

Priority review of the uptake by social landlords of legislative powers to tackle anti-social behaviour

Introduction

1. The Government's Respect Action Plan (published in January 2006) reinforced the high priority given to tackling anti-social behaviour (ASB). Tackling ASB within social housing is a key part of this agenda and forms a core part of a social landlord's housing management responsibilities.
2. Recognising the important role that housing providers play in tackling ASB, the Government has introduced a range of powers that can be used to help create and maintain sustainable communities. In particular, the Housing Act 2004 and the Anti-Social Behaviour Act 2003 provided landlords with significant powers to deal with ASB across tenures as it impacts on social housing.
3. Communities and Local Government (then ODPM) asked PA Consulting to carry out a Priority Review of the use of ASB powers in social housing to enable them to better understand the barriers to the uptake of these powers, and to identify ways in which they can be used most effectively.
4. 'Priority Reviews' follow methodology devised by the Prime Minister's Delivery Unit. They are designed as an external challenge to stress-test departmental strategies. They involve intensive fieldwork that engages with the delivery chain and tracks delivery down to the front line. They result in an action plan to help strengthen delivery.

housing

Key findings

The use of the Anti-social Behaviour (ASB) Powers

5. The Review took place in early 2006 (ie interviews and surveys of stakeholders) and reported in April 2006 in the form of a report to ministers. Prior to this review, there was a lack of clear evidence regarding the uptake and effectiveness of these powers by social landlords, although anecdotal evidence suggested that uptake, though increasing, was ‘patchy’.
6. The review centred upon the following ASB powers:
 - Anti-social behaviour orders (ASBOs);
 - Housing Injunctions (often known as ASBIs);
 - Demoted tenancies; and
 - Possessions.
7. It has focussed on the use of these powers across social housing including the following types of landlords:
 - Local Authority Housing Providers (LAs);
 - Registered Social Landlords (RSLs); and
 - Arms Length Management Organisations (ALMOs).
8. The review findings are based on 34 in-depth interviews from a cross-section of housing providers and relevant central bodies, which have been supplemented by an online survey of nearly 400 social landlords.
9. The respect agenda, of which efforts to tackle anti-social behaviour form a key part, is fast moving with practitioners and policy makers learning all the time about what works. It is important to bear this in mind when considering the findings. This sample of interviews and survey responses has enabled the development of a clear ‘snapshot’ of the situation in early 2006 – it is not, however, a comprehensive record of the views of every housing provider.
10. This summary report outlines the key issues raised at that time with regard to the use of ASB powers in social housing.
11. Interviews and survey findings indicated that in general, social landlords are using the powers available to them:
 - possession is the most widespread used power, having been used by 77 per cent of housing providers in the last 12 months (up to April 2006);
 - take-up of injunctions has also been strong, with housing providers reporting it to be a swift and easy-to-use power. Ten per cent of housing providers have used more than ten injunctions in the last 12 months, and 58 per cent have used this power at least once during this period (up to April 2006); and
 - demoted tenancies are not yet well used, with 30 per cent of housing providers reporting that they have used the power to date (up to April 2006).
12. The majority of housing providers find the powers easy to use, although they report some difficulties with the use of ASBOs and demoted tenancies.
 - Injunctions are the easiest power to use, with 77 per cent of landlords finding them easy or quite easy to use.
 - Landlords indicated that ASBOs were the most difficult power to use, with 46 per cent of respondents finding them difficult or quite difficult to use; 44 per cent found demotions difficult or quite difficult to use.
13. In general, social landlords felt the legislative powers were effective at tackling ASB:
 - 88 per cent of landlords thought that injunctions were effective or quite effective, whilst around 80 per cent thought the same of possession and ASBOs; and
 - landlords expressed more doubt about the effectiveness of demotions, with 30 per cent considering them to be not very effective.

The capability of housing providers

14. Capability issues centre on two areas:
 - lack of knowledge and experience; and
 - lack of money and resources.
15. In deciding the best course of action, it is essential that housing providers understand the full range of tools and powers and how they might be used alone or in combination. Evidence from the e-survey shows that understanding of the powers is patchy and varies greatly between powers. For example, 23 per cent of respondents having little or no awareness of demotions, whilst 93 per cent understand possession quite well or very well.
16. It is also important that housing providers recognise ASB as a priority and put the necessary resource into tackling it. A common theme in Registered Social Landlords (RSL) interviews was the cost of legal interventions, which some regarded as prohibitive. Most will still take the necessary action, regardless of cost, but cost may influence the decision for some, especially for smaller RSLs where it represents a more significant proportion of their budget.
17. It is essential that the nature of the housing provider (Local Authority (LA), RSL or ALMO) is noted when considering capability issues, as each individual housing provider has a different starting point in terms of available funding, legal resource and administrative capacity for tackling ASB. Interviews and e-survey findings highlight issues relating to specific housing providers:
 - RSLs in general have particular issues regarding lack of money and lack of knowledge around how to use the powers;
 - ALMOs in general have particular issues in their ability to use all ASB powers and their lack of credibility in court; and
 - LAs in general cite a lack of time, money and legal capacity as problems in tackling ASB in social housing. This may well be due to resources being focussed outside of social housing.

Barriers to success

18. The review highlighted a range of key themes which practitioners reported as barriers to effective use of powers as well as their broader efforts to tackle anti-social behaviour effectively.

A – Partnership working

19. Resolving an ASB case in social housing often requires input from a range of organisations, both in exchanging information about the individuals concerned, and in providing solutions to the immediate and underlying issues. This partnership should be driven strategically by the Crime and Disorder Reduction Partnership (CDRP) and should include representation from all necessary agencies (including the local authority, the police, social, mental health, youth and education services). The engagement of social landlords is variable across the country. Partnership working issues centre on three areas:
 - RSL inclusion in partnership structures and decision making;
 - involvement of support agencies (social services, youth services etc); and
 - resistance to the effective sharing of information.

These points are covered in more detail below.

20. **RSL Inclusion.** RSLs are sometimes not adequately represented in partnerships (both CDRPs and at neighbourhood level) with the LA often assuming the role as representative of social housing. Given the important role RSLs can play, it is essential that they are part of both the development and delivery of local ASB strategies. They also often require the support of partner agencies to progress ASB cases and may act as useful sources of information on the nature of local problems. Interview findings suggest that RSLs are not unwilling to join partnerships. In fact, the issue with RSL inclusion centres on their struggle to access partnerships due to their status as 'invitees' to CDRPs rather than core members as specified

through legislation, a lack of credibility in their relatively new community safety role, and the fact that they are sometimes newcomers to long-established groups.

21. There are also issues with RSL location: one RSL may work across several LA areas, just as one LA area may have multiple RSLs. Building mutual relationships between RSLs and other agencies is therefore complicated. As an LA housing representative and inheritor of LA housing staff, ALMOs are more able to tap into existing partnerships and relationships. This also applies to some extent to RSLs with transferred stock.

22. Involvement of support agencies.

In order that an holistic approach is taken that covers the full range of tools and powers (diversion-education-engagement-prevention-enforcement-rehabilitation), a multi agency effort is essential. During interviews, a significant majority of housing providers cited weaknesses in partnership working relating to the commitment of social, mental health and youth services. Agencies and organisations have differing priorities and cultures – social, mental health and youth services arguably exist for the protection of individuals rather than communities. Hence they do not necessarily see themselves as part of an effort that has enforcement action as a potential end product. This perception is often echoed by voluntary support services.

23. Resistance to sharing information.

Taking forward a case without full information can lead to inappropriate action being taken. Housing providers and agencies are frequently confused over what information can and cannot be disclosed and housing providers also complain that information sharing is often a one-way street. Housing providers are putting in place information sharing protocols to try to overcome this issue, but these do not always work as well as they might in practice, particularly where a provider is working across several LAs or CDRPs.

B – The needs of victims and witnesses

24. Enforcement action is much harder to pursue without the involvement of the community. It is essential that residents come forward in the first instance and report ASB, and that they are willing to provide evidence later in the process. Victims are often reluctant to come forward in these cases for fear of reprisal, since the defendant is likely to live in close proximity. If they do come forward, they are then fearful of giving evidence due to the stress this may incur.

25. E-survey findings showed that sixty-eight per cent of housing providers faced difficulties in gathering evidence and supporting victims and witnesses when having using legislative powers in the past. Sixty-four per cent believed that reluctance of victims and witnesses to come forward was such a barrier that it would deter them from using legislative powers in the future.

26. In-depth interviews indicate five key issues for victims and witnesses that prevent landlords from using the powers:

- **lack of awareness** of how to make a complaint;
- **fear of reprisals** from perpetrators (often neighbours);
- **fear of the landlord** picking up on maintenance/rent arrears issues at the same time as dealing with ASB;
- **lack of confidence** that action will be taken; and
- **lack of facilities** at court to enable evidence to be given with appropriate support and without fear of reprisal.

27. Where residents do come forward, the level of support offered to them through the process is poor, particularly compared to that offered in criminal proceedings. A victim or witness in an anti-social behaviour case is arguably just as vulnerable to intimidation as a victim or witness in a criminal case, and, therefore, as much in need of support and protection. However, the majority of ASB social housing cases are dealt with through the civil courts, where court buildings and processes are not always equipped to deal with these victims and witnesses.

C – The court process

28. When questioned about barriers encountered in using legislative powers, 66 per cent of e-survey respondents selected court processes, making this the second most significant barrier overall after witness issues. For both LAs and ALMOs, court processes were cited as the biggest barrier encountered. Significantly 80 per cent of ALMO respondents cited this as a barrier – this may reflect the issues that ALMOs have with credibility and representation at court (as they take action as agents of the local authority rather than in their own right).
29. Court enforcement action for ASB is part of an escalation process for housing providers, which includes preventative and educational approaches. Whilst it is not possible to say exactly what proportion of ASB complaints escalate to court action, anecdotal evidence from interviews suggests a figure between 10-20 per cent.
30. Landlords often resort to enforcement action as a last resort. In cases where other approaches are exhausted or unlikely to work, it is important to take quick and demonstrable action through the courts. Landlords expressed frustration in two areas: the time it takes for a case to go through the court process; the perceived lack of consistency in process; and, outcome.
31. Housing providers reported frustration at the amount of total time taken for a case to be dealt with by the courts (from notice – to application – to listing – to adjournments – to sentencing).
32. There is also a perceived lack of consistency in the way ASB cases are handled – the guidance, process and outcomes for applications/enforcement of breach can differ depending upon the jurisdiction in which it is heard.
33. These issues, in part, stem from the fact that the majority of housing cases relating to ASB are heard in the County Courts (the Civil Justice system). In the civil courts ASB cases make up only a small proportion of total court workload. Therefore, in many courts ASB cases are heard infrequently and as a result court staff and district judges do not deal with enough cases to build up close familiarity with

the particular demands of ASB and the relevant legislative provisions. These issues may be exacerbated where landlords themselves bring forward action infrequently and thus do not have depth of experience and the necessary capacity to present cases effectively.

D – Reviewing effective working

34. Some landlords reported that they felt there was a lack of evidence of what works in tackling ASB, and are therefore unable to identify what they might do better. The issue can be seen in two parts: firstly a lack of robust management data makes it difficult to assess the performance of areas or the effectiveness of powers/initiatives; and, secondly difficulties in accessing examples of best practice make it difficult for areas to find solutions to problems or to set strategy based on what works across the country.
35. Currently, there is considerable variability in the approach that social landlords take to monitoring trends and enforcement in ASB. Some merely monitor inputs (applications for ASBOs, injunctions etc) whilst others only consider outputs (whether the court grants the order). Such an approach fails to recognise the role of other non-statutory approaches in tackling ASB, residents' perception of ASB in an area or the nature of the underlying ASB. There is also limited data available centrally from the courts, central bodies or social landlords on the numbers of actions taken although efforts are being made to improve this.
36. It is important that the full range of activities used to control ASB are recorded, and that a comprehensive approach to measuring and recording landlords' efforts and successes in tackling ASB is devised.

Recommendations

37. A set of recommendations has been submitted to Communities and Local Government through the review, focusing on the remaining barriers identified in this summary. Communities and Local Government, in partnership with other Government Departments, have evaluated the issues raised through this research in taking forward future policy development.

38. Since completion of the Review we have launched a new Respect Standard for Housing Management, which provides a blueprint for effective practice in tackling anti-social behaviour and helping to create a culture of respect. In addressing barriers to success and supporting practitioners in delivering services which meet the Respect Standard, we are taking forward the following actions (this is not an exclusive list but rather an outline of relevant activity).

A – Partnership working

39. The Government has completed a review of the partnership provisions of the Crime and Disorder Act 1998. The overall objective of the review was to strengthen the effectiveness of Crime & Disorder Partnerships (CDRPs).

40. Communities and Local Government and the Housing Corporation have been engaged in a review of RSL engagement in CDRPs in co-operation with the Home Office. We will announce new measures to improve RSL participation in early 2007.

B – The needs of victims and witnesses

41. We have launched a review of support for victims and witnesses in the civil justice system in co-operation with the Department for Constitutional Affairs (DCA), Home Office and the Office for Criminal Justice Reform.

C – The Court Process

42. The Respect Action Plan committed DCA to testing the concept of ASB Co-ordinators in the county court. The Co-ordinator, who will be appointed from among the local county court staff, will be responsible for ensuring effective liaison between the courts and the various agencies tackling ASB within the court's area of jurisdiction.

43. A pilot scheme was launched in October 2006 in 11 county courts. The pilot will run for a 12-month period. There will be an interim evaluation of the pilot in March/April 2007. A full evaluation will take place from October 2007 and the findings will influence decisions on national roll out of the scheme.

44. We are aware that there is still uncertainty among practitioners on how use of demotion fits within the range of available tools and powers. We will conduct a review of demotion to inform the issue of revised guidance and best practice in early 2007.

45. We are continuing to work with the DCA to help deliver a commitment in the Respect Action Plan to provide community safety practitioners with rights of audience in the civil courts, which will have benefits for RSLs and ALMOS.

D – Reviewing effective working

46. We recognise that the availability and quality of local information on ASB, particularly performance indicators, needs to be improved. However measuring success in tackling ASB can be complex given the wide range of contributory activity involving prevention, support and enforcement. We have commissioned work to develop a practical resource to enable social housing practitioners to measure their local performance using a tailored, clearly defined set of performance measures. This toolkit will help landlords utilise performance information to contribute to performance improvement as well as supporting them in sharing existing good practice. We expect that this will be available from Spring 2007.

47. The Department continues to work closely with key stakeholders, such as the Housing Corporation. The Housing Corporation collects a number of data sources on RSLs' performances on tackling ASB. To get a greater understanding of performance trends, they have commissioned a sector study on the sector's use of powers and tools. This is expected to report in the first half of 2007.

48. In addition, the Housing Corporation has recently reviewed its performance indicators regime and has produced a new 'resident friendly' suite of national indicators. This will be supplemented by the development of local indicators, which will rely strongly on community engagement and feedback.

Further Information

Further copies of this summary are available via the Communities and Local Government web site or from:

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