with the problem locally? If not, can you identify what additional resources are required?

- Do you feel you need to develop your knowledge and/or skills in this area of work?

- If so, what sort of training or support would you like?
 - In-house training or external specialist courses?

In order to be able to accurately identify what resources your organisation needs to allocate to deal with all aspects of anti-social behaviour it is necessary to undertake a thorough audit of the direct and indirect costs of ASB activities. This may be a daunting prospect and in order to help you begin to identify the precise costs of each different type of activity the table on the next page outlines research findings into the unit costs associated with particular forms of action.

Full details of the research studies drawn on to compile the table of unit costs are provided in the Sources of information section at the end of this module.

It should be noted that in many cases the unit costs quoted in the table have been taken from studies undertaken nearly ten years ago and have not been updated to reflect current (2005/06 values).

Table: Estimates of unit costs of anti-social behaviour that may be incurred by housing organisations and community safety partners

Category of anti-social behaviour and nature of action	Unit costs	Source
<p>Non-legal intervention</p> <p>Informal intervention involving one call out followed by some remedial action</p> <p>Significant intervention and remediation stopping short of legal action</p> <p>The Housing Corporation reports that housing staff estimate that they spend around 40% of their time on anti-social behaviour problems</p>	<p>£100-300</p> <p>£500-£1,000</p>	<p>Whitehead <i>et al.</i> (2003)</p> <p>Ganderton (2000)</p>
<p>Cost of transfer of tenancy</p> <p>Costs of moving one of the parties involved in a dispute</p>	£833	Dignam <i>et al.</i> (1996)
<p>Noise and rowdy behaviour</p> <p>Direct costs to environmental services (EHO action) – single report</p> <p>Cost of housing officer call out with some remedial action short of legal action</p> <p>Prosecution including imputed staff time for preparation and evidence collection</p>	<p>£20-£50</p> <p>£100-£300</p> <p>£500</p>	Dignam <i>et al.</i> (1996)
<p>Nuisance behaviours and neighbour disputes</p> <p>Legal action LA range £142-£305,000 Average</p> <p>Legal action RSL (range £500-£80,000) Average</p> <p>Possession action for rent arrears (range £2,000-£3,000)</p> <p>Possession action for anti-social behaviour (£6,500-£9,500)</p> <p>Cost of an injunction</p> <p>Maximum costs of taking legal action</p>	<p>£10,400</p> <p>£4,000</p> <p>£2,500</p> <p>£8,000</p> <p>£1,000</p> <p>£1.2 million</p>	<p>Hunter <i>et al.</i> (2000) and SEU (2000)</p> <p>Hunter <i>et al.</i> (2000)</p> <p>Pawson <i>et al.</i> (2005)</p> <p>Pawson <i>et al.</i> (2005)</p> <p>Dignam (1986)</p> <p>Dignam (1986)</p>
<p>ASBOs</p> <p>Cost to local authority/police</p> <p>Lowest</p> <p>Highest</p>	<p>£5,350</p> <p>£2,500</p> <p>£46,800</p>	Campbell (2002)
<p>Other related housing costs</p> <p>Vandalism individual incident</p> <p>Cost of common assault</p> <p>Assuming a 5% vandalism cost per incident</p> <p>Property damage maximum cost to landlord</p>	<p>£510</p> <p>£500</p> <p>£700</p> <p>£42,000</p>	<p>Brand and Price (2000)</p> <p>Brand and Price (2000)</p> <p>BTP(2003)</p>

Estimated costs of tenancy failure	Estimated costs per failed tenancy	Source
Tenancy failure for vulnerable tenants living in the community	£2,100	Audit Commission (1998)
Tenancy failure –standard cases	£1,913	Shelter (2003)
Tenancy failure ‘complex’ cases	£3,190	
Average costs of tenancy failure	£1,610-£4,210	Crisis (2003)
Homelessness and care costs based on findings from the Dundee Families Evaluation		
Average cost of processing a homelessness application	£942-£1,900	Dillane <i>et al.</i> (2001)
Average cost of placing a child in foster care estimated	£200 per week	
Average cost of placing a child in a residential school or a children’s unit estimated	£1,000+ per week	
Abandoned vehicles		
Cost of collection and disposal	£215	Reading Borough Council (2003)
Cost of disposal	£60-£100	Jill Dando Institute (2003)
Intimidation/harassment		
Cost of common assault offence (including social costs)	£500	Brand and Price (2000)
Criminal damage/vandalism		
Cost of individual incident (inc. social costs)	£510	Brand and Price (2000)
Cost of incident against commercial/public sector (inc. social costs)	£890	Brand and Price (2000)
Average cost per LA dwelling in Bradford	£35	SEU (2000)
Cost per incident assuming 5% incidence	£700	
Case study costs associated with juvenile nuisance and offences relating to theft and taking a car		
Estimated costs of police time, youth offending team involvement and court appearances	£13,000	Audit Commission (2004)
Costs of a six month custodial sentence	£51,500	

Sources of further information and guidance

There are a wide range of websites and publications designed to help social landlords, governing bodies and residents develop sustainable solutions to deal with anti-social behaviour. The key sources of information are listed below with further references provided at the back of the module:

Key websites

Office of the Deputy Prime Minister: www.odpm.gov.uk

The National Housing Federation: www.housing.org.uk

The Chartered Institute of Housing: www.cih.org

The Housing Corporation: <http://www.housingcorp.gov.uk>

The Audit Commission: <http://www.audit-commission.gov.uk/>

The Home Office: <http://www.homeoffice.gov.uk/anti-social-behaviour/>

The Local Government Association: <http://www.lga.gov.uk/>

The Crime Reduction website: <http://www.crimereduction.gov.uk>

Social Landlords Crime and Nuisance Group: <http://www.slcng.org.uk/>

Sources of information on the unit costs of ASB

Audit Commission (1998) *Home Alone – the housing aspects of community care*, May 1998, London: Audit Commission.

Atkinson, R *et al.* (2000) *The Use of Legal Remedies for Neighbour Nuisance in Scotland*, Scottish Executive Central Research Unit.

BTP (2003) *Annual Report 2002/03* at: www.btp.police.uk/documents/annualReport/Report.pdf

Brand, S and Price, R (2000) *The Economic and Social Costs of Crime*, Home Office Research Study 217.

Campbell, S (2002) *A review of Anti-Social Behaviour Orders* (Home Office Research Study No. 236), London: Home Office Research, Development and Statistics Directorate.

Crisis (2003) *How Many, How Much? Single homelessness and the question of numbers and cost*, London: Crisis.

Dignam, J *et al.* (1996) *Neighbour Disputes – Comparing the Cost-Effectiveness of Mediation and Alternative Approaches*, University of Sheffield: Centre for Criminological and Legal Research.

Dillane, J, Hill, M, Bannister, J and Scott, S (2001) *Evaluation of the Dundee Families Project*, Scottish Executive Glasgow.

Ganderton, E (2000) *Managing Nuisance, Harassment and anti-social behaviour – a framework for RSLs*, London: Housing Corporation.

Housing Corporation (2004) *Regulatory Impact Assessment*, London: Housing Corporation.

Hunter, C *et al.* (2000) *Neighbour Nuisance, Social Landlords and the Law*, Coventry and York: CIH and JRF.

Jill Dando Institute of Crime and Science (2003) *Measuring the Impact of MVRib Initiatives on Abandoned Vehicles*, University College, London.

Nixon, J *et al.* (2005) *Interim Evaluation for Families at risk of losing their home as a result of Anti-social Behaviour* (see particularly Section 9 Analysis of costs and benefits) November 2005 London: Office of the Deputy Prime Minister.

Pawson, H *et al.* (2005) *The Use of Possession Actions and Evictions by Social Landlords*, June 2005, London: Office of the Deputy Prime Minister.

Reading Borough Council (2003) *Spotlight on Abandoned Vehicles* (accessed from website).

Shelter (2003) *House Keeping: preventing homelessness by tackling rent arrears in social housing* Shelter: London.

Social Exclusion Unit (2000) *National Strategy for Neighbourhood Renewal – Report of Policy Action Team 8: Anti-social Behaviour*.

Whitehead, C, Stockdale, N and Razzu, G (2003) *The Economic and Social Costs of anti-social behaviour. A review*, London: LSE/Home Office.

Module 2: For social housing practitioners

Core task 2: Monitoring and recording systems

Many landlords experience difficulty in gathering accurate information relating to the scale and impact of methods used to deal with anti-social behaviour in their area. There is a need for landlords to develop common systems for recording complaints and monitoring action taken. Monitoring schemes need to be sufficiently sophisticated to identify the resource implications of different forms of action.

The consistent and accurate recording and monitoring of anti-social behaviour is vitally important. It enables you to:

- Become aware of the extent and nature of problems in your area.
- Make informed decisions about targeting scarce resources and developing effective strategies.
- Ensure that your Best Value Performance Plans include local performance indicators and targets in respect of effective anti-social behaviour processes.

In this section of the Action Framework the following aspects of monitoring and recording are considered:

- Monitoring and reviewing ASB strategies.
- Reviewing current methods of recording and monitoring anti-social behaviour policy and practice.
- Links with partner agencies' recording and monitoring systems.
- Overcoming problems in sharing data.
- Developing Local Performance Indicators.
- Key Lines of Enquiry (KLoE).
- A model recording system for individual incidents and cases.

Monitoring and reviewing ASB strategies

In order to ensure that your ASB strategy is effective it is good practice to undertake regular reviews of the precise problem to be tackled and outcomes you wish to achieve.

- Monitoring – refers to the process of keeping track by measuring inputs and outputs.
- Reviewing – refers to finding out whether a particular intervention or strategy has achieved its objectives.

Setting up appropriate monitoring and evaluation frameworks are an essential part of the development of an ASB strategy and cannot simply be tacked on to the end of the process.

The Home Office Crime Reduction website contains a useful option check list to help you develop your ASB monitoring and evaluation strategies. The check list which comprises of a list of pertinent questions has been reproduced below.

Option check list to monitor and review ASB strategies	
1	<p>What is the precise problem to be tackled?</p> <p>Does it relate to particular:</p> <ul style="list-style-type: none"> • locations? • groups of victims? • offenders? <p>If more information is needed, how can it be obtained?</p>
2	<p>What outcome(s) do we want to achieve and by when?</p> <p>How do these relate to the problems identified?</p>
3	<p>How will the option achieve the desired effect?</p> <p>What is the <i>mechanism</i> for achieving the result intended?</p>
4	<p>What evidence is there to support this approach?</p> <p>Has anything similar been done elsewhere?</p> <p>If so, was it well evaluated and was it successful?</p> <p style="text-align: right;">→</p>

5	<p>What else needs to happen for the option to work?</p> <p>Under what circumstances will the option achieve the intended outcome?</p> <p>Does it depend on specific conditions or resources, or on support from relevant interests?</p> <p>If so, are these conditions present or can they be created?</p>
6	<p>How much do we need to do to make a difference?</p>
7	<p>How will we know if it is working?</p> <p>How and how often will progress be measured?</p> <p>Who will undertake the work?</p>
8	<p>What resources will be needed?</p> <p>What start up costs, staff time, capital and running costs are likely to be required, and how will these be met?</p> <p>What could be provided 'in kind'?</p>
9	<p>What will the positive or negative side effects be?</p>
10	<p>Will the benefits outweigh the costs?</p> <p>Will the outcomes be worthwhile?</p> <p>Could the resources be better used on an alternative option?</p> <p>Does the option represent 'Best Value'?</p>

Further information is available at the following website: <http://www.crimereduction.gov.uk/toolkits/as08-table3.htm>

NACRO has also developed a useful guide to the monitoring and evaluation of community safety initiatives which focuses on how to set up and develop a monitoring framework, guidance on analysis of results and what to include in a detailed evaluation framework. The NACRO guide to monitoring and evaluation 2001 can either be downloaded from the web:

<http://www.nacro.org.uk/data/briefings/nacro-2001072300-csps.pdf>

or can be obtained by writing to NACRO, Crime and Social Policy Section, 237 Queenstown Road, London SW8 3NP.

Reviewing current methods of monitoring organisational policy and practice

In addition to developing specific Quality of Life Performance Indicators and case monitoring forms to record action taken in individual cases (see further below and **Core Task 6** for details of information that should be collected about individual complaints) there is also a need for social landlords to monitor the impact of their organisational policy and practice.

The following activities have been designed to help you identify what improvements could be made to your current systems of recording and monitoring of anti-social behaviour:



Activity

Collect samples of the anti-social behaviour recording and monitoring forms used by your organisation and by other organisations you work in partnership with. Use the following questions to compare and evaluate the forms:

- Do all the forms adopt the same definition and classification of different forms of anti-social behaviour? What are their limitations?
- Is it possible to track cases in terms of behaviour, forms of intervention and outcomes over time?
- How accurate, reliable and representative is the data?
- Do current methods of recording and monitoring incidents enable an analysis of trends to be undertaken, i.e. a comparison between one area/estate and another in terms of number, types, rates of incidence?
- Can you identify what types of anti-social behaviour are taking place? Where? When? Why? Who are the victims? Who are the perpetrators?
- What other relevant sources of data are available? Can you identify exclusions by area, type and households, use of introductory/starter tenancies, void rates, criminal damage costs, vandalism records, transfer requests etc.?
- Who within the organisation is responsible for data analysis and regular reporting? Who receives reports?

Whatever the system you currently use for monitoring and recording cases of anti-social behaviour it is important that you are able to use the systems to clearly identify the nature of the problem in your area and to analyse long-term trends.



Activity

Consider how far your current monitoring and recording systems provide strategic information about victims and perpetrators of anti-social behaviour. For example, do you collect information on:

- Age?
- Gender?
- Ethnicity?
- Geographical distribution of victims and offenders?

In developing, your recording and monitoring systems you also need to consider whether your information systems are compatible with those used by your legal advisors and other agencies that you may want to share information with. More detailed guidance on developing information sharing protocols is provided in **Core Task 4**, but at this stage it is vital to ensure that your information systems are compatible with those used by your legal advisors and other relevant agencies.



Activity

- What formal or informal information sharing protocols have been developed with relevant agencies operating in your area?
- What data is available about action taken by other social landlords and the private sector (owner occupiers and private landlords) to tackle anti-social behaviour in your area?
- Are your information systems compatible with those used by your legal advisors and other agencies that you may want to share information with?

Overcoming problems in sharing data

Local crime and disorder reduction partnerships (CDRPs) are responsible for collating information on the incidence and extent of anti-social behaviour and youth nuisance in local areas. However, most CDRPs have not yet developed a centralised, co-ordinated

data collection system. Typically, information is gathered from a wide range of separate data sets, derived from different types of systems, collecting different types of information. Even where information sharing protocols have been put in place, developing an overview of the changing nature of the problem can be hampered by incompatible recording and monitoring systems and more general concerns about data protection.

The Crime Reduction website has developed a specialist tool kit on developing information sharing protocols and has an interactive template protocol document, allowing you to draft an initial version of your information sharing protocol on line. The on line version allows you to select only those sections that are appropriate to your group, and gives you the option to include references to legislation commonly used in crime reduction information sharing protocols:

http://www.crimereduction.gov.uk/infosharing_guide.htm

More detailed information on developing information sharing protocols is provided in **Core Task 4** later in this module.

The table below identifies some of the common barriers to sharing information about anti-social behaviour and outlines strategies that can be employed to improve mapping anti-social incidents.

Barriers to sharing data	Strategies to improve data sharing
<ul style="list-style-type: none"> • Different agencies adopt different definitions of the problem. • Concerns over data protection issues. • Data collection problems caused by incompatible IT systems and the lack of coterminous boundaries between agencies. 	<ul style="list-style-type: none"> • Discussion between local agencies regarding the range of interpretations of anti-social behaviour and the development of an agreed working definition. • Networking with other partnerships to establish methods of sharing information and the development of local information sharing protocols. For further advice on information sharing protocols see Core Task 4. • Agencies would welcome greater dissemination of good practice on information sharing from central government. • Provision of clearer guidance and training on data protection issues to all partner members. • Joint working between key agencies to minimise IT problems. • Use of dedicated surveys and alternative data sources to establish a base line against which crime statistics and other trends can be compared over time. This method of monitoring is particularly valuable since it facilitates an assessment of trends and an evaluation of long-term outcomes.

Practical examples of innovative practice in mapping the nature and extent of the problem

Development of a GIS mapping system and a dedicated crime and disorder data base

In the Royal Borough of Kensington and Chelsea, the Community Safety Team is in the process of developing two centralised IT system; a GIS system to map crime and anti-social behaviour hot spots and a database to monitor the action taken to meet the objectives of the Crime and Disorder Strategy. For more details about these initiatives contact: Community Safety Team, Whitlock House, 72-74 Earls Court Rd, London, W8 6EQ.

Use of feasibility studies and surveys

In developing a dedicated anti-social behaviour resettlement service, Bolton undertook an in-depth feasibility study based on the following sources of data:

- Collection of information about known perpetrators and vulnerable families from key agencies such as social landlords, social services, education services, YOTs and youth workers.
- Mapping the existing range and cost of operation services being provided to such families.
- Resource mapping of relevant strategic planning systems and structures.
- Interviews with families who have a history of anti-social behaviour.

The results of the feasibility study have been used to reach agreement on what services should be provided and by whom, which agency or agencies should manage the project, the optimum size and structure and location of the project, staffing levels and capital and revenue funding of the project. For more details about this initiative contact: Anti-Social Behaviour Co-ordinator, Chief Executive's Department, Bolton Town Hall, Bolton.

Evaluation of initiatives

The collection of detailed data at the start of a project can also be useful for evaluation purposes. For example, at the start of the East Manchester Neighbour Nuisance Project the team carried out a residents' survey which provided base line data against which crime statistics and data from further residents' surveys has been compared. The collection of this data has enabled the team to assess the impact of particular interventions, and to judge whether the fear of crime, as well as actual recorded crime, has decreased. For more details about this initiative contact: East Manchester Neighbour Nuisance Team.

Use of 'quality of life indicators' and social data as well as crime data

In Honeywell Gardens in Gedling the impact of interventions is monitored using a wide range of different indicators including:

- Crime statistics, both reported incidents and actual crimes.
- House prices.

- Feedback from local shopkeepers and businesses.
- Turnout at residents' meetings.
- Improvements in inter-departmental relationships within the borough.
- Contact between residents and council officers.



Activity

Read the case study examples of different ways of mapping the nature and extent of the problem of ASB in areas in which your stock is located and consider the following questions:

- What forms of routine monitoring of ASB and the associated problems of youth nuisance does your organisation currently undertake? Do you regularly share this information with other community safety agencies?
- What forms of networking have you developed with local agencies in order to establish robust methods of sharing information and the development of local information sharing protocols?
- Have you undertaken any joint working between key agencies to minimise IT problems?
- Does your organisation regularly collect and analyse data on changing levels of ASB?
- Have you established a base line of data through the use of dedicated surveys and alternative data sources against which ASB trends can be compared over time?

Developing local performance indicators

Under the Best Value regime social landlords are encouraged to develop comprehensive systems to record and monitor incidents of anti-social behaviour, disorder and youth nuisance. In order to help local authorities and partner agencies to monitor and improve their progress in meeting local priorities the Audit Commission and the Improvement and Development Agency (IDeA) provide a free on line library offering:

- A database of local performance indicators.
- Good practice publications and web links for performance management and measurement.

- Links to other source of national and voluntary PIs and data providers, including latest guidance for BVPIs.
- Latest news on PI development, including latest updates for pilots.

The library offers a number of 'ready made' performance indicators relating to anti-social behaviour which can be adapted for use by social landlords. All the indicators included in the electronic library have detailed definitions to facilitate consistency in the calculation. This is to enable, where appropriate, comparison over time and with others. An outline of ASB performance indicators is provided below but for more detailed information visit the Library of Local Performance Indicators at <http://www.local-pi-library.gov.uk/index.html>

A number of examples of Quality of Life Performance Indicators related to the measurement of concern about anti-social behaviour are provided below:

Indicator: Example 1

The percentage of residents surveyed who are concerned with different types of noise in their area

The purpose of this indicator is to assess noise nuisance and to inform any policy to reduce noise levels in your local authority. The question could be included in user satisfaction surveys or be incorporated into other consultation methods, e.g. citizens' panels, with a list of the types of noise appropriate to the area.

The percentage of residents surveyed who are concerned with different types of noise in their area should be categorised as in the Survey of English Housing:

"How would you rate the following types of noise in your local area?"

- a. Road traffic
- b. Aircraft
- c. Trains
- d. Industrial/commercial premises
- e. Road works
- f. Construction/demolition
- g. Pubs, clubs and entertainment
- h. Neighbours
- i. Animals e.g. dogs

Answer options:

1. Serious problem
2. Problem, but not serious
3. Not a problem

Those that answered either 1 or 2 are interpreted as residents showing concerned about noise.

Indicator: Example 2

The percentage of residents surveyed satisfied with their neighbourhood as a place to live

The purpose of this indicator is to monitor community well being, and inform policy on the provision and quality of local services/facilities. This indicator requires a survey, but the question could be included in an existing survey or as part of the authority's usual consultation processes.

"How satisfied are you with your neighbourhood as a place to live?"

Options:

- 1) Very satisfied
- 2) Fairly satisfied
- 3) Neither satisfied nor dissatisfied
- 4) Fairly dissatisfied
- 5) Very dissatisfied

The following supplementary question may be asked to determine local residents' views on different aspects of the neighbourhood and community well being:

"On the whole, do you think that over the past two years your neighbourhood has got better or worse?"

Answer options:

1. Better
2. Worse
3. Has not changed much
4. Have lived here less than two years

It should be noted that option 4 responses (lived here less than 2 years) do not contribute to the net value. The data should be presented as a table showing the different percentage responses for options 1, 2 and 3.

These questions are suggested for local collection and analysis only and should be combined with efforts to collect further background on such factors as location, ethnicity, age, gender etc., so a meaningful and informative analysis of the results can be carried out to inform future action.

Indicator: Example 3

Percentage of residents who say that vandalism, graffiti and rubbish is a problem in their area

- (a) Percentage of residents who say that:
- (i) Vandalism
 - (ii) Graffiti
 - (iii) Litter and rubbish in the street is a problem in their area.



- (b) Percentage of tenants who say that:
- (i) Vandalism
 - (ii) Graffiti
 - (iii) Litter and rubbish in the street is a problem in their area.

People want to live in comfortable and affordable homes that meet their needs. They also want to live in neighbourhoods where the common parts are clean and well maintained. This indicator is split into two parts; firstly to identify how residents of an area as a whole perceive the problem of vandalism, litter and graffiti; and secondly to focus specifically on the perception of tenants. Using the two measures, a comparison can be made of the situation for local residents as a whole, and the specific experiences of local authority tenants, and targeted action taken as appropriate.

Other relevant indicators included in the Library of Local Performance Indicators include questions on:

- Percentage of victims reporting an incident of racial harassment to the housing department, who say they will report any future incidents. REFERENCE: LIB207.
- Percentage of tenants surveyed who feel that racial harassment is a problem in their area. REFERENCE: LIB208.
- Percentage of victims reporting an anti-social behaviour incident, who say they will report any future incidents. REFERENCE: LIB209.

Further information and a guide to undertaking standardised tenant satisfaction surveys is available from the National Housing Federation on 020 7843 2311 (or www.housing.org.uk)



Activity

Drawing on the examples of Quality of Life Performance indicators consider what action you need to take to improve your capacity to monitor and evaluate the impact of your ASB policies and procedures:

- What outputs and performance indicators are used by your organisation to track the progress of specific projects or developments in multi-agency working?
- Evaluations requiring the assessment of changes in people's behaviour are complex. Have you got the capacity to undertake evaluations of specific initiatives 'in-house' or would it be useful to bring in an external evaluator?

Developing KLoEs in respect of anti-social behaviour

In early 2004 the Audit Commission's Housing Inspectorate introduced a new methodology for social housing services inspections which centres on the use of Key Lines of Enquiry (KLoE). The aim of KLoEs is to establish a framework of questions and statements which provide consistent criteria for assessing and measuring the effectiveness and efficiency of housing services. The KLoE relating to anti-social behaviour and the criteria against which social landlords will be judged as to whether or not they are delivery an excellent service are reproduced below:

Key line of enquiry (KLoE)	An organisation delivering an excellent service	An organisation delivering a fair service
<ul style="list-style-type: none"> • Does the organisation effectively deal with all incidents of nuisance, anti-social behaviour (ASB) and harassment by responding to incidents rapidly, in accordance with published procedures and their legal remedies? 	<ul style="list-style-type: none"> • Records and monitors reports of ASB and other criminal activities and reviews strategies and policies in light of these to improve services. • Has a comprehensive, clear and accessible statement of policies and procedures on ASB and takes a robust stance in tackling nuisance, ASB and harassment, which is reviewed regularly. • Has a tenancy agreement which contains clear and comprehensive conditions relating to nuisance and ASB and the sanctions available where these are breached. Has evidence that it has enforced these conditions when necessary. • Takes a proactive and innovative approach to combat anti-social behaviour through security measures, local lettings policies and community development activities, such as youth work. • Ensures that residents can easily report breaches of tenancy conditions, and has efficient and effective arrangements for dealing with them. Keeps complainants informed about the progress of their case from the point of complaint to resolution and beyond. 	<ul style="list-style-type: none"> • Can deal with one-off cases of nuisance, ASB or harassment well, but does not have a systematic approach to dealing with anti-social behaviour, abandoned properties or unauthorised occupation. • Has a statement of policies and procedures on ASB, but it is not comprehensive, clear or accessible. • Does not spell out expectations about anti-social behaviour clearly in the tenancy agreement and conditions. • Has little substantive evidence that it has systematically enforced the tenancy conditions when breached. • Takes a generally reactive approach to dealing with anti-social behaviour. • Does not make it easy for all groups of tenants to report anti-social behaviour. • Has procedures, which are not clear to service users or staff and they are not implemented consistently. As a result, tenants receive an inequitable service.

Source: Audit Commission: <http://www.audit-commission.gov.uk/kloe/housingkloe.asp>

**Activity**

Consider the questions below to assess how well your organisation is performing in relation to the following key criteria.

- How good are your systems of recording and monitoring ASB and other criminal activities?
- Does your organisation provide comprehensive, clear and accessible statements of policies and procedures on ASB which are reviewed regularly?
- Can residents easily report breaches of tenancy conditions, and are there efficient and effective arrangements for dealing with them?
- Are complainants informed about the progress of their case from the point of complaint to resolution and beyond?

Scale 1-5
1= excellent
5= poor

A model recording system for individual cases and incidents

A wide variety of different case work monitoring systems is used by different social landlords. Some organisations are reliant on manual systems while others have developed sophisticated IT based systems. What ever system you use it is important that the right data is collected. The Social Landlords Crime and Nuisance Group have developed the following model recording system, to help landlords identify and monitor what actions are most effective in tackling different types of anti-social behaviour. The model system provides a useful benchmark by which to assess the effectiveness of your system.

Cases and incidents

In developing a recording system capable of providing an accurate picture of the scale of the problem in your area, the Social Landlords Crime and Nuisance group recommends that landlords record both 'cases' and 'incidents.'

Cases are defined as investigations, which relate to a specific set of complaints against an alleged perpetrator(s).

Incidents are defined in terms of events that give rise to complaints. As an example, 30 complaints of the same noisy party would only count as 1 incident, whereas 30 separate noisy parties by the same alleged perpetrator would count as 30 incidents.

The types of behaviour

The model system is based on the following 16 categories of anti-social behaviour:

- | | |
|-----------------------|--|
| 1. Noise | 9. Nuisance from vehicles |
| 2. Gardens | 10. Drugs |
| 3. Criminal behaviour | 11. Alcohol and solvent abuse |
| 4. Verbal abuse | 12. Boundary disputes |
| 5. Harassment | 13. Domestic violence and abuse |
| 6. Damage to property | 14. Nuisance from business use |
| 7. Pets and animals | 15. Rubbish and misuse of communal areas |
| 8. Intimidation | 16. Multiple causes |

The types of action taken

In addition to setting out clear categories of types of behaviour your recording and monitoring system should also record what action has been taken in individual cases. This information will be helpful in identifying and monitoring which actions are most effective in tackling different types of anti-social behaviour. The Social Landlords Crime and Nuisance Group suggest that the following stages of action be used for recording types of action taken and the associated costs:

A model classification system for recording the types of action taken and the associated costs

- Under investigation – where no legal action has yet been taken
- No action needed – where the complaint is not substantiated or is very minor
- Advice only – where advice given to the complainant and/or perpetrator has resolved the problem
- Cases referred to independent mediation schemes
- Cases referred to mental health support agencies
- Cases referred to other support agencies – social services, the youth service, drug and alcohol support agencies
- NoSP served
- Possession summons served
- Possession order – including suspended orders
- Injunctions/undertakings granted
- Anti-social behaviour orders (ASBOs)
- Other legal action – including action taken using powers available to Environmental Health and Planning officers.
- Cases closed – where a decision has been made to take no further action as the nuisance has ceased
- Evictions
- Abandonments
- **Total number of cases**
- **Total number of incidents**
- **Identifiable costs associated with individual cases – including repair costs, legal costs and costs to the community**

For further information please contact: The Social Landlords Crime and Nuisance Group, c/o Whitefriars South, 42b New Union St, Coventry CV1 2HN, Tel 024 7683 2699.



Activity

Consider the above classification system for recording types of action taken to deal with anti-social behaviour complaints.

- How does it compare with your existing procedures?
- What changes does it suggest that should be made?
- How can costs actually be monitored in practice?

Module 2: For social housing practitioners

Core task 3: Developing preventive measures

It is now widely acknowledged that taking action to prevent anti-social behaviour is a fundamental part of effective ASB strategies. From December 2004 all social landlords are required to produce Anti-social Behaviour policies and procedures outlining the range of services offered to deal with anti-social behaviour including details of initiatives that focus on preventing ASB.

Government guidance on preventative approaches to ASB

In 2004 the Office of the Deputy Prime Minister issued guidance for social landlords on how they should prepare, review and publish anti-social behaviour policy statements and procedures. The guidance identified prevention as an integral part of any approach to tackling anti-social behaviour:

“Prevention should be an essential part of the landlord’s approach to ASB. Many landlords are already involved in initiatives that focus on prevention of ASB. Where these exist, the Statement of Policies should set out the range of initiatives and the general purpose of those initiatives.”

(ODPM, *Anti-Social behaviour: policy and procedure – Code of Guidance for Local Authorities and Housing Action Trusts*, 2004).

Housing Corporation guidance on preventative approaches to ASB

A Housing Corporation Circular 42/04 issued in the summer of 2004 also stresses the importance of prevention and in particular highlights the positive effects of support and rehabilitation to achieve long-term changes in the behaviour of ASB perpetrators, and prevent simply displacing the problem elsewhere.

“We recognise that anti-social behaviour often results from a history of drug, alcohol or familial abuse, or mental health issues or a misunderstood disability. As such, we expect to see plans which place emphasis on support and prevention.”

(Peter Dixon, Chairman of the Housing Corporation, *Circular 42/04*).

Moving beyond merely a ‘bricks and mortar’ responsibility for tenants has inevitably made a social landlord’s work more demanding. Increasingly there are real tensions between government guidance and legislation with regard to supporting people in the community and protecting the community from crime and anti-social behaviour. This becomes especially problematic for social landlords and their partner welfare agencies when getting tough on perpetrators of crime, conflicts with providing support for vulnerable tenants. It is also a very real issue when balancing the needs of homeless people who may have multiple social and health problems, with the needs of existing residents.

There are a wide range of preventative measures; some tasks are directly associated with the management of housing while other forms of prevention are more closely linked to the wider role of social landlords in the community. This core task examines a range of different types of preventative action that social landlords can take in relation to:

- Providing specialist support to vulnerable tenants.
- Floating support schemes.
- Dedicated ASB intensive family support provision.
- Providing diversionary activities for children and young people.
- The use of incentives to promote positive behaviours.
- Basic crime prevention and community safety measures.
- Neighbourhood warden schemes.
- Secured by Design measures.
- Targeting letting policies to minimise clashes of lifestyles.
- Excluding people with a history of anti-social behaviour.
- The use of introductory, starter and demoted tenancies.

Further measures that can contribute towards preventing problems from becoming established include the use of mediation, acceptable behaviour contracts, estate agreements and good neighbour declarations. These initiatives are described in detail in **Core Tasks 4 and 6**.

Providing specialist support to vulnerable tenants

Research has shown that:

“Households involved in anti-social behaviour are predominantly characterised as having high levels of vulnerability, including mental health and other disabilities. Most defendants are dependent on state benefits of some kind.” (Hunter et al., 2000).

A wide range of different types of complex support needs are commonly associated with households involved in anti-social behaviour including the following:

- Domestic violence and other forms of physical or sexual abuse.
- Mental ill-health.
- Out of control children.
- Drug dependency.
- Alcohol problems.
- Physical disabilities.
- Learning difficulties.

The earlier that appropriate support and assistance can be offered to new tenants the less likely it is for the tenancy to breakdown due to anti-social behaviour. At the point where a tenancy is being let there is a need for housing officers to undertake basic needs assessments to establish if any members of the household have special support needs. It may be possible for support to be provided by local community groups or by other service providers, principally social services and appropriate voluntary agencies.



Activity

In order to assess how far your policies are able to address the needs of vulnerable applicants consider:

- How does your organisation explain ‘nuisance and anti-social behaviour clauses’ to new tenants?
- Are the clauses clear and written in plain English and available (as necessary) in other languages? If not, what should be contained in them?
- Have support services for vulnerable tenants been developed in conjunction with any social welfare agencies? If not, could they be?
- Is the allocations procedure linked to assessing special needs and the potential nuisance risk factors of particular tenants? If not, what can be done to move towards a situation where needs and resources can be better matched?

Developing awareness amongst housing officers of the types of ‘special needs/ circumstances’ tenants may have is essential in order to ensure that appropriate support can be provided. Research for the Joseph Rowntree Foundation found that it was not uncommon for housing officers to be the main point of contact for many vulnerable households as one officer explained:

“Most of the people who are referred to us now have a support need for one reason or another, they’re vulnerable in some way. So there’s a chance that they will cause nuisance and if you’re not made aware that there’s a problem when we do take them on initially, we can’t make sure that all the proper support networks are in place.” (Hunter et al., 2000).

In other words, the nature of tenants’ potential problems and vulnerabilities need to be identified early on as a part of the normal process of housing management. Otherwise, issues such as child density rates, isolation, and lack of support can become major factors leading to complaints of anti-social behaviour.

Floating support schemes

A survey of social landlords undertaken in 2002 found that around a third of landlords regularly referred families who had been the subject of ASB complaints to agencies who could provide help in terms of either providing ongoing floating support or by the provision of drug rehabilitation schemes, foyers or family support units. An example of a floating support scheme for young people is provided in the case study which follows.

Case study: Tees Valley Group floating support scheme

By the mid 1990s the Tees Valley Housing Group recognised that a growing number of young people required independent accommodation but found it very difficult to manage the transition to independent living. In response to this problem a floating support scheme was established to provide support to young people through the provision of a package of tailored support to meet individually identified needs. The aim of the scheme is to provide young people aged between 16-25 with support to obtain and sustain a tenancy. The functions of the service are described as being to:

- Assist people gain access to appropriate services.
- Help people develop and maintain independent living skills.
- Provide individuals with more choice and control over their lives.
- Maximise independence and empowerment.
- Promote social inclusion and facilitate social engagement and community participation.
- Help young people to access work training and education.

The type of personal support offered by the scheme varies according to the needs of the individual client but can include:

- Help in setting up and furnishing a new home.
- Help in accessing relevant services.
- Liaison with family and other organisations.
- Advice on access to educational/training/work opportunities.
- Counselling, emotional support.
- Action to maintain independence and personal well being.
- Advice on benefits, debt management and budgeting.

Although the scheme is resource intensive, employing a total of eight dedicated support workers plus a full time manager, Tees Valley view the investment as being cost effective in terms of both preventing ASB and in terms of ensuring that a vulnerable group of people are able to maintain their tenancies. For example in 2001 four out of five (82 per cent) of young people provided with floating support were successful in establishing and maintaining their tenancies.

Source: *Tackling Anti-social Behaviour in Mixed Tenure Areas*, ODPM, 2003.

Dedicated ASB intensive family support projects

Anti-social behaviour policies are most effective if they incorporate measures to help perpetrators change their behaviour. In any area there may be a small number of

households who require intensive support in order to achieve change and in these circumstances there is a strong case to develop dedicated ASB intensive family support provision. During 2003 a small number of pioneering local authorities, housing associations and charities have set up such provision specifically to provide support for families with children who are at risk of homelessness or eviction due to anti-social behaviour displayed by themselves or visitors to their homes. While each of the schemes has been developed in response to locally identified need they share a number of common features:

- Dedicated ASB resettlement services form part of a well-developed, comprehensive anti-social behaviour strategy that recognises the inter-related nature of prevention, enforcement and resettlement action.
- Projects have been designed specifically to help support families who have been evicted or who are under threat of loss of home as a result of anti-social behaviour.
- They aim to break the cycle of poor behaviour; bring families back into mainstream housing, help children and young people who are perceived to be out of control and provide an alternative solution where other anti-social behaviour interventions have failed.
- The model of provision is based on the resettlement work pioneered by the Dundee Families Project run by NCH in partnership with Dundee City Council. Projects provide a range of services including some or all of the following types of intervention:
 - outreach support to help families address behavioural and other problems in order to maintain their existing accommodation;
 - outreach support in dispersed tenancies managed by the project;
 - intensive support in core accommodation managed by the project.

The costs of providing tenancy support to help people change their behaviour can be considerable and must be evaluated against the direct costs of taking legal action, the potential costs of 'revolving door homelessness' and the considerable hidden costs of doing nothing.

A two year evaluation of the work of six English ASB rehabilitation projects has been undertaken for the ODPM by a specialist team of researchers from Sheffield Hallam University. The study interim results were published by the ODPM in January 2006 (Nixon *et al.*, 2006) and the final evaluation report will be available from Spring 2006.

Floating support schemes and intensive rehabilitation models of provision can both prevent and reduce the incidence of anti-social behaviour. In deciding whether to invest in these types of initiatives the costs of provision to help people change their behaviour must be evaluated against the wide range of costs associated with ASB.

**Activity**

Parents may need help in supporting their children to change their behaviour. What parenting provision is available in areas in which your stock is located?

Have you developed close operational partnerships with Drug (and alcohol) Action Teams to address problematic drug usage that causes anti-social behaviour?

What further action could you take to ensure that perpetrators are encouraged to change their behaviour?

Could you undertake a cost benefit analysis to establish the cost and effectiveness of different forms of action to deal with anti-social behaviour? (see **Core Task 1** which identifies the unit costs associated with different forms of action).

Diversions activities for children and young people

A study carried out for the Joseph Rowntree Foundation, *Working with Young People on Estates* (Coles, England and Rugg, 1998) found that a number of housing management problems – vandalism, crime and ‘hanging around’ were often associated with high concentrations of children and young people living on estates. The study concluded:

“How housing organisations relate to young people is crucial to the successful management of estates.” (p.v.)

Fact sheet: The role social landlords can play in developing youth services in areas in which their stock is located

Children and young people constitute a large proportion of residents on social housing estates. The following points should be considered by housing providers in their delivery of youth services on estates:

- Do not assume that leisure and recreational services located outside of estates meet the needs of children and young people on estates. Many children and young people do not have the financial resources to get to and use these facilities and unless regular safety checks are carried out the equipment may be old and in poor condition.



- Services for the 10-16 age group can often get overlooked by social housing providers.
- Housing managers could play a useful role in working with other agencies to develop a youth strategy for their estates.
- Providing buildings, which could be used for youth activities, or land on which projects could be developed.
- In housing management terms it is difficult to measure outcomes from effective involvement in youth work. However, some monitoring of repairs of damage due to vandalism, voids, and complaints may act as rough indicators of success.

From *Working with Young People on Estates: the role of housing professional in multi-agency work* (Coles, England and Rugg, 1998).

Dealing with youth nuisance

Complaints of anti-social behaviour frequently arise from tenants' concerns about groups of young people gathering near shops and community buildings, or playing ball games in residential areas. The police are often called to deal with these problems and the young people are moved on. Such a solution, while providing temporary respite from the nuisance, can be ineffective in the long term. The problem is likely to simply be displaced to other areas and such action can engender feelings of victimisation in the young people which in turn may result in increasing tensions between social groups within the community. Where youth nuisance is a problem the provision of constructive, motivational and entertaining activities can be a more effective way of diverting young people away from anti-social behaviour. It should also be remembered that as well as potentially being the causes of anti-social behaviour young people are also often the target of anti-social behaviour with young men aged between 16-24 being the most vulnerable to becoming a victim of violent crime (see further information in the *British Crime Survey 2003/04*, www.homeoffice.gov.uk).

No Bother! Positive approaches for social landlords, community groups and young people to tackle youth nuisance published by Crime Concern in 2004 provides a very useful step by step guide for community groups and housing organisations on the action that can be taken to address the problems of youth nuisance, while remaining aware that its perpetrators are young, and often vulnerable, members of society. In addition to providing useful contact details and further reading the guide also provides advice on action planning outlining the steps that can be taken to prevent and tackle youth nuisance. By drawing on useful case studies the guide illustrates how real community groups and housing associations around the country have managed to successfully tackle youth nuisance. The guide is available either in hard copy or can be downloaded from the Housing Corporation Bank of Good Practice:

http://www.bankofgoodpractice.org/contentmanagement/documents/No_bother-antisocial.pdf

At a national level there are a number of projects that aim to support young people and help prevent anti-social behaviour. These include:

- Positive Activities for Young People
- Youth Inclusion Programme
- Youth Inclusion Support Panels
- Sure Start
- Education Initiatives

For more information about these and other programmes see the Together Website (<http://www.together.gov.uk/home.asp>) and the National Youth Agency website: www.nya.org.uk

In addition to national programmes there are a growing number of examples of local schemes developed to target particular groups of young people in specific areas or in anti-social behaviour 'hotspots.' For instance the National Youth Agency response to the Home Affairs Committee Inquiry into Anti-Social Behaviour (2004) referred to a diversionary project called Challenge and Adventure, run by the Isle of Wight Youth Service which was targeted at potential young offenders. During their involvement on the scheme between 70 and 80 per cent of the young people stayed out of trouble.

A further award-winning example of the way in which social housing providers can play a crucial role in the development of youth provision is the Sidmouth Mews Kids Club in Camden. This project has been successful in not only reducing complaints of youth nuisance, but also has contributed to increasing tolerance of the visible presence of young people within the community, which in turn has increased public confidence and feelings of safety.



Activity

Read through the Sidmouth Mews case study below and consider the following questions:

- What is your organisation doing to contribute to the provision of facilities and services for young people?
- What more could be done? And, in what partnerships?
- What other agencies, such as drug and health promotion agencies, youth offending teams, community safety teams etc. might be involved in prevention strategies?

Case study: The provision of youth facilities

The Sidmouth Mews Kids Club in Camden was established to tackle anti-social behaviour caused by young people on the Sidmouth Mews Estate. The project was initiated by complaints that young children were hanging around the estate, creating high levels of noise and nuisance, and in some cases damaging property. A lack of recreational facilities for children in the area was identified and so a multi-agency group including Sidmouth Mews and Regent Square Tenants' and Residents' Associations, Camden Council Housing Department, the District Management Committee and private sector representatives proposed a programme of diversionary activities during the summer holidays and after school.

An appropriate location was identified and a small grant from the Community Involvement Team within Camden Council was procured to buy a snooker table and various board games. Volunteers also approached the Housing Office and asked for funding towards a part time youth worker post.

As well as providing young people with recreational activities, the youth worker and the volunteers have used the club to challenge the children about their behaviour, and to make them aware of the consequences that may arise from such behaviour. Quarterly newsletters inform local residents of the activities and successes of the club and volunteers also encourage all sections of the local community to become involved. Bengali families are regularly invited to visit the club and older white women are often invited to run the club. The aim was to improve the dynamics between certain social groups living on the estate, in particular the Bengali and white sections of the community, and different generations. The club also works closely with the police officer and street wardens who visit the club to engage with the children.

For more information about this project see the Together website:

<http://www.together.gov.uk/home.asp>

Youth strategies and youth action groups

In areas where youth nuisance is a particular problem there is a need to form an objective view of the precise nature of the problem. The development of youth strategies can form a valuable part of a problem solving approach which requires careful and co-ordinated consultation with young people themselves about their experience of youth nuisance, its causes, and involves them in planning and implementing changes. Often there are surprising similarities between the worries of older and younger people, from family breakdown to vandalism, and they often suggest similar solutions when given the opportunity.

Youth action groups are also highly effective at involving young people in reducing crime and anti-social behaviour. They involve young people in identifying local problems, developing solutions and taking action, and can be set up wherever they meet: in schools, youth clubs and neighbourhoods. They make young people more

aware of the effects of crime and nuisance on others, and less likely to become victims of crime themselves. The approach works particularly well with young people who are already involved in anti-social behaviour, or are at risk of doing so. In developing a youth strategy or youth action group the Chartered Institute of Housing recommends that the following steps should be taken:

- Young people must be given a real voice.
- Involve them on an equal basis from the beginning in planning, delivering and assessing services.
- Make sure any information and opportunities to participate are innovative and attractive.
- Engage their interest through a variety of approaches, such as forums, focus groups, surveys, residential events, conferences with a mix of discussion and fun, interactive websites, social events.

Community groups can play a big part in identifying local youth nuisance problems, and helping to agree on some of the underlying causes. They can also:

- pass information to the police or council about nuisance or individuals;
- report vandalism and graffiti immediately;
- protect properties with crime prevention measures;
- set up a Neighbourhood Watch group, or keep an eye on each other's homes and vehicles;
- link up with the council community safety officer;
- approach people whose behaviour is causing worry or distress early on, to try and resolve differences amicably.

Youth shelters

Providing a facility for young people doesn't necessarily require the costly provision of youth clubs or other structured activities, it may be that young people simply want a safe place to hang out. A study for the Thames Valley Police into youth nuisance concluded that:

"...hanging out' is part of the natural process of growing up, an intermediate stage between the comfort and protection of a child's home environment and the complete independence of adult life." (Hampshire and Wilkinson, 2002).

The report recommends that agencies cater for this need by offering (in consultation with young people) suitable locations and structures for young people to use. Youth shelters are designed specifically with this need in mind.

A good practice guide on the development of youth shelters and sports facilities is available at the following website: <http://www.thamesvalley.police.uk/crime-reduction/shelters.htm>

Fact sheet: Good practice guidance to the provision of youth shelters

The Thames Valley Police study, found that the provision of youth shelters offer a number of potential benefits:

For young people:

- providing young people with a non-confrontational place to meet in;
- facilitating young people's development by learning about independence and socialising;
- reducing boredom if associated with a sports facility, and offering a constructive rather than destructive experience;
- removing a possible first step towards crime;
- providing a physical outlet for emotions and energy;
- allowing all round visibility with enables users to feel safe.

For the community

- reducing damage, graffiti, crime;
- enhancing community harmony;
- reduction in the fear of crime;
- keeping children's play areas undamaged and usable;
- reducing maintenance costs.

For further information see: Hampshire, M and Wilkinson, M (2002) *Youth shelters and Sports Systems: a good practice guide*, London Thames Valley Police available at:

<http://www.thamesvalley.police.uk/crime-reduction/shelters.htm>



Activity

Setting up a youth shelter is not without risk. The Thames Valley study found if youth shelters are poorly designed or located in inappropriate places the following problems can occur:

Potential problems

- Noise and annoyance to local residents
- Conflicts between groups about use/abuse
- Gangs dominate the shelter
- Graffiti, litter and maintenance costs
- Solid structures can reduce visibility and increase the risk of bullying and intimidation

Methods of overcoming problems

- Consult with young people and local residents about the design and location of the shelter
- Consider employing the services of a detached youth worker to resolve problems caused by gangs
- Ensure there is adequate lighting and that the shelter is regularly cleaned and maintained
- Seek sponsorship from local businesses and schools who could benefit from reduced problems



When considering the provision of a youth shelter it is important to be clear about what problem you are seeking to address and to consult widely with young people.

Key questions to consider

- Are there any areas in which your stock is located that would benefit from the provision of a youth shelter?
- How could you consult young people about what type of youth shelter to provide?
- What sort of rule setting (such as use of alcohol, smoking, drugs) would need to be considered?
- Would your agency be able to help resource such a facility?
- Which other agencies do you need to work with to develop informal places where young people can meet and gather?

Many of the problems associated with youth nuisance can be reduced by the provision of a safe place for young people to meet. Research has shown that the most successful youth shelters are those that are linked to some type of sporting facility – these complement each other by becoming a place to go for both physical and social activity. The advantages of this preventative approach to youth nuisance is illustrated in the action taken by Cherwell District Council (see case study below).

Case study: Cherwell District Council – provision of sporting and youth facilities

In response to complaints from residents about youth nuisance, Cherwell Council constructed a number of enclosed basketball courts on larger council estates across the district. Each cost about £40,000 and also serve as a five-a-side football pitch. Around the courts, seating areas have been provided and the whole facility is floodlit until 10 pm. The facilities have proved to be popular recreational and gathering areas for young people and in the neighbourhoods where they are located there has been a dramatic reduction in complaints from residents about youth nuisance and anti-social behaviour. In addition, the cost of repairs to young children's play equipment has dropped by 25 per cent.



The facilities have also had secondary and unplanned use. Late on Friday and Saturday nights, some of the seating areas are also being used by older youths and, occasionally, adults for meeting, eating and drinking. This has not however, been a cause for concern for local residents as the seating areas are far enough away from the housing not to be a nuisance. Although this additional use of the facilities by an older cohort, does mean that the area becomes littered with beer cans and fish and chip papers, this has actually enabled the council to clear away litter more efficiently. The council now only have to attend one location to clean it up. Previously waste was being deposited in residential streets and residents' gardens. The facilities have therefore also helped significantly reduce complaints from residents about noise, litter and damage. Cherwell District Council is expanding the provision believing the expense to be fully worthwhile in providing a much-needed facility.

For further information on this initiative see Hampshire, M and Wilkinson, M (2002) *Youth shelters and Sports Systems: a good practice guide*, London Thames Valley Police available at: <http://www.thamesvalley.police.uk/crime-reduction/shelters.htm>

The provision of dedicated youth workers

Detached youth work can also be an effective way to reach young people who are unlikely to attend youth clubs, but who may be the source of anti-social behaviour or may be perceived by other residents as being threatening or intimidating. Although there is no single type of youth work, it is often distinguished from other work with young people and educational services by its commitment to a voluntary principle: young people freely enter into relationships with youth workers and end those relationships when they want. More information about the practice and theory behind youth work can be found at: www.Infed.org/index.htm

The emphasis on voluntary participation and building relationships of trust means that youth workers either develop programmes that attract young people, or alternatively work in the settings used by young people. Detached youth work is an example of the latter and involves contacting young people in the places they use and working with them on their terms, some times simply working with young people on the street where they hang out. This differs from 'outreach' work which is mainly concerned with encouraging young people to engage with existing youth organisations and activities.

Street-based approaches to detached youth work are a fast-growing area of youth provision work. A recent study funded by the JRF (Crimmens *et al.*, 2004) identified 564 projects, which had contact with 65,325 young people. The research found that such projects serve as an important source of information on educational and career opportunities for young people who may be out of contact with any other agencies. It also appeared to be successful in reintroducing young people to education, training and employment.

'The Youth Pod Scheme' (PODS) established in April 1997 is an example of how detached youth workers can be successfully employed to engage with 'hard-to-reach' young people who are the subject of complaints by local residents.

Case study: 'The Youth Pod Scheme' – the use of detached youth workers to engage 'hard-to-reach' young people

Greater Manchester Police Tameside Division's Youth Strategy Unit in conjunction with Tameside Council developed the idea for the scheme on the assumption that problems of anti-social behaviour were caused predominantly by young people who lacked direction. It was recognised that most of these young people would not join organised and formal facilities such as a youth clubs. A more effective solution was thought to be the provision of a self-contained facility which young people could call their own, in the areas where they already enjoyed gathering but where relationships could also be built with detached youth workers. With this in mind the POD pilot scheme was developed.

The PODs are specially manufactured mobile steel cabins, equipped with heating, lighting, a music centre, information racks, tables, chairs and basic sports and games equipment and have space for around 15-20 young people. They are vandal-proof and take electricity from a mobile generator or mains electricity from nearby council or community buildings and can be placed in the exact area it is needed. They open two evenings a week (Friday and Saturday or Sunday) and are staffed by youth workers who organise activities and outings, provide advice and information and direct young people to more permanent centres.

The PODs have proved to be successful in a number of ways. They allow youth work to be targeted in areas of need and youth workers now reach more young people than before – the young people attending PODS are all new customers for youth workers. This direct contact has also enabled youth workers, and police, to get the direct views of the wants/needs of the young people who feel the street is the place to be and have helped them develop a clearer picture of the causes of anti-social behaviour from young people and the possible remedies.

The PODs are located in areas where there has been concern about ASB for 3-6 months and they are then moved on to other areas of need. An exit strategy is developed for each POD site, with the idea that when the POD moves to another location, young people are left with some sort of provision. Options include use of existing buildings, regular outreach work and/or sports development work. The PODS have proved to be successful. They have been used by hundreds of young people and reported youth nuisance incidents have reduced dramatically where PODs have been in place. A wide range of people including parents, residents, businesses and young view the PODs as something very positive. Youths who have used a POD have enjoyed the experience. Some follow the POD to the next site.

In 2000 the Youth Pod scheme won a British Community Safety Award. More information about the PODs is also available through Tameside's website: <http://www.tameside.gov.uk/>

The use of incentive schemes to promote positive behaviour

Following the example of Irwell Valley Housing Association a number of social landlords have adopted an approach to the delivery of housing management services that includes offering incentives to tenants to promote positive behaviour.

Typically incentive schemes reward and encourage positive behaviour through systems of rewards. The Irwell Valley Housing Association Gold Service for example, offers tenants who have clear rent accounts and whose tenancy has not been subject to a notice for anti-social behaviour or other breach of tenancy, an enhanced housing

management service including faster response times for repairs. In addition, Gold Service members are eligible for a range of other benefits including vouchers for over 20,000 retail outlets, negotiated discounts with local or national businesses, entry to competitions for tickets for concerts etc.

An ODPM funded study into the transferability of this type of incentive scheme found that:

- The most positive impact of incentive schemes are the way in which tenants who adhere to their tenancy agreements feel valued.
- On the other hand only limited evidence was found to support the view that the use of incentives changes behaviour.
- In order to ensure that benefits resulting from the use of incentive schemes are sustained organisations must be prepared for wider cultural change.
- The use of incentives is not a cheap option – there can be significant costs involved in assessing the suitability of such schemes including undertaking an initial feasibility study, staff training costs, marketing material and member magazines and the costs of the ‘benefits’, i.e. purchasing vouchers, buying prizes and staff time involved in negotiating discounts with local suppliers.
- Size, stock type, location and the degree of vulnerability of tenants are key factors to take into account when considering whether to adopt an incentive scheme.
- For some housing organisations, particularly those with housing stock dispersed over different geographical locations it may be impractical to develop appropriate incentives to make the scheme attractive to tenants.



Key questions

Taking into account the findings from the ODPM study into the transferability of incentive schemes consider the following questions:

Has your organisation considered adopting an incentive scheme to reward positive behaviour? If so why?

- Changing tenant behaviour?
- Changing organisations culture?
- Improving performance?
- Tackling hard-to-let stock?
- Improving services to tenants and obtaining greater tenant satisfaction?

What sort of incentives would your tenants value?

Is the successful delivery of housing management at the core of your organisation’s culture?

If you are interested in finding out more about incentive schemes go to the ODPM website and download the Housing Research Summary Number 191, 2003, *Incentives and Beyond: the Transferability of the Irwell Valley Gold Service to other Social Landlords*.

Crime prevention and community safety

A diverse range of crime prevention and community safety schemes have been developed across the UK by a wide range of agencies and multi-partnership collaborations. The primary players include the following agencies:

- NACRO.
- Crime Concern.
- The Home Office.
- The Crime Reduction Unit.
- The Safe Neighbourhoods Unit.
- The police.
- Social housing landlords.

These approaches are at the very heart of the government's crime reduction strategy. The aim is to make communities 'safe' for residents. Crime and disorder reduction partnerships established through the 1998 Crime and Disorder Act play a major part at the local level to help reduce anti-social behaviour through:

- offering deterrents to anti-social behaviour utilising CCTV, effective security of properties, concierge schemes, security patrols in high risk areas etc.;
- involving communities in the discussions and planning involved to adopt effective strategies;
- the work of the multi-agency youth offending and community safety teams in monitoring crime and anti-social behaviour and responding in a co-ordinated way to the problems;
- the development of positive, preventative youth facilities for young people involved in offending or at risk of doing so;
- measures to design out crime and reduce the risk of incidents in existing and new-build schemes.

More detailed information about crime and disorder partnerships is provided in **Core Task 4**.



Key questions

- How far has your organisation engaged in implementing crime prevention and reduction measures?
- What more could be done and with whom?

In the following section of the Action Framework we examine two particular approaches to crime prevention and community safety that are particularly relevant to social landlords:

- The use of security patrols and neighbourhood warden schemes.
- Measures to design out crime and ASB.

The use of security patrols and neighbourhood warden schemes

With increasing anxiety about crime and anti-social behaviour, it is increasingly common for residents' groups, housing associations and local authorities to take some direct responsibility for their own crime prevention and community safety needs. In 2004 the JRF commissioned a study into the use of visible security patrols in residential areas which identified a diverse range of different types of patrols designed to promote community safety, including privately contracted sworn police and community support officers, neighbourhood wardens, voluntary citizens, neighbourhood watch patrols and private security guards.

The following fact sheet outlines the different forms of uniformed patrol schemes that can be used:

Fact sheet: The use of uniformed patrols

The JRF study on the range of initiatives that seek to provide public reassurance through visible patrols in residential areas revealed a diversity of approaches to policing including:

- **Neighbourhood warden schemes:** These tend to emphasise work with residents and environmental improvements rather than with law enforcement or overt policing. They are effective in areas where there is a low level of trust or confidence in the local police.
- **Contracted community safety officer initiatives:** Community safety officer patrols provide reassurance through increased visibility.
- **Contracted sworn police officer schemes:** These are most appropriate where the full powers of a police officer are needed.
- **Special constables:** Special constables are generally unpaid, but have full police powers and provide an alternative police resource that works alongside sworn police officers.
- **Private security patrols:** These emphasise reassurance and information gathering with a greater reliance on technology, such as mobile CCTV cameras. They also work well where residents' reassurance is a key concern.
- **Civilian patrols:** These tend to exist where collective solidarity is well established and police cover is traditionally low, such as in rural areas.

Source: Crawford, A and Lister, S (2004) *Study of visible security patrols in residential areas*, JRF. For more information see:

<http://www.jrf.org.uk/knowledge/findings/socialpolicy/424.asp>

The establishment of neighbourhood wardens, super-caretakers and concierges with a higher profile on local estates has the capacity to have a positive impact on anti-social behaviour. Their presence can act as a deterrent and can reduce harassment especially in ethnically sensitive areas where staff from appropriate ethnic background can be recruited and trained. Further information about the ways in which neighbourhood warden schemes can contribute to the reduction of youth disorder, and address environmental problems such as graffiti and fly tipping is provided in the fact sheet below:

Fact sheet: Neighbourhood warden schemes

In 2004 the Office of the Deputy Prime Minister undertook a national evaluation of the neighbourhood wardens programme. The study concluded that wardens can make a difference to ASB in a variety of ways:

- Patrolling seems to have an immediate, albeit short-term, effect particularly on anti-social behaviour ‘hotspots.’
- Wardens can usefully tap into multi-agency teams and help on the ground.
- Wardens can act as the ‘eyes and ears’ of a local community and can help access services to respond to particular community needs and make the links between the community and the provision of broader neighbourhood management.
- Identifying and building relationships with and working on a one-to-one basis with known ‘troublemakers.’
- Empowering people to take action. Where ASB remains intractable, wardens have been helping residents and police to secure ASBOs.
- Running or assisting in targeted youth work and diversionary activities.
- Interacting with younger children. Working with younger groups to intervene in a cycle of ASB behaviour before it starts. It involves wardens being proactive and developing creative strategies. By building relationships of trust with younger people, wardens are acting as positive role models in communities that have been stripped of institutional infrastructure and authority.
- The report concludes that in almost all areas, warden schemes seem to have made the greatest impact on quality of life and residents’ fear of crime, but also on decreasing litter, graffiti, and fly-tipping.

Further information about the study is available from the ODPM website at:

<http://www.neighbourhood.gov.uk/displaypagedoc.asp?id=293> *Neighbourhood Warden Scheme: Evaluation Key findings and lessons Research Summary 8* (ODPM, 2004a).



Activity

Read the following case study on the Newport Ranger Service and consider:

- What personal experience do you have of street warden services or of using other forms of uniformed patrols in areas where there are high levels of concern about anti-social behaviour and disorder?
- What are the advantages and disadvantages of providing such services

If you are in a training or team situation it may be worth splitting up into small groups of about four or five, enabling everyone to participate in debate about neighbourhood warden schemes, then reconvening in the larger group and reporting back observations.

Case study: The Newport Estate Ranger Service

“The Rangers aim to prevent anti-social behaviour through their presence, and to stop the escalation of incidents through informal persuasion. Furthermore, evidence is gathered on anti-social tenants for the Housing Officer who can take legal action if required. The Rangers have no special powers, and aim to nip problems of anti-social behaviour in the bud without showing an excessive reaction in order to improve the atmosphere on the estates.” (Jacobson and Saville, 1999: 22).

The Newport Estate Ranger Service was established in 1994 by the Borough Council as a response to the growing problems of anti-social behaviour on estates and increasing number of complaints from tenants.

The scheme is dedicated to preventing anti-social behaviour such as noise nuisance, threatening behaviour, joy-riding, vandalism and neighbour disputes. The wardens are available every day of the year from 2.00pm to midnight. Priority is given to ongoing incidents but in most cases the wardens arrive at the scene within an hour of the call and try to persuade the culprits to modify their behaviour. Incidents of crime are immediately reported to the police; accordingly the activities of the rangers filter out those incidents where a police presence is not required or is not an appropriate use of resources.

The initiative has proved successful and popular among local tenants and has been expanded. It was originally restricted to council estates (approximately 12,500 properties), but was expanded in 2002 and renamed the Community Warden Safety Service. The service is now available to all residents of Newport.

For further information about the Newport Estate Ranger Service see Jacobson and Saville, 1999.

Designing out crime and anti-social behaviour

Anti-social behaviour often occurs in neighbourhoods where housing is badly designed and poorly maintained and where target hardening measures, i.e. measures that have been introduced to make criminal activity more difficult, have not been effectively installed. Crime and anti-social behaviour are more likely to occur where poor design has resulted in inadequate access and movement routes, poor layout, poor levels of surveillance, uncertainty of ownership, low levels of physical protection; very high or very low levels of human activity; and poor levels of management and maintenance.

The ODPM (2004b) have produced a guide to designing out crime which focuses on the role of planning in tackling crime, the fear of crime and anti-social behaviour *Safer Places – the Planning System and Crime Prevention*. The guide's aim is to show how well-designed places can contribute to the creation of places where people feel safe and secure; where crime and anti-social behaviour, or the fear of crime, doesn't undermine quality of life or community cohesion. The guide is informed by detailed case studies and sets out seven attributes of sustainable communities that are particularly relevant to preventing anti-social behaviour. These are:

- **Access and movement:** places with well defined routes, spaces and entrances that provide for convenient movement without compromising security.
- **Structure:** places that are structured so that different uses do not cause conflict.
- **Surveillance:** places where all publicly accessible spaces are overlooked.
- **Ownership:** places that promote a sense of ownership, respect, territorial responsibility and community.
- **Physical protection:** places that include necessary, well-designed security features.
- **Activity:** places where the level of human activity is appropriate to the location and creates a reduced risk of crime and a sense of safety at all times.
- **Management and maintenance:** places that are designed with management and maintenance in mind, to discourage anti-social behaviour in the present and the future.

Addressing ASB through design measures is essentially about reducing the opportunities for anti-social behaviour. Measures designed to improve security, reduce anti-social behaviour and make residents feel safer include CCTV, improved lighting, reinforced doors and door entry systems, removal of walls or trees that obscure visibility.

Fact sheet: Planning provisions to prevent crime and disorder

The government continues to place crime and disorder at the centre of the planning process:

- Section 17 of the Crime and Disorder Act 1998 places a requirement on each local authority to consider the likely effect on crime and disorder in their area when drawing up their planning policies.
- The new Planning Policy Statement 1 sets out how the planning system should play a key role in delivering sustainable communities. PPS1 has at its heart the need to plan for safe and sustainable communities. The ODPM (2004b) guide *Safer Places – the Planning System and Crime Prevention* should be used alongside this Planning Policy Statement.

Secured by Design (SBD) is an award scheme run by the Association of Chief Police Officers (ACPO) which aims to encourage housing developers to design out crime when planning new developments or undertaking regeneration work. ACPO recommends SBD as the leading crime reduction tool, aimed at the built environment. Recent research shows it is effective in reducing crime and the fear of crime, and improves residents' quality of life.

Essentially the scheme is aimed at new buildings or the major refurbishment of existing ones in order to ensure that high levels of security are an integral part of the design process. Local Crime Reduction and Architectural Liaison Officers manage Secured by Design applications and can offer advice to ensure that any new build meet the minimum standards for the SBD approval. To obtain this approval, the hardware, such as doors, windows, locks, etc, must meet minimum specifications set by the SBD scheme. The Housing Corporation requires registered social landlords to apply for SBD for all new developments.



Activity

Read the following two case studies and consider the following questions:

- In areas of your stock are there any design changes you could make that would help address problems of disorder and fear of crime?
- What target hardening measures would help you prevent anti-social behaviour?

If you are in a training or team situation it may be worth splitting up into small groups of about four or five, enabling everyone to participate in debate about the role of design and target hardening measures, then reconvening in the larger group and reporting back observations, so that a range of opinions can be considered on what action can be taken.

Case study 1: The use of Secured by Design principles

Swanley's Northview estate was remodelled using Secured by Design principles with the aim of defining and engendering ownership, controlling access and 'target hardening'. The estate comprises ten blocks of 1970s housing. By the mid 1990s, these had become a very poor environment. The outside public areas were not clearly the responsibility of a particular agency and had become particularly troublesome and the space between residential blocks was vulnerable to crime and anti-social behaviour. The West Kent Housing Association with local residents, architects, and the police, commenced a programme of regeneration with the aim of producing security, sense of place and pride in the community using the following design interventions:

- Creating a sense of neighbourhood to each courtyard between blocks with an entrance portal and colour co-ordination.
- The space between residential blocks that was vulnerable to crime and anti-social behaviour was divided into functional areas with a variety of well-defined land uses, including parking, playgrounds, private gardens, quiet communal gardens and circulation space.
- Controlled access to flats with an entrance canopy.
- Good quality lighting.
- Landscaping with trees and hedges.
- A triple fence at the rear boundary (vertical timber boarded fence either side of weld mesh core).

The outcome was an improved sense of community and morale, and a reduction in crime and anti-social behaviour that was rewarded in 1997 with the Chartered Institute of Housing National Award for Housing and Security. Between September 1996 and September 2000 there was reduction of over 80 per cent in criminal damage, theft from motor vehicles and theft offences. The resulting improvements to the environment have led to major improvements in residents' quality of life.

Further information about this initiative is available from the ODPM website.

Case study 2: Use of CCTV

A second example is of an effective CCTV system designed specifically to tackle ASB and established by Willow Park Housing Trust. Providing safe homes for tenants in multi-storey flats was one of the promises the Trust made at transfer. In response to complaints of nuisance and anti-social behaviour, Willow Park Housing Trust, which owns more than 6,000 homes in the Wythenshawe area of south Manchester, launched a CCTV security and concierge system for tenants. During 2001/02 work on the CCTV access and security system was completed to cover 484 tenants.



Working with the City Council, Greater Manchester Police and Wythenshawe Partnership, a successful bid was made for Home Office funding to extend the CCTV system to businesses, shops and community facilities in Willow Park and adjoining areas. An additional £1.4 million has since been invested in new cameras, fibre optic cabling and expanding control room facilities. The system now covers 630 sheltered housing and multi-storey flats, 90 local shopkeepers, 60 businesses and 6 community buildings, comprises 120 cameras and provides coverage from a 24 hour staffed control room. The Trust has also improved lighting to external and common areas, provided security doors and controlled access to flats and car parks. The result has been significant reduction in complaints of anti-social behaviour.

For further information about this initiative see Lucas *et al.*, 2003.

Allocations and anti-social behaviour

Sometimes social landlords overlook the consequences of age, gender and family composition when making allocations. The location of play facilities near to sheltered accommodation and the moving of single parents and young tenants into flats with poor sound insulation are just two examples of situations likely to result in neighbour conflict. Complaints of noise nuisance in particular may in fact be generated because of a lack of sound insulation, rather than any unacceptable behaviour on the part of tenants.

A way to help prevent anti-social behaviour and disorder is for social landlords to consider whether the outcome of their allocation practices and policies are creating a neighbourhood mix that contributes to problems of community conflict.



Key questions

The Chartered Institute of Housing recommends that: *“Landlords need to be aware of the factors that increase the potential for nuisance arising, such as inadequate home security and poor sound insulation and take steps to prevent this.”* (CIH Good Practice Briefing 14, 1998)

- Have you undertaken an audit of your stock in order to identify particular design or location factors which may give rise to nuisance complaints?
- Are your organisation’s allocations procedures linked to an assessment of the potential nuisance risk factors of property? If not, what can be done to move towards a situation where property location and design are better matched to individual applicant’s requirements?

**Activity**

The following case study, reproduced from the original JRF research report (Hunter *et al.*, 2000) provides a good example of what can happen if lettings are made without regard to the particular needs of applicants, design features and the tolerance levels of the existing community. Consider how the situation could have been avoided. If you are in a training or team situation it may be worth splitting up into small groups of about four or five, enabling everyone to participate in debate about this 'case history', then reconvening in the larger group and reporting back observations regarding what happened to 'Anne', so that a range of opinions on what could have been done are aired.

Case study: Anne

Following an argument with her parents, Anne, a teenager, was nominated for a housing association flat. The flat was situated on the first floor in a block occupied predominantly by elderly people. Although the existing residents petitioned the landlord not to go ahead with the allocation Anne was granted the tenancy. Complaints about noise nuisance started the day she moved in: *"There was a knock on the door asking me to wear slippers when I walked around and to buy earphones to watch the television."*

Three days after Anne moved, the landlord sent a hand delivered letter in which they asked her to consider terminating her tenancy. Two days later she received a further letter telling her that an expedited court hearing for immediate possession was to be sought. At the possession hearing, held only two weeks after Anne had moved into the property, an outright possession order was granted.

Anne subsequently obtained legal advice and lodged an appeal. At the appeal hearing the judge criticised the way the case had been managed. He stated that what had occurred was: *"...a wholly unreasonable exercise of discretion, a breach of natural justice and plainly wrong."* The appeal judge asked the landlord to consider transferring Anne to alternative accommodation. This option was declined and in the end Anne was offered accommodation by the local authority.

During the possession process Anne was supported by a youth worker who expressed the view that the problem was caused by Anne being given inappropriate accommodation. In addition to the clash of life styles between Anne and her elderly neighbours, the building had insufficient soundproofing and as Anne had no furniture or carpeting, complaints were inevitable. Anne felt that when the problems started the landlord should have talked to her about the complaints and considered transferring her to alternative accommodation.

Many neighbourhoods with the highest levels of community conflict are areas of low demand. In such areas consideration needs to be given to employing local lettings policies to foster a greater sense of community. Research by Lemos (2004) has shown that changing letting policies to meet the needs of local communities can help create more balanced communities through reducing racial segregation, intergenerational tension, and the over-concentration of children and young people.



Activity

Read the case study on the development of a local lettings policy in Walsall and consider the following questions:

- Does your organisation have any areas of stock that would benefit from a local lettings policy?
- What are the advantages and disadvantages of local lettings policies?
- What would your objectives be in adopting a local lettings policy?

If you are in a training or team situation it may be worth splitting up into small groups of about four or five, enabling everyone to participate in debate about the advantages and disadvantages of developing a local lettings policy, then reconvening in the larger group and reporting back observations, so that a range of opinions can be considered on what action can be taken.

Case study: The development of a local lettings policy in Walsall

On a small housing association estate in Caldmore, near Walsall problems associated with drugs dealing had become entrenched. The problems appeared to be caused by male tenants and included frequent and numerous visitors, high levels of burglary, property damage, and 'turf war' violence involving guns and knives. There was a rapid turnover of residents on the estate as it gained local notoriety for dealing in heroin and crack cocaine and consequently became stigmatised. In response, an action plan was developed based on a holistic approach to deal with the problems including, legal action against the tenants who were involved in the drug-dealing, as well as a new lettings policy and the refurbishment of the entire block.

Once the flats were emptied, renovated, and security improved it was decided to change the client group who had traditionally been re-housed in the estate in order to establish a sustainable community. A local lettings initiative was agreed with the local authority along with marketing of the development. A show flat was renovated and potential residents were given a choice of wall colours and carpets. The refurbished homes were marketed to local employers, including the local NHS trust. Introductory tenancies were also introduced so that any problems of anti-social behaviour could be quickly dealt with before they took hold. The tenure mix is now very different from the original situation and an undesirable block of flats, which had major problems of nuisance, crime and anti-social behaviour, has been replaced with an attractive development, which has been let to a different client group. As a consequence, vandalism, nuisance and repairs costs have all been considerably reduced.

For more information about this initiative see Lemos, G (2004) *Community Conflict Action Framework*, London: Lemos and Crane.

Excluding people with a history of anti-social behaviour

A further issue related to allocation policies is action that can be taken by social landlords to exclude households from their stock, who have behaved in an anti-social behaviour manner.

Exclusions by local authorities

Allocation to permanent local authority housing and nominations by authorities to registered social landlords (RSLs) is controlled by Part VI of Housing Act (HA) 1996. Amendments to Part VI by the Homelessness Act 2002 which specifically addressed the question of anti-social behaviour came into force in January 2003. Two different mechanisms may be used to avoid housing anti-social households:

- People who have behaved in a seriously anti-social manner may be excluded from an allocation of housing altogether under section 160A(7) of Housing Act 1996.
- If not excluded, they may have their priority for housing reduced under section 167 of that Act (which requires authorities to give a 'reasonable preference' to certain groups).

Under section 160A(7), local authorities may disqualify those applicants either who have themselves or whose members of their household have been guilty of unacceptable behaviour serious enough to make them unsuitable to be tenants of the authority. The authority must be satisfied that in the circumstances at the time the application is considered, the applicant is unsuitable to be a tenant of the authority because of the unacceptable behaviour. This means it will not be sufficient to point to past examples of anti-social behaviour; the authority will have to consider whether that behaviour is likely to continue in the future.

'Unacceptable behaviour' is defined as behaviour that would, if the person was either a secure tenant or a member of such a tenant's household, entitle a landlord to possession under any of Grounds 1-7 of Schedule 2 to HA 1985 (HA 1996, s. 160A(8)). These include the two main grounds for possession used in anti-social behaviour cases: Ground 1 (breach of tenancy) and Ground 2 (nuisance behaviour and criminal conviction). These two grounds are considered further in **Core Task 7**, possession action.

Where an applicant is excluded altogether, the authority must provide a written notification of the decision with reasons (HA 1996, s. 160A(9) and (10)). Where someone is given no priority, he or she has the right to request that the authority inform him or her of any decision taken (HA 1996, s. 167(4A)(b)). In either case, the applicant may then seek an internal review of the decision (HA 1996, s. 167(4A)(c)).

Exclusions by RSLs

Guidance for RSLs on the use of exclusion policies is provided by the Housing Corporation in Circular 07/04: *Tenancy Management Eligibility and Evictions*. While the

guidance is not prescriptive on exclusions there is a requirement that associations have a strategy in place to deal with anti-social behaviour and any such policy should include procedures to deal with excluding those with a history of anti-social behaviour. Further the guidance states that RSLs should not operate blanket bans and that:

“Ineligibility for housing on the ground of the applicant’s antisocial behaviour should be based on evidence of the behaviour. Evidence might include the previous eviction of an applicant or a member of their household for ASB, or a previous injunction or antisocial behaviour Order (ASBO) taken out against the applicant or a member of their household. Previous tenancy enforcement action for ASB should not be taken into account if it occurred two or more years prior to the date of application and the tenant’s household has conducted a tenancy satisfactorily in the intervening period” (para 2.2.2., HC Circular 07/04).



Key questions to consider

- What are the advantages and disadvantages of using exclusion policies?
- If households are excluded from your stock is this information shared with other landlords?
- If you use exclusions what action do you take to support people excluded because of anti-social behaviour?

Introductory, starter and demoted tenancies

The use of introductory and starter tenancies by social landlords is becoming more common. Providing a reduced form of security of tenure when tenants first move in provides an opportunity to gauge whether or not they are able to conform to tenancy conditions, and is thought to act as an incentive for new tenants to do so. Local authority landlords may do this through the use of ‘introductory’ tenancies and registered social landlords through the use of ‘starter’ tenancies, a form of assured shorthold tenancy.

**Activity****Deciding whether to adopt an introductory tenancy scheme**

A key decision to be made by social landlords in any overall strategy to deal with anti-social behaviour is whether to adopt an introductory or starter tenancy scheme. Before making an initial decision about whether to adopt a scheme consider the following questions:

- Given that a scheme only applies to new tenants and that they will become secure after 12 months, what evidence is there that new tenants are causing anti-social behaviour in the first 12 months of their tenancy?
- Do the requirements for internal appeal make the scheme procedurally more cumbersome and difficult to operate than simply seeking possession in the normal way?
- Do the legal complexities regarding challenges to eviction decisions (see further page 153), and in particular the use of judicial review, make it as uncertain and difficult to obtain possession than simply seeking it in the normal way?

There are no easy answers to these questions, and such evidence as there is does not suggest that there is a direct correlation between use of introductory tenancies and a reduction in anti-social behaviour.

Local authorities: The scope and management of introductory tenancies

If a local authority landlord adopts an introductory tenancy regime **all** new tenancies that would otherwise be secure, with some exceptions, must be treated as introductory tenancies (HA 1996, s. 124(2)).

Seeking possession through introductory tenancies

The main advantage of introductory tenancies is that unlike a secure tenancy, where possession for anti-social behaviour is at the court's discretion, provided the landlord has complied with all the procedural requirements, the court must grant possession of an introductory tenancy when sought by the landlord.

Before seeking possession the landlord is required to serve a notice of proceedings for possession (HA 1996, s. 127(2)). While unlike secure tenancies, there is no prescribed form for the notice, the notice must give the landlord's reasons for applying for the order.

- It must specify a date after which proceedings for possession may be begun (this cannot be earlier than the tenancy could be terminated by a notice to quit, generally four weeks). The court cannot entertain proceedings brought prior to this date.
- The notice must state that the tenant has the right to request a review of the decision to take proceedings for possession and must give the time limit (14 days).
- The notice must notify the tenant that advice should be sought from a Citizens Advice Bureau, a housing aid centre, a law centre or a solicitor immediately if it is required.

Reasons

While the notice must state the reason for seeking possession, HA 1996 does not indicate what these reasons might encompass. Clearly anti-social behaviour provides an adequate reason. DETR Circular 2/97 (Part V of HA 1996 – Conduct of Tenants: Introductory Tenancies and Repossession for Secure Tenancies) states (at para. 19) that it “...is envisaged that the majority of possession cases will relate to persistent anti-social behaviour or rent arrears.” It has been said in relation to statutory duties to give reasons in other contexts that reasons should be “...proper, intelligible and adequate”. Circular 2/97 suggests (at para. 16) that “...as good practice landlords should include a full statement of the reasons for seeking possession, which could include a case history of the sequence of events.” The former would seem to be a necessary requirement to comply with the law, and failure to do so could leave landlords open to challenge. The circular continues:

“The statement should contain as much information as possible to enable the tenant to prepare his case should he take up his right to a review. It should not contain information which could lead to witness intimidation (such as names and addresses).”

If the tenant seeks a review, the landlord can rely on reasons not given in the notice, provided that any prejudice to the tenant is avoided by giving him or her the opportunity to address any new allegations: *R. (Laporte) v. Newham L.B.C.*

Newham LBC served a notice on Ms Laporte terminating her introductory tenancy. The reason given in the notice was arrears of rent. Ms Laporte sought a review. Prior to the hearing of the review, Newham informed her they were investigating other breaches of the tenancy, including allegations of nuisance which had been raised with her on a number of occasions.

Ms Laporte did not attend the review, but the decision to evict was confirmed. The High Court dismissed a judicial review against this decision, as she had suffered no prejudice because she had had every opportunity to address the nuisance allegations.

R. (Laporte) v. Newham L.B.C. [2004] EWHC 222 (Admin).

Court

The landlord can only gain possession of an introductory tenancy by order of the court (HA 1996, s. 127(1)). A summons for possession must, accordingly, be issued and the necessary evidence presented to the court at the hearing. Because the court has no discretion but to grant possession, any order will have to be outright.

The court does not have the jurisdiction to grant suspended orders. This leaves authorities and trusts in some difficulty if the reason for seeking possession is, for example, rent arrears, and they would not normally seek an outright order. Circular 2/97 suggests (at para. 20) that landlords may wish to devise their own procedures (such as the collection of rent plus arrears by instalment) for introductory tenants to replace the use of suspended possession orders. While this may prove effective in some cases, in many it is only by going to court that the necessary payments can be extracted. If landlords choose to let tenants remain after an outright possession order has been made, they need to be extremely careful that they do not unintentionally create a new tenancy.

Where a suspended arrangement is effectively entered into after a review hearing, the authority are not obliged to serve a second notice and offer a further review and may proceed straight to court hearing, see *Cardiff C.C. v. Stone*.

Ms Stone was an introductory tenant. The authority served a notice of proceedings for possession on the basis of rent arrears. Following a review the authority decided to defer proceedings, on the basis that Ms Stone paid the rent plus £3.00 per week. She failed to keep to the arrangement, and the authority commenced possession proceedings.

Ms Stone argued that the authority ought to have issued a new notice, but this was rejected by the court and she appealed to the Court of Appeal. The appeal was dismissed. Where, as here, there was no substantial difference between the basis on which the original notice was served and possession is sought, there is no requirement for a second notice to be served.

Cardiff C.C. v. Stone [2002] EWCA Civ 298; [2003] H.L.R. 47.

On the other hand, if the authority clearly decide not to proceed to eviction on the review, and to monitor the tenancy, then a new notice will have to be issued, and further review offered before the case can proceed to court: *Forbes v. Lambeth L.B.C.*

Ms Forbes was granted an introductory tenancy by Lambeth L.B.C. in March 2000. Controlled drugs were found at the flat during a police raid in September 2000, and the authority served a notice of proceedings.

Ms Forbes requested a review. She was notified of the decision of the review in a letter which was headed “*DECISION NOT TO TERMINATE YOUR INTRODUCTORY TENANCY*” and continued “...the council has decided not to proceed with terminating your tenancy but will be monitoring your tenancy for a period of 12 months and then will review the decision and advise you. You will continue as an introductory tenant during this period.” →

Following further complaints about noise and disturbance, the authority wrote the following March to state that they were continuing the legal proceedings, and applying for possession. At the possession hearing, Ms Forbes claimed that the court had no jurisdiction to hear the case, but the claim was rejected.

Allowing an appeal, the High Court held that the natural meaning of the letter sent to the defendant following the review was that the authority had decided not to seek a possession order. Accordingly any further proceedings required a new notice of possession, and the letter in March did not constitute a valid notice.

Forbes v. Lambeth L.B.C. [2003] EWHC 222 (QB); [2003] H.L.R. 49.

The tenancy ends on the date on which the tenant is to give up possession pursuant to the court order (HA 1996, s. 127(3)). Section 89 of HA 1980 applies and the court is able to postpone possession for up to 14 days or, in cases of exceptional hardship, six weeks.

Requests for a review of the decision

The tenant may seek a review of the decision to take proceedings for possession under section 129. He or she must make a request for such review within 14 days from the date the notice was served. The landlord must then review, and notify the tenant of, the decision and, if the original decision is upheld, give reasons why this is the case.

The review must be carried out and notification given before the date after which proceedings for possession may be begun as set out in the notice (HA 1996, s. 129(6)). For this reason, although the usual requirement is for the notice to be four weeks, landlords may wish to consider giving a longer period so that they do not have to carry out the review in a very constrained time frame.

The Secretary of State may make regulations on the procedure to be followed for review.

The Introductory Tenants (Review) Regulations (IT(R) Regs) 1997 (S.I. No. 72) provide:

- the review will not be by way of oral hearing unless the tenant informs the landlord that he or she wishes to have such a hearing within the 14-day time limit;
- the review must be carried out by someone who was not involved in the decision to apply for possession;
- there are no limitations on who that person can be (it does not have to be an officer and could, for example, be a panel of councillors), but if it is an officer, he or she must be senior to the original decision-maker; and
- if there is not to be a hearing the tenant may make representations in writing. The landlord is obliged to consider such representations and to inform the tenant of the date by which the representations are to be received (this cannot be earlier than five clear days of the receipt of this information by the tenant).

Oral hearings

The actual procedure at any oral hearing is a matter for the person conducting the review except that the IT(R) Regs 1997 provide that:

- the tenant has the right to be accompanied to the hearing and/or be represented by another person (who need not be professionally qualified); and
- the tenant or representative may call witnesses, question any witness and make written representations.

There is no right to ‘call’ witnesses (i.e. they cannot be forced to attend). Circular 2/97 states (at para. 23) that the case for the local authority “...*may be presented by a housing officer who can use hearsay evidence and who will not have to identify who made the complaints*”. While this may be true in some cases, it must be remembered that the conduct of the review must satisfy the requirements of administrative law and be fair, so that a tenant must be given the opportunity to answer properly the allegations against him or her. In *R. (on the application of McDonagh) v. Salisbury D.C.*, it was held that it is implicit in the regulations that the tenant and his or her representative must have a proper opportunity to prepare for the hearing. This means that documents that the landlord intends to rely on should be disclosed in advance of any hearing.

Salisbury DC granted an introductory tenancy to Ms McDonagh. After numerous complaints, particularly about the behaviour of her children, the council issued a notice under section 128. The notice stated that court proceedings would not be begun until after Monday 9 October 2000. Ms McDonagh sought a review, but this did not take place until 18 October 2000. The review was conducted on the basis that the review board should only consider whether the officer’s decision to evict was reasonable and not as a fresh decision on the merits. The council upheld the decision to evict, and a possession order was obtained in November 2000.

Ms McDonagh sought judicial review of the review board’s decision, and the warrant for possession was stayed pending the outcome of the proceedings. After permission to bring judicial review was granted, the council decided to conduct a further review on the merits on 17 May 2001. Ms McDonagh declined to take part, but the council went ahead nonetheless, and still upheld the decision to evict.

At the judicial review hearing, the judge held that the initial review was flawed, and should have been conducted as a full rehearing on the merits. This was, however, cured by the later hearing. The fact that the hearing did not take place before the date specified in the notice did not invalidate it.

R. (on the application of McDonagh) v. Salisbury D.C. [2001] EWHC Admin 567.

A review should be by way of a complete reconsideration of the decision to evict (see *McDonagh*). Two other useful points also emerge from that case:

- the review board should decide the case ‘on the balance of probabilities’, i.e. the civil standard of proof;
- the review board may take into account events occurring up until the date of the review.

Effect of beginning proceedings for possession

It may be the case that the landlord commences possession proceedings prior to the end of the trial period, but that the court does not decide them within the period. In this case, the tenancy does not automatically become secure at the end of the period; instead, by section 130(1) and (2) of HA 1996, the introductory nature of the tenancy continues until the court orders possession. Similarly, if the tenancy ceases to fulfil the requirements for a secure tenancy, and thus also ceases to be introductory after possession proceedings are commenced, the tenancy is continued as an introductory tenancy until the possession proceedings are determined.

Where the tenancy ceases to be introductory because of a change of landlord, revocation of the scheme or there is no one entitled to succeed, the tenancy ceases to be introductory but the landlord (or on transfer the new landlord) may continue the proceedings, and the provisions for possession continue to apply as if the tenancy had remained introductory (s. 130(3)). Where in such a case a tenant would otherwise become secure (e.g. because of revocation of the scheme), he or she does not become entitled to exercise the right to buy until the court decides that he or she is not required to give possession (s. 130(4)).

Challenges to eviction decisions

Although there is no statutory defence to any action brought provided the correct procedural steps have been taken, this is not to say that there can be no legal challenge to the decision to evict. The decision to evict can be challenged on administrative (i.e. public) law principles. Thus, for example, if the landlord has not acted in good faith, or has not acted fairly, or has taken irrelevant considerations into account, it could be challenged. It is clear from the cases, however, that the burden lies on the tenant to show that there has been a public law failure in this respect.

Normally where a public law challenge is mounted to a decision of a local authority, proceedings have to be taken by way of judicial review in the Administrative Court. Thus there is a maximum three-month time limit, and permission to proceed has to be sought.

Where, however, the public law challenge provides a defence to possession proceedings, there is an exception to this rule. In *Wandsworth L.B.C. v. Winder* [1985] AC461, the House of Lords permitted a secure tenant to resist possession proceedings based on rent arrears where the challenge was that an increase in the arrears was unlawful on public law grounds. In *Manchester C.C. v. Cochrane* [1999], the Court of Appeal considered whether this principle also applied to challenges to decisions to evict introductory tenants and decided that challenges had to be made by way of judicial review.

Mr and Mrs Cochrane were granted a joint introductory tenancy in April 1997. The council served an eviction notice in March 1998 because of alleged anti-social behaviour and because the tenants had given false information on their housing application. The tenants requested a review of the decision to evict. After this took place, the council confirmed its decision and commenced county court proceedings. The tenants sought to defend these on the basis that the review had not been conducted in accordance with the regulations, they had been denied a request for representation and there had been intimidatory conduct by the senior officer who conducted the inquiry. The judge held that he had jurisdiction to hear the defence, and the council appealed to the Court of Appeal.

At the appeal it was held that the court had no discretion to consider any public law defence. An authority's decision to evict may only be challenged by way of judicial review. If the county court is satisfied that there is a real chance of permission to apply for judicial review being granted, it has the power to grant an adjournment of the possession action to allow an application to be made.

Manchester C.C. v. Cochrane [1999] 1 W.L.R. 809.

In order that the court may identify whether such a challenge may have any prospect of success, and to ensure that the tenant's rights under Human Rights Act 1998 are complied with, the Court of Appeal stressed in *McLellan v Bracknell Forest B.C.; Reigate & Banstead B.C. v. Benfield* [2001] 33 H.L.R. 86 that it should be the norm for the council to spell out in affidavits before the county court judge how the review procedure was operated in the individual case. This should cover the degree of independence of the tribunal from the person(s) who took the original decision, the way the hearing was conducted and the reason for taking the decision to continue with the proceedings.

Extending introductory tenancies

The Housing Act 2004 amended the provisions of introductory tenancies to permit local authorities to extend them for a further six months. In order to extend the trial period two conditions must be met (Housing Act 1996, s. 125A (1) – (3)):

1. The landlord must serve a notice of extension on the tenant at least eight weeks before the original expiry date;
2. The tenant must either have not requested a review, or if he has, the outcome of that review must have been to confirm the decision to extend the trial period.

Section 125B makes provisions for reviews.

Original expiry date. This is defined as the last day of the period of one year that would apply were the trial period not to be extended. Given the requirement to serve notice at least eight weeks before the original expiry date it will be important for landlords to be able to ascertain this accurately. Generally, an introductory tenancy runs from the date on which the tenancy was entered into, or if later, the date the tenant was first entitled to possession under the tenancy: Housing Act 1996, s. 125(2).

Notice. The notice must (s. 125A(4), (5)) state that the landlord has decided that the trial period should be extended by 6 months, set out the reasons for this decision (see above page 149 as to reasons) and inform the tenant of his right to request a review of the decision and the time within which the request must be made.

Review. Section 125B makes provisions for reviews and is in substantially the same terms as the Housing Act 1996, s. 129, which provides for reviews of the decision to evict an introductory tenant (see above p. 149). The request for a review must be made within 14 days (s. 125B(1)) and the landlord must complete it and notify the tenant before the original expiry date of the trial period: s. 125B (6). Provision is made for detailed regulations, but at the time of writing none had been made.

RSLs: The scope and management of starter tenancies

The security of tenure of RSL tenants is governed by Housing Act 1988. In theory, RSLs may grant assured shorthold tenancies to any of their tenants. In practice however, they are constrained by the Housing Corporation Regulatory Code and Guidance 2004. Unlike the previous performance standards this does not set out detailed guidance on when it is appropriate to use starter tenancies. Nonetheless it does require (para. 3.5.2) that associations offer “...the most secure form of tenure compatible with the purpose of the housing and the sustainability of the community.” In practice this means that starter tenancies should only be used exceptionally and in accordance with the guidance on their use which states that:

“Associations that use assured shorthold tenancies as starter tenancies should do so as part of a managed strategy for dealing with ASB either: across their whole stock; across their stock in a local authority area; or in defined street areas or estates.” (Housing Corporation, Regulatory Circular 07/04).

Creating a starter tenancy

As an assured shorthold tenancy, the only requirements for creation are those set out in HA 1988. The formal requirements for their creation (notice and minimum six month fixed term) were abolished by HA 1996, and any tenancy granted by an RSL that does not specify that it is fully assured will automatically qualify as an assured shorthold tenancy (HA 1988, s. 19A).

Terminating a starter tenancy

An assured shorthold tenancy cannot be terminated within the first six months of its duration (HA 1988, s. 21(5)), and if the landlord wishes to obtain possession before the six months has expired, it will be treated as a fully assured tenancy and possession will have to be obtained in the normal way (see further **Core Task 7**, possession action).

After the six-month period has expired, the court must grant possession provided the landlord proves that the tenancy has terminated (if a fixed term has been granted this

must have expired) and an appropriate notice has been served. The notice does not have to provide any reasons, but must give at least two months' notice (HA 1988, s. 21(1) and (4)). The notice may be served at any time and does not have to await the expiry of any fixed term, or the initial six-month period.

Guidance by the Housing Corporation would suggest that while the statutory provisions require no particular reasons for terminating an assured shorthold tenancy, where these are being used as starter tenancies by RSLs there should be a clearly stated basis for seeking possession, based on the usual grounds.

Take-up and impact of introductory and starter tenancies

There has been a variable take-up of introductory and starter tenancies and it is not clear how much they act to prevent anti-social behaviour. It is clear that the majority of evictions from introductory tenancies have been for rent arrears rather than anti-social behaviour, and although they may be useful as part of an overall strategy, care needs to be taken to ensure that evictions do not take place, where previously a suspended order (which is not available against either an introductory or assured shorthold tenant, see **Core Task 7**) would have been sufficient.

Research by the Housing Corporation in 1998 suggests that starter tenancies can be a successful part of a strategy to deal with anti-social behaviour. A summary of the research can be found at: <http://www.housingcorplibrary.org.uk>

Using demoted tenancies

One of the new provisions introduced under Part 2 of the Anti-Social Behaviour Act 2003, which came into force in June 2004, was **demoted tenancies**. Social landlords can apply to the County Court for a demotion order against a secure or assured tenant in order to prevent conduct capable of causing a nuisance annoyance which directly or indirectly affects the housing management functions of the landlord.

In the case of a local authority secure tenancy, if the judge considers it reasonable to make the order, the tenancy will be demoted to what is the equivalent of an introductory tenancy for 12 months. If possession is not sought within the 12 month period the tenancy will become secure again.

If an RSL seeks possession against a secure or an assured tenant the tenancy may be demoted to an assured shorthold tenancy. The assured shorthold will last for 12 months and if no possession proceedings are taken the tenancy will revert to an assured (even if originally secure) tenancy at the end of the 12 month period.

Further detailed guidance on obtaining and managing demoted tenancies is provided in **Core Task 7**.



Key questions to consider

The introduction, development and management of starter, introductory and demoted tenancies requires intensive housing management and partnership work with other community safety agencies.

- What do you hope to achieve by adopting introductory or starter tenancies?
- Can you clearly identify the benefits of adopting starter or introductory tenancies?
- Do you have sufficient staff resources to set up and manage such tenancies?
- Do you have clear policies and procedures as to when possession or extension of an introductory or starter should be sought?

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Websites

Together: Tackling anti-social behaviour: <http://www.together.gov.uk>

Renewal.net: <http://www.renewal.net/>

<http://www.thamesvalley.police.uk/crime-reduction/shelters.html>

Information about the practice and theory behind youth work can be found at:
www.infed.org/index.htm

Information about the Youth Pod scheme available through Tameside's website:
<http://www.tameside.gov.uk/>

Module 2: For social housing practitioners

Core task 4: Multi-agency partnerships

Research (ODPM, 2003) has shown that while most social landlords are aware of the potential benefits of joint working, in practice forming close partnerships with other organisations can be fraught with problems. Developing multi-agency partnerships is time consuming and difficult to achieve without the support of key officers at both an operational and strategic level. Local crime and disorder reduction partnerships may provide a framework for the development of local multi-agency strategies but equally important is the need to work with tenants and residents to establish acceptable standards of behaviour. Given households involved in anti-social behaviour often have complex social and psychological support needs it is also important for landlords to develop effective partnerships with social service departments and other agencies providing support services, e.g. mediation services, alcohol and drug abuse schemes, the youth services, tenants' and residents' associations.

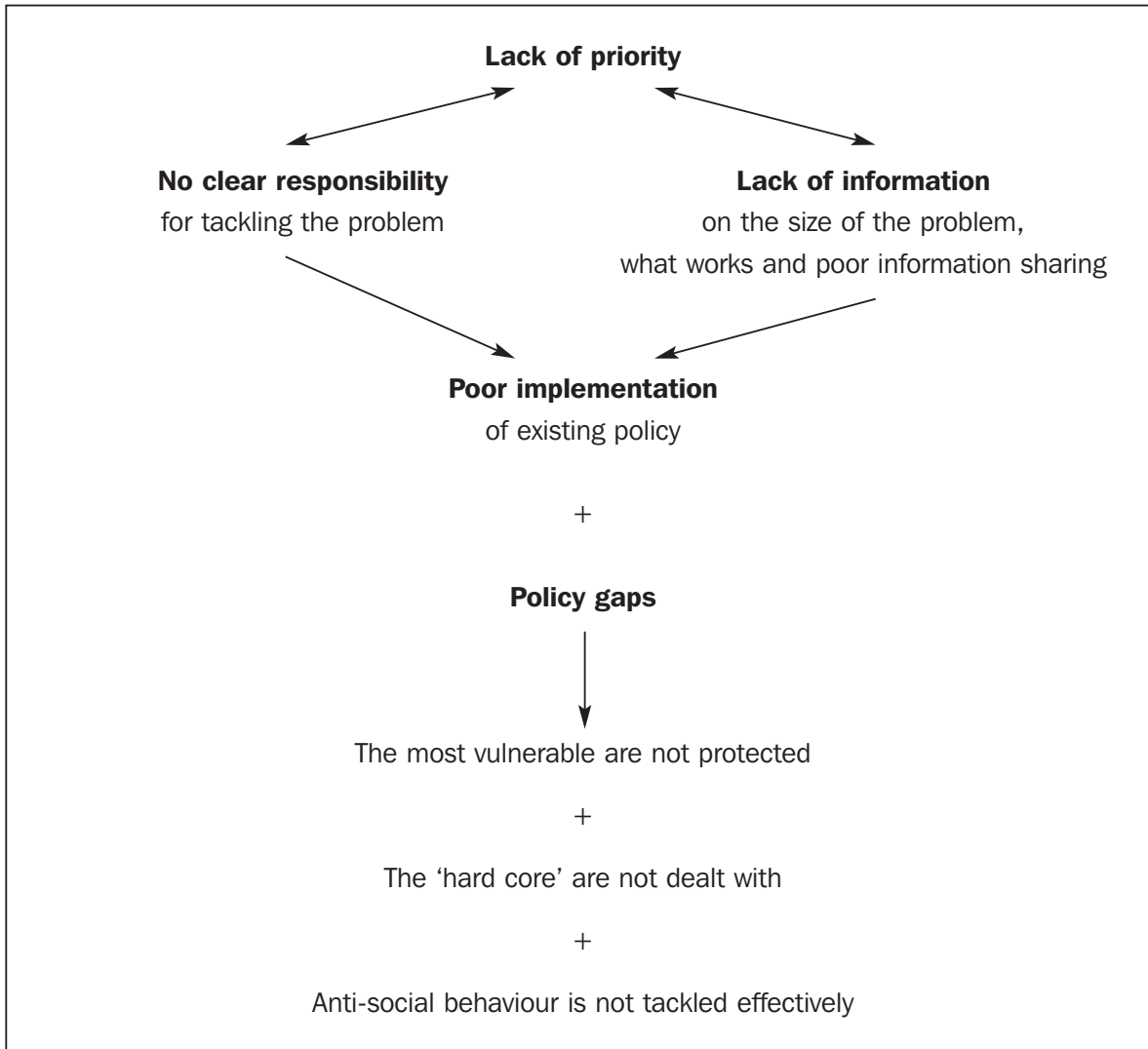
It is now recognised that in order to achieve sustainable solutions to prevent and deal with nuisance behaviours social landlords need to develop a multi-agency approach with input from a range of agencies and local government departments. The evidence suggests that the most successful partnerships work closely with local communities to adopt a problem solving approach, sharing information and are proactive in taking action.

In order to help you improve partnership work this section of the Action Framework focuses on:

- Priority setting to deliver an excellent service.
- Formal partnership agreements.
- Types of crime and disorder reduction partnerships.
- Developing links with local partnership bodies.
- Action to develop effective operational partnerships.
- Partnerships with the police.
- Partnerships with social services and support agencies.
- Joint case management.
- Developing relationships with tenants and residents.
- Using neighbourhood agreements.
- Using information sharing protocols.
- Dealing with common problems in multi-agency partnerships.

Priority setting to deliver an excellent service

The following diagram is from the PAT 8 report (Social Exclusion Unit, 2000) and shows graphically how the problems associated with anti-social behaviour can fall through the multi-agency net, if co-ordination is not working properly at the local level.



Activity

Consider how your organisation can work more effectively to develop multi-agency responses to tackle anti-social behaviour.

- Use the PAT 8 diagram to focus your consideration of the policy and practice implications.

In order for your organisation to achieve an excellent service rating from the Audit Commission it is essential to have developed strong partnerships at a local level involving statutory agencies, other landlords and tenants and residents. The criteria against which your partnership working will be assessed by the Housing Inspectorate are outlined on the next page:

Key line of enquiry (KLoE)	An organisation delivering an excellent service	An organisation delivering a fair service
<ul style="list-style-type: none"> • Have effective partnerships been formed at a local level with statutory agencies, council departments and other landlords to ensure the most appropriate response to ASB and the sharing of information? 	<ul style="list-style-type: none"> • Has strong partnerships with other agencies, e.g. social services, environmental health, the police and other landlords in tackling anti-social behaviour and strong protocols for sharing information. • Is an active member of the strategic partnership, e.g. the crime and disorder or the community safety partnership. • Uses the full range of remedies as appropriate to address ASB, including mediation, injunctions and exclusion orders, acceptable behaviour contracts (ABCs), anti-social behaviour orders (ASBOs), possession proceedings and introductory/starter tenancies – and publicises to the wider community the successful use of such remedies (See further Core Tasks 6 and 7). • Has established good working arrangements with local courts to deliver efficient processes for legal proceedings, including witness protection. • Works with planning departments and/or housing associations to ensure that crime prevention is a key issue in designing estate improvements and new homes. 	<ul style="list-style-type: none"> • Is involved in some partnership working but it is ad-hoc, and largely at the instigation of individual managers, with ad-hoc information sharing arrangements. • Demonstrates only limited evidence of proactive work to ‘design’ out crime and improve security measures for service users where appropriate. • Demonstrates only some successful use of the full range of remedies for ASB and the enforcement of tenancy conditions, so outcomes for service users are not consistent or very systematic, and undertakes limited publicity in the use of remedies to deal with ASB. • Demonstrates only patchy evidence on some estates of systematically managing difficult tenancies or seeking to make sustainable lettings.

Source: Audit Commission

For further information on KLoE visit the Audit Commission website: <http://www.audit-commission.gov.uk/kloe/housingkloe.asp>



Activity

- Referring to the KLoEs outlined above consider what action you need to take to demonstrate that your organisation is delivering an excellent standard of service to tenants and residents in areas in which your stock is located?

Formal partnership agreements

For many organisations the initial process of developing good relationships with partner organisations is best achieved by informal contact, however, there will quickly come a point where it is necessary to develop formal partnerships arrangements embodied in written agreements.



Key questions

- Which agencies do you need to develop formal partnerships with and what arrangements have been made to develop formal partnerships with those agencies e.g. the local crime and disorder partnership, the police, social services, youth services, probation, mediation services and other support agencies?
- Have the aims and objectives of partnerships between your organisation and other agencies been agreed?
- If you have already established formal agreements, is there an implementation gap between the written agreement and what happens on the ground?

For all social landlords one of the most important formal partnership agreements will be the agreement made with the **local crime and disorder reduction partnership**. The following fact sheet provides you with details of the relevant legal provisions regulating crime and disorder reduction partnerships.

Fact sheet: Crime and disorder partnerships: the relevant legal provisions

Local authorities

Crime and Disorder Act 1998, ss. 5 and 6

This places a legal duty on district and unitary local authorities and the police to formulate and implement a strategy for the reduction of crime and disorder in their area. In so doing the authority and police must act in co-operation with the probation committee and health authority in their area, together with other prescribed organisations.

Crime and Disorder Act 1998, s. 17

This section imposes a duty on all local authorities to exercise their functions, “...with due regard to the likely effect of the exercise of those functions on, and the need to do all [they] reasonably can to prevent crime and disorder in [their] area.”

Registered social landlords

Crime and Disorder Act 1998, ss. 5 and 6

Under the Crime and Disorder Strategies (Prescribed Descriptions) Order 1998 (S.I. 1998 No. 2452) registered social landlords in an area are prescribed as organisations with whom the local authority and police must co-operate in the formulation and implementation of their crime and disorder strategy.

Crime and Disorder Act 1998, s. 115

From 18th January 2005 all registered social landlords have the right to receive information from other bodies to support ASBO applications.

Types of crime and disorder reduction partnerships

Recent research in to the operation of crime and disorder reduction partnerships found that a range of different models of partnership working are being developed (ODPM, 2003). Partnerships are established at different levels for different purposes – some are borough wide, while others are specific to implementing local schemes or to co-ordinate interventions to deal with individual perpetrators.

The following three distinct models of partnership working were identified:

- *Strategic partnerships* usually operating at the borough level with the membership comprising of senior representatives from the main statutory agencies including the police authority, the local authority including representatives from housing, social services, education, and the probation service and health service. The main function of these partnerships was to agree strategic priorities to promote community safety and in all of the case study areas, dedicated community safety or crime reduction officers/teams serviced the partnership. Generally, it was reported that these formal strategic partnerships worked best if the representatives had a high degree of seniority within their organisation and therefore had the authority to take action.
- *Operational partnerships* operating at a neighbourhood level or focusing on specific issues of concern. Over recent years a diverse range of neighbourhood or issue based partnerships, many of which have strong links to established statutory agencies, have been set up. Examples of well-developed operational partnerships suggest that building trust and confidence between the partner agencies is central to the success of anti-social behaviour initiatives. But such work is resource intensive both in terms of officer time and in terms of funding for specific initiatives.
- *Partnerships to co-ordinate interventions to deal with individual perpetrators.* A variety of different multi-agency models are being used to deal with individual cases; including case conferencing, ASBO/ABC panels and task forces.

In practice although some successful operational initiatives had been developed in relative isolation from the wider crime and disorder provisions, the most effective strategic and operational interventions occurred when all three levels of partnership working were co-ordinated and connected with clear lines of communication and accountability. Examples of well-developed partnerships, suggests that development of trust and confidence between different agencies takes time and requires agencies to prioritise resources.

Features of successful crime and disorder reduction partnerships

- Development of clear structures which facilitate communication both across different agencies and within the partnership, i.e. both within agencies and across agencies and officers operating at different levels.
- Mature, well-established partnerships were more likely than recently formed partnerships to have developed high degrees of trust and openness between members resulting in clear communication and excellent information sharing protocols.
- Involvement and commitment from senior staff with sufficient authority to implement decisions taken by the partnerships.
- The ability to deal with conflict.
- Carefully planned strategic and operational responses based on reliable information about the nature of the problem combined with analysis of alternative forms of interventions and the associated resource requirements.
- Monitoring and evaluation of interventions combined with clear lines of accountability.
- Willingness to regularly review and change structures in response to the changing nature of the problem.

Source: *Innovative Practice in Tackling anti-social behaviour: guidance for members of Crime and Disorder Reduction Partnerships* (ODPM, 2003a).

Many newly formed partnerships struggle to develop relationships of trust. In these areas, multi-agency working can be hampered by poor co-ordination of initiatives, lack of structural support, weak leadership and lack of direction from the strategic body within the local crime and disorder reduction partnerships. Methods used to overcome such problems included:

Methods to overcome problems with partnership working

- Development of clear lines of communication between all agencies and residents.
- A commitment from both individuals and agencies to ensure continuity of membership of the partnership and the development of clear hand-over arrangements when personnel do change.
- The provision of clear and agreed information sharing protocols and data exchange mechanisms.
- The use of conflict resolution mechanisms, including referring matters to a strategic umbrella body such as the steering group of the crime and disorder partnership.

Source: *Innovative Practice in Tackling anti-social behaviour: guidance for members of Crime and Disorder Reduction Partnerships* (ODPM, 2003a).



Activity

Use the following questions to assess what action you need to take to ensure that you develop a close strategic and operational partnership with your local Crime and Disorder Reduction Partnership:

- What role does your organisation play in the local crime and disorder reduction partnership?
- Who is the named person in your local crime and disorder reduction partnership responsible for co-ordinating action on anti-social behaviour?
- What outputs are expected from the partnership and what is the time-scale for action?
- How will progress be tracked and assessed?

Developing links with other local partnerships

In addition to the crime and disorder reduction partnership there are a wide range of other local partnership groups that have a role to play in tackling anti-social behaviour. Some of these focus on particular target groups such as young people (e.g. Children's Fund, Sure Start, and Connexions) or those with particular vulnerabilities arising as a result of drug or alcohol addiction (e.g. drug action teams, supporting people partnerships). The range of different partnership groups operating at a local level can be quite bewildering. Clarification on who is doing what within any particular area can be obtained from the local strategic partnership.

Local strategic partnerships (LSPs) have been designed to bring together the public, private, community and voluntary sectors to improve the local area. The LSP develops the key long-term strategies for an area within the community strategy and helps co-ordinate the delivery of local services more effectively. In the 88 most deprived local authority areas, LSPs are receiving additional resources through the Neighbourhood Renewal Fund (NRF) to secure more jobs, better education, improve health, reduce crime, achieve better housing/physical environment, and narrow the gap between deprived neighbourhoods and the rest whilst contributing to national targets to tackle deprivation. LSPs generally have the same boundaries as the local authority, and work closely with CDRPs. Further information on LSPs and neighbourhood renewal can be found at: www.neighbourhood.gov.uk

Youth inclusion and support panels (YISPs)

YISPs are multi-agency planning groups that seek to prevent offending and anti-social behaviour by offering voluntary support services to high risk 8-13 year olds and their families.

Youth inclusion programmes (YIP)

YIPS operate in local neighbourhoods and are aimed predominantly at young people identified as being at risk of offending, but who have not yet entered the criminal justice system.

Youth offending team (YOTs)

YOTs operate in every LA area in England and Wales. They are made up of representatives from the police, probation service, social services, health, education, drugs and alcohol misuse agencies and housing officers. Their work is overseen by a local steering group, made up of key stakeholders.

Guidance on partnership work

The following websites, which are regularly updated, contain more detailed guidance on different aspects of partnership work:

The Home Office dedicated anti-social behaviour website provides detailed guidance on partnership work covering the following issues:

- Introduction: working in partnership
- How do agencies work in partnership to tackle anti-social behaviour?
- Partners' roles and responsibilities
- What are local strategic partnerships?
- What are crime and disorder reduction partnerships (CDRPs)?
- What is community safety accreditation?
- How can community safety accreditation help to tackle anti-social behaviour?

To download the guidance go to: <http://www.together.gov.uk/home.asp>

NACRO has also produced a very useful Briefing on: *Building and Sustaining Crime and Disorder Reduction Partnerships*. The guide looks in depth at:

- Who should be involved
- The reasons for partnership working
- How effective partnerships can be developed

To download a copy of the briefing go to:

<http://www.nacro.org.uk/data/briefings/nacro-2001062503-csps.pdf>



The Local Government Association/National Housing Federation/ACPO have produced detailed guidance on multi agency case conferencing: *Together we can beat it – Guidance on Joint Working Protocol*. The guidance includes sections on:

- Supporting victims and witnesses
- Taking enforcement action
- Information sharing
- Supporting perpetrators to challenge their problematic behaviour

It promotes a case conference approach so that agencies can come together to agree who will do what and review what is working and what more needs to happen.

To download a copy of the guidance go to: <http://www.lga.gov.uk/Publication>

The results of a research study into tackling anti-social behaviour in mixed tenure areas are available from the ODPM website. The full research report *Tackling anti-social behaviour in mixed tenure areas* (ODPM, 2003b, Chapter 5) and *Innovative Practice in Tackling anti-social behaviour: guidance for members of Crime and Disorder Reduction Partnerships* (ODPM, 2003a) is available from the following website:

<http://www.housing.odpm.gov.uk/information/asb/intro.htm>

Actions to be taken to ensure you develop effective operational partnerships

Of equal importance to developing formal partnership agreements, there is a need to encourage productive partnerships at an operational level. Actively seeking involvement in relevant working groups can be a good way to network and form links.

The following fact sheet identifies the key elements of successful multi-agency partnerships and can be used as a check list to help develop an effective approach to partnership work.

Fact sheet: Key elements of successful multi-agency partnerships

Ownership

- When starting out on a new anti-social behaviour strategy, bring everyone together to ensure ownership and involvement from all.
- Tackling anti-social behaviour in partnership requires the support and commitment of all key agencies and at all levels from the top to the bottom. One way of achieving this is to identify an anti-social behaviour ‘champion’ in each agency: someone who has lead responsibility and can influence and bring about change within their own organisation with respect to ASB issues, and be the single point of contact when difficult issues arise.



Understanding

- Understand each other's roles and responsibilities; get to know what your key partners actually do. When local authority staff understand the role of the police service, and vice versa, clear roles can then be established for 'who does what' in tackling ASB.
- Get to know your partner organisations' structures, philosophy and training; knowing who to go to when things are not going well, the way the organisation operates and how to share training sessions will all help to achieve a joined-up approach to tackling ASB.

Skill sharing

- Arrange for the police to train local authority officers in investigative interviewing skills and the taking of witness statements as that is their area of expertise. The local authority can reciprocate by running training sessions for the police on their housing or environmental related powers for tackling anti-social behaviour, so that they have a better understanding of the whole tool-kit available and can support work across the authority
- Continue to bring partners together to review progress and find solutions to issues that are causing difficulty.

Commitment to action

- The best and most successful partnerships that tackle crime, disorder and anti-social behaviour are about 'doing' not talking; ensuring that resources are available, both human and financial, and that front line officers have the knowledge and skills to do their jobs effectively.

Source: *Partners roles and responsibilities* – Working in Partnership Together website;

<http://www.together.gov.uk/article.asp?aid=1448&c=433>

**Activity**

Consider the following questions in order to identify any gaps or weaknesses in your current partnership arrangements.

- Which agencies do you need to develop day to day, operational partnerships with, e.g., the police, social services, the local authority, RSLs, probation service, health authority, schools and youth services, mediation services, independent support agencies?
- What arrangements (e.g. training and joint seminars) have been made to encourage partnership working at a day to day operational level?
- Is there an implementation gap between the formal agreements, particularly information sharing protocols and what happens on the ground?

Partnerships with the police

Increasingly, social landlords are recognising that in order to improve services to tenants there is a need to develop close working relationships with the police. The Housing Corporation has produced a useful guide for social landlords on working with the police which sums up the advantages of joint work in the following terms:

- they are the best source for community safety advice;
- they can provide information on crime and anti-social behaviour within your housing stock;
- they may be 'gate keepers' to community safety networks or crime and disorder reduction partnerships;
- they are an expert resource;
- their help should be free of charge;
- they may have credibility with residents.

The guide covers a wide range of issues from strategic advice to practical information for front line housing officers. A copy of the guidance entitled, *Working with the Police: a Guide for Housing Associations* can be obtained free of charge from the Housing Corporation website: www.housingcorp.gov.uk

In order to encourage close working and information sharing between the police and local community safety partner agencies **Community Safety Accreditation Schemes** (CSA) have been introduced in 25 police forces. CSA was established under the Police Reform Act 2002 (sections 40-42). It allows chief officers of police to accredit non-police employees working in a community safety or security role with a range of discretionary and limited police powers similar to those of police community support officers (PCSOs). A wide range of different people can be accredited including:

- neighbourhood wardens
- security guards
- park rangers
- hospital and university security staff
- fire and rescue service personnel
- housing association employees
- environmental health officers
- parking attendants
- others working in a community safety role

Further information about working with the police and community support officers is available at the Home Office Together website:
<http://www.together.gov.uk/category.asp?c=442>

Partnerships with social services and other support agencies

Perpetrators of anti-social behaviour often have complex social and psychological support needs. In order to avoid problem behaviour being displaced from one area to another it is vital that social landlords develop effective partnerships with social service departments and other agencies providing support services, e.g. mediation services, alcohol and drug abuse schemes, the youth services, tenants and residents' associations.

**Activity**

Differences in professional orientations and practices can make it difficult to develop day to day working partnerships. Such problems can be overcome if all partners commit the time and resources to maintaining the partnership.

- What are the resources needed to develop and maintain partnerships with social services and other support agencies. Has it been agreed who will contribute what?
- What outputs are expected from the partnerships and what is the time-scale for action?
- How will progress be tracked and assessed?

Joint case management

The development of close working relationships between agencies can help prevent neighbour nuisance escalating into serious anti-social behaviour cases. Joint casework can be facilitated by the use of case conferences where agreement can be obtained for a clear plan of action.

Task: Developing a model protocol for multi-agency case management

Statement of purpose	Action to be taken by the partnership as a whole	Action to be taken by each partner agency
Statement of purpose	Has agreement been reached on the shared vision of what the partnership will achieve and how? Is the rationale for a multi-agency response clear and agreed by all partner agencies?	Ensure all those attending partnership meetings are aware of the terms of reference of the partnership
Participating bodies	Have all the relevant agencies been invited to participate?	Is there a nominated named contact officer to attend meetings? Have clear lines of accountability been established?
Development of an appropriate framework	Has agreement been reached on the priority areas of work? What are the expected actions and outcomes for each partner agency?	Ensure that the aims and objectives of the multi-agency group are compatible with each partner agencies policies and procedures Learn from the experiences of others →

Statement of purpose	Action to be taken by the partnership as a whole	Action to be taken by each partner agency
Information sharing and data storage processes	<p>What arrangements have been made to ensure adequate information exchange takes place between partner organisations?</p> <p>Have confidentiality protocols, binding all participants and related disciplinary codes been agreed?</p>	Designate a lead officer with responsibility to co-ordinate information sharing between partner agencies
Decision-making process	Establish and agree a clear decision-making procedure – this should include an easily understood procedure for resolving disagreements between partner agencies	Ensure that the decision-making process is clearly understood by all officers attending the meetings
Case management	<p>What case management or supervision arrangements have been made to ensure that cases are reviewed in line with the agreed case strategy?</p> <p>Does the case management strategy incorporate proactive risk assessments and reactive processes?</p>	Agree a structure for sharing anonymised and personalised information
Minimise culture shock	<p>Recognise that different partners will have different professional orientations and practices</p> <p>Find a way of working that recognised difference and takes best practice from all partners rather than basing it on the culture of only one partner</p> <p>Reconciling differences should be a key leadership task undertaken by the chair person of the group</p>	Commit time and resources to the partnership and prepare for meetings
Communication channels	<p>Agree and implement a communication strategy with a designated lead officer</p> <p>Agree an out of hours emergency contact network</p> <p>Develop an agreed media strategy with a defined lead agency</p>	Ensure that each partner has developed an internal communication strategy to ensure that partnership decisions are communicated to all relevant staff, board members and residents
Implement a system of annual reviews and monitoring of the work of the partnership	Carry out annual reviews of the partnership aims and objectives incorporating a review of future plans	

Source: adapted from the NACRO model protocol for multi-agency case management and the Social Landlords Crime and Nuisance Group Safer Estates Model Agreement.

Action to be taken to develop your relationship with tenants and residents

Of equal importance to developing formal partnerships with key agencies is the need to encourage community based partnerships at an informal estate based level. Increasingly the need to engage local residents in building community involvement to reduce neighbour nuisance and anti-social behaviour is recognised as being a key aspect of anti-social behaviour work. Many communities have a broad range of problems, including: crime and disorder, a high proportion of vulnerable groups, low skills and high levels of unemployment and social deprivation. The best partnerships will work with the community to prioritise and plan local area programmes and initiatives, which tackle these issues. The following questions have been designed to help you identify what action you can take to encourage tenants and residents to become involved in local partnerships.

Fact sheet: Effective measures in dealing with ASB

In 2002 the Tenants Participatory Advisory Service carried out a survey of landlords' and tenants' groups to establish what measures were considered to be most effective in dealing with ASB. The findings highlighted the following eight key issues:

1. Employ a team of specialised officers to tackle ASB, and provide additional training and support for front line officers, (see further **Core Task 5**).
2. Fund and support local community activities as a strong sense of community spirit is a contributory factor in promoting locally enforceable standards of acceptable behaviour.
3. Develop and support tenant involvement at various levels so that tenants can clearly communicate what their priorities are.
4. Involve tenants and residents in developing strategies to deal with ASB.
5. Provide support to people before their behaviour becomes intolerable and develop preventative practices such as early visits and pre-tenancy counselling. Introduce a clear non-harassment clause in all social housing tenancy agreements and attach more importance to enforcing this. Provide accessible information to tenants on the landlord's powers and responsibilities regarding ASB.
6. Involve tenants in ASB partnerships and raise awareness of the range and role of partnerships amongst tenants' groups.
7. As part of ongoing training for tenants and residents consider new ways of helping people accept and live with cultural difference.
8. Have clear, effective ASB policies and procedures on the use of legal remedies and develop a fast track approach to high-risk eviction cases.



Activity

Taking into account the key findings from the TPAS survey of tenants, consider what mechanisms you could introduce to ensure that tenants and residents can contribute to the development of strategies to deal with particular neighbourhood problems.

- What action has been taken to consult with tenants' and residents' groups and the local community? E.g. use of public meetings and events, social research including surveys and focus groups, networking with individuals and groups
- Would the development of neighbourhood agreements help you work with tenants and residents to deal with minor incidents of anti-social behaviour? For more information on neighbourhood agreements see below.

Using neighbourhood agreements to promote partnership working

Neighbourhood agreements can effectively promote service accountability to local communities and develop dialogue between residents and service providers. They can also form a basis for the development of local service partnerships and community plans.

Neighbourhood agreements have been developed to help build good working relationships with service providers and the community they serve and to improve residents' quality of life.

Potential partners

Typically, partners in neighbourhood agreements will include the following agencies:

- Tenants' and residents' groups
- The local authority, including social services
- The police authority
- Registered social landlords
- Local community agencies

In fact, any agency which provides services to an area can become a partner to the agreement.

What are the aims of a neighbourhood agreement?

- To inform residents about who provides local services.
- To try to improve services through use of regular feedback from residents, joint working between service providers, and special initiatives involving residents.

- To inform residents about what service levels they can expect and to ask residents if these are being met.
- To provide residents with the chance to monitor service standards and give service providers feedback on the quality of their services.
- To support community development.
- To strengthen the partnership between residents and service providers and make the unequivocal statement that ASB will not be tolerated and that effective and early action will be taken to tackle it.

What is the role of tenants' and residents' groups?

- To make sure the agreement works.
- To ask for monitoring information on all services covered by the agreement.
- To keep residents informed via regular meetings and newsletters.
- To invite service providers to residents' meetings to discuss particular concerns.
- To work with service providers to continuously improve services.

What is the role of service providers?

- To deliver services to agreed levels of quality.
- To work with residents to improve understanding and delivery of services.
- To provide regular monitoring information.
- To attend residents' meetings to discuss progress.
- To take an active part in making the agreement work.
- To make sure the agreement works.

An example of the type of individual service agreements that can be included in a neighbourhood agreement:

- *Community policing* – The agreement specifies how community policing works, how the police will respond to calls, support for victims of crime and anti-social behaviour, and what local initiatives are being developed.
- *Street and environmental cleaning and refuse collection* – The agreement specifies how the streets and open spaces will be kept clean, how households' rubbish will be dealt with, and how the estate can be kept smart and tidy.
- *Jobs' training and enterprise support* – The agreement describes what support and advice is available to help local residents to get a job or start a new business, find a training course or arrange childcare.
- *Housing services* – The agreement informs residents of what to expect and who to contact about housing services, for example, the agreement covers how housing is managed, standards of service, response time to enquiries, how neighbour disputes are handled, dealing with domestic violence etc.

- *Young people's agreement* – The agreement is drawn up in response to the social needs of children and young people, informing them about activities available, sporting opportunities, after school clubs, dealing with anti-social behaviour, the work of detached youth workers and the youth service.
- *Welfare benefits agreement* – This agreement is designed to increase awareness of, and improved access to, a full range of benefits.

More detailed information about neighbourhood agreements can be found in a report produced for the Joseph Rowntree Foundation – see details in the bibliography or go to the following website: <http://www.jrf.org.uk/knowledge/findings/housing/070.asp>

An example of a joint estate agreement

The Monsall Future Partnership Council and three housing associations have produced a joint estate agreement, which is a common set of standards and targets for service delivery to tenants & residents of all the partner landlords.

The agreement covers how residents can access services and what the service standards and targets are for each service – including sections on anti-social behaviour, allocation of properties, environmental maintenance, and customer care.

Amongst other things, the landlord agrees to:

- pick up litter from communal areas and sweep pavements and communal car parks at least once a month – more often when there is a particular problem;
- remove racist and offensive graffiti within one day and other graffiti within one week;
- inspect the estate monthly with volunteer residents;
- take legal action against residents who break their tenancy agreement where appropriate.

In return, tenants sign up to a community declaration, which includes their agreement to:

- keep an eye on each other's property and report any graffiti, vandalism or other problems within 24 hours;
- use reasonable language with neighbours and visitors;
- try to help and support minority groups on the estate;
- keep gardens and balconies tidy;
- make sure that they or their visitors do not damage other's property;
- make sure that they or their visitors do not damage the estate's environment.

Further sources of advice and guidance on working with tenants and residents

Further guidance and practical examples of how to involve residents in the management and delivery of local community safety is available on the Tenant Participation and Advisory Service (TPAS) website: <http://www.tpas.org.uk/>

For further information on some of the common problems faced by local agencies setting up community safety projects and suggestions as to how to overcome these difficulties go to the NACRO website accessing the briefing on *Setting up neighbourhood community safety projects*:

<http://www.nacro.org.uk/data/briefings/nacro-2003021901-csps.pdf>

The Joseph Rowntree Foundation has commissioned research (Sullivan *et al.*, 2001, *Area Committees and neighbourhood management*) into methods of devolving power and influence to communities, which identified four key areas for action:

- The development of community leadership
- Joined up service delivery at a local level
- Support for partnership working
- Acknowledgement of the diversity of our communities

To look at the research findings go to the following website:

<http://www.jrf.org.uk/knowledge/findings/government/761.asp>

Resources for partnership working

Developing successful partnerships with local agencies and tenants and residents can be very time consuming and resource intensive. Landlords who have managed to develop successful partnerships stress the importance of gaining senior managers' understanding of the resources required to establish and maintain partnerships. There is also a need for staff from different agencies to understand how their professional cultures and approaches may differ.



Activity

- What resources do housing officers need in order to develop more effective operational methods of working with different partners, e.g. time to attend regular meetings, co-ordination of day to day tasks, networking and/or ad-hoc informal arrangements?
- Would joint training and seminars on anti-social behaviour help you develop local partnerships?

Information sharing protocols

In the past many landlords have found that developing effective information sharing protocols was fraught with problems. However, since the introduction of the Crime and Disorder Act 1998 and the development of local crime and disorder reduction partnerships there is now a clearly established framework which should make it easier for organisations to share information about the particular problem of anti-social behaviour in their locality. Section 115 of the Crime and Disorder Act 1998 contains an explicit power for people to disclose information to a number of different agencies including crime and disorder reduction partnerships and in some areas this has resulted in improvements to formal information sharing protocols and the development of more effective methods of information exchange.

In parts of the country the implementation of the Crime and Disorder Act has resulted in improved information sharing procedures, but in other areas there is still a long way to go before effective information sharing protocols are put in place. The problem of developing effective methods of sharing information appeared to be particularly acute for registered social landlords operating in a number of different geographical locations since they are required to liaise with a wide range of agencies operating under different guidelines.

Personal information held by organisations about individuals is subject to the Data Protection Act 1998. Information sharing can only be lawfully carried out within the context of a formal information sharing protocol which complies with the 1998 Act. Such protocols have been developed by local authorities, the police and registered social landlords.

The Crime Reduction website has developed a specialist tool kit on developing information sharing protocols and has an interactive template protocol document, allowing you to draft an initial version of your information sharing protocol on line. The on line version allows you to select only those sections that are appropriate to your organisation, and gives you the option to include references to legislation commonly used in crime reduction information sharing protocols. By filling in a series of 15 forms, customising them to your requirement, you will be sent a document which forms a basis for your protocol from which to work.

For further information about creating your own information sharing protocol go to the Crime Reduction website at: http://www.crimereduction.gov.uk/infosharing_guide.htm

A step by step guide to information sharing is also available on the Home Office Together website which provides detailed guidance on how information can be shared between the following agencies: the police, local authorities, RSLs, youth offending teams, the national probation service and health providers. It discusses:

- Categories of information that that can be shared (de-personalised and personalised information).
- Legislation that relates to the sharing of personalised information.
- Information sharing protocols.
- Sharing information with witnesses and victims.
- Sharing information with the wider community.

These agreements can be used by communities to set the standards of behaviour by which they expect people to live. If these standards are to be respected, it must be clear to everyone that swift and effective action will be taken against unacceptable behaviour. For more information visit the Together website at <http://www.together.gov.uk/>

Further on line advice and tool kits for help in designing information sharing protocols and procedures are given below:

Information Commissioner Guidance on use of CCTV:

<http://www.informationcommissioner.gov.uk/eventual.aspx?id=5739>

Department of Constitutional Affairs: Tool Kit for Data Sharing by Public Sector Bodies.

Includes data sharing protocol guidance:

<http://www.dca.gov.uk/foi/sharing/toolkit/index.htm>

Home Office Guidance on information sharing:

<http://www.homeoffice.gov.uk/docs/actgch5.html>

Crime reduction tool kit on using intelligence and information sharing:

<http://www.crimereduction.gov.uk/toolkits/ui00.htm>



Key questions

Information sharing protocols

- Have information sharing protocols been entered into with all relevant local organisations?
- Are all housing staff aware of the protocols and able to maximise their use of them?
- Are the protocols monitored and any difficulties in practice addressed by the parties?

Dealing with common problems in multi-agency partnerships

In practice, partnership working can be very difficult to achieve and is dependant on partners being able to understand and negotiate around different organisational cultures with different agendas and different budget limitations. Landlords who have managed to develop successful partnerships stress the importance of gaining senior managers' support and political commitment to establishing and maintaining partnerships. The following fact sheet has been designed to help you identify potential problems and take action to deal with them.

Fact sheet: Dealing with common problems in multi-agency partnerships	
Pitfalls	Safeguards/response
Partners are reluctant to commit to action	<ul style="list-style-type: none"> • Identify levers/incentives, e.g. evidence of public concern, costs and benefits. • Review steps needed to seek/reinforce senior management commitment within key agencies, and to keep all those within agencies with an interest informed of relevant developments.
Responsibility for implementation is unclear	<ul style="list-style-type: none"> • Assign responsibilities to a named individual. • Review/clarify roles and responsibilities of partnership/individual agencies and other stakeholders.
The programme drifts and is underachieving	<ul style="list-style-type: none"> • Review reporting systems. • Set clear milestones for performance of key tasks. • Review commitment of partner agencies. Strengthen agreement between agencies if necessary. Look at ways of increasing project 'ownership'.
Project leadership is weak	<ul style="list-style-type: none"> • Ensure there is a named officer responsible for project leadership. • Ensure the project leader has the time, commitment, and skills to do the job, and identify training/development needs. • As well as project management skills, project leaders need the ability to work across traditional agency boundaries and operate in unknown/unpredictable areas.
The project leader moves job	<ul style="list-style-type: none"> • Ensure key decisions and action points are documented. • Spread the work to guard against becoming too reliant on one person.
Results don't come through	<ul style="list-style-type: none"> • Review the analysis of problems and causes. • Check the option appraisal and that the right conditions are in place for the project to work as intended. • Check the action plan is appropriate and well-founded.
There is low community participation	<ul style="list-style-type: none"> • Check community perceptions of the initiative. • Identify aspects of the project with greatest community appeal. • Review communications plans.
Partners lose interest	<ul style="list-style-type: none"> • Review approaches used (e.g. networking between meetings/teambuilding) to keep partners enthused and motivated. • Ensure the project integrates with other local activities.
Conflicts develop in the partnership	<ul style="list-style-type: none"> • Use techniques, e.g. soft systems analysis, to identify sources of conflict and areas of agreement.

Source: Crime Reduction Tool kits available at: www.crimereduction.gov.uk/toolkits/as0102.htm

Sources of further information

Useful websites

Audit Commission website has further information on KLoEs:

<http://www.audit-commission.gov.uk/kloe/housingkloe.asp>

Crime Reduction website on information sharing protocols:

http://www.crimereduction.gov.uk/infosharing_guide.htm

Crime reduction tool kit on using intelligence and information sharing:

<http://www.crimereduction.gov.uk/toolkits/ui00.htm>

Local Government Association/National Housing Federation/ACPO, *Together we can beat it – Guidance on Joint Working Protocol*: <http://www.lga.gov.uk/Publication>

Local Strategic Partnerships – the Neighbourhood Renewal Unit has a dedicated website which contains detailed information on LSPs: www.neighbourhood.gov.uk

Home Office Together website provides detailed guidance on partnership work and partners roles and responsibilities: <http://www.together.gov.uk>

Home Office Together website provides step by step guide to information sharing:

<http://www.together.gov.uk>

Housing Corporation (2004) *Working with the Police: a Guide for Housing Associations* can be obtained free of charge from the Housing Corporation website:

www.housingcorp.gov.uk

NACRO Briefing *Setting up neighbourhood community safety projects* is available at:

<http://www.nacro.org.uk/data/briefings/nacro-2003021901-csps.pdf>

NACRO has also produced a very useful Briefing on *Building and Sustaining Crime and Disorder Reduction Partnerships*. To download a copy of the briefing go to:

<http://www.nacro.org.uk/data/briefings/nacro-2001062503-csps.pdf>

Tenant Participation and Advisory Service (TPAS) website contains guidance and practical examples of how to involve residents in the management and delivery of local community safety: <http://www.tpas.org.uk/>

Other useful references

Cole, I, McCoulough, E, Southworth, J (2000) *Neighbourhood Agreements in action: A case study of Foxwood*, York: Joseph Rowntree Foundation.

ODPM (2003a) *Innovative Practice in Tackling anti-social behaviour: guidance for members of Crime and Disorder Reduction Partnerships*, London: ODPM.

Sullivan, H *et al.* (2001) *Area Committees and neighbourhood management*, York: Joseph Rowntree Foundation.

Module 2: For social housing practitioners

Core task 5: Specialist support and training

Prompt responses to complaints and early intervention to tackle anti-social behaviour cases can prevent cases from escalating from minor nuisances into seriously disruptive incidents. However, dealing effectively with such cases is often time consuming and requires a high level of knowledge and skills. Specialist teams/officers can provide both practical support and ongoing training and skills development for front line officers. Where specialist services have been provided landlords stated they had been crucial in improving the organisation's efficiency in dealing with anti-social behaviour.

The need for specialist advice and support to tackle anti-social behaviour

The use of specialist units and officers whose work is entirely or primarily devoted to co-ordinating and implementing the organisation's anti-social behaviour policy is becoming more common. There are numerous benefits from having dedicated officers working alongside housing officers to deal with problems that would otherwise go unreported and unchecked but which cause misery and distress for many residents. The specialist unit or officer can undertake a range of different tasks from co-ordinating multi-agency working, undertaking publicity work, letting the community know about successes, gathering evidence and supporting witnesses to training and advising front line officers.



Activity

Part 1

Use the following questions to critically assess whether your organisation would benefit from the provision of some form of specialist support.

- Does your organisation have the necessary specialist capacity and competencies to deal with anti-social behaviour?
- How good are officers at undertaking thorough, impartial investigations before deciding what action to take in anti-social behaviour cases?

- Do front line officers know which agencies you have partnership arrangements with and how good they are at assessing which agencies to involve in anti-social behaviour cases?
- Do all officers approach nuisance in a consistent way or is action patchy?
- Are officers confident and skilled in taking witness statements and providing witnesses with support?
- Have you ever been prevented from proceeding with legal action because of witness intimidation or lack of evidence?
- Has your organisation designated a named officer with responsibility for developing your policy and operational responses to anti-social behaviour?
- Would the provision of specialist support help you deal with anti-social behaviour cases more effectively?

Part 2

Fill out the following grid in respect of your organisation's ability to tackle anti-social behaviour, in the form of a SWOT analysis.

Strengths	Weaknesses
Opportunities	Threats

Models of provision of specialist anti-social behaviour services

There is a number of different models of specialist anti-social behaviour services. For many landlords the size of the problem will not justify the establishment of a large dedicated anti-social behaviour unit, however the appointment of an individual specialist officer can prove very cost effective in terms of improving the way in which anti-social behaviour cases are tackled.

Three landlords in the study for the Joseph Rowntree Foundation by Hunter *et al.* (2000) operated or had access to, specialist support of some kind. The different types of provision represented three models of specialist support appropriate for different organisations, with different size stock and different perceptions of the scale of the problem.

- **Model 1:** An in-house specialist unit primarily concerned with preparing cases for legal action, developing strategies, encouraging joint working and supporting housing officers to deal with individual cases.
- **Model 2:** An in-house individual specialist officer focusing on developing strategy and supporting housing officers who deal with individual cases.
- **Model 3:** An external agency providing support to a number of landlords operating in a specific geographical locality

Model 1 – A large specialist unit

A large Metropolitan landlord with tens of thousands of stock established a specialist unit, in November 1995. The unit comprised of 2 specialist, dedicated solicitors, 8 nuisance response officers, 3 administrative staff and a team leader.

Model 2 – A single officer

A smaller authority, with 7,000 stock, managed quite comfortably with one specialist tenancy enforcement officer (TEO). This officer, who had developed a tough reputation in order to be effective, operated within the legal section, but was responsible to the housing department. The TEO also worked with a project team, which included a police liaison officer, an in-house solicitor, as well as housing officers. This team discussed cases on a fortnightly basis.

Both the above models were set up following a review of policy and strategy and resulted in direct improvements in the relationship between housing officers and the organisation's legal department. Both schemes primarily provided a comprehensive evidence collection and witness support services, but also undertook training and gave support to front line housing officers.

For small landlords it may not be financially possible to set up a specialist unit or employ a dedicated anti-social behaviour officer but if the costs were shared with other local landlords an external agency could be set up to provide specialist support.

Model 3: Use of an external agency

The Tenancy Enforcement Support Team (TEST) was set up as a small independent company in 1997 by seven registered social landlords in South London, with the aim of tackling anti-social behaviour. TEST officers see themselves as 'professional laymen', taking referrals from landlords for a 'cost effective' flat fee per case regardless of how long they keep the case open, and what means are used to deal with it. An out of hours service is provided with the team prepared to investigate incidences between 7:30 p.m. to 2:30 a.m., 365 days a year. With only one case worker, one administrator and two part-time case workers for night time duty, they establish the facts from what they regard to be a more independent and possibly more objective perspective, weeding out non genuine complainants, trying to resolve cases and providing evidence. Although at the time of the study TEST did not provide a legal service, they did give some advice to clients about the appropriateness of taking legal action, as well as when to serve a notice of seeking possession.

Since this study the number and ways of providing specialist support have grown. There is a number of private companies which offer support services to social landlords in investigating and processing legal action in anti-social behaviour cases. Another model has been developed whereby a consortium of RSLs comes together to employ an officer or several staff to provide a service to all member bodies within the consortium. An example of this model operates in Coventry where a consortia of 13 RSLs including the LSVT landlord (Whitefriars) and number of national RSLs came together to develop specialist services to tackle anti-social behaviour in the city. Specialist project officers were employed by the consortium to provide a range of services to members.

One of the key forms of intervention by the Coventry consortium was the provision of a specialist anti-social behaviour case work support service. An evaluation of the service (Nixon *et al.*, 2005) found that:

- The service was widely used by both consortium members and by community safety partner agencies.
- Over two thirds of the enquires (68 per cent) involved the project workers in some form of direct intervention ranging from joint working with individual officers to build their knowledge and capacity, through to taking a lead role in interviewing perpetrators, drafting documents, taking witness statements, liaising with other agencies and attending multi-agency case conferences.
- Consortium members and project workers were very positive about the value of the case work service and felt that it was a successful way of building knowledge and officers' networking.

A summary of the report is available at:

<http://www.whitefriarshousing.co.uk/documents/policy-documents/anti-social-behaviour-findings.pdf>

The advantages of providing specialist support

Landlords identified a number of advantages of providing specialist support:

- An enhanced reputation and increased public profile resulting in better landlord and tenant relationships.
- Increased trust from tenants in the ability and determination of their landlord in tackling difficult cases and thereby increasing the likelihood that tenants will come forward as witnesses.
- Increased skills and competencies within the organisation to deal with different types of anti-social behaviour.
- Increased confidence amongst front line officers in undertaking investigations and recommending appropriate action.
- Increased expertise in drawing up formal statements, taking witness statements and giving evidence directly to the court.
- The increased capacity to provide appropriate support to witnesses prior to, during and after the trial.
- The development of consistency of approach and action.
- Increased joint working and formulation of preventative action.

Interviews with households who had suffered from anti-social behaviour confirmed the benefits of employing specialist officers. Almost without exception they felt that such officers provided them with greater support than they had received when only their local housing officers were dealing with their case.

The importance of training staff to deal with anti-social behaviour

Whatever type of specialist anti-social behaviour support is provided, housing officers are likely to remain the first point of contact for complainants about neighbour nuisance and anti-social behaviour. It is therefore essential that housing officers be given regular training to ensure that they feel confident in their ability to tackle all types of neighbour nuisance and to know when to refer cases to other key agencies.

Codes of Guidance

The ODPM and Housing Corporation Codes require (paras. 3.43 and 3.36) that a local authority or RSL statement of policy provides details of landlord's training programmes in respect of ASB.

Another important task of the project workers at the Coventry Consortium of Social Landlords was the provision of training. At the outset of the consortium an audit was undertaken which indicated that while most front line staff members had some form of training on anti-social behaviour, it was very variable as to its content and extent. Over a two-year period the consortium ran 15 dedicated training events. Running them for a range of members of the consortium and other partnership organisations such as the police enabled them also to be used as networking opportunities. One particular feature of the main course offered was the materials provided which officers could take away.



Key questions

- What is the organisation's policy with regard to training on anti-social behaviour?
- What training do front line officers want and need?
- Who is responsible for organising appropriate training?
- Who provides the training, how often, to whom and on what aspects of dealing with anti-social behaviour?
- How could such services be provided, in-house or shared with other landlords/partners?



Activity

Assess your training needs by considering the following questions:

- What aspects of dealing with anti-social behaviour cases do you find particularly difficult?
- Are you confident in your/your team's ability to undertake thorough, impartial investigations before deciding on action?
- Do you have the skills to collect and evaluate evidence?
- Have you the skills and knowledge to take witness statements and provide witness support?
- Do you have any mediation skills?
- What training have you already undertaken?
- Did it meet your needs?
- Could you usefully share training with other organisations? How could it be organised?

Accessing training

A number of agencies are able to offer training.

The Home Office Together website gives details of Together Academy events – the majority of which are free together with other anti-social behaviour training events:

<http://www.together.gov.uk/>

Some universities now offer specialist courses for officers tackling anti-social behaviour. These include post graduate courses offered by:

Sheffield Hallam University, Post-graduate certificate in Anti-social Behaviour Law and Strategies.

University of Westminster, Post-graduate certificate in Anti-Social Behaviour Law and Policy

References

Hunter, C, Nixon, J and Shayer, S (2000) *Neighbour Nuisance, Social Landlords and the Law*, Coventry/York: CIH/Joseph Rowntree Foundation.

Nixon, J, Hunter, C and Whittle, S (2005) *An evaluation of a model of partnership work to enable RSLs operating in Coventry to access specialist service to tackle anti-social behaviour*, Sheffield Hallam University.

Module 2: For social housing practitioners

Core task 6: Investigations, early intervention and witness and victim support measures

Introduction

An effective anti-social behaviour policy relies on landlords being able to undertake a thorough investigation of complaints and obtain appropriate evidence prior to deciding what action to take. Early appropriate intervention may prevent more serious problems developing later. This section of the Action Framework provides some practical check-lists and detailed guidance on good practice on the following aspects of managing anti-social behaviour cases:

- Responding to complaints
- The use of mediation services
- The use of acceptable behaviour contracts (ABCs)
- Using witness report forms and incident diaries
- Obtaining and preparing evidence
- Supporting witnesses in the period leading up to a court hearing

Responding to complaints

Whether a complaint is received in person, by phone or letter, it is important that prompt action is taken to investigate the case and respond to the complainant. Recent research has shown that many victims of anti-social behaviour are reluctant to complain, in part because it is not clear who they should complain to or because they feel the complaint will not be taken seriously (Hunter, Nixon and Parr, 2004). Nonetheless officers need to keep an open mind throughout investigations as alleged perpetrators may in fact be victims of anti-social behaviour.

Codes of Guidance

Both Codes of Guidance make clear the importance of responding appropriately to complaints and supporting complainants.

The *Guidance on Anti-social Behaviour: Policy and Procedure* from ODPM states that landlords should make it clear how incidents of anti-social behaviour can be reported, and that reporting channels should be made as simple as possible (ODPM, para. 3.12).



Activity

Consider the following questions in order to assess the capacity of your organisation to respond to anti-social behaviour complaints:

- How clear are your procedures on how complaints about anti-social behaviour should be made?
- Are housing officers given specific target times for responding to complaints?
- What guidance is given to housing officers to help them identify the most appropriate response to complaints? (e.g. referrals to other support agencies)
- What is your organisation's policy on making referrals or in obtaining information from others?
- Do you have a clear policy on the use of mediation services prior to taking legal action?
- What training or guidance is provided to front line officers on undertaking investigations and collecting evidence, including taking witness statements, in anti-social behaviour cases?
- What time allowances or support is offered housing officers engaged in difficult anti-social behaviour cases which require ongoing investigations or witness support?
- Could specialist officers or units undertake investigative work more effectively?

Having a clear policy is important in assuring an appropriate response and can protect landlords from accusations of improper conduct by alleged perpetrators. Where clear guidelines are set down, staff will know, for example, when and in what circumstances alleged perpetrators should be interviewed. Once a proper policy is in place, it is important that it is followed. Failure to do so may lead to complaints by both victims and alleged perpetrators, as Tower Hamlets found out when a complaint against them by two alleged perpetrators to the ombudsman was upheld.

Tower Hamlets LBC summonsed two female tenants to court on charges of racial harassment without either warning them or interviewing them. The allegations were found to be unsubstantiated. Both women complained to the ombudsman, who found that the council had not complied with its own procedures. The ombudsman called on the council to pay each woman £500 to remedy a 'serious injustice' plus £250 each for their time and trouble in pursuing the complaint.

Inside Housing, 24 April 1998, p. 6.

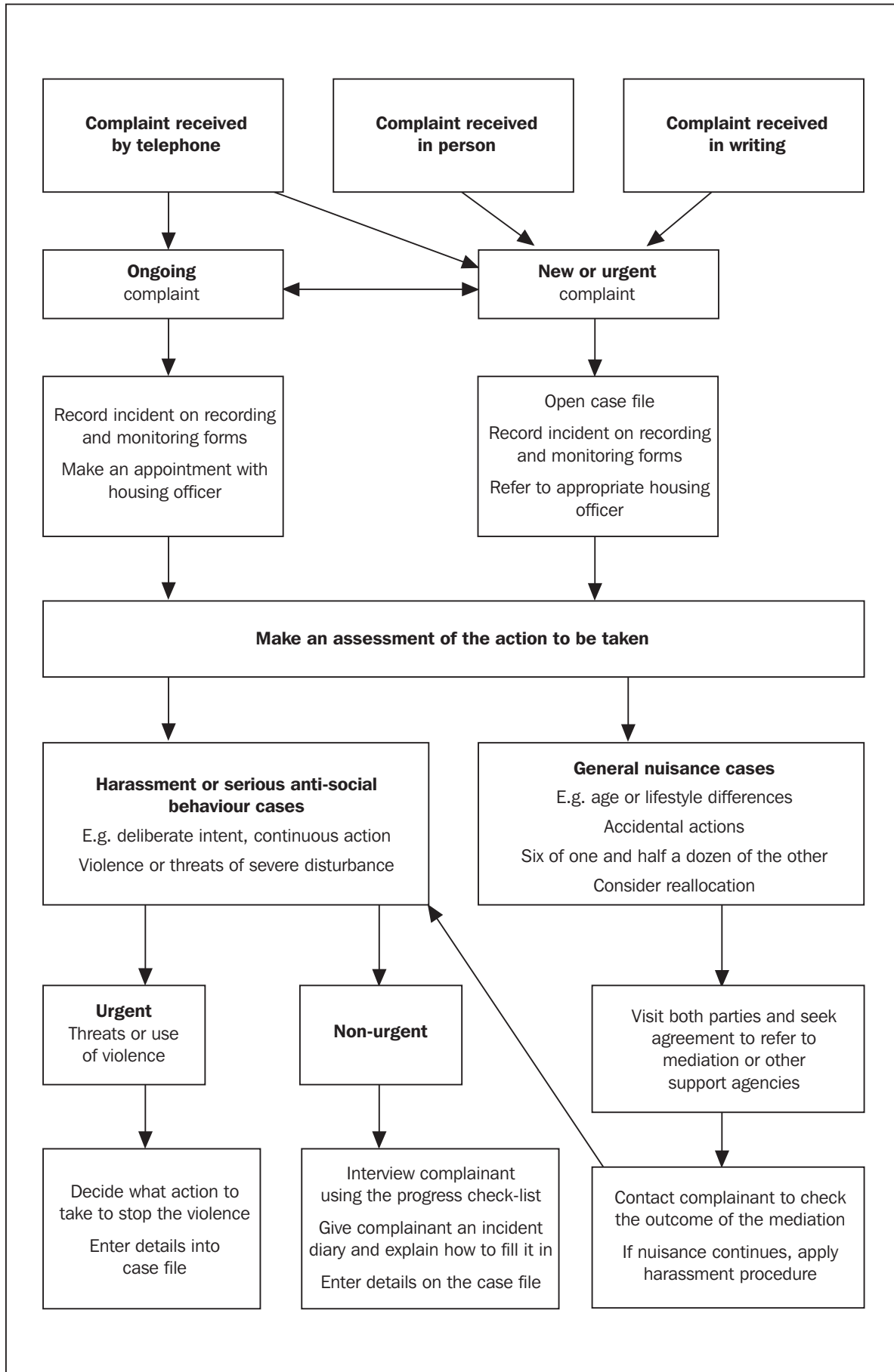
The flow chart on the next page and complaints progress check-list outline the different types of action that may need to be taken depending on the severity of the complaint.

A complaints progress check-list

Task: When a complaint is received the following information should be collected:	Tick when done:
1. Case file opened	<input type="checkbox"/>
2. Name and address of complainant(s)	<input type="checkbox"/>
3. Name and address of defendant(s)	<input type="checkbox"/>
4. Date of initial report and date an acknowledgement sent	<input type="checkbox"/>
5. Details of type of anti-social behaviour and description of incident(s)	<input type="checkbox"/>
6. Complaint recorded and entered onto monitoring sheet and incident diary issued	<input type="checkbox"/>
7. Contact with defendants	<input type="checkbox"/>
8. Date letters sent	<input type="checkbox"/>
9. Date of home visit and when interviewed	<input type="checkbox"/>
10. If appropriate, date of referral to other agencies such as social services, youth offending team, community service team, probation, youth services etc.	<input type="checkbox"/>
11. Mediation or conciliation discussed	<input type="checkbox"/>
12. Date referred to mediation (if appropriate)	<input type="checkbox"/>
13. Case report completed	<input type="checkbox"/>
14. Action plan drawn up	<input type="checkbox"/>
15. Further contact with complainant(s), date of home visit and interview	<input type="checkbox"/>
16. Follow up reports and where appropriate issue incident diaries	<input type="checkbox"/>
17. If legal action is considered you will need:	
– a completed case file and incident diaries	<input type="checkbox"/>
– correspondence from the complainant and defendants	<input type="checkbox"/>
– a signed copy of the tenancy agreement	<input type="checkbox"/>
– a map or plan showing where the people involved live in relation to each other	<input type="checkbox"/>

Source: based on check-list from Manchester City Council.

Flow chart: Action to be taken when receiving a complaint



Source: flow chart is based on a process chart designed by Manchester City Council Nuisance Response Team.

Responding to complaints through mediation

Mediation is increasingly recognised as being a cost effective method of dealing with disputes between neighbours which, if left unresolved, may develop into more intransigent anti-social behaviour problems.

Codes of Guidance

Mediation is one of the appropriate options identified in both Codes of Guidance.

Mediation fact sheet

Mediation is a process whereby a neutral third party enables two or more parties in dispute to seek a mutually acceptable resolution to their difficulties without recourse to formal or legal procedures. It can be a very cost effective solution to neighbour disputes.

Mediation is about:

- Exploring emotions
- Identifying key issues
- Negotiation
- Creating options
- Breaking the 'cycle of a dispute'
- Focusing on the future

Mediation is appropriate when both parties:

- Voluntarily choose it
- Are willing to be reasonable
- Are willing for the other side to be contacted
- Are able to communicate

Key elements of a community mediation service:

- Independent
- Impartial
- Confidential
- Non-judgemental

Mediation is not about:

- Apportioning blame
- Passing judgement
- Gathering evidence
- Giving advice

Mediation is not appropriate when:

- One party is intent on punishing the other
- An imbalance of power exists which impedes honest exchange
- Either party fears, or is placed at risk of violence, racial or sexual harassment

What kind of disputes can be mediated:

- Noise
- Children
- Pets
- Parking
- Boundaries
- Bonfires and litter

Disputes involving issues of violence, mental health, drug abuse and racism have historically not been regarded as suitable for mediation. A number of services are now accepting cases that may include one or more of these elements. The decision as to whether to accept a case will be based upon the actual facts of the case, the safety of the mediators being of paramount concern.

Source: based on the Social Landlords Crime and Nuisance Group *Fact Sheet on Mediation*.

Essentially, mediation services provide help to people who are in dispute, to resolve their differences themselves rather than have a solution imposed on them by their landlord or the courts. Mediation is usually only appropriate when both sides voluntarily chose it. It is not appropriate in cases that involve violence, harassment, or intimidation. Most commonly mediators working for independent, community mediation schemes are volunteers who are recruited from all sections of the community in order to ensure that the mediation service is representative of the community that it serves. All volunteers have to complete a stringent programme of training and assessment which should comply with Mediation UK's *Standards for Quality Practice*.

Using acceptable behaviour contracts (ABCs)

When prompt action is taken many problems can be sorted out in discussion with both the complainant and the alleged perpetrator. Sometimes a more formal agreement, such as an acceptable behaviour contract, may help.

“An ABC is a written agreement between a person who has been involved in anti-social behaviour and one or more local agencies whose role it is to prevent such behaviour. ABCs are most commonly used for young people but may also be used for adults.” (A Guide to Anti-Social Behaviour Orders and Acceptable Behaviour Contracts, Home Office).

Codes of Guidance

Acceptable behaviour contracts are one of the appropriate options identified in both Codes of Guidance.

Although they can be used by a range of organisations, most commonly they have been used by social landlords working with the police, although in some areas the youth offending team have been the lead agency. ABCs can be used to deal with nuisance behaviour by people who are not tenants, and although the agreement is not legally binding, if the perpetrator continues to act in an anti-social manner then the agreement could be used as evidence in subsequent legal action.

The key to the ABC is the meeting, which should be used as an opportunity for the individual involved in the behaviour and his or her family, where appropriate, to discuss the meaning of the term anti-social behaviour and the impact it has on others.

Detailed guidance on ABCs including guidance on conducting a meeting can be found at: <http://www.crimereduction.gov.uk/asbos9.htm>

In 2004 the Home Office published a research report on the use of ABCs in Islington L.B.C. and their wider take-up around the country (Bullock and Jones, 2004). The report was generally positive about their effects, although raised some concerns about monitoring and enforcement. It includes a series of recommendations on their use.

**Activity**

Consider the following example of an ABC.

- Would it help your organisation to deal with some problems?
- Are there ways in which you would want to adapt it?

Acceptable behaviour contracts – An example

This agreement is made on (date) **between** (insert name of landlord) **and** (insert name and address of defendant)

(name of defendant) **agrees the following in respect of future conduct:**

(list specific assurances).

For example:

1. I will not write graffiti or damage property (specify where)
2. I will not climb on roof tops or enter lift shafts or other prohibited areas,
3. I will not throw anything at residents or passers-by

Further (name of defendant) **enters into a commitment with** (name of landlord) **not to act in a manner that causes or is likely to cause a nuisance to other people or breach the terms of the tenancy agreement or lease.**

If (name of defendant) **does anything which (s)he has agreed not to do under this agreement then the** (insert the name of landlord) **will take legal action, including an application for a possession order, an anti-social behaviour order or an injunction.**

Declaration

I confirm that I understand the meaning of this agreement and that the consequences of breaking it have been explained to me.

Signed

Date

Signed

Date

(by parent or guardian if under 18)

Witnessed

Signed

Date

Designation

Other Witness

To be signed if an officer from another agency has been involved in this case, e.g. police, social services etc.

Signed

Date

Designation

Source: This example is based on one used by Lambeth Housing Services.

However, if the ABC approach fails or if the behaviour is very disruptive, further action will be required. In order to decide what to do to stop the anti-social behaviour it is vital that detailed evidence of the disruptive behaviour is collected.

Using witness report forms and incident diaries

Witness report forms and incident diaries are methods of collecting detailed evidence about individual incidents of anti-social behaviour. Asking tenants and residents to keep witness report forms or incident diaries can be very useful ways of compiling evidence. However, they may in some cases also inflame the situation, since when completing diaries people tend to be more observant and aware of a nuisance, i.e. listening out to all noise coming from their neighbour. In minor nuisance cases it is worth considering mediation referral before issuing diary sheets.

In order for landlords to be able to use written evidence in legal proceedings the information must be comprehensive and clearly written. In order to ensure the right type of information is collected it can be helpful if witnesses are provided with pre-printed incident sheets to fill in. Each incident should be recorded on a separate sheet and each witness should fill in his or her own incident diary. Ideally the incident sheets should contain the following information:

- When the incident happened – time and date
- Where it happened – exact location
- Who did it or who was involved
- What happened
- Any other witnesses
- Whether the incident has been reported and who to
- How the incident affected the witness
- The signature of the witness

In cases involving witnesses who may have difficulty in using written diary sheets it may be useful to consider oral diaries, by providing tape recorders. For those for whom English is not a first language it may be helpful to provide an interpreter.

Many landlords have developed detailed diaries to enable witnesses to keep evidence, as the following example shows.

<p>Tackling Anti-Social Behaviour</p>	<h2 style="margin: 0;">INCIDENT DIARY</h2>
<p>This form is for information about one incident only. If there is a second incident on the same day or night, start a new form.</p>	
<p>When did the incident happen?</p>	
<p>Date of incident (if overnight write both dates – eg 12/13th March 1997)</p> <p>day <u>7th/8th</u> month <u>January</u> year <u>1997</u></p>	<p>Time of incident (cross out am or pm)</p> <p>start <u>11.30</u> am finish <u>1.00</u> pm</p>
<p>Where did it happen?</p> <p>Put the address where the incident happened – not your own address, unless it's the same</p>	
<p>house/flat number <u>25</u> road <u>Chipstead Walk</u> outside/inside? <u>outside</u></p>	
<p>Who did it, or who was involved?</p> <p>Put the name and address of the person or people responsible. If you don't know them write "don't know"</p>	
<p><u>Mark Glover, 25 Chipstead Walk</u></p>	
<p>What happened?</p> <p>Write down exactly what you saw and heard. If someone else saw or heard other things they must fill in their own diary or use a test-off Witness Report sheet from the back of this diary. Put all words in full, including swear words.</p>	
<p><u>I heard banging and shouting outside. I looked out of my kitchen window and saw Mark Glover, who lives at number 25 banging and kicking at his front door. He was shouting to the person inside to open the door. Then At one point he shouted very loudly "open the door or you're fucking dead". A woman inside kept screaming "go away you bastard". He picked up a brick and threw it at the ^{hall} window. The window smashed and he tried to get in. Kevin ^{my son} called the police who arrived and took him Mark Glover away.</u></p> <p style="text-align: right; font-size: small;">continue on the other side of the form if you need to</p>	
<p>Any witnesses?</p> <p>Did anyone else see or hear the incident. Put their name(s) and address(es). Have they filled in their own diary sheet? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p>	
<p><u>Mrs Mason from 10 Chipstead Walk and my son Kevin Smith (23 Chipstead)</u></p>	
<p>Have you reported it?</p> <p>Have you told organisations like the police, the local housing team, social services. If so write down who you spoke to and where and when you made the report. (If you have reported it to the police, put officer's number and crime number if there is one).</p>	
<p><u>My son phoned the police. PC Jones (number 6758) from Woodley police station came. He wrote it all down.</u></p>	
<p>How has it affected you?</p> <p>Write down the way the incident has made you feel. Include its affect on people who live with you. For instance has it stopped you sleeping, frightened your children and so on. Are you more affected because of age or ill health?</p>	
<p><u>The incident is typical of Mr Glover's behaviour. There have been things like this every weekend for the last 7 or 8 weeks. (see previous diaries). My children who are 6 and 8 are woken up regularly. They are getting very unsettled. I am on sleeping tablets because of the noise and upset.</u></p>	
<p>Your signature "I believe that the information I have given above is a true description of what I saw and/or heard"</p>	
<p>signed <u>Mary Smith</u></p>	<p>date <u>8th January 97</u></p>



Key questions

- Does your organisation have a clear policy on the use of witness/incident diaries?
- Have staff had clear training on helping tenants/residents how to use them?

Using incident diaries as evidence for legal action

Most people are unfamiliar with the type of detailed evidence that is required if it is necessary to take the case to court. When asking tenants to use incident diaries it is helpful if they are given the following information:

Advice to tenants using incident diaries

1. The diary is your own personal record of what you see or hear. You can't write down something that other people (including your wife, husband or partner) have witnessed. They must keep their own diary – or witness report.
2. You must fill in the diary as soon as possible while the incident is still fresh in your mind. Do it on the same day if you can. If you leave it much longer, a court may not accept it.
3. Fill in one form for each separate incident. If there is a second incident on the same day or night, start a new form. Put your signature and the date at the bottom of each form.
4. Write down everything you see and hear and in as much detail as possible. A general summary isn't taken as seriously by the court as word for word evidence. So you will have to include swear words. We are sorry if this is upsetting, but you'll have to do the same if the case is going to stand up in court.

Source: Based on Manchester City Council incident diary.

Obtaining and preparing evidence

Drawing up witness statements

All cases require that a proper investigation of the nature of the allegations is undertaken. This will involve interviewing both the victims and the alleged perpetrator(s) and other potential witnesses. Formal witness statements will need to be taken, which can, if necessary, be used in legal proceedings. The following fact sheet provides guidance on taking witness statements.

**Activity**

Consider how this set of procedures for taking witness statements compares with that used by your own organisation.

- Is it better or worse?
- If worse, how could the existing procedure be improved?

Fact sheet: Taking witness statements**What are witness statements?**

These are:

“...written statements by the trial witnesses setting out all the facts concerned in the evidence which they are to give in court.”

They are important because they:

- Allow parties to weigh up the merits of a case
- May facilitate an early settlement
- Clearly define issues
- Prevent surprises
- Reduce the length of trials
- Judge may allow statements to stand as ‘evidence in chief’ – i.e. as the main evidence of the witness

Format

The format for statements and affidavits is different but the content can be the same:

Witness statements

- Used in possession cases
- Signed and issued as an indication of what the witness will say at the hearing

Affidavits

- Used in applications for injunctions/specific performance (although witness statement may be used)
- Sworn or affirmed, can be used without the defendant being present at the hearing



Form of witness statements

- Dated and signed by the maker
- Statement as to truth and belief
- Tell the story in sequence
- Statements must support what is to be proved
- Avoid subjective/prejudicial statements
- Detail the effect of the anti-social behaviour on the witnesses, the impact on their lives
- Avoid putting words into the witness's mouth
- Include all relevant factors (additional evidence can only be provided with leave of the court)
- Exclude hearsay evidence unless a decision has been made to include it under the Civil Evidence Act 1995 (see page 201, below), but records, e.g. file notes or incident diaries may be introduced as written evidence
- Err on the side of inclusion: if in doubt about admissibility of evidence include it, it will be much harder to add to the witness statement once proceedings have begun
- Identify any documents referred to and appended
- Use numbered paragraphs

Examples

Not like this....

"I had just been to the tea wagon for a bacon butty, Bert was in there and we were chatting about last night's game. I had to dash so I left and got on my bike outside. All the drivers were mad and buses were everywhere ducking and diving. Then as if by magic a mini van appeared going like a bat out of hell."

But like this....

"On Tuesday 17th September 1998, at approximately 8:30am I was riding my bicycle along Smith Street in the direction of the town centre. The traffic seemed heavy and chaotic, and one vehicle, a green mini van, registration number A123BC passed me at speed, which caused me to rock on my bicycle. I did not know the speed the vehicle was travelling but it appeared to me that he had passed me very quickly."

Source: From the Social Landlords Crime and Nuisance Group Fact Sheet 2: *Taking and making witness statements*.

Using professional witnesses

In some circumstances, it is impossible for tenants and residents to be witnesses and it may be necessary to employ professional witnesses. Some outside agencies offer professional witnessing services, but a number of organisations have started using their own staff and other partnership contacts as volunteers.

**Activity**

Consider the following questions and identify the types of cases in which you might use professional witnesses:

- Do you have a policy on the use of professional witnesses?
- Have you considered setting up an in-house scheme?
- Are housing officers provided with guidance on when to use them?
- Is there a budget for their use?

Codes of Guidance

If you have a professional witness scheme the Codes of Guidance (paras. 3.13, 3.30) state that policies relating to the scheme should be included in the ASB policy statement.

When to consider using professional witnesses

- Where there have been several incidents affecting members of the community in respect of which the landlord is unable to obtain enough eye witness evidence
- When residents are unable or unwilling to provide evidence or attend court
- Where specialist video or sound recording evidence is required
- To obtain an independent assessment of conflicting reports
- When incidents occur outside of normal working hours

Picking the right firm

Consider the following:

- different firms have different strengths and weaknesses – one may prove efficient and effective in surveillance work but not have the necessary equipment to monitor noise nuisance;
- look for firms with a proven track record;
- contact other social landlords for recommendations of firms who have provided services within the specified time-scale and in accordance with the brief and to a standard that would enable use of the record to be made in civil proceedings;

- if you are seeking to rely on professional witnesses in court they will need to be confident, experienced and reliable;
- if possible try using a firm on a small project before deciding to engage them on a major operation.

CCTV

CCTV cameras may be installed in order to deter some forms of anti-social behaviour, but they may also provide evidence of behaviour which has occurred. In order to be used in court as evidence, it will be necessary that pictures are clear enough to identify perpetrators and that clear evidence can be given of when and how the pictures were obtained.

CCTV must be used in accordance with the Data Protection Act 1998, and there is guidance available from the Information Commissioner.

Covert evidence

The use of professional witnesses or CCTV may involve covert surveillance as defined by section 26 of the Regulation of Investigatory Powers Act 2000, in that it is undertaken:

- for the purposes of a specific investigation or operation;
- in a manner likely to result in the obtaining of private information about a person;
- otherwise than as an immediate response to event or circumstances; or
- in circumstances that the person subject to it is unaware that it is taking place.

The act applies to local authorities, not RSLs, although it is good practice for RSLs to also comply with the act. Where such methods of evidence collection are used they need to be authorised by a senior officer in accordance with the act.

Using hearsay evidence

In many cases, while there are complaints by witnesses made to housing officers, those witnesses may be reluctant to give evidence in court. It may be possible to use that evidence even though it is hearsay. Hearsay evidence is that given by a witness who does not have direct knowledge of the evidence. Thus an example is where a housing officer, who did not witness an incident, is able to give evidence of the complaint that the victim made to him or her about the incident, such as notes in a diary. Hearsay evidence is permitted in civil cases, but must be given in accordance with the Civil Evidence Act (CEA) 1995.

Section 1 of the act enables parties to use hearsay evidence. By section 2, the party wishing to use it is required to give such notice and particulars of the evidence as is reasonable or practicable in the circumstance. The court has a wide discretion over the weight to be given to hearsay evidence (see s. 4). The provisions are applied to civil

proceedings in the magistrates' court (e.g. an application for an anti-social behaviour order) by the magistrates' courts (Hearsay Evidence in Civil Proceedings) Rules 1999 (S.I. 1999 No. 681), and have been applied to such cases (see **Core Task 7**).

The CEA 1995 is likely to provide considerable assistance in cases involving anti-social behaviour. It should be remembered, however, that if evidence is in dispute and is central to the case, the party calling direct evidence is likely to be at an advantage, since hearsay evidence is accorded less weight than the direct evidence of witnesses to a particular incident. The act does not, therefore, mean that oral evidence from witnesses is not necessary. The judge needs to be persuaded that on the balance of probabilities the conduct complained of took place. Before launching any possession action, landlords must consider with their lawyers whether their evidence will match up to this standard. Using such evidence, if it is compelling enough, without the victims having to come to court may persuade them to take part. Victims should, however, not be told that unless they are willing to come to court 'nothing can be done'.

The use of hearsay evidence in a possession case was considered by the Court of Appeal in *Solon South West Housing Association Ltd. v. James & Another* [2004], where both direct and hearsay evidence was relied on by the landlord. The Court of Appeal decided that it is not necessary for the judge to identify whether the direct evidence would have been sufficient to grant the order without the hearsay. The court emphasised it is for the judge to decide what weight to give the hearsay evidence.

The defendants were assured tenants of Solon South West Housing Association, who sought possession under ground 14 on the basis of nuisance and annoyance. At the hearing the housing association relied on evidence which included hearsay evidence. No objections to the admissibility of the hearsay evidence were raised by the defendants.

The judge found that the allegations of nuisance were made out and that it was reasonable to order possession. The judge described the evidence on which he had based his findings but did not indicate whether the evidence adduced would have been sufficient to establish the ground for possession if it excluded the hearsay evidence. An outright order was granted.

The defendants appealed, arguing that the judge had erred in his approach to evidence, in particular by failing to give an indication as to whether the evidence itself would have been sufficient to justify an outright order for possession without the hearsay evidence. The Court of Appeal dismissed the appeal. Questions of admissibility of hearsay evidence and the weight to be afforded to it are matters for the trial judge under s. 4, Civil Evidence Act 1995. The court was not under an obligation to identify whether the evidence would have been sufficient to justify the order without the hearsay evidence.

Solon South West Housing Association Ltd. v. James & Another [2004] EWCA Civ 1847; [2005] H.L.R. 24.

It is important, however that the hearsay evidence carries sufficient weight and this was not the case in *Newcastle C.C. v. Fiddes* [2004].

Newcastle City Council sought possession against their tenant, Ms Fiddes, on the basis of anti-social behaviour. Two incidents had been witnessed directly by a housing officer. All the other allegations were made by complainants who did not attend court but who had provided diary sheets. The tenant admitted seven specific allegations that had occurred in the previous 12 months.

The judge accepted that possession as a matter of law could be granted on hearsay evidence alone. He decided, however, that it was not reasonable to grant the possession order. There was no proper evidential basis for the witnesses' non-attendance other than bare assertions that they were too frightened to attend. This put the tenant at a significant disadvantage in defending the claim. The tenant had given her evidence in a manner that gave the impression that she was not attempting to mislead the court. The majority of the allegations were remote in time and vague. In these circumstances, weight could not be attached to the hearsay evidence. The incidents witnessed and admitted were not sufficient to justify a possession order.

Newcastle C.C. v. Fiddes [2004] *Legal Action*, January 2005, p. 28.

The presentation of hearsay evidence was criticised in the case of *Moat Housing Group (South) Ltd v. Harris & Hartless* [2005] EWCA Civ 287 (see **Core Task 7**, page 221, below for details). In that case the Court of Appeal emphasised the need for statements to be specific enough for defendants to be able to respond to them and continued:

"...this case should provide a salutary warning for the future that more attention should be paid by claimants in this type of case to the need to state by convincing direct evidence why it was not reasonable and practicable to produce the original maker of the statement as a witness. If the statement involves multiple hearsay, the route by which the original statement came to the attention of the person attesting to it should be identified as far as practicable."

Supporting witnesses in the period leading up to a court hearing

As already noted, one of the biggest problems landlords experience in tackling anti-social behaviour is persuading people to act as witnesses. As a result of both witness intimidation and tenants' fear of giving evidence, many people are reluctant to attend court hearings. Good practice in evidence collection methods includes both practical measures to support tenants and psychological support to promote confidence amongst individuals and the community as a whole.

Codes of Guidance

The *Guidance on Anti-social Behaviour: Policy and Procedure* from ODPM and the Housing Corporation both stress (paras. 4.8) that social landlords' policies should include specific measures to support complainants and witnesses. This should include:

- Discussing and planning every stage of any legal action with witnesses
- Providing details of an emergency out of hours contact
- Informing relevant officers (caretakers, wardens etc.) so they can keep a 'lookout'
- Risk assessment of the witnesses home environment and provision of protection measures
- Facilitation of transport and accompaniment/escort to court
- Provision of support at court
- Provision of ongoing support following resolution of legal action or other measures

Some of these measures will require partnership working with, e.g. the police (see **Core Task 4**).



Key questions

- In what circumstances do you offer re-housing to witnesses?
- What support measures are available to witnesses?
- What training on witness support measures is provided to front line officers?
- What measures do you have in place to continue support to witnesses when legal action has been completed?



Activity

Using the fact sheet on witness support measures, consider which of the following strategies for obtaining and supporting witnesses seem most appropriate for your organisation.

Fact sheet: Witness support measures

- Large-scale door knocking to make contact with all those potentially affected by the anti-social behaviour and arranging to meet groups of neighbours can result in more evidence and provides individuals with group support.
- Use of 'neighbourhood letters' to encourage other witnesses to come forward.
- Maintaining close contact with neighbours and witnesses by use of regular visits in order to build up trust and support. Some landlords provide witnesses with a personal contact officer available on call 24 hours a day.
- Be realistic about the process and the possible outcomes in order to enable witnesses to assess the situation realistically.
- Complainant confidentiality has been found to be very important in building tenants' confidence to act as witnesses. Ensure that wherever possible individual complainant details are not revealed to the perpetrators.
- Use injunctions to ensure that witnesses feel protected from intimidation.
- Arrange for the organisation's solicitor or legal officer to visit individual witnesses or groups of witnesses, in their homes, to explain the court process and provide continuing support.
- Ensure that partner agencies, such as police and social services are aware of the situation; they can also provide support.
- Arrange for witnesses to be taken on accompanied visits to the court prior to the hearing.
- Offer witnesses temporary alternative accommodation during the lead up to the trial.
- Some landlords also offer alternative permanent accommodation to witnesses but this can result in potential witnesses withdrawing their evidence once re-housed.
- Provide mobile phones, property and personal alarms and extra physical security measures such as fire safe letterboxes.
- Maintain contact after the court hearing and where appropriate offer counselling – short and long-term.

The Multi-Agency Witness Mobility Scheme

In cases of severe intimidation it may be appropriate for witnesses to be re-housed. The Multi-Agency Witness Mobility Scheme gives social landlords, local authorities and police services access to fast track relocations and support services for vulnerable or intimidated witnesses giving evidence for them in criminal or civil cases.

The scheme is for witnesses who:

- Have agreed to give evidence in court.
- Are suffering, or are likely to suffer, intimidation or harassment from an offender, their family or associates.
- Cannot stay in their own homes.
- Must be relocated quickly.
- May need to move to a different area or part of the country.

Social landlords can sign up to the scheme by contacting the National Co-ordinator at witness.mobility@homeoffice.gsi.gov.uk

Legal protection of witnesses

There is also a number of legal steps that can be taken to protect witnesses. Civil injunctions may be used (see **Core Task 7**).

The Criminal Justice and Police Act 2001, s. 39 creates a criminal offence of intimidation of witnesses and s. 40 of harming witnesses. Both sections apply to civil proceedings from the moment that the proceedings begin (e.g. a summons for possession is issued) until they are finally disposed of by the court, including any appeal (see s. 41). Criminal offences enforcement and prosecution are matters for the police and Crown Prosecution Service, but landlords will want to liaise closely to ensure any intimidation of witnesses is dealt with appropriately under these new powers.

The Protection from Harassment Act 1997 may also be used where there has been harassment of particular witnesses. Section 1 of the act creates an offence of 'harassment' which is committed when a person harasses another and knows or ought to know that the conduct amounts to harassment. In addition to the criminal offence created, where harassment has occurred or is apprehended the victim may also bring civil proceedings (s. 3). Such proceedings may include an application for an injunction restraining the perpetrator from pursuing any conduct that amounts to harassment. Landlords may wish to consider funding such applications where particular witnesses are being targeted by perpetrators.

The giving of evidence in court may be particularly traumatic. In proceedings for ASBOs (see **Core Task 7**) in the magistrates' court, on both full applications and interim applications, the provisions of the Youth Justice and Criminal Evidence Act 1999 are applied by Crime and Disorder Act 1998, s. 11. The 1999 Act permits witnesses to give evidence behind a screen, by live video link or in private where they are vulnerable (because aged under 17 or because of a mental disability) or they have been intimidated and are in fear or distress about testifying.

References

Bullock, K and Jones, B (2004) *Acceptable Behaviour Contracts addressing anti-social behaviour in the London Borough of Islington* available at:
<http://www.homeoffice.gov.uk/rds/pdfs2/rdsolr0204.pdf>

Hunter, C, Nixon, J and Parr, S (2004) *What works for victims and witnesses of anti-social behaviour* available at:
<http://www.together.gov.uk/article.asp?aid=1296&c=148>

Websites

Neighbour mediation:

<http://www.mediationuk.org.uk/template.asp?lv=2&MenuItemID=46&MenuID=1>

CCTV: <http://www.crimereduction.gov.uk/cctvminisite4.htm>.

<http://www.informationcommissioner.gov.uk/eventual.aspx?id=5739>

RIPA: <http://www.homeoffice.gov.uk/crimpol/crimreduc/regulation/index.html>.

Witness protection: <http://www.together.gov.uk/article.asp?c=339&aid=3439>

Module 2: For social housing practitioners

Core task 7: Taking effective legal action

The following section of the Action Framework provides detailed guidance on:

- Tenancy conditions relating to anti-social behaviour
- Factors to consider before taking legal action
- Notices of seeking possession
- Relevant legal provisions including detailed guidance on the use of injunctions, possession, demoted tenancies and anti-social behaviour orders (ASBOs)

Tenancy conditions relating to anti-social behaviour

Much legal action is based on the terms of the tenancy agreement, and they are an important part of any strategy to deal with anti-social behaviour.

Codes of Guidance

The ODPM and Housing Corporation Codes of Guidance both require (paras. 3.8 and 3.7) that standards of behaviour are made clear to tenants and that “...reference should be made to any tenancy clauses relating to ASB or nuisance.”



Key questions

- When was your tenancy agreement last reviewed?
- Does your tenancy agreement include ‘no harassment’ clauses?
- What action is taken to make tenants aware of the tenancy terms?
- Are tenants aware of what action will be taken if they are breached?

If you are seeking to review your tenancy terms it may be useful to consider some sample terms and also to consider specific issues relating to:

- The protection of staff
- Noise
- Pets
- Cars

Sample terms: general tenancy agreements and conditions

Good practice would suggest that clauses in tenancy agreements dealing with anti-social behaviour should be clear and detailed, both in order to make it clear to tenants the expectations of the landlord and to be most useful in court proceedings when a breach of the tenancy agreement is being relied upon.

An example of a clause which covers a wider range of behaviour and specifically deals with harassment:

“Nuisance:

Not to cause or let anyone who lives in or visits your home cause a nuisance or annoy neighbours, other tenants, residents, members of their household, visitors or employees of the Association.

Harassment:

Not to, or not to let anyone who lives in or visits your home, interfere with the way of life of, or cause offence to another tenant, visitor, neighbour, employee or agent of the Association because of their race, colour, nationality, ethnic or national origin, or because of their religion, sex, sexuality, physical disability, appearance, marital or employment status.”

An example of a clause that defines what is meant in exact terms:

“You are responsible for the behaviour of every person (including children) living in or visiting your home. You are responsible for them in your home, on surrounding land, in communal areas (stairs, lifts, landings, entrance halls, paved areas, shared gardens, parking areas etc.) and in the neighbourhood around your home.

Neither you nor a person residing in or visiting the property must behave in an anti-social manner, or in a manner likely to cause nuisance or annoyance to a person residing, visiting or otherwise engaging in lawful activity in the locality.

The following are deemed by the Council to be examples of anti-social behaviour:

- (a) Use of offensive language.*
- (b) Offensive drunkenness.*
- (c) Using the premises for immoral or illegal purposes, for prostitution, or for the illegal manufacture, sale or use of drugs.*

The following are deemed by the Council to be examples of behaviour likely to cause nuisance or annoyance:

- (a) Excessive domestic noise, whether from radios, television, hi-fis, musical instruments, DIY activity, late night parties or gatherings.*
- (b) The lighting of bonfires in the garden of the premises, the depositing of litter or rubbish on the premises or the estate of which it is a part.*
- (c) Failure to control the behaviour of any domestic pets including taking inadequate precautions to prevent fouling of neighbouring areas.*
- (d) Using the premises for unauthorised business or commercial purposes.*
- (e) The playing of ball games sufficiently close to neighbouring homes so as to cause nuisance, or resulting in damage to Council property including trees and shrubs.*
- (f) The carrying out of maintenance or repairs to motor vehicles other than those normally used for domestic purposes by the tenant or members of their household.”*

Tenancy terms to deal with specific issues

Protection of staff

Unfortunately there is an increasing number of incidents where housing officers are threatened and attacked and tenancy agreements should cover this situation. They should be widely drafted in order to cover attacks outside the locality of the tenant's home (which would come within the Grounds 2 and 14) and ensure protection of staff wherever they are working. In local authorities consideration may also be given to including councillors amongst those who are protected and in RSLs for board members.

Noise

Noise is usually part of a general clause obliging tenants not to cause a nuisance to their neighbours. However, clauses can be more specific by restricting noise at certain times, for example banning loud music being played during the hours of 11 p.m. and 7 a.m. They should also make it clear that unreasonable noise at any time is a nuisance.

Pets

Most tenancy agreements prevent tenants from keeping pets or limit the number of pets that can be kept in one property. Some agreements prohibit tenants from keeping certain types of animal: particular consideration needs to be given to whether dogs should be permitted at all, and if so whether their numbers should be limited. It may also be thought appropriate to prevent the keeping of potentially dangerous animals such as poisonous snakes. Even if not banned outright, the tenancy agreement may require permission to be sought before certain types of pets are allowed. If this is the case it is important to have the appropriate administrative machinery, which also provides for consistent decision-making. Where pets are permitted tenants should always be required to keep them in such a manner that they do not cause a nuisance, and be required to prevent them fouling communal areas. The possibility of disease caused by dog mess in children's play areas is a particular problem. It is important that, where terms are included which limit the right to keep pets, they are consistently enforced, as tenants will very quickly complain if they are being asked to comply when neighbours are not.

Cars

Cars can form a particular problem. A well-drafted tenancy agreement will provide for the following:

1. Parking is only permitted in designated areas.
2. The tenant may only park in a space or garage rented from the council.
3. Only vehicles within specified dimensions can be parked.
4. The tenant must not carry out motor vehicle repairs which are, or may be, a nuisance.
5. The tenant shall not permit members of his or her family or visitors to park other than as designated.
6. The landlord is permitted to wheel-clamp or tow away vehicles which are not within the designated areas or which are causing an obstruction and to recover the costs incurred.

Factors to consider before taking legal action

A range of legal measures are now available and the ODPM and Housing Corporation Guidance specifies (para. 4.10) that any procedure should include the types of legal and non-legal action which could be taken, and explain the circumstances in which each might be appropriate. It is also important that before taking legal action alternatives are considered. The Housing Corporation states in *Tenancy Management: Eligibility and Evictions*, Circular 07/04 para. 3.2.1 that associations:

“should show a commitment to using the full range of tools now available to tackle ASB. Eviction should be considered only when other interventions have failed to protect the wider community.”

In the case of *Moat Housing Group (South) Ltd. v. Harris & Hartless* [2005] EWCA Civ 287 (see page 221, below) the Court of Appeal criticised the housing association for failing to attempt to deal with the situation other than by rushing to court and stated:

“The Housing Corporation’s guidance takes on a special importance where the behaviour of a tenant’s children is at the root of much of the trouble on an estate. For a child, to become part of an ‘intentionally homeless’ family, with the bleak prospect of being allotted sub-standard accommodation with his/her parents or being taken into care, is such a serious prospect that every RSL should be alert to intervene creatively at a far earlier stage than occurred in the present case, in order to do everything possible to avert recourse to eviction. ECHR jurisprudence, indeed, makes it clear that the right to respect for a home has inherent in it the principle that procedural fairness will be observed before the home is taken away (see, for example, Connors v. United Kingdom (Application no. 66746/01) 27 May 2004, [2004] HLR 52 at para 83), so that an RSL should be slow to short-circuit its normal procedures in nuisance cases by proceeding straight to a notice seeking possession (‘NSP’) or an eviction without prior notice.”



Activity

Use the following information sheet to evaluate your current practice. In all anti-social behaviour cases it is important to ensure that the following factors have been considered prior to taking legal action.

Factors to consider before taking legal action

Overriding principles

- Is the proposed action commensurate to the scale of the anti-social behaviour?
- Are you likely to be granted the order requested?



Attempts at resolution

To illustrate to a judge that it is appropriate and reasonable to grant the order the following questions should be considered:

- Have all the appropriate self-help measures, such as mediation been explored. If not, why not?
- Have other available/appropriate measures been used to resolve the anti-social behaviour. If not, why not?
- Have all potential partners been contacted and kept informed of the case. If not, why not?
- Have all partners acted appropriately? If not, legal action may be delayed and the appropriate remedial action will need to be put into place
- Have all support measures been put into place for the perpetrator to help them stop their anti-social behaviour. If not, why not?
- Has the perpetrator been given sufficient warning of your intentions?

Protecting residents

Before action is taken it is important to ensure that the safety of residents and potential witnesses has been considered:

- Have all support measures sufficient to protect residents been put into place. If not why not?

Notices of seeking possession

Prior to commencing possession or demotion action against secure and assured tenants a notice of seeking possession/demotion must be served, setting out the ground and the particulars of the ground being relied on (Housing Act 1985, s. 83; Housing Act 1988, s. 8). This must give sufficient detail of the alleged behaviour for the tenant to know what he or she needs to do to put it right. While this does not have to include names and details of alleged victims, it should as far as possible set out details of the incidents. Where Ground 1 or 12 is being relied on, the notice should set out the tenancy term which it is alleged is being breached. All allegations of nuisance and annoyance should be set out clearly, preferably with dates and specific details and the case may be struck out if this does not occur (*Slough Borough Council v. Robbins* [1997]).

Slough Borough Council sought possession under Grounds 1 and 2 of HA 1985 Act on the basis of noise nuisance. The notice failed to state what term of the tenancy had been breached. In relation to Ground 2 it simply stated that “...numerous complaints have been received over a period of time that annoyance and nuisance has been caused to neighbours by noise and disruptive behaviour...” The notice was held to be inadequate because the allegations of nuisance and annoyance were insufficiently particularised.

Slough Borough Council v. Robbins [1997] *Health and Housing Insight*, March, p. 15.

Generally the notice must give a particular period, usually four weeks, which must expire before the landlord may proceed to court. The procedure has, however, been modified where possession is sought under Grounds 2 or 14. In either case, possession proceedings may be commenced immediately on service of the notice of seeking possession (section 83(3) of HA 1985; section 8(4) of HA 1988). In the case of a secure tenancy the notice must specify a date on which the tenant is asked to give up possession. This procedure is intended to speed up the possession process so that proceedings may be issued on the same day that the notice of seeking possession is served on the tenant. As the usual period of notice is required where demotion is being sought, if the landlord wishes alternatively to seek possession under Grounds 2 or 14 or seek demotion then it will not be possible to use the shortened notice period.

Sometimes the notice of seeking possession/demotion will in itself be enough to stop behaviour, and no further action will need to be taken. Research has shown evidence that some landlords served a notice of possession without considering whether they would be able to go through to a court hearing if the behaviour did not stop. It is important before serving a notice to consider this, since tenants may feel that they can act with impunity if notices are served and then not acted upon when anti-social conduct continues.

Legal provisions to deal with anti-social behaviour

The law relating to anti-social behaviour is complex. The following section provides detailed guidance on the use of:

- Injunctions
- Possession/demotion
- Anti-social behaviour orders (ASBOs)

We also briefly consider new measures relating to the exclusion of the right to buy and refusal of mutual exchanges. See also **Core Task 3**, earlier, in relation to eviction and extension of introductory tenancies.

These are the measures which may be taken directly by social landlords. It is important to recognise, however, that these are not the only legal measures which may be appropriate. Legal action may be taken by other agencies such as the police or local authorities. The Anti-Social Behaviour Act 2003 introduced a range of provisions such as dispersal orders, property closure orders, parenting orders, which may be appropriate to deal with particular problems. Powers are also available under Environmental Protection legislation to deal with noise nuisances. Further details of these powers are available at: <http://www.together.gov.uk/category.asp?c=21>. If the Police and Crime Bill is enacted social landlords will also get powers to enter into parenting contracts and orders.

As a social landlord it will be important to work closely with other agencies who may be able to exercise these powers (see **Core Task 4** on partnership working).

Deciding on what legal action to take

While some social landlords have embraced using all types of legal action, others, particularly registered social landlords, have found it difficult to move away from using possession action, as this is what they are most familiar with. If staff are to be encouraged to use the full range of legal action it is important that they are confident in their knowledge (see **Core Task 5** – training), but also have clear guidance as to the factors to take into account in deciding the best action to take. Using alternatives to eviction which stop the behaviour complained of, prevents homelessness and the problem of displacement of the perpetrators to another area (or indeed the same area but a different tenure), where the behaviour may simply continue.

Fact sheet: Factors to be taken into account when deciding what legal action is appropriate

- *The speed with which you want to act* – some actions, e.g. injunctions, can be taken more quickly than others.
- *The nature of the anti-social behaviour* – for some very serious types of behaviour only eviction will be appropriate, but more often perpetrators (and their families) can be kept in their homes by demotion, injunctions or ASBOs.
- *The cause of the anti-social behaviour* – can legal action short of eviction be combined where necessary with support and assistance to help to address the causes of the anti-social behaviour?
- *The age and nature of the perpetrators* – where the perpetrators are children or non-tenants legal action directed at them rather than tenants may be more appropriate.
- *The nature of the evidence available* – success in some actions is easier to achieve using hearsay evidence, this is particularly true of injunctions.
- *The group dynamics of perpetrators* – does the close location of certain perpetrators provide a catalyst for the behaviour which could be removed if they no longer lived in close proximity?



Key questions

- Is your organisation able to access non-housing legal action from other partners?
- Do your procedures provide guidance to officers on how to decide what form of legal action is appropriate?

Injunctions

An injunction is an order of the court generally couched in negative terms, i.e. ordering the person not to behave in a particular way.



Key questions

- Does your organisation have a policy on the use of injunctions including, for example, when they are considered appropriate and what pre-legal investigation must have been carried out?
- What information does your organisation keep on the number of applications for injunctions made, their outcomes, and whether they are breached?
- Does your organisation have a protocol with the police on recording powers of arrest and action to be taken where an injunction is breached?

Injunctions and causes of action

An injunction is an order of the court requiring a person to do or refrain from doing a particular act. In cases of anti-social behaviour by the tenant the order will usually require that he or she refrains from acting in a particular way.

In order to obtain an injunction the applicant must have a “...*cause of action*”. Where action is being taken against a tenant, the most usual cause is breach of the tenancy agreement (i.e. a breach of contract). Where the landlord’s property is also being damaged by the tenant’s conduct, the landlord can sue on the basis of the tort of nuisance. However, in general the law of nuisance does not provide a cause of action where it is other residents who are suffering from the behaviour, since the landlord is not directly affected by the action. The Housing Act 1996, introduced a new statutory cause of action, which has now been widened by new sections added by the Anti Social Behaviour Act 2003. The Housing Act 1996 may also be used against non-tenants, and in trying to deal with perpetrators who are not tenants landlords have sought to use these and other causes of action which are discussed below.

Breach of terms of the tenancy

Where action is being taken against the tenant the most obvious cause of action is breach of the terms of the tenancy. Thus where the tenancy sets out a particular course of action which the tenant must not undertake, an injunction can be sought to prevent the tenant acting in breach of that term (e.g. regarding the making of noise nuisance, or the keeping of pets). The terms of the tenancy will be particularly important.

It should be noted, however, that once the tenancy has been brought to an end, usually by possession, the court no longer has the power to grant an injunction under the terms of the tenancy. This was illustrated in the case of *Medina Housing Association v. Case* [2002].

Ms Case was the assured tenant of Medina Housing Association. Medina sought possession against her on the ground that she had breached her tenancy agreement in behaving in a manner that was a nuisance and annoyance. The judge granted an outright possession order and also an injunction against her on the basis that there was a continuing risk that she would behave in an anti-social manner towards people in the area.

Ms Case appealed against the injunction and the appeal was upheld. A court can only grant an injunction based on the contractual tenancy while the contract is in existence, the injunction must come to an end when the tenancy comes to an end.

Medina Housing Association v. Case [2002] EWCA Civ 2001; [2003] H.L.R. 37.

Injunctions against tenant for behaviour of others

Where the tenancy agreement makes the tenant responsible for the actions of those residing in or visiting the property it may be possible to seek an injunction against the tenant. The terms of any injunction must be considered very carefully to ensure that they are clear enough to convince a court that they are enforceable. Some courts are willing to grant injunctions on the basis that “...the defendant is forbidden from permitting their family or visitors from causing a nuisance or annoyance to neighbours”. Nonetheless it is more usually the case that the more vague the terms of the injunction the less likely it will be that the tenant can successfully be committed for breach. It may also be possible, in some circumstances, to seek an injunction requiring the tenant not to admit the perpetrator to the property.

Housing Act 1996

The Housing Act 1996 introduced a new statutory basis for injunctions; the provisions are applicable to both tenants and non-tenants. As amended by the Anti-Social Behaviour Act 2003, two types of injunctions may be sought:

- The anti-social behaviour injunction
- The injunction against unlawful use of premises

Who may seek an injunction?

Injunctions under the 1996 Act may be sought by relevant landlords, who are (s. 153E(7)):

- local authorities
- registered social landlords (RSLs)
- housing actions trusts (HATs)

Anti-social behaviour injunctions

Two conditions have to be satisfied before an anti-social behaviour injunction can be sought by a relevant landlord.

1. The person against whom it is sought must have or be engaging in or threatening to engage in conduct:
 - (a) which is capable of causing nuisance or annoyance to any person (nuisance and annoyance is not further defined but is likely to be interpreted as under Grounds 2 and 14 in a non-technical way), and
 - (b) which directly or indirectly relates to or affects the housing management functions of the relevant landlord (s. 153A(1), (3)). Thus there must be some connection between the conduct complained of and the management of the landlord's accommodation.

2. The conduct must be capable of causing nuisance or annoyance to one of the following people (s. 153A(4)):
 - (a) a person with a right (of whatever description) to reside in or occupy housing accommodation owned or managed by the relevant landlord, i.e. other residents of accommodation owned by the landlord;
 - (b) a person with a right (of whatever description) to reside in or occupy other housing accommodation in the neighbourhood of the housing accommodation mentioned in paragraph (a); e.g. other residents such as tenants of other landlords, owner occupiers and their families;
 - (c) a person engaged in lawful activity in or in the neighbourhood of housing accommodation mentioned in paragraph (a); e.g. postal workers, contractors, milkmen;
 - (d) a person employed (whether or not by the relevant landlord) in connection with the exercise of the relevant landlord's housing management functions.

The act specifically provides (HA 1996, s. 153A(5)) that it does not matter where the conduct occurs. Provided that the two criteria are fulfilled, it will cover, e.g. behaviour directed at the landlord's staff taking place in an office not located in the neighbourhood, and nuisance or annoyance caused to neighbours outside the neighbourhood.

Neighbourhood

Before amendment the 1996 Act used the term "*locality*", but protection is now given to residents and others in the neighbourhood of the landlord's accommodation. It should be noted that in relation to a neighbourhood, housing accommodation includes "*...the whole of the housing accommodation owned or managed by a relevant landlord in the neighbourhood and any common areas used in connection with the accommodation*" (s. 153E(9)).

There is, however, no definition of neighbourhood and the earlier case of *Manchester C.C. v. Lawler* [1998], on the meaning of "*locality*" giving it fairly wide meaning may still remain relevant.

Manchester City Council sought possession against Ms Lawler, who was a secure tenant of Broadoak Drive in August 1997. At a preliminary hearing of the possession action, Ms Lawler gave six undertakings. These included that the tenant would not: *“Cause a nuisance, annoyance or disturbance to anyone residing, visiting or otherwise engaging in a lawful activity in the locality of 8, Broadoak Drive.”* Other undertakings referred to not using or threatening violence or using abusive or threatening language to those in the locality of the house. The council alleged that Ms Lawler was in breach of the undertakings when she threatened a child with a knife and then threatened the child’s mother. The incident with the knife took place on a shopping street on the estate in which Ms Lawler’s house was situated. It was just a few minutes’ walk from her house.

Following the breach of the undertakings the council sought to have Ms Lawler committed for contempt of court. The judge refused to do so on the basis that the wording of the undertaking and in particular the words *“in the locality”* were too imprecise and unclear. The council appealed. The Court of Appeal referred to section 152 and rejected an argument that any injunction based on it would have to define the locality by roads or by distance. Butler-Sloss L.J. said:

“A defined order relating to specific roads or parts of roads may be either too restrictive or too wide and would not reflect the present wording of the statute and the intention of the legislators. For people living in an area such as a village, a housing estate or so on, there would be in practice little difficulty in knowing what people called the locality. One purpose of the phrase “in the locality” was to avoid the often difficult, unrewarding and sometimes lengthy discussion about whether to identify one road rather than another, which would meet the general need to keep the tiresome and obstreperous tenant under some control in the area where he/she was likely to be the most troublesome. That area may be the part or the whole of a housing estate...In each case it will be a question of fact for the judge whether the place in which the conduct occurred was or was not within the locality...”

On the facts the court held that the incident had taken place within the locality of Ms Lawler’s home.

Manchester City Council v. Lawler [1998] 31 H.L.R. 119.

Injunctions against unlawful use of premises

An injunction can be sought by a relevant landlord against conduct which consists of or involved using or threatening to use housing accommodation owned or managed by the landlord for an unlawful purpose. This will cover such unlawful activities such as drug-dealing, prostitution or handling stolen goods which a property may be used for. Note that unlike under possession Grounds 2 and 14 there does not have to be any conviction for the unlawful use.

Other provisions

In addition to breach of contract and the HA 1996, landlords have sought injunctions on the basis of other causes of action. These have been particularly important where the perpetrator is not a tenant. Action may be based on nuisance, trespass, or for local

authorities under Local Government Act 1972, s. 222. Injunctions in cases of noise nuisance and other statutory nuisances may also be sought under the Environmental Protection Act 1990, s. 81(5).

Injunctions and children

Children (i.e. those under 18) are responsible for much of the anti-social behaviour about which complaints are made. This gives rise to many legal problems as the law does not treat children in the same way as adults. This is particularly true in relation to injunctions.

In general it is not possible to obtain injunctions against children. The reasoning behind this is that because injunctions could not be enforced there is no point in granting them in the first place (see *Wookey v. Wookey, Re S. (a minor)* [1991]). The way in which injunctions are enforced is either by imprisonment, by sequestration of goods, or by fine. The civil courts have no power to imprison children (powers to imprison children are carefully controlled by statute). Furthermore, most children do not have any valuable goods which can be taken or any adequate income from which a fine can be paid. But this is not always true: some 16 and 17 year-olds may be in employment or on training schemes. It should not always be assumed therefore that no injunctive action could be taken. Careful enquiry should be made to establish the age of alleged perpetrators and whether they have a potential income against which a fine could be levied. If they do, then injunctive action on the same basis as is set out above against non-tenant adults may be contemplated.

Whether an injunction can be obtained against a minor under what was then the Housing Act 1996, s. 152 was considered in *Harrow L.B.C. v. G.* [2004], which followed the reasoning in *Wookey v. Wookey* and overturned the injunction. The High Court held that where an injunction was being sought against a minor, the landlord should, “...*be in a position to place before the judge evidence as to the personal circumstances of the minor which would make enforcement by way of fine or sequestration of assets an effective sanction for breach.*”

G. was the 13 year old son of a tenant of Harrow L.B.C. He was the subject of numerous complaints by residents on the estate where he lived, which led to an acceptable behaviour contract being entered into between G. and Harrow. Complaints about his behaviour were reduced, so that the contract was allowed to lapse in early July 2003. Nonetheless, when possession proceedings were commenced against his mother for rent arrears later that month, the authority also sought an ASBO and an injunction against G in the same proceedings.

The ASBO claim was eventually discontinued, but an injunction was granted under s. 152. On appeal to the high court, the injunction was discharged. The high court judge held that it should not have been granted as imprisonment was not available against G, and sequestration of goods was very unlikely to be a realistic method of enforcement as it is highly improbable that a 13 year old boy would have adequate assets available to justify an application for leave to issue the writ of sequestration.



Similar considerations apply to an enforcement by way of fine. While a small fine imposed upon a young person would provide the injunction with teeth, a prerequisite of punishing a breach of the order in this way is the existence of money, whether capital or income.

Harrow L.B.C. v. G. [2004] EWHC 17 (QB).

Types of injunction: final and interim

Injunctions can be *final* (i.e. part of the decision of the court after all matters have been heard at trial) or *interim* (i.e. made at an early point in the case before all matters have been heard). In practice their greatest use is at the interim stage, providing an immediate remedy.

Procedure and evidence

The application begins by lodging the necessary papers with the court. These include the statement of claim (which sets out the cause of action and case against the defendant), sworn witness statements giving the factual evidence relied upon, and a draft of the injunction sought. Unless the application is made without notice, the applicant is always required to give the defendant two clear days' notice of an application for an injunction. Once the papers are lodged, a date will be set for the hearing, which gives time for the defendant to be served with copies.

Applications under the HA 1996, ss. 153A – D are governed by (Civil Procedure Rules (CPR) Pt. 65. This provides at CPR 65.3 that the application must be:

- commenced in the court for the district in which the defendant resides or the conduct complained of occurred; and
- supported by a witness statement which must be filed with the claim form.

The hearing takes place on the basis of the written evidence that the court has, and it is therefore vital that this is well presented. It should, if possible, include direct evidence of the behaviour that is being complained about. One advantage of interim hearings, however, is that the court can accept sworn statements which contain hearsay evidence without the Civil Evidence Act 1995 applying (see **Core Task 6**, page 201, above). Where hearsay evidence is being given so that the affidavit or witness statement contains statements of information and belief it must indicate the sources of that information or belief. This means that a housing officer can give evidence that he or she was told of events by a tenant. The source of the information, however, must be identified. While this avoids tenants having to attend court and give evidence directly in any form, it cannot avoid altogether identifying those who have come forward to the landlord to complain. Hearsay evidence is considered in **Core Task 6**.

The judge also has to be satisfied that there is a “serious issue to be tried” (see below); the more indirect the evidence, the less likely it is that the judge will be so satisfied.

Without notice applications

In urgent cases (e.g. where there has been violent behaviour) it is possible to apply without giving the defendant notice of the proceedings (these are sometimes still referred to as *ex parte* applications, and that term is used in the Housing Act 1996). Specific provision is made for an *ex parte* application under section 153E(4) of HA 1996 and the court may, under that subsection, grant a without notice order where it considers it “...just and convenient to do so”. This is appropriate where, for example, notice of the proceedings might provoke the very harm it sought to avert.

Subsection (5) continues that where such an order is made the court:

“...must afford the respondent an opportunity to make representations relating to the injunction...as soon as just and convenient at a hearing of which notice has been given to all the parties...”

The provisions of subsection (5) reflect the usual practice of the courts in without notice applications, as they would also be applied in applications relating to breach of the tenancy. This does not mean that there must be a hearing with all the parties after the order is made. The usual practice is to make a without notice order with liberty for either side to apply to the court for a hearing to take place and this will be sufficient to comply with the requirements. Thus if the respondent tenant does not wish to contest the order there will be no need for any further hearing.

The use of a without notice application, particularly where a power of arrest and exclusion order was attached was severely criticised in the case of *Moat Housing Group (South) Ltd v. Harris & Hartless* [2005], and before a without notice application is made landlords must consider very carefully whether it is justified.

Ms Hartless was an assured tenant of Moat Housing Group. She occupied property on a housing estate with her four children. Mr Harris was the father of the children but – although he often visited – did not live at the property.

On October 27, 2004, Moat applied for an anti-social behaviour injunction under Housing Act 1985, s. 153A, against both of the defendants and against another family living on the estate, Mr and Mrs D. and their children. The terms on which the injunction were sought included, that: (1) the Ms Hartless leave her property by 6 p.m. on October 29, 2004; (2) that both defendants be restrained from entering a defined geographical area, including the area around their existing home; (3) the defendants refrain from engaging in any behaviour capable of causing a nuisance or annoyance to people in and around the area of their existing home. The application requested that a power of arrest be attached to the injunction. An injunction in similar terms was sought against the D. family.

The evidence submitted in support of the applications consisted of statements from a housing officer and from six neighbours. A majority of that evidence was hearsay and referred almost exclusively to the activities of the D. family; allegations were, however, also made against the Harris children.

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Following a without notice hearing on October 29, the county court judge found that the defendants and the D. family had made the lives of others living in the area a misery and granted the injunctions as sought. The injunctions were to last for six months and provision was made for them to be reviewed at an on-notice hearing on November 4.

At 9 p.m. on October 29, representatives from Moat attended Ms Hartless' house and served her with a copy of the injunction. She was informed that the injunction required her to leave the house that day and was told that Moat had police support to assist in ensuring that she vacated the premises. The police, however, refused to enforce the injunction that late at night. Ms Hartless contacted a solicitor who obtained an emergency order staying the injunction.

The defendants appealed against the anti-social behaviour injunction, on the grounds that: (i) the order should not have been made without notice; (ii) a power of arrest should not have been attached; (iii) the extent and duration of the order were too great; and, (iv) the injunction should not have required Ms Hartless to leave her home.

They also appealed against an outright possession order made at a subsequent hearing.

The Court of Appeal allowed the appeal. A without notice injunction is an exceptional remedy and, as a matter of general principle, no order should be made in civil or family proceedings without notice to the other side, unless there is a very good reason for departing from the general rule that notice should be given. The more intrusive the order, the stronger the reasons must be for departure from the general rule. When considering whether to grant an injunction under s. 153A on a without notice basis, judges should consider: (i) that to make a without notice order is to depart from the normal rules of due process and warrants the existence of exceptional circumstances; (ii) that one such exceptional circumstance is a significant risk that the defendant will cause harm to persons if the injunction is not made; and, (iii) that the order must not be wider than is necessary and should be proportionate as a means of avoiding any apprehended harm.

On the facts, the terms of the injunction were highly intrusive and it was neither necessary nor proportionate to the harm which was sought to be prevented for the court to make the order on a without notice basis. The terms were too wide for consideration at a without notice hearing and should have been restricted to those necessary to protect witnesses from violence and to prevent nuisance behaviour; any question of excluding the Ms Hartless from her home should have been reserved to the on-notice hearing. Once satisfied, however, that it was necessary to hear the application on a without notice basis, it had been open to the county court judge to attach a power of arrest to the order until the matter was heard on-notice. As to the length of the order, injunctions under s. 153A that are obtained without notice may, as a general principle, be granted for an initial period of six months, provided that the order is not intrusive and the on notice hearing takes place timeously.

Moat Housing Group (South) Ltd v. Harris & Hartless [2005] EWCA Civ 287; [2005] H.L.R. 33.

Basis for making an interim injunction

To obtain an interim injunction it is not necessary to prove the entire case. What must be shown is that “...*there is a serious issue to be tried*” and that the “...*balance of convenience*” lies in granting the injunction (see *American Cyanamid v. Ethicon Ltd.* [1975]). Where all that is being sought is an order that the tenancy is complied with (e.g. by the tenant refraining from making unreasonable noise), the balance of convenience almost always lies in granting the injunction. After all, the tenant is only being asked to comply with the terms of the tenancy to which he or she has already agreed. Provided that there is some factual evidence of the breach in the affidavits, the court should exercise its discretion to grant the injunction.

Terms of injunction

Injunctions, whether interim or final, must be set out in sufficiently clear terms for the respondent to know what it is he or she has to do. Where the basis for which the injunction is being sought is breach of the tenancy agreement, it is necessary to state more than simply that the “...*tenant should comply with the tenancy conditions*”. The specific conduct (e.g. not making an unreasonable noise, not harassing the victim) needs to be spelled out.

Housing Act 1996, ss. 153A and 153B

Where an anti-social behaviour injunction is obtained under s. 153A of the 1996 Act the injunction may prohibit the person from engaging in the conduct to which the section applies, i.e. conduct capable of causing nuisance and annoyance and which directly or indirectly relates to or affects the housing management of the landlord: s. 153A(6). A section 153B injunction similarly may prevent the unlawful use of the premises: s. 153B(2).

Exclusion orders and powers of arrest

Two further orders which may be added to injunctions can make them more powerful in their effect.

Exclusion orders

Although injunctions have been granted excluding people from their home, this would be a very unusual step. The Housing Act 1996, s. 153C makes provision for an exclusion order to be made when an injunction is sought under s. 153A or s. 153B, if:

- the conduct consists of or includes the use or threatened use of violence or;
- there is a significant risk of harm to one of the persons protected under s. 153A(4). For these purposes harm includes “...*serious ill-treatment or abuse (whether physical or not)*”: s. 153E(12).

An exclusion order may prohibit a person from entering into or being in a particular premises or area: s. 153D(2).

An exclusion order may also be sought by a local authority, RSL, HAT or charitable housing trust on an application for an injunction against a tenant for breach of the tenancy, where the breach involved the tenant causing a nuisance or annoyance or

allowing, inciting or encouraging any other person to cause a nuisance or annoyance: s. 153D(1). In such circumstances, as with s. 153A and 153B injunctions the landlord must also show that there is actual or threatened violence or a significant risk of harm.

Powers of arrest

In the normal course of events, no action can be taken to enforce an injunction until after it has been breached. This is achieved by then returning to court. However, an injunction can be made more draconian by attaching a power of arrest. This can be done only where the court has a statutory authority so to do. A power of arrest can be attached to a s. 153A or s. 153B injunction or to a breach of tenancy injunction in the same circumstances as an exclusion order: ss. 153C(3) and 153D(4).

A power of arrest may also be attached to an injunction under the Local Government Act 1972, s. 222, in the same circumstances: Anti-Social Behaviour Act 2003, s. 91.

Under the HA 1996, the power of arrest may be attached on a without notice application. In making such an order, however, the court must have regard to all the circumstances. In particular, whether the applicant will be “...deterred or prevented” from seeking the order if the power is not exercised immediately (e.g. because witnesses will be intimidated) and whether the respondent (tenant/perpetrator) is aware of the proceedings but is evading service and any delay will seriously prejudice those living in, visiting or otherwise engaging in lawful activity in the vicinity of the relevant premises (section 154 of HA 1996). If an application is being made for a without notice order to which it is sought to attach a power of arrest, then the sworn statements must address these issues. See also *Moat Housing Group (South) Ltd v. Harris & Hartless* [2005], above.

Effect of a power of arrest

Once a power of arrest has been attached to the injunction a police officer may arrest without warrant any person whom he or she has reasonable cause to suspect is in breach of the injunction or otherwise in contempt of court (section 155(1) of HA 1996). In order to facilitate this a copy of the injunction must be delivered to the police station for the area where the conduct complained of took place, as soon as possible after the defendant has been served with a copy of the injunction.

If there is an arrest following a breach, the applicant for the injunction must be informed of the arrest and the person arrested brought before the court (either the high court or, more normally, the county court) within 24 hours.

The judge has power to remand the person in custody or on bail in accordance with Schedule 15 of HA 1996. Remand on bail can be subject to specific conditions, including the payment into court of a recognisance by a surety (i.e. money that will be forfeited if the person fails to attend the next hearing). An application for bail must include the address where the person making the application would reside if bail is granted, the amount of recognisance in which he would agree to be bound and the grounds on which the application is made, including if bail has been refused previously any change of circumstances (CPR 65. Practice Direction). There is no provision for a person in breach of bail conditions to be arrested automatically.

Specific provision is also made to remand a person for medical examination and report, and the powers in the Mental Health Act 1983 are applicable to remand for a report on the person's mental condition (HA 1996, s. 156).

Even where no power of arrest is attached, an application for the issue of a warrant of arrest may be made under section 155(3) of HA 1996 if there has been breach of an injunction. This can only occur where the power of arrest could have been attached but was not.

The refusal of bail was upheld in the case of *Newham L.B.C. v. Jones* [2002].

Mr Jones was a tenant of Newham L.B.C., who were seeking possession against him. They also obtained an injunction under the Housing Act 1996, s. 152, because of his extensive history of abuse, threats and violence. The council sought to commit Mr Jones for breach. He admitted the breach, and the court made no order. After a second breach of the injunction the council sought to have Mr Jones committed. At the first hearing the judge considered whether to remand the defendant in custody pending the full hearing. Mr Jones sought bail and stated he would submit to any conditions imposed. The judge refused bail, on the grounds that a threat to kill had been made, Mr Jones had previously breached the injunction, and the victim lived adjacent to him.

Mr Jones appealed against the refusal of bail, but the Court of Appeal refused to overturn the decision.

Newham L.B.C. v. Jones [2002] EWCA Civ 1779, *Legal Action*, January 2003, p. 21.

Breach of injunction

Apart from arrest for breach of an injunction which is available only in the circumstances set out above, failure to comply with an injunction is dealt with by committal proceedings. These require that the respondent is personally served with the committal proceedings, including a notice which states how the injunction has been broken. Service of this notice will need to be proved at the committal hearing.

Because of the penalties that the courts may impose, before committing someone the judge must be satisfied "...*beyond reasonable doubt*" that he or she has breached the terms of the injunction. If the breach is proved to this standard, the respondent can be fined or imprisoned for up to two years (see RSC Order 52 in the high court, section 4 of the Contempt of Court Act 1981, and the County Courts (Penalties for Contempt) Act 1983 in the county court). The imprisonment may be suspended, which is the most likely outcome of a first single breach. Where the breach of injunction is by someone aged between 18 and 21 they must be committed to a young offenders institution rather than a prison (section 9 of the Criminal Justice Act 1982 (as amended)). Those under 18 cannot be committed to prison.

The Court of Appeal has on a number of occasions upheld imprisonment as an appropriate penalty, see *Tower Hamlets L.B.C. v. Long* [1999], *Nottingham C.C. v. Cutts* [1999], *Leicester C.C. v. Lewis* [2000] and *Barnet L.B.C. v. Hurst* [2002].

Tower Hamlets L.B.C. obtained an injunction against their tenant Mr Long, in June 1997. The injunction stated that the defendant must not:

- (a) Cause or allow to be caused anything which is a nuisance or annoyance or disturbance to other residents, their visitors, friends or family in Rum Close...in particular the playing of loud music;
- (b) Threaten or otherwise intimidate any resident of the said Rum Close, in particular the resident of 35 Rum Close.

There were no problems until April 1998, a month after a new tenant had moved into 35 Rum Close. Mr Long embarked on a personal vendetta against this tenant, in the mistaken belief that he was a paedophile. The council initiated committal proceedings and the judge found that there were breaches of the injunction. The judge committed Mr Long to three months in prison. He appealed. The Court of Appeal held that imprisonment was appropriate, but reduced the sentence to three weeks.

Tower Hamlets L.B.C. v. Long [1999] 32 H.L.R. 219.

An injunction was obtained by Nottingham C.C. against Mr Cutts in August 1998. Amongst other terms, the injunction forbade the tenant from “...threatening abusing or engaging in any conduct which is likely to cause a nuisance or annoyance to persons residing in, visiting or otherwise engaging in lawful activity in the locality of [his address]”. The tenant was in breach within a short time and was committed to prison for 42 days. A further application was made in July 1999 after an incident in May where there had been physical threats of violence, and racist and other abusive language towards a tenant in the street, and a further incident in July towards another tenant who was threatened. A 12 month term of imprisonment was imposed.

The Court of Appeal upheld the sentence, saying it was not manifestly excessive and was an order the judge was entitled to make.

Nottingham C.C. v. Cutts [1999] 33 H.L.R. 7.

Mr Lewis lived in a flat owned by Leicester City Council, with Mr Gordon, the secure tenant. In December 1999 the council obtained injunctions against both of them, excluding them from the flat and a defined area in the locality of the flat for a period of 12 months, on the basis that they were using the flat for the consumption and sale of illegal drugs and for prostitution. A power of arrest was attached to the injunctions.

In May 2000, the police entered a property in the locality of the flat to execute a search warrant. They found evidence of drug-dealing and consumption of illegal drugs. Mr Lewis was present in the property, and was arrested for breach of the injunctions and possession of cocaine. Mr Lewis accepted that he was in breach of the injunction but claimed that he was not involved in any illegal activity in the property.



At the committal proceedings the judge held that he should not decide whether Mr Lewis had been in possession of drugs, as that issue should be decided at the criminal trial. He found, however, that he must have known that illegal activities were taking place in the property. As the breach of the injunction was serious he sentenced him to six months' imprisonment.

The Court of Appeal, in deciding that the sentence was not manifestly excessive set out the following factors as being relevant in deciding the appropriate sentence:

- (a) the injunction was aimed at protecting people from serious anti-social behaviour, which included drug-taking and prostitution;
- (b) at the injunction hearing the evidence against Mr Lewis was compelling;
- (c) the injunction related to a specified area, the extent of which had been carefully considered by the judge;
- (d) Mr Lewis had deliberately breached the court's order, albeit only on one occasion;
- (e) although he was not found in Mr Gordon's flat, the premises in which he was found were close by;
- (f) it was clear that drugs were being consumed in the premises, and although Mr Lewis was not directly involved in the consumption of drugs, he did not leave as soon as he realised they were being consumed;
- (g) Mr Lewis was not a man of good character.

Leicester C.C. v. Lewis [2000] 33 H.L.R. 37.

Mr Hurst's father was the secure tenant of a flat owned by Barnet L.B.C. Following a series of incidents arising when Mr Hurst visited the flat, Barnet sought an injunction against him. The action was adjourned on Mr Hurst giving undertakings to the court that he would not assault, threaten, harass or cause nuisance to anyone residing in or visiting the block.

Following a further incident at the flat, Mr Hurst was arrested by the police and charged with counts of burglary, three counts of criminal damage and threats to kill (his father). He was remanded in custody. Two weeks later, Barnet issued proceedings seeking to commit Mr Hurst for breach of the undertaking. Mr Hurst applied to adjourn the proceedings on the basis that he would suffer prejudice if he had to cross-examine witnesses who would later give evidence at the criminal trial, or if he had to give evidence. He did admit that he had caused a loud noise.

The court proceeded to hear the application on the basis of the admission (but refused to hear any evidence) and sentenced Mr Hurst to nine months' imprisonment.

Mr Hurst appealed against this sentence, which the Court of Appeal found to be manifestly too long, and reduced to three months.

Barnet L.B.C. v. Hurst [2002] EWCA Civ 1009; [2003] H.L.R. 19.

Evidence of criminal behaviour

As can be seen in the case of *Leicester C.C. v. Lewis* [2000], the behaviour which is breach of an injunction may also amount to a criminal offence. In that case the judge on committal decided that he should disregard any evidence which implicated the defendant in any of the drugs activities because of the possibility of criminal proceedings. While accepting the decision in the particular case, the Court of Appeal held that it would not always be appropriate so to do, as in some cases it may be necessary to determine issues which are likely to arise in a criminal trial before that trial takes place.

In *Barnet L.B.C. v. Hurst*, the judge had refused to hear evidence in relation to conduct which was subject to criminal proceedings, and had adjourned all those matters. On a cross-appeal by the local authority, the Court of Appeal re-iterated the principle that contempt proceedings are separate from any criminal proceedings. The court stressed that contempt proceedings should be dealt with swiftly and decisively. Although the county court judge has discretion to adjourn contempt proceedings, he or she should only do so where there would otherwise be a real risk of prejudice which might lead to injustice. As the criminal proceedings in the present case had been discontinued the Court of Appeal did not find it necessary to decide whether the adjournment had been appropriate in this case.

Where a defendant admitted the breaches of an injunction and it was not certain whether criminal proceedings would be brought in relation to the conduct, the Court of Appeal held that it had been wrong to adjourn the proceedings as the committal proceedings could not prejudice any subsequent criminal proceedings in *Stafford B.C. v. Haynes* [2003].

An injunction under the Housing Act 1996, s. 152 was obtained by Stafford B.C. against Ms Anderson, a secure tenant of Stafford. Further injunctions were then obtained against Mr Haynes (also a secure tenant and Ms Anderson's boyfriend) and Mr Haynes' son. When the police and housing officers served the injunctions on Mr Haynes and his son, they were met with abuse from both men and Ms Anderson. The son attacked one of the housing officers. All three were arrested and remanded in custody.

Stafford applied to commit all three and at the hearing all three admitted the allegations against them. Without hearing any argument, the judge decided to adjourn the committal until either there was a further breach or until the question of any criminal proceedings had been determined.

The authority appealed and the Court of Appeal decided that the judge had been wrong to make the adjournment.

Stafford B.C. v. Haynes [2003] EWCA Civ 159; [2003] H.L.R. 46.

Possession and demotion

Whether possession or demotion can be obtained depends on the nature of the tenancy. Most tenants of social landlords will be either secure tenants under the Housing Act 1985 or assured tenants under the Housing Act 1988, and possession or demotion must be sought in accordance with those acts. In order to obtain possession or demotion the correct procedure must be used, the behaviour complained of must fall within one of the “...grounds for possession” or the criteria for demotion, and the court must be satisfied that it is reasonable to grant possession or demotion.



Key questions

- What are your organisation’s policies on using possession and demotion?
- How does your organisation ensure that the requirements of the Disability Discrimination Act 1995 are complied with?
- In what circumstances would your organisation seek suspended possession orders rather than outright orders?
- In what circumstances is demotion sought rather than possession?
- What information is collected on the number of notices of seeking possession served and possession/demotion actions commenced on the grounds of anti-social behaviour and the outcomes of such action? Who is the information considered by?

Breach of tenancy

Grounds 1 and 12 (of the 1985 and 1988 Acts respectively) both simply state that the possession may be granted for breach of a term of the tenancy. In many cases the conduct complained of will fall within Grounds 2 and 14. A well-drawn tenancy agreement may, however, go beyond this. It is also helpful to use breach of tenancy agreement, where the agreement sets out specific conduct which is unacceptable. The fact that the tenancy specifically sets out what is unacceptable behaviour, and that the tenant was therefore aware of this from the start of the tenancy may assist in persuading a judge that it is reasonable to grant possession (see page 234).

Liability for conduct of others

In order to take action under Grounds 1 or 12, against the tenant because of conduct by other people who are members of, or visitors to, the tenant’s household it is important that the tenancy agreement has been framed broadly enough. Whether the tenant is in breach of the terms of the tenancy depends on the specific wording. In relation to family

members and other lodgers and visitors it is common that the prohibition is phrased in terms of the tenant not “allowing” or “permitting” the behaviour.

In *Kensington & Chelsea Royal Borough Council v. Simmonds* [1996] the relevant clauses of the authority’s tenancy agreement stated that the tenant should not “...allow any discomfort, inconvenience or any annoyance to his neighbours whether by himself or members of his household including lodgers visitors or animals”. Furthermore, the tenant should not “...allow members of his household or invited visitors to commit any act which may interfere with the peace and comfort or cause offence to any other tenant...by reason of his race, colour, ethnic origin or nationality”. One of the questions that the court had to consider was whether the tenant had “allowed” her 13 year-old son to commit the racial abuse complained of. The conduct had continued over a period of months, and although the judge had accepted that the tenant found it very difficult to control her son, it was held that she had “allowed” the conduct. If there had been only one single unheralded incident then it could not have been said that the tenant allowed it, but that was not the case here.

A similar approach was taken in *West Kent Housing Association Ltd v. Davies* [1998] where the tenant’s son had again been involved in racial abuse. Even if there is no approval or encouragement of the behaviour the tenant can be responsible for failing to prevent the abuse where the tenancy agreement makes the tenant responsible for ‘permitting’ or ‘allowing’ the behaviour. This was again applied in *Portsmouth C.C. v. Bryant* [2000].

Nuisance and criminal conduct

Grounds 2 and 14 of the 1985 and 1988 Act (as amended by Housing Act 1996) provide the key basis for seeking possession in anti-social behaviour cases.

- “The tenant or a person residing in or visiting the dwelling-house -
- (a) has been guilty of conduct causing or likely to cause a nuisance or annoyance to a person residing, visiting or otherwise engaging in a lawful activity in the locality, or
 - (b) has been convicted of -
 - (i) using the dwelling-house or allowing it to be used for immoral or illegal purposes, or
 - (ii) an indictable offence committed in, or in the locality of the dwelling-house.”

Conduct causing or likely to cause nuisance or annoyance

Nuisance under Grounds 2 and 14 does not require nuisance in a technical sense, but in a natural sense and, in any event, annoyance is a term with a wider meaning: *Harlow D.C. v. Sewell* [2000].

Ms Sewell was the secure tenant of Harlow D.C. The council brought possession proceedings against her on the ground of nuisance and annoyance to neighbours. At the time of the hearing she kept 38 cats, which the neighbours complained fouled their gardens. A suspended order for possession was granted, on condition that the number of cats was reduced to six, within six weeks.



Ms Sewell applied for permission to appeal against the decision on the basis that she could not be liable under the common law definition of nuisance for the acts of her cats. Permission was refused. The wording of the ground is not to be interpreted by strict reference to common law concepts. In the context of the grounds for possession it would be interpreted broadly. It is also extended by the concept of “annoyance”.

Harlow D.C. v. Sewell [2000] J.H.L. D29.

As previously worded, Grounds 2 and 14 did not refer to conduct “likely to cause” a nuisance. The extension of the Grounds is intended to make it easier to obtain possession without the actual victim having to give evidence, since it is not necessary to prove that the behaviour did in fact cause a nuisance to a particular person. Thus the evidence could come from a third party, such as a neighbourhood warden or police officer. The third party will, however, have to witness the conduct complained of; it is not sufficient for a housing officer to simply recount the complaints that have been made to him or her, since that is hearsay evidence (unless hearsay evidence is specifically being admitted – see **Core Task 6**). In cases of noise nuisance it should be sufficient to use measurements of the noise levels where environmental health officers have monitored these.

“Persons residing in or visiting the dwelling-house”

It should be noted that where a breach of grounds 2 or 14 is alleged against a person residing in or visiting the dwelling-house there is no requirement that the tenants have any knowledge of the behaviour (see *West Kent Housing Association Ltd v. Davies* [1998]), although this may be a relevant factor as to whether it is reasonable to grant possession.

“Persons residing, visiting or otherwise engaging in a lawful activity...”

Prior to amendment the Ground simply referred to nuisance and annoyance caused to neighbours. As it is now, a much wider range of victims is encompassed. Visitors and those otherwise engaged in lawful activity include members of the landlord’s staff, members of the emergency services (it has not been uncommon for fire engines to come under attack when entering estates) and workmen carrying out repair work.

“Locality”

The term “in the locality” is not one that has a clear definition in law, and it remains to be seen how the courts interpret it (see *Manchester City Council v. Lawler*, above). It may be that a school comes within the locality of the tenant’s home, as may local shops. Even under the unamended Ground, “neighbour” was given a wide definition by the Court of Appeal in *Northampton Borough Council v. Lovatt* [1997] 30 H.L.R. 875 so as to encompass all persons sufficiently close to the source of conduct complained of to be adversely affected by it.

Illegal and immoral use

It has been held that the conviction for an immoral or illegal purpose must be directly linked to the property: *Abrahams v. Wilson* [1971].

The tenant was convicted for the possession of cannabis. There had been evidence at the criminal trial that some of the drug had been found at her flat. The landlord sought possession on the basis of a conviction for using the premises for an immoral or illegal purpose. The judge refused to grant possession on the basis that the landlord had not established illegal use of the premises. Furthermore he decided that it was not, in any event, reasonable to make an order for possession.

The landlord's appeal was dismissed. While it was not necessary for the conviction relied on to relate specifically to the premises of which possession was sought, the landlord was required to adduce satisfactory evidence to prove illegal use of the premises. This had not been done. Simply finding the tenant on the premises in possession of drugs did not amount to using the premises in connection with the offence. It would, however, have been sufficient if the premises were being used to store or hide the drugs, if this evidence had been available.

Abrahams v. Wilson [1971] 2 QB 88.

Indictable offences

Grounds 2 and 14 originally referred to “arrestable” offences. Since the coming into force of the Serious Crimes and Police Act 2005 in January 2006, all offences are arrestable in certain circumstances, and Grounds 2 and 14 have been amended to refer to “indictable” offences.

Under the Interpretation Act 1978, s. 1, an “indictable offence” means “an offence which, if committed by an adult, is triable on indictment, whether it is exclusively so triable or triable either way.” Thus, it does not cover offences which can only be tried in the magistrates’ court.

Basis of demotion

Local authorities, housing action trusts and RSLs may seek a demotion order against secure, or in the case of RSLs assured tenants (HA 1985, s. 82A(1); HA 1988, s. 6A(1)). A judge may only order demotion if he or she is satisfied that (HA 1985, s. 82A(4); HA 1988, s. 6A(4)):

- the tenant or a person residing in or visiting the dwelling-house has engaged or has threatened to engage in conduct which could attract an injunction under the HA 1996 ss. 153A or 153B and,
- it is reasonable to make the order.

Thus the behaviour is not defined in exactly the same way as for Grounds 2/14, although it is unlikely that behaviour which falls under one will not also fall under the other.

Procedure for obtaining possession/demotion

Before the case can be brought to court various steps should be complied with, which we now consider in turn.

Collection of evidence

The evidence which is available is vital to the success of any case. Evidence collection is considered in **Core Task 6**.

Warning letters

There is no statutory requirement that warning letters be sent to the tenant. However, in most cases it is good practice to do so. If it can be shown that the tenant received warning letters and still persisted with the conduct then it makes it more likely that the judge will find it reasonable to grant possession or demotion. Where there has been an increasing problem on a particular estate many landlords send 'round robin' letters reminding tenants of their responsibilities. It is always useful to ensure that copies of these are kept on file. Again they will make it harder for tenants to say when they are accused of particular behaviour that they were unaware that they were causing a problem or were in breach of their tenancy.

Notice of seeking possession/demotion

This is the next step and has already been considered.

Issuing of proceedings

Proceedings must be issued in the county court on the relevant form claiming possession, together with the particulars of claim.

For demotion claims the Practice Direction issued under CPR Pt. 65 requires that the particulars of claim:

- (1) state whether the demotion claim is an claim under section 82A(2) of the 1985 Act or under section 6A(2) of the 1988 Act;
- (2) state whether the claimant is a local housing authority, a housing action trust or a registered social landlord;
- (3) identify the property to which the claim relates;
- (4) provide the following details about the tenancy to which the demotion claim relates:
 - (a) the parties to the tenancy;
 - (b) the period of the tenancy;
 - (c) the amount of the rent;
 - (d) the dates on which the rent is payable; and
 - (e) any statement of express terms of the tenancy served on the tenant under section 82A(7) of the 1985 Act or under section 6A(10) of the 1988 Act, as applicable; and
- (5) state details of the conduct alleged.

Reasonableness of granting possession/demotion

Under all the relevant grounds the court has discretion over whether to grant possession, and must decide, once the behaviour has been proved, if it is reasonable for the tenant to continue occupation of the premises or in cases of demotion be demoted. There is currently no case law in relation to demotion of tenancies, although it is likely that the same sort of factors which govern possession will also be taken into account.

In some cases the behaviour will be so serious that the only conclusion that the court can reach is that it is reasonable to make a possession order. In such a case, the burden of satisfying the court that it is reasonable, which usually falls on the landlord, is effectively reversed and it will be for the tenant to show that there are exceptional circumstances which indicate that possession should not be granted: *Bristol City Council v. Mousah* [1997] and *West Kent Housing Association v. Davies* [1998].

Mr Mousah was a tenant of Bristol City Council. Under the tenancy agreement, he covenanted not to supply drugs from the property. The covenant deemed the tenant to be responsible for breaches of the covenant by visitors to the property. In April and June 1994 the house was twice raided by the police and people arrested for possession of crack cocaine. The authority issued a notice of possession. Nevertheless, there was a further raid and arrest in August 1994. The authority commenced possession proceedings. Mr Mousah did not respond, and on 6 January 1995 he was ordered to file a defence by 27 January. He still did not respond, and an order was made that he would not be entitled to defend unless a defence was filed within 14 days. The defence was eventually filed on 3 May 1995.

At trial, in October 1995, the judge found that Mr Mousah was not involved in the crack cocaine dealing directly and had been away at the time it was going on. He found, however, that he was aware of the dealing, and on this basis was in breach of his tenancy agreement. Notwithstanding this he decided that it was not reasonable to make an order for possession. Evidence was given at the trial by Mr Mousah's consultant psychiatrist as to his schizophrenia. The psychiatrist said that the eviction would have a "...negative influence on his mental health". On the basis of this the judge found that the public interest in not allowing the use of properties for drug-dealing was outweighed by the public interest in keeping someone off the streets whose illness might cause him to become dangerous. Furthermore, the judge found that if he became homeless he would be dependent on the public sector to re-house him, but that the authority would probably find him intentionally homeless.

The Court of Appeal overturned this decision, concluding that in cases of such serious offences committed at the premises, it would only be in exceptional circumstances that possession would be denied. There were no such circumstances in this case as the judge had misunderstood the evidence about Mr Mousah's health. There was no evidence that he would be a danger to the public or himself.

Bristol City Council v. Mousah [1997] 30 H.L.R. 32.

Mr and Mrs Davies were assured tenants of West Kent Housing Association. The association received numerous complaints about the Davies' and their four children. The most serious complaints were about their 15 year old son Peter, which included racial abuse of a neighbour's 5 year old mixed race child. As well as verbal abuse, Peter had thrown stones and spat at the child. Mr and Mrs Davies had also made threats to neighbours.

The association commenced possession proceedings, but the judge refused possession partly on the basis that Mr and Mrs Davies had not approved of or been party to Peter's conduct. The association appealed and the Court of Appeal allowed the appeal. Robert Walker L.J. in deciding that the judge had erred said:

"This is a case where there was prolonged racial harassment and serious threats and abuse over a considerable period. It seems to me that those are serious breaches which must on their face call for the making of an order. Not only would it be reasonable to make such an order in the circumstances, but it would normally be unreasonable not to make it."

West Kent Housing Association v. Davies [1998] 31 H.L.R. 415.

Generally when considering whether it is reasonable to grant possession, the court can take anything relevant into account in reaching such a decision, but a number of factors should be addressed in particular.

Effect on victims

One important factor which courts should not underestimate is the effect that the behaviour has had on the victims: *Woking Borough Council v. Bistram* [1993]. The Court of Appeal has stated on a number of occasions that tenants should not have to put up with harassment (see e.g. *Kensington & Chelsea Royal Borough Council v. Simmonds* [1996] and *Darlington Borough Council v. Sterling* [1996]). In *Newcastle-upon-Tyne C.C. v. Morrison* [2000] the Court of Appeal held that the judge in refusing possession gave far too little weight to the effect on the authority, the neighbours and the community generally of the message that serious breaches would not result in a possession order. Similar comments were made in *West Kent H.A. v. Davies*.

Mr Bistram was the secure tenant of Woking District Council. His neighbours complained of the threats and foul language that he used towards them. At the trial the judge found that the conduct was still continuing "...as far as that is relevant", but decided that bad language was "...no doubt very much a common experience in certain areas" and refused to order possession. The council appealed successfully. The fact that the nuisance was continuing was highly relevant to the proceedings. The judge's view about local behaviour was unsupported by any evidence and should not have been taken into account. The council's obligations to other tenants were plainly material and had not been taken into account sufficiently.

Woking Borough Council v. Bistram [1993] 27 H.L.R. 1.

Sometimes the effect on the victim and his or her family is such that even if the behaviour has effectively stopped, possession should be granted: *Lambeth L.B.C. v. Howard* [2001].

Mr Howard was the secure tenant of Lambeth L.B.C. In 1994 he began an obsession with his neighbour, Ms Gabriel. This eventually led to him making wholly unwarranted allegations about her, including that she was involved in drugs and prostitution. He also made untrue allegations about the welfare of her daughter to social services and her daughter's school. His behaviour veered between abusive and attempting to be friendly.

He was eventually arrested under the Protection from Harassment Act 1987. He was given bail, and during the 11 months that he was on bail his conduct improved. He was convicted in November 1998, spent a short period in prison, after which he was subject to a restraining order, so that he was not allowed to return to his flat. This was subject to the possibility of variation, depending on the outcome of the possession proceedings which the council had launched in the meantime. These led in September 2000 to an outright possession order being granted.

Mr Howard appealed against the order. Sedley L.J. in upholding the order said:

“There comes a point, it seems to me, of which the county court judge is ordinarily by far the best arbiter, at which a sane adult has to face the consequences of his actions and at which his victims are entitled not only to protection from future harassment but to protection from the worry of having him back as a neighbour, whether on probationary terms or at all. In such circumstances an outright order may well be entirely reasonable and beyond challenge in this court.”

Lambeth L.B.C. v. Howard [2001] 33 H.L.R. 58.

These cases have now been enshrined in statute. By Housing Act 1985, s. 85A and Housing Act 1988, s. 9A (both added by Anti-Social Behaviour Act 2003, s. 16) where the court is considering whether it is reasonable to make a possession order under Grounds 2 or 14 it must consider:

- the effect that the nuisance has had on others;
- any continuing effect the nuisance or annoyance is likely to have;
- the effect that the nuisance or annoyance would be likely to have if repeated.

It will be important for landlords to ensure that they include in their evidence as to the actual or likely effect that the behaviour has had on other residents and (if applicable) staff. Note that there is no equivalent statutory requirement for demotion.

Effect on tenant

To be balanced in the equation is the effect the order will have on the tenant and other members of his or her family. The fact that a possession order will render the defendant homeless is relevant to the issue of reasonableness: *Croydon L.B.C. v. Moody* [1998] 31 H.L.R. 738. However, even where the tenant has children this does not mean that it is unreasonable to order possession unless the court is satisfied that alternative accommodation will be provided. The court should not try and second-guess the decisions of homeless persons units: it is sufficient for the court to know that the applicant will be entitled to make an application as homeless, and that it will be dealt with properly: *Darlington Borough Council v. Sterling* [1997].

Mrs Sterling was a secure tenant of Darlington Borough Council. She lived in a house with her two children, a son aged 13 and a daughter aged 12. The housing authority sought possession under Ground 2 of the Housing Act 1985, because of the son's activities. He had lit fires, thrown stones, made threats with knives and carried out assaults. At the trial the district judge found that the behaviour was proved. In deciding whether it was reasonable to grant possession he took into account that the tenant had done her best to control her son and would face difficulties in finding other accommodation. He decided nonetheless to grant possession, since the neighbours should not have to endure the son's behaviour. In passing, the district judge expressed the view that the behaviour was not the tenant's fault and that she should not be found intentionally homeless.

The tenant appealed to the circuit judge who overturned the finding of possession. He held that although Ground 2 did not require that suitable alternative accommodation be made available, given that the district judge had found that the authority should re-house the tenant it was not reasonable to make an order for possession unless suitable alternative accommodation was available. In the absence of any evidence that such accommodation was available the circuit judge decided it was not reasonable to grant possession.

On appeal to the Court of Appeal, the original order for possession was restored. The Court emphasised that the question of suitable alternative accommodation was not relevant to deciding whether to grant possession under Ground 2. It was relevant to consider the effect on the tenant and others, if the order is made. It was also relevant, however, to consider the effect on the neighbours of not making the order for possession. The court could not refuse an order for possession unless the authority provided suitable alternative accommodation.

Darlington Borough Council v. Sterling [1997] 29 H.L.R. 309.

Nor does the county court have power to require a local authority to provide re-housing proposals as part of the possession process: *Watford B.C. v. Simpson* [2000].

Watford B.C. sought possession against their secure tenant Mrs Simpson, on the basis of nuisance caused primarily by her three children. Shortly before the trial, the authority served witness statements providing details of incidents which had occurred after the commencement of proceedings. At the trial Mrs Simpson successfully applied for an adjournment. On granting the adjournment, the court also gave directions. The directions included an order requiring the authority to write to Mrs Simpson's solicitors setting out their proposals for re-housing the defendant and her children after liaison with other relevant authorities. The authority appealed against the direction.

The Court of Appeal held that the judge had no power to require the authority to set out their proposals for re-housing Mrs Simpson and her children. It was not his function to resolve what would happen to them if he were to make a possession order.

Watford B.C. v. Simpson [2000] 32 H.L.R. 901.

Disabled tenants

Special considerations apply when the tenant's behaviour is caused by a disability, such as mental health problems. In such circumstances the Disability Discrimination Act 1995 will come into play. By section 22(3) of the Act it is:

"It is unlawful for a person managing any premises to discriminate against a disabled person occupying those premises –

- (a) in the way he permits the disabled person to make use of any benefits or facilities;*
- (b) by refusing or deliberately omitting to permit the disabled person to make use of any benefits or facilities; or*
- (c) by evicting the disabled person, or subjecting him to any other detriment."*

In *Manchester City Council v. Romano* [2004], the Court of Appeal confirmed the earlier decision of *North Devon Homes v. Brazier* [2003] EWHC 574 (QB); [2003] HLR 59 that to evict a tenant whose behaviour was caused by a disability was potentially discriminatory under the act. Discriminatory treatment may, however, be justified if the treatment is necessary in order not to endanger the health or safety of any person (which may include that of the disabled person) (1995 Act, s. 24(3)). Health is to be given a wide interpretation: health is a state of complete physical, mental and social well-being and not merely the absence of disease and infirmity. The test in s. 24(3) may be satisfied where, e.g. a neighbour is deprived of sleep so that their work is affected or is caused depression by the behaviour.

In order to comply with the requirements of the 1995 Act landlords should:

- Prior to seeking possession consider whether the tenant is suffering from a disability which is causing the behaviour complained of.
- If they conclude that the tenant is suffering from a disability, consider whether it is necessary to serve a notice seeking possession and/or to bring possession proceedings in order that the health of A. (an identified person or persons) is not put at risk.
- Provide objective justification for that opinion.

Manchester City Council took possession proceedings against two of their tenants Ms Romano and Ms Samari. In the case of Ms Romano the primary allegation were of noise nuisance, caused by DIY activities at anti-social hours and by her teenage sons. In Ms Samari's case the allegations were of harassment, including threats of violence.

A suspended possession order was obtained against Ms Romano, and following breach the council obtained a warrant for possession, which Ms Romano sought to have suspended raising issues of disability, caused by depressive illness. The judge rejected her application, after hearing that the behaviour had caused regular sleep-loss to neighbours.

At the possession hearing for Ms Samari, the judge accepted the evidence that she was suffering from a personality disorder. Her chaotic lifestyle, interacting with her personality disorder, produced violent behaviour, depression and anxiety. He also concluded that her behaviour had led to depression in one of the neighbours affected by Ms Samari's behaviour. He made an order for possession.

The Court of Appeal rejected appeals by both tenants and upheld the orders. The evidence of the effect of the tenants' behaviour on their neighbours was sufficient to justify the evictions under the Disability Discrimination Act 1995.

Romano and Samari v. Manchester City Council [2004] EWCA Civ 834; [2004] H.L.R. 47.

Breach of injunction

Where an injunction has been obtained and is then breached, this is strong evidence that nothing short of outright possession is the appropriate order.

Time delay

The period of time that has elapsed since the tenant has been a nuisance is relevant. Generally the longer the gap, the less likely it is that it will be reasonable to make an order for possession: *Wandsworth London Borough Council v. Hargreaves* [1994].

Mr Hargreaves was the secure tenant of a flat owned by Wandsworth London Borough Council. It was a term of the tenancy that the tenant would,

"...ensure that he, his household and visitors comply with the tenancy conditions and use the premises and the communal areas in a manner which does not cause any discomfort, inconvenience, nuisance, annoyance to or damage to the personal property of other people..."

On the evening of 25 March 1991, Mr Hargreaves was present in the flat with two other people. He had been drinking, but claimed that he knew what he was doing. His companions had brought a canister of petrol and were making fire bombs. Mr Hargreaves stated that he had not realised that this is what they were doing. One of the others threw the bombs out of a window in the flat onto a truck outside; his sleeve caught fire and the petrol canister spilt and ignited when Mr Hargreaves lit a cigarette. As a result the flat was seriously damaged.



The housing authority repaired the flat. Mr Hargreaves was allowed to return into occupation in June 1992, the authority having been advised that it had no option but to do so. The authority commenced possession on the basis of breach of tenancy. The matter came to court in February 1993 and the judge found that it was not reasonable to make an order for possession, since there had been no further complaints in respect of Mr Hargreaves' conduct. The Court of Appeal upheld this decision, stating that when deciding whether to make a possession order the court should look at the relevant circumstances up to the date when the hearing takes place, and whether there had been further misconduct during that period was plainly relevant.

Wandsworth London Borough Council v. Hargreaves [1994] 27 H.L.R. 142.

In some instances, however, the reason that the matter has not been brought to court quickly is because of delays by the tenant. When this is the case it will be less relevant that a long period of time has elapsed since the conduct complained of. In *Bristol City Council v. Mousah* by the time the matter came to court there had been no breaches of the tenancy for over a year. The Court of Appeal did not consider this significant, partly because of the seriousness of the conduct (permitting drug-dealing from the premises) and also because the lapse of time was largely due to the tenant's failure to comply with court orders to deliver his defence.

Where the conduct has continued until the time of the trial this is a very strong indicator that possession should be granted.

Criminal conviction

Simply because the tenant has been convicted of a criminal offence will not necessarily make it reasonable to grant possession. However, the court will take into account the effect on other neighbours, as is illustrated by the case of *Liverpool H.A.T. v. Hankin*.

Mr Hankin was the secure tenant of Liverpool Housing Action Trust. He was convicted of cultivating cannabis at the property and unlawful abstraction of electricity. On the basis of the conviction for an arrestable offence, the landlord sought possession. There had been no complaints from neighbours, and Mr Hankin claimed that he had grown the cannabis for his personal use to alleviate recurring back pain.

The proceedings were dismissed, on the basis it was not reasonable to make an order, since there was no evidence that other neighbours had been upset by Mr Hankin living at the premises, nor that he had grown any cannabis since his arrest.

Liverpool H.A.T. v. Hankin [2002] December, *Current Law* 327.

A similar approach was taken in *Riverside HA v. Barlow* [2002], where the court also relied on *Wandsworth L.B.C. v. Hargreaves* because there had been no incidents in the 14 months since the defendant was released from prison.

Mr Barlow was an assured tenant of Riverside Housing Association. In April 2001 he was convicted of violent disorder involving a fight outside his house with people who were not his neighbours. He was sentenced to 12 months imprisonment, but was released on licence after six months.

Riverside sought possession on the basis of the conviction. The case was heard in December 2002, and the district judge dismissed the possession claim on the basis that although the incident was very serious, the defendant regretted it deeply, there had been no evidence of any other complaints and there had been no incidents since his release.

Riverside H.A. v. Barlow, *Legal Action*, March 2003, p. 29.

Behaviour of others

The fact that the behaviour complained of has been committed by other residents or visitors does not mean it is not reasonable to grant possession, although the extent of personal fault is relevant to the issue: *Portsmouth C.C. v. Bryant* [2000].

Mrs Bryant was a secure tenant of Portsmouth C.C. She lived in her home with her two grandsons, Darren and Lee. The council sought possession on the basis of the behaviour of the grandsons. At the trial the judge found that both had been convicted of burglaries in the area, they had abused and spat at neighbours. He granted a suspended possession order.

Mrs Bryant appealed, but the Court of Appeal upheld the order. While it was not necessary to show for the purposes of Ground 2 that the tenant had any personal fault in the conduct of the perpetrators, who were residing with her, it was relevant to the question of reasonableness. It was open to the judge to decide, given Mrs Bryant's inability to control her grandsons, that it was reasonable to make a possession order.

Portsmouth C.C. v. Bryant [2000] 32 H.L.R. 906.

It may be reasonable to grant possession, even if there are other remedies available against the perpetrators: *Newcastle-upon-Tyne C.C. v. Morrison* [2000].

Mrs Morrison was the mother of two teenage boys, Lee and Allan, who committed a catalogue of serious anti-social behaviour over several years. After one incident they were convicted of violent disorder and witness intimidation, and sentenced to six months' imprisonment. After their release the behaviour of Lee improved, but Allan continued to misbehave and was convicted of further offences.



Mrs Morrison's landlord, Newcastle-upon-Tyne C.C. sought possession. This was refused by the judge on the basis that Allan was the perpetrator of most (if not all) of the anti-social behaviour and that by the time of the trial he was the only source of the trouble. He said that a possession order would not stop the son returning to the area and that there were other ways for the authority to deal with the problem, in particular by applying for an injunction to restrain his behaviour or exclude him from the area.

The Court of Appeal allowed an appeal by the council. The judge was wrong to see the issue of reasonableness as turning on the notion that there was an alternative, and as he thought, more appropriate remedy. The council was not required to apply for an injunction to restrain unlawful conduct before they commenced possession proceedings.

Newcastle-upon-Tyne C.C. v. Morrison [2000] 32 H.L.R. 891.

Behaviour of children

There is no reason simply because the perpetrators are children to refuse possession against the parents. In *Darlington Borough Council v. Sterling* the court overturned a refusal to grant possession against a tenant whose 13 year-old son had been guilty of anti-social behaviour. The courts must always consider the effect on the victims if possession is refused: *Kensington & Chelsea Royal Borough Council v. Simmonds* [1996].

The tenant, Ms Simmonds, was the secure tenant of a flat owned by Kensington & Chelsea Royal Borough Council. She lived there with her 13 year-old-son. The son and his friends had caused considerable inconvenience and annoyance to a neighbouring Pakistani family, the Ahmeds, between 5 June and 1 October 1994. There had been at least two occasions when the son had used racist language. The judge found that it was reasonable to make an order for possession under both Grounds 1 and 2 of HA 1985. The judge decided, however, to suspend the order on condition that there were no further incidents of annoyance or racial abuse directed against the Ahmeds. The order was expressed to be effective for one year and 14 days. The tenant appealed.

The Court of Appeal upheld the order. The tenant was found to have "allowed" the behaviour, and accordingly there had been a breach of the tenancy conditions. The extent of blame on the tenant's part was a relevant consideration in deciding whether to grant possession. Nonetheless possession could be granted where a tenant had tried and failed to control her child. The court had to weigh up not only the interests of the tenant and her family but also those of the neighbours, who should not be deprived of relief simply because the tenant was incapable of controlling her son.

Kensington & Chelsea Royal Borough Council v. Simmonds [1996] 29 H.L.R. 507.

Effect of Human Rights Act 1998

In *Lambeth L.B.C. v. Howard* [2001], the Court of Appeal was asked to consider the impact of Article 8 of the ECHR on the granting of possession under Ground 2. Sedley L.J. said:

“As this court has said more than once, there is nothing in Article 8, or in the associated jurisprudence of the European Court of Human Rights, which should carry county courts to materially different outcomes from those that they have been arriving at for many years when deciding whether it is reasonable to make an outright or a suspended or no possession order. Nevertheless, as the judge in the present case has demonstrated in the final passage of his judgment, it can do no harm, and may often do a great deal of good, if the exercise is approached for what it is, an application of the principle of proportionality.”

Suspended or outright possession?

Once the court has decided that it is reasonable to make an order for possession, the possession order can then be suspended or can be implemented outright. The power to suspend the order is contained in HA 1985, s. 85(2) and HA 1988, s. 9(2). In the *Bryant* case above, it was held that in deciding whether it is reasonable to make an order the judge can properly take into account his power to suspend the order. They do not have to first be satisfied that an outright order is justified, and then decide to suspend it. They may make a suspended order where an outright order would not be appropriate.

It is not unusual in nuisance cases for the court to make a suspended order, the suspension conditional on cessation of the conduct. Suspension is a matter that the court should consider: *Greenwich L.B.C. v. Grogan* [2001].

Mr Grogan was the secure tenant of a flat owned by Greenwich L.B.C. He was convicted of receiving stolen goods, namely two boilers which had been removed from flats adjoining his. He was 17 at the time of the conviction. Following the conviction the council sought possession under Grounds 1 and 2. At the trial the judge accepted that Mr Grogan was a vulnerable young man, who since the conviction, over a year before, had not been involved in any anti-social behaviour. Nonetheless he made an outright order for possession.

Replacing that order with one suspended for 12 months on condition that there were no further breaches of the terms of the tenancy, the Court of Appeal held that the judge had failed to consider the possibility of a long-term suspension on terms. Given that Mr Grogan was trying to live a life free of crime and if he were to be made homeless there was a serious possibility that he would revert to a criminal lifestyle, it was in the public interest and the interest of the community for him to have the opportunity to remain in the flat.

Greenwich L.B.C. v. Grogan [2001] 33 H.L.R. 12.

The factors that the court should take into account when deciding whether to suspend possession have been considered by the Court of Appeal in three cases. In particular the court should consider what the behaviour of the tenants will be like in the future and

the potential difficulties of proving breaches in the future where witnesses have been intimidated: *Canterbury C.C. v. Lowe* [2001], *Gallagher v. Castle Vale H.A.T.* [2001], *New Charter Housing (North) Ltd. v. Ashcroft* [2004]. In *Solon South West Housing Association Ltd. v. James & Another* [2004] EWCA Civ 1847; [2005] HLR 24, the judge made an outright possession order because the behaviour was serious and the defendants did not admit responsibility for it. Although there had been an improvement in the defendants' behaviour in the period before the trial, the Court of Appeal refused to overturn this decision.

Canterbury City Council sought possession against Ms Lowe on the basis that she, her partner and her children had been abusive and threatening to neighbours. On March 22, 2000 the court granted an injunction against her and her partner restraining them from harassing their neighbours. The possession case was heard on March 30, 2000. During the trial the tenant and her partner denied that they had harassed their neighbours in any way. At the end of the trial the partner said that he hoped common sense would prevail and that there would be an end to the dispute with the neighbours.

The judge granted a possession order, but suspended it on the basis of the partner's remark at the end of the trial and because there had been no further incidents of harassment since the grant of the injunction. The landlord appealed. The Court of Appeal allowed the appeal and made an outright order for possession.

The Court of Appeal held that the issue of whether to suspend a possession order is a question for the future. There is no point suspending an order if the inevitable outcome is a breach. Thus it is relevant to consider any factor which indicates whether there will be future breaches, including the fact that a defendant's behaviour has or will improve on the grant of an injunction. In this case, however, the existence of the injunction and its effect were of little significance since it had only been in place one week, during which the principal complainants had stayed away from the tenant and her partner. The judge should have given weight to the fact that the tenant and her partner were denying any harassment. The denials were not consistent with remorse or with a determination not to repeat the conduct. Having come to court once, the fear of the witnesses in having to come to court again is a factor which must be borne in mind.

Canterbury C.C. v. Lowe [2001] 33 H.L.R. 583.

Ms Gallagher was the secure tenant of a house owned by Castle Vale HAT, which she shared with her daughter and her daughter's boyfriend. Between September 1997 and February 2000, the daughter and her boyfriend were convicted of various criminal offences on the estate. The trust received numerous complaints from neighbours concerning their behaviour. In particular, it was alleged that they and a group of friends congregated outside the house late at night making a large amount of noise and using foul and abusive language. Further complaints were also received that a significant amount of noise and foul language frequently came from inside the house.



The trust commenced possession proceedings against Ms Gallagher on Grounds 1 and 2 of Schedule 2, Housing Act 1985. On December 1, 2000, the daughter and her boyfriend moved out of the house to move into another house on the estate which the daughter had purchased. After they had moved out, they occasionally visited the house. At trial, Ms Gallagher admitted that the nuisance had taken place. The judge accepted that she had not committed any acts of nuisance herself but that she could not control her children. There was no reference in the judgment to the fact that the daughter and her boyfriend had left the house. The judge granted an outright possession order. Ms Gallagher appealed.

The Court of Appeal found that the judge had failed to consider whether to suspend the order and substituted an order suspended for two years, on condition of good behaviour. The following factors were relevant to whether to suspend the order: (a) the defendant had lived in the house for about 15 years; (b) although the conduct was grossly offensive, the defendant had not been personally to blame; (c) the defendant had not committed any of the arrestable offences relied on; (d) the defendant was guilty of an omission, namely her inability or unwillingness to prevent her daughter and her boyfriend from causing a nuisance; and, (e) the chances of the nuisance recurring were greatly reduced now that the daughter and her boyfriend had moved out.

Gallagher v. Castle Vale H.A.T. [2001] 33 H.L.R. 72.

Ms Ashcroft was the assured tenant of New Charter Housing (North) Ltd, which was the RSL which had taken over Tameside M.B.C.'s stock. An ASBO was granted against Ms Ashcroft's 17 year old son. When he breached the ASBO (and was sentenced to a six month term of imprisonment) the landlord sought possession against Ms Ashcroft. At the hearing the judge granted a possession order on the basis of the son's behaviour, but suspended it in order to give Ms Ashcroft the opportunity to control his behaviour when he was released from prison.

The landlord appealed against the suspension and the Court of Appeal allowed the appeal, substituting an outright possession order, because Ms Ashcroft had shown no regret for her son's behaviour, nor had she made any proposals as to how she would control his behaviour. In those circumstances there was no basis to give her the opportunity to control her son's behaviour. Further the judge had ignored the interests of the neighbours (who had been intimidated by the son) and the potential difficulties of proving any breaches.

New Charter Housing (North) Ltd. v. Ashcroft [2004] EWCA Civ. 310 [2004] H.L.R. 36.

A promise of improved behaviour in the future, may not always, however, be sufficient: *Lincoln v. Barnet L.B.C.* [2001].

Barnet L.B.C. sought possession against their tenant Mr. Lincoln. When the case came to court an outright possession order was granted on the basis of the behaviour of Mr Lincoln and his girlfriend, Ms Lofting, who lived elsewhere. The behaviour arose primarily when Mr Lincoln was drunk. Prior to the trial in July 2000, Mr Lincoln gave an undertaking as to his future conduct, and his behaviour improved somewhat. In December 2000 for the first time he sought professional help for his alcoholism. At the trial, in January 2001, it was submitted that any order should be suspended, because of Mr Lincoln's attempts to deal with alcoholism. The judge refused to suspend the order stating that the outcome of Mr Lincoln's treatment was uncertain, and sought very belatedly. Further there was no evidence that Ms Lofting had acknowledged the need to amend her behaviour. The Court of Appeal refused permission to appeal this decision.

Lincoln v. Barnet L.B.C. [2001] EWCA Civ. 823.

In a number of the cases already referred to suspended orders were also made. In the *Bistram* case, above, the Court of Appeal made a suspended order, emphasising that if there was the slightest repetition of the conduct outright possession should be obtained. In *Kensington & Chelsea Royal Borough Council v. Simmonds* the judge suspended the order on condition that there were no further incidents of nuisance or annoyance or racial abuse to a neighbouring family. The order was made effective for just over a year. The Court of Appeal upheld the order, despite arguments from the tenant that it was insufficiently clear what would amount to a breach. The court found that it was clear enough for the tenant's son to understand what was required of him. In the *Bryant* case the order was suspended for 22 months on the basis that neither the tenant nor any others who occupied or visited her house committed a nuisance or annoyance. Where an order is suspended a time limit should be imposed on the suspension: *Cobalt Housing Ltd. v. Devine* [2004].

Possession was sought against a local authority secure tenant, and a suspended order was made by consent in August 1999. The order provided for suspension upon compliance with various terms of the tenancy agreement, but without any time limit. The property was subsequently transferred to a housing association, Cobalt Housing Ltd.

When there were further allegations of anti-social behaviour the landlord applied for a warrant for possession. The judge ruled that the original order was defective because no time limit was imposed on the suspension.

Cobalt Housing Ltd. v. Devine [2004] *Legal Action*, January 2005, p. 28 (HHJ Mackay).

In serious cases, such as drug-dealing or violence, it is not appropriate to make a suspended order, and outright possession should be granted: see *Bristol City Council v. Mousah*.

Interaction with rent arrears

In many cases landlords will seek to avoid the difficulties of obtaining possession on the basis of anti-social behaviour, and use the easier route of relying on rent arrears. Where these can be proved, this will most usually result in a suspended order for possession. This in turn raises three issues. First if the order is breached, what is the relevance of anti-social behaviour to any application to suspend a warrant for possession? Secondly, what happens if there has been anti-social behaviour following the grant of a suspended order for possession for rent arrears, and the landlord now wants an outright order? Thirdly, can conditions be imposed as part of the suspended possession order which relate not to rent arrears but to anti-social behaviour?

Warrants for possession

Where a suspended possession order has been granted, once it is breached the landlord may issue a warrant for possession. A tenant may seek to suspend the warrant at any time up until it is executed. Where possession has originally been granted on the basis of anti-social behaviour, it will clearly be relevant to consider whether there has been any further anti-social behaviour, when the court considers whether to suspend any warrant for possession.

A more difficult question arises where a landlord has decided to proceed against a tenant on the basis of rent arrears, and a suspended order for possession is granted. If the tenant subsequently breaches the order and a warrant for possession is issued, can the landlord resist an application for suspension of the warrant on the basis of the anti-social behaviour? This was considered in the *Sheffield C.C. v. Hopkins* [2001].

Ms Hopkins was granted a tenancy by Sheffield City Council. From the outset there were complaints about her behaviour, in particular relating to keeping of animals. She was sent a number of warning letters. She also failed to pay her rent. The council obtained a suspended possession order against her on the basis of the rent arrears. She failed to comply with this, and a warrant for possession was issued.

Ms Hopkins applied to suspend the warrant, explaining she had not complied with the original order because of illness and depression. The council sought to resist her application on the basis of her anti-social behaviour, but the judge decided that he could only consider matters relevant to the rent arrears as this was the ground on which possession had been sought. The Court of Appeal overturned this decision and held that courts could take into account matters unconnected to the original ground for possession. If the landlord wishes to make any allegations the tenant should be given proper notice of them. The court should also consider the fact that the landlord had or had not included allegations as part of the original proceedings or sought to have a condition inserted (see below) which covered the allegation in the order for possession which had previously been made. If a landlord has included an allegation as part of the original proceedings, or sought to have a condition inserted, then that will be in favour of the district judge exercising his discretion to take into account the material sought to be relied upon by the landlord in opposing the tenants' application to prevent execution.

Sheffield C.C. v. Hopkins [2002] H.L.R. 12.

Suspended order

In some situations a suspended possession order may be granted for rent arrears, which is then followed by an act of anti-social behaviour, but no breach of the suspended order. The question which arises here is whether the landlord has to start a fresh set of proceedings or can simply apply to the court to vary the original order to an outright order. In *Manchester C.C. v. Finn* [2002] the Court of Appeal held that the latter was the case.

Ms Finn was the secure tenant of Manchester C.C. A suspended possession order was obtained against her on the basis of rent arrears. Subsequently she was twice convicted of handling stolen goods, after large quantities of stolen goods were found at her flat.

Following the second conviction Manchester applied to the court under the Housing Act 1985, s.85(2)(b) to vary the possession order from suspended to outright. In the first instance the judge held that he did not have the power to make the order. On appeal to the circuit judge the authority applied to vary the order to include a condition that the defendant should not use the property for any illegal activity. Ms Finn appealed to the Court of Appeal.

The Appeal Court decided that a landlord can make an application to vary a suspended order without starting new proceedings. In allowing any application to be heard the court should be astute to see that the tenant is not taken by surprise, but is not bound to allow extra time simply because if fresh proceedings had been brought they would have taken longer. Where a variation is sought the court may impose new conditions, having regard to the guidance in *Sheffield City Council v. Hopkins*.

Manchester C.C. v. Finn [2002] EWCA Civ 1998; [2003] H.L.R. 41.

Imposing conditions

Where a suspended order is made the court has power to impose such conditions as it thinks fit (HA 1985, s. 85(3); HA 1988, s. 9(3)). During the course of the judgment in *Hopkins*, the Court of Appeal suggested that even where possession is being sought on the ground of rent arrears, conditions may be imposed relating to anti-social behaviour.

“...it would be perfectly appropriate for a landlord to give informed notice to a tenant (and those who represent the tenant) that although certain matters were not going to be relied on as a basis for an order for possession, if the court decided to make an order for possession the landlord would ask the court to impose a condition to prevent the conduct referred to taking place thereafter. This would be particularly appropriate where the fear is nuisance or annoyance. The condition should be sufficiently specific and clear for the tenant to be in no doubt as to the conduct that would constitute a breach of the condition ...There would have to be some prima facie evidence that there had been conduct on the part of the tenant which justified the imposition of the condition.”

Possession or demotion?

In addition to considering whether to seek outright or suspended possession landlords will also now have to consider whether to seek possession (whether suspended or not) or demotion. Clearly demotion will not be appropriate for the most serious cases where the landlord is seeking outright possession and generally landlords will need to choose between seeking suspended possession or demotion. The advantages of a demotion order are:

- That the landlord is in control of any possession process once there has been a breach; there cannot, for example, be an application by the tenant to suspend a warrant for possession.
- If the tenant's behaviour does improve he or she will generally be reinstated to having full rights.

CPR Pt. 65.12 makes provision for claims to be made in the alternative so that it is possible to take a twin-track approach. This will be particularly useful while awaiting a feel from the courts as to how judges are going to approach applications for demotion.

Effect of a demotion order

If a landlord obtains a demotion order the effect will depend on whether the landlord is a local authority, HAT or an RSL, and whether the tenant is a secure tenant or an assured tenant.

In the case of a local authority (or HAT) secure tenancy if the judge considers it reasonable to make the order, the tenancy will be demoted to what is in effect the equivalent of an introductory tenancy (see **Core Task 3**) for 12 months. Such tenancies are known as "*demoted tenancies*" and governed by amended provisions in the Housing Act 1996. If possession is not sought within the 12 month period the tenancy will become secure again. If an RSL seeks possession against a secure or an assured tenant, the tenancy may be demoted to an assured shorthold tenancy (known as demoted assured shorthold tenancies). The assured shorthold will last for 12 months and if no possession proceedings are taken the tenancy will become assured (even if originally secure) at the end of the 12 month period.

The terms of the demoted and demoted assured shorthold tenancy

Where a landlord obtains a demotion order and the tenant remains in occupation, the secure or assured tenancy is terminated on the date specified in the order and a demoted tenancy, or as the case may be a demoted assured shorthold tenancy is created on that date (HA 1985, s. 82A(3); HA 1988, s. 6A(3)). The following are automatically terms of the new tenancy (HA 1985, s. 82A(3), (5); HA 1988, s. 6A(3), (8)):

- that any arrears of rent payable at the termination of the secure/assured tenancy become payable under the new tenancy;
- that any rent paid in advance or overpaid is credited to the tenant;
- that the parties, the period of the tenancy, the rent and the dates on which the rent is payable remain the same.

The landlord may serve on the tenant a statement of any other express terms of the secure/assured tenancy which are to apply to the demoted/demoted assured shorthold tenancy (HA 1985, s. 82A(7); HA 1988, s. 6A(10)). These must be specified in the landlord's particulars of claim (CPR Part 65, PD).

If the landlord has not served a notice of proceedings during the 12 month period, once the period has expired a demoted tenancy will automatically become a secure tenancy (HA 1996, s. 143B). A demoted assured shorthold tenancy will, similarly, automatically become an assured tenancy at the end of the 12 month period (HA 1988, s. 20B(2)). The effect of these provisions is that because a secure tenant of an RSL will be demoted to an assured shorthold tenancy, he or she cannot again become secure, but will become assured.

Obtaining possession against a demoted tenant

Once a demoted tenancy has been created a local authority or HAT may seek possession by serving a notice of proceedings for possession, within the 12 month period. If a notice is served then the tenancy will remain demoted, even if the 12 month period has ended, for up to six months from the date of service. If the landlord has not brought proceedings within this period, and the 12 month limit is passed, the tenancy will become secure again: HA 1996, s. 143B.

The notice of proceedings must set out the reasons for the landlord's decision to apply for the order, specify at least four weeks' notice, and inform the tenant of his right to request a review (HA 1996, s. 143E). The reasons do not have to be related to anti-social behaviour, and could, as with introductory tenancies, encompass rent arrears. As with introductory tenants the demoted tenant has 14 days in which to request a review (HA 1966, s. 143F). The review must be conducted in accordance with regulations. In England the regulations are the Demoted Tenancies (Review of Decisions) (England) Regulations 2004 (SI 2004/1679). They are in the same terms as those relating to introductory tenancies, and the same issues will apply (see **Core Task 3**).

If a review is unsuccessful, or is not requested, the landlord may then apply to the court for a possession order. Again as with introductory tenancies, the court has no discretion to refuse possession, once satisfied that the procedural requirements have been met (HA 1996, s. 143D).

Obtaining possession against a demoted assured shorthold tenant

The procedure to obtain possession against a demoted assured shorthold tenant is exactly the same as for other shorthold tenants. The landlord must serve a notice in accordance with HA 1988, s. 21, this does not require that any grounds are specified. Once the notice period has expired the landlord may apply to court for possession, which the court has no discretion to refuse. Unlike other assured shorthold tenancies, there is no moratorium on obtaining possession during the first six months of the tenancy.

Rights of demoted and demoted assured shorthold tenants

The rights of demoted tenants are set out in HA 1996, ss. 143H to 143N. They are in almost identical terms to those of introductory tenants (see **Core Task 3**), including

rights to succession (although note that this is extended to include same-sex partners). Demoted tenants have no right to buy.

Demoted assured shorthold tenants, have the same rights, e.g. as to succession, as granted under the Housing Act 1988 to other assured tenants.

Anti-Social Behaviour Orders (ASBOs)

Anti-social behaviour orders were introduced by the Crime and Disorder Act 1998, s. 1, and have since been amended by the Police Reform Act 2002 and the Anti-Social Behaviour Act 2003. In this section we will not consider ASBOs which may be obtained on criminal conviction (often referred to as CRASBOs), as such applications may not be made by social landlords.

A Home Office research report concluded (Campbell, 2002):

- ASBOs are being used successfully in a number of areas both as a means to stop existing anti-social behaviour and as a deterrent to future acts.
- Different models of partnership working have emerged – some more successful than others.
- Irrespective of the success of the partnership, the lead agency's commitment to the process and the input of key players within each organisation is essential.
- There have been some complaints around the bureaucracy involved – but some partnerships have managed to minimise these.
- Some areas have benefited greatly from the problem solving approach to anti-social behaviour, often resulting in there being no need to apply for the ASBO. Other areas have found this approach increases delays.
- The take-up and use of ASBOs varies enormously between different areas of the country.



Key questions

- Who in the crime and disorder partnership is responsible for anti-social behaviour orders?
- Is there a protocol for their use?
- Do you have an agreed procedure for applying for ASBOs?
- What response have you had from other members of the partnership (e.g. police, local authority) to requests for anti-social behaviour orders?
- If you are not happy with the current arrangements what action could you take?

Formal guidance on the use of ASBOs has been issued by the Home Office (2002). It may be noted that there has been some concern regarding the use of ASBOs expressed recently (see <http://www.asboconcern.org.uk/>). It should be remembered that the effect of many ASBOs is to criminalise behaviour which would not otherwise be a crime. Careful consideration should therefore be given as to whether they are an appropriate remedy.

Who may apply for an order?

The following authorities (referred to in the 1998 Act as “*relevant authorities*”) may apply for an order:

- the council for a local government area (in England a district or borough council, in Wales a county or county borough);
- county councils in England;
- the chief officer of police of any police force maintained for a police area;
- the chief constable of the British Transport Police Force;
- any person registered under section 1 of the Housing Act 1996 as a social landlord who provides or manages any houses or hostel in a local government area;
- a housing action trust (HAT).

The Secretary of State may add further authorities to those who may apply by statutory instrument, but has not yet exercised this power.

Age requirements

An ASBO may be sought against anyone aged 10 or over. The previous Home Office Guidance suggested that they should only be used against 10 and 11 year olds where the child’s behaviour is part of anti-social behaviour by a family or group which includes older people. There is no such recommendation in the current guidance.

Conditions for making an order

The court may make an order only if three conditions are satisfied (section 1(1)):

- the person has acted in an anti-social manner, defined as “*...in a manner that caused or was likely to cause harassment, alarm or distress*”;
- the harassment, alarm or distress must be caused to one or more persons who are not members of the same household as the person against whom the order is made;
- the order is necessary to protect relevant persons (generally those within the area of the local authority or police area, or in the case of an application by an RSL or HAT residing in or who are within the vicinity of the landlord’s properties) from further anti-social acts or conduct.

It is to be noted that there is no specific spatial context to the behaviour. Where sought by the local authority or police, it can take place anywhere in the area. Those who are affected by it need not be in any sense neighbours, nor indeed is there any link with the local authority’s tenants. The order may be sought against anyone in the area.

The current Home Office guidance suggests that ASBOs may be used flexibly and should not be thought of as a “last resort” (see p. 8). They may be used for a range of behaviour:

“The most common behaviour tackled by ASBOs is general loutish and unruly conduct such as verbal abuse, harassment, assault, graffiti and excessive noise. ASBOs have also been used to combat racial harassment, drunk and disorderly behaviour, throwing missiles, vehicle crime and prostitution. Many other problems, for instance the use of air guns, would also lend themselves to this approach” (p. 11).

Whether street prostitution in a residential area amounts to conduct which causes “harassment, alarm or disorder” was considered in *Chief Constable of Lancashire v. Lisa Marie Potter* [2003]. The High Court held that it was capable of doing so, dependent on the facts of each case.

Ms Potter worked as a prostitute in a residential area in Lancashire. The police applied for an ASBO against her. The magistrates’ court found that there was a problem of street prostitution in the area, and that Ms Potter’s behaviour contributed towards it, nonetheless it refused to grant the order as Ms Potter’s behaviour could not be aggregated with the other prostitutes and on its own it had not been shown to cause harassment alarm or distress.

Allowing the police appeal, the high court held that to satisfy s. 1(1) it had to be proved to the criminal standard that the defendant’s conduct was “...more probable than not” to cause harassment alarm or distress. Street prostitution was capable of doing this, although would not necessarily do so, and whether an individual’s did was a question of fact. On the facts it was difficult to understand the decision of the magistrates’ court.

Chief Constable of Lancashire v. Lisa Marie Potter [2003] EWHC 2272; [2004] JHL D2.

Applying for an order

An ASBO can be made in three circumstances:

- By application to the magistrates’ court (s. 1(1)).
- By application to the county court as part of other (e.g. possession) civil proceedings (s. 1B).
- On conviction in other criminal proceedings.

Consultation

Prior to applying for an order, whether in the magistrates’ or county court, there must be consultation (section 1E). Where the local authority or police are making the application they must consult with each other. Where an RSL or HAT are making the application, they must consult with both the local authority and the police.

“The statutory requirement for consultation does not mean that the agencies must agree to an application being made but rather they are told of the intended application and given the opportunity to comment. This should ensure at the very minimum that actions taken by each agency regarding the same individual do not conflict.” (Home Office, Guidance, p. 26).

Application to magistrates’ court

An application to the magistrates’ court must be made on the form set out in Schedule 1 to the Magistrates’ Courts (Anti-Social Behaviour Orders) Rules 2002 (S.I. 2002/2784).

Application to county court

An application to the county court under section 1B may be made if the relevant authority is a party to other proceedings against the defendant. The most obvious example would be where a local authority or RSL is seeking possession against a tenant, and also wishes to obtain an ASBO to prevent them coming back into the area and harassing former neighbours.

A relevant authority can also apply to be joined to proceedings to which it is not a party. An example might be where a private landlord is taking possession proceedings.

Where civil proceedings, e.g. for possession, is being sought against a tenant, it is now possible to apply for other persons to be joined to the county court proceedings to have an ASBO granted against them (section 1B(3A)). The person must have acted in an anti-social manner, and the anti-social acts must be relevant to the civil proceedings. The most likely use is where non-tenant members of the household have been responsible for anti-social behaviour which has led to possession proceedings against the tenant.

All ASBO applications in the county courts are governed by CPR Pt. 65 and its associated Practice Direction.

Children and young persons

The Children and Young Persons Act 1933 applies in relation to applications. Where an application is made in relation to child who is under 16 the court must require the attendance of a parent or guardian. The court may do so for 16 and 17 year olds.

Until recently reporting restrictions did apply, so that details of young people could only be reported if the court lifted them. Since January 20 2004, section 49 of the Children and Young Persons Act 1933 (restrictions on reports of proceedings in which children and young persons are concerned) does not apply in respect of the child or young person against whom the order is made but section 39 of that act (power to prohibit publication of certain matters) does.

When an ASBO is being contemplated for someone aged under 18, the court must consider whether the order is in the best interest of the child, although this is not the sole consideration: *R. (Kenny) v. Leeds Magistrates’ Court* [2003] EWHC 2963 (Admin) and *R. (A) v. Leeds Magistrates’ Court* [2004].

Leeds City Council applied for an ASBO against A., a child. An interim ASBO was granted. A. sought judicial review of the order, claiming that the court in making the order had failed to consider his best interests. The high court upheld the view that this was a primary consideration, but stated that it is not the only primary consideration; factors such as the public interest must also be taken into account. In the circumstances it was not appropriate to quash the order.

R. (A) v. Leeds C.C. [2004] EWHC 554 (Admin).

The position where the child is the subject of a care order and therefore in the care of the local authority and the authority is itself seeking the ASBO was considered in *R (M (a child)) v. Sheffield Magistrates' Court* [2004]. Although there is a conflict of interest in such cases, the authority is not precluded from making the order, if to do so is necessary for the purposes of protecting members of the public.

M. was subject to a care order under Children Act 1989, s. 31. He lived in a series of residential care homes, before the local authority placed him temporarily with his grandmother. There were allegations about his anti-social behaviour and the case was considered by an ASB panel. A report from social services suggested that an ASBO would not solve his behaviour problems, but the panel nevertheless decided to seek the order.

An application was made for an interim ASBO. Judicial review was sought on behalf of the child against the order on the basis that the court had failed to consider the authority's conflicting interests. The court concluded that there was a conflict of interest, but that nonetheless the authority could proceed with the application if it considered it necessary for the purposes of protecting members of the public.

The following guidance was given to assist authorities contemplating seeking an ASBO against a child in its care:

- (1) An authority is obliged to ascertain the wishes of the child against whom an ASBO is to be sought, and the wishes of any person having responsibility for him, in relation to the ASBO itself (s. 22(6), 1989 Act); this information should be reported in full by those who exercise care functions in relation to the child and independently drawn-up by social services; the report should be considered by the authority before a decision is made as to whether or not to apply for an ASBO.
- (2) The social worker assigned to a child against whom an ASBO is sought should not participate in the decision to apply for the ASBO, although in exceptional circumstances they may be required to clarify a matter in the report, or produce a report on a new matter; where such reports are required, they can be done in writing.
- (3) A representative from social services and/or the child's social worker should be available to assist and be witnesses at court, if requested, for the child against whom the ASBO is sought; a court should not, save in exceptional circumstances, make an ASBO against a child without someone from the social services being available to give evidence.



(4) Where social services decide to support an ASBO application, after detailed consideration with the child and anyone with parental responsibility for that child, different considerations might apply; once a decision had been taken to apply for an ASBO there should be no contact in regard to this issue between the ASBO team and the social services section without the child's legal representative's consent.

The interim ASBO in the case should not have been granted where there was no-one present from social services. No further steps in the ASBO application should be taken until those matters set out in the court's guidance had been complied with.

R. (M (a child)) v. Sheffield Magistrates' Court [2004] EWHC 1830 (Admin).

Interim orders

In order to provide protection in advance of a full hearing authorities may apply to either the magistrates' or the county court for an interim order, which the court may grant where it considers "...that it is just to make an order" (s. 1D(2)). The order is for a fixed period pending the full hearing and can prohibit the defendant from doing anything described in the order (s. 1D(3)). The effect of breach of an interim order is the same as for a full ASBO.

In deciding whether it is just to make the order, the court will not have the complete evidence available on a full hearing and the Home Office Guide (p. 19) suggests that the court will determine the application on the basis of whether the application of the full order has been properly made and whether there is sufficient evidence of an urgent need to protect the community.

An application to the magistrates' court must be made on the form set out in Schedule 5 to the Magistrates' Courts (Anti-Social Behaviour Orders) Rules 2002 (S.I. 2002/2784). Applications in the county court must be made in accordance with CPR 65.26.

An application may be made without giving notice to the defendant if the justices' clerk gives leave. Details are set out in the Magistrates' Courts (Anti-Social Behaviour Orders) Rules 2002, r.5. Leave may only be granted if the clerk is satisfied that it is necessary for the application to be made without notice. Where an application is granted without notice, the order must be served on the defendant as soon as practicable, and does not come into effect until it has been served. If a without notice order is not served on the defendant within 7 days it ceases to have effect. There are no specific without notice procedures in the county court, but the usual provisions for interim applications apply, which permit without notice applications if it appears to the court there are good reasons for applying without notice (CPR 25.3).

A challenge to without notice interim ASBOs under article 6 of the European Convention on Human Rights was made in *R. (M) v. The Secretary of State for Constitutional Affairs*. The challenge was rejected as the making of an interim ASBO was not a determination of civil rights within article 6, but a temporary measure regulating behaviour until the determination of the parties' rights at the substantive hearing. The court upheld the interim order against K., but overturned the one against M. as unnecessary.

M. was a boy aged under 18 who had engaged in anti-social behaviour, including drug-dealing in Leeds. The police applied for an interim ASBO against him, without notice. The order was granted in the magistrates' court, and M. challenged it by judicial review.

At the judicial review hearing, the judge dismissed the challenge. M. further appealed to the Court of Appeal. An application for an interim ASBO is not a determination of a civil right within article 6 of the ECHR. Further, there was no requirement to apply a more stringent test to interim ASBOs; the test is that contained in s. 1 of the 1988 Act. The evidence had justified the granting of the ASBO.

R. (M) v. The Secretary of State for Constitutional Affairs [2004] EWCA Civ 312.

Nature of the proceedings

An application to the magistrates' court is made by complaint (section 1(3)). In deciding whether a defendant has acted in an anti-social manner, the court must disregard behaviour that is shown to be reasonable in the circumstances (section 1(5)).

The reference to the word "*complaint*" indicates that this first stage is intended to be treated as a civil matter in the magistrates' court (see section 51 of Magistrates' Courts Act 1980). As such the court will have the power to proceed in the defendant's absence (section 55 of MCA 1980). The fact that the proceedings are civil in nature means that hearsay evidence is permitted in accordance with the Civil Evidence Act 1995 (see **Core Task 6**).

The nature of the proceedings and whether they can appropriately be classified as civil was considered by the House of Lords in two cases which were heard together: *Clingham v. Kensington & Chelsea R.B.C. and R v. Crown Court and Manchester ex p. McCann* [2002]. The House of Lords held that the proceedings were correctly classified as civil both under the European Convention on Human Rights and domestic law, and accordingly hearsay evidence could be admitted in accordance with the 1995 Act and the Magistrates' Courts (Hearsay Evidence in Civil Proceedings) Rules 1999. In deciding whether an order should be made, however, they concluded that a criminal standard of proof should be applied. Lord Steyn giving the leading judgement said at para. 37:

"...pragmatism dictates that the task of magistrates should be made more straightforward by ruling that they must in all cases under section 1 apply the criminal standard.... [I]t will be sufficient for the magistrates, when applying section 1(1)(a) to be sure that the defendant has acted in an anti-social manner.... The inquiry under section 1(1)(b), namely that such an order is necessary to protect persons from further anti-social acts by him, does not involve a standard of proof: it is an exercise of judgement or evaluation. This approach should facilitate correct decision-making and should ensure consistency and predictability in this corner of the law. In coming to this conclusion I bear in mind that the use of hearsay evidence will often be of crucial importance. For my part, hearsay evidence depending on its logical probativeness is quite capable of satisfying the requirements of section 1(1)." (emphasis in original).

Clingham

Kensington and Chelsea R.L.B.C. applied for an anti-social behaviour order against Mr Clingham, then aged 16, about his behaviour on an estate owned by a housing trust. The evidence comprised primarily evidence contained in records of complaint to the trust and in crime reports compiled by the police. The latter contained complaints of a serious nature include assault, criminal damage and drug-dealing. The evidence did not identify the complainants. The magistrate ruled that the evidence was admissible, and Mr Clingham challenged this decision in the High Court. The High Court held that the evidence was hearsay, since it was being used not just to prove that complaints had been made, but also that Mr Clingham had acted in the ways that the complainants to the police alleged. The evidence was admissible, and it was for the magistrate to decide what weight to give to it. Mr Clingham appealed to the House of Lords.

McCann

The Manchester police sought anti-social behaviour orders against the three McCann brothers, who at the time were aged 16, 15 and 13. The brothers were accused of acting in an anti-social manner contrary to section 1 of the 1998 Act. An order was granted in the magistrates' court banning them from entering a particular area of Manchester, and from using or engaging in any abusive, insulting offensive threatening or intimidating language or behaviour in any public place in Manchester, from threatening or engaging in violence or damage against any person or property within Manchester, or from encouraging anyone else to commit such acts. On appeal to the Crown Court, and thence to the Divisional Court, Court of Appeal and House of Lords they argued that the proceedings were criminal in nature, and accordingly the criminal rules of evidence should have been applied. Furthermore it was argued that as criminal proceedings the protection of article 6(2) and (3) of the European Convention on Human Rights was applicable.

The appeals all failed. The proceedings were held to be properly classified as civil under both domestic (English) law and also under the jurisprudence of the European Court of Human Rights. Hearsay evidence was properly admissible. The criminal standard of proof should, however, be applied.

Clingham v. Kensington & Chelsea R.B.C. and R. v. Crown Court and Manchester ex p. McCann [2002] UKHL 39.

Terms of the order

If the necessary conditions are proved, then the court may make an anti-social behaviour order which prohibits the defendant from doing anything which the court considers necessary “...for the purpose of protecting persons ... from further anti-social acts by the defendant” (s. 1(6)). This gives an extremely wide discretion to the court, but could include banning defendants from a particular area of the authority for some or all of the time, e.g. between 6 p.m. and midnight. It should be noted that terms must be framed in a negative way, and cannot impose positive requirements (e.g. to attend clinics to deal with substance abuse) on an individual. Examples of prohibitions can be found at: www.crimereduction.gov.uk.

An order in effect requiring a defendant to be in a particular place and certain times was upheld in *R. (Loneragan) v Lewes Crown Court and Brighton & Hove C.C.* [2005] EWHC 457 (Admin). The ASBO included a prohibition that forbade the claimant from being in any place other than three specified addresses between the hours of 11.30 hours and 06.00 hours, thereby imposing a curfew on him. This was held by the high court to be prohibitory in nature and not inconsistent with the civil nature of an ASBO.

The order will last for a minimum period of two years, unless varied or discharged (section 1(7) and (8)). There is no maximum period, and some periods as long as ten years have been reported. An order cannot be discharged in less than two years without the consent of both parties (section 1(9)).

Parenting orders

Where an order is made against a person under the age of 16 the court must make a parenting order if the court is satisfied that the relevant condition is fulfilled, and if it is not satisfied it must give reasons in open court why it is not (section 9(1B)). The relevant condition is set out in section 9(6) of the act and is that the parenting order would be desirable in the interests of preventing any repetition of the kind of behaviour which led to the anti-social behaviour order being made.

Reporting restrictions and publicity

Where an ASBO is obtained against a minor the court has a discretion as to whether to impose reporting restrictions under the Children and Young Persons Act 1933, s. 39. Where an interim ASBO is imposed the court should take into account in deciding whether to impose restrictions, the interim nature of the ASBO. It must consider the individual facts of the case and undertake a balancing exercise between the public interest in allowing publication of a defendant's details and the welfare of the defendant: *R. (on the application of K. v. Knowsley M.B.C.* [2004] EWHC 1933.

Some local authorities and police have been keen to publicise ASBOs and have included in publicity material photographs of the defendants. In *R. (Stanley) v. Commission of Police of the Metropolis* [2004] the High Court considered whether such publication breached defendants' right to privacy under ECHR Art. 8, and concluded that such publication was justified under Art. 8.2.

The three young men involved were members of a gang which was responsible for serious anti-social behaviour on a housing estate in the authority's area. The behaviour, which started in August 2000, included throwing stones and rubbish and spitting from balconies, causing damage to windows, doors and motor vehicles, starting fires, defacing walls with graffiti, shouting and screaming, playing loud music, obstructing, abusing and threatening residents and taking drugs.

In September 2003, the authority, in conjunction with the Metropolitan Police, successfully applied for ASBOs against a number of members of the gang, including the three claimants, who were then aged 15, 16 and 18.



The orders excluded them from a defined area and prohibited them from – amongst other conduct – using abusive, offensive and threatening language, threatening or being violent to other persons, dropping litter and spitting in a public place, shouting or causing a nuisance and associating in public with each other and other named individuals. The making of the ASBOs received wide publicity in the local and national press.

The police and the authority subsequently published and circulated to local residents a leaflet which identified (by name, age and photograph) the gang members who were subject to the ASBOs, summarising what they had done and the restrictions to which they were subject. Similar details were published in a newsletter, which was distributed throughout the authority's area and posted on their website.

The three young men sought judicial review of the decision to publish the leaflet and the newsletter, contending that the police and the authority had failed to consider their rights to privacy under Art.8, European Convention on Human Rights and whether the publicity was necessary and proportionate.

The claim was dismissed. Art.8 was engaged where the identity of individuals subject to ASBOs was publicised. Where the purpose of publicity material is to inform the public about an ASBO so as to assist in its enforcement and reassure the public that steps are being taken to combat anti-social behaviour, however, such material would not be effective unless it included some identifying information about the individuals involved. Publication of the claimants' details was, accordingly, justified under Art.8(2), notwithstanding that the police and the authority had failed specifically to address the Art.8 issue.

R. (Stanley, Marshall and Kelly) v. Metropolitan Police Commissioner, Brent LBC and The Secretary Of State For The Home Department [2004] EWHC 2229 (Admin).

Guidance on publicising ASBOs has been issued by the Home Office (2005).

Appeals

An order can be appealed from the magistrates' court to the crown court, and the appeal is by way of a rehearing (Supreme Court Act 1981, s. 79(3)).

From the county court appeal may be made from the district judge to a circuit judge and thence to the high court.

Effect of breach

Breach of an anti-social behaviour order without reasonable excuse is a criminal offence, which may be tried in either the magistrates' or crown court (section 2(10) of CDA 1998). Cases against children and young persons will normally be heard in the youth courts. Prosecutions are conducted by the Crown Prosecution Service. "*Such prosecutions must therefore pass both the evidential and public interest test*": Home Office Guidance, p. 46.

Magistrates have power to imprison those in breach for up to six months or fine up to the statutory maximum (section 1(10)(a)). The crown court may imprison for up to five years and/or fine (section 1(10)(b)). In the case of those aged 21 and under, these powers will be subject to the specifically limited powers, some of which are affected by provisions in the Crime and Disorder Act itself. The power for the courts conditionally to discharge those convicted is explicitly excluded by section 1(11).

Contracting out

Where local authorities have contracted out the management of their stock to an arms length management company (ALMO) they may also wish to contract out the power to apply for ASBOs in relation to that stock. Section 1F of the Crime and Disorder Act 1998 gives the Secretary of State power to make an order permitting such contracting out.



Activity

If legal remedies for anti-social behaviour are to be considered, what are the advantages and disadvantages of using?

- An injunction
- A possession order
- A demotion order
- An anti-social behaviour order

Suspending the right to buy

In some cases perpetrators of anti-social behaviour who are secure tenants may seek to exercise the right to buy, and indeed the threat of legal action may provoke purchase. Prior to the Housing Act 2004 coming into force, where a social landlord sought possession against a secure tenant while at the same time the tenant sought to exercise his right to buy, the landlord could not refuse to complete the right to buy simply because action was being taken. If the two matters came to court, the court had a discretion to decide whether to hear an application forcing completion of the right to buy or a claim for possession first: see *Bristol City Council v Lovell* [1998] 1 W.L.R. 446; [1998] 30 H.L.R. 770.

Since amendment to the Housing Act 1985 by Housing Act 2004, social landlords have been able to apply for an order suspending the right to buy. Under the Housing Act 1985, s. 121 the right to buy cannot be exercised during a suspension period ordered by the court.

The suspension order may be made sought under s. 121(A). The landlord may apply to the county court for an order suspending a secure tenant's right to buy for such period as the court may specify. This period is known as the suspension period.

The effect of a suspension order is that:

- (1) any existing claim to exercise the right to buy ceases to be effective as from the beginning of the suspension period;
- (2) the landlord is not obliged under Housing Act 1985, s. 138 to complete the sale at any time after the beginning of the period.

The suspension order does not, however, have any impact on the accumulation of discount or qualifying period for the right to buy.

In order to make a suspension order the court must be satisfied that the tenant or a person residing in or visiting the dwelling-house has engaged or threatened to engage in conduct detailed in the Housing Act 1996, ss. 153A or 153B (see pages 217-218, above).

In addition to being satisfied that there has been the relevant behaviour, the court must also be satisfied that it is reasonable to make the order. This is a familiar requirement applicable to the discretionary grounds for possession and demotion orders under Housing Act 1985 (see pages 234-243, above). In deciding whether it is reasonable to grant the order the court must consider:

- (1) whether it is desirable for the dwelling-house to be managed by the landlord during the suspension period – this will no doubt require consideration in particular of the fact that if bought the tenant will no longer be subject to a tenancy agreement containing particular terms relating to anti-social behaviour;
- (2) the effect of any nuisance or annoyance conduct on other persons or the effect the conduct would have if repeated.

The landlord may apply for extensions of the suspension order. Such suspensions may only be granted if there has been further behaviour, since the current order was granted, justifying the extension.

Further amendments to Housing Act 1985, s. 138 now make it possible for a landlord to refuse to complete a right to buy purchase if the landlord has an application before the court for a demotion order, an operative possession order under Housing Act 1985, Ground 2 (i.e. an outright order), or a suspension order,



Key questions

- Will your organisation seek a suspension order in all cases of anti-social behaviour or only when the tenant seeks to exercise his or her right to buy?
- What mechanisms have been put in place to ensure that those responsible for administering the right to buy are aware of any anti-social behaviour issues?

Refusing a mutual exchange

Under Housing Act 1985, s. 92 it is a term of all secure tenancies, that the tenant may with the consent of the landlord enter into an assignment by way of mutual exchange with other secure or assured tenants of registered social landlords. Consent may only be withheld by the landlord on the grounds set out in Sch. 3 to the 1985 Act.

This Housing Act 2004 amended Sch. 3 to provide a new ground for refusal relating to anti-social behaviour. Consent may now be refused in the following circumstances:

- (1) Where one of the following orders is in force against either the tenant or the proposed assignee (or if any of them are joint tenants) or a person who is residing with either of them:
 - (a) an injunction under Housing Act 1996, s. 152 (note that s. 152 was repealed in 2004, but an injunction granted under it may still be in force);
 - (b) a breach of tenancy injunction to which a power of arrest has been added under Housing Act 1996, s. 153 (note that s. 153 was repealed in 2004, but an injunction granted under it may still be in force);
 - (c) an injunction under Housing Act 1996, ss. 153A, 153B or 153D (see above);
 - (d) an anti-social behaviour order under Crime and Disorder Act 1998, s. 1 (see above); or
 - (e) an injunction under Local Government Act 1972, s. 222, to which a power of arrest has been added under Anti-Social Behaviour Act 2003, s. 91;
- (2) Where a suspended order for possession made under Sch. 2, Ground 2 of the Housing Act 1985 or Sch. 2, Ground 14 of the Housing Act 1988 is in force;
- (3) Where there is an application pending before the courts for any one of the specified orders, for a demotion order under Housing Act 1985, s. 82A or Housing Act 1988, s. 6A or for possession under Sch. 2, Ground 2 of the Housing Act 1985 or Sch. 2, Ground 14 of the Housing Act 1988 against either the tenant or proposed assignee (or if any of them are joint tenants) or a person who is residing with either of them.

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Home Office (2005) *Guidance on Publicising ASBOs*, available at: <http://www.together.gov.uk/article.asp?aid=1962>

Websites

www.crimereduction.gov.uk

<http://www.together.gov.uk/>

<http://www.asboconcern.org.uk/>

Civil Procedure Rules

http://www.dca.gov.uk/civil/procrules_fin/menus/rules.htm

Module 2: For social housing practitioners

Sources of further information

Sources of further information and guidance

There are a wide range of websites and publications designed to help social landlords, governing bodies and residents develop sustainable solutions to deal with anti-social behaviour. The key sources of information are listed below:

Key websites

Office of the Deputy Prime Minister: www.odpm.gov.uk

The National Housing Federation: www.housing.org.uk

The Chartered Institute of Housing: www.cih.org

The Housing Corporation: <http://www.housingcorp.gov.uk>

The Audit Commission <http://www.audit-commission.gov.uk/> has detailed information about Performance Monitoring and Key Lines of Enquiry

The Home Office: <http://www.homeoffice.gov.uk/anti-social-behaviour/>

The Home Office dedicated ASB Together website provides detailed guidance on a wide range of ASB issues including partnership work and partners roles and responsibilities: <http://www.together.gov.uk>

The Local Government Association: <http://www.lga.gov.uk/>

The Crime Reduction website: <http://www.crimereduction.gov.uk> has a range of information including guidance on intelligence and information sharing protocols

The Neighbourhood Renewal Unit has a dedicated website which contains detailed information on local strategic partnerships: www.neighbourhood.gov.uk

The Tenant Participation and Advisory Service (TPAS) website contains guidance and practical examples of how to involve residents in the management and delivery of local community safety: <http://www.tpas.org.uk/>

Information about the practice and theory behind youth work can be found at www.Infed.org/index.htm

Information about the Youth Pod scheme is available through Tameside's website: <http://www.tameside.gov.uk/>

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MIXED TENURE, TWENTY YEARS ON Nothing out of the ordinary

Chris Allen, Margaret Camina, Rionach Casey, Sarah Coward and Martin Wood

Mixed tenure features strongly in current policy yet there have been no studies of long-established estates which were originally built on these principles. This study fills that gap, looking at three estates designed with tenure mix in mind and which are now 'mature' and can show whether the benefits are real or illusory.

Case studies of mixed tenure also often focus on adults' attitudes and miss those of children and young people – yet the benefits of mixed schooling (for example) are acknowledged by educationalists.

By looking at established estates from younger as well as older residents' perspectives, this topical study fills two important gaps in our knowledge and makes an important contribution to the debate on how to achieve more sustainable communities.

Amongst the conclusions reached in this report are:

- There is a clear case to be made for mixed tenure. Areas with a limited social range of residents, housing design similarities and a comprehensively-planned environment help to produce civilised communities and a relative absence of tenure prejudice. Mixed tenure might therefore be a useful policy tool to prevent anti-social behaviour.
- Well planned mixed tenure developments are better able to offer support to extended family networks and this is important both for divorced and separated people who form new families and for inter-generational support.

The study is an important addition to the evidence about mixed tenure and should be considered by all those planning 'sustainable' communities – for whom the long-term outcomes should be as important as any immediate results.

A GOOD PLACE FOR CHILDREN?

Attracting and retaining families in inner urban mixed income communities

Emily Silverman, Ruth Lupton and Alex Fenton

This important report presents a challenging mix of debate and findings about how mixed income new communities (MINCs) are working for families. This has a number of implications for Government, local authorities and RSLs, housebuilders and the providers of local public services.

In particular, it poses policy and practice questions regarding:

- The mix of housing types needed to ensure that families can be attracted to – and then retained in – MINCs.
- The costs of achieving income mix.
- The importance of an attractive and safe physical environment and social infrastructure of schools, community facilities and services.
- How can social mixing be achieved?

The research team focused on four MINCs, where an income and social mix of market-rate families together with families living in affordable housing was part of the vision for a sustainable community.

- Two of them, Hulme in Manchester and New Gorbals in Glasgow, remodelled existing social housing areas.
- The other two, Greenwich Millennium Village and Britannia Village in London were wholly new, and built on brownfield sites.

There is currently great enthusiasm for planning for income mix in new housing developments in order to achieve more sustainable communities.

Key messages from the report include:

- MINCs lack affordable and/or well-designed family-sized homes.
- MINCs could be made to work better for family households and, in so doing, could have a valuable part to play in the revitalisation of Britain's inner cities.
- Place-making rather than housebuilding needs to be part of the vision.

MORE THAN TENURE MIX

Developer and purchaser attitudes to new housing estates

Rob Rowlands, Alan Murie and Andrew Tice

As social mix has become central to government policy, this report examines the delivery of mix through housing tenure on new housing estates. It particularly focuses on developer attitudes to producing mix and to the experiences of purchasers in living on these estates. The report poses a number of policy and practice questions regarding:

- What is tenure mix and what is its connection to social and income mix.
- The attitudes of private house builders to developing mixed tenure estates.
- The experiences of households in non-social housing on mixed tenure estates.
- The extent to which mixing tenure affects property prices.
- The ingredients which contribute to successful and sustainable new housing estates.

The research utilised interviews with national house builders, seven case study estates and a social survey of non-social residents in five estates. In all of the estates, a form of tenure mix had been employed to meet wider objectives including the provision of affordable housing, rebalancing of the local housing market and to create social mix.

Mixed tenure aims not only to achieve social mix, but also to promote interaction within communities. It depends on the planning system, which determines numbers and outputs, but the desired outcome is a qualitative improvement in community life.

Against this background, the key messages in the report include:

- Mixing tenure cannot deliver social or income mix on its own.
- Developers accept that mixed tenure is unavoidable and many want to work towards a better solution.
- Purchasers accept that mixed tenure is inevitable in all neighbourhoods.
- The role of the private rented sector is misunderstood by policy makers.
- Qualitative approaches must be adopted if estates are to be successful.

ISBN 1 905018 11 8
978 1 905018 17 8

£15.95

