

Consultation Response

ODPM: Tackling anti-social tenants

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Shelter

Anti-social behaviour is a significant problem for the people who approach Shelter's housing aid services. Every day we see people who are living in fear in their homes and others who have become homeless because they could not tolerate further violence and harassment. We also see people who are at risk of losing their home because of nuisance behaviour. The services we provide through our national network of housing aid centres and projects and our training programme are aimed at the prevention of homelessness and ensuring that people have quiet enjoyment of their homes.

- Last year our housing aid centres dealt with over 3,000 cases of neighbour nuisance, harassment and violence where our clients were either victims or perpetrators. In addition we dealt with over 4,000 cases involving domestic violence. We see clients from all housing sectors and from every part of the country.
- Shelter runs three Homeless to Home projects in England providing practical support and resettlement for homeless families. A significant cause of homelessness amongst our clients at these projects is harassment and violence by neighbours.
- We provide training courses on anti social behaviour and the law for local authorities and other agencies to improve understanding of existing remedies.
- This autumn we will be opening Shelter's Inclusion Project in partnership with Rochdale Council, working with households who are at risk of exclusion and homelessness because of anti social behaviour.

Summary

- Based on our experience of working with victims and perpetrators of anti-social behaviour, we understand the need to develop long term integrated solutions to what is a complex and multi-faceted problem. We therefore welcome the themes of prevention, enforcement and resettlement emphasised in the consultation paper.
- However, we do not believe there is a case for further enforcement powers. The evidence points to a major lack of understanding/expertise about how to use existing powers, particularly among housing officers on the ground. Shelter supports the development of specialist team drawn from a range of agencies who have the expertise and knowledge to deal with this complex problem.
- As the consultation paper states, eviction does not solve problems, but moves them elsewhere, creating a spiral of additional difficulties, including homelessness both for perpetrators and subsequent victims and destabilising communities. There is an urgent need to address the chronic lack of resettlement services where eviction has occurred and better preventative services to avert the kind of symptoms of breakdown that manifest themselves as anti-social behaviour, including crucially support services for vulnerable tenants.

- We support a general duty on local authorities to tackle anti social behaviour. This should be a duty on the local authority as a whole, rather than rooted in its landlord function. This would allow a broad based and strategic approach to tackling ASB irrespective of tenure and encourage the development of interventions that focus on behaviour rather than residential status.
- Solutions to the problem of anti social behaviour should be rooted in evidence of what works. However, we are concerned that new measures on enforcement are proposed before assessing the effectiveness of current remedies. There is a lack of data, monitoring and research about the scale and scope of current problems and the most appropriate interventions. We therefore welcome proposals for further research in this area and the proposals to improve data on possession actions by landlords.

Summary of Shelter's response to specific Government proposals

- We support a general duty on the local authority to tackle anti social behaviour which would include a requirement to publish procedures.
- We do not support any extension of powers to end tenancies in cases of anti social behaviour, or measures to promote or demote tenancies. The challenge is to make better use of existing wide ranging powers, rather than to extend the current unsatisfactory introductory tenancy regime.
- Shelter welcomes proposals for oral hearings in appeals.
- There is already a substantial body of caselaw which provides discretion in possession cases. Rather than structuring discretion, we support the need for additional training and support for landlords and the provision of guidance to courts to improve certainty of outcomes.
- We do not believe the case is made for making anti social behaviour a mandatory ground for possession. Our experience is that presented with clear evidence, the courts are willing to grant possession.
- We welcome powers to attach a power of arrest in cases of violence or a significant risk of harm, such as persistent racial or homophobic harassment.
- We are opposed to the compulsory transfer of perpetrators as we do not believe this would have positive effect on perpetrators.
- Shelter supports RSLs' right to representation in Crime and Disorder Partnerships.
- We welcome proposals to improve data on possession actions and believe that social landlords should record and report data on possession actions and evictions.

Introduction and Background

We welcome the fact that the consultation paper repeats the fundamental themes set out in the Social Exclusion Unit's report on ASB - those of prevention, enforcement and rehabilitation - and the recognition that all these are essential to tackling the problem effectively.

We also welcome the statement that 'the Government does not wish to promote an increase in the use of eviction' and the recognition that eviction is not a satisfactory response as it moves the problem on. However we are disappointed that the majority of the proposals for consultation then focus on methods that will facilitate eviction.

Prevention, enforcement, resettlement

The report carried out by the SEU on ASB identified the three-pronged approach to tackling anti social behaviour and emphasised that all three strands need to be adopted to deliver an integrated approach to dealing with anti social behaviour. On each of these strands the report found the following:

Prevention. There was insufficient focus on preventing anti social behaviour and that despite a range of services working with potential perpetrators, these were often uncoordinated.

Enforcement. There were already large numbers of initiatives aimed at enforcement. However, their effectiveness was hampered by poor implementation as a result of lack of knowledge, and confusion over how to use them. It also found that because many initiatives were relatively new it was not possible to judge their long-term effectiveness.

Resettlement. Finally it emphasised that there is no widespread policy on dealing with perpetrators after eviction. Whilst recognising that enforcement alone displaces rather than solves problems, it found that services which aimed to get people to address their behaviour were very rare.

Given the findings of this report, we are disappointed that this consultation paper does not move the agenda forward by addressing gaps in policy, examining what can be done to make existing measures work better, tackling the barriers which hamper co-ordination of preventative work, and policy and practical work which promote effective resettlement schemes.

For example, the SEU report highlighted the work of the Dundee Families Project as a model of good practice. The consultation paper does the same, but despite an evaluation that shows that the project works, that has widespread backing locally, and that it represents value for money, it remains one of the only schemes in the country. While a handful of schemes are starting to be set up including a Shelter Inclusion project in

partnership with Rochdale council, and a residential scheme in Manchester, these are very much the exception. We believe that the Government could play an important role in supporting the development of such schemes which are likely to be seen as unpopular locally, as part of an overall strategy for tackling anti-social behaviour.

We are also concerned that alongside this consultation paper, the Law Commission are proposing changes to the law in relation to anti social behaviour as part of a wider review of security of tenure. While some of the proposals are the same, others do not feature and yet others are slightly different. Neither mention proposals currently being taken forward by Frank Field's private members bill, with Government support which would reduce levels of housing benefit in cases of anti social behaviour. This lack of consistency suggests a confused and unstrategic approach to policy in this area - which is bound to be replicated on the ground.

Part I - Shelter's view of current problems with treatment of anti-social behaviour

- Defining the problem
- Use of existing remedies
- Support services for vulnerable people
- Tenure specific remedies
- Understanding the profile of perpetrators

Defining the problem and the appropriate response

Anti social behaviour has become a catch-all term for a range of different behaviours, perhaps understandably given the media and political attention to the issue. Policy making and implementation should however draw a distinction between different types of behaviour that are currently defined as ASB, and then develop responses based on those distinctions in order to ensure that response are both effective and proportionate.

For example:

- Some forms of low-level ASB can be controlled through management action such as neighbourhood caretakers and wardens, expectations set out at the start of the tenancy, challenges to careless or thoughtless behaviour towards neighbours, and even fostering and supporting tenants' and residents' groups
- Policies and procedures should ensure that where someone's ASB is related to their physical or mental health, learning difficulties etc., then the remedy that is sought addresses the cause rather than the symptom. This can be a complex task and requires negotiation with other agencies: however it should also be core to the mission statement and purpose of any social landlord organisation
- Where there are disputes between families living in an area, mediation schemes can provide a resolution to problems. Such schemes focus not on legal solutions but assist the parties to resolve the disputes themselves thereby encouraging community harmony.

Use of existing remedies

Shelter agrees that some perpetrators of ASB make life intolerable for their neighbours, and pose significant challenges for statutory and other services. Our experience is that it is a very small minority of tenants whose ASB could be described as calculated, persistent, wilful and reckless of the consequences. Where this is the case, remedies must be available to deal with the people concerned and protect the quality of life of their

neighbours and the local community. In some cases this will include eviction for breach of tenancy conditions: in others the breach of an ASBO leads to criminal proceedings and possible imprisonment.

Social landlords already have a very wide range of remedies available to them. The most pressing current issue, which we witness day to day in our housing aid centres, is the lack of understanding and expertise about the available remedies, particularly among housing officers on the ground. As a result, intervention does not occur early enough, tenants suffering from ASB do not get the help they need, and poorly prepared cases are thrown out by the Courts.

Neither is it the case that the remedies are demonstrably too difficult or complex. Taking someone's home away from them is a drastic step and it is right that the law should require clear evidence and due process before agreeing to it. However our experience is that the available remedies are simply not adequately exploited by social landlords.

The overwhelming experience from our housing aid centres across the country (each of which covers several local authority areas) is the inconsistency with which landlords act to protect those suffering from anti social behaviour. Some will take the necessary action early on, engage with both the alleged perpetrator and the victim, identify what the causes are and then look creatively at ways to solve the problems. Many others do not know how to deal with problems and therefore fail to take action or take inappropriate action where there are alternatives.

- Failure to act

The findings of the SEU report, as well as research for the Joseph Rowntree Foundation, found that housing officers lacked knowledge, and were confused about how to use existing remedies. Many felt they lacked organisational support in tackling issues or simply did not have the expertise to deal with such complex problems.

Our day to day experience reflects these findings. For example, people who approach Shelter have been told to keep a diary of events: having done so they then find out that their landlord has no clear procedure in place to consider the contents of that diary and the action that might be taken. We liaise with estate management staff who acknowledge a problem of ASB in their area but have no training in the procedures for gathering evidence, or whose employer has no formal link to the local police service in this respect. We have attended courts to find the case put back at the request of the landlord because its own legal preparation was not completed on time.

- Inflexibility of response

A further problem we encounter when working on behalf of the victims of ASB is that the landlord's response is inflexible. In this complex area, there is a need to be pragmatic and

seek solutions that will put an end to disputes which could otherwise escalate to involve a wider number of people. For example, management transfers are a useful tool in diffusing situations where there are ongoing disputes between neighbours - but there is often reluctance to use them for fear of being seen to 'reward' bad behaviour. Other problems - including differences in lifestyle - may be resolved by a move to a more suitable property.

- Focus on possession action

A further problem is the early resort to possession action where alternatives would deal with the problem more effectively. This frequently occurs where eviction proceedings are undertaken against vulnerable people who have not been provided with the support that could help them manage their lives and cease to be disruptive to their neighbours. It may be that the support required can only be provided by specialist health or social services staff. Perhaps despairing of their capacity to obtain this support for their tenant, the landlord opts to 'get rid of the problem' through possession action. Much of our day to day advocacy work involves trying to engage social services, other support agencies and housing departments to work together to find solutions.

A particular problem in this respect is where domestic violence within a household or by an ex-partner is dealt with as a case of nuisance. The following case study illustrates this common problem.

A domestic violence social worker referred a woman to us who had been rehoused on the grounds of domestic violence but was facing homelessness due to rent arrears. Her ex-partner had found her and the violence started again. Neighbours complained about her husband banging on the door and noise nuisance and alleged that he was living at this address. As a result her housing benefit was stopped. Eviction proceedings were instigated on the grounds of nuisance but were put on hold as the social worker provided reports from the police stating that she was in danger of being killed by her husband. The council then issued proceedings on the basis of rent arrears because of the loss of housing benefit. Shelter intervened and managed to get her housing benefit reinstated and backdated in full so there were no further arrears. The council again activated possession on nuisance grounds. At this point the council's legal department said they would not pursue possession unless housing and social services departments could agree on the right way forward. Following negotiations, our client was rehoused in a different area and there have been no problems since.

- Where do they go?

Finally, we are also aware that people who are evicted for ASB have to live somewhere else. This 'somewhere' may be a series of temporary addresses, often in the private rented sector, where landlords are even less well equipped to deal with the problem. This adds to the poor reputation of whole areas of privately rented properties, which were the

subject of the government's recent consultation paper on selective licensing. The emphasis that the consultation paper has on enforcement and eviction will simply move the problem on - in real terms on the ground, as well as in terms of policy responses to inter-related problems.

A client came to see us who had previously lived in a two bed council flat with his two sisters, one of whom had a child. The flat was in his name. He received notification of possession proceedings on the grounds of nuisance caused by a visitor to the flat, one of his sister's boyfriends. He asked his sister to leave the property which eventually she did when the council rehoused her and therefore the boyfriend did not come to the property any more. Shortly after, our client went away on holiday and on his return discovered that a possession order had been made against him because of nuisance. He had mistakenly believed that by asking his sister to leave, the breach of tenancy would be remedied. He is now homeless and occasionally stays in the local nightshelter.

Our client lived with her husband and teenage daughter. Her husband had been served with an anti social behaviour order for harassment and verbal abuse. Neither the wife nor daughter were implicated in the behaviour. The housing association sought possession as a result of the ASBO in early 2001. The husband had kept to the terms of the order. Initially the judge did not order possession but on appeal, the landlord gained a possession order and they were evicted. The husband lost his job, our client is disabled and suffers severely with depression and the teenage daughter is suffering from Crohn's disease. They were found to be intentionally homeless and they have been living ever since in our clients' mother's one bed flat.

Tenure specific remedies

Anti social behaviour does not occur solely in the social housing sector. Of over 2,000 cases Shelter dealt with last year involving neighbour friction, racial and sexual harassment and violence outside the home, over 640 were in the private sector - either tenants or owner-occupiers.

However, most remedies available to tackle ASB reside with social landlord functions. Such remedies cannot be used to either protect or take action against those outside the social rented stock and this consultation paper does not address the problem. Yet it is now rare to find areas of single tenure and one landlord. Privately owned properties sit alongside council tenancies, not least as a result of Right to Buy. Stock transfer also

increases range of social landlords within an area and new developments focus on mixed tenure to promote sustainable communities. In such mixed tenure areas, landlord related-sanctions are unlikely to be successful.

There is an urgent need to address ASB in a neighbourhood rather than tenure context. Only addressing the powers available to social landlords will - in terms of policy development -perpetuate the current piecemeal response as well as further stigmatising social housing tenants as problem people.

Shelter therefore supports the use of measures that are not tenure or income related such as injunctions and anti social behaviour orders to tackle ASB. These have the benefit of applying to anyone in the area. It is extremely difficult for local authorities to win the confidence of local residents where their powers to act are constrained by the tenure of those causing the problem.

Support services for vulnerable people

The social housing sector houses a large number of vulnerable people who need support both to enable them to maintain their tenancies and participate in their community. A great deal of Shelter's day to day housing aid work involves people at risk of homelessness. Our involvement is often required because of an inappropriate letting combined with the lack of an appropriate support service for vulnerable tenants.

This leaves tenants unable to manage their tenancy, or relations with their neighbours, and they become labelled as 'anti social'. The problem may be as simple as a young care leaver provided with accommodation in an area they do not know, and with insufficient support from social services as they begin to live independently. Problems may well arise, starting with complaints from neighbours, and leading to possible eviction. The lack of support at an early stage then leads to homelessness - and makes it more difficult for people to access housing in the future as they are labelled as potentially difficult tenants.

Understanding the profile of perpetrators

Despite the popular image of the neighbour from hell, many people who behave in an anti social manner have extremely high levels of vulnerability. The profile of perpetrators suggests that their behaviour is likely to be rooted in complex problems. In order to tackle anti social behaviour, a greater understanding of their backgrounds and needs will be necessary to develop effective responses.

Research for the Joseph Rowntree Foundation on tackling anti social behaviour found that two thirds of defendants had special needs or other specific problem; 18 per cent had some form of mental illness; a further 18 per cent had experience of physical or sexual abuse; 9 per cent had a physical disability. Drug and alcohol problems were identified in

23 per cent of cases and in 15 per cent of cases children were out of control and the parents lacked the skills to deal with them.

In depth interviews with a sample of clients from the Dundee Family Project revealed very serious levels of vulnerability, ill health and abuse in the families' backgrounds:

- Over half the households were headed by a lone parent.
- 53 per cent of the female adults had experienced domestic violence.
- 40 out of the 83 children interviewed had experienced some form of abuse or neglect
- A significant number of families had high levels of ill health and disability including cerebral palsy, deafness and epilepsy.
- Half the mothers were prescribed anti-depressants.
- A high proportion of the adults were known to previously or currently to have drug or alcohol problems.

Many households had been evicted before but had not been able to change their behaviour or control that of their children. These households needed intensive and specialist levels of support which encouraged them to challenge their own behaviour and change it.

Of course this is not to argue that neighbours and the community should always be expected to cope with severe ASB whilst support is organised and delivered. However where these problems are identified early enough, they can be addressed through a package of support that the household receives when it first moves into the property and before ASB problems develop.

The solutions

Shelter believes that there are better alternatives to eviction and moving problem families out of social renting. These involve developing solutions based on evidence of what works, tackling the problems caused by perpetrators of ASB head on, investing in preventative services and improving the capacity of local authorities and others to make better use of existing remedies.

Evidence-based policy making

Shelter supports unequivocally the need to develop better solutions to the complex problems of ASB. This is not a problem that lends itself to a single strand solution. A strategic approach that combines a much greater emphasis on prevention, alongside effective enforcement and resettlement services is the most sensible way forward.

In developing solutions, it is vital that policy is based on evidence of what works. We are concerned that many developments have taken place in a research vacuum and that new measures are proposed before existing approaches have been tested.

Resettlement and rehabilitation

There is an urgent need to develop resettlement and rehabilitation services for perpetrators of ASB. While enforcement action relieves immediate problems caused by severe nuisance, the effect will often be to move the problem elsewhere (and sometimes just round the corner - into a private sector tenancy on the same estate). More and more emphasis on enforcement will not help to deal with this reality.

The evidence is that resettlement schemes work. The Dundee Families Project has helped 80 families, none of whom have been evicted since leaving the Centre. In contrast there is no evidence that evicting people changes their behaviour. Many of the clients of the Dundee project had been evicted several times before but until they were given help offered by the DFP they had not managed to change their behaviour.

Early intervention also works: in Shelter's experience, small-scale disputes can escalate quickly if left unchecked: for example relatively minor disputes between children can spread to parents and others. Many mediation schemes enjoy a high level of success through encouraging those involved to negotiate a resolution to problems jointly. Nottingham's Mediation Service dealt with 70 disputes last year of which two thirds reached a successful conclusion. Again, more widespread use of mediation services could provide successful intervention to prevent problems getting out of control and importantly empower residents to come to jointly agreed resolutions.

Emphasis on prevention

The rehousing of vulnerable tenants who may have difficulty managing their tenancy can lead to disputes and difficulty with neighbours, and they become labelled as 'anti social'. The right kinds of support for those unused to independent living or for families at risk could significantly reduce these problems.

The extension of priority need to certain categories of vulnerable homeless people, including care leavers, 16 and 17 year olds and those with an institutionalised background is likely to increase the numbers of people needing support to successfully manage their tenancies. Shelter strongly supports the extension of priority to these groups who are at greater risk of homelessness because of their backgrounds. However we also recognise that support and resettlement are equally important components in avoiding higher levels of tenancy failure and repeat homelessness. The supporting people programme and local homelessness strategies will be crucial to delivering these components.

Better use of existing remedies

There is already a wide range of legal remedies available to social landlords. As the consultation paper makes clear, many landlords are not making best use of these powers, because they are unfamiliar with them and often do not have the knowledge or confidence to use them. Research suggests that much greater levels of success in tackling problems are achieved through the use of specialist teams to tackle anti social behaviour. Dedicated workers working alongside frontline staff or taking responsibility for nuisance generally were seen as crucial to improving organisations' responses to anti social behaviour. They have the expertise to make use of the range of tools available and crucially are also able to take steps to support victims through the process. Shelter supports the development of specialist teams to tackle what is an extremely complex social problem and to provide supportive services for victims.

Tackling anti social behaviour on a neighbourhood level

A current consultation paper by the Law Commission proposes a general duty on social landlords to tackle anti social behaviour. Shelter supports this general approach, but believes it is a duty that should fall on the local authority generally rather than as a landlord. A general duty would encourage LA's to act more strategically and develop methods of tackling ASB for all residents in their area including nuisance in private rented and owner occupied property.

Part II - New Approaches - Government consultation proposals

1:1 Measures for Landlords

1:1.1 Establishing a duty to publish anti-social behaviour procedures

Shelter supports the need for clear procedures which give tenants and others a clear indication of how problems relating to anti social behaviour will be treated. If nothing else, this will require landlords to have clear and effective procedures in place: as we have made clear in this response our experience is that the major problem with current frameworks is that landlords and their staff do not know how to make use of remedies available to them, or lack the management processes to ensure that action is indeed taken when necessary.

However, we do have concerns with the 'model policy statement' which focuses on how the landlord will take enforcement measures rather than reflecting the prevention, enforcement, resettlement model highlighted elsewhere in the report. We would welcome the opportunity to comment further on the model statement if it is to be promoted more widely as an example of good practice. It will also require some updating in line with the new allocations provisions in the Homelessness Act 2002

We believe that the proposals could go further than a requirement to publish procedures only and create a general duty on the authority to tackle anti social behaviour. This would begin to address the inconsistency with which anti social behaviour is treated across the country. A general duty should rest with the authority as a whole, rather than on the landlord function as we have set out above. This would complement current crime and disorder strategies and local partnerships could take the lead role in ensuring an area-based response. A general duty would not be enforceable at an individual level and therefore is unlikely to lead to concerns about lawyers canvassing for legal work

We do not support proposals to include responses to ASB within tenancy agreements which again focus local authority action on its tenants rather than on the residents of their area. Of course there are now a large number of authorities who have no tenants as a result of stock transfer to an registered social landlord.

Speeding up evictions

1:2.1 Giving social landlords increased powers to end tenancies for anti social behaviour

We are opposed to additional powers for landlords to end tenancies without the independent scrutiny of the courts.

The paper makes clear that there is no wish to increase the use of evictions but we are concerned that these proposals will do just that. Making legal remedies the quickest and

easiest option in such a complex area undermines the use of alternative approaches which are likely to be more effective in the longer term.

The paper states that one advantage of the introductory tenancy regime is avoiding the need to compete for busy court time. However, in cases of serious anti social behaviour, procedures already exist for bringing possession claims without delay. Paragraph 1.2.2 highlights Part 55 of the Civil Procedure Rules, which include a provision for cases to be speeded through in cases involving violence or threats of violence. Concerns about problems getting court time in serious cases could be tackled by publicising these new procedures to ensure that landlords are familiar with them, and have the confidence to use them in appropriate cases rather than proposing alternatives before existing measures have had time to bed in.

The proposals for changing security focus on the extension of the introductory tenancy model beyond the one year period in certain circumstances. There is little evidence to support the effectiveness of introductory tenancies in tackling anti social behaviour. Research conducted for the Department (Local authority policy and practice on allocations, transfers and homelessness, H. Pawson et al (DTLR 2001) itself has found that most repossession actions against introductory tenants have been prompted by rent arrears rather than anti social behaviour. 88 per cent of possession cases against introductory tenants were all or mostly on the grounds of rent arrears.

We do not support the use of break clauses which would be administratively burdensome as the review would need to apply to all tenancies. In addition, landlords should be taking action where this is appropriate at the point of the breach of tenancy, not waiting for a biannual review.

1.2.3. The Appeals Process

Shelter supports the proposal that applications for permission to appeal should require an oral hearing where ASB is involved. This provides an opportunity for both sides to put their case for timetabling an appeal.

1.3. Building Confidence in the court system

1:3.1 Structured discretion for judges in housing possession cases

The consultation paper stresses that research has shown little evidence of difficulty with judges making orders when sufficient evidence is put before them. Our experience is that the courts have taken a harder line in proceedings related to anti social behaviour since the 1996 Act. Cases fail where they are poorly prepared and/or insufficient evidence has been gathered. Where the case for possession is clearly made, courts are willing to grant orders.

Concerns about the predictability of outcome could be addressed by the provision of training and support for landlords. Again, the use of specialist teams who can develop expertise both in gathering evidence and preparing cases for court will help to improve certainty of outcome.

We are concerned that structuring discretion will be difficult to frame fairly and may end up being so broad as to resemble the current position. In any event, there is already a body of case law which must be considered by the courts when exercising their discretion on reasonableness. There is well established authority for the fact that the courts must consider the impact on nuisance on other tenants and residents, as well as the interests and rights of the rest of the neighbourhood. (Examples include *Woking BC v Bistram* (1993) 27 HLR 1 CA; *RBK&C v Simmonds* (1996) 29 HLR 507 CA; *LB Camden V Gilsenen* (1998) 31 HLR 81 CA).

We do however agree that some judges are not expert in housing law and are therefore not aware of this body of case law. There would be merit therefore in providing better guidance to judges in this difficult area.

Making anti social behaviour a mandatory ground for possession

Shelter strongly opposes this proposal. We think it unnecessary, as our experience is that, presented with clear evidence of ASB and its effects on the witnesses and the local community, courts are willing to grant possession.

We also believe that it is essential that there is independent scrutiny of cases where someone risks losing their home, so that the seriousness of the ASB, and circumstances and recent developments are taken into account in deciding whether it is reasonable that possession should be given against the perpetrator. For example:

- A case of ASB may be related to domestic violence and it is the exclusion of the perpetrator, rather than eviction, that is the most appropriate remedy.
- Changes of circumstances such as the instigator of nuisance leaving the property
- In cases where the provision of support or community care services is in place and it is likely that such support will stabilise behaviour.

1:4 New tools for landlords

1:4.1 Extending the power of the court to grant injunctions

We support the use of injunctions as a speedy and well targeted way of stopping behaviour without removing a person from their home.

Shelter supports a power of arrest where social landlords obtain an injunction, so long as the circumstances include the use or threat of violence or a significant risk of harm. We are not in favour of making the power of arrest available for any injunction obtained by a social landlord as this may be a disproportionate response in some cases.

However, we do support the extension of the power of arrest to cases involving serious and persistent non-violent harassment (including harm caused by racially motivated property damage and verbal abuse) as such behaviour gives rise to a serious risk of harm.

1:4.2 Promotion and demotion in security of tenure

Shelter is opposed to any measures which would give rise to an increase in the use of introductory tenancies. As stated above, there is no evidence that the use of introductory tenancies has reduced levels of anti social behaviour. Demoting a person's tenancy subsequently leaves them at greater risk of eviction on other grounds such as rent arrears which are the main cause of loss of home for introductory tenants. There may be more merit to the proposal if a way could be found to ensure that once a tenant was demoted, then the only grounds on which action to end the tenancy could subsequently be taken was on ASB grounds. Under the current introductory tenancy regime, this would not be possible.

If such proposals were to be taken forward, any decision to demote a tenancy must be taken with recourse to the courts.

1:4.3 Compulsory transfer of perpetrator to alternative accommodation

We do not support compulsory transfers as any forced move is unlikely to have a positive effect on perpetrators. We would not want to see legal remedies working against other approaches to tackling anti social behaviour, and as the paper makes clear, there is a risk that a court's decision could cut across existing supportive work being carried out with a perpetrator. This underlines the point about the importance of consistent and integrated strategies to tackling anti social behaviour.

1.5 Building the capacity of RSLs to tackle anti social behaviour

We fully support the requirement to give RSLs a right to representation. RSLs are the majority housing provider in many areas and this is set to increase, they play an increasingly important role in building strong neighbourhoods. Improvements in data exchange would seem to be consistent with this strengthened role.

1.7. Improving data on possession order actions by social landlords

We welcome proposals to provide a more detailed breakdown of possession orders by social landlords. There is currently considerable concern about the increase in use of

possession actions by social landlords but disagreement about the reasons for this. More comprehensive data collection would facilitate a greater understanding of this trend. Based on our experience in county court duty representation schemes and on small scale surveys, it is clear that the vast majority of possession actions are for arrears, many of which are related to housing benefit problems.

Eviction represents failure of the social housing system and the performance of social landlords should be measured on the extent to which they can manage tenancies without recourse to the courts and eviction. We therefore believe that local authorities and registered social landlords should be required to record and report data on possession actions and evictions.

It is possible that the current BVPI66 on local authority rent arrears may have the effect of encouraging local authorities to pursue arrears through possession action as opposed to other approaches. While it is important that local authorities aim to minimise arrears, they should also avoid making households homeless. In order to counter this effect there should be a performance indicator for the proportion of tenants that local authorities evict each year. This BVPI should apply to both local authorities and housing associations.

The BVPI should require social landlords to report the number of evictions as a proportion of the landlord's housing stock and specifically the number of evictions for rent arrears as a proportion of the landlord's stock.

Such an indicator would encourage social landlords to pursue alternative approaches to tackling rent arrears before entering into a possession action as a last resort.

Finally, consideration should be given to breaking down data into tenancy type as well as by landlord. This would provide information about the extent of possession actions related to the introductory tenancy regime.