

Consultation Response DWP: housing benefit withdrawal for anti-social behaviour

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Shelter

Introduction

Shelter works with many clients who are the victims of anti-social behaviour. We recognise the very real problems that such behaviour creates for neighbours and the destructive impact it can have on whole communities. We agree that effective ways to tackle this problem should be a priority for policy-makers. However, we are opposed to the introduction of housing benefit (HB) sanctions and believe that the two options outlined in the consultation represent inappropriate responses to anti-social behaviour both in principle and practice.

Withholding benefit will not tackle the behaviour of perpetrators or its underlying causes. Instead, the proposed options will only target and discriminate against low income tenants in rented accommodation, leading to increased poverty and homelessness and increased costs for local authorities. The proposed measures will lead to increased rent arrears, driving poor households deeper into poverty and debt. In many cases, the outcome will be eviction. This will not only create homelessness but will also fail to deal with the problem - the likely outcome will simply be to move the problem on to a new set of neighbours and a new community.

HB is an entitlement that enables people on low incomes to pay for their housing. It is not designed as a tool to achieve other policy objectives and attempting to use it as such is likely to have undesirable effects. Housing benefits and housing provision must not be restricted to those who 'deserve' them. Therefore, we do not agree with the principle that receipt of HB should be dependant on 'acceptable' behaviour.

Anti-social behaviour occurs across all tenures and is carried out by owner-occupiers and tenants alike. Definitions of anti-social behaviour can cover a wide range of conduct, from noise nuisance and untidy gardens through to serious cases of harassment, the use of threatening behaviour and actual violence.

The issues that relate to anti-social behaviour are often complex, as the case studies at Annex B show. People who are 'labelled' anti-social often have high levels of vulnerability and multiple needs. Effective responses need to recognise this and work with individuals to ensure that their support needs are met, thereby tackling and changing their behaviour. Current measures are not effectively addressing this shortfall in support provision and additional measures which concentrate on financial penalties for the most disadvantaged will only exacerbate this problem.

Local agencies are still learning how to work together on this issue, including finding innovative ways to prevent anti-social behaviour and learning how to make best use of new powers that they have recently been given, such as Anti Social Behaviour Orders

(ASBOs). There are alternatives that can meet the political imperative to deliver solutions to this problem. There are existing, successful schemes that combine support and enforcement in line with the rights and responsibilities agenda. These alternatives are the right way forward. The Government's radical agenda for wider reform of HB should not be overshadowed by linkage to the anti-social behaviour debate.

This paper includes a response from Shelter Scotland - please see ANNEX A.

Summary

We believe that using the HB system in this way will:

- Increase homelessness
- Exacerbate poverty and debt
- Discriminate against low income tenants
- Complicate the administration of HB
- Move the problem to another community
- Penalise entire households rather than targeting perpetrators
- Undermine alternative approaches that tackle the underlying causes of ASB and prolong the problem
- Run counter to Government objectives to reform HB, tackle homelessness, reduce re-offending and social exclusion
- Undermine policies to promote a healthy private rented sector
- Reduce the housing options for people on housing benefit
- Create additional costs for housing authorities and social services
- Run counter to the policy context in Scotland and existing attempts to resolve the problem of anti-social behaviour

Summary of Shelter's concerns regarding the two proposed Government options

We have a number of specific concerns about the proposals themselves and, in particular, the Partial Regulatory Impact Assessment (PRIA) attached to the consultation paper. The PRIA highlights a number of supposed 'benefits' but fails to point out the negative implications of the proposals.

- There is a considerable lack of clarity and detail on many issues within the proposed options, particularly under the administrative option.

- The proposals to make the receipt of HB conditional on good behaviour rather than being an entitlement for people in need sets a dangerous precedent.
- It is inequitable that financial penalties can only be imposed on people in receipt of HB.
- The consultation provides no details as to how good behaviour would be defined.
- The consultation provides some examples of anti-social behaviour but does not outline how anti-social behaviour would be determined, what level of evidence would be needed, how long the sanction would last or how and under what consideration HB would be reinstated.
- Under both options it is unclear whether a sanction would apply to the behaviour of the household member in receipt of HB only or whether the sanction can apply if related to the behaviour of visitors or other household members. If sanctions can be applied with regard to the behaviour of other parties, there is no indication as to how this would be determined or administered.
- In respect of the cases of vulnerable tenants, under both options, even where related hardship is considered, the proposals still apply a limited amount of benefit reduction with the effect of putting low income, vulnerable households in rent arrears and mounting debt. This is also contradictory to the proposed shift in principles of benefit provision; it cannot be based both on conditionality and need.
- Under both options the right of appeal against decisions will be inequitable as it will depend heavily on an individual's ability or inability to access legal representation. This problem is exacerbated by the capping of Community Legal Services funding which leaves an increasing number of people without legal advice and representation because they cannot afford to pay for it.¹
- We are concerned that vulnerable people in particular would not be in a position to respond to HB sanctions as a deterrent for their actions. In our experience, individuals with complex needs are often unaware that their actions may cause nuisance or offence. Evidence from the United States and the UK show that welfare sanctions based on taking up employment programmes disproportionately affect the most vulnerable groups in society and in general show that people can lack basic skills in reading or understanding the significance of certain terms.
- There is no reliable evidence that the threat of benefit sanctions or a reduction in HB will alter behaviour.

Option 1: Sanctions triggered by Court action

- Under this option the decision to seek a declaration of anti-social behaviour lies with the prosecutor but is not a duty. In cases where anti-social behaviour has occurred, if the decision to seek a declaration lies with prosecution, some prosecutors may decide

to seek a declaration in every instance whilst others may not. This is wholly inequitable.

- This option would work against the objectives of the Department for Constitutional Affairs to reduce the number of people being taken to court and take up additional court time.
- The court option proposes that the declaration notifies the DWP to check whether the person convicted was in receipt of HB and if so informs the administering local authority that a sanction may be applied. It is unclear whether the local authority has the discretion whether or not to apply the sanction as implied by the use of the term 'may' above.

Option 2: An administrative sanction

- It is unclear where the responsibility for determining anti-social behaviour would lie under this option, what level of proof would be required and how the credibility of allegations would be tested.
- We are concerned that a local authority officer has the power to determine anti-social behaviour under this option without independent scrutiny. Decisions about anti-social behaviour are often complex and have far-reaching effects. They should be a matter for the courts.
- There is no detail provided as to how the appeals mechanism would work under this option or what independent body is proposed to assess the determination of anti-social behaviour on appeal. This option could be in breach of article 6 of the Human Rights Act if only limited grounds for appeal were available.
- No evidence is given to ensure that additional resources are available to provide the necessary levels of support under this option. Many people who behave in an anti-social way have high levels of vulnerability and require different levels of support provision; the current lack of the necessary support is often a reason anti-social behaviour occurring in the first place.

Part I - Existing measures and alternatives

We agree that appropriate measures must be available to protect the individual and the community. We support the use of injunctions and, where necessary, anti-social behaviour orders (ASBOs) as effective tools in tackling behaviour. We also understand that there are circumstances where possession is the right course of action- but only as a last resort. It may be effective in dealing with the immediate problem but, as well as causing homelessness; eviction often simply displaces the problem to a new area and a new set of neighbours.

To be effective, the response must also focus on finding solutions through prevention and resettlement. This comprehensive approach flows from the Social Exclusion Unit's report² from March 2000.

The DTLR consultation in April 2002 - Tackling Anti-social Tenants - included two chapters of good practice material on existing remedies. Such measures based on prevention and resettlement alongside enforcement need further promotion as these models are effective at tackling anti-social behaviour by working with perpetrators to challenge and change their behaviour. Models for solutions under each measure used to tackle the varying levels of nuisance or anti-social behaviour are progressively more punitive and enable an appropriate level of response.

Prevention

Small-scale disputes that can relate to conflicting lifestyles or low-level nuisance can escalate quickly if left unchecked. The evidence is that early intervention and using imaginative ways to resolve disputes can be effective in preventing problems from intensifying and avoiding costly and unnecessary enforcement action. For example:

- Pro-active, timely and appropriate housing management
- Neighbourhood Wardens
- Acceptable Behaviour Contracts (ABCs). In Islington, where this approach was developed, of the initial 62 ABCs issued, only 3 have been breached.
- Mediation. Nottingham's Mediation service finds mutual agreements to neighbour disputes. Out of the 70 disputes last year, two thirds reached a successful conclusion.
- Activity programmes for young people such as 'Summer Splash' schemes.

Support

Vulnerable people in need of support to enable them to manage their tenancies and relationships within their communities are often particularly at risk of becoming involved in

disputes and being labelled as 'anti-social' (see case studies at Annex B). Effective support services can minimise behavioural problems, help sustain tenancies and prevent homelessness. The Supporting People programme and local strategies developed under the Homelessness Act will be crucial in delivering these services.

Enforcement

Where local authorities have dedicated officers, specialist teams and multi-agency partnerships in place to manage their response, the evidence is that they can make a significant impact with the current enforcement tools available. Although Shelter would not support a hard line enforcement based approach without appropriate measures to tackle the underlying causes of anti-social behaviour, the evidence shows that further enforcement measures are not necessary.

- Injunctions. Manchester City Council finds that injunctions are the most effective remedy to anti-social behaviour of tenants. They have secured over 1500 such orders.
- Anti-social Behaviour Orders (ASBOs). Between April 1999 and September 2001 466 ASBOs were granted. Measures to make ASBOs available to Registered Social Landlords were contained in the Police Reform Act 2002.
- Possession Actions. Social landlords include a specific term on anti-social behaviour in their tenancy agreements and can take possession action when this is breached. Private landlords can also include such clauses. Social landlords can also use probationary tenancies for new tenants. Proposals within the anti-social behaviour bill also include new measures to demote existing tenancies. In 2002, an estimated 6,000 households were at risk of homelessness due to the threat of eviction for anti social behaviour.³

Resettlement

In contrast to the lack of evidence that evicting people changes their behaviour, the indications so far are that resettlement schemes work. The Dundee Families Project is a residential scheme that works intensively with families with behavioural problems. It has worked with 80 families, none of whom have been evicted since leaving the scheme, despite the fact that many of them had been evicted several times before and had not managed to change their behaviour. The evaluation of the Project also showed that it had widespread backing locally and represented good value for money.

While a handful of similar projects are now being set up, including the Shelter Inclusion Project which is so far proving successful (see Annex A) and residential schemes in Bolton and Manchester, they remain the exception. Nevertheless, they show that these services can play an important role in challenging and changing behaviour and should be

central to the anti-social behaviour strategies. The Shelter Inclusion Project currently works with 36 households, half of whom had notices seeking possession at referral. Since their involvement with the project it has not been thought necessary to evict any of these households.

Such measures can be used alongside enforcement mechanisms that can provide appropriate sanctions if people are unwilling to engage. However, housing benefit sanctions, which could follow a person through different tenancies, from the social rented sector through to the private rented sector, could restrict the opportunity of individuals who may wish to engage with such schemes and change their behaviour in the future.

Our experience is that there is a lack of understanding and expertise about how to use current remedies. As a result, interventions can be inconsistent, badly targeted and not made early enough, tenants do not get the support they need and poorly prepared cases are thrown out of court. This experience is backed up by the Social Exclusion Unit report on anti-social behaviour⁴ and research carried out by the Joseph Rowntree Foundation and Chartered Institute of Housing.⁵

Many local authorities now have dedicated officers, specialist teams and multi-agency partnerships in place to manage their response to anti-social behaviour. The evidence is that these approaches have been successful in enabling them to develop the expertise to make effective use of the tools available, support victims through the process and promote innovative ways of tackling the problem. The use of specialist teams also improves the preparation of cases and helps promote certainty of outcome.

Part II - Shelter's concerns regarding the use of HB sanctions for anti-social behaviour

Using the housing benefit system to tackle anti-social behaviour

The purpose of housing benefit is to enable those on low incomes to pay for their housing. It is not designed as a tool to achieve other policy objectives and attempting to use it as such is likely to have undesirable effects. In the case of both options proposed by the consultation, we believe that the outcome would be to undermine the Government's broader strategic objectives, as well as hindering other efforts to tackle anti-social behaviour.

Lack of evidence that a threat of benefit sanctions or a reduction in HB will alter behaviour

There is no reliable evidence that use of benefit sanctions to address behavioural problems work. An IPPR seminar on rights and responsibilities in December 2002 outlined the need to know more about what motivates people and what changes their behaviour. One of the main conclusions was that conditionality was side stepping the causes of social problems, penalising certain behaviour rather than finding out why the unacceptable behaviour was happening in the first place.

Evidence from other benefit sanctions

A report by the Centre for Economic and Social Inclusion in 2002 outlines the impact of benefit sanctions under New Deal. It concludes that 'there was little or no evidence, at this time, to suggest that sanctions propel jobseekers into action, or that they dramatically change their job search behaviour as a result'. It also finds that sanctioned clients, particularly those receiving 26 week sanctions, were also found to have a high prevalence of problems and multiple barriers to getting work, including alcohol and drug addiction, health problems and living in temporary housing.

A number of studies on the use of sanctions in the United States have consistently found that on average, sanctioned clients have lower levels of education and are more likely than other recipients to face barriers to employment such as physical and mental health problems.⁶

Sanctioned recipients on the Temporary Assistance for Needy Families (TANF) programme in the United States are more likely than their non-sanctioned counterparts to be long-term welfare recipients and to experience of limited education and lack of work history. They are more likely to return to TANF programme and less likely to be employed. These families are also more likely to experience various hardships and, on average, have lower household income.⁷

Discriminate against and stigmatise low-income tenants

There is a false presumption that the perpetrators of anti-social behaviour are always tenants. This is not the case, anti-social behaviour is also carried out by owner-occupiers and people who can afford to pay their own rent. Measures that can only be applied to HB recipients, as well as being inequitable, will further stigmatise households on housing benefit.

Tenants who are in receipt of HB will be on a low income. They may already have rent arrears. Reducing their income and creating indebtedness and rent arrears will not encourage them to reform their behaviour but further stigmatise low income tenants, undermining Government objectives to promote mixed communities and social inclusion.

Reduce housing options

The threat of the withdrawal of HB is likely to deter private landlords from renting to anyone on HB, whether or not they have been determined as acting in an anti-social manner, further reducing the housing options for all people in receipt of housing benefit.

HB sanctions will be untargeted and penalise entire households

In its Housing Green Paper, published in 2000, the Government floated the idea of reducing HB for anti-social tenants but noted that: "This would mark a fundamental shift in the nature of HB and we would need to proceed with great care. Above all we would need to ensure that the innocent families of unruly tenants did not suffer." However, in most cases only one or two people in a household are guilty of anti-social behaviour but this sanction will affect the whole household. This will penalise the innocent parties within the household, often the partners, children or younger siblings of those behaving in an anti-social way.

A paper by Caroline Hunter and Judy Nixon reveals significant differences in the nature of the problem of anti-social behaviour according to the gender of the perpetrators. This is illustrated by the punitive approach taken by landlords in the first instance, and subsequently by the judicial system to women headed households who fail to control boyfriends' and/or teenage sons' behaviour. It questions the effectiveness of an approach that fails to acknowledge the gender distinct nature of the problem or to deal with the underlying causes of the problem.⁸

Vulnerable tenants and the lack of support

Anti-social behaviour is often rooted in complex problems and many perpetrators have high levels of vulnerability. This should not be used as an excuse for failing to tackle the issue. However, if it is to be effective, the response must recognise the reality that many

of those who commit anti-social behaviour need support to challenge and resolve their problems.

Research based on ASBO case files found that two-thirds of defendants had special needs or other specific problems.⁹ Interviews with clients from the Dundee Families Project found that half the children had experienced abuse or neglect and more than 50 per cent of the female adults had suffered domestic violence.¹⁰ Drug and alcohol problems are also common among perpetrators.

The second option proposed by the consultation paper states that, following an initial warning, support will be provided to help perpetrators tackle their behaviour before benefit is withdrawn. However, as set out above, these services are currently very rare and the PRIA makes no assessment of the costs associated with providing them. It therefore seems highly unlikely that appropriate support will be available in the majority of circumstances.

Rent arrears and eviction

We are very concerned that the introduction of HB sanctions will lead to increased homelessness, due to the risk of rent arrears and potential eviction. The Partial Regulatory Impact Assessment states that 'rent arrears may accrue' and that 'the level of the sanction is such that those arrears are unlikely, of themselves, to give grounds for eviction'. These statements underestimate the likely impact of the proposals. People on HB are already on low incomes and any reduction in their benefit will have a severe impact on them. The PRIA is also at odds with the emphasis elsewhere in the consultation paper that sanctions should be a deterrent - in order to provide an 'effective' deterrent, the rate of deduction will have to be set at a high enough level to cause arrears.

Shelter's Housing Aid Centres have provided evidence of local authorities seeking possession for low levels of rent arrears. For example, a single parent in low-paid work faced mandatory possession action for less than £200 rent arrears.

The chances of eviction would also be significantly increased by the proposed new powers in the anti-social behaviour bill whereby social landlords could 'demote' secure and assured tenancies, reducing a household's security of tenure for 12 months along similar lines to the introductory tenancy regime. If during that period the social landlord believes that the conduct of a tenant had been unsatisfactory, their tenancy could be terminated with no grounds of possession required. The introductory tenancy regime has resulted in tenants being evicted for reasons other than anti-social behaviour. Research conducted for the DTLR in 2001 found that most possession orders against introductory tenants have been prompted by rent arrears rather than anti social behaviour. Rent arrears have been the main grounds for possession in nearly 90 per cent of actions

against introductory tenants.¹¹ Our fear is that social landlords will use the fast track eviction procedure to evict significant numbers of demoted tenants for rent arrears, a situation that will be exacerbated if used in conjunction with HB withdrawal.

Increase debt and exacerbate poverty

Attempts to pay the shortfall between housing benefit and rent can lead people into debt. Government research into paying shortfalls between rent and housing benefit based on Local Reference Rent and Single Room Rent provides evidence of how people meet those shortfalls and how difficult they find it. The majority paid the shortfall from current incomes or other benefits, with 42 per cent commenting that they found it very difficult to pay and 29 per cent finding it fairly difficult. One in three people (35 per cent) had borrowed money at some time to pay the shortfall, with one in five borrowing from friends or relatives. Some of these tenants had borrowed significant sums of money for this purpose. A third had borrowed over £1000 and a quarter between £500 and a £1000.^{xii}

Using other benefits to meet the shortfall will penalise the whole household and getting into debt could affect credit ratings and limit opportunities for financial stability in the future.

'We would end up starving if that happened. I thought this government was supposed to care about kids' - quote from Shelter Inclusion Project client when asked what affect the proposed housing benefit sanctions would have on them.

Landlord debt

As outlined earlier, if used in conjunction with demoted tenancies, evictions can be fast tracked irrespective of whether further anti-social behaviour has been committed. Landlords will be left with a debt that they are unlikely to recover. There are existing provisions that enable landlords to bring tenancies to an end where tenants behave anti-socially without debt.

Increase local authority costs for housing and social services

Once evicted, even if found to be intentionally homeless, if a household includes dependant children, the social services authority will have a duty to help secure accommodation under the Children Act, regardless of their entitlement to HB. This will be at significant additional cost if the households HB entitlement is restricted by sanctions. Local authorities also have a duty to provide or procure the provision of advice and assistance in finding accommodation even if their duty to house is relinquished.

Increase hidden homelessness and street homelessness

In cases where social services authorities are not required to provide assistance with securing accommodation, staying with family or friends is not an option and private sector landlords are unwilling to accommodate as the sanction continues through to the private rented sector, households may be faced with having to sleep rough. The proposed sanction is at odds with the Government's Manifesto commitment to sustain the reduction in rough sleeping and to reduce it to as near to zero as possible.

Undermine alternative approaches that tackle the underlying causes of ASB

As outlined above, local authorities and specialist support agencies are beginning to develop innovative schemes to help individuals to tackle their behaviour. Benefit sanctions will restrict their ability to do this.

Undermine government policies to prevent homelessness

The Homelessness Act 2002 required all local housing authorities to publish a homelessness strategy with the key aim to prevent homelessness. Housing benefit sanctions that increase the risk of homelessness will therefore work against such government policies aimed at preventing homelessness.

Undermine policies to create sustainable communities

The PRIA states that the proposals will benefit tenants and the community. Evicting those who commit anti-social behaviour may resolve the problem for a particular neighbourhood. However, it does not tackle the behaviour itself - the household will move on to a new community, where the behaviour is likely to continue. Their housing options are likely to be limited, often to poor quality properties in deprived areas. The likely outcome will therefore be to concentrate vulnerable households with behavioural problems in the most disadvantaged communities. This will undermine efforts to tackle social exclusion and regenerate deprived areas and raises the spectre of a new class of marginalised people, excluded from mainstream housing and living on the fringes of society.

Undermine policies to promote a healthy private rented sector

We believe that by increasing legislation for social landlords to tackle anti-social behaviour, which increases their powers to evict, will put added pressure on the private rented sector. Research in 2000 by the Joseph Rowntree Foundation in 'Neighbour Nuisance, Social Landlords and the Law' found that evicting tenants rather than tackling the root causes of anti-social behaviour meant that it was not uncommon for tenants to return to the same area as private sector tenants where behaviour could continue beyond the control of previous social landlord. Although the proposed housing benefit sanction could follow a household from social housing to the private rented sector, the threat of the withdrawal of HB is likely to deter private landlords from renting to anyone on HB, whether

they have been determined as acting in an anti-social manner or not. This will further limit the housing choices available to those on low to moderate incomes, reduce the ability of the private rented sector to meet housing need and put extra pressure on the social rented sector, when there is already a severe shortage of affordable housing for people on low incomes in many areas. In addition private sector tenants may call for their own measures to tackle anti-social behaviour. Provisions to exclude certain tenants from the private rented sector in low demand areas are included within the Draft Housing Bill. The issue of where people go will be increasingly difficult to address.

ANNEX A - Applying HB sanctions to anti-social behaviour in Scotland

Shelter Scotland's response to the DWP consultation 'Housing Benefit Sanctions and Anti-Social Behaviour'

According to the consultation paper, the DWP is working to ensure that its approach is 'consistent with relevant devolved policy'. In Shelter Scotland's view, any use of benefit sanctions as a way to tackle anti-social tenants would be in direct conflict with the social policy agenda in Scotland and would undermine existing attempts to solve the problem.

The introduction of benefit sanctions would damage the progressive Scottish social justice agenda, evident in the passage of recent homelessness legislation. The Homelessness etc. (Scotland) Act 2003 has equipped Scotland with the most progressive homelessness legislation in Western Europe. The Act gives everyone in Scotland the right to a home. It recognises the diverse needs of people who experience homelessness, including the need to support people who do something which leads to their homelessness, and become homeless intentionally. The Act gives accommodation in the form of a short tenancy, along with support, to intentionally homeless people. The policy intention of the legislation is to treat the causes of homelessness, prevent future homelessness, and help every household to achieve a permanent tenancy. The legislation will ensure that once individuals engage with support, they will be kept within the housing and support system, rather than abandoned outside.

Crucially, the act places an unending duty on local authorities to accommodate. This unending duty negates any policy that seeks to apply benefit sanctions. Should a household face benefit sanctions in Scotland, and as a result of these sanctions face eviction due to rent arrears, the same council who applied the sanctions would have to re-house the household under the law. In addition to evicting an anti-social household for reasons other than anti-social behaviour (e.g. rent arrears), the council would also face increased costs. The potential for such a scenario emphasises the need to find alternatives to eviction, and to policies that could lead to eviction. For this reason, Shelter Scotland believes that the proposal to reduce the housing benefit of anti-social tenants will simply be unworkable in Scotland, because of the progressive nature of the new homelessness legislation.

While not reflecting the social policy context in Scotland, the proposals also fail to sit alongside existing and proposed measures to tackle anti-social behaviour in Scotland. Following the election in May 2003, the new Scottish Executive pledged to make tackling anti-social behaviour a priority, and has set out its objectives for this in a strategy document, published in June. The strategy sets out both legal and non-legal approaches to the problem and recognises that perpetrators of anti-social behaviour can come from

both public and private housing, and proposes cross tenure solutions. The use of benefit sanctions would undermine some of the potentially constructive proposals in the strategy such as the introduction of Acceptable Behaviour Contracts. Approaches like these attempt to engage with perpetrators and give them a sense of responsibility for their actions. The use of benefit sanctions would undermine these solutions and provide a regressive, punitive response to the problem.

The Housing (Scotland) Act 2001 has led to the allocation of a probationary tenancy to homeless households with a history of anti-social behaviour. This provision is similar to proposals being made for the Anti-Social Behaviour Bill in England. Should benefit sanctions be introduced in Scotland, any household that has been allocated a short tenancy under either the Housing (Scotland) Act 2001 or the new Homelessness etc. (Scotland) Act 2003, risks losing the tenancy due to rent arrears despite accepting responsibility for their behaviour, and engaging with support providers to tackle the problem. It is crucial for the success of the legislation that every household is given the opportunity to fully engage with support; the proposed benefit sanctions put this in danger.

In a parliamentary question in June 2002, the then Minister for Social Justice would not commit to supporting benefit sanctions for anti-social tenants. The informal response Shelter has received from parties both in and out of government has suggested to us that there is no support for such a policy in Scotland. Social policy in Scotland has taken progressive steps forward since the establishment of the Scottish Parliament in 1999. It is in this policy context, that Shelter believes that the proposals to reduce housing benefit for anti-social tenants will be ineffective in Scotland, and will put in danger long-term approaches to the problem.

ANNEX B - RESEARCH AND CASE STUDIES

Anti-social behaviour is often rooted in complex problems and many people who behave in an anti-social way have very high levels of vulnerability. Research commissioned by the Joseph Rowntree Foundation based on ASBO case files¹³ found that:

- Two-thirds of defendants had special needs or other specific problems
- 18 per cent had some form of mental illness
- 18 per cent had experience of physical or sexual abuse
- 9 per cent had a physical disability
- Drug problems were identified in 12 per cent of cases
- Alcohol was a problem in 11 per cent of cases
- In 15 per cent of cases children were out of control and the parents lacked the skills to cope with them

In depth interviews with a sample of clients from the Dundee Families 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 have drug or alcohol problems

The evidence is that anti-social behaviour is also more prevalent in deprived areas. Research for the then DETR found that it is perceived to be twice as high in these areas than nationally.¹⁴

Shelter's experience, as illustrated in the case studies below, shows that possession action is often an inappropriate response to the often complex nature of anti-social behaviour:

Vulnerable tenants

Case 1

A female client was undergoing possession action for nuisance. When we got copies of the evidence, it emerged that almost all the incidents involved

her partner threatening, beating and, in one instance, raping her (this was witnessed by neighbours). She obtained an injunction with a power of arrest against her partner. We offered to help her fight the possession action. However, she declined this and decided to leave and find alternative accommodation instead.

Case 2

Our client lived with her husband and teenage daughter. She is disabled and suffers from severe depression. Her daughter suffers from Crohn's Disease. Her husband had been served with an ASBO for harassment and verbal abuse. Neither her nor the daughter was implicated in the behaviour. However, despite this and the fact that the husband had kept to the terms of the order, possession was sought in early 2001. Although the application was initially rejected, possession was granted on appeal and the family were evicted. They were subsequently found to be intentionally homeless, the husband has lost his job and they have been living ever since in our client's mother's one bed flat.

Case 3

A single mother who was registered disabled, suffered from epilepsy, was deaf and without speech was referred to Shelter from Citizens Advice. The Council had initiated possession action based on anti-social behaviour which included noise, doors banging, baby crying, rubbish being burnt at all hours, and parking in unallocated bays.

Our client did not realise the concept of 'noise', did not intentionally wish to cause nuisance and did not always understand the complaints verbally made to her by her housing officer. Some of the nuisance (i.e. friends parking cars in unauthorised bays) was from her previous partner who had left by the time the case had come to court.

Shelter assisted in defending her case but the court gave an outright possession order.

Vulnerable tenant and multi agency response

Case 4

A single mother with a large family had escaped a very violent background. One of her children had very severe Attention Deficit Behaviour Disorder. The mother was working with education and health services to support him - he was due to be prescribed Ritalin and obtain a place at a special school. At this point, the landlord sought possession for anti-social behaviour. The police served an ASBO and invited the press to witness this. The resulting

publicity caused the school place to be withdrawn and the Ritalin prescription to be reviewed. Shelter became involved and prevented the eviction from taking place. We sought a transfer for the family but they were offered a series of unsuitable places. Eventually, the family moved out of the area and the son ended up in a secure unit.

Case 5

A domestic violence social worker referred a woman to us who had been re-housed 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 there. 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 caused by 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 then 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 re-housed in a different area and there have been no problems since.

Case 6

Our client and partner, who have two teenage children, were served with a notice seeking possession by their local authority for anti-social behaviour. The authority cited 23 incidents where the tenancy agreement had been breached all of which related to the behaviour of the children. The authority intended to apply for an outright possession order and stated that it could provide witness statements from neighbours and reports from the police. The oldest child has behavioural problems and has been assessed regarding special educational needs. He had been expelled from school because of extreme and abusive behaviour. The education welfare section is currently trying to secure a school place for him. The client's partner suffers from depression and finds it difficult to offer support within the family. However, there are currently no agencies involved in supporting the family - if support can be arranged, the local authority may consider a suspended possession order. We are therefore pursuing the case and working with the

authority to ensure that support is secured for the family, including the involvement of social services.

Vulnerable tenant / introductory tenancy

Case 7

A client with an introductory tenancy was suffering domestic violence from her partner. The landlord brought forward 50 allegations of anti-social behaviour, only four of which were eventually accepted by the local authority's appeal panel. Three of the valid complaints were about noise nuisance - including door slamming in the house and the client shouting at her children. The other was for letting her dog off its lead twice. She was evicted.

Untargeted

Case 8

Our client 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 - the boyfriend of one of his sisters. His sister moved out at his request and the boyfriend did not come to the property again. Shortly after this, our client went away on holiday. On his return, he discovered that a possession order had been made against him on the grounds of nuisance. He had mistakenly believed that by asking his sister to leave, the breach of tenancy had been remedied. He is now homeless and occasionally stays in the local nightshelter.

Failure to act and impact on victims

Case 9

Our client, a housing association tenant, has been experiencing harassment from a neighbour who is an owner-occupier. She has received threats, had her windows smashed and as a result of living in fear, frequently stays with a friend. The landlord refused to repair her window and sent her two letters, one advising that she is in breach of tenancy conditions as she is not residing at property and another stating that they would take action if she did not tidy her garden - she has hay fever and cannot afford to pay for anyone to cut the grass. Following Shelter's intervention, the landlord has agreed to re-glaze the windows and to cultivate garden and no further possession action has been taken.

Disproportionate responses to anti-social behaviour

Case 10

A woman and her 15 year old son were evicted for having an untidy garden. The woman was in receipt of Disability Living Allowance. There were no contributory factors, no rent arrears, or other complaints. She was taken to court but gave in her keys before the court action was completed. When she subsequently presented as homeless to the local authority, she was found to be intentionally homeless and is currently staying with friends.

ANNEX C: SHELTER INCLUSION PROJECT

The Shelter Inclusion Project has been developed in partnership with Rochdale Metropolitan Borough Council as an innovative way of tackling anti-social behaviour. It provides support to people who are homeless, or at risk of homelessness, due to alleged anti-social behaviour, and works with them to tackle their behaviour and enable them to sustain their tenancies.

The project went live in September 2002. It is currently working with 36 households, half of which had notices seeking possession at referral. The majority of clients are families with children. Since their involvement with the project it has not been felt necessary to evict any of these households.

Following an initial assessment with the household to identify the issues that need to be resolved and the support required to achieve this, a comprehensive support plan is developed to which they sign up. Behavioural issues are raised with the household who must sign a supported tenancy agreement which commits them to the Project. Support is then provided for a period of up to 12 months and is reviewed at regular intervals.

It is very early days, but the evidence so far is that the Project is already having some success. All the households involved have engaged positively and remain committed to tackling their issues. The number of complaints from neighbours has been significantly reduced and in many cases anti-social behaviour has ceased entirely.

The Project has a steering group of key local stakeholders. Shelter has also commissioned a full external evaluation which will be supervised by an advisory group. The evaluation will assess:

- The Project's effectiveness in tackling behaviour
- Its success in helping households to maintain their tenancies and in preventing homelessness
- Its effectiveness in resettling households that have experienced homelessness due to their anti-social behaviour
- The Project's overall impact on service users, agencies and the wider community
- It's cost effectiveness and value for money

The main output will be a full report in September 2005, with two interim reports published before then, the first of which will be available in autumn 2003.

Examples of work carried out by the project, illustrated by case studies

Case 1

A family are involved with the project as a result of one of the children setting fire to things in the local area where they lived, resulting in the LA issuing a notice seeking possession. The mother actively sought help as she felt she was not coping with her child's behaviour. The child concerned has medical problems which can cause problem behaviour, particularly at school where the child gets picked on and then lashes out. Work with the project has included a meeting with the school, involving two workers from the project, the mother, the child's teacher, the headmaster and an educational psychologist. The meeting identified problems and made plans to address bullying and the child's behaviour. The project workers have discussed plans of action around discipline with the mother, resulting in the children only playing out at certain times with her accompanying them whenever possible and attempts to stop them playing with certain children that she feels lead them astray. The children's worker from the project has managed to get the children involved in local youth activities. So far, there have been no further incidents of concern and the mother feels more confident and in control of the situation as a result of being involved with the project.

Case 2

Miss B was referred to the project by her housing officer. She was living in a housing association property and had an assured shorthold tenancy. A notice had been served as a result of arguments being heard by neighbours which related to a previous violent relationship.

Miss B worked with an adult support worker. The work was around finding alternative housing and dealing with housing benefit issues from a previous tenancy which were preventing Miss B from being re-housed by the local authority. The project worked with Miss B to improve her skills and confidence around dealing with unwelcome visitors. This included providing support relating to an injunction and education on her responsibilities under her tenancy agreement. Although no further complaints of anti-social behaviour were made her landlord was still not prepared to renew the tenancy and she has recently moved into a local authority property and started working part-time.

End Notes:

- 1 Access Denied, a report by the Law Society, 2002
- 2 Report of Policy Action Team 8: Anti-social behaviour; Social Exclusion Unit, March 2000
- 3 Estimate based on figures for possession actions by social landlords in England and Wales (Lord Chancellor's Department). Grounds for possession only have been recorded since April 2002.
- 4 Report of Policy Action Team 8: Anti-social behaviour; Social Exclusion Unit, March 2000
- 5 Neighbour nuisance, social landlords and the law; JRF/CIH, 2000
- 6 Fraker, T et al, (1997) Iowa's Limited Benefit Plan: Report, Washington DC, Mathematica Policy Research. Bloom and Winstead, (2002), Sanctions and Welfare Reform, Welfare Reform and Beyond Policy Brief. Pavetti, L., Derr, M.K. and Hesketh, H (2003) Review of Sanction Policies and Research Studies, Washington: Mathematica Policy Research, Inc.
- 7 Ibid
- 8 Hunter, C. and Nixon, J. (2001) 'Taking the blame and losing the home: women and anti-social behaviour', Journal of Social Welfare and Family Law, Vol. 23(4), 1-16.
- 9 Neighbour nuisance, social landlords and the law, JRF/CIH, 2000
- 10 The Dundee Families Project, which is run by NCH in partnership with Dundee City Council, provides intensive residential support to families with anti-social behaviour problems
- 11 Local authority policy and practice on allocations, transfers and homelessness; H Pawson et al, DTLR, 2001
- 12 Housing Benefit and the Private Rented Sector, Housing Research, DTLR (1999)
- 13 Neighbour nuisance, social landlords and the law; JRF/CIH, 2000
- 14 Analysis of the Survey of English Housing 1997-98; DETR, 1999