

Understanding terminology



Undertaking

An undertaking is a signed promise by the tenant that they will comply with certain conditions of behaviour given at Court.

Closure of premises

A closure order replaces the previously used 'crack house closures. The use of this order means that either the Police or the Council can apply to Court to close the premises which have been or are likely to result in nuisance or there has been or likely to be disorder in the area. The aim is to bring much quicker relief and protection for victims of anti – social behaviour linked to a specific address.

Injunction

An injunction is a court order that forbids a person from specific acts, for example causing anti-social behaviour relating to housing and for nuisance or harassment. In serious cases it can carry the power of arrest and the terms can include excluding a person from a property or area. If breached it is a criminal offence and may result in imprisonment. An injunction carries a maximum sentence of 2 years imprisonment if breached. Injunctions can be quick to obtain. An injunction can be applied for to anyone over the age of 10 years. An application for a child will be heard in the youth court. They are aimed at stopping the anti-social behaviour rather than punishing the perpetrator.

New absolute grounds for possession

This is an order whereby the landlord can recover possession of the property under a new mandatory power if the person has either been convicted of a serious offence; they have breached a court order such as an injunction or a criminal behaviour order. Should a tenant's property be closed by way of a closure order then the absolute ground for possession can be applied. This power can only be used for the most serious cases.

Community trigger

The community trigger is intended to give victims and communities the right to demand that persistent anti-social behaviour within their area is dealt with. This can be used when the victim feels that the anti-social behaviour has been persistent, there has been an inadequate response or when they perceive themselves ignored by relevant agencies. It is then intended that agencies will come together to take a collective approach to address the issues.

Extension of introductory tenancy

An introductory tenancy is the initial 12-month period of a secure contract. The introductory tenant is not subject to the same tenancy security as a secure tenant meaning that a breach of tenancy can result in mandatory possession being granted. Also, introductory tenants do not have the right to buy their property. In certain circumstances it could be necessary to extend the introductory tenancy to inhibit an anti-social tenant from obtaining security of tenure with a secure tenancy and therefore makes it easier to gain possession when and if required.

Notice of possession proceedings (NPP)

Chapter 1 of Part 5 of the Housing Act 1996 allows local housing authorities to adopt an introductory tenancy scheme for all new tenants. Introductory tenants are essentially on probation and the landlord can evict them fairly easily during the probationary period. They do not have as many rights as secure tenants. If a landlord decides to seek possession, there is no requirement for them to demonstrate to the Court any of the grounds for possession. NPP are served and at the possession hearing, the courts only consider whether the appropriate procedure was followed, and do not consider the facts on which the landlord's decision was based, or the merits of its decision. Where the Court is satisfied that the correct procedure was followed a possession order must be granted. The procedure does, however, include a statutory right to an internal review of the landlord's decision to

seek possession. The review must be conducted fairly and in accordance with the Introductory Tenants (Review) Regulations 1997.

Notice of intention to seek possession (NSP)

A notice of intention to seek possession is a legal notice served on the tenant by the landlord notifying of the intention to take eviction proceedings. Once the NSP is served, it remains valid for a period of 12 months and the landlord can seek possession at any time within this period.

Demoted tenancy

If the County Court orders a demotion, the Council is granted the power to terminate a secure tenancy and substitute it for a demoted tenancy. Where a demotion has been granted and the tenant or a person residing in or visiting the dwelling house goes on to engage or threatens to engage in anti-social behaviour an outright possession of the property can be applied for. If a secure tenancy is terminated and substituted with a demoted tenancy, this removes the tenants right to buy and security of tenure for a period of one year. Should problems continue to persist the Council may serve a notice of intention to proceed for possession of the tenancy.

Possession order and postponed possession order

A court order that may lead to the eviction of a tenant if it is shown that they are guilty of anti-social behaviour. The court will give the landlord possession of the property after a specified period of time, usually 28 days but this can be less. The court may suspend the possession order. This means that the tenant will not be evicted. For example, if they comply with the terms of the tenancy and do not carry out anti-social acts. In cases where the anti-social behaviour continues, and the conditions of the postponement are not adhered to the landlord may return to the court to apply for a warrant of eviction.

Acceptable behaviour contract (ABC)

An Acceptable Behaviour Contract (ABC) is an agreement between Housing and a perpetrator of ASB. we use ABC's on adults and individuals under 18 years but not under 10 years. The ABC sets out the types of behaviour that needs to change and warns what will happen if it does not. We use ABC's to manage behaviour over a six-month period, although they can last for longer periods.

Mediation and restorative practice (RP)

Mediation is considered and used in cases of neighbour nuisance and neighbour disputes. It is most likely to succeed if the referral is made promptly and before feelings on both sides become entrenched. It is considered inappropriate in some cases (for example: where there is a history of violence, when mental health issues are a factor, where legal proceedings have commenced, where the perpetrator is involved in hate related anti-social behaviour/crime and where it is reasonable to assume the perpetrators past behaviour indicates they will not respond to mediation.)

Restorative practice (or restorative justice) is a harm reduction process where all parties with a stake in a particular offence or behaviour come together to resolve collectively how to deal with the aftermath of the offence or behaviour and its implications for the future.