

Committee:	Date:
Housing Management and Almshouses Sub Committee	25 September 2014
Subject: Anti-social Behaviour, Crime and Policing Act 2014	Public
Report of: Remembrancer	For Information
<p><u>Summary</u></p> <p>This Report informs the Committee of provisions in the Anti-social Behaviour, Crime and Policing Act 2014 which affect local authority housing. The main change is the introduction of new grounds for possession in relation to secure tenancies. An absolute ground for possession will arise if the tenant or another person in the property is convicted of a serious criminal offence or is the subject of other findings relating to anti-social behaviour, where there is a sufficient connection with the premises. A discretionary ground for possession will arise where the tenant or another person in the property has caused nuisance or annoyance to the landlord, or has been convicted of involvement in a riot. Other measures introduced by the Act, such as the new Anti-social Behaviour Injunction, Community Protection Notice and Closure Order, are also of potential relevance in the context of housing.</p> <p>Recommendation:</p> <p>The Committee is invited to receive this Report.</p>	

Report

Introduction

1. The Anti-social Behaviour, Crime and Policing Act 2014 reforms the powers available to local authorities, the police and other bodies to tackle anti-social behaviour. The principal features of the legislation have been reported as indicated in the background papers noted below. This Report informs the Committee of the changes which affect local authority housing in particular. The relevant provisions will come into effect this autumn.

New grounds for possession

2. The Act strengthens the ability of local authority landlords to recover possession of dwellings from tenants who have been involved in crime or anti-social behaviour. It does so through the introduction of three new grounds for possession, one of which is 'absolute' (which means that the court must grant possession if the ground is satisfied) and two of which are 'discretionary' (which

means that the court will only grant possession if it thinks it reasonable to do so in the circumstances).

3. The absolute ground relates to convictions for serious criminal offences and other findings of anti-social behaviour. It arises if any of the following conditions is met:
 - (i) The tenant, or a person residing in or visiting the premises, has been convicted of a serious criminal offence which was committed in the locality of the premises, or against a resident of the locality, or against the tenant's landlord or the landlord's employee in relation to housing management functions. A number of offences are defined as "serious" for this purpose, including most violent and sexual offences, robbery, burglary, possession of weapons, drug-dealing, and driving offences resulting in injury to others.
 - (ii) The tenant, or a person residing or visiting in the premises, has been found by a court to have breached an Anti-social Behaviour Injunction (one of the measures introduced by the Act), where the breach was committed in the locality of the premises or where the Injunction was intended to protect residents of the locality or the tenant's landlord.
 - (iii) The tenant, or a person residing or visiting in the premises, has been convicted of breaching a Criminal Behaviour Order (one of the measures introduced by the Act), where the breach was committed in the locality of the premises or where the Order was intended to protect residents of the locality or the tenant's landlord.
 - (iv) A Closure Order (described more fully below) has been made in respect of the premises and has prohibited access to the premises for more than 48 hours.
 - (v) The tenant, or a person residing in or visiting the premises, has been convicted of breaching an abatement notice or an abatement order under the Environmental Protection Act 1990, in respect of a statutory nuisance in the form of noise emitted from the premises.
4. In order to rely on the absolute ground, the landlord must serve notice on the tenant no more than twelve months after the relevant conviction or court finding (or, in the case of a Closure Order, three months after the Order is made). The tenant will have the right to require the landlord to review its decision to seek possession, in accordance with a procedure to be laid down by the Secretary of State. The absolute ground is subject to any defence under the Human Rights Act, which may enable a tenant to argue that it would be disproportionate for the court to grant possession.
5. The first of the new discretionary grounds arises where the tenant, or a person residing in or visiting the premises, is guilty of conduct causing or likely to cause

nuisance or annoyance to the landlord or anyone employed in connection with the landlord's housing management functions. The conduct must be related to or otherwise affect those functions.

6. The second of the new discretionary grounds arises where the tenant, or an adult residing in the premises, is convicted of an indictable offence which took place during and at the scene of a riot anywhere in the United Kingdom.

Other measures

7. The new Anti-social Behaviour Injunction (which is intended as the principal replacement for the abolished 'ASBOs') will incorporate the main elements of the existing injunction of that name available to local authority and social landlords on application to the county court. A lower threshold for what counts as anti-social behaviour is retained in the context of housing (conduct causing "nuisance or annoyance" as opposed to the usual "harassment, alarm or distress").
8. The new Injunction will be more flexible than the current version, in that it may include any prohibition or requirement intended to prevent a person from engaging in anti-social behaviour, rather than simply prohibiting such behaviour outright. For instance, an individual may be required to attend substance-abuse classes or mediation sessions with neighbours. The Injunction may be used to exclude a person from his or her home, but only where there is a threat of violence or a significant risk of harm to others. The Common Council will be able to make use of the Injunction in relation to its housing inside and outside the City.
9. Other measures of potential relevance to social housing include Community Protection Notices and Closure Orders. Both will be available to the Common Council and City Police in the same way as to other local authorities and police forces.
10. Community Protection Notices will enable local authorities (within their areas) and police forces to tackle any conduct having a persistent detrimental effect on the quality of life in the locality, through a notice imposing reasonable prohibitions or requirements. For this purpose tenants (whether in social housing or privately let dwellings) will be held responsible for any conduct occurring in their homes, unless they cannot reasonably be expected to control it. Breach of a Community Protection Notice will be a criminal offence punishable with a fine or by a fixed penalty notice.
11. Closure Orders will enable local authorities and police forces, on application to the magistrates' court, to restrict or prevent access to premises (including social housing) associated with nuisance or disorder for a period of up to six months. The restriction of access could potentially include those who live in the premises.

Consultation

12. The Director of Children's and Community Services has been consulted in the preparation of this Report.

Recommendation

13. The Committee is invited to receive this Report.

Background papers:

Reports of the Remembrancer on the Anti-social Behaviour, Crime and Policing Bill:

- Police Committee, 5th July 2013;
- Policy and Resources Committee, 25th July 2013.

Contact:

Sam Cook,
Pupil Barrister (Parliamentary Affairs),
020 7332 3045,
sam.cook@cityoflondon.gov.uk.