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Anti-social behaviour law and policy in the United Kingdom: assessing the impact of enforcement action in the management of social housing

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Abstract

Purpose – The article investigates the impact of enforcement action on individuals and families living in social housing as a mode of intervention for dealing with anti-social behaviour.

Design / methodology / approach - Relevant housing legislation and policy documents are reviewed. The research then draws on empirical data from Shelter Cymru's case file records of households in social housing who have been subject to enforcement action following an allegation of anti-social behaviour. Evidence obtained from other studies on housing intervention projects is used to contrast the position of the household studied with those in similar situations who have been provided with support as an alternative to enforcement action.

Findings - The legislative framework favours enforcement as a means of dealing with anti-social behaviour. A number of remedies utilise the management role of social landlords, and the framework of housing tenure, to introduce the concept of 'conditionality' into housing entitlement. This approach to the management of anti-social behaviour compounds the social disadvantage of already vulnerable households by undermining long-term security of tenure and thereby increasing the risk of homelessness and social exclusion. These outcomes contrast with those from studies of similar households in receipt of support within housing intervention projects which have been shown to deliver reductions in anti-social behaviour and sustainable outcomes for families, communities and landlords.

Social implications - The findings provide important lessons for the future direction of anti-social behaviour policy throughout the United Kingdom and beyond. In the context of devolved polity in the United Kingdom the article argues for the Welsh Assembly Government to take a lead in developing policies and legal responses which recognise the housing rights of marginalised groups, and for the introduction of

support into social housing to counter the trend toward punitive treatment of social tenants as a response to anti-social behaviour.

Originality / value - The unique nature of the empirical data-set from Shelter Cymru's case file records provides an important insight into the social impact of anti-social behaviour law and policy on some of the most vulnerable members of society.

Keywords - Anti-social behaviour; enforcement, social housing, disadvantage, social exclusion, Wales

Paper type – Research paper

Introduction

In the United Kingdom the concept of 'anti-social behaviour' – rarely defined but generally taken to include a range of unacceptable conduct from leaving litter to serious harassment (Nixon et al, 2007: 39) - has achieved an enduring salience in the political realm. Policy discourse on the issue has tended to pursue a derogatory narrative which constructs the 'anti-social' as the antithesis of the 'good citizen', giving political justification for *enforcement* as the main form of state intervention. The spatial concentration of anti-social behaviour on a small number of social housing estates also features strongly within the discourse (Flint, 2002). This has had a significant impact on the way in which social housing is managed, whether by local authorities or by housing associations and other independent housing organisations, the Registered Social Landlords (RSLs). Set against a backdrop of negative assumptions about the social housing sector, anti-social behaviour policy is therefore often directed simply at controlling the behaviour of unruly tenants. This has been achieved through the introduction of a range of control mechanisms (discussed below) which empower social landlords to take punitive action against tenants exhibiting signs of anti-social behaviour.

The government's policies on anti-social behaviour in general have drawn sustained criticism (Ashworth, 2004; Hopkins Burke & Morrill (2002); Simester & von Hirsch 2006). In the context of social housing they are charged with confusing issues of social control with those relating to social welfare. In particular, vulnerable households are seen as having been targeted by anti-social behaviour interventions.

This has the effect of punishing and stigmatising those affected, undermining their housing rights, and pushing families to the margins of society. There are therefore increasing doubts as to whether *enforcement* can be an effective strategy for achieving sustainable solutions for anti-social behaviour, and concerns about the negative impact that it has on households made homeless as a result.

This article reports on pilot research carried out in Wales, one of the four constituent nations of the United Kingdom, on the impact of anti-social behaviour enforcement on households in social housing. Part I sets the research within its broader policy context. It begins by discussing the relationship between social housing and ‘social exclusion’¹. This is followed by an introduction to the concept ‘conditionality’ and an explanation of the mechanisms by which access, and continued entitlement, to social housing can be made conditional upon the absence of anti-social behaviour. Part I also discusses recent trends towards providing support for the so-called ‘perpetrator households’ as an alternative to enforcement for anti-social behaviour.

Part II describes an empirical study in which the authors use primary data from Shelter Cymru case file records to explore the links between the enforcement of anti-social behaviour enforcement and social exclusion. Shelter Cymru is a non-governmental organisation which provides housing advice in Wales to those facing housing difficulties. The data is subjected to a comparative analysis in Part III using secondary data from ‘intervention projects’. These are cases where intensive support has been provided to individual perpetrator households as an alternative to enforcement action. The analysis therefore provides a contrast with the position of similarly situated households who have nevertheless been subject to different treatment. Based on the research evidence, it is argued that enforcement, as a response to anti-social behaviour, often compounds the disadvantage of households who are already vulnerable through poverty and social exclusion.

Part IV seeks to locate the research in the context of a devolved polity, and in particular the opportunity this provides for the Welsh Assembly Government (WAG) to pursue an agenda that recognizes the housing rights of marginalised social groups. The article concludes by questioning the suitability of existing legal

¹ Social exclusion is defined in the UK government’s first annual *Opportunities for All* (OFA) report as “a shorthand label for what can happen when individuals or areas suffer from a combination of linked problems such as unemployment, poor skills, low incomes, poor housing, high crime environments, bad health and family breakdowns”, and that it occurs “where different factors combine to trap individuals and areas in a spiral of disadvantage” (Levitas, 2006: 129).

frameworks to support positive and sustainable housing outcomes for households involved in anti-social behaviour, and arguing the need for greater universality in the delivery of support services.

Part I: Policy Context

Social housing has been described as the institutional setting for anti-social behaviour policy, focussing attention on a discrete population by reference to a 'legal, organizational and often geographical framework' (Morgan, 2006: 415). It has been argued that government has pursued an interventionist agenda toward tenants in social housing, facilitated by the perception that the sector suffers from the consequences of crime and disorder (Murie, 1997). Local authority housing, in particular, is seen as a 'risk saturated' space and a potential hot-spot of anti-social behaviour (Allen and Sprigings, 2001: 393). '[T]raits of stigma and culpability' are said to have been introduced to social housing as tenants are often labelled undeserving or irresponsible (Hawarth and Manzi, 1999: 158).

This has consequences in what has been described as contemporary 'risk-society', where safety is elevated to a fundamental concern in social policy, as the state is prepared to intervene to manage anti-social or low-level criminal behaviour (Beck, 1986; Furedi, Garland, 2001). In social housing intervention this takes place largely through coercive and punitive measures directed at the individual, whilst rehabilitative measures have remained under-utilized (Card, 2006; Carr and Cowan, 2006). This is despite the presence of a number of risk-factors contributing to anti-social behaviour which are also identified as indicators of social exclusion.

The relationship between social housing and social exclusion

Social housing estates have been described in terms of a 'spatial concentration of vulnerability', disadvantage and social exclusion (Flint, 2004: 6; Somerville, 1998; Page, 1993), becoming 'poorer places', accommodating increasingly deprived households facing problems or poverty and joblessness (Gregory, 2009). Indeed, by comparison with other tenures those living in social housing across England and Wales do indeed have lower income levels, higher levels of unemployment, and

higher levels of economic inactivity² (WAG, 2008a: Table 10.7). The proportion of tenants living in poverty is greater for those in social housing than other tenures. In 2006/07 nearly 50% of tenants in social housing had incomes below 60% of the median income after allowance for housing costs (DWP, 2008).

In addition to economic disadvantage, which limits the opportunity for exit, occupiers of social housing are more likely to live in poor housing. In turn the quality of social housing contributes to relative deprivation through the maintenance of health disadvantage (Alcock, 2006: 117). In the UK tenure has been found to have an impact on longevity and health, and different types of tenure have been linked to different health risks, including anxiety and depression (Ellaway *et al*, 1998; Windle *et al*, 2006; Wilkinson, 1999).

This is significant in the light of findings by the Parliamentary Select Committee on decent homes which noted the government's failure to meet its own decent homes standard in the social housing sector in England (ODPM, 2004). In Wales, available data shows that in 2004 less than one percent (0.8%) of all social housing met the Welsh Housing Quality Standard as required by the Welsh Assembly Government. All of the local authority stock fell below the standard, whilst just 3.1% of that held by RSLs was of the standard anticipated (LIW, 2008).

Access conditionality

There is a significant housing shortfall in England and Wales, including in social housing (ODPM, 2004). Whilst levels of need remain high – there were an estimated 1.7 million households on council waiting lists in 2008³ – social housing is a scarce resource in the UK and the question of allocation is therefore of vital importance (Brown and Yates, 2005). It is within this context that the concept of 'access conditionality' operates as a potential barrier to social housing for households which have previously been the subject of enforcement action for anti-social behaviour.

Local authority allocation procedures for social housing are structured by housing legislation. Significantly, where a local authority considers that an applicant is unsuitable to be a tenant by reason of unacceptable behaviour, access to housing

² Department for Communities and Local Government, live tables, 803 and 808. <http://www.communities.gov.uk/housing/housingresearch/housingstatistics/housingstatisticsby/householdcharacteristics/livatables/>.

³ See: shelter.dev.squiz.co.uk/housing_issues/Improving_social_housing#ftn_ref_2.

may be denied⁴. Specifically, conduct may be taken into account in deciding whether to give a preference, or in determining priorities amongst households accorded a preference⁵. A local authority may therefore refer to past anti-social behaviour to determine eligibility for housing, and in the allocation process (Cowan *et al*, 1999). Although RSLs are not statutorily bound to adopt particular practices in their allocation procedures, guidance from the regulator confirms the importance of allocation as part of a strategic approach to the management of anti-social behaviour (Housing Corporation, 2005; WAG, 2005).

In addition to the allocation of social housing, local authorities are also responsible for assessing applications from homeless households. Authorities are required to ensure that accommodation is available for households found to be homeless or threatened with homelessness, who are also in priority need of accommodation, and who are not found to be intentionally homeless⁶. The last requirement is significant as a local authority is entitled to take anti-social behaviour into account as a cause of homeless, and may therefore decide that families who have been evicted for anti-social behaviour are intentionally homeless, and therefore ineligible for long-term housing.

Tenure conditionality

The tenancy may be used to introduce terms referring to occupier behaviour, making occupation conditional on conduct (Cowan and Marsh, 2005). The resulting 'tenure conditionality' is a key tenet of public policy in this area. The government insists that social tenants 'should understand that keeping their home is dependent on their behaviour not ruining whole communities' (Home Office, 2003: 59). It has been argued that this approach to social housing, based on enforcement via the framework of tenure, reflects a wider punitivism in social policy, and the government's taste for coercive and disciplinary modes of social control which are reliant on threat and sanction for effect (McKenzie, 2008; Pratt *et al*, 2005; Scratton, 2005; Brown, 2004; Burney, 1999).

Several changes have been made in the framework of tenure affecting social housing to enhance conditionality. Ordinary occupation of social housing is by virtue of a

⁴ Section 160A(7), Housing Act 1996.

⁵ Part VI, Housing Act 1996.

⁶ Part VII, Housing Act 1996.

'secure' or 'assured' tenancy, both of which require a court order for a tenant to be dispossessed. Where a claim for possession is based on allegations of anti-social behaviour a court will require proof that a relevant statutory ground for possession is established, and that eviction is reasonable in all the circumstances⁷. A landlord may obtain an order for possession on the ground that a secure or assured tenant has been guilty of conduct amounting to a nuisance or annoyance (i.e. anti-social behaviour), or where a member of the tenant's household or their visitor is so culpable⁸.

For new tenants in social housing the position is made worse as their landlord may insist on offering a probationary tenancy. In the case of local authorities this will be an 'introductory' tenancy which may last for up to 18 months after which time it will default to a secure tenancy⁹. During the probationary period an authority may evict a tenant without reference to substantial grounds or reasonableness¹⁰. Similarly, housing associations may make use of an 'assured shorthold' tenancy as a form of probationary tenancy¹¹. These normally default to an assured tenancy after a minimum of 6 months. As in the case of introductory tenancy, an assured shorthold tenancy is terminated by administrative process without reference to substantial grounds or reasonableness¹².

Even where a secure or assured tenancy is in existence a social landlord may apply to the court at any time for a 'demotion order' on grounds of anti-social behaviour¹³, thus removing the time constraints for the imposition of a probationary period (Sylvester, 2005). Whilst the tenant has some protection where a demotion order is applied for - as substantive and reasonableness grounds need to be established - if granted, the effect of the order is to reduce the status of a secure or an assured tenancy to that of a demoted tenancy (similar to an introductory tenancy) or an

⁷ Section 84 Housing Act 1985 (as it refers to schedule II, ground.1); section 7 Housing Act 1988 (as it refers to schedule II, ground. 14).

⁸ Schedule II, ground.1, Housing Act 1985; schedule II, ground 14, Housing Act 1988.

⁹ Under Part V, Housing Act 1996.

¹⁰ A court deciding a claim for possession cannot enter into an assessment of the merits of the claim. Some protection is given to the tenant as the decision to terminate an introductory tenancy is amenable to judicial review at which time the court will have regard to the Human Rights Act 1998 and the European Convention on Human Rights: *R (McLellan) v Bracknell Forest BC* [2001] EWCA Civ 1510.

¹¹ Under the Housing Act 1988.

¹² An RSL probationary tenant may raise a defence on public law grounds: *R (Weaver) v London and Quadrant Housing Trust* [2009] EWCA Civ.587.

¹³ Section 82A, Housing Act 1985; s.6A, Housing Act 1988. A demotion order is available where a court is satisfied that there has been anti-social behaviour or unlawful use of premises, and that it is reasonable to make an order. Recent concern about anti-social behaviour led the regulator to authorise the use of starter tenancies as part of a strategy for management of anti-social behaviour (Housing Corporation, 2005 and 2007; WAG, 2006).

assured shorthold tenancy respectively. New tenants of some local authorities and RSLs are therefore subject to what has been described as 'hyper-conditionality, with occupation made dependant on their landlord's perception of (mis)behaviour.

A turn toward supportive intervention?

Until recently policy on anti-social behaviour has been said to be pervaded by a 'lazy logic' focused on the symptoms of the problem as distinct from possible social cause (Atkinson, 2006: 102). Despite evidence linking the risk factors for anti-social behaviour to social exclusion, perpetrators remain subject to a discourse of blame and condemnation (SEU, 2000; Sutton *et al*, 2004; Nixon and Parr, 2006: 83-86). However, recent policy discourse has added a new dimension as government appears to have accepted that some households may be both 'victims' and 'perpetrators' of anti-social behaviour (Nixon and Parr, 2006: 80).

In 2000 the government's Social Exclusion Unit confirmed that anti-social behaviour is often 'fuelled' by wider problems of social exclusion (SEU, 2000: 5). In this context the Home Office has acknowledged the relevance of family support to overcome disadvantage and to put a stop to anti-social behaviour (Home Office, 2003). Following recommendations made by the Home Affairs Select Committee, and informed by the work of practitioners working with families to promote social inclusion, the Home Office published its *Respect Action Plan* setting out a new approach to anti-social behaviour in 2006. This advocates a 'twin track' strategy of enforcement and support (Home Affairs Committee, 2005; Home Office, 2006).

One practical outcome of this new thinking has been the emergence of the so-called 'intervention projects'. These provide packages of support for 'very disadvantaged families' such as lone parents or families receiving benefits who face 'severe and multiple difficulties' (Dillane *et al*, 2001: 41; White *et al*, 2008: 4)¹⁴. Often intervention projects are available only to families with children, leading to the use of the term 'Family Intervention Projects' (FIP). The type of support provided by intervention projects such as FIPs is diverse and includes: managing bills and money, managing stress and depression, rehousing advice, anger management, parenting advice, addressing educational problems, and organising activities for parents and children.

¹⁴ Intervention projects operate by engaging with perpetrators either by outreach support to families in their own home, or by providing support in temporary (non-secure) accommodation located in the community (discussed by White *et al* (2008)). A further option is to provide 24 hour support in a residential core unit where the family live with project staff.

A number of studies have been conducted of such approaches. These have established the benefit of early intervention to address the causes of anti-social behaviour, to prevent further anti-social behaviour, to avoid homelessness, and to reduce the impact/cost of anti-social behaviour to the community (Nixon *et al*, 2008 White *et al* 2008; Jones *et al*, 2006; Dillane *et al*, 2001;).

Nevertheless, whilst incorporating a new discourse of positive intervention, policy continues to discuss misbehaving tenants in derogatory terms (Squires and Stephens, 2006). The emphasis remains on public protection and community safety, with enforcement at the root of the government's strategy for dealing with anti-social behaviour (Home Office, 2006 and 2008). Practitioners are reminded that the 'protection of communities must come first', and of the need to make use of available criminal and civil sanctions to 'secure co-operation of families in tackling anti-social behaviour (Home Office, 2003: 29; and 2006). Even where support is contemplated, as in the case of families with children engaged in anti-social behaviour, ministers insist on using language suggestive of a coercive and punitive agenda by, for example, calling for a 'crackdown on out-of-control families' (Home Office, 2009).

Part II: Empirical Study

The purpose of the empirical study was to investigate how anti-social behaviour enforcement action as a housing management technique impacts on individuals and families living in social housing, having regard to indicators associated with social exclusion. The setting was the social housing sector in Wales. This comprises 22 local authorities and approximately 35 RSLs providing general needs housing¹⁵. The researchers undertook a review of case files taken from Shelter Cymru's case records in which it was alleged that households living in social housing had been involved in anti-social behaviour. The review took place during July and August 2009 and covered cases for the 14 month period between January 2008 and March 2009. Researchers were able to identify 66 households living in social rented housing who were alleged to be perpetrators of anti-social behaviour and who were, as a consequence, threatened with legal action. Importantly, it was found that none of the households were offered intensive support or interventions of the sort previously discussed and available, for example, from an FIP. By way of background, our

¹⁵ General needs housing covers the bulk of housing stock for rent and may be distinguished from retirement housing and supported housing. The number of RSLs providing general needs housing is uncertain as some RSLs have established separately managed companies to provide different types of housing. The figure of 35 RSLs refers to parent RSLs.

discussion begins with a consideration of the legal threats to occupier security in Wales.

Legal threats to occupier security

In Wales the greatest threat to occupier security in the social housing sector is enforcement action by landlords for rent arrears. The number of landlord possession actions for anti-social behaviour is relatively low in comparison to actions for rents arrears. In 2007-08, for example, there were 4,442 actions which resulted in outright or postponed possession orders (PPOs), of which 141 were for anti-social behaviour (approximately 4%). Just 1.9% of PPOs granted to social landlords in 2007-08 were as a consequence of anti-social behaviour.

But this is not the complete picture. Whilst outright possession orders were made in 39% of all claims, in anti-social behaviour cases this rose to 63%¹⁶. Although it is not possible to say how many warrants for possession were executed following either an outright order or a PPO (no relevant data), the evidence suggests that tenants in social housing in Wales are at greater risk of an outright possession order, and therefore eviction, where a landlord's claim is based on anti-social behaviour. This is confirmed by the latest data on possession claims (2008-09) which shows a rise in legal action taken by social landlords for anti-social behaviour¹⁷. Social landlords in Wales reported 166 possession orders as a result of anti-social behaviour, of which 63 were PPOs (38%), with 103 outright orders (62%)(LIW, 2009). It is also worth noting anecdotal evidence from Shelter Cymru case workers which suggests that social landlords are more likely to commence a possession action on grounds unrelated to anti-social behaviour where the prospects of succeeding on alternative grounds (such as rent arrears) are stronger. In addition to a possession claim, occupiers in social housing face the threat of demotion affecting security of tenure where there is alleged anti-social behaviour. There were a total of 34 demotion orders in 2007-08 in Wales, with 33 orders made in 2008-09 (ibid).

In our survey, the majority (97%) of households (i.e. all households except four) were facing legal action by their social landlord. In the remainder there was the threat of legal action. Predominantly, the order sought by the local authority or RSL was an

¹⁶ All data: Data Unit Wales: <http://dissemination.dataunitwales.gov.uk/webview/>.

¹⁷ Social Landlords Possessions and Evictions in Wales, 2008-09 (Statistical Directorate, Welsh Assembly Government, SDR166/2009, October 2009).

order for outright possession of the property. In some cases the landlord was seeking demotion of the tenancy as an alternative to possession. In a minority of cases there were either injunctions in place, or the landlord was seeking an injunction in addition to possession of the property.

Household profile

Of the households reviewed, the predominant household type was single parent women (35%), with single adult women without children (28%), single adult men without children (23%), and couples with children (14%), accounting for the remaining households. 68% of tenants were in secure or assured tenancies and 28% held a probationary tenancy which was either an introductory tenancy or starter tenancy (assured shorthold)¹⁸. Although probationary tenancies may be used to enable a landlord to assess all aspects of an occupier's suitability to be a tenant, having regard to the policy context it is reasonable to conclude that the use of less secure introductory and assured shorthold tenancies is likely to reflect landlord concerns about anti-social behaviour.

It has already been suggested that occupiers of social housing are more likely to be economically inactive and dependent on state benefits or living on a low income. In Wales, data from the Local Government Data Unit shows that 88.3% of working local authority households and 84.9% of RSL households earn less than the median household income of £19,527 (WAG 2008a, Table 1). Income poverty affecting tenants in social housing was apparent from our case file review. The majority of households facing enforcement action (86%) were either unemployed, or reliant on state benefits because of illness, or caring for children or dependents, and therefore without other forms of employment. Only 11% of the households were in full or part time employment and several of these were on low incomes and in receipt of additional state benefits. Income poverty affecting the households surveyed is significant as these households were facing the threat of eviction without the means to secure entry to other options in the housing market, thus compounding the disadvantage of limited choice already impacting on those living in social housing.

Health

¹⁸ A smaller proportion, 4% of households, was living in temporary accommodation where security of tenure is weak but for reasons unrelated to anti-social behaviour.

Our research did not seek to investigate housing standards. It is not therefore appropriate to comment on links between poor housing and ill-health in the cases reviewed. In general however it has been noted that the quality of the vast majority of social housing in Wales is low and that, as consequence, it is likely that the households whose cases were reviewed were living in accommodation failing to meet standards set by the Welsh Assembly Government, the devolved government for Wales. What our investigation indicated was that many of the households alleged to have committed anti-social behaviour reported difficulties with mental and/or physical ill-health (47%). As a consequence researchers undertook further in-depth analysis of relevant case files focusing on case-notes, correspondence and documents. This revealed that health problems experienced by occupiers were often directly linked to the pattern of behaviour, and the consequent allegations of anti-social behaviour, which had put their security of tenure and occupation rights at risk. The in-depth review of case files further revealed that, as well as experiencing poor mental and/or physical health, several clients had additional and related substance misuse problems. In these instances, taking and dealing in drugs often provided the ground for landlord action to recover possession.

Profile of anti-social behaviour

Table 1 illustrates the broad categories of anti-social behaviour in which households surveyed were allegedly engaged. Whilst types of anti-social behaviour have been allocated to five categories there are often multiple strands to the behaviour exhibited, hence there is considerable overlap between the categories identified. For example, noise and related nuisance is often a result of loud music being played at properties, but it can also result from the behaviour of visitors to the home, that of children and young people within the household, or by dogs. Whilst there are a broad range of problems caused by family/visitors/children, including serious criminal offences such as assault, threats to people and damage to property, the category also includes problems such as noise nuisance and substance misuse. In our analysis of the evidence on this issue we have sought to introduce continuity with the evaluations of intervention projects discussed below, adopting and adapting the categories used in those surveys.

The evidence shows that, for the most part, the anti-social behaviour alleged may be categorised into one of 3 categories. A significant complaint was that of noise nuisance, with 32% of households allegedly causing anti-social behaviour in this way.

Consistent with the evidence noted above, the misuse of drugs was a factor relevant to enforcement, with 23% of households being accused of anti-social behaviour involving drug offences or problems related to drug misuse. Significantly, having regard to the responsibilities of secure and assured tenants for the behaviour of others, 38% of tenants faced allegations of anti-social behaviour caused by their family, their children or visitors to the premises.

Table 1 – Anti-social behaviour categories

| Broad type of anti-social behaviour | Number | Percentage |
|---|---------------|-------------------|
| Noise nuisance | 21 | 32% |
| Drug offences/problems | 15 | 23% |
| Problems caused by family/visitors/children | 25 | 38% |
| Problems caused primarily by dogs | 4 | 6% |
| Alleged criminal assault | 1 | 2% |
| Total | 66 | 100%* |

*+/- 1%

Outcomes of enforcement action

In the cases where the outcomes are known (97% of cases), four broad categories of outcome are identifiable (Table 2).

- First, 12% of households saw no change in their circumstances because their landlord withdrew proceedings.
- Second, 29% of households had their long-term security of tenure affected through imposition of a PPO (or suspended order), or the extension of an introductory tenancy, or through demotion. For this category of outcome the occupier experienced weakened security but no immediate change in the status of actual occupation (they were not evicted).
- Third, 20% of households left their accommodation because a possession order was granted or was likely to be granted, and their only option was to move to other accommodation.
- Fourth, 39% of households experienced ‘other’ outcomes. This category included 12 cases (18%) in which Shelter Cymru lost contact with the client.

Whilst the reasons for client withdrawal are not-known, anecdotal evidence from case-workers suggests that this is often due to disillusionment with the legal process, and/or the prospect of eviction.

The evidence therefore shows that 32 (49%) of the households experienced negative outcomes when measured in terms of weakened security of tenure or dispossession (second and third categories). In cases where dispossessed households are required to apply to a local authority or RSL for housing they may therefore, as previously discussed, face ongoing difficulties as a consequence of their past anti-social behaviour.

Table 2 – Case outcomes

| Outcomes | Number | Percentage |
|--|---------------|-------------------|
| Proceedings withdrawn | 8 | 12% |
| Security affected | 19 | 29% |
| <ul style="list-style-type: none"> • <i>Suspended/postponed possession order</i> | 12 | 18% |
| <ul style="list-style-type: none"> • <i>Assured shorthold/introductory extended</i> | 3 | 5% |
| <ul style="list-style-type: none"> • <i>Demoted tenancy</i> | 4 | 6% |
| Household left home without choice | 13 | 20% |
| <ul style="list-style-type: none"> • <i>Moved due to lack of options</i> | 9 | 14% |
| <ul style="list-style-type: none"> • <i>Possession Order</i> | 4 | 6% |
| Other | 26 | 39% |
| <ul style="list-style-type: none"> • <i>No further client contact</i> | 12 | 18% |
| <ul style="list-style-type: none"> • <i>Ongoing</i> | 10 | 15% |
| <ul style="list-style-type: none"> • <i>Landlord not acting on notice</i> | 2 | 3% |
| <ul style="list-style-type: none"> • <i>Not known</i> | 2 | 3% |
| Total | 66 | 100% |

Further research on outcomes for households facing enforcement action is ongoing, in particular to track the trajectory of households after eviction. As part of this research the authors have recently undertaken a survey of local authorities which were asked to provide information on the relevance of anti-social behaviour to homelessness decisions on intentionality. Of the 22 local authorities in Wales, 14 (64%) provided a response. All but one of the respondents indicated that in at least

some cases the decisions involved anti-social behaviour or unacceptable behaviour as the basis of a finding of intentionality. In total the authorities concerned made 312 determinations of intentional homelessness, of which 81 (25%) were for anti-social behaviour or other forms of unacceptable conduct. This finding confirms the relevance of anti-social behaviour to intentionality, and therefore to exclusion from social housing.

Part III: Comparative Analysis

Comparing household profiles

Secondary data was collated from a review of 53 FIPs (White *et al*, 2008) as well as from two other intervention projects: Shelter Cymru's 'Valleys Inclusion Project' in South Wales and Shelter's 'Rochdale Inclusion Project' (Colquhoun and Thomas, 2007; Jones *et al*, 2006). In contrast to FIPs both of the latter offer support to single adults as well as families. Shelter performs a similar function in England to that of Shelter Cymru in Wales.

In terms of household type, evaluations of the Shelter and Shelter Cymru projects show that the majority of households in each were single parents (approximately 45%), whilst a high proportion were single adults or adults sharing (approximately 30%) or couples with children (approximately 25%). The FIP review showed that most households were single parent households (70%) headed by women, whilst approximately 30% of household were couples with children.

Data from the Shelter and Shelter Cymru project evaluations provides little indication of tenure except that most (85%) were in local authority accommodation with the remainder (15%) in RSL housing. The evaluation of FIPs goes into more detail. Approximately 70% of households were in secure or assured tenancies at referral. 7% were living in introductory or starter tenancies and 2% in some form of demoted tenancy. 14% were housed in the private sector. For a large proportion of the households referred to FIPs, security of tenure was under threat. 23% of households had received notice of seeking possession whilst 4% had received a demotion notice.

Evaluations of Shelter and Shelter Cymru projects show that the vast majority of households supported were unemployed (approximately 95%). Most were on income support (85%) or receiving Job Seeker Allowance (8%). The review of FIPs suggests

that 62% of households were without work and 12% were in work (in 26% of cases the employment status was unknown).

The data on health profiles of households involved with the intervention projects is limited to data from the FIP review - identified as 'shared risk factors' or underlying cause of anti-social behaviour. 63% of households referred to FIPs had experienced mental and physical health problems.

The secondary data from these three intervention projects is significant as it highlights similarities in the circumstances of households involved in anti-social behaviour but differently treated. Although direct comparison by household type is not possible as FIPs deal only with households with children, it is apparent from our case review that the households concerned were suitable for some form of intervention project. Importantly, intervention projects are clearly aimed at households where some form of enforcement action has been initiated, or where security of tenure is under threat, such as where enforcement action has progressed so that security of tenure is weakened.

From this perspective it is obvious that the households identified from the case file review would have been suitable for involvement with an intervention project. Similarly, there is a clear trend of worklessness amongst those households dealt with by intervention projects, which is similar to the situation amongst households in the case file review. And although the incidence of mental health problems is higher amongst those clients involved with intervention projects than those dealt with by Shelter Cymru, it is readily apparent that mental ill-health was an issue affecting both groups.

Comparing anti-social behaviour

Data from the evaluation of the three intervention projects shows a broad range of anti-social behaviour which households had committed prior to referral to the projects. Using White *et al's* (2008) categorisation of anti-social behaviour, the most common type of anti-social behaviour across all projects appears to be 'disregard for community/personal well being'. Under this heading, the most frequently cited issues are noise and nuisance behaviour. White *et al* (2008) identify three other categories of anti-social behaviour, namely, environmental damage, misuse of public space and acts directed at people.

The data appears to show that the frequency of these issues amongst households varies by project. For example, acts directed at people (e.g. verbal abuse and physical abuse) are the second most frequent type of in the Shelter Cymru Valleys Project, whereas environmental damage (e.g. litter and rubbish) is the second most frequent issue in the 53 FIPs evaluated. Data from the FIP evaluation also shows that 35% of reported anti-social behaviour involved drug misuse or drug dealing. The findings confirm a spread of anti-social behaviour across several categories, which is similar to our findings from the cases review. In addition, it is apparent that the most frequently reported anti-social behaviour in either setting (intervention projects or case review) involves a disregard for community/personal well-being.

Contrasting outcomes

Because of differences in the way information is collated, data on landlord action prior to referral to intervention projects is not directly comparable between projects and our case review. However, it is clear from the Shelter Cymru Valleys Inclusion Project evaluation that in 65% of cases, verbal or written warnings had been given. In 20% of cases a possession notice had been issued (Jones *et al*, 2006). The percentage of households facing legal action appears to be lower in the cases supported by FIPs when compared to Shelter Cymru's case file data. In the evaluation of FIPs a minority, 27% of those dealt with, were facing some form of possession action, and that 35% of households were still engaged in some form of anti-social behaviour after the intervention had ended. The evaluations of Shelter's Rochdale Inclusion Project and the Shelter Cymru Valleys Inclusion Project both show intervention leading to the cessation of anti-social behaviour in 60-70% of cases, a reduction in anti-social behaviour in approximately 10% of cases and no reduction in 20-30% of cases (Colquhoun and Thomas, 2007; Jones *et al*, 2006) Evaluation of the Shelter Rochdale Inclusion Project shows that on leaving the project 84% of households were in secure accommodation, whilst 7% were at risk of homelessness and the remaining 9% of outcomes were unclear. Security of tenure appears to improve where there is an intervention projects. In the evaluation of 53 FIPs it was found that initially 60% of households were facing one or more enforcement action, which subsequently reduced to 20% of households. Despite the fact that a number of households continue to be engaged in anti-social behaviour after receiving support from an FIP or other intervention project, the improvement in behaviour of the large majority of households, and the consequent impact on security

of tenure, means that outcomes for relevant households compare favourably to the experience of households investigated in our case file review. The tenancy outcomes for households who engaged with intervention projects compare very positively with those reviewed from Shelter Cymru's case files where nearly 50% of households were known to have experienced negative outcomes.

Part IV: Anti-social behaviour in a devolved polity

Within the UK system of devolved governance for Wales there is scope for policies to be introduced which reflect particular sub-national priorities, including those on anti-social behaviour. An example is provided by the Scottish government which has sought to pursue a policy agenda committed to tackling the causes of anti-social behaviour with a view to achieving positive and sustainable outcomes. Recognising anti-social behaviour as a problem for both victims and perpetrators, the Scottish Government is committed to a policy of early intervention and diversion away from anti-social behaviour and crime. Although it has rejected the option of repealing legislation giving enforcement powers to deal with anti-social behaviour, it has sought alternative 'smarter' ways to tackle the problem, and has rejected enforcement as a measure of success (Scottish Government, 2009).

The Welsh dimension

In *One Wales*, a joint statement by the leading political parties in Wales, there is a commitment to social justice in all policy areas, a recognition that everyone has a right to a home, and a pledge to tackle homelessness (WAG, 2007: para. 5.1). The Welsh Assembly Government is committed to a social justice agenda in Wales, which places a 'particular emphasis on safeguarding and supporting vulnerable people, combating social exclusion and reducing inequality'¹⁹. The *One Wales* document includes a commitment to the principles of inclusivity, and to supporting 'marginalised' populations to 're-engage with the wider community' (WAG, 2007: 26). Despite pressure for convergence from the Home Office, the priorities which have to date underpinned the community safety agenda reflect notions of social justice and inclusion (Edwards and Hughes, 2008). A conscious attempt to introduce difference in social policy in Wales has resulted in an approach to anti-social behaviour which 'break[s] with the direction of crime and disorder reduction in England' (ibid: 61;

¹⁹ <http://new.wales.gov.uk/about/civilservice/departments/dsjlg/?lang=en>.

Drakeford, 2005). To a lesser extent this approach is also reflected in housing policy, where the Welsh Assembly Government has encouraged social landlords, and others involved in anti-social behaviour management, to make use of less coercive informal remedies such as mediation or acceptable behaviour contracts (WAG, 2005 and 2007: 27).

The Welsh Assembly Government recently published a voluntary standard, *The Wales Management Standard for Tackling Anti-social Behaviour* (WAG, 2008: 22). This described the responsibilities of social landlords towards residents and the wider community through a series of 'core commitments' to be integrated into anti-social behaviour management. A similar standard had previously been introduced in England (DCLG, 2007). Core commitments in that document were accountability and leadership, resident empowerment, prevention and early intervention, tailored services and support for victims, and, protecting communities through swift enforcement, and support to tackle the causes of anti-social behaviour (DCLG, 2007: 6). This final requirement means that social landlords who sign up to the standard will need to work with perpetrators to change their behaviour (ibid: 71).

The Wales standard makes direct reference to the policy context and, in particular, to the *One Wales* commitment to social justice. Whilst it repeats the targets set out in English version, the Welsh government has added a requirement on landlords to encourage 'community responsibility', which includes promoting tolerance of activities which might be 'misconstrued as anti-social behaviour' (WAG, 2008: 22). On the issue of support, the Wales standard links support to other anti-social behaviour measures such as enforcement action, requiring support to be provided at an early stage. Social landlords are encouraged to work with partner agencies to help perpetrators put a stop to anti-social behaviour and to 'maximise their chances of maintaining their tenancy' (WAG, 2008: 19).

Towards a different approach

The findings from our survey of Shelter Cymru case file records, and the data on evictions and postponed possession orders for anti-social behaviour in Wales, gives cause to doubt that the objectives of *One Wales* and the voluntary standard are being met in practice. The Welsh Assembly Government is responsible for housing policy and community safety in Wales. In this context it controls a number of levers which could be used to encourage social housing providers to adopt practices aimed

at minimizing the significance of enforcement in the management of anti-social behaviour. The Welsh Assembly Government is responsible for publishing guidance to social landlords on how to deal with anti-social behaviour, as well as a regulatory code for RSLs which refers to anti-social behaviour management. It is also responsible for a large proportion of funding for community safety work, which includes intervention projects.

It is suggested that the *One Wales* social justice agenda could be much more clearly reflected in the guidance given to social landlords, and in the prioritization of funding for intervention projects through community safety work, than is presently the case. A first step in this direction might be for the Welsh Assembly Government to revisit the commitments set out in the standard. At present these are ranked equally, giving rise to contradictions. The commitment to provide support, and that of protecting communities through swift enforcement provides one example of this. The Welsh Assembly Government could instead make it clear that, when assessing performance, greater attention should be given to those commitments which are most closely aligned to the *One Wales* commitment to social justice, namely: early intervention; addressing root causes; and encouraging community responsibility (tolerance). It could also follow the lead of its Scottish counterpart by rejecting enforcement as a measure of performance. If these proposals were implemented it would provide a clear signal to social landlords of the approach to be taken when tackling problems of anti-social behaviour.

A more radical approach might be for the National Assembly for Wales (NAW) to seek legislative powers using the mechanism provided by the Government of Wales Act 2006 to introduce Wales-only legislation requiring social landlords to utilize preventative support interventions as a first resort. More work is needed on how the Welsh Assembly Government might achieve this, within a framework of devolution, which makes housing policy a devolved matter but which denies the NAW the power to influence tenure. The existing framework for support which operates when a registered social housing provider elects to make use of a Family Intervention Tenancy (FIT) under the Housing and Regeneration Act 2008 might offer a starting point. This involves providing support as described in a 'behaviour support agreement' signed by a household with a previous history of anti-social behaviour. However, these arrangements follow a familiar pattern in emphasizing enforcement as a mode of control as a FIT offers less security of tenure than a standard secure or assured tenancy, meaning that tenants are under constant threat of eviction.

Possible Wales-only legislation might place an obligation on local authorities to identify household need and ways of addressing it. It might also require social landlords to show what steps have been taken to address support needs as a prerequisite for claiming possession in cases based on anti-social behaviour.

Conclusion

The legal framework for dealing with anti-social behaviour supports enforcement – the approach promoted by anti-social behaviour policy as a governance technique in social housing. Whilst anti-social behaviour is a problem which extends beyond social housing, a number of remedies rely on the framework of tenure and the management role of social landlords. The consequences, for those living in social housing and identified as responsible for anti-social behaviour, are significant.

As a result of economic weakness the majority of households living in social housing lack the capacity for choice within the housing market. The evidence from the case review shows that tenure-biased targeting of anti-social behaviour policies and practices compounds the disadvantage of households already vulnerable in the housing market by undermining long-term security of tenure. This in turn increases the risk of homelessness and exposure to landlord discriminatory preferences. In combination with housing management practices on allocation that take place within the framework of anti-social behaviour law and policy, this is likely to lead to exclusion from social housing giving rise to a ‘class of housing outcasts’ (Burney, 1999: 7).

Our research suggests that a significant proportion of households facing the threat of enforcement action, but who do not receive support to manage their behaviour, will ultimately lose their homes. These outcomes contrast with outcomes in intervention projects which have been shown to deliver reductions in anti-social behaviour and sustainable outcomes for households, communities and landlords. The enforcement approach is ineffective to resolve anti-social behaviour as the problem is likely to be transferred elsewhere without dealing with its underlying causes. In short, the impact of enforcement for society is limited, whilst for households in social housing the consequence is potentially catastrophic. The social disadvantage faced by those living in, or seeking access to, social housing is therefore compounded by anti-social behaviour policy and practice in areas where intervention projects are not widely available, or not available to all.

If positive outcomes are to be achieved for a greater number of households facing allegations of anti-social behaviour, a shift appears to be required towards a strategy which recognizes anti-social behaviour as indicative of underlying social causes, and which requires responses which focus on inclusion and intensive support rather than enforcement. At present interventions that provide rehabilitative support remain an under-resourced response and as a consequence landlords - who remain obliged to safeguard and promote community safety - are forced to adopt strategies which reflect enforcement as a priority. Re-prioritization may be easier to achieve at sub-national level where devolved administrations are able to influence policy and policy implementation. In adopting different priorities, a distinctive policy agenda, and new strategies for dealing with anti-social behaviour, the Welsh Assembly Government could provide a lead both to social landlords in Wales, but also to policy decision-makers in Whitehall.

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