



The Anti-social Behaviour Act 2003 – Part 2

ANTI-SOCIAL BEHAVIOUR FACT-SHEET 1

Introduction

1. The purpose of the Anti-social Behaviour Act 2003 is to provide the tools for practitioners and agencies to effectively tackle anti-social behaviour. It contains measures drawn up from across five Government Departments and builds on existing legislation to clarify, streamline and reinforce the powers that are available to practitioners.

The Anti-social Behaviour Act and Housing

2. The Government is committed to building thriving, vibrant, sustainable communities. The Communities Plan (Sustainable Communities: Building for the future) published on 5 February 2003 concerns every part of the country, providing homes for key workers, regenerating towns and cities and providing parks for our families and children. Above all the plan aims to ensure that people have pride in the communities in which they live and work.
3. Renewing our housing and improving services won't be enough if some people continue to feel threatened in their homes or intimidated on the streets. This is why we are focusing on tackling anti-social behaviour in the context of housing and neighbourhood renewal.
4. The Anti-social Behaviour Act received Royal Assent on 20 November 2003. Part 2 of the Act focuses on social housing, providing new powers for social landlords to tackle anti-social behaviour. Part Two of the Act came into force on 30 June 2004 in England. In Wales, Part 2 Sections 13, 14 (part) and 16 commenced on 30 September 2004. Sections 12, 14 (remainder) and 15 are expected to commence in March 2005.
5. The following sections provide a summary of each of the new measures introduced by Part Two of the Anti-social Behaviour Act 2003. More detailed fact-sheets on each of the measures outlined here are also available within this series.

housing

Section 12 – Anti-social Behaviour: Policies and Procedures

6. Section 12 of the Act introduces new Section 218A of the Housing Act 1996, which places a new requirement on all social landlords (local housing authorities, Registered Social Landlords and Housing Action Trusts) to prepare and publish Statements and Summaries of their policies and procedures in relation to anti-social behaviour.
7. A key part of tackling anti-social behaviour is to ensure that tenants know exactly what their landlord will do about it when it occurs. Tenants often feel left in the dark when they are experiencing problems with anti-social behaviour. They may not know what options are available to them or the landlord. Sometimes the problem may be because front-line housing management staff are also unclear about what procedures they should be following. The duty on social landlords to publish their policies and procedures will enable everyone to see what commitments the landlord is making, and provides a starting point towards taking effective action.
8. The Statement of Policies should set out the landlord's aims, attitude and general approach to anti-social behaviour, for example to communicate clearly what standards of behaviour are acceptable. It could also identify what specific commitments the landlord is making to its tenants or the wider community in terms of dealing with ASB, and what service standards can be expected.
9. The Statement of Procedures should include the operational procedures introduced by the landlord to implement their policies on ASB. The level of detail in the Statement of Procedures is a matter for the landlord, however it is expected that relevant procedures will be broadly outlined so that tenants know how the landlord is likely to deal with a complaint of ASB.
10. Landlords' must also prepare Summaries of their Policies and Procedures. These are intended to provide information to tenants, residents and other interested parties on the landlord's anti-social behaviour policies and procedures in a clear and accessible format. These should be kept up to date and be easily available at no charge to anyone who requests a copy.

Section 13 – Housing Injunctions

11. Section 13 builds on housing injunctions that are available in the Housing Act 1996. It replaces the existing provisions with new provisions, which offer several significant improvements.
12. Injunctions are civil orders obtained from the County Court. An injunction prohibits the person concerned from engaging in specified types of behaviour. Some injunctions can exclude the person from specified places or areas. Breach of the conditions of an injunction can result in up to two years' imprisonment and/or an unlimited fine for contempt of court. Injunctions are a discretionary remedy, this means that the Court can decide whether it would be appropriate for one to be issued. Injunctions are increasingly used to control anti-social behaviour in situ rather than displacing the problem, for example by evicting nuisance tenants who are then able to continue the behaviour in another property.

13. Key improvements introduced by the Anti-social Behaviour Act 2003 include:

- Providing Registered Social Landlords and Housing Action Trusts with the same powers to protect their tenants as local authorities, including the ability to obtain a power of arrest without needing to prove a breach of a tenancy agreement.
- Anyone lawfully engaged in an activity in the neighbourhood, including anyone residing in the area, even if their accommodation is not owned or managed by the landlord, may be protected so long as there is a sufficient link to the landlord's housing management functions. For example, where a tenant of the landlord has harassed his owner-occupier neighbour.
- The anti-social behaviour does not have to occur in or near the landlord's properties to be covered (so long as there is some link with the landlord's housing management function). For example, housing staff may be protected even when they are working away from the locality, and even when they are not at work (where the anti-social behaviour has some link with their work).
- A power of arrest or an exclusion order is available where there has been serious anti-social behaviour but no violence or threat of violence. A power of arrest or an exclusion order is available where there is a significant risk of harm – this could include emotional or psychological harm.

Sections 14 and 15 – Demoted Tenancies

14. Many landlords have found introductory or starter tenancies a very effective way of controlling anti-social behaviour in new tenants. The introduction of demoted tenancies allows landlords to apply to the Court to reduce the security of tenure for an existing tenant in a similar way.
15. Local authorities, Housing Action Trusts and Registered Social Landlords may apply to the County Court to allow a tenancy to be brought to an end by a Demotion Order. Upon granting of the order, the tenancy is replaced with a less secure form of tenancy.
16. The Court may only make the order if the tenant, another resident of or visitor to the tenant's home has behaved in a way which is capable of causing nuisance or annoyance and use of premises for unlawful purposes. In addition the court must be satisfied that it is reasonable to make the order.
17. A Demotion Order gives a serious warning to the tenant, since if they continue to misbehave swift action can be taken to end their tenancy. It also removes a number of their tenancy rights, thereby acting as a positive incentive to the tenant to change their behaviour: if they stop causing problems, they can regain a higher level of security and rights. The scheme provides a clear linkage between the enjoyment of the benefits and rights of security, and responsible behaviour.

Section 16 – Proceedings for Possession

18. The majority of tenants behave responsibly and abide by the terms of their tenancy agreements. However, when things go wrong and a tenant fails to meet the standards of reasonable behaviour established by their tenancy agreement, then a landlord may seek to protect the rights of other tenants and the wider community by enforcing the terms of the tenancy.

19. Seeking repossession of someone's home is an extremely serious action and therefore where possession is sought on the basis of the anti-social behaviour of tenants the Court must be satisfied, on the basis of the evidence, that it is reasonable to do so.
20. Part Two, Section 16, of the Anti-social Behaviour Act ensures the courts must give particular consideration to the actual or likely effect which the anti-social behaviour has had or could have had on others when considering whether it is reasonable to grant a possession order on the grounds of nuisance or annoyance. Under these 'nuisance' grounds for possession the court must consider, in particular:
 - (a) the effect that the nuisance or annoyance has had on persons other than the person against whom the order is sought;
 - (b) any continuing effect the nuisance or annoyance is likely to have on such persons;
 - (c) the effect that the nuisance or annoyance would be likely to have on such persons if the conduct is repeated.
21. This consideration does not remove the duty on the Court to consider fairly the case against the tenant who is accused of committing or failing to prevent anti-social behaviour. This might include any particular circumstances that may have led to this conduct, (issues of mental health or drug or alcohol abuse for example). But in doing so, the Court must give particular weight to the effect of their behaviour on their victims and the wider community.

Further Information

Other fact-sheets in this series cover the measures outlined here in more detail. They are available on the ODPM web-site: <http://www.housing.odpm.gsi.gov.uk>

Further copies of this fact-sheet and others in the series are available from:

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You may also wish to access the TOGETHER web-site, a resource for practitioners working to tackle anti-social behaviour across England and Wales at:

www.together.gov.uk

The TOGETHER ActionLine is available every weekday to provide information and discuss solutions and best practice to help practitioners tackle anti-social behaviour throughout England and Wales:

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