

JS/CM

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The Rt. Hon. John Prescott MP
Deputy Prime Minister
Office of the Deputy Prime Minister
26 Whitehall
London SW1A 2WH

10 February, 2005

Dear Mr Prescott

Dudley MBC puts the needs of the community and the law-abiding public at the very centre of its service provision.

We take the issue of anti-social behaviour and neighbour nuisance very seriously and in this respect are concerned about the present legislation, as it exists in three important respects:

- 1) Section 93 of the Housing Act 1985 allows any persons to reside as lodgers with the permission of a secure Council tenant. Therefore, at present the Council, as a landlord has no powers to prevent its secure tenants from taking in lodgers even though the lodger may previously have been evicted from local authority accommodation on the grounds of anti-social behaviour/neighbour nuisance. The Council is of the view that the legislation should be amended to allow a secure tenant only to take in a lodger with the permission of the landlord, such consent not to be unreasonably withheld.
- 2) As the legislation exists at present there is no restriction on a Registered Social Landlord from offering a tenancy to a person who has previously been evicted from local authority accommodation on the grounds of anti-social behaviour/neighbour nuisance. The legislation should be amended so that a Registered Social Landlord cannot grant a tenancy to a person who has previously been evicted from local authority accommodation on the grounds of anti-social behaviour/neighbour nuisance.
- 3) In respect of possession proceedings it is clear that the courts' powers under Section 85 of the Housing Act 1985, must be exercised judicially, but there is little guidance as to the circumstances in which possession orders should be suspended. The Council is of the view that in all cases where a court determines that it is reasonable to make a possession order on the grounds of neighbour nuisance or anti-social behaviour, the law should provide for the order to take immediate effect and there should be no provision, which will enable the court to suspend that order.

We would be grateful if you could consider the above points, which will build upon existing legislation and further assist the Council in controlling the major problems of anti-social behaviour and neighbour nuisance.

Yours sincerely,

Councillor Michael Evans
Cabinet Member for Housing
Dudley Metropolitan Borough Council



Office of the
Deputy Prime Minister

Creating sustainable communities

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ie Call Sue

THE HOUSING ACT 1985

Thank you for your letter of 10 February to the Deputy Prime Minister about anti-social behaviour (ASB) and section 93 of the Housing Act 1985. I am replying as housing comes under my area of responsibility.

It might be helpful if I answer your points in the order in which you raised them. We do not at this stage consider it necessary to introduce a measure which would require a tenant to seek the permission of their landlord prior to taking in lodgers. There are many tools available to landlords that can be deployed where a tenant's lodger carries out ASB. Social housing tenancy agreements should contain a clause making it clear to tenants that anti-social behaviour or illegal activity (whether by the tenant, people who live with the tenant or visitors) is not acceptable and may lead to the loss of their home. A range of tools including housing injunctions and demotion orders (as introduced by the Anti-social Behaviour Act 2003) may also be used to tackle such cases swiftly, as well as Acceptable Behaviour Contracts (ABCs) and Anti-social Behaviour Orders (ASBOs). Development of landlord's Policies and Procedures on ASB should also have provided an opportunity to engage in dialogue with tenants regarding their responsibilities and the action that will be taken should they not discharge them properly.

Your second point asked for legislation to be amended so that a Registered Social Landlord (RSL) cannot grant a tenancy to a person who has previously been evicted from local authority accommodation on the grounds of anti-social behaviour. Therefore at this stage we do not believe it is necessary to add a further measure which would limit the freedom of the majority of tenants to treat their accommodation as their own home, in order to deal with a small minority of cases where alternative measures are now available. As you might be aware, RSLs are independent bodies and free to set their own lettings policies within the regulatory framework set by the Housing Corporation.

The Housing Corporation's regulatory code is very clear that RSLs must co-operate and work with local authorities, in particular, it stipulates that local authorities should be consulted on criteria for accepting or rejecting nominees and other applicants for housing.

The Housing Corporation also issued circular no. 07/04 in July 2004, which makes clear their expectations of housing associations when assessing the eligibility of applicants for a housing association home and when working to prevent or respond to breaches of tenancy.

The Circular states that ineligibility for housing on the ground of ASB should be based on evidence of the behaviour. It outlines that previous tenancy enforcement action for anti-social behaviour should not be taken into account if it occurred two or more years prior to the date of application and the tenant's household has conducted a tenancy satisfactorily in the intervening period. The Government believes this strikes the right balance between protection of existing tenants of RSLs with recognition of the fact that those who commit ASB can and do permanently change their behaviour.

Finally, you also suggest the Court's discretion to grant suspended orders should be removed in cases relying on ASB grounds. Where possession has been sought due to ASB the suspension of the order is usually on condition that the tenant taking action to ensure no further anti-social conduct takes place. If the ASB does not cease, then the landlord may of course apply to the Court for a warrant of eviction. As an alternative to seeking a possession order, a landlord may also decide to apply for a Demotion order. Court rules allow the landlord to apply for demotion alongside their possession application. This allows the court to consider the evidence brought forward by the landlord in order to seek possessions or demotion and to decide which option would present the best solution. Where a possession order is not granted but the court decides that a demotion order is applicable, this provides a tenant with a serious warning that should their behaviour continue they run the risk of losing their home.

It is proper that possession action should only be taken when all other options have been exhausted. There will sometimes be cases when the behaviour is so serious that seeking outright possession immediately is entirely justified and supported by the courts. There may be others where a suspended order or demotion is appropriate, giving the tenant one last chance, while ensuring that if they transgress they will be likely to lose their homes. It is important to note that a landlord may also apply for injunctive measures (for example ASBOs or housing injunctions, which are available without notice where necessary) to protect the wider community swiftly where there are concerns ASB will continue once possession proceedings have been launched.

We keep all issues around housing and antisocial behaviour under review and shall certainly continue to consider these issues further alongside evidence about the impact of current measures and whether any further changes are needed.



YVETTE COOPER