

# Consultation Response

## Housing corporation proposals on improving best practice in exclusions and evictions

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# Shelter

We welcome the Housing Corporation's commitment to improving housing association practice in exclusions and evictions. We feel that the discussion paper tackles the key problems with current practice and that the proposals build positively on the Corporation's Regulatory Code. In 2002/03, 13,000 housing association tenants approached Shelter's housing aid centres for help on housing problems. Possession action for rent arrears was the most common problem among our clients, many of whom had accrued arrears due to benefits problems and other crises in their lives such as domestic violence, relationship breakdown, depression and bereavement.

Current practice among housing associations varies from very good to very poor. Over the last ten years, many associations have adopted stricter arrears regimes in response to the more competitive financial environment in which they have to operate.<sup>1</sup> In our experience, many associations take a blanket approach to lettings and evictions based on minimising perceived risks to their rental income. Clearly, associations have to balance their social and business interests. But research by Shelter, Citizens Advice, the Audit Commission and the Department of Constitutional Affairs (DCA) suggests that a 'one size fits all' approach is neither cost-effective nor fair.<sup>2</sup> As housing associations become the majority provider of social housing, pressures through new development and stock transfer, tensions can only increase. It is imperative that the Housing Corporation responds to these changes in a positive and active way.

Regulatory guidance should set out the following principles. Intentional and serious breaches of tenancy should be treated differently to unintentional and minor ones. Tenants should not be penalised for breaches caused by factors beyond their control, such as delays to housing benefit and vulnerable people should be offered support to access and sustain tenancies. We strongly support the idea proposed by Citizens Advice that the Office of the Deputy Prime Minister (ODPM) and the Housing Corporation draw up a joint statement of practice on preventing and recovering rent arrears to which all social landlords should subscribe.

Clearly, management practices also need to be effective in tackling arrears and problem behaviour, in order to protect associations' rental income (and enable them to provide quality services to all tenants) and to protect other tenants affected by anti-social behaviour. We believe that good working relationships between local authorities and housing associations are the key to effective management, ensuring people provide housing benefit, support and other services they require to sustain their tenancies. Robust nominations agreements and information sharing; close liaison with housing benefit sections and access and referral arrangements with tenancy support teams and advice agencies have a major positive impact on levels of arrears and tenancy sustainment. Local authorities' work over the past year on their homelessness strategies

has led to positive and creative schemes and initiatives to tackle homelessness in many areas. Now is an ideal time for housing associations to engage.

## 1 & 2 Debt to social landlord

We welcome proposal for a circular to address inconsistent practice on exclusion from tenancies of people with housing debts. The circular needs to make clear what constitutes housing and non-housing debts - for example housing benefit overpayments and rechargeable repairs. We believe that in general, people with housing debts accrued due to reasons beyond their control should not be excluded from housing. For example, arrears due to housing benefit or 'damages' caused by a violent ex-partner. Others should be suspended or excluded, but offered help to sort out the former financial problems and regain access to housing, which would enable them to better pay their rent in the future. We welcome the suggestion that exclusions should be time limited and that the applicant should be offered the chance to enter an agreement to pay off the arrears. We have four suggested amendments to the proposal in the paper:

- First, rather than specifying a level of debt above which exclusions would be acceptable, we suggest that a fairer 'minimum threshold' would be that the breach of tenancy was serious enough to enable a social landlord to obtain an outright possession order (on discretionary grounds). This would be in line with the new guidance to local housing authorities on allocation of accommodation.<sup>3</sup> We feel that a threshold of 2 months' arrears could result in people being evicted in circumstances not within their control. In addition, where a debt is disputed and has not been taken to court, it would be unfair to exclude an applicant.
- Second, we would like to see positive guidance requiring associations to consider the individual circumstances of applicants. This should cover the exonerating circumstances where arrears accrued due to problems with housing benefit for which they were not responsible, problems linked to vulnerability and other personal or family problems. We would welcome something similar (but simpler) to the code of guidance for local authorities, which states:

*'Behaviour such as the accrual of rent arrears which have resulted from factors outside the applicants control for example, delays in housing benefit payments; or liability for a partners debts, where the applicant was not in control of the households finances or was unaware that arrears were accruing should not be considered serious enough to make the person unsuitable to be a tenant.'*

Para 4.22 (ii)

- Third, the circular should make clear that applicants should be able to get their application re-instated. For example if excluded for rent arrears, the applicant could

be signposted to debt advice and given the option of setting up an arrangement to repay the debt and gaining access to the waiting list

Mr B approached Shelter in March this year. He was living at the Salvation Army Hostel in Blackburn, where he was enrolled on a resettlement programme, having recently come out of a drink rehabilitation programme. He applied to B-with-Us, the choice based lettings scheme operated by Twin Valley Homes, the local stock transfer landlord. He completed a basic application form. Shortly afterwards he received a letter from B-with-Us telling him "we are unable to let you join the scheme at the moment because of your eviction from (address inserted) in May 2002 and outstanding arrears of £1,352.95. Having found a debt which automatically disqualifies your membership, we have stopped checks, until you comply with this basic requirement". [Their emphasis].

Mr B and his now ex-wife had been joint tenants of the property. Mr Bell suffered from physical and mental health problems as well as alcohol dependency. His wife took responsibility for the household bills. He believed that his wife was taking responsibility for the rent, but thinks one of the reasons why the arrears accrued may have been related to a dispute over disrepair, and a failed claim for compensation.

We advised Mr B to present himself as homeless to the local authority, Blackburn with Darwen Borough Council. He was originally found to be intentionally homeless, but this decision was overturned on review, following receipt by the local authority of further medical information, which satisfied the authority that he had not colluded with his wife's failure to pay the rent.

Fortunately the service level agreement between Blackburn with Darwen Borough Council and Twin Valley Homes does not permit the housing association to exclude statutorily homeless households. Mr B moved into an assured tenancy at the start of October.

East Lancashire Housing Aid Centre

### **3 & 4 Non-housing debt & blanket bans**

We support both these proposals for circulars; making it clear that non-housing debt should be disregarded when assessing applications and re-stating the principle that every

applicant should have their case considered on its own merits. Again, it needs to be made clear what constitutes a non-housing debt.

## **5 Credit checks**

We are concerned about how associations use this information and that it is used to reject a person's application or nomination. The proposed circular on non-housing debts should make it clear that housing applicants should not be excluded on the basis of a credit check. Levels of consumer debt are on the increase and RSLs increasingly house people with poor credit records. To ensure appropriate support is given, sign-up and arrears prevention procedures should include initial income assessments, clear information to the tenant on how to pay their rent and what their contribution is, help with maximising benefits income, good IT systems that highlight a first missed payment and information on access to independent debt advice.

## **6 & 7 Guarantors & deposits**

We support both these proposals for circulars: outlawing use of guarantors and practice of taking deposits from applicants. Both practices create unfair barriers to accessing housing for people on low incomes. We have come across associations operating schemes requiring tenants on full housing benefit to make weekly contributions to their rent to compensate for the fact that housing benefit is paid four weeks in arrears.

A local housing association has a clause in their tenancy agreement requiring rent to be paid one week in advance. Housing Benefit is paid four weekly in arrears to claimants. They are now asking tenants to make payments of £2.75 per week (standard amount for tenants on benefit to repay arrears). Tenants have also been informed that if they do not agree to this arrangement the housing association will no longer accept rent direct from the local authority. One client has now had HB direct payments stopped and has received a HB cheque from the local authority. The client has no bank account and has been told by the association that they will not accept case payment if she takes it to the office.

Milton Keynes Housing Aid Centre

## **8 Previous convictions**

In line with the homelessness code of guidance blanket exclusion policies should no longer apply and applications should be decided on a case-by-case basis. The inclusion of 'vulnerable' ex-offenders within homeless priority need categories should also be considered. This new provision, introduced in the Homelessness Act 2002, recognises the

links between homelessness and leaving prison. As the Corporation paper identifies, research by the Social Exclusion Unit found a 20 per cent reduction rate in re-offending when ex-offenders have stable accommodation available on release. We believe that HAs should consider the applicants current behaviour rather than past convictions.

## 9 Anti social behaviour

We welcome proposals to issue good practice guidance to RSLs on providing support and rehabilitation as part of a balanced approach in tackling anti-social behaviour. We believe that anti-social behaviour policies and procedures for RSLs, outlined in the recent anti-social behaviour Bill, should also include general preventative and early intervention measures.

Where behaviour is persistent, wilful and reckless, remedies must be available to protect the individual and community. In some cases, this will include eviction and the use of criminal sanctions. However, the evidence is that early intervention and using imaginative ways to resolve disputes can be effective in preventing problems from intensifying, avoiding costly and unnecessary enforcement action which we believe should only be used as a last resort.

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 understand 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.

Preventative measures such as neighbourhood warden schemes or activity programmes for young people can reduce occurrences of anti-social behaviour. Timely and pro-active housing management and mediation schemes can tackle small-scale disputes that relate to conflicting lifestyles or low-level nuisance and acceptable behaviour contracts are a useful first step in challenging and changing anti-social behaviour.

As outlined below at point 22, 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 and require additional support. In our experience, the response has often been to label

vulnerable people anti-social, using enforcement measures to move them and their problem on, rather than tackling the root causes of their behaviour.

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 helped 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. The Shelter Inclusion Project, which has been running since September 2002, works with all households, including single people and couples without children. The 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.

We agree that RSLs need to have consistent, well-documented policies, which include a balanced approach based on prevention, support and rehabilitation measures. Practices should be developed whereby housing associations either provide relevant services to tackle anti-social behaviour themselves, perhaps in partnership with other agencies, or arrange for other agencies to provide them. RSLs should have consistent monitoring systems to record incidents, responses and outcomes in relation to anti-social behaviour.

## **10 Local connection**

We support the proposal to issue a circular re-stating policy that RSLs should not exclude applicants without a local connection. It is worth noting that the new allocations framework for local authorities does not allow them to exclude applicants without a local connection.

## **11 Exclusion or suspension**

Under the new allocations framework, local authorities cannot technically suspend applicants. However, discretion over the level of priority given to an applicant has a similar effect in practice. It is not obvious that RSLs should adopt this model. The important thing about suspensions is that policies should be clear and that information should be provided to any applicant on conditions they need to meet for their application can be fully reinstated. It is not clear that there is currently any practical difference between exclusions and suspensions. The threshold for suspension should be the same as set out in response to points 1&2.

## 12 Refusing nomination where support package not in place

The approach proposed here is right - working with the ODPM to provide complementary guidance to housing associations and local authorities on the placement and support of vulnerable people. In our housing aid centres, we regularly see very vulnerable people deemed 'too risky to house' being passed from agency to agency without receiving housing or support. This is an area where local authorities and housing associations are failing people in the greatest need. We recommend that the Corporation issue a circular stating that associations should not refuse nominations of vulnerable applicants and should work with the ODPM on guidance to local authorities on providing vulnerability assessments and co-operating with associations and other agencies on the provision of support.

Local authorities have specific duties under the Housing Act 1996, amended by the Homelessness Act 2002, to homeless people who are vulnerable. In relation to nominations arrangements, housing associations have concerns about the lack of information provided to them by local authorities, the lack of a support package and an alleged lack of communication between the council's nomination section and other departments, especially social services. In London, research found that the main reason for nominee rejection was nomination of 'unsupported vulnerable households'.<sup>4</sup> Local authorities have parallel concerns. Shelter recently carried out a survey of authorities' work on homelessness strategies. Many authorities identified problems with nominations agreements and a need to improve relationships with RSL partners and to set up joint protocols with health and social services to ensure that the needs of vulnerable clients are met.<sup>5</sup>

Shelter is lobbying Government to incorporate policy objectives on support for homeless households into secondary legislation and guidance. We would like to see support included as a factor taken into account by local authorities in determining whether or not accommodation is suitable for a person. We believe that consideration of a person's support needs should be included in assessments, placements and provision of services to homeless households. We have also recently produced a report on the need for better joint working between housing, health and social services to meet the health and social care needs of homeless people.<sup>6</sup>

## 13 Local lettings policies

Local lettings policies are used for different reasons - to promote mixed income communities, to enable family members to live near each other (traditional 'sons & daughters' policies) or to fill vacant properties in low demand areas. This is a particularly tricky area, since such policies often reduce access to applicants in the greatest need, but also can help to prevent concentrations of poor people in one estate or local area and

therefore create places where people, including homeless people, actually want to live. Shelter's concern is that RSL policies are moving too far in the direction of lettings policies aimed at community sustainability, at the expense of housing those in the greatest housing need. There are now 93,480 homeless households living in temporary accommodation, more than double the number in 1997. In 2001/02, nominees re-housed by associations totalled 62,000 - just under half of lettings. Lettings to statutory homeless households accounted for 13,500 of local authority nominated applicants - only a fifth of the total nominations (quarter of these were stock transfer tenants).

## 14 Appeals

At present, RSLs cannot be subject to judicial review. In the absence of HRA protection, tenants of RSLs and HAs have little protection against indiscriminate, unreasonable or disproportionate actions by their landlords. Our position is that the most effective means of securing human rights protection would be to make it clear in statute that RSLs/HAs are independent law bodies, but that certain of their functions are of a public nature and therefore subject to the HRA. The Housing Corporation should anticipate any changes to the law in this respect and ensure that associations have fair review and appeal mechanisms in place. Several specific areas that should be covered by guidance include:

- **Probationary tenancies.** Many RSLs grant assured shorthold tenancies in the same way that LHAs grant introductory tenancies. However, there is no statutory right of review or availability of judicial review to RSL probationary tenants, as there is with LHA introductory tenants. As such, if eviction proceedings under s 21 HA 1996 were brought by the RSL, the tenant would have no defence. This would apply even if the proceedings had been brought based on false allegations, erroneous information, delays on the part of housing benefit, personal grievance against the tenant by the housing officer because s 21 is a 'no fault, groundless' process.
- **Powers to obtain ASBOs.** These powers have a clear impact upon the individual's home and civil liberties, but although these measures are obtained via the courts, RSL tenants are denied the right to raise the HRA in their defence - unlike LHA tenants.
- **Policies on transfers and allocations.** Most RSLs have internal policies. Whilst failure to follow that policy could result in a referral to the Housing Ombudsman or Housing Corporation, there is little judicial control over the contents of the policy or how discretions within it are exercised.

## 15 Legal action where Housing Benefit is still outstanding

We strongly welcome the proposal for a circular specifying circumstances in which legal action should not be taken. The circumstances proposed in which RSLs should not initiate action are those in which:

1. A housing benefit claim is outstanding; AND
2. The tenant has supplied all the necessary paperwork to the local authority; AND
3. The tenant is paying their agreed personal contribution to the rent.

On the first point, where there is any unresolved housing benefit issue, we believe that the association should use only discretionary grounds for possession. This provides tenants with the chance to give their version of events and ensures that an independent adjudicator, the judge, considers the facts of the case.

We suggest that the second point should be amended to the tenant supplying all the requested (vs necessary) paperwork - many of our clients with HB problems are unaware that they have not supplied all the necessary documentation to HB departments.

On the third criterion, the condition that the tenant is making their agreed contribution to the rent should only be applied in cases where the association has carried out a provisional calculation of the total weekly or monthly amount that the tenant needs to pay (including the rental contribution and service or other charges) and informed the tenant of this. Many of our clients accrue arrears when they are not aware of their required contribution to the rent. Often the benefit calculation is very complicated including non-dependant deductions and partial HB for people in work or with additional sources of income. We are particularly concerned that some associations are taking tenants to court when there is a small breach of an arrears agreement or even when the tenant is making their agreed contribution to the rent.

We recommend that additional circumstances in which RSLs should not take possession action include cases where:

- Other housing benefit issues are outstanding, including a review or appeal or claim for backdated payment
- The tenant has made and maintained repayment arrangements, including direct deductions from benefit

A woman visited Shelter's offices after she had fallen into arrears with her rent. Her housing benefit had been stopped because the housing benefit department had claimed that her boyfriend was living with her, even though

she denied this. She had made an arrangement with her landlord to pay some money each week off her arrears. Despite this, she was still falling further into arrears, and her landlord had begun possession proceedings. Shelter contacted the housing association and requested that the possession proceedings be put on hold until the client could sort out her benefits. The landlord agreed to do this. A backdated housing benefit payment was received which reduced the arrears significantly.

Essex and Suffolk Housing Aid Centre

A single mother contacted Shelter when a possession summons was served. She was a tenant of a housing association who had taken possession proceedings because of arrears of rent, caused by housing benefit delays

When investigated, it transpired that there were several problems with housing benefit dating back almost 12 months and involving several changes in respect of a non-dependant in the household. Shelter represented our client in court. The case was adjourned twice and eventually withdrawn when housing benefit adjusted and paid and the rent arrears were cleared.

West Midlands Housing Aid Centre

## 16 Debt counselling

We welcome the inclusion of positive guidance on provision of debt, money and benefits advice to associations as well as setting minimum (negative) standards. There are two aspects to this. First, a minimum should be that internal procedures cover help with claiming benefits at sign up, income maximisation, help with benefits and liaison with the HB department. Staff need to be provided with basic training on benefits and money advice. Second, associations should be encouraged to set up referral arrangements with independent advice agencies.

- We recommend that the circular specifies minimum training requirements for housing officers in welfare benefits and money advice.
- We support the proposal from Citizens Advice for a statement of practice on the prevention and recovery of arrears to which all social landlords should sign up. This would cover prevention measures including providing tenants with access to welfare

rights advice across the full range of benefits and ensuring tenants know where to go should they need independent debt advice at any point.

- We would like to see guidance recommending that associations set up funded referral arrangements with independent advice providers. Evidence from Citizens Advice demonstrates that referrals to independent advice are effective in tackling arrears.<sup>7</sup>

## **17 Alternatives to eviction**

Very few associations use alternative legal remedies to possession action to tackle rent arrears. This is primarily because associations view the threat of possession as an essential element to debt recovery. While associations should be made aware of the range of legal remedies available to them, we believe the emphasis of regulation should be on prevention and pre-court action.

## **18 Distrain**

We welcome the proposal to issue a circular prohibiting associations from using distraint.

## **19 Use of mandatory grounds for possession**

We do not believe that Ground 8 should be used under any circumstances. We have seen cases in which Ground 8 has been used against people, where half of the 2 months' arrears are due to the payment cycle of housing benefit or have arisen due to problems with housing benefit, such as a recovery of an overpayment. The Law Commission has recommended that Ground 8 is not retained in relation to type 1 agreements (assured and secure tenancies). They specifically refer to the consequence of this being that housing associations would no longer have mandatory grounds for possession available to them, including the right to obtain possession where 2 months' rent arrears have accrued.

Where associations have robust procedures and have taken steps to tackle the problem, including making contact with the tenant, referrals to money advice services, offers of agreements to repay and assistance resolving problems with housing benefit, they will have no need to seek possession on mandatory grounds. If these steps have been taken, the judge, as an independent adjudicator, would grant a possession order. But Ground 8 means that the discretion of the court in a dispute is removed. Associations' internal procedures should be subject to external scrutiny and the safest way to ensure that benchmarks for action are not diluted or misapplied is to allow the courts discretion to review the facts of the case and decide its particular merits.

We are also concerned that issuing a circular providing guidance on circumstances in which Ground 8 can be used could have the perverse effect of increasing rather than decreasing its use.

A single parent woman with 3 young children contacted Shelter by phone from her home in Essex. The client was distressed as her landlord, a local housing association, had taken possession action on a number of grounds associated with non-payment of rent, including ground 8. The client was very worried that she would be evicted any day. The woman was claiming housing benefit but had previously had problems claiming and so it had not been paid. The woman had also been struggling to cope with managing her affairs due to her overcoming drug problems. Shelter contacted the association and confirmed that they had been to court and that a possession order had been granted and that a bailiff's warrant had been issued.

Shelter negotiated with the association and came to an agreement that they would drop the mandatory ground 8. Shelter also negotiated a 3-month suspension to any action to give the woman an opportunity to show she was committed to reducing her arrears. Shelter attended a court hearing with the woman and the warrant was suspended. Shelter contacted other agencies who were assisting the family to ensure the woman was given enough support to be able to keep to the terms we agreed on her behalf with the association.

The HA later informed us that the woman had a reduction of £8.10 per week from her housing benefit due to an overpayment. This meant that although the client was paying her contribution off the arrears they were still increasing. Shelter is currently awaiting the housing benefit decision to either write off or reduce these payments.

The woman has been paying the agreed amount and additional amounts when she can afford to each week. We are due to meet with the HA in a few weeks to discuss the progress of the case.

Essex and Suffolk Housing Aid Centre

## **20 Possession action sought to gain access to properties**

We welcome guidance to the effect that associations should use injunctions rather than seek possession to gain access to a property.

## **21 Use of alternative tools to tackle ASB**

We agree that only in extreme cases should associations seek possession. As outlined at point 9 above, RSLs should have the appropriate tools available to tackle the differing types and levels of anti-social behaviour. Responses should include early intervention, prevention, support and rehabilitation measures as appropriate. Particularly in light of new measures being available to demote assured tenancies to the equivalent status of starter tenancies, including provisions to seek fast track eviction for reasons other than anti-social behaviour, RSLs should ensure that they have measures in place which prevent problems from escalating, including the provision of support, prior to enforcement measures are used.

## **22 Support for vulnerable tenants**

We welcome proposal to produce good practice guidance on the provision of support to vulnerable tenants. There is good practice in this area and many associations have set up tenancy support schemes through the Supporting People programme. We believe support can tackle problems of anti-social behaviour and arrears and ensure that people subject to harassment or domestic violence are able to stay in their homes if they want to.

Vulnerable people need support to enable them not only to manage tenancies but also manage relationships within their communities. They are particularly at risk of becoming involved in neighbour disputes and being labelled 'anti-social'. Research commissioned by the Joseph Rowntree Foundation based on ASBO case files<sup>8</sup> found that over 60 percent of defendants had special needs or other specific problems and nearly 20 percent had some form of mental illness. Similarly in depth interviews with a sample of clients from the Dundee Families Project revealed very high levels of vulnerability. We believe that effective support services can minimise behavioural problems, help sustain tenancies and prevent homelessness.

We agree that housing associations need to consider how they offer support to vulnerable tenants, including both arrears management and anti-social behaviour issues. Practices should be developed whereby housing associations either provide a support service themselves, perhaps in partnership with other organisations, or arrange for another relevant agency to provide it.

## **23 Former tenants' arrears**

The Housing Corporation's performance indicators on cost and efficiency measure current tenants' arrears and rent written off but not former tenants' arrears. This means that evicting tenants with large rent arrears improves the reported financial performance of the association. There are no performance indicators on the number of evictions by associations, nor are they required to record or publish this information.

Local authorities have to report annually on three measures of their arrears: the proportion of rent collected, rent arrears as a % of the rent roll (i.e. the total amount of potential rent collectable for the financial year for all dwellings, whether occupied or not) and rent write offs as a % of the rent roll. This provides a slightly more comprehensive picture of their financial performance, although authorities do not have to count evictions either.

We recommend that a tenancy sustainment performance indicator should be introduced for all social landlords, measuring the number and proportion of tenants evicted for rent arrears and anti-social behaviour. This would remove the incentive to associations to evict tenants for arrears, encourage associations to focus on effective management practices other than possession action and provide information for policy development. It is eighteen months since the ODPM stated its intention to collect and monitor this information.

## **24 Security of tenure**

We would like to see greater regulation of the use of granting Assured Shorthold Tenancies to new tenants, as this leaves tenants at far greater risk of eviction. Whilst local authorities have restrictions on their introductory tenancies, including the 12-month limit and not being able to grant introductory tenancies to tenants who were previously an RSL assured tenant, there are no similar restrictions on ASTs granted by associations.

The Housing Corporation Regulatory Code requires that residents be given the maximum possible security, and only gives general approval for granting ASTs in certain cases. The reality is that many associations grant ASTs, and less than maximum possible security as a matter of course. We are concerned that people in the greatest need are provided with the least security and are most at risk of eviction and repeat homelessness. As the paper sets out, the Law Commission proposals and provisions in the Anti-social behaviour Act... (what implications)?

A single mother with six children approached Shelter in April. She was very distressed because she had been served with section 21 notice. She had seven weeks' arrears due to problems with housing benefit. She had not filled in a renewal form in time because, at the time, she was seeking an injunction against an abusive ex-partner and was suffering from depression. Shelter referred her to the local CAB for immediate help with her housing benefit and her claim was backdated. Shelter requested an internal appeal hearing from the housing association against decision to serve notice. Her housing benefit claim was backdated successfully and the action by the association was withdrawn as HB was paid and arrears cleared.

## 25 & 26 Procedures and documentation

A real problem for our clients and caseworkers advocating on their behalf is the lack of transparency and perceived lack of accountability of housing associations. We would welcome guidance to associations on producing and publishing their policies & procedures on eviction and exclusion of applicants. Local authorities identified a lack of information on RSLs lettings policies as a problem and planned to review nominations arrangements in the light of their homelessness strategy work.<sup>9</sup>

## 27 Tenant board members in breach of their tenancy

We do not agree that a tenant board member should automatically be excluded if they have accrued 2 months' rent arrears - since this could be for reasons beyond their control (see response to point 19). Only in cases where the breach of tenancy enables the association to gain possession on discretionary grounds should tenant members be barred.

### End Notes:

- 1 Ford, J. & Seavers, J. (1998) Housing associations and rent arrears, York/Coventry: JRF/CIH
- 2 Kempson, E. & Dominy, N. (2003) Can't Pay or Won't Pay - A review of creditor and debtor approaches to the non-payment of bills, London: Lord Chancellor's Department/HMSO Audit Commission/Housing Corporation (2003) Housing association rent income, London: Audit Commission/Housing Corporation, Neuburger, J. (2003) House Keeping: Preventing homelessness through tackling rent arrears in social housing, London: Shelter, Phelps, L & Carter, M. (2003) Possession action: the last resort? London: Citizens Advice
- 3 Under the Homelessness Act 2002, local authorities have to apply an 'unacceptable behaviour' test in the allocation of accommodation. Section 160A(7) of the Act sets out the grounds for treating an applicant as ineligible for an allocation. This is limited to behaviour of an applicant that would entitle an authority to a possession order, in cases where the judge exercises discretion (i.e. not ground 8). Paragraphs 4.22 to 4.27 of the code of guidance on the allocation of accommodation provide greater detail on the circumstances under which exclusions should not be made.
- 4 Pawson, H. & Mullins, D. (2003) Changing places: housing association policy and practice on nominations and lettings. Bristol: The Housing Corporation/The Policy Press
- 5 *ibid*
- 6 Lewis, H. (2003) Healthy relationships? Health and social services engagement in homelessness strategies and services, London: Shelter
- 7 Phelps, L & Carter, M. (2003) Possession action: the last resort? London: Citizens Advice
- 8 Neighbour nuisance, social landlords and the law; JRF/CIH, 2000
- 9 Credland, S. (2003) Local Authority Progress and Practice: Local authorities and the Homelessness Act 2002- the first year, Research findings 2003, London: Shelter