

Appendix 4

Legal Remedies

Legal remedies are a range of tools available to us to take action against perpetrators, including:

1.0 Injunctions

1.1 Injunctions are court orders which instruct a person that they are not allowed to commit a certain act, and can include both prohibitive and positive measures as a means to control anti-social behaviour. A person(s) that fails to comply with an injunction faces criminal or civil penalties, and they can also be charged with contempt of court.

1.2 Twenty11 can apply for injunctions based on tenancy terms or non-trespass.

1.3 Injunctions can be used, for example, to:

- Protect staff and customers, including preventing domestic abuse
- Stop/restrict certain behaviours e.g. prevent someone posting online
- Give access when it is being refused e.g. to carry out a repair
- Stop someone entering premises e.g. visitors that are causing a nuisance
- Remove obstructions or building work that have not received landlord's permission
- Exclude perpetrators from specified areas
- Make someone do something positive e.g. improve state of their home

Injunctions against tenants can therefore help tackle things such as vandalism, violence, harassment, and threatening behaviour on their estates.

2.0 Notices, possession action and eviction

2.1 We will take appropriate remedies to enforce behaviour when needed, including possession action against a tenant in cases of serious or persistent anti-social behaviour, where they have high penalty points on their Tenancy Sustainment Licence, and/or they haven't engaged with us and/or other support agencies. In these type of circumstances, we may decide not to renew a tenancy rather than take possession action, depending on the most timely and appropriate solution.

2.2 The grounds for possession in the Housing Acts of 1985 and 1988 can be used, e.g. Section 8 or 21 Notice Requiring Possession. In addition, further grounds

for possession were introduced by the Anti-Social Behaviour Crime and Policing Act 2014 as outlined below:

- a) **Mandatory grounds:** A mandatory ground was inserted as ground 7A into Schedule 2 of the Housing Act 1988 for assured and assured shorthold tenants. The Court must make a possession order under these provisions if one of five conditions is met. These requirements are detailed in our anti-social behaviour procedures. They include conviction for a serious offence committed in the locality of the premises, or elsewhere against a person with a right to reside in the locality or against a person employed by the landlord in connection with its housing management functions.

For details on how we will enforce these mandatory grounds please see our anti-social behaviour procedures which includes the handling of requests for reviews. The intention of the Anti-Social Behaviour, Crime and Policing Act 2014 is to expedite the eviction of the most anti-social resident and bring faster relief to victims and communities.

- b) **Discretionary grounds:** In addition to the mandatory ground, two discretionary grounds were introduced:
- Nuisance or annoyance to the landlord or persons employed in connection with the landlord's housing management functions (new grounds 2(a)(aa) to Schedule 2 to Housing Act 1985 and 14(a)(aa) Schedule 2 to Housing Act 1988); and
 - Conviction for an offence at the scene of a riot (new grounds 2ZA to Schedule 2 to the Housing Act 1985 and 14ZA to Schedule 2 Housing Act 1988)

Many cases falling within these grounds will still be covered under the existing grounds for anti-social behaviour and breach of tenancy.

3.0 Criminal Behaviour Order (CBO)

3.1 A CBO is available on conviction for a criminal offence in a criminal court. The order is aimed at tackling the most serious and persistent offenders where their behaviour has brought them before a criminal court. CBOs include prohibitions to stop the anti-social behaviour, and may also include requirements to address the underlying causes of the offender's behaviour.

3.2 The police will usually raise the possibility of an application for a CBO against an individual at the point of charge. Using this tool therefore depends on us sharing information and working effectively with the police. Two conditions have to be met:

- i. The court is satisfied beyond reasonable doubt that their behaviour has caused or is likely to cause “harassment, alarm or distress” to person(s) not of the same household.
- ii. The court considers that making a CBO will help to prevent the offender engaging in such behaviour.

4.0 Community Protection Notice

4.1 This notice can be used by the Police and Local Authority where the unreasonable and persistent conduct of an individual (over 16) or body has a detrimental effect on the quality of life in a locality. It can be served once an informal warning is ignored and requires the recipient to stop, do or take steps to achieve a defined result. It is a very versatile tool, in that it can also be used against residential issues, such as loitering and environmental issues such as fly tipping. It can be issued by either the Police or designated Council Officer.

5.0 Closure Notice/Order

5.1 Local authorities or the police can serve Closure Notices where there is, or a threat of, serious disorderly conduct, nuisance or criminal behaviour. Before issuing a closure notice the Act requires that those considered appropriate have been consulted. Initially restricting access for 48 hours to those habitually resident, notices can be converted into orders lasting for up to 6 months by applying to the magistrates’ court. A Closure Order can ban all access and a breach is a criminal offence.

6.0 Court Undertaking

6.1 This is a promise to the court signed by an individual and can be used to address in anti-social behaviour. It is not an admission of guilt, but a promise about future conduct.

7.0 Noise Abatement Notice

7.1 The Council’s Environmental Health can detect statutory noise nuisance by installing a noise monitor into a neighbouring property. A Noise Abatement Notice is served and if the nuisance persists, they have the power to seize noise making equipment. If such a Notice is breached, we are likely to take formal tenancy action, depending on the circumstances of the perpetrator and victim. Breaching such a Notice would enable us to seek possession on mandatory grounds. See Appendix 3 on noise nuisance.

8.0 Community Remedy

8.1 The Community Remedy is a list of actions and punishments decided at a local level by the Council and the Police. It gives victims a say in the out of court punishments for perpetrators of low level crime and in anti-social behaviour. It is

on the proviso that the perpetrator has admitted their actions, seeks to make amends and such a course of action is sought by the victim.

9.0 Acceptable Behaviour Contracts (ABC)

- 9.1 Whilst not a legal remedy, these can precede legal action and are a useful tool to help improve behaviour. An ABC is a written agreement between a person who has been involved in anti-social behaviour and one or more local agencies (such as a landlord and the police) whose role it is to prevent such behaviour. ABCs are most commonly used for young people but may also be used for adults.
- 9.2 The contract is agreed and signed at a meeting with the individual and the lead agencies. Where the person whose behaviour is at issue is a child or young person, parents or guardians will be encouraged to attend.
- 9.3 The contract specifies a list of anti-social acts in which the person has been involved and which they agree not to continue. Support to address the underlying causes of the behaviour may be offered in parallel to the contract. The threat of legal action if the ABC is breached provides an incentive to ensure that the contract is adhered to.