

Antisocial behaviour unit
Home Office
2 Marsham Street
London SW1P 4DF

03 May 2011

More effective responses to anti-social behaviour

Dear Sir/Madam,

Shelter welcomes the opportunity to respond to the call for evidence on more effective responses to anti-social behaviour. Shelter is a national campaigning charity that provides advice, support and innovative services. More than one million people a year come to us for advice and support via our website, helplines and a national network of services. Shelter also provides specialist support for families at risk of anti-social behaviour through our Family Intervention Projects, which have a proven track record of delivering positive outcomes¹. Regrettably funding from central government to support such projects is coming to an end, undermining our efforts to tackle the root causes of anti-social behaviour to improve the lives of communities and prevent homelessness caused by eviction.

Due to our remit and the wide-ranging scope of this consultation, this response is focused on those measures that relate specifically to housing. In particular we would like to respond to the Housing Minister's proposal for mandatory possession following breach of a court order for anti-social behaviour or a housing-related conviction for an indictable offence². It is regrettable that this proposal has not been set out in more detail in the consultation document so our response has been hampered by a lack of clear detail surrounding the Minister's intent. However, we hope that the omission is an indication that the Government is reconsidering this policy.

Shelter fully acknowledges that anti-social behaviour can have a devastating impact on neighbourhoods and communities and our advisers frequently support households whose lives are blighted by anti-social behaviour. In 2010 our advisers supported over 1,500 individuals who were suffering from harassment and nearly 900 with nuisance neighbours. We also offer advice to those who have been accused of anti-social behaviour, assisting more than 700 such households in 2010. We accept that appropriate measures, including injunctions and ASBOs, must be available to protect individuals and the community at the earliest stages of anti-social behaviour problems.

However, we believe this is most effective when pursued through a balanced approach that combines prevention, support and resettlement alongside enforcement. In this context it is concerning that Supporting People budgets, which can be used to tackle the underlying causes of

¹ Jones et al: Addressing antisocial behaviour: An independent evaluation of the Shelter Inclusion Project. University of York. 2006.

² Hansard. HC Deb, 8 March 2011, c954W

anti-social behaviour, are being cut or directed away from ASB work. Shelter argues strongly that an effective response to anti-social behaviour must include effective funding of support services. This is often most effective when a 'whole family' approach is taken, however, many projects funded by Supporting People currently do not take this approach. Shelter would like to see better coordination between Supporting People and Children and Young People funding to enable a 'whole family' approach to be pursued where funding is not available for Family Intervention Projects.

Through our services, Shelter has a positive track record of tackling anti-social behaviour while avoiding eviction. The Shelter Inclusion Project, based in Rochdale, Greater Manchester, was set up in September 2002 to provide support to households that are homeless or at risk of homelessness due to alleged anti-social behaviour. The project works with adults and children, providing a range of support to households threatened with eviction.

An independent evaluation of the Inclusion Project concluded it was an effective and cost-effective response to anti-social behaviour³. It found the project had "considerable success" in tackling ASB while also promoting social inclusion and community stability. The project resulted in a high level of tenancy sustainment and significantly reduced levels of ASB. Sixty per cent of closed cases no longer exhibited antisocial behaviour, and many service users said the project had helped them regain confidence, control and self-respect. Significantly 84 per cent of closed cases were assessed as no longer being at risk of homelessness following contact with the project.

What do you think of our proposals for reform? In particular, do you think merging existing powers into the new orders proposed is a good idea?

Our response to this question focuses on the proposal for mandatory possession. We acknowledge that in some circumstances where other tools have proved ineffective possession is the correct course of action, but we argue this should only ever be pursued as a last resort and should be considered on a case by case basis to ensure that it is proportionate to the behaviour and the offender's circumstances. While eviction can provide respite for the immediate neighbourhood it does not deal with either the anti-social behaviour or the underlying causes and simply displaces the problem elsewhere. In addition it is a cause of homelessness, and because tenants evicted for anti-social behaviour are likely to be found intentionally homeless they may struggle to secure permanent accommodation. This will have an unfairly negative impact on any children or siblings of the individual responsible for the anti-social behaviour.

We have considerable concerns that the policy as set out is not proportionate. Under the current framework of anti social behaviour injunctions, an individual can be subject to an injunction if their behaviour "is capable of causing nuisance or annoyance to any person." This creates considerable scope for individuals to be subject to ASBIs for a wide-range of behaviour. For example, clients engaged with Shelter's Inclusion Project were referred for anti-social behaviour ranging from criminal activity (12% of clients) to rubbish hoarding (4%) with noise nuisance the most common

³ Jones et al: Addressing antisocial behaviour: An independent evaluation of the Shelter Inclusion Project. University of York. 2006.

form of ASB (38%)⁴. Shelter argues that it is not proportionate for someone engaged in criminal activity to face the same sanction as someone who breaches an injunction for failure to maintain their garden. We agree that action should be taken where an injunction is breached but this should be based on the nature of the act. Eviction should exist as the ultimate sanction, but it cannot be appropriate in every circumstance.

If the Government is serious about addressing ASB we argue that more effective solutions could be found by increasing resources for support services, while increasing effective co-operation and joint working between agencies, including social care, education and health services.

Do you think there are risks related to the introduction of any of the new orders?

The Housing Minister has argued that the threat of mandatory possession will act as a powerful incentive not to commit anti-social behaviour. However, Shelter is concerned that any positive gains will be outweighed by the risks created by this policy, specifically increased homelessness. In addition Shelter argues that to be truly effective, measures to tackle anti-social behaviour should address the underlying causes and not simply move the problem elsewhere. As such responses should strike the right balance between prevention, support and enforcement. Tools must be available to tackle ASB but these must be proportionate. These could include options such as demoted tenancies to send a clear signal that anti-social behaviour has consequences without immediately resorting to immediate possession proceedings.

We are concerned that introducing mandatory grounds for possession would give the courts absolutely no discretion to examine the nature of the anti-social behaviour or the individual's personal circumstances, thereby preventing judges from making informed choices as to whether the loss of a home is proportionate. We argue strongly that the courts need this discretion to respond to the complexities of individual circumstances and to ensure that eviction remains a serious sanction of last resort and not the default response.

For example, in April 2011 Shelter supported a very vulnerable client in Sheffield whose landlord applied for immediate possession following anti-social behaviour by her adult sons. The judge was sympathetic to the client's vulnerability and lack of moral culpability and ordered instead that a Suspended Possession Order was appropriate for breach of tenancy conditions. The judge's discretion was vital in enabling action to be taken against the ASB, ensuring that a vulnerable client avoided homelessness.

The policy as set out by the Minister does not appear to take account of recent judgments of the Supreme Court in the cases of *Manchester C.C. v Pinnock* and *Hounslow L.B.C. v Powell*, in which it was held that the court must have power to assess the proportionality of making a possession order in respect of a person's home, under article 8 of the European Convention of Human Rights. Where the tenant puts forward an arguable defence on grounds of proportionality, it will be for the landlord to justify their claim for possession in terms that are not substantially different from the present requirement to show that it is reasonable for the court to make a possession order. To

⁴ Jones et al: Addressing antisocial behaviour: An independent evaluation of the Shelter Inclusion Project. University of York. 2006.

introduce mandatory possession in such fact-sensitive cases is likely to be incompatible with the need for the procedural safeguards required by article 8.

The Inclusion Project found that often the individual committing anti-social behaviour is not the tenant themselves but a child of the tenant. Other siblings may be put at risk of homelessness for behaviour which they or their parent have little capacity to control. Ministers may argue that the threat of possession will force parents to discipline their children; however, this is simplistic and ignores the intensive support some parents may need, especially if ASB is a symptom of underlying problems within the family. Inclusion Project leaders work with parents to improve their parenting skills but also with offending children to explore their relationship with their parents and the reasons for their behaviour, and with other family members to understand how their behaviour impacts on the whole family. This provides an effective remedy for anti-social behaviour without the knock-on risks of homelessness which would be created by this policy.

Do you think these proposals risk particular groups being disadvantaged in a disproportionate way? If so, how?

The proposal for mandatory possession would only be applicable to tenants in social housing. This would mean that one group would face an additional, and severe, penalty for breach of an anti-social behaviour injunction which could not be levied against private tenants or owner-occupiers. This is unfair as social tenants would face a far greater penalty for comparable behaviour to anti-social tenants or owner-occupiers in the private sector.

This also means that communities who are blighted by anti-social behaviour from neighbours who rent privately or own their own homes would not have access to the full range of tools available to the neighbours of social tenants. This policy risks increasing tensions among such communities, especially if tenants evicted from social housing for anti-social behaviour move into privately rented housing without steps being taken to tackle the underlying causes of their behaviour.

In conclusion, Shelter is greatly concerned by the proposal for mandatory possession as this will place families at risk of homelessness and simply displace the problem to a new community. We believe possession is appropriate in some circumstances but that this should be pursued as a last resort after other tools have failed and must be applied proportionately. If the Government is serious about pursuing more effective responses to anti-social behaviour we would encourage the Minister to look to the lessons learnt from Shelter's Family Intervention Projects which focused on tackling the root causes of anti-social behaviour.

Kind regards,

Kate Webb
Policy Officer