



Working together
to address anti-social
behaviour in our communities



appg

**First inquiry of the
All-Party Parliamentary Group
on Anti-Social Behaviour**

The APPG would like to thank these organisations for their participation in the inquiry:



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About the group

The All-Party Parliamentary Group (APPG) on anti-social behaviour (ASB) is a forum to discuss anti-social behaviour. More specifically, how the agencies and people involved can work together to reduce the problem and respond better when it does occur, with the goal of creating stronger communities where people and families can thrive.

Convened and sponsored by one of the country's largest providers of affordable homes, Midland Heart, and chaired by Shaun Bailey MP, the group is made up of MPs from all three main parties in England, and supported by Resolve, ASB Help, Association of Police and Crime Commissioners, TPAS, Local Government Association, and other interested groups.

Acknowledgments

In conducting this inquiry, the group heard evidence from a wide range of people and groups, tenants, law enforcement professionals and victim support groups. In publishing this report, the group would like to thank everyone who gave up their time to provide evidence. The group would particularly like to thank the Office of the West Midlands Police and Crime Commissioner for supporting the inquiry and hosting a hybrid inquiry session of interested stakeholders.

Foreword

Sadly, for far too long the lives of people within our communities are blighted by mindless and senseless actions of a few.

Across political parties and all parts of our country we want to see our communities become places that people not only want to live in, but where businesses want to invest, and opportunity is equally created. To do this we must address Anti-Social Behaviour (ASB) head on, increasing support for those organisations on the frontline of this work.

The All-Party Parliamentary Group on Anti-Social Behaviour has now completed its first inquiry and published this, the report of their findings and recommendations.

The group has heard evidence from housing providers, ASB specialists, Police services from across the country, academics researching ASB and tenants themselves about what the problems are in the system, and more importantly, how things can be improved.

The report makes several recommendations for government, and housing providers and their partners, as well as some specific recommendations regarding alternative methods of dealing with perpetrators of ASB, namely specialist housing courts, problem-solving courts, and reform to the 'ASB Case Review' or 'Community Trigger' to ensure it functions as it should.

The work of the APPG on Anti-Social Behaviour and the recommendations of the report have the backing of MPs, Police and Crime Commissioners, the Association of Police and Crime Commissioners, Resolve, ASB Help and the Local Government Association. We commend the work of the group and the report to Parliament, those individuals and organisations working to address ASB, tenants, and the wider public.

Signed,



Baroness Helen Newlove
(APPG Vice Chair)



Mike Amesbury MP
(APPG member and
Vice-President of the
Local Government
Association)



Sarah Green MP
(APPG member).

Glossary of terms

Anti-Social Behaviour (ASB) – this is defined in the Anti-Social Behaviour, Crime and Policing Act 2014 as:

- Conduct that has caused or is likely to cause harassment, alarm, or distress to any person.
- Conduct capable of causing nuisance or annoyance to a person in relation to that person's occupation of residential premises or
- Conduct capable of causing housing-related nuisance or annoyance to any person.

Anti-Social Behaviour Injunction (ASBI) – Generally referred to as 'Civil Injunctions', this is an injunction granted by a court. An ASBI can be granted against any person of 10 years old or over if two conditions are met:

- the court is satisfied on the balance of probabilities that the person has engaged or threatens to engage in anti-social behaviour; and
- the court considers it just and convenient to grant the injunction to prevent the person engaging in anti-social behaviour.

An ASBI can be applied for by a local authority, housing provider, Transport for London, or the NHS. An ASBI is granted for a specified time period and can require a person to either do a certain thing or prohibit from them committing ASB. An ASBI is a civil order and breach carries no criminal record.

Anti-Social Behaviour Order (ASBO) – ASBOs were a civil order made against a person found to have committed ASB. Although, the court had to apply a higher standard of proof, similar to the criminal standard ('beyond a reasonable doubt'). ASBOs mainly told people how they 'must not behave'. They are still in use in Scotland and Northern Ireland but have been superseded by injunctions and 'Criminal Behaviour Orders' (see below) in England.

Closure Order – A closure order can be granted by a magistrate if they believe ASB is related to a specified premises. A closure order can prohibit access to all or part of a premises, at all times or specified times and by everyone or specified people. A closure order can last for a maximum of three months; however, the police may apply for an extension of up to six months if the ASB has not stopped.

Community Remedy – This is a more informal arrangement where a person has committed ASB but is to be dealt without court proceedings. It is a prepared list of actions, and the victim can select one of these to be carried out by the perpetrator. The list must be prepared/revised in consultation with the Chief Officer for the area and with public consultation as the Chief Officer considers necessary.

ASB Case Review – Also known as the 'Community Trigger' the ASB Case Review gives victims of persistent anti-social behaviour reported to any of the main responsible agencies the right to request a multi-agency case review of their case where a local reporting threshold is met. Agencies have a duty to undertake a case review when someone requests one and their case meets a locally defined threshold.

Criminal Behaviour Order (CBO) – The CBO is an order that can be made following conviction, for any criminal offence, in Crown Court, Magistrates' Court or Youth Court. An order can prohibit a person from doing anything described in the order or require a person to do anything described in the order. It is a criminal offence to, without reasonable excuse, break the terms of a CBO (CBOs replace ASBOs upon conviction, becoming a CrASBO) and 'Drinking Banning Orders' (DBOs).

Dispersal Order – A 'Dispersal Order' gives the Police powers to ask groups of two or more people to leave a specified area, if they are doing anything wrong or suspect they may do so. The Police may ask those persons not to return for 24 hours. Non-compliance with a Dispersal Order is an arrestable offence and could lead to a criminal conviction.

Public Space Protection Order (PSPO) – PSPOs can be used where a local authority is satisfied that activities are happening that have a detrimental effect on quality of life. A PSPO can prohibit and/or require specific behaviours in public areas, both of which must be defined in the order. Breach of a PSPO is usually dealt with via a 'Fixed Penalty Notice' (FPN). Non-payment is dealt with in the same way as for all unpaid fines and can lead to imprisonment.

Community Protection Notice – Community Protection Notices (CPNs) are designed to stop a person aged 16 or over, business or organisation committing anti-social behaviour (ASB) which spoils the community's quality of life. This can include offences such as noise nuisance, eyesore rubbish on private land and anti-social behaviour. A CPN can be issued by council officers, police officers, police community support officers (PCSOs) or social landlords, if designated by the council.

Landlords – For the purposes of this report, this generally means registered providers of social housing, however, it could refer to any landlord working with partners to address ASB.

Executive summary

Anti-Social Behaviour is a serious problem in and for our communities, it makes life miserable for people whether they are direct or indirect victims, it also opens perpetrators up to situations in civil court where they can be given custodial sentences without the protections of a criminal court. Whilst this brings relief to victims, it offers no solution to any underlying problems causing the ASB.

Dealing with the problem in civil court via 'contempt' processes also means that data on convictions for ASB are not recorded systematically as convictions in criminal cases would be. There is therefore no data available which can be used to get a full picture of either the scale of the problem or the success of different solutions. This is mirrored in the way that ASB is dealt with in local authority areas, but local data cannot not currently be aggregated at national level – this makes learning from good practice difficult, if not impossible.

The courts themselves are overburdened and lack the expertise to deal with, what are often, complex cases. Cases involving ASB may also be complicated by involving tenancy law, arrears, and evictions. These cases would also benefit from a more expert court. ASB cases can also take a long time to get to court. Dealing with ASB is highly time sensitive and resolutions should be quick and effective. Hearing cases more quickly would prevent the problem worsening and enable swifter interventions.

Landlords, the Police, and other community services have all felt the impact of funding reductions since 2010. This means they can either only deal with the most serious cases or that there are long waiting lists that create delays in interventions being forthcoming.

This report makes a number of recommendations to begin to resolve some of these issues. These are summarised below, and the body of the report goes into more detail about the nature of the problems and the potential solutions.

It is vital for individuals, households, and communities that ASB is dealt with quickly and effectively. This means having services that have the funding and expertise to intervene effectively, courts that have the time and knowledge to deal with ASB cases and pass appropriate sentences, and where data is available to assess and replicate the best solutions across the country. A summary of the recommendations follows.

Summary of recommendations

The report's recommendations are summarised below. They have been broadly themed here, so appear in a different order to in the main body of the report.

Recommendations for government (primarily):

- Government, PCCs and other stakeholders should clarify the definition of ASB and threshold for action through a national awareness campaign
- Problem Solving Courts should be introduced more widely as they offer a way to address criminal behaviour and divert offenders away from custodial outcomes
- Government, local authorities, and partners need to do more promote the ASB Case Review and have the ability to raise them independently of victims
- Landlords should have statutory status – they are key partners in ASB cases
- Landlord powers should be reviewed – they should have 'closure powers'
- Government & Local Authorities should assess how they can best support community organisations in addressing ASB inc. specialist services.
- Government, the Police, landlords and other stakeholders need to do more to communicate clearly with the public what is considered ASB and what is not, and what can be done to address it
- Government should work with the APPG, courts, Police, and others to author clear guidance on how powers should be used including sentencing guidelines
- Government should consider how it can offer greater protections to defendants in ASB cases and ensure that sentences reflect the best course of action in individual cases. Imprisonment should remain an option in the most serious cases, subject to the protections stated
- ASB should be added to the Victim's Bill to ensure adequate aftercare is provided to victims
- The Civil Justice Council report of July 2020 made fifteen recommendations that the Government should implement fully and without delay.

Recommendations for landlords and their partners:

- The social housing sector should produce and promote a 'best practice' document for communicating ASB practice and support to customers
- Landlords and their partners should publish and publicise the number of ASB cases they deal with and the outcomes of these cases; including explaining why no action was taken
- Landlords (and others) should have links with specialist organisations that can provide appropriate aftercare for people suffering ASB and its aftereffects including professional counselling
- Landlords, Police & partners should put in place 'a national information sharing protocol' for ASB
- Landlords need to communicate better with tenants about the powers they have
- Landlords and their partners need to promote a clear definition of ASB and what they will do to support victims and address it

- Landlords and their partners should set clear expectations about what they are able to do and not do in response to ASB complaints and keep complainants and the wider community up to date with as much information as possible
- Landlords and other organisations must communicate regularly with tenants experiencing ASB and have a joint plan with other involved agencies regarding who is responsible for what and communicating with those involved. Tenant contributors suggested a specific resource for tenant liaison is required.

Housing courts:

- A dual pilot, which will be independently evaluated, of a specialist problem solving housing court in the West Midlands and a non-urban conurbation comparator with the support of the APPG, Police and Crime Commissioner and regional landlords
- Specialist courts have the potential to act as a 'points of collection – this data should then be collated, analysed, and disseminated. This data should be shared with relevant PCCs.
- ASB training should be mandatory for Judges
- A single court system coupled with stronger data collection could help ensure greater consistency (a network of specialist courts would underpin this)
- The Civil Justice Council has convened working groups across several subjects it has been concerned about. Such a group should be convened to look at role of the, particularly civil, courts in relation to ASB.

Data:

- An assessment of what data would be useful should be carried out.
- This data should then be systematically collected and reported on.
- Specialist courts have the potential to act as a 'points of collection – this data could then be collated, analysed, and disseminated. This data should be shared

The ASB case review

- The 'community trigger' name should be dropped - it should be known as the 'ASB Case Partner Review' – this would lead to clarity.
- Guidance is needed on the use of the 'ASB Case Review' that makes the process for doing so clear and removes the ability of local authorities to create barriers.

The scope of the problem

Anti-Social Behaviour (ASB) is known to be a significant problem in our communities.

The Police recorded **1.1 million** incidents of anti-social behaviour in the year ending September 2022.

However, this may not give the full picture. More recent research by ASB specialists Resolve, and YouGov found that **14% of the UK's 52.9 million adults (16+) had experienced ASB** in the last three years. This suggests that there were around **10 million victims of ASB**, a figure five times greater than the official statistics would suggest.

The Resolve and YouGov survey also found that:

44%

of adults say ASB is an ongoing problem in their area

35%

of adults said ASB had increased in their area in the last three years

57%

of adults said more needs to be done to tackle ASB

23% only

said enough was being done

12%

of adults reported ASB had negatively affected their mental health

14%

said they had considered moving home because of ASB

Midland Heart's own bespoke tenant survey for the inquiry showed that:

76%

of respondents were not happy with how their landlord dealt with the ASB they reported

80%

of respondents were either neutral or dissatisfied with how their landlord and other organisations work together to resolve ASB

61%

of respondents said landlords needed additional powers to address ASB more swiftly and effectively, however, they also emphasised the need for independent oversight to ensure these powers are being used fairly and appropriately.

Background

The legislative and policy framework

Housing providers having powers to tackle what is now termed ASB has a surprisingly long history.

Local authorities, who were the dominant provider of rented housing in the post-war period until the 1980s, have long had injunctive powers to address behaviour that is causing distress or is environmentally harmful. Housing related ASB was addressed via injunctive powers in the *Housing Act 1996*, whilst non-housing related ASB was dealt with via Magistrate's Courts using existing criminal powers. Although, there was some crossover.

ASB, as it is currently thought of, originated with the election of 'New' Labour in 1997 under Prime Minister, Tony Blair. Blair made his first speech as PM from the Aylesbury housing estate in Southwark. He described the people living on the estate as 'forgotten', saying that they and others had become victims of crime and anti-social behaviour, and promising to tackle 'social exclusion'. To do this, Blair set up the 'Social Exclusion Unit' and made one of his first priorities to pass new legislation to give local authorities, housing providers and others new powers to address ASB.

Passed only a year into Blair's tenure, the *Crime and Disorder Act 1998* defined ASB, established it as a priority issue and created 'Anti-Social Behaviour Orders' (ASBOs) as the primary tool for addressing it. ASBOs were imposed by the magistrates' (a criminal) court in England and remain available to the equivalent, Sherriff's Court, in Scotland. They have been abolished in England (see below).

The *Anti-Social Behaviour Act 2003* modified the 1998 act in some significant ways. Primarily, the act gave new powers to Registered Social Landlords (RSLs) to address ASB being perpetrated by their tenants, including the ability to apply to the County Court for a secure tenancy to be demoted, in theory making subsequent evictions easier. Social landlords could also apply for new 'Anti-Social Behaviour Injunctions' (ASBIs) against people causing nuisance or annoyance around their housing stock. Again, many of the measures in this act were subsequently repealed. The act also created ASB closure orders enabling the local authority or police to apply to a magistrate to close a premises being used for the production and/supply of class A drugs.

The *Anti-Social Behaviour, Crime and Policing Act 2014* repealed much of the previous legislation and now forms the backbone of ASB law and policy in England. Springing from a White Paper entitled "Putting Victims First" the act consolidates the nineteen pre-existing measures into six. Importantly, it moved the ability to grant injunctions to the civil courts where there is a lower burden of proof. Perpetration of ASB became a 'mandatory ground' for eviction from social housing, meaning that judges now had no choice but to grant possession where ASB was proven.

The act also introduced two new measures:

- The Community Remedy – giving victims a say in an appropriate punishment for offenders
- The ASB Case Review’ – previously known as the ‘Community Trigger’. A victim could now insist on a multi-agency review of their case if it met a local reporting threshold and the problem had not yet been resolved.

The act also introduced:

- Criminal Behaviour Orders
- New Dispersal Powers
- Public Space Protection Orders
- Community Protection Notices
- Closure Notices and Orders
- Civil Injunctions.

This remains the legislative and policy landscape.

The regulatory framework

In addition to the legal and policy measures above, the Regulator for Social Housing makes requirements for registered landlords in addressing ASB. These come under the ‘neighbourhood and community standard’.

The regulator expects that:

“Registered providers shall work in partnership with other agencies to prevent and tackle anti-social behaviour in the neighbourhoods where they own homes.”

In addition, the regulator makes several specific expectations of landlords in addressing ASB:

Registered providers shall publish a policy on how they work with relevant partners to prevent and tackle anti-social behaviour (ASB) in areas where they own properties.

In their work to prevent and address ASB, registered providers shall demonstrate:

- (a) that tenants are made aware of their responsibilities and rights in relation to ASB
- (b) strong leadership, commitment and accountability on preventing and tackling ASB that reflects a shared understanding of responsibilities with other local agencies
- (c) a strong focus exists on preventative measures tailored towards the needs of tenants and their families
- (d) prompt, appropriate and decisive action is taken to deal with ASB before it escalates, which focuses on resolving the problem having regard to the full range of tools and legal powers available
- (e) all tenants and residents can easily report ASB, are kept informed about the status of their case where responsibility rests with the organisation and are appropriately signposted where it does not
- (f) provision of support to victims and witnesses

The regulator is currently not able to pro-actively regulate *Neighbourhood and Community Standard* as it can with the governance and viability standards, as the legislation that governs its role does not allow it to do so. The regulator is also subject to the 'serious detriment' test which states that it is only able to intervene where there is actual, or a risk of, serious detriment to a tenant(s). The Social Housing Regulation Bill, currently going through Parliament, will remove the 'serious detriment' test as a barrier to regulatory involvement and legally empower the regulator to pro-actively investigate regulatory breaches and enforce consumer regulation in the sector.

The measures above will shortly be joined by new requirements from the Regulator for Social Housing (RSH). The regulator is introducing a set of new 'Tenant Satisfaction Measures' (TSMs), that it will use as part of its wider function to assess how registered landlords are performing.

The TSMs are made up of ten measures that landlords will report directly from their management information and twelve 'perception measures' (prefixed 'TP') that landlords will be required to survey tenants about annually.

Two of the measures relate directly to ASB, and several others are tangentially related. These are:

Directly related

NM01 ASB cases relative to size of landlord

TP12 Satisfaction with the landlord's approach to handling anti-social behaviour

Other related measures

TP06 Satisfaction that the landlord listens to tenants' views and acts upon them

TP07 Satisfaction that the landlords keep tenants informed about things that matter to them

TP08 Agreement that the landlords treat tenants fairly and with respect

TP11 Satisfaction that the landlords make a positive contribution to neighbourhoods

Landlords are required to begin surveying tenants on the perception measures in April 2023, reporting on them for the first time in April 2024, and annually thereafter.

The inquiry

The first inquiry of the group looks at how housing providers can better address ASB in partnership with other stakeholders in their communities. In the course of gathering evidence, it became clear that there are some significant issues within the wider system and several themes emerged from the evidence.

In gathering evidence, the group:

- Held online inquiry hearings with:
 - Selected Housing Association Chief Executives
 - Academics researching ASB
 - Tenants of Housing Associations
 - Other stakeholders (e.g. Police and Crime Commissioners, ASB campaign groups)
- Held one to one conversations with relevant stakeholders
- Surveyed tenants of housing associations
- Issued a 'call for evidence' to tenants across the rental sector and other stakeholders.

This report details the findings of the inquiry and makes recommendations for improving the way that ASB can be addressed by landlords and others.

Findings and recommendations

In conducting the inquiry, it became apparent that there were some clear themes running through the evidence heard.

There was also some contradictory evidence, for example, people who had suffered ASB and landlords often valued the ability of courts to imprison perpetrators and bring relief and a clear end to the ASB. However, this was balanced by evidence that, particularly civil courts, lack the protections that are afforded to defendants in criminal courts. This has led to people with drug, alcohol and mental health issues being imprisoned inappropriately, when an alternative arrangement with positive behavioural requirements or therapeutic intervention may have proven more effective. The report attempts to balance such opposing views appropriately.

The definition of ASB

Although it was not raised in other forums, Police and Crime Commissioners¹ raised the definition of ASB an issue that needs attention. The current definition was said not to be clear enough, and this had led to a 'lack of synergy' between the views of the public and the police on what constitutes ASB and what should be done to address it.

Recommendation: Government, PCCS and other stakeholders should clarify the definition of ASB and threshold for action through a national awareness campaign

Recommendation: Government, the Police, landlords and other stakeholders need to do more to communicate clearly with the public what is considered ASB and what is not, and what can be done to address it.

¹ 'Other stakeholders' evidence session.

Barriers to reporting ASB

Before we can begin to address ASB, it must be reported. Research by Resolve and YouGov found that 53 per cent of people who stated they had been a victim or witness of ASB did not report it to anyone.

Further, the same research found that:

51% of victims/witnesses of ASB did not report it as they didn't think anything would be done

44% didn't think it was serious enough to report

This means that, in line with the statistics given above, the vast majority of ASB is not reported and therefore goes unrecorded and unaddressed. There is massive underestimating and under recording the prevalence of ASB and this is probably contributing to a lack of urgency in dealing with it at government level. There is clearly something of a self-fulfilling prophecy. The perception of ASB not being addressed leads to ASB not being reported and therefore not addressed. It also reinforces the perception that even where it is reported, nothing will be done. It is imperative then, that this circle is broken.

As registered providers begin to report on what they are doing to address ASB and the number of cases they deal with (as part of the new regulatory requirements), this may begin to change. However, it is clear that a robust method of collating data relating to ASB is needed to ensure a full picture is used when resources are being allocated.

Recommendation: Landlords and their partners need to promote a clear definition of ASB and what they will do to support victims and address it.

Recommendation: The social housing sector should produce and promote a 'best practice' document for communicating ASB practice and support to customers.

Recommendation: Landlords and their partners should publish and publicise the number of ASB cases they deal with and the outcomes of these cases; including explaining why no action was taken.

(See also the section on 'Lack of data')

Problem solving courts

The group heard evidence about an alternative scheme for addressing criminal behaviour, that could be utilised in addressing ASB and wider housing related issues e.g. rent arrears.

A new 'problem solving court' for female offenders is being introduced in Birmingham, with the ability to refer offenders into support services to treat issues that could be fuelling offending e.g. drink or drug addictions, or domestic abuse.

Under the orders that can be issued by these courts, offenders will see the same judge once a month, have intensive support and supervision from the probation service, and receive wraparound services tailored to individual needs. The female offenders to be assisted by this approach will have a history of reoffending and at risk of a short-term prison sentence.

This initiative offers a potential model for addressing ASB. Such an approach offers an alternative to the current civil court process by enabling the court to make similar orders for perpetrators of ASB to meet with a judge on a regular basis and receive support for any issues underlying their ASB.

Recommendation: Problem Solving Courts should be introduced more widely as they offer a way to address criminal behaviour and divert offenders away from custodial outcomes.



"I am of the firm belief that to prevent, tackle, reduce and truly end the cycle of harm caused by anti-social behaviour, we must address the underlying drivers of this behaviour. These include poor mental health, addictions, undiagnosed learning difficulties, family support needs and so on. Integrated multi-agency working – conceived to address co-occurring needs simultaneously – is central to this.

Problem Solving Courts (PSCs) – including Family Drug & Alcohol Courts (FDACs) – do exactly this. PSCs work by bringing judges together, with professionals across the social welfare and criminal justice space, to address the root causes of offending. They put judges at the centre of rehabilitation and recovery, linking the authority of the court and the services necessary to help individuals lead more productive and happy lives. Partners will co-deliver a truly holistic programme of care and take joint responsibility for tackling the problems which drive offending and anti-social behaviour.

Multiple national and international studies have shown that PSCs save court time, reduce backlogs, reduce costs, and reduce reoffending. We are confident that the new Women's PSC we are establishing in Birmingham Magistrates – sitting alongside the 3 West Midlands' FDACs – can improve outcomes for offenders, victims, and communities across the region. I am of the firm belief that the PSC approach would also be successful in preventing, tackling, reducing and ending the cycle of harm caused by anti-social behaviour. I support the roll-out of PSCs in the strongest possible terms."

Simon Foster – Police and Crime Commissioner for the West Midlands



west midlands
police and crime
commissioner

Specialist 'problem solving housing courts'

The concept of specialist housing courts is not a new one. Then Secretary of State for Housing, Communities and Local Government, Sajid Javid, first introduced the idea in his speech to the Conservative Party conference in 2017.

In April 2018, the Housing, Communities and Local Government recommended introduction of specialist housing courts in a report on reforming the Private Rented Sector. The government committed to a consultation on the idea later in the year (2018). In response to the consultation on introducing housing courts, Midland Heart responded in favour of doing so. However, in the response, the government made some changes to court systems but did not commit to introducing a specialist court.

Learning from the Birmingham 'problem solving court', the group recommends a specialist 'problem solving housing court' which would take the same approach to addressing ASB, alongside other housing related issues e.g. persistent rent arrears.

Specialist 'problem solving housing courts' have the potential to resolve three main issues:

- Capacity** – It is not uncommon for landlords to wait several months to secure a court date
- Efficiency** – Evidence from the Residents and Landlords Association (RLA) claims it takes an average of 42 weeks to complete a possession case
- Knowledge** – Housing cases can be complex and require specialist knowledge of law in this area.

One of the fundamental weaknesses in the current system is that it is much harder to take action against private tenants and owner occupiers, than social tenants whose landlords have a specific role in addressing ASB.

The Group has heard evidence from across the board that, speed is essential in addressing ASB. Firstly, victims of ASB require swift access to both relief and justice to minimise suffering and resolve the issue. Secondly, failure to address ASB in a swift and decisive manner both emboldens perpetrators and worsens both ASB and the consequences of it and potentially drives victims from their homes. This causes stigmatisation of social housing and prevents it from meeting its core purpose of being a safe and secure place to live.

Thirdly, dealing with ASB takes up time, money, and other resources that social landlords could use differently, resolving ASB more quickly and decisively could free up these valuable resources. and unnecessary delays in having their cases dealt with.

Tenants and PCCs both support the creation of specialist housing courts and judges if this leads to swifter carriage of justice and greater consistency in decision making. Housing courts must be set up in a way that improves on the current system, and not as a superficial response.

A specialist 'problem solving housing' court could offer faster redress and relief for victims of ASB and swifter intervention to change the behaviour of perpetrators. Specialist courts also offer the possibility of judges trained with specific knowledge of tenancy and housing related law, able to reach decisions that reflect the complexity of the legal structures and are hence more impactful. It is vital, however, that tenants retain their entitlement to advice and representation via the legal aid scheme.

Recommendation: A dual pilot, which will be independently evaluated, of a specialist problem solving housing court in the West Midlands and a non-urban conurbation comparator with the support of the APPG, Police and Crime Commissioner and regional landlords.

Recommendation: ASB training should be mandatory for Judges.

Recommendation: The Civil Justice Council has convened working groups across several subjects it has been concerned about. Such a group should be convened to look at role of the, particularly civil, courts in relation to ASB.



"In order to effectively tackle anti-social behaviour in our communities, more decisive action needs to be taken to provide faster redress and relief for victims.

In many cases, victims who have taken the brave step to report ASB are being met with significant delays and a continuation of the behaviour that is impacting their lives, facing long waits for their cases to be heard in court. I want communities in the West Midlands to be the first to benefit from a dedicated housing court that will see issues that make our neighbourhoods less desirable places to live tackled quicker.

Andy Street – Mayor of the West Midlands

Consistency

In the evidence we heard from tenants' and landlords' experiences, and from academics researching ASB it was clear that there is significant inconsistency between different organisations and areas in how ASB is addressed.

This inconsistency is between how landlords, the police and other organisations work individually and together to address ASB. For example, in some areas there are regular multi-agency meetings to review cases, these meetings are said to be successful and worth replicating. There is also inconsistency in how courts deal with the ASB cases that come before them, in both process and sentencing for breaches. These inconsistencies are said to be the result of a lack of guidance on how ASB should be addressed, a lack of data recording (see above) and ASB being dealt with in the civil courts, with a lack of sentencing guidelines that would be in place in the criminal courts.

This inconsistency is unfair to victims of ASB, landlords and others who cannot be sure what the potential outcome of cases will be.

Recommendation: A single court system coupled with stronger data collection could help ensure greater consistency (a network of specialist courts would underpin this).

Recommendation: Government should work with the APPG, courts, Police, and others to author clear guidance on how powers should be used including sentencing guidelines.

Use of civil penalties and the 'ASB Case Review'

The group heard evidence particularly from academics that the use of civil penalties can be inappropriate for addressing ASB.

Prior to the Anti-Social Behaviour, Crime and Policing Act 2014, ASB was dealt with in Magistrates' Court as a criminal matter, this meant that alleged perpetrators had the protections afforded to criminal defendants, the requirement for a state appointed representation and the higher 'beyond reasonable doubt' burden of proof to convict. Criminal courts, particularly magistrates' courts are also subject to relatively strong limitations on the sentences they can impose (see also the following section).

The move to hearing ASB cases as a civil matter has removed these protections. The court is not required to appoint a representative for defendants as they would be in a criminal proceeding meaning that people are left to defend themselves against allegations made against them. Secondly, in imposing an Anti-Social Behaviour Injunction (ASBI) the court applies the lesser civil burden of proof (the balance of probabilities) which offers significantly less protection than the criminal standard (beyond reasonable doubt). However, in deciding whether the injunction has been breached, the criminal standard applies. Finally, were ASB to have been retained in the criminal courts, the Department of Justice would have been required to maintain statistics as they do for all other criminal cases. As ASB is now dealt with in the civil courts, such records are not kept, getting a full picture of ASB across the country is therefore very difficult, if not impossible. This is a policy area that cannot be evaluated in any meaningful way because of this lack of data.

Deliberate breach of a civil court order is treated as 'contempt of court', which carries a potential sentence of two years in prison. Civil courts also lack the ability to impose alternative sentences e.g. community sentences or hospital orders.

Relatively minor ASB can therefore result in a prison sentence – it should be noted that contempt of a civil court order is not a criminal offence. County Courts can also make awards relating to costs, which may be unpayable for people with a limited income.

The group also heard evidence that civil orders are used too widely and are a blunt instrument for addressing the wide variety of behaviours that can be defined as ASB. According to information collated by witnesses, these injunctions have been used to imprison people for behaviour as broad in scope as repeatedly feeding birds, to verbal threats and threatening behaviour. In the latter case, Civil Injunctions are being used to address serious criminal behaviour – this is not ASB.

Whilst the group clearly wants to see perpetrators of ASB dealt with in a manner commensurate with their behaviour, the current system may not be the best way of doing so. The line between ASB and criminal behaviour is a fine and often blurred one, for example in the case of drug related offences. Or, as stated above injunctions are being used to address actual criminal acts. Behaviour that is criminal, and where evidence allows, should be dealt with in the criminal courts. Equally, Civil Injunctions should not be seen as an 'easy' way of addressing criminal behaviour.

Imprisonment should be seen as a last resort in cases of ASB. Perpetrators of ASB can often be suffering from mental health problems or indeed be victims of ASB themselves. A 'community response' would be a preferable way to deal with the problem. However, this requires resourcing for registered providers, the police, community support organisations and others to work together to address problems.

The 'ASB Case Review' (Community Trigger) is a mechanism that enables victims to insist upon a multi-agency case review if they have met a local reporting threshold, but the ASB has not been addressed. It is designed to give victims redress where their concerns have not been resolved.

However, the group heard evidence from across the inquiry sessions that the 'community trigger':

- Is not widely known about
- Where it is known about, is not well understood by people and communities
- There is confusion caused by it being known formally as the 'ASB case review' but colloquially as the 'community trigger'.

This is supported by the latest research by Resolve and YouGov² which found that only one per cent of respondents had heard of and used the Community Trigger, two per cent had heard of it but didn't understand how it works, and 94 per cent had never heard of the Community Trigger and had never used it. In evidence sessions, tenants also said they were unaware of it as a potential solution and had not been told about it by their landlord or other organisations involved. The inquiry also heard evidence³ that some local authorities place additional caveats on the use of the process, making it harder to use it.

It is therefore under-utilised.

The group heard evidence that multi-agency conferences can be effective in addressing ASB, meaning that the 'community trigger' has the potential to be a useful tool.

² https://www.resolveuk.org.uk/images/YouGov_Report.pdf

³ 'Other Stakeholders' evidence session.

- Recommendation:** The 'community trigger' name should be dropped - it should be known as the 'ASB Case Partner Review' – this would lead to clarity.
- Recommendation:** Government, local authorities, and partners need to do more promote the ASB Case Review and have the ability to raise them independently of victims.
- Recommendation:** The lessons learnt from Case Reviews should be shared with PCCs to ensure patterns, action and best practice are captured.
- Recommendation:** Guidance is needed on the use of the 'ASB Case Review' that makes the process for doing so clear and removes the ability of local authorities to create barriers.
- Recommendation:** The Civil Justice Council report of July 2020 made fifteen recommendations that the Government should implement fully and without delay



"RESOLVE fully supports the recommendations of the report in regard to the use of civil penalties and the 'ASB Case Review'. The changes recommended to the ASB Case Review will provide clarity where it is needed on when, how, and by whom it can be used, driving more frequent and effective use of this important and potentially impactful measure."

Rebecca Bryant – CEO RESOLVE

Protection for defendants

Linked to the issues raised above, the group also heard evidence from academics researching ASB that in moving it to the jurisdiction of the civil courts, the government has denied defendants the significant legal protections available in criminal courts.

In criminal cases, convicted persons can be subject to pre-sentence reports, referral to the probation service for support, and out of court diversions and disposals to deal with 'low-level crime'. The evidence provided to the group suggested that providing support with drug and alcohol issues, housing and employment issues, and mental health problems have proven effective in curbing criminal activity and reducing harm to communities. There is also evidence that it is very difficult to find solicitors that will accept civil legal aid funding to defend ASB cases.

Recommendation: ASB should be added to the Victim's Bill to ensure adequate aftercare is provided to victims.

Recommendation: Government should consider how it can offer greater protections to defendants in ASB cases and ensure that sentences reflect the best course of action in individual cases. Imprisonment should remain an option in the most serious cases, subject to the protections stated.

Lack of data

The group heard evidence from academics and Police and Crime Commissioners that there is a dearth of information surrounding ASB and how the courts and others address it. Where data is available, it is localised – individual landlords, the police and others may collate such information and share it, however, this is not done systematically, not centralised to give a fuller picture. Also, as stated above, because ASB is dealt with in the civil courts, records are not kept as they would be in the criminal courts.

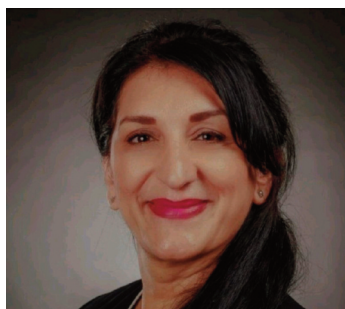
This makes knowing the scale and scope of what the courts are dealing with very difficult, if not impossible. Individual academics and the Manifesto Club, an organisation campaigning for the 'hyper-regulation' of public spaces, collate what data they can using 'Freedom of Information' (FOI) requests, but these data are incomplete and extremely unsatisfactory. This makes knowing where the flaws in the system are and taking action to improve it almost impossible. The Regulator for Social Housing (RSH) will be collating data relating to number of ASB cases relative to size of landlord and satisfaction with how landlords address ASB as part of the new Tenant Satisfaction Measures (TSMs). Whilst welcome, this will not give anything close to the comprehensive data needed.

ASB is a serious and complex matter that can have deleterious effects on the lives of both victims and perpetrators, indeed these groups are not mutually exclusive. Individuals and organisations researching and working to address ASB should not have to rely upon piecemeal data to try and come to conclusions about what is or is not effective.

Recommendation: An assessment of what data would be useful should be carried out.

Recommendation: This data should then be systematically collected and reported on.

Recommendation: Specialist courts have the potential to act as a 'points of collection – this data could then be collated, analysed, and disseminated. This data should be shared with relevant PCCs.



“ASBHelp wholeheartedly supports the APPG ASB Report and the recommendations outlined. The publishing of data by landlords and partners will contribute to a better and fuller understanding of the prevalence of ASB nationally. We are acutely aware of the devastating and sometimes tragic impact that ASB can have on victims. The recommendations will have a series of benefits such as enhancing the reporting mechanisms, identifying barriers to reporting, enabling practitioners to identify hotspots of ASB and allocate targeted resources to tackle ASB and fundamentally support victims.”

Harvinder Saimbhi – CEO ASBHelp

Communication

Feedback from our housing association partners and especially tenants from across the sector told us that good communication is key to a good approach to addressing ASB.

Tenants⁴ told us that they did not feel well communicated with before, during and after the investigation, and worse, some tenants told us they felt ‘unlistened to’ by their landlord, their complaint was not taken seriously or not dealt with all. Tenant participants in evidence sessions told us that where there is ASB in their communities, they want to know that swift action is being taken and they want to be kept up to date with what is happening. Tenants also told us that landlords need to carry out ‘better investigations’ and ‘take action sooner’ to address ASB. However, we were also sent several case studies from across the country and heard from tenants in evidence sessions, about landlords that had excelled in addressing ASB.

Communication was key. Where landlords had dealt well with ASB, they had communicated effectively and often with their tenants and maintained communication throughout cases. Where landlords were criticised for their approach to ASB, they frequently failed to communicate effectively with complainants, perpetrators, and other organisations in taking necessary action.

Tenants told us that they wanted to see ‘case meetings’ set up, where all stakeholders and their representatives could discuss their cases and agree a clear plan, and timescales, to move forward. The ‘safeguarding hubs’ used in schools were suggested as a model for these. We were also told it is vital that these are victim centred and take account of support for the wider community.

Tenants who had been victims of ASB particularly gave evidence that it was important to continue to talk to tenants after the ASB has been resolved – the word ‘aftercare’ was used repeatedly. Tenants told us that the aftereffects of suffering ASB could lead to ‘Post-Traumatic Stress Disorder’ and that it was vital that communication continues after the end of ASB cases to ensure the right support is given.

⁴Midland Heart bespoke survey

Recommendation: Landlords and their partners should set clear expectations about what they are able to do and not do in response to ASB complaints and keep complainants and the wider community up to date with as much information as possible.

Recommendation: Landlords (and others) should have links with specialist organisations that can provide appropriate aftercare for people suffering ASB and its aftereffects including professional counselling.

Recommendation: Landlords and other organisations must communicate regularly with tenants experiencing ASB and have a joint plan with other involved agencies regarding who is responsible for what and communicating with those involved. Tenant contributors suggested a specific resource for tenant liaison is required.

The status of housing providers

The group heard from social landlords that their status as non-statutory partners means that other partners view them as having lesser status in the processes of addressing ASB, even though they are a key agency and have specific duties and powers to do so

This was said to especially be an issue in 'data sharing' with other agencies refusing or proving reluctant on data protection grounds. For example, Octavia Housing⁵ told the inquiry that partner agencies often only gave them general information and they sometimes had to provide a lot of justification for why they needed it. This was particularly an issue where perpetrators had mental health issues and more detailed information would have helped in dealing with cases more effectively. This was also raised as an issue in the 'other stakeholders' evidence session. During the legislative consultation process, it had been argued that landlords should have 'statutory partner' status, but this did not happen. Because landlords do not have 'statutory partner' status, they do not have some of powers that other organisations have.

This is an area where there was disagreement between tenants (the public) and the people and organisations charged with addressing ASB.

The tenants we spoke to in focus groups thought that landlords needed additional powers to address ASB. Whilst not specific, it was generally said that these powers should empower landlords to stop ASB occurring more quickly and address the causes of it more effectively.

In contrast, landlords, PCCs and others told us that they had enough powers already to address ASB, the issues are of implementation rather than lack of powers. This was also said to be a matter of communication with the public, who need to be kept better informed about what powers are used at what times. This should lead to greater confidence from all those involved. The exception to this was the suggestion that landlords should have access to 'closure powers' to close premises that are a source of ASB.

⁵ Written evidence from Octavia Housing

Recommendation: Landlords should have statutory status – they are key partners in ASB cases

Recommendation: Landlords, Police & partners should put in place ‘a national information sharing protocol’ for ASB.

Recommendation: Landlord powers should be reviewed – they should have ‘closure powers’

Recommendation: Landlords need to communicate better with tenants about the powers they have.

Funding

The group heard evidence that addressing ASB in a timely and effective way is being made more difficult by a lack of funding for partner organisations. Police and Crime Commissioners also raised this as a serious issue saying that there is not enough funding available for specialist support providers, and the small pockets of funding that are available are not effective in targeting large areas experiencing ASB.

Additionally, timescales for more intense interventions from social services, mental health teams and drug and alcohol specialists can be too long; this means that opportunities for early intervention are missed, and more costly interventions required in the future.

The Police Service and local authorities have been subject to significant reductions in funding from government since 2010. The cuts to local authority funding have led to community organisations that helped address ASB having their funding reduced or removed also. This has led to there being far fewer Police on the streets and left supporting agencies ill-equipped to meet the demand for services.

Tenants in particular highlighted the need for more resources for local authorities to employ people to better investigate and process ASB cases and liaise with victims and communities more effectively. These should be specialist teams, trained in dealing with ASB.

Recommendation: Government & Local Authorities should assess how they can best support community organisations in addressing ASB inc. specialist services.

Appendix A – Evidence

Hearings

Hearing 1 – Housing Association CEOs

Date: 13/12/22

Present

Glenn Harris (Midland Heart) (Chair)

Jack Kelly (Midland Heart)

David Wells (Wrekin Housing Group)

Boris Worrall (Rooftop Housing)

Chan Kataria (EMH Group)

Greg Bacon (Acis Group)

Amanda Tomlinson (Black Country Housing Group)

Olubukola Adeleye (Stonewater)

Stefanie Turton (Sanctuary Group)

Ruth Cooke (Greensquare Accord)

Simon Wilson (Pioneer Group)

Hearing 2 – Tenants

Date: 9/1/23

Present

Steve Martin (Midland Heart)

Atif Kayani (Midland Heart)

Tenants

Hearing 3 – Academics

Date: 10/1/23

Present

Dr Yoric Irving-Clarke (Midland Heart) (Chair)

Dr Rona Epstein (Coventry University)

Dr Vicky Heap (Sheffield Hallam University)

Prof. Caroline Hunter (University of York)

Dr Kevin J. Brown (Queen's University, Belfast)

Dr Alex Black (Sheffield Hallam University)

Hearing 4 – Tenants

Date: 11/1/23

Present

Steve Martin (Midland Heart) (Chair)

Atif Kayani (Midland Heart)

Yoric Irving-Clarke (Midland Heart)

Tina Dalton (GreenSquare Accord)

Shafeen Khan (WHG)

Karen Isherwood (Accent)

Tenants

Hearing 5 – Wider stakeholders

Date: 22/2/23

Present

Dr Yoric Irving-Clarke (Midland Heart) Chair

Jack Kelly (Midland Heart)

Beth Gray (Midland Heart)

Vicky Mason (Midland Heart)

Simon Foster (PCC, West Midlands)

David Sidwick (PCC, Dorset)

Debbie Powell (Safer Gloucs Coordinator)

Sarah Haywood (Policy Lead for Community Safety, Surrey)

Molly Slominski (Partnership and Community Safety Officer, Surrey)

Andrea Patterson (ASB Champion, Durham)

Nicola Furlong (Portfolio and Partnership Officer, Merseyside PCC)

Andrew Woodward (Policy and Commissioning Officer, Durham PCC)

Jack Tracey (Policy Officer, PCC West Midlands)

Rebecca Bryant OBE (CEO, Resolve)

Katy Anderson (Practitioner Support Manager, ASBHelp)

Hearing 6 – PCCs

Date: 15/3/23

Present

Sarah Wilson (Office of Cleveland PCC)

Andrew Snowden (Lancashire PCC)

Tracy McCann (Office of Northumbria PCC)

Glenn Edwards (Hertfordshire PCC)

Victoria Readymarcher (Office of Northumbria PCC)

Nick Evans (Deputy PCC, Gloucestershire)

Diane Blandford (ASB review coordinator, Gloucestershire PCC).

Interview

Date: 17/1/23

Present

Dr Yoric Irving-Clarke (Midland Heart)

Prof. John Flint (University of Sheffield)

APPG report & recommendations review meeting

Date: 28/3/23

Present

Jack Kelly (Midland Heart)

Dr Yoric Irving-Clarke (Midland Heart)

Vicky Mason (Midland Heart)

Beth Gray (Midland Heart)

David Remes (Midland Heart)

Gemma Bartley (Midland Heart)

Olubukola Adeyele (Stonewater)

Lyndsey Hunt-Slade (WHG)

Bethan Jones (WHG)

Dr Alex Black (Sheffield Hallam University)

Dr Vicky Heap (Sheffield Hallam University)

Dr Rona Epstein

Rebecca Bryant (CEO, Resolve)

Tom Nevitt (Resolve)

Harvi Saimbhi (CEO, ASBHelp)

Kate Henderson (CEO, NHF)

Caritas Charles (TPAS)

Diane Blandford (Gloucestershire PCC)

Georgie Hancock (West Midlands PCC)

Sarah Haywood (Surrey PCC)

Andrea Patterson (Durham PCC)

Andrew Woodward (Durham PCC)

Ellie Vesey-Thompson (Surrey PCC)

Cllr Kim Taylor-Smith (Deputy Leader, Royal Borough of Kensington and Chelsea)

Dom Torrington (Strategic Advisor to the leader's office RBKC)

Curie Freeborn

Written evidence was received from:

- **Office of the Police and Crime Commissioner for the West Midlands**
- **Prof. Caroline Hunter** (University of York)
- **Octavia Housing**
- **Westminster City Council**
- **Dr Rona Epstein** (Coventry University)
- **Origin Housing**
- **Anonymous tenants**

Surveys

Midland Heart bespoke survey

Midland Heart ran a bespoke survey of tenants between 2 December 2022 and 1 February 2023. The survey was promoted by tenants, TPAS and Midland Heart tenant e-bulletin.

The survey yielded 106 responses from tenants with several different landlords.

