

## Factsheet 9

# Anti-social behaviour in housing

February 2019

### About this factsheet

This factsheet is about anti-social behaviour that takes place in the home or neighbourhood. It includes information on noisy neighbours, hedge disputes and harassment.

It is primarily aimed at people experiencing anti-social behaviour, but there is information if you are accused of anti-social behaviour in section 12.

The information given in this factsheet is applicable in England and Wales. If you live in Scotland or Northern Ireland, contact Age Scotland or Age NI for information relevant to those nations. Contact details can be found at the back of this factsheet.

Contact details for any organisation mentioned in the factsheet can be found in the *Useful organisations* section.

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# 1 Introduction

Anti-social behaviour is defined in law as conduct that has caused, or is likely to cause, harassment, alarm or distress to any person.

The law also gives specific definitions of anti-social behaviour in housing:

- *'conduct capable of causing nuisance or annoyance to a person in relation to [their] occupation of residential premises'*
- *'conduct capable of causing housing-related nuisance or annoyance to any person'*.

Housing-related nuisance or annoyance means behaviour that affects a local authority or social landlord's ability to manage their housing.

With housing, anti-social behaviour can include:

- loud noise from neighbours
- harassment such as verbal abuse or threats
- vandalism, property damage and graffiti
- fly-posting, dumping rubbish and abandoned cars
- animal nuisance.

If you experience problems, it is important to keep an up-to-date record of events, noting the day, date, time and nature of the behaviour causing you annoyance or distress. This helps you to get some perspective on how often it happens. If you need to take formal action at some stage, it helps others to see an established pattern of nuisance over a period of time.

When selling a property, you must declare information that might put a reasonable buyer off, such as a long-standing dispute with a neighbour.

There are various ways in which anti-social behaviour can be challenged. What is appropriate for you depends on your circumstances, your neighbour's circumstances and the severity of the problem.

## **Serious anti-social behaviour**

If you experience serious harassment or abuse or face violence or threats of violence, you should call the police immediately. More information about harassment is in section 10.

Women experiencing domestic violence can contact Women's Aid for support, including help finding emergency accommodation.

## 2 Approaching a neighbour

If a neighbour's behaviour is causing you annoyance or distress, try to think it through before you take action.

**Is the problem due to difficulties in communication or differences in lifestyle?** Groups of young people on your street or stairwell can look intimidating, but what matters is their behaviour and whether this is anti-social.

**Is your neighbour really at fault?** Excess rubbish or a poorly kept garden may mean they are having problems with their waste collection or landlord. Or they may be struggling to manage due to illness.

**Does your neighbour realise what they are doing or how it is affecting you?** A noisy neighbour may not appreciate that you have different schedules and poor sound insulation may play a part.

If you can, try and speak to your neighbour and explain what the problem is. Alternatively, you could write them a letter.

Try to be a good neighbour yourself and avoid action that might cause a nuisance to others, for example:

- do not carry out loud work (including repairs) at night
- talk to your neighbours if you intend to have a party
- do not play your television, radio, hi-fi or musical instruments loudly, especially at night, or use headphones if you do
- if you are experiencing hearing loss, find out about hearing aids and equipment from an organisation such as Action on Hearing Loss
- keep your dogs and other pets under control
- dispose of your rubbish properly.

## 3 Mediation and other informal options

Mediation is a way of coming to an agreement without going to court, although it can take place after court action. An independent mediator listens to your views and your neighbour's views to help you reach an agreement or compromise.

To find a local service, contact your local authority or an advice agency such as Citizens Advice, or use the search facility on the Ministry of Justice website: <http://civilmediation.justice.gov.uk/>

This lists fee-charging providers, but local authorities and housing associations may offer free mediation services. Alternatively, you can ask a community or religious leader if they can act as an informal mediator.

If you are a local authority (council) or housing association tenant, you can raise the issue at a residents' group meeting. This is particularly relevant if you think it might be affecting others. Contact your housing officer to find out if there is a group and when they meet.

## 4 Common problems and who to contact

If an informal approach to resolving anti-social behaviour fails to work or would not be appropriate given the severity of the problem, you may have to seek help from your landlord, your neighbour's landlord, the local authority or the police. We refer to these collectively as the 'agency' or 'agencies'.

This section looks at common problems and who to contact in each case. Later sections look at the legal powers agencies have in relation to anti-social behaviour.

### 4.1 Noise and other 'statutory nuisances'

Your local authority has a legal duty to take action if it is satisfied that certain '*statutory nuisances*' exist or are likely to occur or reoccur in the area, under the *Environmental Protection Act 1990*. Statutory nuisances include:

- noise emitted from premises so as to be prejudicial to health or a nuisance
- any premises in such a state as to be prejudicial to health or a nuisance
- any accumulation or deposit which is prejudicial to health or a nuisance
- any animal kept in such a place or manner as to be prejudicial to health or a nuisance
- artificial light emitted from premises so as to be prejudicial to health or a nuisance.

If you report one of these problems to the local authority, it has a duty to take '*reasonably practicable*' steps to investigate your complaint. It is usually the Environmental Health team that does this.

If the authority is satisfied a statutory nuisance exists or is likely to occur or reoccur, it must serve an '*abatement notice*' on the person responsible (or on the owner of the property in question if the problem is caused by a structural defect). It may try an informal approach first, such as requesting that loud music is turned down.

An abatement notice requires steps to be taken to abate the nuisance or prevent it from occurring or reoccurring. It is a criminal offence to fail to act on a notice without good reason and a person who does this can be prosecuted.

Abatement notices can be served on tenants and owner-occupiers, but, if the problem is caused by a structural defect in a local authority property, the authority cannot serve a notice on itself. It may serve an informal notice on its housing department, who may take the necessary steps to abate the nuisance, or it may be possible for you to take private legal action through the courts. This is covered in more detail in section 11, but bear in mind that legal action can be complex and costly.

## When is noise a statutory nuisance?

There is no prescribed legal level above which a noise becomes a statutory nuisance. However, in basic terms, the noise must be unreasonable.

A local authority will not take formal action against ordinary domestic noise, such as footsteps, talking, or children playing. They will not require improvements to be made to your property's sound insulation if this is causing ordinary domestic noise to be an issue. This is because the courts have said that poor sound insulation cannot make a property '*prejudicial to health*' under the *Environmental Protection Act 1990*.

If ordinary domestic noise is affecting your health or quality of life, try to explore possible solutions with your neighbours. A degree of compromise may be necessary – most of us have to put up with a certain amount of noise from neighbours. If all else fails, you may wish to explore your housing options.

If the sound insulation at your property is poor, you may wish to consider making improvements. If you are a tenant, speak to your landlord in the first instance.

## What other noise-related powers do local authorities have?

The *Noise Act 1996* gives local authorities powers to deal with residential noise that exceeds a certain permitted level between 11pm and 7am. Some local authorities have 24-hour teams who deal with noise complaints. Alternatively, the police may respond.

Local authorities also have powers to deal with noise from building sites and entertainment venues such as pubs and clubs. Speak to your authority if you want to know more.

## 4.2 Other common problems

### Trees

If your neighbour's tree hangs over your property, you can ask them to trim it back. If this is not done, you have the right to trim the tree back to the boundary line but you must offer the trimmings back to your neighbour.

Check with the local authority to see if the tree is subject to a tree preservation order before you start cutting. If it is, you could be fined for doing so. Trees in conservation areas are automatically protected.

Local authorities have powers to deal with trees on private property that are in a dangerous condition. If you are concerned about the condition of a tree, contact your local authority (usually the Environmental Health team).

## Hedges

You should not attempt to reduce the height of a neighbour's hedge without seeking advice. Talk through the problem with your neighbour if you can or try mediation.

A government leaflet, *Over the garden hedge*, gives advice on how to approach a neighbour about a problem hedge. Another leaflet, *High hedges: complaining to the council*, explains when the local authority can get involved and what action they can take if they agree a hedge is a nuisance. The local authority may charge you for this service.

## Parking spaces

If you live on a publicly maintained road, you do not have any rights to the section of road or pavement outside your property, unless there are local parking restrictions giving a right to a particular space. This means you do not have an exclusive right to park outside your property or prevent anyone else from doing so.

If someone else's car blocks access to and from your property, there are a number of steps you can take. The local authority and the police have general powers to remove illegally parked vehicles or those that are abandoned or causing an obstruction.

If you live in an area where parking contraventions are dealt with by civil enforcement officers, it may be an offence for someone to park at the bottom of your driveway without permission. Contact your local authority if this happens.

## Shared amenities

Responsibilities for the maintenance and repair of shared amenities such as drains, pipes, drives or the roof of a block of flats are usually outlined in the property's legal documents.

If a shared amenity needs repairing, try to find out who is responsible for it. The legal documents may not provide clear answers. If so, it is generally best to speak to your neighbours to agree a course of action and make arrangements for sharing costs.

You probably need a surveyor's report on the part of the property needing repairs and estimates from a builder. Consult and get the consent of other parties at every stage before costs are incurred.

## Planning permission

If you are concerned about proposed building works in your area or a building's change of use, contact the local authority planning team to make an objection. Check whether permission has been granted and, if so, whether terms and conditions have been complied with.

### 4.3 Neighbourhood wardens

You may be able to report anti-social behaviour to a neighbourhood warden if there is a Neighbourhood Warden Scheme where you live.

Wardens provide a uniformed, semi-official presence in residential areas and have a duty to promote community safety, environmental improvements and housing management. They can investigate a complaint about anti-social behaviour and, if necessary, refer the matter to the police. Not all local authority areas have a scheme. Ask your local authority or local police whether there is one in your area.

## 5 What the police can do

In certain circumstances, it may be appropriate to contact the police about anti-social behaviour. They are responsible for dealing with anti-social behaviour that constitutes a criminal offence, for example vandalism, graffiti or harassment. They have a range of additional powers under the *Anti-social Behaviour, Crime and Policing Act 2014*:

### Community Protection Notices (CPNs)

These are legal notices that require a person or body behaving in an anti-social manner (*'the perpetrator'*) to change their behaviour. They can only be issued to a person aged 16 or over, and only if all of the following conditions are met:

- the perpetrator has been given a written warning about their behaviour and enough time to make the necessary changes
- the police are satisfied on reasonable grounds that the behaviour is having a detrimental effect, of a persistent or continuing nature, on the quality of life of people in the area
- the police are satisfied on reasonable grounds that the behaviour is unreasonable.

A perpetrator who fails to comply with a CPN commits an offence.

### Injunctions

The police can apply for an injunction to be made against someone who has behaved in an anti-social manner (*'the perpetrator'*). This is a court order prohibiting them from doing something or compelling them to do something.

A court may issue an injunction against a perpetrator aged 10 or over if two conditions are met. The court must:

- be satisfied, on the balance of probabilities, that they have engaged or threatened to engage in anti-social behaviour
- consider it just and convenient to grant the injunction for the purpose of preventing the behaviour.



If in the court's view the anti-social behaviour has involved violence or threats of violence or the perpetrator presents a significant risk of harm to others, a power of arrest can be attached to a condition of the injunction. Harm includes '*serious ill-treatment or abuse, whether physical or not*'.

If a power of arrest is attached and a police officer has reasonable cause to suspect a relevant condition has been breached, the perpetrator can be arrested without a warrant. Whether a power of arrest has been attached or not, the police can apply for a warrant for the perpetrator's arrest if they think any of the injunction's provisions have been breached.

In certain circumstances, the court has the power to grant an injunction excluding an adult from their home. It can do so if the application was made by the police force responsible for the area where the property is.

### **Criminal behaviour orders**

Criminal courts have the power to make a criminal behaviour order (CBO) when sentencing someone or discharging them conditionally. The CBO is made in addition to the sentence or conditional discharge order. The police can ask the prosecution to apply for a CBO. The court may make a CBO if two conditions are met. The court must:

- be satisfied, beyond reasonable doubt, that the offender has engaged in behaviour that caused or was likely to cause harassment, alarm or distress to any person
- consider that making the order will help in preventing the offender from engaging in such behaviour.

There does not have to be a direct link between the incident(s) that led to the person being brought before the court and the anti-social behaviour the order aims to prevent.

Breach of a CBO is a criminal offence. If you have a secure or assured tenancy, you can be evicted if someone living in or visiting your property breaches the terms of their CBO. See section 12 for more information on evictions.

### **Dispersal powers and closure notices**

The police can direct people to leave an area for up to 48 hours if they are behaving in a way which has caused, or is likely to cause, harassment, alarm or distress. They can close premises if they believe this is necessary to prevent nuisance or disorder from continuing, recurring or occurring. They do this by issuing a closure notice, which can last for up to 48 hours.

When a closure notice is issued, an application must be made to a magistrates' court for a closure order. Unless the closure notice is cancelled, the court must hear the application within 48 hours and can make an order prohibiting access to the premises or part of the premises for up to three months.

## 5.1 Police Community Support Officers (PCSOs)

PCSOs are employed by the police and focus on lower-level crime, disorder and anti-social behaviour. They are uniformed and spend most of their time on patrol in communities. Approach them if you have questions or concerns about anti-social behaviour. They have a range of powers, for example they can issue fixed-penalty tickets and confiscate alcohol consumed in public places.

## 6 What landlords can do

All landlords can take action against anti-social behaviour, but social landlords, such as local authorities and housing associations, are more likely to act and have more powers. Social landlords can apply for injunctions, although non-local authority landlords, such as housing associations, can only apply if the behaviour directly or indirectly relates to, or affects the management of, their housing.

If an injunction is made, the landlord can apply for a warrant for the perpetrator's arrest if they think a provision has been breached. The court has the power to grant an injunction excluding an adult perpetrator from their home if it is made on the application of a local authority or the social landlord that manages that property. Only a local authority landlord can ask the prosecution to apply for a CBO in criminal proceedings.

In any case, it is for the landlord to decide how best to use its powers and what action to take. If you are a social tenant, approach your housing officer for help with housing-related anti-social behaviour. If you are not a social tenant but the perpetrator is, you could contact their housing officer, make them aware of the problems you are experiencing and ask for their assistance.

All social landlords must publish policies and procedures for dealing with anti-social behaviour under the *Anti-social Behaviour Act 2003*. You can inspect a copy of these at reasonable times of day and request a copy for a reasonable fee. You can request a summary free of charge.

A housing officer should investigate the alleged anti-social behaviour before deciding on appropriate action. This may involve contacting the person you have complained about. If the alleged perpetrator is vulnerable, for example because of a mental health problem, the housing officer may involve other agencies such as social services.

If the person causing you problems is a private tenant and you know who their landlord or the letting agent managing the property is, contact them to let them know about the anti-social behaviour. If you are a social tenant, you could ask your housing officer to liaise with the landlord or letting agent on your behalf.

Private landlords have the power to evict tenants behaving anti-socially if other steps do not resolve the problem. They cannot apply for an injunction, but they can involve the local authority or the police.

## 6.1 Moving to alternative accommodation

You may want to move to alternative accommodation rather than try to resolve the problem, particularly if you are at risk of violence or are afraid of retaliation.

If you are a social tenant, your landlord may agree to re-house you in another property. This only happens in the most serious cases. Check your landlord's anti-social behaviour policies and procedures to see the circumstances when a transfer would be considered.

Regardless of your tenure, it may be possible to join your local authority housing waiting list if you want to move. Alternatively, you can make a homelessness application if it is no longer reasonable for you to occupy your property. See below for more information.

If you are offered alternative accommodation, check what type of tenancy you would have and whether this comes with the same security and rights. See factsheet 68, *Tenancy rights – security of tenure*, for more information.

### Mutual exchange

Social tenants can swap homes with other social tenants under '*mutual exchange*' schemes. However, it can take a long time to arrange a suitable swap.

You sometimes get a new tenancy when you carry out a mutual exchange, so check before you swap and make sure you are happy with your security of tenure and other rights. For more information, see factsheet 8, *Council and housing association housing*.

### Private tenants

It is extremely unlikely that a private landlord will re-house you if you are subject to anti-social behaviour. However, private tenancies tend to be granted for short periods of time with limited security of tenure. This gives you more flexibility if you experience anti-social behaviour, as you should be able to move quickly and without needing to consider your security.

If your tenancy is within a fixed term, check whether the agreement contains a break clause allowing you to leave early. If not, ask your landlord if they agree to you '*surrendering*' the tenancy. If they refuse, you may be liable to pay rent for the duration of the fixed term even if you leave the property.

See factsheet 63, *Finding private rented accommodation* for more information. **Note:** some older private tenancies have much stronger rights and should not be given up without very careful consideration.

## 7 What a local authority can do

Your local authority may be able to help even if it is not your landlord or your perpetrator's landlord. It can issue a Community Protection Notice, apply for an injunction against the perpetrator or request a CBO if they are in court on a criminal charge. It has a range of powers and duties in relation to specific anti-social behaviour issues as in section 4.

### Allocations

The local authority is responsible for '*allocating*' social housing in your area. This means selecting someone to be a council tenant or nominating them to be the tenant of accommodation owned by another social landlord. In most areas, there is high demand for social housing and a waiting list of people wanting an allocation (the '*housing register*').

Your local authority must have a policy on who can join its housing register and how applications are prioritised, known as its '*allocation scheme*'. It must publish a summary of the scheme and, if requested, provide you with a free copy. Read through this carefully and give the authority as much information as possible to evidence why you meet the criteria to join.

### Reasonable preference

Authorities must ensure that '*reasonable preference*' on the register is given to certain groups of people. This includes people who are homeless, people living in '*unsatisfactory housing conditions*' and people who need to move on medical or welfare grounds.

You may be able to argue that your property is unsatisfactory because of anti-social behaviour, or that you need to move as it is affecting your health and wellbeing. See overleaf for more information on homelessness.

Authorities can set policies giving '*additional preference*' to people in the reasonable preference groups who have urgent housing needs. Allocations guidance says this can include people needing to escape serious anti-social behaviour or domestic violence. Note that in some areas, the demand for social housing is so high that you may not be rehoused quickly, or at all, unless your case is particularly serious.

Local authorities in England can set policies excluding groups of people from their registers, but they must still ensure that reasonable preference is given to the groups mentioned above. They are encouraged to have a policy on dealing with exceptional cases.

Seek advice if your application is refused but you think you should be given reasonable preference, or if the authority will not consider making an exception for you.

For more information, see factsheet 8, *Council and housing association housing*.

## Homelessness

You can be treated as being homeless if it is not reasonable for you to remain in your property. It is not reasonable for you to remain if it is probable this would lead to you or a member of your household experiencing domestic or other violence.

Violence includes threats of violence likely to be carried out. Domestic violence has an even broader meaning and includes psychological, physical, sexual, financial or emotional abuse.

Being treated as homeless gives you reasonable preference on the housing register, but it is also possible to make a homelessness application to a local authority. Do not leave a property or terminate a tenancy without getting advice, as you may be considered '*intentionally homeless*'.

Be aware that local authorities can and do re-house homeless households in private rented accommodation, so you may be giving up security of tenure. For more information, see factsheet 89, *Homelessness*. In Wales, see Age Cymru factsheet 89w *Dealing with homelessness in Wales*.

## 8 The Community Trigger

If you have reported anti-social behaviour and are not getting any respite, you may be able to use the '*Community Trigger*'. This entitles you to a multi-agency review of your case if a certain threshold is met. In some areas, it is known as an '*ASB Case Review*'.

The agencies involved in the review are the local authority, local social landlords, the police and local Clinical Commissioning Groups (**England**) or Local Health Boards (**Wales**). They must publish policies setting out how a case review is conducted and specify the point of contact for making applications. The charity ASB Help has an online directory with contact points for each local authority.

The review threshold is determined locally, but must be set at no greater than three reports about a particular problem in a six-month period. It is not necessary for you to have made every report yourself. A report should be made within one month of the date on which the behaviour is alleged to have occurred and the review should take place within six months of the report, but local policies may allow longer time limits.

Agencies can consider how a particular report was handled when deciding if the review threshold is met, but the Community Trigger is not designed to be a complaints procedure. The aim is to find a solution to the anti-social behaviour, not to investigate whether an agency was at fault.

Agencies share information about the case and may require other bodies to provide information. They can make recommendations about what action should be taken.

## 9 Complaints

If you want to complain about how an agency has handled a report of anti-social behaviour, the procedure depends on the agency in question.

### Complaints about the police

You can complain if you have experienced or witnessed inappropriate behaviour from a police officer or member of police staff or been adversely affected by the conduct of a police officer or member of police staff.

Contact the relevant police force as soon as possible after the incident in question. The police can decide not to deal with a complaint received more than 12 months after the incident. If your complaint is outside this timeframe, give reasons for the delay.

Police forces are expected to take all complaints seriously, to listen to you and to act in a fair and balanced way to seek to put things right.

Within 15 working days, the police should tell you whether they have '*recorded*' your complaint. If your complaint is recorded, the police decide whether to deal with it locally or involve the Independent Office for Police Conduct (IOPC).

Some serious complaints must be referred to the IOPC. You can appeal to the IPCC about decisions taken at a local level, including a decision not to record your complaint. The IOPC has a guide to the police complaints system, available on its website.

### Complaints about social landlords

Social landlords must have a clear procedure for dealing with complaints. If you are dissatisfied with a social landlord's response to your complaint, ask your MP, local councillor or tenant panel (a '*designated person*') to intervene. They can help you to resolve the dispute or refer the complaint to the Housing Ombudsman (England) or the Public Services Ombudsman for Wales.

If they refuse to do either, get this in writing and contact the relevant Ombudsman directly. Alternatively, you can wait eight weeks from the date on the landlord's final decision letter and go straight to the Ombudsman without first contacting a designated person.

### Complaints about local authorities

If you are unhappy with how a local authority has handled your case, you can make a formal complaint. Ask your authority about its complaints procedure.

If you are dissatisfied with the response, you can escalate your complaint to the Local Government and Social Care Ombudsman in England, or the Public Services Ombudsman for Wales. Your complaint does not need to be referred by a designated person.

You must give the authority a reasonable amount of time to deal with your complaint before escalating it. Generally, you must complete the complaints procedure, which may have a number of stages. If you have not received a '*final viewpoint*' letter after 12 weeks, you can go straight to the relevant Ombudsman.

If the Ombudsman finds the authority was at fault, it may make recommendations about what it should do. For example, it may recommend the authority reviews its policies and procedures and/or awards compensation. The Ombudsman cannot tell the authority to move your neighbour or start legal proceedings against them.

If you think an authority has acted unlawfully by deciding not to take up your complaint, you can apply for a judicial review. However, courts usually intervene only in exceptional cases. Take advice if considering this course of action as costs are potentially significant.

In **England**, if you want to complain about how a local authority has acted as a landlord, you must complain to the Housing Ombudsman following the procedure in '*Complaints about social landlords*'. The Housing Ombudsman can conduct joint investigations with the Local Government and Social Care Ombudsman in certain circumstances.

## 10 Harassment

Harassment is prohibited under the *Protection from Harassment Act 1997*. It is not defined in the Act, except that it can involve causing another person alarm or distress.

This can be verbal abuse, threats, vandalism specifically directed against you, racial harassment or homophobic harassment. The perpetrator must have done this at least twice (although not necessarily to you each time) and must have known or ought to have known their behaviour amounted to harassment.

If you are being harassed, report each incident to the police as it occurs to build up evidence. If those responsible are local authority or housing association tenants, contact the landlord. Their powers are in section 6.

If you are a local authority or housing association tenant, your landlord may be able to assist you with moving if this is what you want and would resolve the problem. See section 6.1 for information on how your landlord can help you to move and section 7 for information on social housing allocations, homelessness and anti-social behaviour.

Under the Act, you can take your own civil action in cases of harassment. You can apply to the court for an injunction against the person or people responsible.

For information about homophobic and transphobic harassment and crime and how to report it, see the Guide *Lesbian, gay, bisexual or transgender*. For information about landlord harassment, see factsheet 68, *Tenancy rights – security of tenure*.

## 11 Private legal action

If the nuisance is a statutory nuisance (see section 4.1) and you wish to take action yourself, you may be able to do so through a magistrates' court under section 82 of the *Environmental Protection Act 1990*. This involves prosecuting the perpetrator for a criminal offence. It is essential you seek legal advice and, if possible, legal representation before bringing a prosecution.

You can take civil action if a neighbour uses their property unreasonably and this affects your use and enjoyment of your home, or if they have been arrested under the *Protection from Harassment Act 1997*. You must usually prove you have suffered some damage or harm as a result of the anti-social behaviour. Cases are usually heard in a county court and the available remedies are compensation for the damage or harm suffered and/or an injunction against the perpetrator.

Court action can be complex and costly, so take advice before you proceed. If the case fails, you normally incur your own costs and may incur the costs of the other party. For more information, see factsheet 43, *Getting legal advice*, or speak to an advice agency like Citizens Advice.

## 12 I've been accused of anti-social behaviour

This section explains how your security of tenure, your ability to join the local authority housing register and other housing rights may be affected if you are accused of anti-social behaviour.

### 12.1 Security of tenure

Security of tenure means how easy or difficult it is to evict you. Social landlords can give new tenants probationary tenancies with limited security and downgrade existing tenants' security if they engage in anti-social behaviour.

They can take steps to evict you if you have been accused of anti-social behaviour or if your property has been used for anti-social, immoral or illegal purposes. For more information, see factsheet 68, *Tenancy rights – security of tenure*.

#### 12.1.1 Probationary and demoted tenancies

Some local authorities grant probationary tenancies, called '*introductory*' tenancies, to new tenants. These normally run for a 12-month period, during which time the tenancy can be terminated if the landlord is concerned about the household's behaviour.

The landlord can do this without having to prove a ground for possession in court, but they must follow the correct procedure and you may be able to argue that eviction would be irrational, discriminatory, or would breach your human rights.



Other social landlords, such as housing associations, may grant 12-month '*starter*' tenancies to new tenants. These are assured shorthold tenancies and have limited security.

Both introductory and starter tenancies can be extended by a further six months to a total of 18 months if the landlord is not satisfied with your household's rent record or behaviour during the first 12 months.

Social landlords can apply to court to have your existing social tenancy '*demoted*' if they believe you, someone you live with or a visitor to the property has engaged in anti-social behaviour.

A demotion order downgrades your security of tenure. Demoted secure tenants have similar security to introductory tenants and demoted assured tenants become assured shorthold tenants.

A court may grant a demotion order if you, another resident or visitor has used or threatened to use the property for illegal purposes, or has behaved or threatened to behave in an anti-social manner.

**Note:** the definition of anti-social behaviour used here is quite complex and differs from the definitions in section 1.

Seek advice immediately if your landlord is proposing to terminate your introductory or starter tenancy or demote your secure or assured tenancy.

### 12.1.2 Eviction

There are specific grounds (or reasons) that landlords can rely on in court if they want to evict you for anti-social behaviour.

Evictions are usually considered only in the most serious cases and as a last resort. Other measures listed above such as mediation, demotion of tenancy or applying for a court order should be attempted first.

In some cases, possession can only be sought if anti-social behaviour has been proven in another court.

Landlords must be careful not to unlawfully discriminate against perpetrators who, under the *Equality Act 2010*, have a '*protected characteristic*' such as disability, race, sexual orientation or religious belief.

For more information, see factsheet 79, *Equality, discrimination and the Public Sector Equality Duty*.

## Secure and assured tenancies

In certain circumstances, the court has discretion over whether to allow eviction. This is if you (or a person living with you) have been convicted of a riot offence or where you (or a person living with or visiting you) have been:

- guilty of conduct causing or likely to cause nuisance or annoyance to a person residing, visiting or otherwise engaging in a lawful activity in the area
- guilty of conduct relating to or affecting the landlord's housing management where this conduct has caused, or is likely to cause, nuisance or annoyance to the landlord or their employee, or
- convicted of:
  - using the property or allowing it to be used for immoral or illegal purposes, or
  - an arrestable offence committed in the property or in the nearby area.

There is an '*absolute*' ground a landlord can use to seek possession of a property let on a secure or assured tenancy. Broadly speaking, this means the court has no choice but to allow eviction if it is satisfied that one of the following conditions has been met:

- you (or someone living in or visiting the property) have been convicted of certain serious offences that took place nearby, against someone who lives nearby or against the landlord or someone employed in connection with the landlord's housing management functions
- a court has found that you (or someone living in or visiting the property) have breached a provision of a relevant injunction (except a provision requiring you or them to participate in a particular activity)
- you (or someone living in or visiting the property) have been convicted of a breach of a CBO prohibiting you from doing something in the area
- a closure order has been made on your property and access has been prohibited for more than 48 hours
- you (or someone living in or visiting the property) have been convicted of an offence under the *Environmental Protection Act 1990*, having breached an abatement notice or court order in relation to noise nuisance.

If the landlord is a local authority, they must comply with certain specific notice and review requirements.

If you have an assured shorthold tenancy, your landlord can take steps to evict you without having to prove a ground to the court after six months have passed or any longer fixed term has elapsed.

## Protected and statutory (regulated) tenancies

The court may grant an order for possession where you (or any person residing or lodging with you or any sub-tenant) have been guilty of conduct which is a nuisance or annoyance to adjoining occupiers, or have been convicted of using the property or allowing the property to be used for immoral or illegal purposes.

Instead of making an order, the court may agree to accept a formal undertaking from you not to commit any further breaches of the tenancy agreement. Alternatively, the court may decide it is not reasonable to make an order, or it is reasonable to '*suspend*' an order on terms that you will not engage in further acts of anti-social behaviour.

### 12.1.3 Wales

In Wales, under the *Renting Homes (Wales) Act 2016*, the rules on tenancy types are changing in the future, with the creation of two types of tenancy. Most private sector tenancies will become a '*standard contract*' (modelled on the current assured shorthold tenancy).

The other tenancy type will be a '*secure contract*', primarily issued by local authorities and housing associations. However, private landlords will be able to opt for a secure rather than standard contract if they wish.

All other tenancy types – assured tenancies, assured shorthold tenancies, introductory tenancies, demoted tenancies – will be replaced once the law is implemented. Landlords will still be able to take steps to evict tenants engaging in anti-social behaviour, but there is no '*absolute*' anti-social behaviour ground under which a court must make an order for possession.

Significantly, the Act will work retrospectively. It will not just be future rental agreements that convert to the new contracts - existing tenancy agreements will also be converted.

The Welsh Government has not announced when the Act will be implemented. Therefore, existing rules on different tenancy types, as outlined above, continue to apply for the time being.

Contact Shelter Cymru or the Welsh Government for more information, as there may have been new developments since this factsheet went to press. Or contact Age Cymru Advice.

The *Renting Homes (Wales) Act* section on the Welsh Government website is at:

[www.gov.wales/topics/housing-and-regeneration/legislation/rentingbill](http://www.gov.wales/topics/housing-and-regeneration/legislation/rentingbill)

## 12.2 Getting social housing

You may find it more difficult to get social housing if you have been accused of anti-social behaviour in the past.

You may be excluded from your local authority's social housing waiting list ('*housing register*') or be given less priority than other applicants. For more information on social housing allocations, see section 7.

### Reasonable preference

The law says local authorities must give '*reasonable preference*' to certain groups of people when drawing up policies on who gets social housing and how applications are prioritised. They can set additional criteria to help distinguish between people in the reasonable preference groups.

One factor they can take into account is your behaviour or the behaviour of a member of your household, if this would affect your suitability as a tenant. This means you can be given lower priority than someone else with reasonable preference, because you or someone living with you has a history of anti-social behaviour.

You should be able to request a review of the level of priority you are given – there is likely to be a deadline by which you have to do this.

### In England

Social housing can only be allocated to '*qualifying*' people. A local authority has powers to decide which groups of people qualify to join its housing register and may decide to adopt a policy excluding people with a history of anti-social behaviour.

If such a policy exists, the authority's decision should be based on evidence such as a previous eviction or injunction, and should take account of how long ago the behaviour occurred and whether you have been able to hold a satisfactory tenancy since.

If the local authority has reason to believe your behaviour was due to a disability or mental health problem, it should consider whether you could maintain a tenancy if appropriate support were given.

If you have applied to join your local authority's housing register and been told that you do not qualify because of previous anti-social behaviour, seek advice immediately.

You have a right of review against the decision – there is likely to be a deadline by which you have to do this.

## In Wales

Local authorities in Wales have the power to make you ineligible for their allocation scheme if you or a member of your household have been involved in '*unacceptable behaviour*' of a serious nature, which could include anti-social behaviour towards your neighbours.

To do this, the authority must have the necessary evidence and follow certain steps to justify its decision. A specialist housing organisation, such as Shelter Cymru, can provide more information on these procedures.

If the authority has reason to believe your behaviour was due to a disability or mental health problem, it must consider whether you would be able to maintain a tenancy with appropriate support before deeming you to be ineligible.

## 12.3 Other measures

The *Housing Act 2004*:

- gives landlords of secure tenants the right to refuse mutual exchange applications if action has been taken against the household on anti-social behaviour grounds or if such action is pending
- enables landlords of secure tenants to seek an order suspending the Right to Buy for a specified period on the grounds of anti-social behaviour
- suspends the landlord's obligation to complete a Right to Buy sale where some types of court action relating to anti-social behaviour are pending.

## Useful organisations

### **Action on Elder Abuse**

[www.elderabuse.org.uk](http://www.elderabuse.org.uk)

Telephone 0808 808 8141

Works to protect and prevent the abuse of vulnerable older adults.

### **Action on Hearing Loss**

[www.actiononhearingloss.org.uk](http://www.actiononhearingloss.org.uk)

Telephone 0808 808 0123

National organisation offering information and support to people who are deaf or hard of hearing.

### **ASB Help**

[www.asbhelp.co.uk/](http://www.asbhelp.co.uk/)

A charity offering advice and support to victims of anti-social behaviour in England and Wales. They have an online Community Trigger Directory to help you find the point of contact for using the Community Trigger in your area.

### **Citizens Advice**

[www.citizensadvice.org.uk](http://www.citizensadvice.org.uk)

In England telephone 0344 411 1444

In Wales telephone 0344 477 2020

National network of advice centres offering free, confidential, independent advice, face to face or by telephone.

### **Galop**

[www.galop.org.uk](http://www.galop.org.uk)

Telephone 020 7704 2040

London's lesbian, gay, bisexual and transgender (LGBT) community safety charity; they offer advice and casework and have factsheets available on their website.

### **Gov.uk**

<https://www.gov.uk/guidance/noise-nuisances-how-councils-deal-with-complaints>

Gov.uk is the government website that provides online information on variety of subjects and services. There is specific information on how local authorities deal with noise complaints.

### **Home Office (The)**

<https://www.gov.uk/government/publications/anti-social-behaviour-crime-and-policing-bill-anti-social-behaviour>

This government department website has information on anti-social behaviour, including how to report it and what government is doing about it. There is a statutory guidance document aimed at frontline professionals, *Anti-social Behaviour, Crime and Policing Act 2014: Reform of anti-social behaviour powers*, which contains useful information about the changes brought in by recent legislation.

### **Housing Ombudsman Service (The)**

[www.housing-ombudsman.org.uk](http://www.housing-ombudsman.org.uk)

Telephone 0300 111 3000

Investigates complaints about landlords made by tenants in England. Social landlords registered with the social housing regulator, the Homes and Communities Agency, must be members of the scheme. Membership is voluntary for private landlords and very few are members.

### **Independent Office for Police Conduct (IOPC)**

<https://policeconduct.gov.uk/complaints-and-appeals/make-complaint>

Telephone 0300 020 0096

The body responsible for overseeing the police complaints system in England and Wales. They investigate certain serious complaints against the police and deal with appeals in relation to complaints that are managed locally.

### **Local Government and Social Care Ombudsman**

[www.lgo.org.uk](http://www.lgo.org.uk)

Telephone 0300 061 0614

Investigates complaints in England of injustice arising from maladministration by local authorities.

### **Ministry of Housing, Communities and Local Government (MHCLG)**

[www.gov.uk/government/collections/high-hedges](http://www.gov.uk/government/collections/high-hedges)

A government department which produces a number of leaflets on problem hedges.

### **Public Services Ombudsman for Wales**

[www.ombudsman-wales.org.uk](http://www.ombudsman-wales.org.uk)

Telephone 0300 790 0203

Looks to see whether people have been treated unfairly or have received a bad service from a public body, such as a local authority or social landlord.

### **Shelter**

[www.shelter.org.uk](http://www.shelter.org.uk)

Telephone 0808 800 4444 (free call)

A national charity providing telephone advice to people with housing problems on tenancy rights, homelessness, repairs and housing benefit.

### **Shelter Cymru**

[www.sheltercymru.org.uk](http://www.sheltercymru.org.uk)

Telephone 0345 075 5005

### **Victim Support**

[www.victimsupport.org.uk](http://www.victimsupport.org.uk)

Telephone 08 08 16 89 111

Victim Support is a charity that supports people affected by crime.

### **Welsh Government**

[www.wales.gov.uk](http://www.wales.gov.uk)

Telephone 0300 0604400

The devolved government for Wales. Its website has information on housing policy in Wales.

### **Welsh Women's Aid (WWA)**

[www.welshwomensaid.org.uk](http://www.welshwomensaid.org.uk)

Telephone 02920 541 551

WWA is a national umbrella organisation for Wales, representing local Women's Aid Groups situated across the country. They provide advice and services for women who are experiencing domestic abuse.

WWA manage a 24-hour domestic and sexual violence helpline, the **Live Fear Free Helpline**: 0808 8010 800.

### **Women's Aid**

<http://www.womensaid.org.uk/>

Telephone 080 2000 247

A national domestic violence charity that helps up to 250,000 women and children every year.

24-hour national domestic violence helpline is run in partnership with Refuge: 0808 2000 247 (Freephone).



## Age UK

Age UK provides advice and information for people in later life through our Age UK Advice line, publications and online. Call Age UK Advice or Age Cymru Advice to find out whether there is a local Age UK near you, and to order free copies of our information guides and factsheets.

### Age UK Advice

[www.ageuk.org.uk](http://www.ageuk.org.uk)

0800 169 65 65

Lines are open seven days a week from 8.00am to 7.00pm

### In Wales contact

#### Age Cymru Advice

[www.agecymru.org.uk](http://www.agecymru.org.uk)

0800 022 3444

### In Northern Ireland contact

#### Age NI

[www.ageni.org](http://www.ageni.org)

0808 808 7575

### In Scotland contact

#### Age Scotland

[www.agescotland.org.uk](http://www.agescotland.org.uk)

0800 124 4222

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