

Good practice: briefing

Eviction – assessing and meeting the needs of children

Guidance for housing professionals

Introduction

Shelter strongly believes that housing providers have a duty to recognise children's need for a safe and secure home in any action in pursuit of family evictions.

Eviction is a sign of failure that usually extends the difficulties faced by families with children, rather than reducing them. For that reason alone, it is hard to justify on

economic, social or moral grounds. Shelter believes alternative action should be sought to avoid eviction in such circumstances. This briefing explains the impact that bad housing and homelessness has on children and highlights good practice by local authorities and other providers in the social and privately rented sectors.

This briefing uses the term 'children' throughout to refer to children and dependent young people up to the age of 18.

This good practice briefing is one of a series published by Shelter. Briefings dealing with other housing and homelessness issues can be downloaded from shelter.org.uk/childrensservice

Shelter

Policy/legislation overview

In 2009–10, 127,130 landlord possession claims were made in the county courts in England and 86,238 resulted in possession orders being issued.¹

Eviction orders remove the recipients' right to occupy the home for longer than 28 days from the issue of the notice, which legally classifies them as homeless. Homeless people with dependent children are classified under homelessness legislation as being in priority need. However, eviction may lead the local authority to decide that the homelessness applicant was intentionally homeless. In such instances, authorities may have no duty to assist.

The United Nations Convention on the Rights of the Child should be taken into account when families with children are at risk of eviction:

- article 3 requires state parties to make children's best interests a primary consideration in decisions that affect their lives
- article 12 gives children the right to express their views, and have their views taken into account on all decisions affecting their lives
- article 27 recognises the right to an adequate standard of living for every child in the jurisdiction, and explicitly mentions housing.

Following a Supreme Court ruling, many social housing tenants have greater protection from eviction under article 8 of the European Convention on Human Rights. The court ruled that the proportionality and reasonableness of a decision about the loss of a person's home should be taken into account.²

Article 8 provisions may give grounds for refusing or suspending a possession order – but even if an order is granted, article 8 may allow the family to remain in the home for an extended period. These principles apply to social landlords and local authorities but not to the private rented sector (www.equalityhumanrights.com/human-rights).

In 2011, the government announced plans to give mandatory possession if someone in a household breaks the terms of an antisocial behaviour injunction. Legislation is required to enact this change. Shelter believes that landlords have a duty to protect tenants from harassment and aggressive behaviour by other tenants, but people must only be evicted from their homes when other measures have failed. Eviction can mean that the problem is simply moved elsewhere.

How homelessness affects children

Evicted families become homeless. Research has shown the impact that homelessness has on all aspects of a child's life – including health, safety, achievement and life chances.³ Improving outcomes for children and young people underpins the work of children's services and should be a key aim for all local authorities.

Models of good practice

To ensure when a family is at risk of eviction that children's needs are assessed and met, the following indicators of good practice should be adopted by local authorities.

1 Shelter statistics team.

2 The Equality and Human Rights Commission (EHRC) intervened in the case of Manchester City Council v Pinnock. Pinnock was a tenant since 1978. In 2007, the tenancy was demoted due to anti-social behaviour by adult children who were no longer resident. A year later, an eviction notice was served. The decision was challenged by the Court of Appeal, which upheld the eviction – as did the Supreme Court. However, the court accepted that 'where a court is asked to make an order for possession of a person's home, the court must assess the proportionality of making the order and resolve any disputed facts. This sets an important precedent that will afford vulnerable social housing tenants more protection from eviction in the future'.

3 Harker, L, Chance of a Lifetime, Shelter November 2006.

Develop and implement prevention protocols to ensure families threatened with eviction are supported to maintain tenancies.

- Families with children at risk of eviction are offered tenancy-sustainment support to help them maintain their tenancy.
- Where antisocial behaviour by a young person in the household is a factor, housing and children's services collaborate to prevent eviction, for example with family interventions or targeted youth support.
- Through homelessness strategies and children and young people's plans (or similar), local authorities agree a protocol with major landlords that ensures families are not evicted without help from housing-related support services to try to prevent the eviction.

When pursuing eviction proceedings, take into account the children's need for a secure home and establish effective joint-working practices to ensure their support needs are met.

- Housing services notify children's services when families are threatened with eviction, to ensure support is provided. This measure is written into joint protocols.
- All landlords and social landlords inform housing and children's services when eviction is being considered.
- Where a family is being re-housed, due consideration is given to the suitability and quality of accommodation offered and that it is of sufficient standard to meet the family's needs.

Ensure that families with children who are deemed intentionally homeless as a result of eviction are given support to sustain their next tenancy.

Case studies

Practical solutions to avoid eviction

Shelter Keys to the Future Project, Knowsley

The Cooper family consisted of mum and three children, Peter (13), Carl (11) and Liam (4). Dad lived elsewhere with the eldest daughter, but remained supportive of the children. The family were under threat of eviction due to neighbours' complaints of nuisance, which was linked to the mother's difficulties in parenting and setting boundaries. Eventually, the children were placed on a child protection order.

The housing provider reported a number of complaints about loud arguments, heavy banging and the noise of children running up and down stairs and jumping off beds. Conditions in the property were poor, with no carpets in upstairs rooms or on the landing, increasing the level of noise.

Following a housing needs assessment by Keys to the Future (KTTF) staff, mum reported severe depression and low self-esteem and accepted that her mood was impacting on the children. She disputed the noise nuisance, but complaints continued and after the housing provider investigated the complaints, the family was issued with a warning.

KTTF staff worked with the family to support the two elder children and find practical solutions aimed at helping the family keep the home, including working with mum on ways to reduce noise. The housing provider continued to receive complaints about the noise and about rubbish piling up in the garden.

After a month, children's services suggested that, as mum was unable to manage the children, she should 'swap' tenancies with dad. He would take over the house with the children and she would move into his flat. The other alternative would have been the children going into care.

Once the legalities were sorted out, the housing provider offered to arrange a furniture package, including carpets, while KTTF staff ensured the rent arrears were paid. Children's services granted dad formal parental responsibility, and there was a marked reduction in the noise nuisance and improvement in the children's behaviour after dad moved in. It was agreed that, if things continued to improve, after three months the warning from the housing provider would be revoked.

Children's services also intended to review the case after three months and indicated that if things improved the child protection order could be lifted.

KTTF staff continued to work with the children to ensure their needs were met.

Without intervention, this situation could have ended in the family becoming homeless, and the children being taken into care.

Financial solutions to preventing eviction

Westminster Council – eviction prevention fund pilot

In April 2009, the government announced funding for local authorities to offer homeowners and tenants small loans to stave off repossessions and evictions. Westminster Council had already set up a repossession prevention fund pilot for homeowners and in July 2009 set out a similar policy for tenants.

The Citizens Advice Bureau (CAB) or council estate management office can make a referral on a client's behalf. The housing options service also accepts self-referrals by tenants approaching the service for advice. Loans are available to anyone who would have been assessed as priority need and for tenants who would be at risk of rough sleeping and have repayment difficulties caused by a change of circumstance such as unemployment, sickness, drop in income or any other circumstances considered reasonable by the housing needs manager.

Applicants must earn less than £72,000 a year, have no funds to pay any monies owing and not have a history of rent arrears. It is open to both social and private sector tenants.

The one-off loan is interest free and must be paid back over a maximum three-year period. It can be up to £5,000 at the discretion of the housing options manager. The loan need not fully address the arrears, but must bring them to a level where the landlord agrees to cancel the eviction (in many cases the housing options adviser may negotiate for the remaining arrears to be written off).

Evictions have been halted in as little as a week, but the timescale varies and is dependent on circumstances. Evictions from local authority housing are usually prevented quicker than in the private rented sector. The loans are only issued where no other alternative is available and where applicants have received advice from a debt agency and have been advised that a loan is the only viable option.

The housing options service can support private tenants and leaseholders by arranging dispute resolution with the landlord. This can prevent or delay eviction, avoiding the need to issue a loan. Help is also available to claim backdated housing benefit,

to clear rent arrears and prevent eviction. Where children are involved and eviction goes ahead, a referral is made to children's services and a homeless application is assessed for priority.

Estate officers will intervene at the early stages of council tenants' arrears to try to prevent arrears accumulating, often drafting a suspended possession order with a payment agreement. CAB debt advisers are also involved in early intervention on behalf of clients. Often, individuals referred to the service did not act early enough and are at crisis point or their circumstances are such that they are unable to keep up payments.

Three private tenants and one council tenant have applied for loans and all have been accepted. The low number of applications and high success rate would indicate pre-vetting. Three of the cases assisted by the programme had children as part of the household. Housing options advisers reported successfully avoiding eviction in these cases.

Following a review in March 2010, it was agreed that the programme will be continued and reviewed again in June 2011. As of April 2010, the housing options team has employed a CAB money adviser to provide debt advice to clients threatened with homelessness and outreach to tenants benefiting from the service.

Preventing evictions protocol Newcastle City Council

Newcastle City Council (NCC) has a multi-agency partnership agreement which brings support agencies together when an eviction is threatened. The protocol lays down actions to be taken at pre-tenancy stage, during the tenancy and at the threat of eviction.

Vulnerable households are identified as part of the housing application and allocations process and the agreement ensures support is provided in the right place at the right time.

Young people from the following groups are included in this agreement:

- care leavers
- people already receiving support
- those leaving supported housing
- people with drug/alcohol issues
- people with disabilities.

Households that are not assessed as vulnerable but contain children are identified at the first sign of a problem. At this point, an advice and support worker (ASW) is assigned to the family for assistance and support. The ASW involvement is laid down in the rent arrears protocol so that support is available from an early stage. If eviction cannot be avoided, the ASW will make a referral to social care and assist in finding alternative accommodation.

Support can include referrals to specialist agencies and in-house support planning by social work qualified staff. In cases where a young person looks likely to fail in a tenancy, even with support, a move to a supported housing project can be offered. It is agreed that the young person will not be deemed intentionally homeless or punished for this failure in later years.

The preventing evictions protocol has seen a successful decline in numbers:

- 197 evictions in 2007
- 118 evictions in 2009
- 46 evictions in the first half of 2010.

With challenging financial times ahead, NCC and Your Homes Newcastle (YHN) are committed to continuing this support to prevent evictions. YHN is even considering funding the family intervention project when the statutory funding ceases.

Evictions for rent arrears banned Stirling Council, Scotland

In June 2009, Stirling Council decided to ban evictions for rent arrears. The council introduced a focus on early intervention and the prevention of arrears. The council also uses housing list suspensions, benefit reductions and other methods as alternatives to eviction.

In 2008–09, evictions by Stirling Council were down by 20.1 per cent on the previous year's figures.

For details about this model, see 'Evictions by social landlords in Scotland 2008–09' on the Shelter Scotland website, www.shelter.org.uk.

Recommendations

To prevent eviction of households with dependent children, the following recommendations should be considered:

The creation and implementation of a pre-action protocol

The protocol should include a commitment to giving clients correct information and checking that it has been understood.

Rent arrears and anti-social behaviour procedures should be kept up to date and should include prevention measures to reduce the risk of eviction.

Tenancy agreements should contain information about tenant responsibilities and the consequences of breaching the agreement. Housing workers need to make this clear at the sign-up session – as well as completing housing benefit forms and assessing the family's needs at this session.

The inclusion of a children's social care worker in the housing options team

This would ideally be a non-case carrying worker who can undertake joint needs assessments with housing staff and liaise with services such as education to ensure that children's needs are met.

The provision of induction and refresher training for housing staff on children's needs

This should ensure an awareness and common understanding of how bad housing and homelessness can affect children.

A commitment to identify and act upon tenancy problems at an early stage

This includes using early indicators such as mounting rent arrears or complaints about anti-social behaviour as a trigger for referral to support services. Support may include use of the common assessment framework (CAF), referral to a tenancy support service or advice service, or referral to children's services.⁴

The provision of discretionary payments to assist with rent arrears

This would help to alleviate problems in the short term for families when one of the breadwinners is made redundant or works fewer hours, or

for those experiencing issues with housing benefit payments. This could be done using homelessness prevention fund monies or discretionary housing payments.

A refocus of multi-agency panels for families at risk

Where panels exist, they should be refocused to look at housing (if children/family focused) or children's needs (if housing focused). If they don't exist, consider setting one up.

Where eviction cannot be prevented

Where preventative action has been implemented but eviction is inevitable, minimum expectations are that:

- where available the family should be considered for referral to a family intervention project
- the family is helped to find alternative accommodation or provided with advice and information to do so
- families are never referred to bed and breakfast accommodation
- allocations staff look at reasonable preference banding for choice-based letting (if the family is deemed intentionally homeless)
- financial help is provided if the private rented sector is the only option. For example, access to a rent bond scheme
- the family is referred for support to try to maintain accommodation – and children's services are notified so that the children's progress and wellbeing can be monitored.

Private rented sector

In addition to the above, the establishment of a landlord accreditation scheme can assist in the reduction and prevention of eviction of families with children from the private rented sector:

- acceptance on the scheme requires that landlords agree to preventative action before eviction when the household includes children

⁴ For more about CAF visit www.education.gov.uk/childrenandyoungpeople/strategy/integratedworking/caf

- landlords should identify any problems that could result in eviction at an early stage and refer the family to the scheme co-ordinator for mediation, support etc. This should then trigger the same process as for social housing (above)
- the accreditation scheme must offer some benefit to landlords for them to sign up. We suggest that the benefits should include: advice and information, marketing and provision of a quality mark as a minimum.

Further information

For information or guidance, visit www.shelter.org.uk and www.shelter.org.uk/childrensservice

Improving outcomes for children and young people in housing need: A benchmarking guide for joint working between services, Shelter, November 2009.

Preventing homelessness through making eviction a last resort, Shelter Scotland, March 2010.

Evictions by social landlords in Scotland 2008-09, Shelter Scotland, www.shelter.org.uk.

Housing associations and the human rights convention: the position after Pinnock, National Housing Federation, November 2010, www.housing.org.uk.

Until there's a home for everyone

In our affluent nation, tens of thousands of people wake up every day in housing that is run-down, overcrowded, or dangerous. Many others have lost their home altogether. The desperate lack of decent, affordable housing is robbing us of security, health, and a fair chance in life.

Shelter believes everyone should have a home.

More than one million people a year come to us for advice and support via our website, helplines and national network of services. We help people to find and keep a home in a place where they can thrive, and tackle the root causes of bad housing by campaigning for new laws, policies, and solutions.

We need your help to continue our work. Please support us.

Visit **shelter.org.uk** to join our campaign, find housing advice, or make a donation.

Shelter, the housing and homelessness charity

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