

## **Appendix I**

### **Extract from Tackling Anti-Social Tenants – Pub. DTLR 2002**

#### **Measures currently available to social landlords**

**The Tenancy Agreement** Landlords can make use of the courts to enforce the terms of this agreement, including obtaining injunctions to enforce terms prohibiting anti-social behaviour.

**The Housing Act 1996** introduced measures to assist social landlords in taking action to stop anti-social behaviour and to protect those individuals and neighbourhoods which were the targets of such behaviour.

The Act extends the ground of possession for nuisance or annoyance previously provided in the Housing Act 1985. It establishes that the perpetrator of the anti-social behaviour might be the tenant or a member of their household or a visitor to their household. It introduced the concept of behaviour 'likely to cause' nuisance or annoyance. It identifies the possible targets of the behaviour as anyone living in, visiting or otherwise engaged in lawful activity in the area and it establishes the idea of 'locality'.

The Act created a ground for possession where the tenant or their associate has been convicted of using the dwelling for immoral or illegal purposes (such as drug dealing from the premises) or has committed an arrestable offence in the locality of the tenancy.

Tenants are accountable not only for their own behaviour but also for that of their family and visitors and the activity complained of can be in the locality of the tenancy rather than in the property itself.

Evidence from observers not themselves targeted by the perpetrator can provide the basis for an application to the court for possession.

The previous requirement to give 28 days notice of intention to commence proceedings is abolished for nuisance cases.

Chapter 3 of Part 5 of the Act introduced powers for the courts to grant injunctions against anti-social behaviour with the possibility of attaching a power of arrest. Local authority landlords may apply to the court for such injunctions.

Local authority landlords may apply for such orders against anyone who has used or threatened violence against someone else going about their lawful business in the locality of the local authority housing stock.

The applicant for such an order has to provide evidence of the activity complained of and, in addition, the court must conclude that there is a continuing threat of harm if the order is not granted.

The **Crime and Disorder Act 1998** introduced a number of measures to contain anti-social behaviour. The Act establishes the local Crime and Disorder Reduction Partnerships. The principal partners ('the responsible authorities') are the police and the local authority. They are jointly responsible for carrying out an audit of crime and disorder in their area and for formulating and implementing a strategy for the reduction of crime and disorder. They must, under section 5(3), invite the participation of at least one of each type from groups of agencies prescribed by the Secretary of State.

The Act introduced the anti-social behaviour order (ASBO). The police or the local authority can seek orders in the Magistrates' Court to restrain the anti-social behaviour of anyone aged 10 or older. The subject of an ASBO must have behaved in a way likely to have caused harassment, alarm or distress to at least one person not of their own household.

This order provides the opportunity for local authority social landlords to secure restraining orders against juveniles. It provides for non-local authority social landlords, as co-operating bodies, to contribute evidence (secured through their own investigations) to the police or the local authority to facilitate applications for ASBOs. The partnership could intervene to stop anti-social behaviour perpetrated in RSL stock by anyone 10 years of age or older.

Finally, the Crime and Disorder Act introduced a duty for police and local authorities to do everything they reasonably can to prevent crime and disorder in their area. It also requires each local authority service provider to consider the impact on crime and disorder of the way in which they deliver their own services.

The **Homelessness Act 2002** enables local housing authorities to decide that an applicant for an allocation of housing has been guilty of unacceptable behaviour serious enough to make him or her unsuitable to be a tenant. In these circumstances the local housing authority may decide either:

- To treat the applicant as ineligible for an allocation altogether; or
- To allow their application but not give them any preference for an allocation.

In such cases the local housing authority must be satisfied that:

- The applicant or a member of their household has engaged in behaviour which, would if (rationally or otherwise) the applicant was a secure tenant of the authority (or the member of the household was residing with a secure tenant of the authority), entitle the authority to a possession order under section 84 of the Housing Act 1985 on any of grounds 1 – 7 in Part 1 of Schedule 2 of the Act;
- The behaviour is serious enough to make the applicant unsuitable to be a tenant of the local authority; and
- At the time of the application the tenant is still unsuitable to be a tenant.