



Tackling anti-social behaviour: Tools and powers – toolkit for social landlords



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Foreword



Our homes and estates should be places where people like living and feel safe. No one should feel intimidated or harassed in the place where they live.

Since 1997 we have done a lot to encourage local agencies to tackle and not tolerate anti-social behaviour by giving them the strong legal powers they need and removing barriers to taking action. And the evidence suggests those powers work.

The public can see that their areas are safer – only 15 per cent now perceive anti-social behaviour in their area to be high, the lowest since records began.

However, we know that statistics offer little comfort to the victims who continue to suffer at the hands of the small minority. This behaviour can cause misery for entire communities – and we know that it remains one of social tenants' biggest concerns.

To tackle this, Government launched a renewed drive against anti-social behaviour in October. We are improving support for victims and witnesses. We are stepping up action on ASBO breaches. All Community Safety Partnerships have been challenged to set and publicise minimum standards on anti-social behaviour so that people know what they can expect. Social landlords must for the first time meet national standards and set local standards with their tenants on anti-social behaviour.

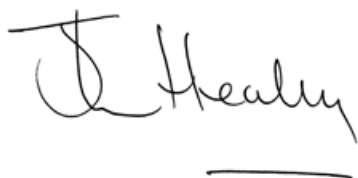
Social landlords of course have a key role to play in preventing and tackling anti-social behaviour in the areas where they own and manage homes. And we've seen a step change in many landlords' performance in recent years, with the Respect Standard for Housing Management in particular providing a powerful driver for improvement.

However, the evidence also suggests that some landlords lack the knowledge and confidence to make the most effective use of the tools and powers available to them to prevent and tackle anti-social behaviour.

We want to make sure social landlords are using the tools available to them so that residents are protected from anti-social behaviour and can see action being taken in their area.

This guidance is designed to help them do just that. It brings together in a single place the key tools and powers available to social landlords, either directly or working with other organisations locally. It sets out their wider role in, and options for, preventing and tackling anti-social behaviour. It shows what has been achieved by landlords who have already made effective use of these tools.

My hope is that it will equip others to follow their example and make more communities places where anti-social behaviour is tackled not tolerated.

A handwritten signature in black ink, appearing to read 'J Healey'. The signature is written in a cursive style with a horizontal line underneath the name.

Rt Hon John Healey, Minister for Housing and Planning

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Part 1

Introduction

- 1.1 Anti-social behaviour (ASB) can seriously damage the quality of life for residents and have a negative impact on neighbourhoods and communities. Both local authority and housing association landlords play a critical role in tackling anti-social behaviour and addressing its underlying causes within their communities. The tools and powers are there for practitioners to tackle ASB in all its forms. There is no situation with which social landlords, working with the police, local authorities and other local agencies should not be able to deal.
- 1.2 Public confidence demands that these tools and powers are used effectively, that incidents of ASB are taken seriously and that agencies respond swiftly and professionally. Simple steps such as keeping communities informed of action being taken, making it easy to report ASB and setting out what people can expect from agencies can also make a big difference. Both the new Standards framework for social landlords and the minimum standards of service which all Community Safety Partnerships have been challenged to put in place will help this process – and will enable tenants and the public to hold agencies to account for delivery.
- 1.3 The Respect Standard for Housing Management has encouraged social landlords to take a holistic approach to tackling anti-social behaviour, balancing intervention and enforcement with prevention and support for victims. It also emphasises support for perpetrators to change behaviours. The Respect Standard has placed greater expectations on landlords to be more proactive in combating anti-social behaviour at an earlier stage to improve neighbourhoods. The Respect Standard for Housing Management has been well received within the sector: by March 2010 more than three-quarters of the housing stock of local authority landlords and the 200 largest registered social landlords (RSLs) was covered by signatories to the Standard. And there have been significant improvements to the way many landlords tackle anti-social behaviour in their areas.
- 1.4 However, anti-social behaviour and nuisance continues to be a problem in many communities, and public expectations continue to rise in relation to the role social landlords play in addressing anti-social behaviour. Recent legislation provides social landlords and their partner agencies with even greater tools and powers with which to continue to improve anti-social behaviour services.

- 1.5 For some landlords with geographically dispersed stock, or stock in rural areas, developing a strategy that is responsive to the demands of different areas can be complex. Effective community engagement and local partnership arrangements are essential in developing an approach to tackling anti-social behaviour, that can identify and respond appropriately and proportionately to the diverse problems each area presents, and which reflects local concerns.
- 1.6 Social landlords have a responsibility to work closely with partner agencies, local authorities, the police, residents and community organisations to tackle the cause and effect of anti-social behaviour in communities. This involves developing a holistic approach which includes multi-agency working, early intervention and prevention work, support for victims and perpetrators, as well as using the full range of enforcement tools and powers available to landlords.

Aims and objectives of the guidance

- 1.7 The key aims of the guidance are to:
 - Raise social landlords' awareness of the full range of powers and tools available to them to tackle anti-social behaviour and its underlying causes
 - Support the delivery of an appropriate level of response to anti-social behaviour by landlords, that accurately reflects local priorities and circumstances
 - Assist landlords to utilise the full range of powers and enforcement tools available to them to act promptly and effectively to reduce levels of anti-social behaviour
 - Encourage greater community confidence in social landlords' ability and commitment to tackle anti-social behaviour and its causes
 - Support partnership working between local authorities, the police, other agencies and social landlords at a local level to establish the most effective methods of managing anti-social behaviour, crime and nuisance.

Who the guidance is for

- 1.8 This guidance is intended for all not-for-profit providers of social housing whether they are local authorities, arms length management organisations or housing associations. The term 'social landlords' has been used throughout the document as the collective term for all these types of providers. Since this guidance is published shortly before the commencement of the new regulatory framework for social housing, the terms 'local authority landlords' and 'registered social landlords' continue to be used where a distinction needs to be made.

- 1.9 This guidance recognises that there are significant variations in the way different landlords currently respond to anti-social behaviour, with some landlords demonstrating excellent practice. However, not all landlords are as proactive at managing anti-social behaviour and lack the knowledge or confidence to utilise the full range of tools and powers available to them. The flexible and non-prescriptive approach of this guidance means it can be used by all landlords and can be adapted to suit local circumstances and priorities.
- 1.10 Examples of good practice have been used throughout the guidance to illustrate where landlords are successfully using different tools and powers available to them. These can be replicated across the sector.

How the guidance is structured

- 1.11 The main body of this guidance is divided into three parts:
- **Part two:** considers the role of social landlords in tackling anti-social behaviour within communities. It sets out the organisational building blocks that landlords need to have in place to ensure an effective organisational response. This section is particularly aimed at influencing a landlord's decision making processes, supporting organisational policy and strategic development. It also explores the development of multi-agency partnerships and effective casework management.
 - **Part three:** looks at the range of options available to social landlords to deal with anti-social behaviour and the importance of safeguarding vulnerable individuals. It emphasises the need to take a balanced approach to prevention, intervention, enforcement and support to change behaviours.
 - **Part four:** provides a series of practice focused factsheets aimed at building awareness and raising confidence among front line officers of the range of enforcement tools available to social landlords. Factsheets provide practitioners with a description of each tool, and identify the circumstances when a tool may be appropriate for use. The factsheets are supported by current good practice examples and information about where to find further guidance.

How the guidance has been developed

- 1.12 The guidance draws together existing housing and Home Office guidance and has been written by:
- Joanne Kent-Smith. Chartered Institute of Housing
 - Sheila Chung. Chartered Institute of Housing

1.13 Further contributions and support have been made by:

- Peter Jackson. Social Landlords Crime and Nuisance Group
- Eamon Lynch. Social Landlords Crime and Nuisance Group

1.14 An advisory group supported the development of this guidance:

Lesley Barnard	Tenant Services Authority
Graeme Bennett	Audit Commission
Sam Lister	Chartered Institute of Housing
John Thornhill	Chartered Institute of Housing

1.15 This guidance draws heavily on existing Home Office guidance, CIH Practice on-line and the Wales Housing Management Standard for Tackling Anti-social Behaviour – Guidance for Implementation (2010) CIH Cymru.

1.16 Whilst examples are up-to-date at the time of producing this publication, we recognise that legislation and practice within the sector continues to change over time. It is therefore important that landlords should regularly check for the most up-to-date legislation and advice.

Part 2

The landlord's role in tackling anti-social behaviour

- 2.1 Social landlords have a key role to play in creating safe and sustainable communities. They can achieve this in partnership with local authorities, the police and other key local agencies to deliver a comprehensive approach to local problems and priorities.
- 2.2 Tackling anti-social behaviour and letting the public know about the action being taken is vital for building confidence in the landlord's and other public services. That matters, because less confidence may in turn mean people are less likely to report crime or ASB or help work with services, for example by giving evidence in court.
- 2.3 The costs of failing to take action against anti-social behaviour should not be underestimated. It can ruin quality of life, fuel negative perceptions and fear of crime and escalate to behaviour of a more serious nature. Landlord and neighbourhood reputations can be damaged by persistent levels of anti-social behaviour, leading to neighbourhood decline and low demand. Relations with the community can be severely impaired where it is perceived that the landlord fails to act effectively to tackle anti-social behaviour.
- 2.4 This part of the guidance is divided into two main sections. The first considers the legislative, regulatory and policy framework within which social landlords are required to operate, and looks in closer detail at the implications of the changing regulatory and inspection framework. The second section sets out the importance of partnership working and good casework management and the key characteristics of an effective anti-social behaviour service, reflecting the core principles of the Respect Standard for Housing Management and regulatory standards.

The legislative, regulatory and policy framework

The legislative framework

- 2.5 Since the late 1990s the Government has created a comprehensive framework of legislation designed to tackle anti-social behaviour, some of which is specific to social landlords, aimed at equipping them with greater powers to ensure the safety of their communities.

- 2.6 One of the key aims of this guidance is to encourage all social landlords to increase their awareness of the recent legislative changes and to develop an improved confidence to utilise all of the available powers and tools available to them. Individual tools are examined in more detail in Part 4 of the guidance.

Respect Standard for Housing Management (England)

- 2.7 Perceptions of anti-social behaviour are more common amongst those in the most disadvantaged communities, which are often characterised by higher levels of social housing. To reflect this, the Respect Standard for Housing Management has been developed for social housing landlords to support the management of anti-social behaviour in their areas of operation. It embeds a culture of respect in housing management activities through a balanced approach involving prevention, early intervention and enforcement and support. It is built around six core commitments which work together to enable landlords to deliver an effective response to anti-social behaviour. The Government has indicated that following the publication of the final TSA Standards, it will look to update the Respect Standard as a key sector led source of good practice.

Regulatory standards on anti-social behaviour

- 2.8 With effect from 1 April 2010, the Tenant Services Authority (TSA) will regulate all registered social housing providers, including local authorities, against a set of national and local standards in key priority areas, including anti-social behaviour. These are intended to improve the standards of service delivery and outcomes for tenants.
- 2.9 Where registered social providers fail to meet the required standards and consequently fail to show any improvement they will face formal enforcement action from the TSA. Enforcement action ranges from issuing penalty fines to directing a transfer of management.
- 2.10 The TSA's Neighbourhood and Community Standard requires registered providers to:
- Work in partnership with other public agencies to prevent and tackle anti-social behaviour in the neighbourhoods where they own homes and publish a policy on how they will do so.
 - In their work to prevent and address ASB demonstrate:
 - that tenants are made aware of their responsibilities and rights in relation to ASB
 - strong leadership, commitment and accountability on preventing and tackling ASB that reflects a shared understanding of responsibilities with other local agencies

- a strong focus exists on preventative measures tailored towards the needs of tenants and their families
 - prompt, appropriate and decisive action is taken to deal with ASB before it escalates, which focuses on resolving the problem having regard to the full range of tools and legal powers available
 - all tenants and residents can easily report ASB, are kept informed about the status of their case where responsibility rests with the organisation and are appropriately signposted where it does not
 - provision of support to victims and witnesses.
- 2.11 Registered providers will also be required to develop local standards, including on ASB which should set a higher standard than the national standard and should be in place no later than 1 April 2011. Registered providers will need to work with their tenants to identify and agree locally defined priorities and outcomes around tackling anti-social behaviour.
- 2.12 The TSA will not be defining the term 'local' within its standards framework and will be relying on landlords in conjunction with their tenants to determine what 'local' should mean and how it can be applied to the development of local standards. Landlords will, however, be expected to demonstrate to the regulator how tenants have been engaged in a meaningful way throughout this process.
- 2.13 This has a powerful wider benefit. Evidence shows that raising public awareness of guaranteed service standards plays an important role in building public confidence in local services.

Community Safety Partnership (CSP) Minimum Standards

- 2.14 All CSPs in England have been challenged by the Home Office to set, publicise and monitor progress against minimum standards on anti-social behaviour. Since local authorities are one of the 'responsible bodies' on the CSP and RSLs have a statutory duty to co-operate with CSPs, it is important that they are aware of and take account of these minimum standards when determining with tenants their own local standards on ASB. Partnerships should have the freedom to set local standards and find local solutions – but a number of expectations have been set on the content of the standards including:
- Reducing perceptions of anti-social behaviour year on year.
 - Taking reported cases of anti-social behaviour seriously (recording, investigating and keeping victims informed of action taken).

- Providing a swift and professional response: Partnership agencies should respond to all ASB reports within 24 hours; every victim should be given the name of the caseworker dealing with the incident; a case review between victim and caseworker should take place at least monthly.
- Improved communication with residents and the provision of regular information on what action is being taken to tackle anti-social behaviour. The community should have the opportunity to discuss their concerns about antisocial behaviour with the relevant agencies on a monthly basis.
- Improved support for victims and witnesses.
- Providing residents with a right of complaint to Community Safety Partnerships if effective action is not taken by local agencies through existing channels.

Inspection and Comprehensive Area Assessment

- 2.15 The TSA and the Audit Commission (AC) will work closely together to ensure that all registered providers deliver effective anti-social behaviour services that address the needs and expectations of tenants and the requirements of national and local anti-social behaviour standards. Where the regulator identifies poor performance, low levels of customer satisfaction and/or has cause for concern in relation to the delivery of anti-social behaviour services, the Audit Commission can be requested to carry out a short notice or full inspection of the landlord.
- 2.16 The inspection process examines the range and quality of services being delivered by a landlord to its tenants, residents and neighbourhoods and takes into account any regulatory requirements and standards. Currently the Tenancy and Estate Management Key Line of Enquiry (KLOE) sets out the Audit Commission's approach to inspecting tenancy and estate management issues, including the enforcement of tenancy conditions and the management and prevention of anti-social behaviour.
- 2.17 Following completion of the current TSA statutory consultation and publication of the national standards, the Tenancy and Estate Management KLOE will be updated to reflect the final Neighbourhood and Community Standard and regulatory framework. The Audit Commission and the TSA will publish a joint consultation in Spring 2010 inviting landlords, tenants and other stakeholders to help develop the new inspection approach. A decision will be made in the summer on the future approach to inspection with the new arrangements expected to come into force from 1 October 2010.

Further information: The Tenancy and Estate Management KLOE and examples of good practice identified by the Audit Commission as part of the inspection cycle can be downloaded from: www.audit-commission.gov.uk

Comprehensive Area Assessment

- 2.18 Housing providers are not only assessed on an individual organisational basis but are also collectively accountable along with their local authority and other local partners (including the police, victim support, drug agencies) for their contribution to achieving local priorities across a local area. The Comprehensive Area Assessment (CAA) introduced in 2009, provides a common assessment framework for the delivery of local public services across six service inspectorates including the Audit Commission, HM Chief Inspector of Constabulary, HM Chief Inspector of Probation, Ofsted and HM Chief Inspector of Prisons.
- 2.19 CAA assesses the way in which landlords deliver anti-social behaviour services in partnership with other local agencies (around support or enforcement) to deliver a comprehensive and holistic range of anti-social behaviour services. This is reported to the public through the Oneplace website at <http://oneplace.direct.gov.uk>. Given that housing can contribute to many different agendas, it is important that housing organisations, through their staff, maximise their contribution to CAA outcomes. The collective responsibility for local outcomes means that local agencies, including housing providers, need to support the local strategic partnership and work effectively together to pursue priorities.

Delivering an effective ASB service

Commitment, leadership and accountability

- 2.20 Delivering effective anti-social behaviour services requires strong corporate commitment and leadership, supported with sufficient resources and organisational capacity. For some smaller landlords with limited resources, cross organisational working arrangements with larger social landlords in a locality can help build capacity, through the sharing of specialist expertise and services. Larger social landlords, particularly those who are the main provider of housing in an area (or have a significant presence in a locality) should also be taking a pro-active role in working closely with local authorities, the police and other key local agencies to tackle anti-social behaviour within communities.
- 2.21 Social landlords need their own organisational strategy but they also play a role in the wider local authority's Community Strategy. Comparing current strategies with local partners will both enhance the sharing of good practice and expertise, and support a true understanding of the extent of anti-social behaviour problems in a local area. Appendix 2 provides landlords with a series of self-assessment questions designed to challenge landlords to seriously consider whether they have the sound corporate 'engine' in place to drive excellent services and work effectively with residents, partners and other stakeholders to deliver outcomes.

Enhancing accountability

2.22 Real accountability requires that landlords understand the top concerns of their tenants, and that tenants and residents are able to report ASB easily, know the service standards landlords are working to and are made aware of what action has been taken to tackle ASB.

2.23 Neighbourhood agreements are one effective way of enhancing accountability and encouraging resident engagement. The following table sets out the key aims of a neighbourhood agreement and the roles residents and service providers play:

Neighbourhood Agreement Aims	The role of tenants and residents groups	The role of service providers
<p>Inform residents about who provides local services</p> <p>Improve services through use of regular feedback from residents, joint working between service providers, and special initiatives involving residents</p> <p>Discuss and agree with residents the levels of service expected and if these are being met</p> <p>Provide residents with the opportunity to monitor service standards and give service providers feedback on the quality of their services</p> <p>Support community development</p> <p>Strengthen the partnership between residents and service providers and affirm that anti-social behaviour will not be tolerated</p>	<p>Make sure the agreement works</p> <p>Agree the nature and format of monitoring information residents wish to receive</p> <p>Keep residents informed via regular meetings and newsletters</p> <p>Invite service providers to residents’ meetings to discuss particular concerns</p> <p>Work with service providers to continuously improve services</p>	<p>Deliver services to agreed levels of quality</p> <p>Work with residents to improve understanding and delivery of services</p> <p>Provide regular monitoring information</p> <p>Attend residents’ meetings to discuss progress</p> <p>Take an active part in making the agreement work</p> <p>Ensure the agreement works</p>

Table adapted from: CIH (2006) *Tackling ASB Action Frameworks for Governing Bodies, Housing Committee Members, Residents and Social Housing Practitioners*, Coventry, CIH

Empowering and reassuring residents

- 2.24 Social landlords should demonstrate that the services they provide are customer driven and are accountable to residents. This means landlords need to genuinely engage and involve residents in their work. Landlords need to reflect what is important to residents, and their views of existing anti-social behaviour services and priorities. Engagement should be seen as part of a long-term strategy to improve neighbourhoods and demonstrate flexibility to respond to shifts and changes in concerns.
- 2.25 Landlords should be able to demonstrate resident influence in:
- The identification of service priorities and organisational aims and objectives
 - Balancing priorities and choice in relation to organisational financial constraints and customer priorities
 - Agreeing the level of organisational performance to be delivered
 - Setting service targets and standards
 - Monitoring of performance indicators that reflect service priorities
 - Evaluation of landlord's performance.
- 2.26 With effect from 1 April 2010 all social landlords will be expected to demonstrate to the regulator (TSA) how residents are involved in the development and monitoring of national and local anti-social behaviour standards (see paras 2.10, 2.11).
- 2.27 Three surveys commonly used as a starting place to understanding residents' perceptions and customer satisfaction are: a resident perception survey; complainant satisfaction surveys; and, the status (standardised tenant satisfaction) survey.
- 2.28 Understanding the top concerns of residents around ASB is the key to an effective response and surveys should not be used as the only means to determine what residents want. Public meetings are an important channel for residents who are keen to have their say and evidence suggests that around 3-6% are, or say they are, keen to be actively involved. Evidence also shows that a wider group may attend public meetings if they have a specific problem until the issue has been resolved.
- 2.29 Landlords should consider making local meetings on ASB a 'one stop shop' with neighbourhood policing teams and local authorities to provide a regular opportunity for the public to have a single dialogue with local services.

Building confidence

- 2.30 The fear of crime continues to be prevalent in communities across England although the British Crime Survey for the year to September 2009 suggests perceptions of anti-social behaviour as serious problem have fallen significantly between 2002/03 and 2008/09. While anti-social behaviour can occur in any neighbourhood, it is frequently experienced in high density, low income areas where multiple forms of deprivation are prevalent. The British Crime Survey 2006/7 indicates that social housing tenants are almost twice as likely as those in owner occupied or private rented property to perceive anti-social behaviour as a problem in their area.
- 2.31 The Prime Minister recently launched the cross-government and cross-agency Safe and Confident Neighbourhoods Strategy. In that document, the Government set out a vision of strong partnership working at the neighbourhood level, and acknowledged the important role that housing officers and social landlords (and a range of other frontline practitioners) can and should play to help people feel safe and confident in their communities. The strategy is available at www.homeoffice.gov.uk/about-us/news/safe-confident-neighbourhoods.html.
- 2.32 Local people are an important source of knowledge and reliable witnesses are crucial in achieving successful enforcement action. However, the degree of fear or intimidation that complainants and witnesses experience as a result of reporting anti-social behaviour and/or crime should not be underestimated. Public trust and confidence needs to be cultivated so that local people feel confident to take a stand against anti-social behaviour, and be encouraged to take an active role in reporting incidents. Government has provided additional resources to support communities and residents to take a stand against anti-social behaviour. Additional unringfenced grant funding was made available 130 local authorities in autumn 2009 to:
- Support the delivery of minimum standards of service on ASB
 - Help local people know their rights and powers to trigger quick and effective action to tackle anti-social behaviour when required
 - Help local people to know how to report anti-social behaviour
 - Train residents and community champions to challenge local agencies and shape the approach to tackling anti-social behaviour.
- 2.33 Letting residents know about the action landlords are taking to tackle anti-social behaviour is important for building their confidence and to show that landlords are acting on their concerns. This should include reporting back on the outcome of individual cases as it shows residents that anti-social

behaviour is not tolerated and that problems can be resolved. Publicity about action taken is also vital for developing the confidence of future witnesses, making it clear that residents, with the support of the landlord, can take back control if they willing to act as witnesses for their community. In the case of ASBOs, publicity is also important so that residents can report breaches if they see them.

- 2.34 Effective communication – engaging with residents on their terms – is at the heart of building confidence amongst residents. Residents want regular, local, factual information, which allows them to form their own opinion about what's happening in their community. A large number of people say that leaflets and newsletters are their preferred way of receiving information and hand delivery, with an opportunity for residents to discuss issues, makes it more likely that people will read and remember a document¹.

¹ Singer and Cooper (2008); *Inform, Persuade and Remind*; Ministry of Justice research series 15/08. Ipsos MORI (2007) *The Role of Communications in Tackling ASB*

What information do people want?

- Keep it local – the public are most interested in their street and local neighbourhood. They don't want to be given information for a wide area that has little relevance to them.
- Contact details are essential – all newsletters and leaflets should have a section indicating clearly and simply how to contact the police and their partners so that people are able to report crime (emergency and non-emergency) and anti-social behaviour. Research by the Metropolitan Police showed people were more likely to keep leaflets where contact numbers and information were all on one page (or in a section they could tear off).
- The public like maps – while services often use terms like ward and neighbourhood policing team area, the public understand their area by road names and local landmarks.
- Talk about action not 'success' – this is perhaps the most important point. The public want information that allows them to form their own opinion. They want to know 'what' services are doing not 'how well' services think they are doing – particularly if that may be at odds with their local experience. Linking action back to local priorities can help the public to assess it. Keep this focussed on what has actually happened – whilst partnership working is important the public do not need to know all about it – just what has happened as a result.
- Consequences for offenders – the public want to know that those who commit crime face the consequences of their actions but only a minority of the public are informed about sentences locally.

Extracted from Home Office Factsheet '*Engaging the public on their terms – the importance of information*' (this and other factsheets can be downloaded from www.crimereduction.homeoffice.gov.uk/ncjfactsheets/)

Good practice example: Servite Houses

Raising public confidence

Servite Housing Association was experiencing difficulties in progressing action against a household for their severe anti-social behaviour due to the lack of reporting from residents. In order to reassure and raise community confidence, Servite, the London Borough of Enfield and the police generated a joint letter encouraging and advising residents how they could report crime and anti-social behaviour.

Residents reported information to the police which was used by Servite in the Notice of Seeking Possession that was subsequently served on the tenant. As an alternative to possession action, the family concerned opted to engage with a Family Intervention Project (FIP). The outcome of working with the Family Intervention Project was that the reports of anti-social behaviour and police incidents reduced by over 70 per cent.

More information

Justice Seen, Justice Done

Justice Seen, Justice Done is a Home Office Neighbourhood Crime and Justice programme that aims to improve public confidence in how crime is tackled and justice is delivered. The campaign is national in its scope and raises awareness of what the public can expect from the police and other agencies to ensure that local priorities are tackled with tough, visible consequences for those who break the law. For further information: <http://www.crimereduction.homeoffice.gov.uk>

HouseMark/SLCNG: ASB accreditation services

The ASB Accreditation Service from HouseMark and the Social Landlords Crime and Nuisance Group (SLCNG) has been developed in close consultation with the sector.

Landlords seeking accreditation are assessed against a series of ASB Commitments and Building Blocks based on regulatory expectations, sector best practice, the Respect Standard for Housing Management and the Wales Housing Management Standards for tackling ASB.

The independent assessment is heavily user-focused and seeks to understand key outcomes of the service for tenants. Support and guidance is provided throughout the accreditation process to promote good practice and continuous improvement. Accreditation is awarded for three years. Further information available from: www.housemark.co.uk

Encouraging community responsibility

- 2.35 Social landlords clearly have a crucial role to play in promoting tolerance and community responsibility within communities and managing expectations. However, it is also fundamental that residents understand their responsibilities as well as their rights and have a clear understanding of the impact their behaviour may have on the wider community.
- 2.36 Good Neighbour Agreements, sometimes referred to as Estate Agreements, Residents' or Tenants' Charter, or a Tenants' Code are commonly used to reinforce tenants rights and responsibilities alongside expectations in relation to behaviour. Generally Good Neighbour Agreements are voluntary agreements between landlords and their tenants, although they can be used between Community Safety Partnerships and local residents.
- 2.37 In addition, a growing number of social landlords offer a range of incentives or rewards to tenants which promote positive behaviour² and support the development of strong cohesive communities. A key factor to the success of such schemes is working with residents to identify incentives and rewards that they value.

² Kent-Smith, J. (2010) *The Wales Housing Management Standard for tackling anti-social behaviour – Guidance for implementation*. Cardiff, CIH Cymru

Further information: Reward schemes

The Crime Reduction website lists details of all the major UK and international crime reduction and community safety awards schemes – such as the Community Crime Fighter Awards which recognise the energy and commitment of people who have made a big impact on their community in tackling anti-social behaviour. Further information is available from: www.crimereduction.homeoffice.gov.uk

Partnership working

- 2.38 Anti-social behaviour is a multifaceted problem. Landlords cannot tackle anti-social behaviour effectively if they work in isolation. Close partnership working arrangements are necessary at both strategic and operational levels if long term sustainable solutions are to be achieved. Social landlords need to work with other agencies and landlords to develop an effective multi-agency approach to local problems.
- 2.39 Partnerships can take a variety of different forms to address different problems or purposes. These range from wide ranging strategic partnerships covering a large local authority area with multiple partners, to formal partnerships developed at a local level to provide support to individual perpetrators. They can also include informal partnerships between front line housing officers and community beat officers, residents and local community groups. Managed well, partnerships will streamline working arrangements, avoid duplication and standardise reporting and monitoring arrangements.
- 2.40 While most social landlords are aware of the potential benefits of joint working, in practice forming successful partnerships can be time consuming and difficult to achieve. It is dependant on individual relationships and partners being able to establish trust, understanding and negotiate around different organisational cultures, different agendas and budget limitations to identify and achieve common goals.
- 2.41 Three key levels of partnership can be defined as:

Partnerships for individual support

Multi-agency arrangements designed to respond to individual cases, often providing tailored support packages to meet complex needs such as alcohol, drug services and mental health services.

Operational partnerships

Partnerships designed to operate and deliver outcomes at a local/neighbourhood level or focus on specific issues of concern, or a consortium approach by a number of social landlords in an area.

Strategic partnerships

Operate at a wider level, commonly covering a local authority area. Membership comprises of senior representatives from a number of agencies such as the police authority, the local authority, housing, education, the probation service and health service.

Neighbourhood policing

Neighbourhood policing plays a central role in the drive to tackle anti-social behaviour. The aim of neighbourhood policing is to make communities feel safe and secure by reducing crime and anti-social behaviour in an area. Neighbourhood Policing Teams provide communities with a visible, accessible and accountable presence. A citizen focused approach is emphasised which meets the needs of communities at the local level.

For neighbourhood policing to be effective it needs to be closely integrated with neighbourhood management. It requires a genuine partnership and participation between the police, local people and organisations, and commitment from local service providers including social landlords to work in partnership at the strategic and neighbourhood level.

In order to progress this integration, the National Policing Improvement Agency (NPIA) and the Improvement and Development Agency (IDeA) have identified 12 'exemplar sites'. As well as being promoted as sites of good practice, the 12 exemplars have a practical role to play.

During 2009/10, each site has been acting as a learning hub and mentor to other partnerships attempting a similar integration. The wealth of knowledge and experience held in these 12 teams will be made available to every neighbourhood policing team and Community Safety Partnership in the country.

In the Safe and Confident Neighbourhoods Strategy, published Feb 2010, the Government announced plans to sustain and embed the valuable, popular service that neighbourhood policing teams provide to communities. This reaffirms the Government's commitment to neighbourhood policing as the bedrock of a responsive, citizen-focussed police service for the 21st Century.

For further information see:

<http://police.homeoffice.gov.uk/community-policing/neighbourhood-policing/>

Community Safety Partnerships (formerly known as Crime and Disorder Reduction Partnerships in England)

- 2.42 Sections 5 and 6 of the Crime and Disorder Act 1998 (as amended) require the 'responsible authorities' which comprise Community Safety Partnerships to work together and with other agencies to develop and implement strategies to reduce crime, anti-social behaviour and reduce reoffending. CSPs are organised on local government boundaries and are sited at unitary authority level in single tier authorities and at district level in two-tier authorities in England. There are 336 CSPs in England and Wales.
- 2.43 CSPs are made up of partners such as the local authority, the police and fire and rescue authorities. Since 2007, RSLs have been co-operating bodies. Through the annual strategic assessment process, CSPs must identify community safety priorities in the area through an analysis of the information provided by partners, agencies and the community. They must then produce a partnership plan setting out the approach for addressing those priorities. CSPs therefore bring together different parts of the community to use their expertise and understanding of the area, to support the development of a holistic and cohesive strategy to tackle both the impact and causes of crime.

Further information:

The Home Office Crime Reduction Toolkit provides further detailed advice on multi-agency partnership working.

Available online from: www.crimereduction.homeoffice.gov.uk

Guidance for Community Safety Partnerships: Delivering Safer Communities: A Guide to Effective Partnership Working is available from the Home Office website www.homeoffice.gov.uk

Information sharing

- 2.44 The sharing of information is vital to the development of local strategies to tackle anti-social behaviour and is essential to ensure the requirements of the Crime and Disorder Act 1998 are fully met. Used effectively, information sharing can support the mapping of anti-social behaviour hotspots and the analysis of trends to help target the allocation of resources.³ However, concerns over data protection legislation can lead to an overly cautious approach and create unnecessary barriers between partners trying to tackle anti-social behaviour.
- 2.45 The Data Protection Act 1988 (section 29) allows for the exchange of information for the purpose of the prevention or detection of crime and the apprehension or prosecution of offenders and where failure to disclose would

³ Chung, S. and Lerner, D. (2005) *Good Practice Briefing 30: Anti-social Behaviour*, Coventry, CIH

be likely to prejudice those objectives. The sharing of data must still comply with other principles of the DPA e.g. obligations to ensure that data is only kept for as long as necessary (principle 5), that it's adequate, relevant and not excessive (principle 3) and is accurate (principle 4).

2.46 Section 115(2)(da) of the Crime and Disorder Act 1998⁴ allows registered social landlords to exchange information where disclosure is relevant to the purpose of any provision of the Crime and Disorder Act, for example, in the pursuit of ASBOs. This means all social landlords are now entitled to receive disclosure of information about anti-social behaviour caused by their residents or around their properties from the police or the local authority. All social landlords are, therefore, able to ask the police for information such as:

- Details of cautions or convictions for an individual
- Drug warrants executed
- Police call out logs to a specific address.

Effective information sharing procedures and protocols will help minimise problems.

Information sharing protocols

2.47 Information sharing protocols are agreements allowing for information from different sources to be shared between parties. Information sharing protocols are not legally binding agreements. They are drawn up between various partners with the specific aim of clarifying the purpose, principles, commitments, processes and types of information that may be collected, stored and exchanged by organisations.

2.48 An effective protocol should:

- List all organisations involved in sharing the data
- Name officers responsible for ensuring compliance
- Identify the type information authorised to be exchanged
- Set out the process for exchange and agreed timescales
- Outline how data will be held securely
- Explain the reasons for data sharing
- Set out how complaints will be managed
- Be signed by all parties.

⁴ Inserted by s219 Housing Act 2004

Good practice example: Servite Houses

Information sharing protocols

Servite Houses are signed up to Wandsworth Borough Police's Information Sharing Protocol. They are also signatories to Wandsworth's Multi-Agency Risk Assessment Conference (MARAC). The Conference deals with high risk domestic violence cases and brings together professionals from a wide range of agencies (including NHS A+E staff, mental health professionals, social services, the police and social landlords) to share information and agree action to reduce the risk of client exposure to domestic violence.

Referrals to the MARAC are screened for tenure status and landlord. When the referral involves a tenant from Servite, the landlord is invited to attend the Conference to participate in information sharing and action planning to reduce the client's risks to domestic violence. In addition to being signatories to the CSP protocol, Servite has also reached agreements with each of the local police teams to share information more effectively under section 115 of the Crime and Disorder Act 1998.

Further information: Information sharing and information sharing protocols

A specialist tool kit on developing Information Sharing Protocols, which included a template protocol, is available on The UK Home Office Crime Reduction website: www.crimereduction.gov.uk/infosharing_guide.htm

Guidance on sharing personal and sensitive information on children and young people at risk of offending is available to download from the Youth Justice Board website: www.yjb.gov.uk/en-gb

Detailed advice and guidance in relation to the Data Protection Act 1998 is available from the Information Commissioner at: www.ico.gov.uk

Casework management

- 2.49 The Home Office, Chartered Institute of Housing, National Policing Improvement Agency, Association of Chief Police Officers, Social Landlords Crime and Nuisance Group and others are currently drawing up a **Common set of ASB casework principles**. These principles will provide consistency in terms of use of tools and powers, best practice around procedure and process (i.e. data sharing, timeframes for case management, expected outcomes and use of tools and powers) and provide a general framework of what is expected at a neighbourhood level from partners, but especially ASB practitioners in housing and ASB teams. It will describe and seek to influence the shift in emphasis during casework onto the victim/witness/complainant,

rather than a constant focus on the perpetrator. In this sense the work will support the TSA Standard on ASB and the revised CSP minimum standards, with the challenge to have named caseworkers, consistent contact with the witness etc,

2.50 The principles will be a reference tool for ASB practitioners and will focus on:

- Procedural advice/instruction to case handling officers (practical direction)
- Essential organisational building blocks/underpinning service (for managers/ organisations)
- Overarching principles (mind set)

2.51 Below is a summary of the main areas to be covered by the principles.

The key issues to consider throughout the process include: resolving issues at the earliest opportunity; protecting individuals and the community; changing the offending behaviour where possible; keeping emphasis on the witness/ complainant and maintaining regular contact.

2.52 Opening a case

- Get the facts right – accurate information is vital to the investigation and to achieving a successful outcome.
- Assess risk and vulnerability and keep under review throughout case.
- Identify a named officer to be responsible for the case and provide their details to the complainant.
- Agree an action plan with the complainant. Tailor support to the individual; manage expectations so they know what to expect; keep in constant contact.
- Maintain witness confidentiality.

2.53 Early intervention

- Make appropriate use of the full range of ASB tool and powers – select a tool that is reasonable, proportionate and most likely to produce an effective solution.
- Share details of action with partners.
- Follow up if early intervention fails to resolve the problem.
- Prepare thoroughly for interview with perpetrator – advising them of the impact on their tenancy if behaviour continues.

2.54 Enforcement/use of preventative tools

- Identify the most appropriate tool to prevent ASB and protect victims, witnesses and the wider community. Use ASBOs/ Injunctions early if necessary.
- Share data – ensure there are key contacts in each agency.
- Gather appropriate evidence – ASBO cases should usually focus on a few well documented cases.
- Ensure witnesses are fully prepared and supported through court process.
- Ensure ASBO prohibitions are clear and enforceable.
- Use community impact statements.
- Take breaches seriously – and be aware of the CPS ‘positive prosecution policy’.

2.55 Closing a case

- Remember ‘you said, we did’ – market success and communicate outcomes.
- Close case with face to face contact with complainant. Follow up again after closure.
- Ensure appropriate arrangements are in place for continued management and monitoring of the case after closure e.g. through the local neighbourhood partnership, linking with the neighbourhood policing team.
- Record why the case has been closed and keep on file. Be prepared to re-open if problems re-occur.

Part 3

Protecting communities

- 3.1 Choosing the right course of action that reflects the urgency and severity of the behaviour, the needs of the victim and the circumstances of the individual perpetrator is critical to achieving an effective solution that results in a reduction in the harm being caused. Achieving the balance between prevention, early intervention, enforcement and support actions is essential to producing long term sustainable solutions.
- 3.2 A significant number of tools and powers are available to social landlords, either directly or in partnership with others, but some landlords may not be confident in using all of them. In order to act effectively to tackle anti-social behaviour, landlords need to be aware of the full range of anti-social behaviour tools and powers available to them and be confident in deciding what to use when. (Part 4 of this guidance provides a summary of each of the key tools and the circumstances where they may be appropriate for use). Generally, actions taken will fall into one of four broad categories:
- Prevention, and safeguarding vulnerable individuals
 - Support for victims and witnesses
 - Early intervention, to make it clear that anti-social behaviour is unacceptable and supporting perpetrators to change behaviour
 - Enforcement
- 3.3 Landlords need to build residents' confidence in their commitment to tackle anti-social behaviour and provide essential support for victims and witnesses.

Prevention and safeguarding vulnerable individuals

Safeguarding vulnerable individuals

- 3.4 Social landlords accommodate within their general needs housing many vulnerable people and families (including people living with HIV, persons with mental health issues, substance misusers and people experiencing violence and abuse). Many of these individuals are disproportionately susceptible to the effects of crime and anti-social behaviour, as are the most disadvantaged neighbourhoods in which many social landlords operate. The identification of vulnerable residents at the point of access to social housing to ensure that appropriate support packages are available and adequately resourced, is essential to protect vulnerable individuals and facilitate sustainable tenancies.

3.5 Some individuals may be singled out for persecution or intimidation because of their race, religion or belief, nationality, gender, transgender, sexual orientation, age or disability. It is vital that housing officers and front line staff, who are often the first point of contact for residents experiencing anti-social behaviour, are able to accurately identify, assess and respond where either the complainant is vulnerable and/or the victim of hate motivated crime or harassment. It is essential that anti-social behaviour policies and procedures contribute to the safeguarding of vulnerable children and adults against the effects of hate based crime and anti-social behaviour, and take into account the needs of individuals when engaging and delivering services to them.

3.6 Examples of support measures that landlords can take either directly or in partnership with local agencies to support vulnerable groups include:

- Assessment of the vulnerability of victims.
- Identification of vulnerable residents/families at the point of access to housing to ensure appropriate support packages are available and adequately resourced. This might include referrals to a wide range of support services including intensive family intervention services for families with the most complex needs www.dcsf.gov.uk/ecm/thinkfamily.
- Adopting a zero tolerance approach to ensure that all incidents are treated seriously.
- Effective and sensitive handling of reports of harassment, using a victim centred approach.
- Ensuring victim support is available.
- Application for special measures for vulnerable residents at court hearings.
- Publicity campaigns to encourage reporting of anti-social behaviour and awareness of what can be done to tackle it.
- Effective multi-agency and partnership working with police and other agencies to tackle the causes of hate based crime and offer appropriate and tailored support to victims.
- Taking the lead in the promotion of tolerance and good relations between people of different community groups.

Further information:**Tackling Hate Incidents: A toolkit for social landlords in Wales (2009)**

This toolkit, produced by HouseMark and Social Landlords Crime and Nuisance Group offers comprehensive advice and information around the provision of comprehensive services and support to victims and witnesses of hate incidents. Key principles can be adopted for England. Available from: www.HouseMark.co.uk

Advice on all aspects of rights and equalities can be found on the Equalities and Human Rights Commission website: www.equalityhumanrights.com

Note: Using Anti-social Behaviour Order/Injunction terms to protect witnesses

Injunctions (see para 4.172) and Anti-social Behaviour Orders (ASBO) (see para 4.49) can contain specific terms that prohibit the perpetrator of anti-social behaviour from contacting or communicating with named witnesses. These terms should be routinely included in injunction and ASBO applications where they are appropriate.

Sustainable lettings

- 3.7 Balancing the needs of vulnerable applicants who may have multiple social and health problems with the needs of existing residents can be difficult. Vulnerable individuals can be both victims and perpetrators of anti-social behaviour. Careful consideration should be given to the numbers of tenancies allocated to vulnerable individuals and the organisation's capacity to provide support. Where the landlord does not have sufficient capacity or is unable to offer an adequate support package, the applicant may find it difficult (if not impossible) to maintain the conditions of tenancy and sustain the tenancy in the long term.
- 3.8 One 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. For example, factors such as age, gender and family composition can result in neighbour conflicts or a clash of lifestyle over issues such as children playing or noise nuisance. Developing common allocations policies in conjunction with other local social landlords will strengthen the outcomes of any local lettings policy aims and objectives and support the creation of mixed, sustainable communities.⁵ The use of effective lettings policies and tenancy terms and conditions (see para 4.236) can all help to reinforce messages around expectations of behaviour and the promotion of tolerance.

⁵ Kent-Smith, J. (2010) *The Wales Housing Management Standard for tackling anti-social behaviour – Guidance for implementation*. Cardiff, CIH Cymru

- 3.9 In practice, housing managers and front line staff are often the first to identify problems and undertake an early diagnosis of the issues. It is fundamental that staff understand how to respond where either the complainant or perpetrator is identified as vulnerable, and can distinguish between harassment or behaviour that is motivated by hate and general anti-social behaviour. Anti-social behaviour policies and procedures should be particularly sensitive to vulnerable groups and those most at risk of discrimination or hate crime or harassment.

Prevention activity

- 3.10 Well considered preventative action can significantly reduce incidents of anti-social behaviour and reduce the need for social landlords to pursue more costly enforcement action. Preventative work covers a wide range of activity across all aspects of housing management. Activities range from the use of starter or introductory tenancies (see page 100) and good neighbour agreements (see para 2.23), through to security improvements, neighbourhood warden schemes, the swift response to environmental problems (see page 74) and setting clear tenancy conditions (see page 123).
- 3.11 Increasingly, social landlords are becoming more involved with initiatives and projects that promote community cohesion, provide diversionary activities for young people and deliver support to address underlying problems, in partnership with specialist advice agencies. In particular, work with children, young people and families can deliver significant positive outcomes.

Children and young people

- 3.12 Preventative work is particularly important with children and young people as early involvement in anti-social behaviour can be a sign of wider problems that can affect longer term outcomes. Used well, the combination of customer insight information (from social landlords and partner agencies), and anti-social behaviour reporting information can help identify where current and potential hotspots of anti-social behaviour caused by children and young people are most likely to occur. Either directly or in partnership with local schools and neighbourhood policing teams, social landlords have a key role in:
- Identifying where children are in most danger of offending or causing anti-social behaviour.
 - Working in partnership with local schools, the police, youth offending teams, local support agencies, such as parenting and family support services, and the voluntary sector to minimise the risks of offending, and develop a local young people's strategy.

- The provision of targeted positive diversionary activities for young people, either directly or in partnership with local schools and agencies, to discourage unacceptable behaviour. Local authorities will arrange a range of activities for young people through their youth services and information on these should be accessible through their websites. There may also be other organisations that offer positive activities targeted at young people at high risk of involvement in crime and ASB in the local area, for example Positive Futures or Youth Inclusion Programmes.
 - Supporting local projects or initiatives through the shared use of buildings, land or financial resources.
- 3.13 Both social landlords, schools and FE colleges share aspirations around issues such as community cohesion, social inclusion and tackling poor behaviour. Recent research by CIH⁶ demonstrates how joint working between schools and landlords can significantly reduce anti-social behaviour and deliver successful outcomes for communities, through the sharing of resources and expertise.
- 3.14 There is strong evidence that family based problems such as poor parenting can cause youth crime and anti-social behaviour. International research shows that evidence-based parenting programmes have lasting effects in improving behaviour and a wide range of outcomes for children and young people, including educational attainment and prevention of anti-social, offending and risky behaviours such as use of alcohol and drugs. There are some excellent examples of social landlords which are well linked to parenting and family support services.
- 3.15 Both the Youth Taskforce Action Plan 2008 and the Youth Crime Action Plan 2008 set out comprehensive national objectives aimed at preventing young people from engaging in anti-social behaviour and improving opportunities for them. Both plans recognise the need for a triple track approach of enforcement, prevention and non-negotiable support and challenge delivered in partnership. Crucially, social landlords should work closely with partners to ensure that services delivered are the most appropriate, and maximise available resources and expertise. Partners may typically include Children's Trusts, Youth Offending Teams, Community Safety Partnerships, neighbourhood policing teams and other third sector agencies.

⁶ Thornhill, J. and Kent-Smith, J. (2009) Housing, Schools and Communities, Coventry, CIH

Further information:

The Youth Taskforce Action Plan (2008)

Available from: www.asb.homeoffice.gov.uk

The Youth Crime Action Plan (2008)

Available from: www.homeoffice.gov.uk

The Think Family Toolkit (2010)

Available from: www.dcsf.gov.uk/ecm/thinkfamily

Tired of Hanging Around (2009)

The study entitled 'Tired of Hanging Around' focuses on the role of sport and leisure activities in preventing anti-social behaviour in young people aged 8 to 19 years.

Available from: www.audit-commission.gov.uk

Tackling offending and anti-social behaviour by under 10s

In May 2008, the Home Office, together with the Youth Justice Board and the Association of Chief Police Officers produced "A Guide to Anti-social Behaviour Tools and Powers" providing comprehensive guidance in relation to early intervention methods, and tackling offending and anti-social behaviour by under children under the age of 10 years.

Available from: www.asb.homeoffice.gov.uk

Neighbourhood policing guide for early intervention and prevention of youth crime and anti-social behaviour

The new guidance aims to support Neighbourhood Policing Teams in their engagement with children and young people and gives details of police powers relating to young people, case studies from across England and Wales, and links to further resources and advice. The guidance consists of two documents, a Manager's Guide (for Chief Inspectors and Inspectors in a Neighbourhood Policing role) and a Practitioner's Guide (for Sergeants, Constables and Police Community Support Officers)

Available from: <http://police.homeoffice.gov.uk/community-policing/neighbourhood-policing/index.html>

Support for victims and witnesses

3.16 When anti-social behaviour is reported victims needs to feel confident and reassured that:

- They are being taken seriously and swift action is being pursued to address the behaviour of the perpetrator
- Adequate levels of protection and tailored support are available throughout the duration of the case and beyond, where cases escalate to court

- They will not be left vulnerable to intimidation at any stage of the complaint handling process.
- 3.17 For many landlords, persuading people to act as witnesses can be a problem. Regardless of whether or not they are victims, many residents are fearful of giving evidence or attending court hearings due to the fear of reprisals and intimidation and concern that services may not protect them. It is, therefore, essential that residents, witnesses and the community as a whole are confident that the landlord will provide a service that puts victims and witnesses first and prioritises action to stop the anti-social behaviour. Making sure that the community hears about the action being taken, and the results that can be achieved for witnesses and communities will be vital in this respect and help the landlord's reputation.
- 3.18 For some vulnerable individuals who are victims of hate crime and anti-social behaviour, standing up to perpetrators and giving evidence can be a particularly stressful ordeal. Social landlords should not underestimate the level of distress that may be experienced or the amount of support victims may need to help them cope with the impact that the anti-social behaviour has on their lives.
- 3.19 It is important that victims are supported throughout the process (including the period beyond the court hearing) and that they hear first about developments in a case. Social landlords are required by the TSA Neighbourhood and Community Standard both to demonstrate that they are providing support to victims and witnesses and that they are keeping them informed about the status of their case.
- 3.20 The Government on 9 March 2010 challenged local agencies, including social landlords, to meet the public's expectation that complaints about anti-social behaviour will be dealt with speedily and professionally. Building on existing good practice, partnership agencies under these minimum standards should respond to all anti-social behaviour reports within 24 hours; every victim of anti-social behaviour should be given the name of the caseworker dealing with the incident; a case review between victim and caseworker should take place at least monthly; and monthly anti-social behaviour community meetings should also take place.
- 3.21 Some support can be delivered directly as part of core housing management functions, such as additional home safety measures. However, civil powers such as injunctions and ASBOs are very powerful means of protecting victims who are at risk. Social landlords need to work closely with the police and expert support and counselling services to provide specialist advice and

protection to witnesses and victims for the duration of the complaint and beyond. Good casework management and proper risk assessments across local agencies are at the heart of dealing effectively with complaints of ASB and ensuring that responses are tailored to the needs and vulnerability of victims and witnesses.

- 3.22 There is now a Home Office funded network of Victims' Champions in 85 areas across the country who will work to join up and improve services for victims of ASB.

Good practice checklist: Supporting victims and witnesses:⁷

- 3.23 Social landlords should consider the following measures to support victims and witnesses:

- Discuss each stage of the legal process with witnesses
- Encourage other witnesses to come forward – but this should be done sensitively taking account of the circumstances and care should be taken not to put witnesses at risk
- Maintain close contact with victims and witnesses to develop trust and build confidence
- Provide details of an emergency out of hours contact
- Manage expectations: ensure the witness has a clear understanding of the process and a realistic sense of likely outcomes
- Maintain confidentiality – wherever possible individual complainant details should not be revealed to the perpetrators
- Arrange for witnesses to be visited in their homes or a place of the witness' choosing, to provide continuing support
- Work in partnership with other agencies and specialist support providers to provide tailored support packages to victims and witnesses, as appropriate to the circumstance
- Arrange for witnesses to be taken on accompanied visits to the court prior to the hearing
- Offer temporary alternative accommodation during the lead up to a trial (as appropriate)
- Offer alternative permanent accommodation to victims and witnesses (as appropriate)

⁷ Adapted from: CIH (2006) *Tackling anti-social behaviour Action Frameworks for Governing Bodies, Housing Committee Members, Residents and Social Housing Practitioners*, Coventry, CIH

- Provide a risk assessment of the victim or witness' home environment and provision of extra physical security measures, such as mobile phones, property and personal alarms and measures such as fire safe letterboxes
- Maintain contact after the court hearing and where appropriate refer to other sources of support or local counseling services.

Special measures for intimidated and vulnerable witnesses

3.24 For stand alone ASBO applications, social landlords may ask the court to consider the use of 'special measures' to vulnerable and intimidated witnesses. Special measures can include giving evidence from behind screens or by video link.

3.25 Only vulnerable or intimidated witnesses are eligible for special measures:

- **Vulnerable witnesses** are all witnesses aged under 17 years, or whose quality of evidence is likely to be diminished because they have a mental disorder or learning disability, or have a physical disability or disorder
- **Intimidated witnesses** are witnesses whose quality of evidence is likely to be diminished because they are in fear or are distressed about testifying.

Good practice example: Salford City Council

Witness Support

Salford City Council's Witness Outreach Service is a dedicated service providing practical support to witnesses and potential witnesses of crime and anti-social behaviour, especially those that feel harassed or intimidated. It also works closely with the Crime and Disorder Partnership and the ASB unit.

The Witness Outreach Service is a free, confidential service funded by Salford City Council. Witnesses are supported from the time the offence is committed through to the court case and beyond. The dedicated service has helped the ASB unit to deliver more successful outcomes because it ensures better support for victims and witnesses.

Further information:

Supporting witnesses:

Home Office Guidance How Best to Support Witnesses provides detailed advice and guidance on supporting witnesses from report to trial, remedy and beyond.

Download from: <http://www.asb.homeoffice.gov.uk/>

Criminal Justice System Guidance Action Disperses Fear brings together good practice in managing intimidated witnesses and includes a risk assessment tool and guidance for social landlords to help improve support for intimidated witnesses and victims of ASB.

Download from: <http://frontline.cjsonline.gov.uk/>

National Victims Service

The Government is committed to improving support for victims and witnesses. A new National Victims Service launched in January 2010 will deliver support to victims of crime and anti-social behaviour. Initially the service will provide help to families bereaved by murder or manslaughter, although a phased introduction means support will be extended over time to other victims of crime.

Victims will receive practical assistance, for example with childcare or security as well as emotional support and expert assistance.

Further information is available from the Ministry of Justice: www.justice.gov.uk

Victim and Witness Support:

Specialist Witness Support services provide invaluable assistance to witnesses, supporting them through the process of giving evidence in court. While Victim Support Services are predominantly used in criminal cases, local arrangements can be made to support witnesses in civil proceedings.

More information: www.victimsupport.org.uk

Early intervention and support to change perpetrators behaviour

- 3.26 Intervention is the term used to describe the range of non-statutory actions available to landlords and other agencies to tackle anti-social behaviour. Swift intervention can prevent behaviour escalating to a more serious level, or can effectively resolve low-level anti-social behaviour.
- 3.27 Interventions should never be seen as an end in themselves or simply part of a formulaic list of actions to undertake. The focus should always be on whether harm is reduced as a result of action. If the problem hasn't stopped social landlords should keep on taking action until it has.

3.28 Early intervention actions taken by social landlords can be highly effective at resolving anti-social behaviour. Evidence suggests that actions taken by housing officers such as; one to one visits, warning letters, and mediation prove to be successful in over 75 per cent of reported anti-social behaviour cases. Less than 25 per cent of cases managed by social landlords require more formal interventions or enforcement.⁸

Mediation

3.29 Mediation is a voluntary process which offers a way to solve disputes between people. An independent third party helps conflicting parties to work through their disagreement so that a satisfactory agreement is reached for all concerned. Mediation offers a cost effective remedy and a quick resolution to disputes. Social landlords may employ the services of specialist mediation and dispute resolution services where there are no suitably trained officers in-house.

3.30 For mediation to be effective it is important that:

- Both parties are willing to engage in the process voluntarily
- There is a skilled mediator who ensures that both parties have the opportunity to speak and is able to manage any power imbalances
- The nature of the dispute is appropriate, for example: noise nuisance, nuisance from pets, family conflict, boundary disputes.

Good practice example: Southampton City Council

Mediation Assessment Service

Independent mediation services are delivered across Southampton to both tenants and leaseholders by the New Forest Assessment Service. Where a dispute between neighbours is reported to the housing office and individuals have been unable to resolve the problem themselves, housing staff refer the case to the New Forest Assessment Service. Mediators talk to both parties within 15 days of the case being reported.

In more than 90 per cent of cases this tool is successful at resolving the problem and is particularly effective at tackling low level anti-social behaviour. Less than 10 per cent of the cases referred to the service require any follow up action by the landlord. This enables housing staff to concentrate efforts and resources on tackling more serious anti-social behaviour cases.

Example sourced by SLCNG

⁸ Data from HouseMark ASB Benchmarking Service 2008/09

Supporting perpetrators to change behaviours

- 3.31 Often there may be significant underlying problems which contribute to a person's engagement in anti-social behaviour, such as abuse or neglect at home, alcohol and drug misuse or physical and mental health problems. Supporting perpetrators to identify and resolve their problems can help to improve and change behaviour. Often supportive interventions will need to be coupled with enforcement to engage the individual, and a range of enforcement tools exist to engage the perpetrator in support programmes where a voluntary agreement cannot be achieved. For example, Individual Support Orders (see page 90), and Parenting Orders (see page 108).
- 3.32 The combination of perpetrator supportive actions, intervention or enforcement actions should reflect the nature and severity of the behaviour and the needs and commitment of the individual. The potential range and complexity of problems means it is essential for social landlords to adopt a multi-agency approach, working closely with specialist support agencies. Where intervention requires a package of co-ordinated support from more than one agency, careful co-ordination is necessary. Landlords should have effective referral, assessment and information sharing procedures in place to facilitate effective multi-agency working. However, the primary focus should be on ensuring the necessary protection for victims and witnesses – and this should not be delayed by the need to put in place multi agency arrangements.

Good practice example: Your Homes Newcastle

Early intervention Challenge and Support Project

Your Homes Newcastle has a Challenge and Support project which strengthens the actions of the police, housing, Victim Support, the local authority's Young People Drug and Alcohol Service and the Youth Inclusion team to ensure that repeat offenders and young vulnerable people engaging in anti-social behaviour are identified, challenged and supported through early intervention measures. The project aims to reduce the numbers of young people entering the criminal justice system or requiring more formal legal sanctions.

All repeat offenders and all young people engaging in anti-social behaviour are offered support through the Youth Inclusion and Children's Services Intensive Intervention Programme. All under 19s targeted for an Acceptable Behaviour Agreement where alcohol or drugs are a concern, also receive support from drug and alcohol workers.

By adopting a cross tenure, multi-agency approach to early intervention, the project has changed behaviour in 95 per cent of perpetrators without the need for legal action. Successes include:

- A reduction in ASB complaints made to housing offices by 51 per cent between 1 January and 31 December 2008.
- An increase in early intervention actions such as warnings and Acceptable Behaviour Agreements but a reduction in the numbers of possession orders, injunctions and evictions.
- A sustained low level of cases resulting in eviction or ASBOs.
- An increase in customer satisfaction levels from 54 per cent in 2007/8 to 78 per cent in 2008/9.

Intensive family support

- 3.33 A small number of households may require intensive family support, such as parenting support, drug and alcohol treatment, family support and group work for children and parents to break the cycle of poor behaviour.
- 3.34 Family Intervention Projects (FIPs) are being rolled out in every local authority to tackle the problems of some of the most challenging families who are involved in anti-social behaviour or experiencing other problems such as entrenched worklessness, substance misuse or offending. The Family Intervention Project key worker uses an assertive and persistent style of working to challenge and support families to address the root causes of negative behaviour. They work intensively with the whole family, offering support alongside sanctions and enforcement action, implementing a wide range of interventions and coordinating services.
- 3.35 Increasingly, social landlords are taking an active role in the provision of such intensive support, in the form of Family Intervention Projects and Family Intervention Tenancies. (For more information on Family Intervention Projects and Tenancies (see pages 80–89). For social landlords the cost of providing intensive support can be balanced against the potential costs of managing further incidents of anti-social behaviour and legal enforcement action, if no action is taken to support the perpetrator. Housing staff report the benefits include a reduction in rent arrears, reduction in ASB and improvements in maintenance of tenancies.
- 3.36 Government has made additional funding available to social landlords, through the FIPs Housing Challenge Fund to significantly increase the number of Family Intervention Projects across the country delivered with social housing providers. £7.2m of central funding has been matched by £9.1m of match

funding from housing partners leading to 132 new projects and 302 key workers (see the Think Family section of the DCSF website at www.dcsf.gov.uk/ecm/thinkfamily).

- 3.37 As part of this provision, social landlords may be expected to agree with FIPs the families which will be targeted and may want to be part of the support/challenge provided to a family. Social landlords may also need to be an active member of the steering group that sets and oversees the FIP.

Good practice example: Tameside Family Intervention Project

Mrs B required the intervention of a FIP because of alcohol misuse, police call outs due to the anti-social behaviour of her children and the children not attending school. The work of the FIP and other agencies has resulted in Mrs B going through detox and continuing to attend an alcoholic support group as well as parenting classes. Anti-social behaviour has reduced and the children are no longer subject to child protection plans. There have been no police call outs over the last 12 months. The younger children are now back in education and are attending youth programmes. The cost of providing the FIP over the last 16 months has been £15,000. The estimated savings are £156,000 (court/eviction costs: £12,000; neighbourhood/enforcement officer time: £6,000; police savings: £12,000; social work/intervention: £12,000; and prevention of going into care over a 12 month period: £120,000.)

Enforcement

- 3.38 Sometimes the nature and severity of the anti-social behaviour means immediate enforcement action is necessary. Enforcement action should not be a last resort but a proportionate response to ASB which will stop problems – for example where violence is threatened, action in court will be required; informal or voluntary agreements should not be pursued where perpetrators are obviously unwilling to comply. In other cases enforcement may be used to progress cases where earlier intervention action has not resolved the problem, or cumulative experience demonstrates that the perpetrator is unwilling to engage with support.
- 3.39 Enforcement action can be used in conjunction with other intervention and support measures, though the choice and combination of actions should be appropriate and proportionate to the behaviour of each case. Enforcement and support actions can include:
- Anti-Social Behaviour Orders (see page 54), often coupled with, for example, Individual Support Orders (see page 90) or Parenting Orders (see page 108) as a package of enforcement and support

- Injunctions (see page 93)
 - Possession Orders (see page 112)
 - Tenancy Demotion Orders (see page 66)
- 3.40 Social landlords should ensure that getting an ASBO or other injunction is not the end of the process – prohibitions must be adhered to, and if they are not then the breach should be prosecuted. The Crown Prosecution Service have a ‘positive prosecution policy’ regarding ASBO breaches so that where there is sufficient evidence, it will usually be in the public interest to prosecute breaches. Breaches should be seen in terms of the harm to the community that led to the original application and not viewed in isolation as a ‘technical’ breach.
- 3.41 Landlords should note that not all tools are available to all social landlords; some powers are only applicable to local authorities and/or other public agencies such as the police or probation services. However, effective partnership arrangements will enable housing associations to have a strong influence on the application of such options.

Good practice checklist: Enforcement

The following questions should be considered where enforcement action is being taken:

- Is the proposed action swift and proportionate to protect the victim and community from continuing anti-social behaviour?
- Have appropriate self-help measures such as mediation been explored?
- Where applicable have support measures been put in place for the perpetrator to help them stop their anti-social behaviour?
- Are all partners aware of and supportive of planned action? If not, legal action may be delayed.

Providing evidence

- 3.42 A landlord cannot successfully secure any enforcement action unless it has gathered strong evidence. The source and nature of the evidence can vary widely, but in legal terms, evidence is something that proves the existence or non-existence of fact. Evidence may consist of statements from witnesses or reports, CCTV video or tape, oral evidence and hearsay evidence.
- 3.43 Where witness statements are to be included as evidence, it is extremely important that they are accurate. A statement must contain relevant information including what the witness has seen and explain how the anti-social behaviour has affected their family or lifestyle.

- 3.44 In cases that progress to court, the perpetrator will be provided with copies of any witness statements and each witness will be required to attend court to give evidence before the judge. Officers should take extra care when preparing witness statements to protect vulnerable witnesses.

Demonstrating the effectiveness of tools and powers

- 3.45 The reporting of anti-social behaviour performance and in particular action taken against perpetrators can have a positive impact on public confidence and on raising residents awareness of the work landlords and partner agencies are engaged in within the community. It is important for landlords to collect good quality ASB performance measures to drive future improvements in services, but that should be accompanied by regular communications with residents to tell them what has been done to tackle ASB and find out whether that has worked.

Further information:

Monitoring and benchmarking performance:

The Respect Standard for Housing Management: A Performance Improvement Toolkit for Landlords (2007) produced by CLG, HouseMark and Social Landlords Crime and Nuisance Group provides detailed information on the collection, reporting and benchmarking of anti-social behaviour performance.

Available from: www.communities.gov.uk/publications/housing/landlordtoolkit

Developing customer insight:

The collection of accurate customer insight data on complainants and perpetrator profiles is invaluable when identifying trends and evaluating the delivery of effective anti-social behaviour services. Understanding not only who complainants and perpetrators are, but why they behave in a certain way is critical to choosing the right intervention or enforcement action. Coupled with strong performance information, customer insight supports social landlords identify potential anti-social behaviour hotspots and supports the effective targeting of resources where they will deliver the greatest outcomes. The CIH Good Practice Briefing 32: Customer Insight – Knowing your Customers (2008) provides advice and guidance to social landlords on developing customer insight.

For more information see: www.cih.org/publications

Part 4

Choosing the right tool

- 4.1 This section provides a compendium of practice focused factsheets covering the key enforcement and intervention options available for use by social landlords.
- 4.2 Not all options are directly available to all social landlords; a number of options are not available to housing associations directly. Readers should take care to note the 'who can apply' section for each tool. Where a specific tool is only available to local authorities or the police, other social landlords should look to influence the use of the tool through existing partnership arrangements.
- 4.3 Individual factsheets provide a description of each tool, who can apply to use it and the circumstances when each tool may be appropriate for use:

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Access to housing lists: Exclusions and ineligibility

What is an exclusion or ineligibility for social housing?

- 4.4 Where a person applies for social housing but has a history of anti-social behaviour, subject to the local authority's assessment of individual circumstances, the person can be prohibited from being considered for an allocation of social housing. This action is generally referred to as an exclusion or ineligibility.
- 4.5 Previous anti-social behaviour by the applicant or a member of their household must be serious and have been sufficient to have gained possession of the property should the case have been heard in court (if the applicant was a secure tenant of the local authority).

Statutory arrangements

- 4.6 Section 160A(7) of the Housing Act 1996 provides that a local authority may decide that an applicant is ineligible for housing if they are satisfied that the person or a member of their household are guilty of unacceptable behaviour, and
- 4.7 Note that in addition section 167 of the Housing Act 1996 enables a local authority to award no priority or a lower priority to a household if they are satisfied that:
- The applicant or a member of his or her household, has been guilty of unacceptable behaviour serious enough to make him or her unsuitable to be a tenant of the authority; and
 - At the time his/her case is considered by the authority, s/he is unsuitable to be a tenant by reason of that behaviour.

Who can decide on ineligibility for housing?

- 4.8 A local authority and housing association landlord can decide if an applicant is ineligible for housing, at the time an application for housing is made by an individual.
- 4.9 It is good practice for housing associations to adopt the same approach as local authorities in relation to ineligibility and exclusions to their housing. Ideally, housing associations and local authorities should work in partnership to operate a joint policy.

When to consider excluding an applicant from the waiting list?

- 4.10 A landlord may consider excluding an applicant from their housing in situations where there is evidence of past anti-social behaviour. The decision should take into account whether the behaviour was serious enough to have resulted in a possession order should the case have been heard in court. Other evidence might include a previous injunction or ASBO taken out against the applicant or a member of their household.
- 4.11 Eligibility should only be in question if there is reason to suppose that the applicant is likely to behave in an unacceptable way. Previous tenancy enforcement action for anti-social behaviour should not act as a barrier to eligibility and if the tenant's household has conducted a tenancy satisfactorily in the intervening period, that is likely to provide evidence of a change in behaviour. In addition, landlords may not ask an applicant about spent convictions and a previous conviction should not be an automatic barrier to access, especially for low risk offenders.

Key features

- 4.12 Where an applicant is judged to be ineligible for housing because of unacceptable behaviour⁹ the applicant has a right to:
- Be given written notice of the decision and the grounds for the decision. The notice must be available for collection by the applicant for a reasonable period (where delivery is not possible)
 - Request an internal review of the decision that is fair and compatible with the European Convention on Human Rights
 - Be provided with information about the ways in which any exclusion decisions may be reversed (e.g. evidence that the applicant has modified behaviour and engaged with support etc)
- 4.13 All social landlords should have policies and procedures in place to deal with the exclusion of individuals with a history of anti-social behaviour. Where households are excluded, landlords should consider how information on excluded individuals, is shared with other landlords locally.

⁹ Unacceptable behaviour is behaviour of the tenant or a member of his or her household which would entitle the authority to possession under Part 1 Schedule 2 Housing Act 1985 (Ground 1 to 7 – Ground 8 is excluded).

Where to find further information

4.14 **Fair and flexible: statutory guidance on social housing allocations for local authorities in England**

New guidance published by CLG in 2009 sets out more clearly the freedoms and flexibilities that local authorities should use when developing allocations policies in their area.

www.communities.gov.uk

Acceptable Behaviour Contracts

What is an Acceptable Behaviour Contract?

- 4.15 An Acceptable Behaviour Contract (ABC) (sometimes referred to as an Acceptable Behaviour Agreement) is a voluntary agreement between a person who has been involved in anti-social behaviour and their landlord, or other agency involved in preventing anti-social behaviour.
- 4.16 ABCs can be used on both adults and individuals under 18 years. The written agreement sets out the types of behaviour that will not be tolerated and warns the perpetrator of the consequences, if their behaviour continues. ABCs are generally used to manage behaviour over a six month period, although they can be used for longer durations. They are an informal, flexible tool that can be used to tackle various types of ASB. ABCs can be an early step in an incremental process but if they fail then other enforcement tools should be considered.

Statutory arrangements

- 4.17 While not legally enforceable or binding, ABCs can be referred to in court in support of an application for possession or an ASBO.

Who can apply for an Acceptable Behaviour Contract

- 4.18 An ABC is a written agreement/contract between any individual involved in anti-social behaviour and one or more agencies whose role it is to prevent further anti-social behaviour.
- 4.19 Contracts can be drawn up between an individual involved in anti-social behaviour and their:
- Local authority
 - Youth Inclusion Support Panel (YISP)
 - Landlord
 - Local police service.

When to consider using an Acceptable Behaviour Contract?

4.20 ABCs are effective at addressing low level anti-social behaviour, at an early stage, ABCs are often used by social landlords, where complaints about anti-social behaviour have been received, but the behaviour is not serious enough to warrant an ASBO or Anti-social Behaviour Injunction or possession proceedings. Types of behaviour might include, but are not limited to:

- Criminal damage
- Vandalism or graffiti
- Noise nuisance
- Smoking or drinking alcohol underage
- Verbal abuse or harassment of residents.

4.21 An ABC can be considered where:

- There is a need to remedy the behaviour quickly
- There is a need for early warning of consequences, should behaviour continue
- There is an opportunity for parents or families or support agencies to intervene.

Key features

4.22 An ABC is a voluntary contract which requires the signature of the perpetrator. Minors should usually be accompanied to any interview by their parent/responsible adult and parental commitment to the contract is preferable. The contract should also be signed by all parties present at the interview and copies given to them.

4.23 The contract/agreement should contain:

- All the names of parties subject to the contract
- A list of anti-social behaviour incidents which the individual has been involved in
- Details of specific types of behaviour that will not be tolerated and any conditions to be adhered to
- A list of the types of behaviour to be prohibited
- Details of support or reward incentives to be put in place to encourage behaviour changes. For example, attending school regularly, attending addiction programmes

- Details of the consequences if the contract is breached, such as an application for an ASBO or possession order
- The agreement and signature of all parties present at the interview.

4.24 The following is a list of the types of evidence that can be used to inform the terms of an ABC:

- Details and nature of complaints made to the landlord
- Police information
- Photographs
- Conversations with local people, such as shopkeepers, caretakers, and information gathered from contact with local residents
- Diary sheets.

Failure to reach an agreement

4.25 Where a voluntary agreement cannot be reached, the landlord should consider an alternative intervention, such as:

- An Anti-social Behaviour Order (see page 54)
- Anti-social Behaviour Injunction (see page 93)
- Tenancy demotion (see page 66) or possession. (see page 112)

4.26 The perpetrator should be advised of the course of action the landlord may consider if the behaviour persists. In situations where the anti-social behaviour persists and an ABC is refused by the perpetrator and/or their parent/responsible adult then this can be used as evidence by the landlord to demonstrate reasonableness for the landlord to apply for possession or a Demotion Order.

Breaching an Acceptable Behaviour Contract

4.27 Where a contract is breached it must be followed with further action in order to be taken seriously.

4.28 Landlords should continue to monitor behaviour against the terms of the ABC to ensure behaviour both improves and is sustained throughout the duration of the agreement. Monitoring should be supported by:

- Regular meetings with the perpetrator
- The provision of feedback to parents of minors
- Advice to perpetrators when the contract expires, including highlighting where improvements have been made.

- 4.29 Complainants provided with a copy of the terms of the ABC can also support the landlord to monitor compliance with the terms of the ABC and should be encouraged to contact the landlord if they feel the contract has been breached. Landlords, however, should note that complainants should only be provided with a copy of the ABC terms to support reporting. Complainants should not be provided with a copy of the whole ABC as this will contain personal information relating to the perpetrator that should be protected.
- 4.30 In situations where evidence is gathered to show that a breach has taken place landlords should:
- Inform all parties involved of the breach
 - Invite the perpetrator to another interview to discuss the breach
 - Inform the perpetrator of further action that will be taken, for example, a further Acceptable Behaviour Contract, application for an ASBO or possession
 - Take action.

Note: A breach of an ABC can be used as evidence to support legal enforcement action such as claims for possession or for an injunction.

The advantages of using Acceptable Behaviour Contracts

- 4.31 The advantages of using ABCs include the following:
- Can be managed in-house, without legal or court costs being incurred
 - Raises perpetrators awareness of consequences of action
 - Can be used for all ages
 - Limited evidence required
 - Statements not required
 - Can be used as evidence in further proceedings
 - Can include positive requirements
 - Voluntary
 - Flexible
 - Multi-agency involvement
 - Quick and easy remedy.

Good practice example:

Gentoo Sunderland: Acceptable Behaviour Contract

Complaints were received concerning the anti-social behaviour of a young person. The Neighbourhood Beat Manager approached the family and it was discovered that the young person had major behavioural problems and was also experiencing difficulties at school. A multi-agency meeting was convened to discuss the way forward and it was agreed that an ABC was the appropriate course of action.

Due to the young person's behavioural problems, the young person was asked to keep a daily journal detailing his activities and behaviour, which would be signed off weekly by the visiting Neighbourhood Enforcement Officer. As a result of these interventions the young person's behaviour has improved dramatically both in school and in the community.

Where to find more information

4.32 **Guidance on the use of Acceptable Behaviour Contracts and Agreements (2007)**

Comprehensive guidance on the use of ABCs can be downloaded from:
www.asb.homeoffice.gov.uk

Anti-Social Behaviour Orders

What is an Anti-social Behaviour Order?

- 4.33 An Anti-Social Behaviour Order (ASBO) is a civil order made by a court which sets out specific terms and conditions that prohibit an individual from engaging in further incidents of anti-social behaviour or undertaking specific activities in their local area.
- 4.34 An interim ASBO (IASBO) with or without notice can also be obtained, pending a full hearing, to determine whether a full ASBO should be granted. A full hearing will be fixed for a later date.
- 4.35 An ASBO (either full or interim) starts from the date of service. A full ASBO lasts for a minimum period of two years, during which time the order cannot be discharged without the consent of both parties. However, an order can be made for an indefinite period pending a further order. Breaching an interim or full ASBO is a criminal offence.
- 4.36 In addition to ASBO terms, additional orders may be added to the ASBO. These commonly include:
- Drug Intervention Orders (see page 72)
 - Individual Support Orders (see page 90)
 - Parenting Orders (see page 108).

Statutory arrangements

- 4.37 ASBOs were created by the Crime and Disorder Act 1998. Amendments were introduced as part of the Police Reform Act 2002, which broadened the range of agencies that could apply for ASBOs.

Who can apply for an ASBO?

- 4.38 An ASBO is not tenure related and can be obtained against anyone (subject to meeting criteria see para 4.43 below). The bodies (known as lead agencies) that are authorised to obtain them include:
- Local authorities
 - The police, including the British Transport Police
 - Registered Social Landlords (most housing associations)

- Housing Action Trusts¹⁰
 - The Environment Agency.
- 4.39 Regulations introduced in 2007, allow registered social landlords and local authority landlords to apply for ASBOs in the Magistrates and County Courts.
- 4.40 Where the police or local authority are the lead agency they must consult with each other before making the application. However, where a registered social landlord is the lead agency it must consult with both the police and the local authority before making an application.
- 4.41 Consultation does not mean consent, but a signed certificate of consultation or a witness statement will be required as evidence that consultation took place before the application was made.
- 4.42 In addition to full and interim ASBOs, the Crown Prosecution Service may request the court to make an order in respect an individual convicted of a criminal offence where an offending pattern of behaviour has become established and an order is needed to protect the community from harm. These are commonly known as CRASBOs.

Key features

4.43 **Application criteria:**

- ASBOs can be obtained against any person aged 10 years and above who has acted in an anti-social manner. In cases where an ASBO is made against a 10 to 15 year old, a supporting Parenting Order should also be requested (see para 4.213)
- In ASBO applications, in light of the House of Lords judgment in McCann, evidence is required to show that anti-social behaviour has occurred to the criminal standard of proof
- The necessity of the order is decided on an 'exercise of judgement or evaluation'
- Hearsay and professional witness evidence is admissible
- ASBOs must be made for a minimum two year period
- Breach of an ASBO is a criminal offence and can lead to five years' imprisonment and an unlimited fine.

¹⁰ The ability for a social landlord under section 1 HA 1996 to apply for an ASBO was inserted by section 61 of the Police Reform Act 2002; and the ability for housing action trusts under section 62 HA 1988 to apply for an ASBO was inserted by section 85 of the Anti-Social Behaviour Act 2003.

Applying for Interim ASBOs

4.44 The key points about Interim ASBOs (IASBOs) are that:

- They can be used when there is an urgent need to protect the community
- An Interim ASBO ceases when the final order is made or an application is finally decided
- An Interim ASBO takes effect when served. If the Interim Order is not served within seven days it will cease and will no longer have effect.
- The court must be satisfied it is just to make an Interim Order, as breach of an Interim ASBO can be used as evidence in a possession claim.
- Breach of an Interim ASBO is also a criminal offence in the same way as it is for a full ASBO.

Interim ASBO without notice

4.45 Interim ASBOs can also be applied for without notice (advance warning of the hearing date). However, the court must be satisfied that it is necessary and just to make an Interim ASBO without notice.

Which courts can order ASBOs?

4.46 The information below sets out which courts can order ASBOs.

Magistrates Court (stand alone applications)

Stand alone ASBOs are available from the Magistrates Court, which means that no other proceedings are necessary, although the six month rule applies (see below).

Criminal Court (Magistrates, Crown or Youth)

A criminal court can order that an ASBO be made when a person is convicted of another offence. This is known as a Criminal Anti-social Behaviour Order (CRASBO). Where the defendant receives a sentence of imprisonment for that particular criminal offence, then the CRASBO made at the same time can be suspended until they are released. The six month rule does not apply to ASBOs made via this procedure.

County Court

ASBOs are only available from the County Court when granted alongside other proceedings, for example; possession action or an injunction application, and both the landlord and the person against whom the ASBO is sought are party to the proceedings. Where a landlord wishes to apply for an ASBO against the defendant they can ask to be added as a party to the proceedings. The six months rule does not apply in the county court.

- 4.47 Since 1 February 2009, amendments to legislation require that ASBOs made against persons under 17 years are reviewed after one year, to assess their impact and success. The one year review reflects the fact that young people's lives and circumstances can change rapidly, and landlord or applicant authorities may consider varying the order or considering what additional support might be needed by the young person or their family. Wherever possible, the Youth Offending Team should provide the landlord with an assessment of the young person to support the review.

Note: The six month rule

The complaint must be filed within six months from the time the behaviour occurred (Section 127 Magistrates Court Act 1980), and only incidents which occurred within the six months timescale can be used to prove the criteria required for an ASBO.

Older incidents can, however, be used to prove that there is a necessity to make an order for the protection of the public.

Defining ASBO terms

- 4.48 The terms of an ASBO can only set out negative obligations. Terms should be as specific as possible and tailored to individual circumstances and incidents. For example the order may prohibit the defendant from:

- Using cannabis or any other illegal drugs in any public part of ...
- Using, shouting, swearing or engaging in any abusive, insulting, offensive, threatening or intimidating language or behaviour in ...
- Leaving, causing to be left, or allowing to be left any litter, waste materials, vehicles, parts of vehicles on the area edged red on the attached map ...
- Obstructing a police officer or a council officer in the execution of their duty or employee of the council or contractor engaged in delivering the functions of the council
- Contacting or approaching named witnesses in any proceedings
- Engaging in behaviour which is or is likely to be threatening, abusive or insulting to others not of the same household as himself, or encouraging or inciting others to engage in such behaviour within the specified council area
- Using racist language towards another person or in any public place
- Congregating with others or loitering either alone or with others without lawful purpose outside any property including on the highway within the specified council area.

Terms to protect witnesses in ASBO and injunction cases

4.49 ASBOs can also be drafted to contain specific terms that prohibit the perpetrator of anti-social behaviour from contacting or communicating with named witnesses in any proceedings. These should be routinely included in ASBO applications where they are appropriate.

Service of an ASBO

4.50 An ASBO will take effect from the day it is made. Where the defendant is present at the hearing, the ASBO should be served at court. In situations where the defendant is not in attendance, then the ASBO must be personally served. If the ASBO relates to a child, then it must be served on a child and parent or appropriate adult. Copies of the ASBO should be provided to:

- The police
- The anti-social behaviour coordinator of the Community Safety Partnership
- Other partner agencies
- The main individuals directly affected by the perpetrator’s behaviour, and witnesses
- Where the order is made against a minor the court will provide a copy to the Youth Offending Team (YOT).

Breaching an ASBO

4.51 Breach of an interim or full ASBO is a criminal offence. In addition to any criminal prosecution the breach can be used by the landlord as evidence in any subsequent possession claims.

4.52 Prosecution for breach is pursued by the police and Crown Prosecution Service (CPS) in the same way as any other criminal offence. The standard of proof applied to evidence of a breach is the criminal standard. Hearings always start in the Magistrates Court but may be committed to the Crown Court for sentencing.

4.53 The table below indicates the range of sentences that can be passed for breach of an ASBO:

Person	Sentence
Adults	A fine of up to £5000 and/or a sentence of up to five years imprisonment, dependant upon the court
Juveniles	Maximum sentence is a detention and training order. Maximum term of 24 months (12 months custodial and 12 months in the community)
Children aged 10yrs and 11yrs	Can only be given a community order for breach

4.54 All agencies operating within neighbourhoods need to be seen to be active in dealing with any ASBO breaches in a co-ordinated manner to reassure communities and build public confidence in the ASBO process. Coordinated action may include:

- The use of additional enforcement action, such as tenancy action
- Continued protection of the community
- Targeting of additional support measures to protect victims and witnesses
- Continued work with the perpetrator to address causes of behaviour and reduce likelihood of further breaches.

Publicising ASBOs

4.55 Giving the public more information about ASBOs and breach convictions handed out by the courts in their area increases public confidence, encourages people to come forward to report incidents, and discourages offenders. Each case must be judged on its merits. However, publicity is needed for effective enforcement of the ASBO¹¹, and it should be the norm rather than the exception.

4.56 The following principles have been extracted from Home Office guidance:¹²

- There is no ‘naming and shaming’ – ASBOs are not intended to embarrass individuals but to protect communities
- Publicity is essential if local communities are to support agencies in tackling anti-social behaviour
- There is an implied power in the Crime and Disorder Act 1998 and the Local Government Act 2000 to publicise an order so that it can be effectively enforced
- Information about orders obtained should be publicised to let the community know that action has been taken in their area
- A case-by-case approach should be adopted, and each individual case should be judged on its merits as to whether or not to publicise the details of an individual who is subject to an order
- Publicity should be expected in most cases
- An individual who is subject to an order should understand that the community is likely to learn about it.

¹¹ In the case of *Stanley v Brent* the judge accepted that publicity was needed for effective enforcement of an ASBO. R (*on application of Stanley, Marshall and Kelly*) v *Commissioner of Police for the Metropolis and Chief Executive of London Borough of Brent* [2004] EWHC 2229 (Admin).

¹² Home Office (2006) *A Guide to Anti-Social Behaviour Orders*, London, Home Office

Good practice examples:

Southwark LBC: ASBOs for gang members

In July 2009, Southwark Anti-Social Behaviour Unit obtained seven interim ASBOs against young gang members who were causing serious anti-social behaviour in the Peckham area. The Orders were turned into full ASBOs in December 2009 following an eight day trial. Parenting Orders were also attached to the ASBOs (see page 108 for more information).

Obtaining the ASBOs was the result of twelve months work that started with intervention work and attempts to engage and divert individuals, whilst coordinating police and council resources on the ground to secure the necessary intelligence and evidence. Southwark involved local businesses who were adversely affected by this group, and used downloads from YouTube where gang affiliations were proclaimed, to generate additional evidence.

In addition to the ASBOs, the local Safer Neighbourhood Police Team in partnership with the Council established a Dispersal or 'Feel Safer Zone' which, was in turn supported by the Councils 'Street Based Team' of ASB Officers, Youth Workers, Young Advisors and Wardens.

The three months after the imposition of the ASBOs saw a 59.3 per cent reduction in youth crime, 51 per cent reduction in youth victims of crime and a 66 per cent reduction in robberies.

Example sourced by SLCNG

South Liverpool Housing: ASBO for 13 year old gang ring-leader

South Liverpool Housing Group obtained an ASBO against a juvenile in the Speke area of Liverpool. The boy described as a 'gang ring leader' had been abusive and intimidatory to local residents and caused criminal damage to homes and to a local adventure playground. Allegations dated back to 2006 but incidents had increased in regularity and severity over time. More than twenty specific allegations were set out in court papers since the start of 2009, including abusive and violent behaviour at a local playground from where the boy was already banned.

Following an arrest for criminal damage, South Liverpool Housing was able to obtain a without notice Interim ASBO against the boy in May 2009. Within a week, the terms of the Interim ASBO were breached on numerous occasions leading South Liverpool Housing to pursue a final order. In August 2009, a final order was made for an ASBO excluding the boy from specific areas of the estate, including the area surrounding the adventure playground where he had caused trouble. An Individual Support Order and Parenting Order were also made by the court against the boy and his mother.

Example sourced through SLCNG

Solihull Community Housing: CRASBO

Solihull Community Housing is an arms length management organisation (ALMO) that manages Solihull Council's housing and tackles anti-social behaviour. In June 2009, Solihull Community Housing worked closely with police to obtain an ASBO on conviction (CRASBO) against an owner-occupier.

In court, the perpetrator pleaded guilty to public order offences for extremely aggressive and threatening behaviour towards two local families. Problems originated from a bullying incident at school and quickly escalated into a serious situation between pupils' parents involving a firearm. The school approached Solihull Community Housing and the police for assistance to pursue an ASBO.

In preparing the case for court, the police had insufficient evidence to apply for a CRASBO so Solihull Community Housing worked with the community and witnesses to investigate and gather evidence. Solihull Community Housing then made the application using local authority powers and the hearsay evidence the landlord was able to provide, persuaded courts to grant a CRASBO.

Since this case, Solihull Community Housing has accompanied police to a meeting with Solihull Crown Prosecution Service where they presented evidence for another case which also resulted in a successful CRASBO application. Solihull Community Housing continues to work in partnership with the local police to pursue CRASBOs in appropriate cases and is in the process of developing a policy to engage with the Crown Prosecution Service.

Where to find further information

4.57 **Reviewing ASBOs and Individual Support Orders:**

Home Office guidance: *A guide to reviewing anti-social behaviour orders given to young people and Individual Support Orders* (2009) provides detailed advice and guidance in relation to the review of ASBOs and Individual Support Orders. Download from: www.asb.homeoffice.gov.uk

Sentencing guidelines:

The Sentencing Guidelines Council has issued guidance on sentencing for breach of an ASBO, for breaches after 5 January 2009. It provides guidelines dependant upon the nature of failure and harm of the breach and takes account of aggravating and mitigating factors for both adults and youths.

Further advice is available from: www.sentencing-guidelines.gov.uk

Applying for ASBOs

A guide to Anti-social Behaviour Orders, published by the Home Office in 2006 provides detailed advice and guidance in relation to applying for ASBOs for adults and youths. Download from: www.asb.homeoffice.gov.uk

Closure Order (Crack House Closure Order)

What is a Closure Order?

- 4.58 A Closure Order (more commonly called a crack house closure order) allows premises, regardless of tenure, to be closed temporarily once a Magistrates Court is satisfied that the premises are associated with significant and persistent nuisance or disorder to the public and that the nuisance or disorder derives from drug use and drug supply. A Closure Order lasts for a maximum period of three months. An extension may be requested for a further three months. A Closure Order prohibits any person accessing the premises, including those with rights of abode or ownership for the duration of the Order. Orders are tenure neutral and can be applied for on any residential property included privately owned properties. In addition to dwellings, common areas and buildings such as garages, sheds, factories, shops, clubs, pubs, car parks, public buildings and community centres can all become subject of a Closure Order. However, all reasonable steps must be taken to trace and alert any persons with a legal or equitable interest in the property.
- 4.59 After the prohibition period set out by the order has expired, the occupier will be able to return to their property, subject to monitoring for any further occurrences of nuisance.

Statutory arrangements

- 4.60 Part 1 (sections 1-11) of the Anti-Social Behaviour Act 2003 introduced powers enabling the police to close premises from which class A drugs are produced, used or supplied and which are associated with disorder or serious nuisance (commonly termed 'crack houses').

Who can apply for a Closure Order

- 4.61 Only the police can apply to the Magistrates Court for a Closure Order. However, they are expected to involve other partners in the process, such as local authorities, social landlords, housing advice providers, drug services and legal advice providers who are affected by 'crack houses' and their closure. A key role for social landlords is to work in partnership with neighbourhood policing teams to provide information and intelligence to support the identification of 'crack houses' and closures.

When to consider using a Closure Order

4.62 Closure Orders are intended to provide immediate respite to communities whose quality of life is being seriously damaged by anti-social neighbours. An application for a Closure Order should be considered when premises are being used in connection with the unlawful use, production or supply of Class A controlled drugs and there is persistent and serious nuisance to members of the public. However, Closure Orders should only be used as a last resort and should not be used in place of possession proceedings or as a fast track to eviction.

Key features

4.63 The procedure to be followed for a Closure Order is that a senior police officer authorises the issue of a closure notice on premises and the police must then apply to the Magistrates Court within 48 hours for a Closure Order.

Duration

4.64 Closure Orders run for a maximum period of three months, although the police can apply to the Court for an extension of a further three months, if it is necessary and in the best interests of the community.

Ending or discharging a Closure Order

4.65 Orders can be discharged when problems associated with the premises have been addressed.

Note: Protecting vulnerable individuals

Robust arrangements should be put in place to ensure that any vulnerable people or children that may be affected by a Closure Order are protected from homelessness, and any safeguarding measures should be put in place in advance of the closure. Where a vulnerable person has been preyed upon and has been unable to exercise control over their property, a Closure Order should form part of a planned resettlement move.¹³

¹³ Extracted from www.asb.homeoffice.gov.uk (Jan 2010)

Good practice example:

Windsor Housing: Closure order (Crack House) and Possession

In July 2009, Windsor Housing received reports from the police on behalf of residents in relation to a property which was at the centre of regular incidents of anti-social behaviour. Behaviour included regular noisy parties, underage drinking, vehicle crime, drugs and noise nuisance. When interviewed, the tenant denied allegations and was hostile to changing their behaviour, ignoring warning letters and visits. Continued reports regarding nuisance and disorder were received and the police attended the property in response to serious incidents of nuisance and disorder. In September 2009, the police attended the property and made arrests in relation to drug dealing. The police then executed a warrant under Misuse of Drugs Act 1971 and gathered substantial evidence of drugs including; heroin, cocaine, crack cocaine, cannabis, methamphetamine and ephedrine. The police, the Council and Windsor Housing then consulted on obtaining a Closure Order and action for breach of an existing Possession Order for rent arrears.

A Closure Notice was served. The original hearing was adjourned due to the tenant stating she was sick and unable to attend court. However, the Court later granted a Closure Order for three months and a week later the landlord was given possession of the property.

Example sourced by SLCNG

Where to find more information

- 4.66 **Anti-social Behaviour Act 2003: Notes of Guidance Part 1, sections 1–11**
Updated Home Office guidance on the closure of premises used in connection with the production, supply or use of class A drugs and associated with the occurrence of disorder or serious nuisance can be downloaded from:
www.asb.homeoffice.gov.uk

Demotion Orders

What is a Demotion Order?

4.67 A Demotion Order brings to an end a secure or assured tenancy as a penalty against tenants who have been involved in anti-social behaviour. A Demotion Order is designed to be an alternative to eviction and can either be sought on its own or run alongside a possession claim. The Court, once satisfied that it is reasonable to make the order, will end the existing secure or assured tenancy and replace it with a less secure demoted tenancy, significantly reducing the tenancy rights. The demoted tenancy will normally run for a period of twelve months, after which time if there have been no further incidents of anti-social behaviour, the tenancy will automatically revert back to either a secure or assured tenancy (see para 4.80 – restoring the tenancy). Alternatively, the demoted period will be extended where a Notice Seeking Possession (NSP) has been served.

Statutory arrangements

- 4.68 Section 82A Housing Act 1985 (with regard to secure tenancies where the landlord is a local housing authority, housing action trust, or RSL) and Section 6A Housing Act 1988¹⁴ (assured tenancies where landlord is an RSL) allow landlords to apply to the court for a Demotion Order on the grounds of anti-social behaviour.
- 4.69 In the case of secure tenancies where the landlord is a local housing authority or a housing action trust, the Demotion Order will convert the secure tenancy into a demoted tenancy to which sections 143A to 143P Housing Act 1996 apply. The tenant has reduced protection against possession proceedings (broadly equivalent to an introductory tenancy but with some differences). Procedures for ending these demoted tenancies are set out in s143D -143G Housing Act 1996.
- 4.70 In the case of assured tenancies and secure tenancies where the landlord is an RSL, the Demotion Order will convert the tenancy into a demoted assured periodic shorthold tenancy to which s20B Housing Act 1988 applies. The rules for obtaining possession are the same as for any other assured shorthold tenancy.

¹⁴ Inserted by s14 Anti-social Behaviour Act 2003 from 30 June 2004 (in England).

Who can apply for a Demotion Order?

4.71 Local authorities, housing action trusts, and RSLs can apply for a Demotion Order but the type of demotion (and the tenancy that it produces) will depend both on whether the existing tenancy is secure or assured and on the nature of the landlord. When RSLs become registered providers (RPs) under the Housing and Regeneration Act 2008:

- section 82A(1) Housing Act 1985 will be amended so that non-profit private RPs may seek demotion orders against their secure tenants;
- section 6A(1) Housing Act 1988 will be amended so that either non-profit RPs or profit-making RPs where the dwelling-house concerned is social housing (as defined in Part 2 of the Housing and Regeneration Act) may seek demotion orders against their assured tenants¹⁵.

When to consider using a Demotion Order

4.72 A Demotion Order acts as a strong warning to tenants that they run a high risk of losing their home if their behaviour persists. A Demotion Order can be considered by social landlords as an alternative to seeking a possession order, or an application can be made in conjunction with an application for a possession order. A combined application allows the court to consider the available evidence and determine whether demotion or possession will deliver the best solution.

Key features

4.73 In order to obtain a Demotion Order, the court must be satisfied that the tenant, another resident of, or visitor to the tenant's home has engaged or threatened to engage in "housing related anti-social conduct" (i.e. has behaved in a way which is capable of causing nuisance or annoyance) or in conduct to which section 153B Housing Act 1996 applies (using or threatening to use the premises for an unlawful purpose). The court must also be satisfied that it is reasonable to make a demotion order. "Anti-social conduct" is defined in s153A Housing Act 1996 as meaning "conduct capable of causing nuisance or annoyance to some person (who need not be a particular identified person)".

4.74 Proving anti-social behaviour sufficient for a demotion order may be slightly easier than proving it for a possession order, due to the differences in wording – for a demotion order the behaviour must be "capable" of causing

¹⁵ Articles 20 and 64 respectively of the Housing and Regeneration Act 2008 (Consequential Provisions) Order 2010.

annoyance etc, rather than “causing or likely to cause” it for a possession order. It is important to note that a court can only make a Demotion Order where the landlord has specifically requested this option to be considered, either as a stand alone application or in conjunction with an application for a Possession Order.

Court papers

- 4.75 A specific set of court papers has been created by the court service. When applying for demotion on its own landlords should use forms:
- N6 Claim form
 - N122 Particulars of Claim
 - N11D Defence form issued by the court to the tenant.
- 4.76 Where a demotion is to be applied for in conjunction with a possession claim, the same court forms for possession can be used:
- N5 Claim form
 - N119 Particulars of Claim
 - N11 Defence form.
- 4.77 Where a Demotion Order is granted, the previous tenancy is replaced with a less secure form of tenancy, called a demoted tenancy. This effectively creates a probationary period during which the tenant has significantly reduced rights, and less protection from eviction than under a secure or assured tenancy. Usually the demoted period lasts for a year, though this can be either cut short or extended by different circumstances.
- 4.78 Demotion Orders also have other consequences for some tenants. For instance where there is a stock transfer from a local authority to a housing association, tenants who are demoted at the time of transfer do not acquire the preserved right to buy (PRTB). Even if their demotion period ends, the new tenancy would be assured not secure and they would not then acquire the PRTB.
- 4.79 Changes to tenancy rights include:¹⁶
- Only a secure tenant has the Right to Buy (RTB), and therefore a demoted tenant cannot either apply for the RTB or continue with an existing application during the demotion period. In addition, time as a demoted tenant does not count towards qualification or discount for RTB. Once the demotion period is over and their secure tenancy revives, their RTB revives as well.

¹⁶ Extracted from CIH practice on-line www.cih.org (Jan 2010)

- An assured tenant with the PRTB who is demoted loses their PRTB altogether.
- Rights to take in a lodger or sub-let are different for secure and assured tenants, and are also affected differently by demotion orders.
- Demoted secure tenants are excluded from the right to exchange homes.
- There are no statutory rights regarding transfer to a different property, but it is likely that any landlord will refuse a demoted tenant permission for such a transfer.
- Demoted secure tenants cannot assign their tenancy unless it is done by court order following a relationship breakdown (including assignment under the Children Act). The rules in section 15 Housing Act 1988 regarding assignment of assured tenancies are complex, but apply also to demoted assured shorthold tenancies.

Restoring a demoted tenancy

4.80 Once a tenancy has been demoted, the original tenancy terminates with effect from the date specified in the order. The period of demotion initially lasts for one year (unless unusual circumstances cut it short). At the end of the twelve month period, if the landlord has not served a notice to seek possession of the property, then the demoted tenancy will automatically revert to either a secure or assured tenancy.

4.81 Dependant upon the landlord and original tenancy type there are some variations in relation to the tenancy type to be restored. Key points are as follows:

- **Local authority tenants** (including those managed for the LA by an ALMO): Automatically return to a secure tenancy
- **Housing association assured tenants:** automatically return to a non-shorthold assured tenancy
- **Housing association secure tenants:** Housing associations no longer have a power to issue new secure tenancies, therefore the tenant will become an assured tenant at the end of the demotion period and will permanently lose their Preserved Right to Buy
- **Housing association tenant with protected rights:** Where the landlord is a housing association that has taken part in a stock transfer, and transferred tenants have additional (non-statutory) rights under the tenancy agreement signed on transfer with the new landlord, a tenant who is demoted will not automatically keep those extra rights. The tenancy will revert to a standard assured tenancy unless the landlord agrees to give the extra rights again.

Ending a demoted tenancy

- 4.82 As with introductory tenancies, when seeking possession against a demoted tenant there is no requirement for the landlord to prove to the court any grounds for possession, or for the court to consider the facts on which the landlord's decision to end the tenancy is made. The court is only required to consider whether the appropriate procedure to end the tenancy has been followed. The procedure is different depending on the nature of the landlord. For RSL assured shorthold demoted tenancies, seeking possession follows exactly the same procedure as for any other assured shorthold tenancy.
- 4.83 Where the demoted tenancy was formerly secure, and the landlord is a local housing authority or a housing action trust, the landlord must follow the procedure in sections 143E and 143F Housing Act 1996. A notice of proceedings must be served on the tenant. The notice must state:
- That the court is being asked to order possession
 - The reasons for the landlord's decision to apply for possession (there is no requirement that the reasons should relate to anti-social behaviour, reasons can include any other breach of tenancy conditions such as rent arrears)
 - The date after which possession proceedings can begin
 - The tenant's right to request a review and time limit for such requests where applicable
 - Where the tenant can obtain legal help or advice.
- 4.84 Following the notice of proceedings served by a local housing authority or housing action trust, the tenant has the right to an internal review of the landlord's decision, providing the tenant's request for review is received within 14 days of the notice of proceedings for possession. The review must take place and the tenant be advised of the review decision and reasons before the date shown in the notice for proceedings for possession to begin. Once this process has been correctly followed, if the decision is to continue seeking possession the landlord may then apply to the court for possession. Where an order for possession is granted by the court, an application for a warrant for possession can be made.
- 4.85 If the demoted tenant requests a review within 14 days of service of the notice, the landlord must follow the procedure set out in the Demoted Tenancies (Review of Decisions) (England) Regulations 2004 (S1 2004/1679).

Advantages of Demotion Orders¹⁷

4.86 The advantages of Demotion Orders are:

- Demotions are often ordered at the first hearing, therefore reducing court and administrative costs
- In a subsequent notice of possession proceedings, landlords do not have to rely on breaches related to the reason for demotion, any breaches of tenancy can be relied on
- In court proceedings for possession of a demoted tenancy, the landlord does not have to prove grounds, only that the correct procedure has been followed
- Possession orders cannot be suspended subject to conditions
- Warrants cannot be suspended.

Good practice example:

Charter Housing: Using tenancy demotion

Charter Housing Association has successfully used tenancy demotion as a tool to reduce anti-social behaviour, making applications to the court without the need to use a solicitor. The decision to apply for a demoted tenancy or possession of the tenancy depends upon the nature of the anti-social behaviour and the degree of direct involvement the tenant has had in the reported anti-social behaviour. For the twelve month duration of the demotion, Charter's ASB Outreach Support Worker provides advice and support to the demoted tenant. The combination of enforcement and support has been very successful with no reported breaches of demoted tenancies.

Example sourced by SLCNG

Where to find more information

4.87 **CLG: Demotion Orders anti-social behaviour factsheet 3**

The CLG factsheet on Demotion Orders provides detailed advice and guidance on the application and effect of demotion orders on different tenancy types.

Download from:

www.communities.gov.uk/publications/housing/demotionorders

¹⁷ Adapted from CIH practice on-line www.cih.org (Jan 2010)

Drug Intervention Orders

What is a Drug Intervention Order?

- 4.88 Drug Intervention Orders (known as Intervention Orders) are designed to tackle anti-social behaviour which has occurred as a result of drug misuse, and can be given to individuals aged 18 or over. Intervention Orders can be attached to ASBOs in the same way as Individual Support Orders (which are available only for under 18s, see para 4.147) but are designed to tackle anti-social behaviour as a result of drugs misuse.
- 4.89 Intervention Orders can last up to six months and require individuals to comply with positive conditions that tackle his/her anti-social behaviour. Ideally, terms of the order should be structured to tackle the root causes of this behaviour and prioritise the prevention of further drug-related anti-social behaviour.
- 4.90 Intervention orders can last up to six months, and require the perpetrator to comply with a defined set of conditions.
- 4.91 Note: for individuals aged 10–17 years old see individual support orders (page 90).

Statutory arrangements

- 4.92 Intervention orders are available under sections 1G-1H of the Crime and Disorder Act 1998.¹⁸ Intervention Orders can only be applied for alongside ASBO applications that are made as stand alone in the magistrates court, or alongside proceedings in the county court.

Who can apply for a Drug Intervention Order?

- 4.93 The police and local authorities usually apply for an Intervention Order on behalf of other agencies, but any agency that can apply for an ASBO can also apply for an Intervention Order.

When to consider using a Drug Intervention Order?

- 4.94 Intervention Orders can be used in situations where the perpetrator is aged 18 or over, and the landlord is confident that the anti-social behaviour is caused by drugs. Where this is the case, an Intervention Order should be considered in conjunction with an ASBO.

¹⁸ Inserted by s20 Drugs Act 2005 with effect from 1 October 2006

4.95 The court will be required to reach a decision based on a report from an appropriately qualified individual, although it must be satisfied that appropriate treatment is actually available.

Key features

4.96 Key features include:

- The perpetrator must be aged 18 or over
- Lasts for six months or less
- The court must be satisfied that the person's anti-social behaviour has been caused by drugs misuse
- Intervention Orders can only be applied for alongside ASBO applications that are made as stand alone applications to the Magistrates Court or proceedings in the county court
- Cannot be made in conjunction with a CRASBO.

Where to find further information

4.97 **Guidance for local authorities on the operation of intervention orders**

Detailed advice and guidance for local authorities on the use of sections 1G and 1H of the Crime and Disorder Act 1998 is available to download from the Home Office: www.asb.homeoffice.gov.uk

Environmental anti-social behaviour

What is environmental anti-social behaviour?

4.98 Environmental anti-social behaviour covers a wide range of behaviour that damages and threatens an area, including issues such as:

- Animal nuisance/ dangerous dogs
- Graffiti/ vandalism
- Litter and refuse
- Abandoned vehicles
- Noise nuisance

4.99 Maintaining neighbourhoods that are safe and clean underpins any effective anti-social behaviour strategy. Low level nuisance if left unchecked can escalate into more serious behaviour and damage a community's sense of well-being and quality of life. Where an environment is neglected it can quickly result in a downward spiral of physical deterioration and the breakdown of communities.

Arrangements for tackling environmental anti-social behaviour

4.100 Social landlords have a critical role in ensuring that they not only manage their properties but also the wider area and neighbourhood in which they are situated. Landlords can take action against those who breach their tenancy agreement through environmental anti-social behaviour such as noise nuisance. There is also a large body of legislation in place designed specifically to help, in the most part local authorities, tackle environmental anti-social behaviour. More details of that legislation and guidance on its use can be found in Section 6 of 'A Guide to Anti-Social Behaviour Tools and Powers'¹⁹ (see www.asb.homeoffice.gov.uk)

4.101 All social landlords should consider how other tools and powers listed in this toolkit, for example Acceptable Behaviour Contracts, injunctions and tenancy terms and sanctions can be used as an effective response to the types of anti-social behaviour set out above.

¹⁹ Home Office, Youth Justice Board and Association of Chief Police Officers (May 2008)

Dangerous/status dogs

- 4.102 There is growing concern over public safety issues relating to dangerous and status dogs. The term 'status dog' describes the ownership of certain types of dogs that are used by individuals to intimidate and harass members of the public. In recent years, incidents, attacks and fighting of these dogs has increased and some of these incidents have involved children resulting in tragic fatalities. There is a worrying increase of gangs of youths using dangerous, 'status' dogs to defend their territory and using dog fights as a means of settling arguments.
- 4.103 Tackling dangerous/status dogs is an issue the Government takes very seriously. Significant initiatives to raise awareness of the current law and ensure its enforcement have been led by Defra in recent years and further amendments to the law are currently under consideration.

What legislation can be used to tackle dangerous and status dogs?

- 4.104 Under the Dangerous Dogs Act 1991 it is illegal to be in possession of, or breed from, sell, abandon or give away a banned type of dog. The maximum penalty for illegal possession of a prohibited dog is a fine of £5,000 and/or six months imprisonment. The Dangerous Dogs Act 1991 also makes it an offence to allow any dog to be dangerously out of control – this is where it causes fear or apprehension to a person that it may injure them.
- 4.105 It is also an offence to deliberately use any animal "as a weapon" to scare or injure someone under the Offences Against the Persons Act 1861 and a successful prosecution can result in life imprisonment.
- 4.106 In addition, under sections 34 and 35 of the Policing and Crime Act 2009 ("Injunctions to prevent gang-related violence"), the court can grant an injunction against a person forbidding him/her from having charge of a particular species of animal in a particular place.
- 4.107 Successful prosecutions and seizures dogs will require the support of the police, and in many circumstances the animal charities. For further information about enforcing dog control legislation please see guidance issued by Defra in March 2009²⁰.

²⁰ www.defra.gov.uk/wildlife-pets/pets/cruelty/documents/dogs-guide-enforcers.pdf

How can housing providers tackle the problem of dangerous and status dogs?

- 4.108 Dangerous and status dogs are a growing problem for a number of landlords and it is important that landlords work closely with the local authority, police and animal charities and use the full range of tools and powers at their disposal to effectively tackle the problem. There are already a number of good practice examples available that can be scaled up or down taking account of the size of housing stock, for example see the RSPCA's housing good practice guide²¹.
- 4.109 Where there is an existing problem with dogs locally or landlords believe one is likely to develop, landlords should develop reasonable and proportionate pet policies that create a framework for the introduction of specific terms into tenancy agreements, for example making microchipping a condition of keeping a dog in the property; prohibiting the breeding of dogs from the property by requiring the dogs to be neutered; or, explicitly setting out what will constitute anti-social behaviour in relation to dogs (or other animals).
- 4.110 Increasing tenants' awareness of what the laws are concerning responsible dog ownership, possibly through local education programmes, alongside swift and effective enforcement action where necessary, is likely to make it easier to manage any problems that may occur. Landlords should act promptly and consistently using the expertise from key partner agencies such as local authorities, the police and RSPCA to impose tenancy sanctions where breaches of tenancy agreements relate to anti-social behaviour connected with dangerous/status dogs.
- 4.111 Landlords should also consider and be ready to use their injunctive powers, in consultation with other local agencies, to bring swift relief to their tenants where individuals are using dogs to intimidate and harass them.

Noise nuisance

- 4.112 The Environmental Protection Act 1990 places a duty on local authorities to take reasonable practical steps to investigate complaints about noise. Landlords should work closely with the local authority Environmental Health Department to ensure that they are kept informed about ongoing problems reported by tenants and any necessary enforcement action is taken.

²¹ www.rspca.org.uk/in-action/changingthelaw/advisinggovernment/local/cawfachievers/goodpractice

- 4.113 If a local authority considers the noise to be a 'statutory nuisance' then they must serve a notice on the person responsible or the owner or occupier of the premises. That notice may set out, for example, limits on the level of noise or restrictions on the times when the noise may be made. Failure to comply with the terms of the notice can result in substantial fines.
- 4.114 Informal approaches or mediation can often be effective at resolving neighbour disputes. However, all landlords, whether social or private, have powers to take action against tenants who are breaching their tenancy agreements, including taking out injunctions or possession proceedings. Acceptable Behaviour Agreements or Contracts can also be effective in setting out the standards of behaviour that an individual causing noise nuisance should maintain.
- 4.115 While ASBOs or ASBIs would not normally be the first recourse in cases where noise nuisance is the main problem, they are an effective way of tackling more serious anti-social behaviour that may include noise nuisance. Circumstances where their use may be appropriate would include dealing with, for example, families whose anti-social behaviour, when challenged, leads to verbal abuse, threats or graffiti, or where noise nuisance is part of a pattern of unruly behaviour which intimidates others.

Graffiti

- 4.116 Graffiti can drive a community's perception of ASB. Tackling perpetrators is key and below is a brief outline of the tools and powers available.
- 4.117 Social landlords, councils, police are not under duty to remove graffiti. However it is important to take action to remove the physical impact of the act itself – particularly where it is offensive. Evidence suggests that if removed rapidly and persistently, graffiti is less likely to come back.
- 4.118 Graffiti and criminal damage is an offence – and a successful prosecution under the Criminal Damage Act 1971 will require partnership working with the police and local authorities. Police and local authorities can also issue fixed penalty notices to secure a quick resolution where applicable.
- 4.119 However there are actions on which social landlords can lead. Where the perpetrator is also a tenant, landlords should consider whether the behaviour constitutes a breach of tenancy conditions and take action accordingly. Consideration could also be given to the use of ABCs, ASBOs or ASBIs. Specific prohibitions could for instance focus on stopping a perpetrator from carrying graffiti materials.

4.120 The British Transport Police operates an information sharing database of taggers. This database can be accessed free of charge by practitioners working on graffiti reduction. This database enables the full extent of the damage caused by graffiti to be collated and taken into account by the court in sentencing. For details of the scheme see: www.btp.police.uk

Good practice examples:

Whitefriars Housing Group: Graffiti

Whitefriars Housing Group used a handwriting expert to secure eviction against a tenant following reports of ongoing anti-social behaviour. To convince the court Whitefriars employed the services of a graphologist to analyse threatening and abusive graffiti which had been posted in the area. The expert's view that the handwriting matched the tenant was taken into consideration by the County Court.

Sourced by: SLCNG

Wandsworth Borough Council: Dedicated dog control service

Wandsworth Borough Council operates a dedicated dog control service employing six full time and six part time workers. The service deals with all dog related problems including tackling dangerous and nuisance dogs, enforcing bye-laws on dog fouling and promoting responsible dog ownership.

Wandsworth is working in partnership with the Police, the Greater London Authority, RSPCA and other animal charities to prevent anti-social behaviour among young dog owners with 'status/dangerous' dogs.

Specific initiatives include the 'People with Dogs' campaign which aims to educate young people about responsible dog ownership, compulsory micro-chipping of dogs as a condition of tenancy and distribution of a Dog Control Action Toolkit for council staff to deal with anti-social behaviour involving dogs. The council has also strengthened conditions of tenancy and leasehold conditions around nuisance from pets.

Wales & West Housing Association: Responsible dog ownership

Wales & West Housing Association recognised for some time that banning animals does not tackle the issue of irresponsible pet ownership and the nuisance caused by pets which are not supervised correctly. The association introduced a less restrictive pet policy that promotes responsible pet ownership and includes safeguards enabling it to deal with nuisance caused by pets.

The new policy requires residents to obtain permission to keep a pet. Permission is not given for:

- Farm animals
- Animals registered under the Dangerous Wild Animals Act 1976
- Dogs specified in the Dangerous Dogs Act 1991
- More than two dogs or cats.

Permission may also be refused if there is a current or previous problem with pet ownership.

Guidance was issued to all residents and during 2008 a number of projects with partner agencies were undertaken to reinforce the message of responsible pet ownership to residents. Any complaints of noise or abuse/intimidation connected to animals are now reported to and handled by the Anti-Social Behaviour Unit rather than estate management staff.

Where to find more information:

4.121 **A Guide to Anti-social Behaviour Tools and Powers**

The Home Office guidance for practitioners on all the available tools and powers to tackle environmental anti-social behaviour can be found at:
www.asb.homeoffice.gov.uk/members/article.aspx?id=12204

Family Intervention Projects

What are Family Intervention Projects?

4.122 Family Intervention Projects (sometimes referred to as FIPs and also called Intensive Family Support Projects) combine intensive support and enforcement for perpetrators of anti-social behaviour and their families:

- Who are at risk of becoming homeless because of their behaviour
- Who have complex and multiple needs, and
- Where traditional methods of tackling anti-social behaviour have failed to work.

4.123 Family Intervention Projects help to address the root causes of behaviour and offer incentives to change, adopting a twin track of enforcement and support to change behaviour. Family Intervention Projects also take a whole family approach. As noted in para 3.34 Family Intervention Projects are being rolled out in every local authority to tackle the problems of some of the most challenging families who are involved in anti-social behaviour or experiencing other problems such as entrenched worklessness, substance misuse or offending.

4.124 FIPs use different models for delivering support depending on the severity of a family's needs and the impacts of their behaviour on the community:

- Outreach support to families in their own homes
- Support in temporary (non-secure) accommodation located in the community, and
- Supervision and support for families on a 24 hour basis in a core residential unit.

Statutory arrangements

4.125 Family Intervention Projects do not have any basis in legislation.

4.126 The first Family Intervention Project, the Dundee Families Project, was set up in 1995 to assist families who were homeless or at severe risk of homelessness as a result of their anti-social behaviour. Following the success of the Dundee Project a number of similar projects have followed in England, and a national network of Family Intervention Projects was set up as part of the Respect Action Plan in 2006.

Who can manage/lead Family Intervention Projects?

4.127 Family Intervention Projects can be managed and delivered by a range of agencies, including social housing providers working alongside local authority children's, young people and family services.

When to consider using Family Intervention Projects?

4.128 Family Intervention Projects can be considered for families in situations where:

- Numerous complaints about the behaviour of the family and the impact they are having on their local community have been received
- The family is at risk of eviction because of anti-social behaviour, and has multiple and complex needs
- A family exhibits the most 'deep-rooted and challenging' behaviour with individual family members well known to local welfare and criminal justice agencies
- A child or young person within the household is at risk of being taken into care because of anti-social behaviour.

The advantages of Family Intervention Projects

4.129 In the long term Family Intervention Projects aim to prevent the breakdown of families and homelessness. Research evidence shows that they are highly effective in delivering positive outcomes including:

- Breaking the cycle of unacceptable and criminal behaviour within families
- A reduction in anti-social behaviour levels and improvement in quality of life for the wider community, contributing to sustainable communities
- Improved opportunities for children and young people in health, education and employment.

4.130 Evidence from the first 1000 families to exit FIPs (www.dcsf.gov.uk/ecm/thinkfamily) shows that they deliver a range of outcomes relevant to housing providers, for example:

- Families that were involved in anti-social behaviour (ASB) had decreased from 89 per cent to 32 per cent (64 per cent reduction).
- Families facing one or more housing enforcement actions declined from 50 per cent to 14 per cent (72 per cent reduction).
- Families experiencing truancy, exclusion and bad behaviour at school declined from 57 per cent to 24 per cent (58 per cent reduction). The figure at 31 March 2009 was a 55 per cent reduction.

- Families affected by a mental health problem declined from 39 per cent to 29 per cent (26 per cent reduction). The figure at 31 March 2009 was a 29 per cent reduction.
- Families in which domestic violence was a concern declined from 23 per cent to 9 per cent (61 per cent reduction). The figure at 31 March 2009 was a 59 per cent reduction.
- Families with drug or substance misuse declined from 33 per cent to 18 per cent (70 per cent reduction). The figure at 31 March 2009 was a 47 per cent reduction.
- Families with drinking problems/alcoholism declined from 30 per cent to 14 per cent (53 per cent reduction). The figure at 31 March 2009 was a 57 per cent reduction.

Key features

4.131 Family Intervention Projects are designed to work with families with the most challenging and anti-social behaviour, balancing both support and enforcement actions across all members of the family. Key features of a project include:

- A contract between the family and key worker, which sets out the changes that are expected, the support that will be provided and the consequences if changes are not made
- The allocation of a lead key worker for the family
- Effective multi-agency relationships and co-ordination of complementary external agency support
- Challenging anti-social behaviour commonly through:
 - Anger management
 - Parenting skills, and
 - Educational support.

Checklist for landlords

Landlords considering developing a Family Intervention Project should consider the following questions:

- Can you identify a need for such services among your tenants?
- What parenting support provision is already available in areas where your stock is located?
- Can you identify a gap in service provision in your area? If so how can your organisation contribute to closing the gap?
- Do you have close operational partnerships with specialist support agencies such as drugs and alcohol action teams to address individual needs?

Adapted from: CIH (2008) *Tackling ASB in Scotland: An Action Framework for Social Housing Practitioners and Governing Bodies*, Coventry, CIH.

Good practice examples:

Poplar HARCA: Family Intervention Project

Poplar HARCA's Family Intervention Project has helped 45 residents maintain their tenancies. The decision to invest in the project was made by local residents who, following extensive research, decided it would be a good way of tackling anti social behaviour.

In one instance Poplar HARCA worked with a young mother to prevent her from being evicted after she was caught and charged by the police for growing cannabis in her flat. Poplar HARCA's Family Intervention Project worker drew up a contract with the tenant. Targets were set covering areas such as getting back to work, being a better parent and obtaining help for dyslexia. The tenant has since completed courses in parenting and cookery amongst others. She has also received help with literacy and is returning to college to complete her GCSEs.

Sandwell Homes: Family Intervention Project

Sandwell Homes has successfully introduced a Family Intervention Project, starting in January 2008. The project allows for intensive multi-agency support to families with multiple and complex needs, normally involving anti-social behaviour. The project currently operates dispersed intensive support for 11 families. There has been a 100 per cent success rate in sustaining tenancies and further expansion of the scheme is planned.

Manchester City Council: Family Intervention Projects

Family Support Plus

The Family Support Plus Team is one of Manchester's Family Intervention Projects. The Project takes a whole family approach to working with families who exhibit complex needs and entrenched cycles of behaviour. A dedicated key worker works intensively, providing a holistic package of support and individually tailored interventions. The Project works in partnership with other agencies to facilitate the delivery of a multi-agency plan to address the needs of socially excluded families. Families are empowered to make positive changes and are expected to demonstrate a willingness to engage with the Project.

The Family Support Plus Teams work with families who live within the City of Manchester, across all tenures. Families referred to either of the Family Intervention Projects can expect to receive:

- Intensive individual bespoke support within the family home
- A dedicated Family Intervention Projects key worker
- A high frequency of home visits, including out of hours and weekend visits
- A Family Intervention Project co-ordinated multi agency resolution.

Where to find more information:

4.132 **DCSF: Family Intervention projects**

The DCSF 'Think Family' website carries a wide range of guidance and practical advice in relation to Family Intervention Projects and partnership working between children's services and housing providers. This includes evaluation, research, protocols and a toolkit.

More information is available from: www.dcsf.gov.uk

Intensive family support

Advice, guidance and good practice examples of Intensive Family Support is contained in Tackling Anti- social Behaviour: An Action Framework for Social Housing Practitioners and Governing Bodies (CIH, 2008)

More information is available from: www.cih.org

Family Intervention Tenancies

What is a Family Intervention Tenancy?

- 4.133 Family Intervention Tenancies are a new type of tenancy that are intended to help deliver intensive support for the duration of a Family Intervention Project – specifically to support the provision of support services that cannot be offered while the tenant is in their existing home.
- 4.134 Family Intervention Tenancies are usually offered to residents in specialist or purpose built accommodation, and are likely to be located away from the tenant's previous home. Distance between old and new homes is necessary to establish a new start and remove links with previous surrounding factors that may have encouraged the family's anti-social behaviour, such as friends, peer groups and local connections.
- 4.135 Family Intervention Tenancies offer a less secure form of tenancy and typically last between six months to one year, but should not run beyond the duration of the family intervention project to which it is associated.
- 4.136 On successful completion of a support programme, the family may be offered an introductory or starter tenancy or a new secure/assured tenancy.

Statutory arrangements

- 4.137 Landlords have the power to offer Family Intervention Tenancies to new tenants under schedule 1 paragraph 4ZA Housing Act 1985 (local authorities) and schedule 1 paragraph 12ZA Housing Act 1988 (RSLs)²².

Who can provide Family Intervention Tenancies?

- 4.138 Family Intervention Tenancies are available to local authorities and registered social landlords (but not other housing associations). The local authority or registered social landlord will be responsible for providing the accommodation and acting as a referral agent to the Family Intervention Project.

When to consider using a Family Intervention Tenancy?

- 4.139 Family Intervention Tenancies can be offered to families who display the most challenging and disruptive anti-social behaviour, and are at significant risk of homelessness or serious family breakdown. Intended to support the turnaround of their behaviour, and create a new start for families away from

²² Inserted by s297 Housing and Regeneration Act 2008 with effect from 1 January 2009

old influences, Family Intervention Tenancies can be considered where the family have been evicted, or are at risk of eviction for reasons of anti-social behaviour.

- 4.140 A family entering into a Family Intervention Tenancy must give up possession of their existing secure or assured tenancy. Reluctance to accept a Family Intervention Tenancy is likely to be overcome when the alternative threat of homelessness or serious family breakdown is understood.

Key features

- 4.141 Although accepting a Family Intervention Tenancy is voluntary, any Behaviour Support Agreements associated with the tenancy are compulsory and families must engage with any support offered as a condition of tenancy. Details of support services will be set out in a written behaviour support programme.
- 4.142 A key worker is assigned to each Family Intervention Tenancy to co-ordinate any support services. Usually social landlords will work with other relevant partners and support agencies to provide appropriate special support services. Where the family fail to engage with support offered as a condition of tenancy, a Family Intervention Tenancy can be terminated by a Notice to Quit without the need to prove any grounds for termination or possession (although reasons for termination should be given – see para 4.145 below)

Notices

- 4.143 Landlords should note that for a Family Intervention Tenancy to be valid, a social landlord must serve a notice on the family. The notice is intended to ensure that the family concerned makes an informed decision as to whether to accept the Family Intervention Tenancy, and understands how their tenancy rights will be affected.
- 4.144 The following information should be included in the notice:
- The reasons a Family Intervention Tenancy is being offered
 - Details of the accommodation being offered
 - Tenancy conditions, including behavioural conditions
 - Rules in relation to engaging with behavioural support services
 - Details in relation to the degree of protection from eviction offered by current and prospective tenancies
 - Next steps – in the event the family intervention tenancy and support is not accepted

- That the new tenant is not obliged to enter into the tenancy or to surrender any existing tenancy or possession of a dwelling house
- Where to get independent advice.

Ending Family Intervention Tenancies

4.145 In order to terminate a Family Intervention Tenancy, social landlords must serve a Notice to Quit. The process for this is different for local authorities and registered social landlords.

For local authority landlords

Section 298 of the Housing and Regeneration Act 2008 governs the process of terminating Family Intervention Tenancies for local authorities and arms length management organisations (ALMOs).

Prior to serving a Notice to Quit, the landlord must serve on the tenant a written notice of its intention to terminate the tenancy and set out its reasons for doing so. The tenant must be informed of his/her right to request a review of the decision to terminate the tenancy. The tenant must make his or her request for a review within 14 days of receiving the Notice to Quit.

For registered social landlords

Section 298 of the Housing and Regeneration Act 2008 does not apply to registered social landlords. Registered social landlords can terminate a Family Intervention Tenancy by serving a Notice to Quit. Statute does not prescribe that the tenant must have recourse to a review of the decision but registered social landlords should consider operating similar termination and review procedures within their policy on Family Intervention Tenancies.

Good practice examples:

Family Intervention Tenancies: Worcester Community Housing

Worcester Community Housing was the first landlord in Worcestershire to introduce Family Intervention Tenancies, designed to support 'chaotic families' with complex needs. Worcester Community Housing adopts a multi-agency approach to support and tackle the root causes of individual/family problems to help families secure a permanent home.

Since late 2009, Worcester Community Housing has accepted five families and individuals into the project and success rates so far are at 100 per cent. The project has recently been reviewed by the Department for Children, Schools and Families and been awarded a green rating.

Example sourced by SLCNG

Case Study: Sandwell Homes and Action for Children

Family Intervention Tenancy

Sandwell Homes and Action for Children have been working closely with a family to address multiple problems that were causing significant concern for a number of agencies, including the police, housing and anti-social behaviour teams and schools. The family consisted of a single mother and her seven children aged between twenty years and twenty months old. The family previously had a secure tenancy with Sandwell Homes.

Multiple complaints about the family were received from residents around anti-social, criminal and intimidating behaviour. All five teenage boys had been arrested numerous times by the police over the period of a year for offences including robbery, burglary, murder, affray, violent disorder, assault, theft, possession of an imitation firearm and criminal damage.

In addition to engaging in anti-social behaviour and criminal activity, the children were poor attendees at school. The family was also experiencing poor living and health conditions, was frequently in conflict with neighbours and had debt problems. Despite fourteen separate agencies working with the family, the family was not prepared to engage with services. Sandwell Homes commenced possession proceedings for anti-social behaviour.

The family was assessed by the Family Intervention Project and offered a Family Intervention Tenancy. The Family Intervention Tenancy is located outside of the area where the family previously held a tenancy, breaking links with peer groups and contacts which were bad influences. Each member of the family was assessed separately, and provided with intensive floating support according to individual needs. Regular review meetings take place to ensure that all agencies involved are giving the necessary support to the family.

Since the family moved to the dispersed property, there have been no police calls to the new address. The teenage boys are engaging at school/college and with family life. The younger children are more settled and are achieving well at school, with aspirations of achieving a better life. Payment plans have also been put in place to manage and reduce debts.

Example sourced by SLCNG

Where to find more information:

4.146 **Guidance on the use of Family Intervention Tenancies**

Communities and Local Government has published guidance for social landlords on the use of Family Intervention Tenancies (January 2009). Available from:

www.communities.gov.uk/publications/housing/familyinterventionguide

Guidance on the implication of family intervention tenancies for registered social landlords (2009) can be downloaded from:

www.housing.org.uk

Individual Support Orders

What are Individual Support Orders?

4.147 Individual Support Orders (ISOs) are civil orders attached to ASBOs that only apply to young people aged 10-17. They impose positive conditions on the young person designed to tackle the underlying causes of their behaviour, such as alcohol, drug or anger problems.

Statutory arrangements

4.148 The powers are contained within s1AA of the Crime and Disorder Act 1998 as amended.

Who can apply for an Individual Support Order?

4.149 Any landlords or agency with powers to apply for an ASBO can ask the court to grant an Individual Support Order.

When to consider using an Individual Support Order?

4.150 An application for an ASBO, by a landlord or any other agency, against a young person should always be accompanied by an assessment of the need for an Individual Support Order (ISO).

4.151 Where a magistrates' court makes an ASBO against a young person, it must also make an ISO (if one is not already in place) if it considers that an ISO would help to prevent further anti-social behaviour.

Key features

4.152 Individual Support Orders last up to six months and can require a young person to attend a maximum of two support sessions per week. These support sessions are tailored to the individual's needs and are designed to address the causes of the behaviour that led to the ASBO being made. For example, the ISO can require an individual to attend counselling for substance misuse or attend an anger management programme. The ISO may name specific activities the individual must participate in and can also specify dates and places where attendance is required.

4.153 Individual Support Orders are commonly overseen by a responsible officer from Social Services or the Youth Offending Team. Early consultation with all agencies involved is essential to ensure that a structured assessment of the young person's needs is taken into account, and support and activities are co-ordinated between different agencies.

Varying, discharging and ending an Individual Support Order

4.154 Individual Support Orders can last for up to six months after which time they are automatically discharged. However, landlords should note that an ISO cannot run for a longer period of time than the ASBO it is attached to. Therefore, any ISO attached to an ASBO will expire at the same time the ASBO is discharged.

4.155 The duration and nature of Individual Support Orders can also be varied or discharged by the court on application by either the young person subject to the order, or by the responsible officer. An application to vary or discharge an order covers circumstances such as:

- The person moving out of the area
- Inappropriate support
- Relevant behaviour has ceased.

Breach of Individual Support Order

4.156 Breach of an individual support order requirement is a criminal offence. For the individual support order to be credible breaches must be dealt with. It will usually be appropriate for landlords to encourage compliance using warnings before prosecution is considered. Landlords should contact the Crown Prosecution Service (CPS) to take forward prosecution proceedings. Any hearing for breach of an Individual Support Order will be heard in the youth court where the court can impose a fine, the maximum value of which is determined by the defendant's age.

Good practice example:

Bristol City Council: Individual Support Order

A young person (under the age of 17 years) was given an ASBO to prevent him from harassing people and damaging property or vehicles in July 2008. Bristol City Council's Anti-Social Behaviour team also applied to the court for an Individual Support Order to be attached to the ASBO. Activities set out by the Order included participating in education, positive youth activities and some reparation work for the community. Since the order was granted the individual has made many positive changes to his life with the support of Bristol City Council's Youth Offending Team, a Youth Inclusion Project, the Princes Trust and a major construction company.

The Individual Support Order was used as a framework to get the individual back on track. As part of the order the individual took part in a bricklaying course supported by the Princes Trust. Having passed level 1 the individual is now working through a level 2 apprenticeship with the construction company. Getting this apprenticeship has made a real difference, and encouraged the individual to adopt a whole new set of positive habits, responsibilities and friends.

This planned, multi-agency approach to prevention and positive support has had such a positive effect on the person that the ASBO has been discharged early as a result of much improved behaviour.

Where to find more information:

4.157 Further guidance is available at:
www.asb.homeoffice.gov.uk/

Injunctions for anti-social behaviour

What is an Anti-social Behaviour Injunction?

4.158 Injunctions are orders which are made at the court's discretion. They are generally granted to prohibit someone from carrying out a particular act or to require them to do something.

Statutory arrangements

4.159 Powers for landlords to apply for an anti-social behaviour injunction (ASBI) are found in sections 153A-153E and 154-158 of the Housing Act 1996.²³

Who can apply for an Anti-social Behaviour Injunction?

4.160 Anti-social Behaviour Injunctions can be applied for by any body which is a 'relevant landlord'. Under section 153E(7)-(8) of the Housing Act 1996 a relevant landlord is a local authority, housing action trust or registered social landlord for all types of injunction (ss153A-153D) and in the case s153D injunctions only (breach of tenancy agreement) includes charitable housing trusts which are not registered social landlords.

When to consider using injunctions?

4.161 Injunctions can be considered in any urgent situation where immediate or emergency action is required to stop violence, or threats of violence, or serious damage to property.

4.162 Injunctions can be sought in existing possession or breach of contract proceedings or on a stand alone basis. In both cases these can be sought on an interim, without notice basis, which means the court may grant the interim injunction without the perpetrator being in attendance.

4.163 Three different stand alone injunctions can be used to tackle anti-social behaviour (referred to as Housing Injunctions), dependant upon the nature of the behaviour or tenancy breach:

- **Section 153A injunctions: Anti-social behaviour**

This is the general anti-social behaviour injunction that can be used against anyone whether they are a tenant or non-tenant. The conduct test should prove:

²³ Inserted by s13 Anti-social Behaviour Act 2003 with effect from 30 June 2004 and amended by s26 Police and Justice Act 2006 with effect from 6 April 2007

- The tenant or person residing in or visiting the home has engaged or threatened to engage in housing related conduct capable of causing a nuisance or annoyance to any person and which directly or indirectly relates to or affects the housing management functions of the landlord
- The conduct must be capable of causing a nuisance or annoyance to one of four categories of people:
 - Residents of accommodation owned or managed by the landlord
 - Persons who reside in or occupy other housing accommodation owned or managed by the landlord
 - Persons engaged in lawful activity in a neighbourhood of housing accommodation owned or managed by the landlord
 - Persons employed (whether or not by a landlord) in connection with the landlord’s housing management functions.

Note that members of the community who are protected by the injunction do not need to be named in the order.

- **Section 153B injunctions: Unlawful use of premises**

Section 153B injunctions can be obtained against tenants and non-tenants and can prohibit conduct which consists of using or threatening to use housing accommodation owned or managed by a landlord for an unlawful purpose, this could include:

- Handling of stolen goods in a property
- Dealing or supply of drugs in a property
- Prostitution or running a brothel in a property.

Note: for the purposes of a Section 153B injunction unlawful does not require that a person has to have a criminal conviction to prove unlawful use. However the property being used unlawfully must be a property owned or managed by the landlord.

- **Section 153D injunctions: Breach of tenancy agreement**

Section 153D injunctions can be used:

- Against any kind of occupier subject to an occupation agreement such as a tenant, licensee or leaseholder where there has been a breach or anticipated breach of the tenancy agreement
- On the grounds that the tenant or a person residing in or visiting the dwelling house has engaged or is threatening to engage in conduct capable of causing a nuisance or annoyance to any person, or is allowing, inciting or encouraging any other person to engage in such conduct, which directly or indirectly relates to or affects the housing management functions of the landlord.

The order can only be obtained against the tenant.

When injunctions cannot be used

4.164 Where the perpetrators of anti-social behaviour are under the age of 18 years an injunction is unlikely to be granted. In these cases, or where an injunction on an adult cannot be granted because they do not have the mental capacity to understand the terms of an order and the consequences if breached, a more appropriate course of action should be considered.

Key features

Evidence and standards of proof

4.165 Witnesses generally do not need to attend court for an interim injunction (although they may have to provide statements). This may mean that they are less likely to be deterred from reporting incidents.

Powers of arrest and exclusion orders

4.166 A power of arrest can be attached to section 153A and 153B injunctions providing the court is satisfied that when granting an injunction there is either a threat of violence or significant risk of harm to any person. The court can impose the following conditions within an injunction:

- Exclusion order – a provision prohibiting the defendant from entering or being in:
 - any premises specified (including their normal place of residence)
 - any area specified
- A power of arrest – attached to all or just part of the injunction.

Emergency injunctions: without notice

4.167 Injunctions are often required on an emergency basis in situations where urgent action is necessary to stop violence or threats of violence or serious damage to property. This type of application is known as a without notice injunction.

4.168 Without notice means that the court papers will be drafted, issued at court and an initial hearing will take place ideally within one or two days of the incident without giving the perpetrator notice. The perpetrator will have no prior knowledge that the hearing is taking place.

Including power of arrest in Without notice injunctions

4.169 The court must be satisfied of the following before it will agree to add a power of arrest to any order made without notice. The court will want to be satisfied that:

- The landlord or the person affected will be seriously prejudiced if the decision to impose a power of arrest is delayed to a later hearing

- There is a real urgency
- It is impossible to give notice
- The landlord would be deterred from pursuing the injunction application if a power of arrest is not granted.

4.170 In addition to satisfying the court of the above the landlord should submit at least one of the witness statements, preferably one from an officer of the landlord, stating the reasons why notice is not being given (Civil Procedure Rule, Part 65).

With notice injunctions

4.171 With notice injunctions can be used in circumstances where there is long standing, persistent anti-social behaviour, or following a without notice hearing. The defendant will be given notice of the hearing through the serving of injunction papers. An injunction order takes effect once served.

Protecting witnesses in injunction cases

4.172 Injunctions can contain specific terms that prohibit the perpetrator of anti-social behaviour from contacting or communicating with named witnesses in the proceedings. These should be routinely included in injunction and ASBO applications where they are appropriate.

4.173 It is not normally appropriate to include housing officers if they need to continue to provide housing management services to the defendant. If the anti-social behaviour has, however, been focused at a member of staff who needs protection, an alternative member of staff should be nominated to provide housing management services to the perpetrator.

Enforcing injunctions

4.174 If an injunction is breached and it is reported to the landlord, then the method for enforcing the injunction will depend on whether there is a power of arrest attached or not.

4.175 Breach of an injunction is dealt with as contempt of court and must therefore be proven beyond reasonable doubt. A finding of contempt can lead to an unlimited fine and/or up to two years imprisonment.

Enforcing a power of arrest injunction

4.176 The police can be asked to arrest the individual, but they can only enforce those terms to which the power of arrest applies. A power of arrest will often only cover terms about the use or threat of violence or prohibiting contact with witnesses.

4.177 The police must produce the arrested person to the county court that made the injunction within 24 hours of arrest. Once produced at court, the court will contact the landlord or their legal advisor to advise that the person has been produced on breach of a power of arrest injunction, and the court will fix a hearing time within the next 24 hours. Frequently, however, the matter will be adjourned for a hearing some days later so that the landlord can consider the evidence.

Enforcing an injunction with no power of arrest or undertaking

4.178 The police have no role in enforcing these orders. If a breach is reported, affidavits (not witness statements) confirming the breach must be prepared. An application to commit the person to prison is then made on the standard court application form. The court will not fix a hearing without notice and must give the defendant 14 days notice unless a judge agrees to give less.

4.179 The maximum sentence is immediate imprisonment for two years. The court can also fine, give a warning or suspend a custodial sentence.

Advantages of using injunctions

4.180 The advantages of applying for an Anti-social Behaviour Injunction include:

- In emergency situations injunctions can be obtained very quickly
- Opportunity to attach a power of arrest to an injunction, which if breached gives the police the power to arrest the defendant and bring him/her before the county court.

Good practice examples:

Good practice example: Gentoo

Anti-social Behaviour Injunction

Gentoo applied for an Anti-social Behaviour Injunction against an 18 year old group leader for his anti-social behaviour which was fuelled by alcohol. As the only young person in the group who was over 18 it was felt that an ASBI would curb his behaviour. The remaining members of the gang signed up to Acceptable Behaviour Contracts to curtail their behaviour.

A twelve month Anti-social Behaviour Injunction was made. Some of the conditions of the order were that the young person was not allowed to carry or consume alcohol in a specified public area unless in licensed premises between the hours of 6pm and 6am and was not allowed to associate with five named individuals during the same time period and in the same area. He was further ordered to be excluded from a smaller specified area between the hours of 6pm and 6am – with a power of arrest being added to this term. The young person breached the order on 4 occasions and on the last occasion was sentenced to a period of detention of 6 weeks. The levels of disorder reduced dramatically after this sentence was passed.

Good practice example: Wakefield District Council

Anti-social Behaviour Injunction

Wakefield District Housing (WDH) applied to the county court for 'without notice' Anti-social Behaviour Injunctions against two individuals because of their intimidating and anti-social behaviour. The court initially granted interim injunctions and two weeks later, after hearing further evidence from WDH, granted full twelve month injunctions against the two perpetrators. Of eight prohibitions, three carried a power of arrest due to their threatening behaviour.

Following the injunctions being obtained, WDH hand delivered a letter to all neighbouring residents informing them of this action, making them aware of the prohibitions which carried a power of arrest. To date, no further reports of anti-social behaviour have been received regarding the two individuals and residents have been very satisfied with the action taken.

Charter Housing: Using injunctions

Charter Housing Association use injunctions as their main enforcement 'tool' to tackle anti-social behaviour as they are recognised as being relatively easy to obtain, and are generally less expensive in terms of legal costs than other legal remedies.

Charter has a general needs stock of approximately 4500 and has obtained in excess of 120 injunctions since its specialist ASB team was set up in 2003. Injunctions have proved to be highly effective – in the majority of cases injunctions solved the problem and ended the anti-social behaviour. Importantly injunctions allow the perpetrator(s) to remain in their home.

Injunctions have been used to remedy a wide range of issues, ranging in severity from untidy gardens and noise nuisance to violence and threats of violence. In cases where there is violence or threats of violence, a power of arrest or terms to exclude an individual from specific areas or properties is attached.

Example sourced by SLCNG

Where to find more information

4.181 **Housing Injunctions Anti-social Behaviour Factsheet 2**

The anti-social behaviour factsheet 2 produced by CLG provides comprehensive guidance around the use of housing injunctions. Download from: www.asb.homeoffice.gov.uk

The Ministry of Justice Practice Direction: Interim injunctions

The Ministry of Justice provides detailed advice and guidance in relation to jurisdiction, application, evidence, urgent applications and applications without notice for injunctions.

Available from: www.justice.gov.uk

Introductory and starter tenancies

What are introductory and starter tenancies?

4.182 Introductory and starter tenancies provide landlords with greater flexibility to offer new tenants an appropriate level of security during the early stages of their tenancy which will later be enhanced if the tenant has not in the meantime breached the terms of the agreement. Tenants must satisfy the landlord that they are able to abide by all conditions of tenancy, including those regarding acceptable standards of behaviour. If no problems have arisen, they will acquire a more secure form of tenancy. Both introductory and starter tenancies enable a landlord to gain possession of a property more easily against tenants who behave anti-socially (or who breach any other terms of the tenancy).

Statutory arrangements

Introductory tenancies

4.183 Part 5 of the Housing Act 1996 makes provision for local housing authorities and housing action trusts (HATs) to grant introductory tenancies. These landlords also have the power to extend introductory tenancies by six months.²⁴ The landlord must give the tenant reasons for deciding to extend the trial period.

4.184 The Introductory Tenancies (Review of Decisions to Extend a Trial Period) (England) Regulations 2006²⁵ set out the form of review a tenant is entitled to if the tenant request this where a landlord has decided to extend the length of the introductory tenancy.

Starter tenancies

4.185 There is no legislation that refers specifically to starter tenancies. However the Tenant Services Authority (TSA) requires that where housing associations choose to adopt them (by using assured shorthold tenancies) they should do so as part of a managed strategy for dealing with anti-social behaviour either:

- Across their whole stock
- Across their stock in a local authority or
- In defined street areas or estates.

²⁴ Sections 125A and 125B Housing Act 1996, as inserted by s179 Housing Act 2004 with effect from 6 June 2005

²⁵ SI 2006 No. 1077

4.186 RSLs should consult their tenants and their local authority partners and inform the TSA when deciding to use starter tenancies.

Shared principles

4.187 Where a local authority chooses to adopt introductory tenancies, legislation requires that these must be applied to all new tenants. This is not necessarily the case with the use of starter tenancies by housing associations, since they can apply these in limited areas of their stock, but they would need to ensure they have supporting reasons and a non-discriminatory approach where they do so.

When to consider using introductory and starter tenancies?

4.188 The decision by an RSL to adopt the use of starter tenancies should be taken as part of a managed strategy for dealing with anti-social behaviour, and taken in consultation with tenants and the local authority. Importantly, application of the policy should be used in a consistent and non-discriminatory manner. For local authority landlords or HATs, wider considerations will be involved in opting for an introductory tenancy regime, but deterring anti-social behaviour is likely to be an important element. Advantages to using introductory or starter tenancies can include a dependable result and reduced court costs where possession is pursued.

4.189 All landlords using introductory or starter tenancies should make full and careful use of the probationary period to monitor the behaviour of new tenants. Landlords should be mindful of the time scales necessary to take action against an introductory or starter tenant (whether for anti-social behaviour or any other breach), before the tenancy converts to a more secure tenancy and possession action becomes lengthier and subject to the court's discretion. However the landlord will always need sufficient evidence of breach of tenancy in order to support a decision to seek possession against a probationary tenant.

Key features

4.190 Starter and introductory tenancies usually last for 12 months. The rules on what happens at the end of the period differ according to the landlord:

- **For local authority tenants:** Under the statutory provisions automatic conversion to a secure tenancy will take place at the end of one year if the landlord has not either extended the trial period or commenced possession proceedings

- **For housing association tenants:** There are no statutory provisions, but automatic conversion to an assured non-shorthold tenancy may take place, depending on the wording of the starter tenancy. Alternatively a new assured tenancy agreement may need to be signed.

Terminating an introductory/starter tenancy

4.191 Whilst eviction should be seen as a last resort, where an introductory or starter tenant has broken their conditions of tenancy (whether through unacceptable behaviour or breach of any other term of the tenancy) landlords can apply to the court to end an introductory or starter tenancy:

For introductory tenancies: The local authority is not required to rely on any grounds for possession. To grant possession, the court only need be satisfied that the landlord has complied with correct procedural requirements:

- A valid notice must be served on the tenant
- The tenant must be advised of their statutory right to an internal review of the landlord's decision to seek possession
- Where a review is requested and is carried out by an officer of the landlord, that officer must be different from and more senior than any officer involved in the decision to seek possession (or any other relevant decision). If the review confirms the original decision, reasons must be given.

For starter tenancies: The landlord can apply to the court for possession of the property, and providing the following procedural requirements have been met the court will have no discretion and must grant the landlord possession of the property. The only statutory requirement is that the correct notice under section 21 Housing Act 1988 has been served on the tenant. However if the landlord has included terms in the tenancy agreement allowing a review/appeal procedure, this must also be complied with.

Mutual Exchange Refusal

What is a Mutual Exchange Refusal?

4.192 Landlords of secure tenants can refuse to allow a mutual exchange where an order involving anti-social behaviour is in force, or an application for such an order is pending, against either of the tenants who wish to exchange.

Statutory arrangements

Secure tenants

4.193 Grounds 1 and 2 of Schedule 3 to the Housing Act 1985 allow the landlord of a secure tenant to withhold consent to a mutual exchange where either a possession order has been granted, or possession proceedings are pending relying on one or more of grounds 1 to 6 of Schedule 2 (which includes the anti-social behaviour ground, ground 2). In addition, ground 2A of Schedule 3 also allows refusal where any of the following apply in respect of either tenant or somebody residing with either of them:

- An injunction under Section 153A, 153B or 153D of the Housing Act 1996 is in force (see para 4.163)
- An Anti-social Behaviour Order (see page 54) under Section 1 of the Crime and Disorder Act is in force
- An injunction to which a power of arrest is attached by virtue of section 91 of the Anti-social Behaviour Act 2003 is in force
- A suspended possession order (see para 4.232) for anti-social behaviour under grounds 2 and/or 14 is in force, or
- An application is pending in any court for one of the above orders: a Demotion Order (see page 66) or an anti-social behaviour ground possession order (see page 112).

Assured tenants

4.194 A landlord of an assured tenant who is proposing to exchange with either a secure tenant or another assured tenant can withhold consent to the exchange under the rules applying in section 15 of the Housing Act 1988 to assignment of tenancies. If there is an express clause in the tenancy agreement requiring consent to assignment, consent cannot be withheld unreasonably²⁶. However if the agreement is silent as to the matter then there is a term implied that the tenant cannot exchange without the landlord's consent, and in that case consent can be unreasonably withheld.²⁷

²⁶ s15(3)(a) Housing Act 1988

²⁷ s15(1)-(2) Housing Act 1988

4.195 TSA Guidance, set by the Housing Corporation, recommends that social landlords should have a clause in the tenancy agreement explicitly allowing exchange.

Parenting Contracts

What are Parenting Contracts?

- 4.196 A Parenting Contract is a voluntary agreement between a landlord and the parent/s of a child known to be involved in anti-social behaviour. The aim of the contract is to improve the behaviour of the child/young person through the provision of support and the clarification of rules of behaviour to be complied with. A Parenting Contract provides a framework through which parents are encouraged to take responsibility for the actions of their children in an effort to reduce further incidents of anti-social or criminal behaviour.
- 4.197 The landlord will either directly, or in partnership with specialist agencies, provide the necessary help and support to help the parent/s meet the contract requirements.

Statutory arrangements

- 4.198 Section 25A (which applies to local authorities) and section 25B (which applies to registered social landlords) of the Anti-Social Behaviour Act 2003²⁸ permits any local authority or registered social landlord to apply for a Parenting Contract where they have reason to believe that:
- The child is engaged in anti-social behaviour and:
 - For local authorities: There is reason to believe the child resides in their local authority area
 - For registered social landlords: The behaviour of the child affects their housing management functions.

When to consider using a Parenting Contract?

- 4.199 Some children who are engaged in anti-social behaviour may have multiple or underlying problems. Parenting Contracts can be made for children up to the age of 17 years old, and are usually used in cases where there is a lack of parental responsibility or ability to control the child's behaviour. For example, where a child is:
- Under 10 years old and has committed a criminal act or anti-social behaviour
 - Convicted of an offence

²⁸ As inserted by s23 Police and Justice Act 2006 with effect from 1st August 2007

- Referred to a Youth Offending Team in connection with a reprimand
- Identified by the police or other agencies as being at risk.

4.200 It is important to recognise that Parenting Contracts are voluntary and are dependant upon the co-operation of the parent/s, although one or both parents/guardians may sign up to the contract.

Note: Steps should be taken early in the process to identify if there are any issues affecting the child such as domestic violence or child abuse²⁹, and where appropriate ensure a multi-agency approach is adopted.

Key features

4.201 There is no specific time limit for Parenting Contracts. However, the duration of the contract should be reasonable (usually 6 months) and should cease at the same time as any supporting parenting programme.

4.202 Where a Parenting Contract is being considered, landlords should consult with all other agencies known to be working with the child, for example, social services, the education authority, the Youth Offending Team and the police to ensure the parenting contract complements any other existing interventions.

Parenting Contract terms

4.203 Terms of any Parenting Contract should be negotiated and agreed with the parent/s, with the child present, and should be specific about the conduct required. For example to ensure:

- Their child stays away from a specified area where they have misbehaved
- Their child is effectively supervised at certain times
- Their child avoids contact with someone they have been harassing
- Their child attends school regularly
- The parents attend meetings concerning their child
- The parents attend parenting classes.

Non-compliance with terms

4.204 Essentially all contract terms should be agreed with the parent(s) and the potential consequences of non-compliance, such as application for an ASBO (see page 54) or Parenting Order (see page 108) explained. In situations where both parties are unable to reach an agreement, the parents refuse to engage with the process, or terms of an existing contract are breached the landlord may apply to the court for a Parenting Order or consider alternative proceedings.

²⁹ Adapted from www.asb.homeoffice.gov.uk/members/article.aspx?id+7780 (Jan 2010)

Good practice example:

Sunderland City Council: Parenting Contract

Sunderland City Council's Anti-social Behaviour team received complaints regarding the alleged anti-social behaviour of two young children residing with their mother. The children were responsible for verbal abuse towards residents, attempting criminal damage and causing harassment, alarm and distress to residents in the community. The children were also failing to attend school. The Anti-social Behaviour Officer met with the mother and the young children to make them aware of the allegations and the mother was informed that boundaries and consequences needed to be implemented for the children.

The mother agreed and signed up to a Parenting Contract. One of the terms of the contract was that a referral would be made to an appropriate agency, who would provide the support that she needed. The mother also agreed to attend parenting classes. The children also signed Acceptable Behaviour Agreements detailing the boundaries for their behaviour. As a result of these interventions, the children have ceased engaging in anti-social behaviour and the mother has received the necessary support to assist her in parenting her children.

Where to find more information

4.205 **Guidance on the Use of Parenting Contracts and Parenting Orders by Local Authorities and Registered Social landlords**

Home Office have published guidance to local authorities and social landlords on the use of parenting orders and parenting contracts. Download from: www.homeoffice.gov.uk

Parenting Orders

What is a Parenting Order?

4.206 Parenting Orders are supportive measures designed to help parents/carers improve their parenting skills and tackle the underlying causes of a child's anti-social behaviour. Parenting Orders make the terms of a parenting contract (see para 4.203) compulsory. Orders generally consist of two parts:

- **Part one:** determines the help and support parents need to address their children's behaviour and encourage parental responsibility
- **Part two:** specifies how parents are expected to exercise control over their children's behaviour, for example, defining curfews, or accompanying children to and from school.

4.207 Orders last for a maximum of 12 months, and any course or support programme specified within the programme can last for up to 3 months. This may include attendance at a residential parenting course where appropriate.

Statutory arrangements

4.208 Parenting Orders were first introduced by the Crime and Disorder Act 1998. Sections 8-10 allowed Youth Offending Teams to apply for a Parenting Order on conviction for a criminal offence, alongside an application to the court for an anti-social behaviour order or when a child safety order is made. The Anti-social Behaviour Act 2003 expanded the provisions as follows:

- Sections 19-21³⁰ allow local education authorities or school governing bodies to apply for a Parenting Order based on exclusion or truancy and allows 'relevant bodies' (see para 4.209 relevant bodies below) to apply for Parenting Orders for serious misbehaviour by a non-excluded pupil.
- Section 26 enables a Youth Offending Team to apply for a parenting order when a referral order has been made in respect of the young person. This means that a criminal offence has been committed and admitted to by the young person and the youth court made a referral order.
- Sections 26A and 26B³¹ allow local authorities and registered social landlords to apply for Parenting Orders where they have reason to believe the child is engaged in anti-social behaviour or they have reason to believe the child resides in their area.

³⁰ As amended by sections 98-99 of the Education and Inspections Act 2006 with effect from 1 September 2007

³¹ Inserted by s24 Police and Justice Act 2006 with effect from 1 August 2007

Who can apply for a Parenting Order?

4.209 The following agencies may apply for a Parenting Order:

- Local authorities
- Registered social landlords
- Youth offending teams
- A relevant body in education including:
 - Local education authority
 - Head teacher
 - Governing body of maintained school
 - Proprietor of an academy, city technology college or city college for the technology of the arts.

4.210 A registered social landlord can apply for a Parenting Order where the child's behaviour affects their housing management functions. However, the registered social landlord must consult with the local authority before applying for a Parenting Order to ensure that an order is consistent with any existing or planned interventions by the school or Youth Offending Team.

Court applications for Parenting Orders

4.211 Applications for Parenting Orders are usually heard in the Magistrates Court, although it is possible to bring proceedings in the County Court in cases where possession action or tenancy demotion is also being sought on the grounds of anti-social behaviour.

When to consider using a Parenting Order?

4.212 Children engaged in anti-social behaviour or criminal offending may have multiple problems and in all cases where a Parenting Order is considered the landlord should consult with all other agencies involved to co-ordinate interventions and avoid duplication. It is important to establish if there are any underlying problems such as domestic violence or child abuse.³² Where a multi-agency approach is required, information and data sharing protocols should be established to ensure consistency and define boundaries.

4.213 Parenting orders can be made for children up to the age of 17 years old, and should be considered where:

- A parent is unwilling to cooperate with a voluntary parenting contract

³² Adapted from www.asb.homeoffice.gov.uk/members/article.aspx?id+7780 (Jan 2010)

- A stand-alone ASBO is being applied for on a young person under 16 years, or
- Where a child under the age of 16 years is convicted of a criminal offence and an ASBO is applied for at the same time.

4.214 At the time of writing this guidance the Crime and Security Bill contains proposals to make it mandatory for a court to make a parenting order when an ASBO is breached by a young person under 16 years.

Key features

4.215 The court will only make a Parenting Order where it is satisfied that the child has engaged in anti-social behaviour and that making the order will help to reduce the risk of the child from engaging in any further anti-social behaviour. However, it normally takes advice from the applicant authority in reaching its decision.

Varying/discharging or breaching a parenting order

4.216 Where a Parenting Order is breached, in the first instance the parents/carers should be given a written warning, followed by a review meeting where non-compliance still continues. In situations where the terms of the Parenting Order continue to be breached the court can fine the family up to £1,000.

Good practice example:

Southwark LBC: Parenting orders attached to ASBOs for gang members

Southwark's Youth Offending Team and Anti-social Behaviour Unit's work provides an example of joined up enforcement work. The Youth Offending Team was fully involved and supportive of the Southwark Anti-Social Behaviour Unit's work to obtain ASBOs against seven gang members. In addition to the ASBO applications, Parenting Orders were also applied for, with bespoke orders drawn up for each individual.

The young people were at very 'high risk' both as perpetrators of ASB but also as potential victims of gang violence. The parenting team designed a special package of support to help the parents. Each family is receiving individual and group help to identify the key issues that are common to them all. Group work focuses particularly around the issues of gang involvement as there is resistance on the part of many parents to admit that their children are involved in such behaviour. Although a number of parents argued against the imposition of the orders, the court recognised the benefit of engaging in parenting work and granted the Parenting Orders.

Only one parent has failed to engage, and a zero tolerance approach is being taken to individual support order and parenting breaches.

Example sourced by SLCNG

Where to find more information

4.217 Guidance on the Use of Parenting Contracts and Parenting Orders by Local Authorities and Registered Social Landlords

The Department for Children, Schools and Families and Home Office have published guidance to local authorities and social landlords on the use of Parenting Orders and Parenting Contracts.

Download from: www.asb.homeoffice.gov.uk

Possession proceedings and eviction

What are possession proceedings and eviction?

4.218 Possession proceedings and eviction are the means by which a landlord recovers a property from a tenant or occupier

Statutory arrangements

4.219 Statutory grounds for possession vary, dependant upon landlord and tenancy type. However, key grounds which can apply to anti-social behaviour are set out in the table below:

Legislation	Tenancy type	Ground for possession
Section 7 and Schedule 2 of the Housing Act 1988	Assured	<ul style="list-style-type: none"> • Ground 12: Breach of tenancy • Ground 13: Damage to tenanted property • Ground 14: Nuisance and annoyance or conviction for indictable offence in property or in locality (see para 4.196) Ground 14A: One member of a couple has left the tenancy because of threats of violence by their partner to them or to a member of their family (and the landlord is a registered social landlord) • Ground 15: Damage to furniture in a furnished property
Section 84 and Schedule 2 of the Housing Act 1985	Secure	<ul style="list-style-type: none"> • Ground 1: Breach of tenancy • Ground 2: Nuisance and annoyance or conviction for indictable offence in property or in locality (see para 4.196) • Ground 2A: One member of a couple has left the tenancy because of threats of violence by their partner to them or to a member of their family • Ground 3: Damage to the tenanted property • Ground 4: Damage to furniture in a furnished property

4.220 Ground 2 secure tenancies and Ground 14 assured tenancies applies where:

The tenant or person residing in or visiting the dwelling has:

- Been guilty of conduct likely to cause a nuisance or annoyance to a person residing, visiting or otherwise engaging in a lawful activity in the locality, or
- Has been convicted of:
 - Using the dwelling or allowing it to be used for immoral or illegal purposes, or
 - An arrestable offence committed in, or in the locality of the dwelling.

4.221 Section 85A of the Housing Act 1985 (which applies to secure tenancies) and section 9A of the Housing Act 1988³³ (which applies to assured tenancies) ensure that the courts give particular consideration to the actual or likely effect which anti-social behaviour has had or could have on others when considering whether it is reasonable to grant a possession order against a secure or assured tenant.³⁴

When to consider possession?

4.222 On the one hand, eviction can provide instant relief for communities subjected to anti-social behaviour by a lone individual, particular families or groups of people. On the other, it may merely displace the problem elsewhere. Landlords should, therefore, exhaust all of the alternative remedies and tools available to them to address the behaviour and its causes before using resorting to possession proceedings and eviction.

4.223 Nevertheless, there will occasionally be situations where landlords will have no other option but to pursue possession, particularly where the behaviour is of an extremely serious nature and action is needed to ensure the safety of the community, or where other intervention measures such as an injunction are repeatedly breached.

4.224 Landlords may also consider bringing the tenancy to an end and replacing the tenancy with a less secure form of tenancy (see Demotion orders page 66).

³³ Both sections inserted by s16 Anti-social Behaviour Act 2003 with effect from 30 June 2004

³⁴ CLG Possession Proceedings Anti-social Behaviour Fact-sheet 4 (2004) Home

Key features

4.225 Evicting someone from their home is an extremely serious action and therefore where possession is sought on the basis of anti-social behaviour the court has discretion as to whether to grant a possession order. The court must be satisfied on the basis of evidence that it is reasonable to do so.

Tenancy agreements

4.226 Tenancy agreements should clearly state that anti-social behaviour and illegal activity (by the tenant, other people who live at the property and any visitors) will not be tolerated, and should be used to set out the landlord's expectations of the tenant in respect of fulfilling their responsibilities, and behaving in a manner that does not damage the quality of life for others. Tenancy clauses that determine standards of reasonable behaviour should be clear, fair and reasonable if they are to be enforceable.

Serving notice

4.227 The first stage in possession proceedings is to serve a Notice of Seeking Possession (NSP). Organisations should avoid serving NSPs only as a warning as this can devalue the landlord's intentions and efforts to tackle anti-social behaviour. Once a NSP has been served it should be acted upon.

4.228 The NSP provides the perpetrator with a formal notification of the allegations against them. It should therefore be comprehensive and accurate, and may contain several pages and list numerous incidents.

4.229 NSPs should contain:

- Both names in the case of joint tenancies
- The exact term for breach of tenancy ground being relied on for possession. For example: Housing Act 1985, Ground 1
- All incidents listed in date and time order.

Dispensing with service of an NSP

4.230 The court has power (except in relation to mandatory ground 8 for assured tenancies) to dispense with service of an NSP if they consider it just and equitable to do so, having wide discretion to review all matters that may affect both the landlord and the tenant.

4.231 A specific application must be made to the court to dispense with an NSP. This will be at a hearing with notice so that the court can consider both parties' representations³⁵. Any objections raised by the tenants must be considered at the hearing.

Court options

4.232 In cases where the court is satisfied that a ground for possession has been proved and it is reasonable to make an order the court can make two types of order:

- **Outright Possession:** The court will give the landlord possession of the property after a specified period of time, usually 28 days
- **Suspended Possession:** The court may suspend possession of the property for a fixed or indefinite period of time based on conditions which the tenant must abide by. In cases where the anti-social behaviour continues and the conditions of the suspension are not adhered to the landlord may return to the court to apply for a Warrant of Eviction.

4.233 As an alternative to granting a Possession Order, the court may decide to grant a Demotion Order instead. Landlords should note, however, that a Demotion Order can only be granted where the landlord has requested this as an option for consideration alongside the application for possession.

³⁵ Extracted from CIH practice on-line www.cih.org (Jan 10)

Premises Closure Orders: Premises associated with persistent disorder

What is a Premises Closure Order?

- 4.234 Based on existing Crack House Closure Orders available to the police, Premises Closure Orders are designed to tackle serious and persistent forms of anti-social behaviour.
- 4.235 A Premises Closure Order gives power to the police and local authorities to close any premises that cause significant and persistent anti-social behaviour and disorder in the local community for a maximum period of three months. Premises Closure Orders prohibit any person accessing the dwelling, including those with rights of abode or ownership for the duration of the Order. Orders are tenure neutral and can be applied for on any residential property included privately owned properties. In addition to dwellings, common areas and buildings such as garages, sheds, factories, shops, clubs, pubs, car parks, public buildings and community centres can all become subject of a Premises Closure Order. However, all reasonable steps must be taken to trace and alert any persons with a legal or equitable interest in the property.
- 4.236 Once the prohibition period (set out by the order) has expired the occupier will be able to return to their property, although behaviour will continue to be monitored to ensure that there are no further reoccurrences of the previous nuisance.

Statutory arrangements

- 4.237 Part 1A (sections 11A-11L) of the Anti-social Behaviour Act 2003³⁶ provides for Premises Closure Orders.

Who can apply for a Premises Closure Order?

- 4.238 Only the police or local authorities can apply to the Magistrates Court for a Premises Closure Order. Applications can relate to property which is:
- Rented
 - Privately owned
 - Commercial, and
 - Local authority premises.

³⁶ As inserted by s118 and schedule 20 of the Criminal Justice and Immigration Act 2008 with effect from 1 December 2008

When to consider using a Premises Closure Order?

4.239 Premises Closure Orders are a useful tool in helping the police and councils keep neighbourhoods safe and free of anti-social behaviour and creating places where people want to live. They are intended to provide immediate respite to communities whose quality of life is being seriously damaged by anti-social neighbours, as well as creating a means through which the perpetrator can be engaged to change behaviour. However, Premises Closure Orders should only be used as a last resort and in situations where:

- All other anti-social behaviour interventions have been considered and/or failed to change behaviour, and
- Any implications on children or vulnerable adults in the household have been carefully considered (see para 4.243).

4.240 Premises Closure Orders should not be used in place of possession proceedings or as a fast track to eviction.

Key features

4.241 Any action to seek a Premises Closure Order by either the police or the local authority should be undertaken in consultation with other relevant social landlords and local agencies and not in isolation. The police and local authorities assessing whether to issue a closure notice must have reasonable grounds for believing that:

- At any time in the preceding three months, a person has engaged in anti-social behaviour on the premises; and
- That the use of the premises is associated with significant and persistent disorder or persistent serious nuisance to members of the public.

4.242 The court may grant an order based on evidence of 'significant and persistent disorder' or 'persistent serious nuisance'. Examples of the nature of nuisance that the courts may consider to be serious include:³⁷

- Intimidating and threatening behaviour towards residents
- A significant increase in crime in the immediate area surrounding the premises
- The discharge of a firearm in, or adjacent to, the premises
- Significant problems with prostitution or sexual acts being committed in the vicinity of the premises

³⁷ Adapted from www.asb.homeoffice.gov.uk/members (Jan 2010)

- Violent offences and crime being committed on or in the vicinity of the premises
- Serious disorder associated with alcohol abuse, for example in and around drinking dens
- High numbers of people entering and leaving the premises at all times of the day or night and the resultant disruption they cause to residents
- Noise (constant/intrusive) – excessive noise at all hours associated with visitors to the property
- Persistent and frequent rowdy behaviour/drunken parties
- Illegal business being run from the property.

4.243 While persistent serious anti-social behaviour has a negative impact on neighbourhoods and communities it is essential that enforcement is accompanied by support interventions to tackle underlying causes and permanently change behaviour. A multi-agency approach is essential if the problems are to be resolved rather than displaced.

Note: Protecting vulnerable individuals

Robust arrangements should be put in place to ensure that any vulnerable people or children that may be affected by a Premises Closure Order are protected from homelessness. Measures to safeguard vulnerable individuals should take place in advance of the closure. Where a vulnerable person has been preyed upon and has been unable to exercise control over their property, a Closure Order should form part of a planned resettlement move.³⁸

Duration

4.244 Premises Closure Orders run for a maximum period of three months, although local authorities and police can apply to the court for a further extension if it is necessary and in the best interests of the community.

Ending or discharging a Premises Closure Order

4.245 Premises Closure Orders can be discharged when problems associated with the premises have been addressed.

Breaches of Premises Orders

4.246 Breach of a Premises Closure Order is an offence. Any person found guilty of breaching the order by visiting the address can face up to 6 months³⁹ imprisonment and/or a fine of up to £5,000.

³⁸ Extracted from www.asb.homeoffice.gov.uk (Jan 2010)

³⁹ At the time of publication Section 281 of the Criminal Justice Act 2003 has not yet been brought into force – this will increase Magistrate's courts sentencing powers from 6 months to 51 weeks.

Good practice examples:

New Charter Housing Trust Group: Premises Closure Order

Residents complained to the police, the local council and New Charter Housing Trust Group about persistent nuisance and disorder at a home in Ashton-under-Lyne. Problems involved the tenant, her daughters and several visitors and became more serious. Tenancy cautions were issued but ignored. Using residents' and staff's evidence, New Charter obtained an Anti-Social Behaviour Injunction with power of arrest attached. The tenant breached the injunction and was arrested and remanded in custody for a week.

Following the return hearing, nuisance followed almost immediately and New Charter prepared to seek possession. The police agreed to apply to the magistrates court to close the family's home through an application for a Premises Closure Order. The application was used as a last resort as previous interventions and enforcement activity had failed to stop the anti-social behaviour. Once the magistrates court granted the Premises Closure Order, the tenant voluntarily terminated her tenancy. The Premises Closure Order brought immediate relief to the neighbourhood.

Stockport Homes: Premises Closure Order

Stockport Homes in conjunction with the local authority and Greater Manchester Police successfully secured Stockport Homes' first Anti-social Behaviour Nuisance Premises Closure Order in December 2009. The tenant and her sons had been causing serious nuisance and disorder on a local estate for some time.

Residents were subjected to: intimidation, verbal abuse and threats; large groups of youths congregating inside and outside the property; drug and alcohol abuse inside and outside the property; prolific damage to the property and other properties and cars; violent incidents in the street; and, off road vehicles being driven at speed endangering local residents. Residents in the area began to keep their windows and curtains shut for fear of the ongoing nuisance and disorder, and felt harassed by the occupants and their visitors. Residents also felt trapped in their homes and unable to deal with the matter for fear of reprisals.

A closure hearing took place in December 2009 and the Premises Closure Order was granted for a period of three months. At the same time, Stockport Homes also obtained an Interim ASBO excluding the eldest son from the estate as his release from prison was imminent. The day following the ASBO and Premises Closure Order hearings, an ex parte injunction was obtained excluding the customer from a particular road following threats made to a resident. The community are now living in peace and are satisfied with the action taken.

Peabody Housing Trust: Premises Closure Order

Three flats associated with anti-social behaviour causing widespread concern on a Peabody Estate in Islington were shut down thanks to the combined efforts of Peabody's Community Safety Team, the police and Islington Council.

The first flat was closed by police in October 2009 after complaints about a constant stream of drug users causing disturbances at all hours of the day and night. The second flat was closed less than a week later. The occupant, a known drug addict, had endangered residents by setting fire to her flat and, on another occasion, refused to let gas inspectors repair a dangerous gas leak. Drug paraphernalia was found by police in both raids. In December 2009, police raided a third flat known to be involved in youth disorder and drug dealing, and obtained a Premises Closure Order.

Sourced by SLCNG

Where to find more information

4.247 **Part 1a Anti-Social Behaviour Act 2003: Notes of Guidance – Closure Orders: Premises associated with Persistent Disorder**

This Home Office publication provides detailed statutory guidance and practical advice in relation to applying for Premises Closure Orders.

Download from: www.asb.homeoffice.gov.uk

Suspension of the Right to Buy and Preserved Right to Buy

What is a suspension of the Right to Buy, Preserved Right to Buy or the Right to Acquire?

4.248 Suspension of the Right to Buy (RTB), Preserved Right to Buy (PRTB) or Right to Acquire (RTA) denies qualifying tenants of their ability to exercise the RTB, PRTB and RTA as a result of their anti-social behaviour. If the Court grants a Suspension Order, the order will suspend the RTB, PRTB or RTA application and/or prevents new applications being made during the period of the order. However, upon restoration of rights, the accumulation of a tenant's RTB, PRTB and RTA qualifying period or discount is not affected by the order.

Statutory arrangements

4.249 Section 121A of the Housing Act 1985⁴⁰ allows the landlord to apply to the Court for an order to suspend the RTB (including PRTB and RTA) for a specified period on the grounds of anti-social behaviour. Whilst an application for a Suspension Order is in place the duty for landlords to complete a sale is removed pending the decision of the Court (see section 138).

4.250 In addition, the landlord is not obliged to complete a RTB sale if there is an application for a demotion order or possession order on Ground 2 before the Court.

Who can apply for suspension of the Right to Buy or Preserved Right to Buy

4.251 The following can apply:

- Local authorities
- Registered social landlords.

⁴⁰ Inserted by section 192 of the Housing Act 2004 with effect from 6 June 2005

When to consider applying for a suspension of the Right to Buy, Preserved Right to Buy and the Right to Acquire?

4.252 Landlords can make an application to the County Court for a suspension order to suspend a RTB, PRTB or RTA application if:

- The criteria in sections 153A or 153B of the Housing Act 1996 can be proved and
- The Court is likely to consider that it is reasonable for an Order to be made.

Key features

4.253 A Court will grant a Suspension Order only if it is satisfied that the tenant or a person living in the property, or visiting the property, has engaged or threatened to engage in anti-social behaviour, which includes using the premises for unlawful purposes and it is reasonable to make the order.

4.254 A landlord may apply to the Court to extend the period of an existing Suspension Order.

Tenancy agreements and terms

What is a tenancy agreement?

- 4.255 The tenancy agreement is the legal contract between the tenant and the landlord and sets out the rights and responsibilities of both the landlord and the tenant(s). The tenancy agreement is, therefore, the key to managing the tenancy, and can form the basis of court action for breach of tenancy terms and conditions.
- 4.256 Although the landlord can always rely on the statutory grounds for possession, these can be supplemented with additional clauses that specify the behaviour expected from the tenant(s) (because breach of the written agreement is also a statutory ground for possession) (see paras 4.259, 4.260). Any additional clauses must be fair and non-discriminatory, and comply with the statutory provisions which exclude unfair contract terms. It may be difficult to persuade the court to grant possession on the basis only of a breach of a term where none of the more specific statutory grounds is involved.

Statutory framework

Grounds for possession Secure and Assured tenancies

- 4.257 There are a number of statutory grounds for possession in both secure and assured tenancies that relate to anti-social behaviour. If the tenant behaves in a way that falls within these grounds, the landlord can apply for possession regardless of whether duplicate wording is included in the written agreement (see paragraph 4.219 and subsequent table).

Introductory, starter and demoted tenancies

- 4.258 For guidance in relation to introductory, starter and demoted tenancies see:
- Introductory/starter tenancies (see page 100)
 - Demoted tenancies (see page 66).

Key features

- 4.259 In addition to the specific statutory grounds, the landlord may also seek possession if the tenant has breached a term in the written agreement (Ground 1, secure tenancies; Ground 12, assured tenancies). Landlords may wish, therefore, to consider whether to enhance or clarify the statutory grounds by writing into the tenancy agreement terms to deal with specific types of serious unacceptable behaviour.

- 4.260 Landlords can insert clauses in tenancy agreements to specifically deal with anti-social behaviour. Additional clauses provide clarity to tenants about the expectations of the landlord and also form the basis of actions taken in court proceedings where conditions are breached. However, as already noted, the court may be reluctant to consider eviction reasonable if behaviour which breaches a term of the tenancy agreement does not also fall within one of the statutory grounds.
- 4.261 The content of the tenancy agreement in relation to the behaviour of the tenant and their household and visitors should be explained both at offer of tenancy stage and at sign up interview.

Additional clauses checklist

Although the following clauses are not legal or regulatory requirements, landlords may find it useful to include additional clauses in order to address common tenancy issues, such as:

Responsible ownership of animals and dogs

Whilst clauses forbidding the keeping of all pets may be too restrictive, a clause which requires the landlord's permission for the keeping of pets, or which prohibits or places conditions on the keeping of animals that could harm the property or be a nuisance to other residents focuses attention where it is needed. Clauses should include visitors' animals as well as those owned by the occupants.

Landlords may wish to pay particular attention to the ownership of dogs which can cause a nuisance to neighbours, or be used to intimidate others. Where clauses relating to responsible pet ownership are included these should be carefully monitored and any breaches acted on swiftly (see good practice example Wandsworth Borough Council page 78).

Vehicles

Where parking and other vehicle related problems have caused persistent problems introduce clauses in agreements setting specific requirements regarding parking and other issues concerning vehicles.

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.

Running a business from the premises

Blanket prohibition of running a business from home is contrary to current efforts to promote employment opportunities and reduce worklessness. In many situations home working offers an effective employment solution. Rather than ban all businesses, tenants should be required to request the landlord's permission to run a business from their tenancy. The landlord can then consider any potential disruption or nuisance this may have on neighbours and the surrounding neighbourhood, or any activity that is contrary to any planning regulations. Where no major or significant disruption is anticipated from the tenant working from home, permission should not be withheld indiscriminately. Where permission is withheld the tenant should be advised of the reasons why and given opportunity to address or minimise potential disruption. The property must remain the tenant's only or principal home for the tenancy to be secure or assured.

Drug, alcohol and substance misuse and abuse

Include a specific drug misuse and abuse clause for use in potential possession proceedings. This may be tied to an obligation to engage with support where appropriate.

Protection of staff

Clauses should cover attacks outside the locality of the tenant's home (which would not come within Grounds 2 and 14) to ensure protection of staff wherever they are working.

Adapted from: CIH Practice on-line www.cih.org/practice/online

Breaching the terms and conditions of a tenancy agreement

4.262 A landlord can apply to court for possession of a property if a tenant has breached the terms and conditions of the tenancy agreement on expected standards of behaviour. Eviction should only be considered once the landlord has exhausted all other means of remedying the situation. For guidance on possession proceedings (see page 112).

Good practice example:

London Borough of Barking and Dagenham Council: Enforcing tenancy conditions

Barking and Dagenham, working with the police to reduce burglary in the area, launched a campaign in early 2010. The campaign aims to raise awareness of tenancy responsibilities and obligations (specifically in relation to anti-social behaviour and criminal behaviour) and the actions that the council will take where there are breaches of tenancy terms and conditions. Where tenants are convicted of burglary, for example, Barking and Dagenham will take action to gain possession of the property.

Appendix 1

Defining anti-social behaviour

Anti-social behaviour is any activity that impacts on other people in a negative way, and the key to categorising behaviour as anti-social must be consideration of its impact on others. This can be subjective. Different people may be distressed or alarmed by different types of behaviour and activity.

Definitions of what is considered to be anti-social behaviour should be clearly defined within a landlord's policy and communicated plainly and widely to tenants.

A legal definition of behaving in an anti-social manner is found in Section 1(1) of the Crime and Disorder Act 1998. Many agencies tackling anti-social behaviour have adopted this definition for use in relation to anti-social behaviour orders (ASBOs) for more general purposes. The Act defines anti-social behaviour as:

'acting in an anti-social manner, that is to say, in a manner that caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household as himself'

The Anti-Social Behaviour Act 2003 defines ASB for the purposes of seeking an injunction as:

'conduct which is capable of causing a nuisance or annoyance to any person and which directly and indirectly relates to or affects the housing management duties of a relevant landlord' (s. 13(3)(1)). This definition is wide enough to encompass most landlords' understanding of ASB.

Anti-social behaviour can be categorised broadly into four main areas. The list below may not be exhaustive but provides a useful overview of types of unacceptable behaviour.

Disregard for community/ personal well being	Acts directed at people	Environmental damage	Misuse of public space
<p>Noise</p> <p>Noisy neighbours</p> <p>Noisy cars/motorbikes</p> <p>Loud music</p> <p>Alarms (persistent ringing/malfunction)</p> <p>Rowdy behaviour</p> <p>Shouting and swearing</p> <p>Fighting</p> <p>Drunken behaviour</p> <p>Hooliganism/loutish behaviour</p> <p>Aggressive language</p> <p>Nuisance behaviour</p> <p>Urinating in public</p> <p>Setting fires (not directed at specific persons or property)</p> <p>Inappropriate use of fireworks</p> <p>Throwing missiles</p> <p>Climbing on buildings</p> <p>Impeding access to communal areas</p> <p>Misuse of air guns</p> <p>Letting down tyres</p> <p>Hoax calls</p> <p>False calls to emergency services</p> <p>Animal related problems</p> <p>Status dogs</p> <p>Dog fouling</p>	<p>Intimidation/ harassment</p> <p>Groups or individuals making threats</p> <p>Verbal abuse</p> <p>Sending nasty/offensive letters</p> <p>Obscene/nuisance phone calls and text messages</p> <p>Menacing gestures</p> <p><i>Can be on the grounds of:</i></p> <p>Race</p> <p>Sexual orientation</p> <p>Gender</p> <p>Religion</p> <p>Disability</p> <p>Age (including youth as well as Older people)</p>	<p>Criminal damage/ vandalism</p> <p>Graffiti</p> <p>Damage to bus shelters</p> <p>Damage to phone kiosks</p> <p>Damage to street furniture</p> <p>Damage to buildings</p> <p>Damage to trees/plants/hedges</p> <p>Litter/rubbish</p> <p>Dropping litter</p> <p>Dumping rubbish</p> <p>Dog fouling</p> <p>Fly-tipping</p> <p>Fly-posting</p>	<p>Drugs/substance misuse and dealing</p> <p>Taking drugs</p> <p>Sniffing volatile substances</p> <p>Discarding needles/drug paraphernalia</p> <p>Presence of dealers or users</p> <p>Street drinking</p> <p>Prostitution</p> <p>Soliciting</p> <p>Discarded condoms</p> <p>Kerb crawling</p> <p>Loitering</p> <p>Pestering residents</p> <p>Abandoned cars</p> <p>Vehicle related nuisance and inappropriate vehicle use</p> <p>Setting vehicles alight</p> <p>Racing cars</p> <p>Off-road motorcycling/quad bikes</p>

Table adapted from: CIH (20008) *Tackling ASB in Scotland*, Edinburgh, CIH. Originally adapted from Scottish Executive 2004b Guidance on Anti-social behaviour Strategies Annex A

Appendix 2

Developing an effective strategic response

Self Assessment⁴¹ questions have been divided into the following three areas:

- **Strategic framework:** To assess whether the organisation has in place all of the key strategic aspects required to tackle anti-social behaviour effectively
- **Supporting service delivery:** To assess whether staff are adequately supported in dealing with anti-social behaviour, and how effective partnerships are likely to be
- **Accountability to, and empowering, residents:** Assesses genuine accountability to residents and stakeholders, and the facilitation of resident engagement.

Strategic framework	Supporting service delivery	Accountability to, and empowering, residents:
Has your approach to tackling anti-social behaviour been considered by the relevant Board/Cabinet/Committee?	Has there been adequate training for managers and staff responsible for delivering anti-social behaviour services on: <ul style="list-style-type: none"> • Your organisational anti-social behaviour strategy • The full range of tools and powers available to them • Organisational policies and procedures. 	Are <i>Face the People</i> sessions held in response to issues raised by local communities, and action taken as a consequence?
Are your objectives based on a shared understanding with other partners of local needs?	Is there clear accountability and decision making to support service delivery and continuous improvement?	Do you understand the concerns of your residents about anti-social behaviour?

⁴¹ **Adapted from:** Respect Standard for Housing Management Performance Improvement Toolkit (2007) CLG, HouseMark and SLCNG

Strategic framework	Supporting service delivery	Accountability to, and empowering, residents:
Do you have clear and challenging objectives for preventing and tackling anti-social behaviour?	At an operational level, are staff working with external agencies to provide an integrated and seamless service?	Do partners exist through which your commitment to tackling anti-social behaviour can be promoted to a wider, tenure neutral audience?
Have you agreed clear priorities within your objectives, in response to residents needs and in consultation with residents, staff and other stakeholders?	Are there service delivery and information sharing protocols/procedures in place to aid partnership working?	Can efforts be focused towards reaching traditionally difficult to reach or vulnerable groups, or targeted towards individuals or groups known to be at greater risk of experiencing anti-social behaviour?
Is there a robust strategy in place to deliver your priorities? <ul style="list-style-type: none">• Are there clear links between action plans and anti-social behaviour strategic priorities?	Are councillors/board members and senior managers involved in key local partnerships to ensure an effective multi-agency approach?	Are arrangements in place to demonstrate national and local standards for ASB have been developed and monitored in conjunction with tenants and residents?
Has your anti-social behaviour Strategy been reviewed in the last 12 months? Did this involve discussion at corporate management team/senior management team?		Are residents genuinely involved in setting service priorities, standards, performance targets and shaping future services?
Is there a 'joined-up' approach in terms of your anti-social behaviour strategy and other strategic responsibilities (e.g. promoting equality and diversity, community cohesion, Supporting People, homelessness)?		Are there processes in place to facilitate resident involvement in the review of your performance on anti-social behaviour? For example: <ul style="list-style-type: none">• Mystery shopping, both for your own organisations and in partnership with other landlords• Resident scrutiny panels.• Resident-led self-regulation.⁴²

⁴² CIH (2007) *Leading the Way: Achieving Resident-driven Accountability and Excellence*, Coventry, CIH, provides a robust approach to effective resident empowerment that links to regulation.

Strategic framework	Supporting service delivery	Accountability to, and empowering, residents:
Are there clear and agreed targets for improvement?		Do residents understand how they can challenge the organisation in situations where standards and levels of service fall short of expectations?
Are existing resources sufficient to achieve your objectives and sustain performance improvement?		Do you undertake capacity building for residents so they are better able to participate?
		Is performance information reported in such a way as to facilitate the active involvement of residents?
		Are there any enhanced opportunities for residents to be involved in the shaping and delivery of anti-social behaviour services?
		Do you provide information to enable residents to compare your performance with that of other landlords?

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