

Remedies against perpetrators of anti-social behaviour



Fact Sheet 3

Non Legal Methods

Most cases of anti - social behaviour are solved without the need for legal action. The most common methods are usually a warning letter and an interview with the perpetrator. Cross Keys Homes also encourages perpetrators to either sign up to a **Good Neighbour Declaration** or an **Acceptable Behaviour Contract**.

Good Neighbour Declarations are most commonly used for tenants causing anti - social behaviour, and are an agreement between the tenant and Cross Keys Homes about their future behaviour and what they will and will not do.

Acceptable Behaviour Contracts are most commonly used for children causing anti- social behaviour. They are an agreement between the child and Cross Keys Homes and the police, about that person's future behaviour and what they will or will not do.

Good Neighbour Declarations and Acceptable Behaviour Contracts are only used if the anti social behaviour doesn't involve violence or harassment. Good Neighbour Declarations and Acceptable Behaviour Contracts are mostly used to address:-

- Noise nuisance
- Abusive language
- Nuisance caused by visitors

Mediation

In cases where there is a dispute between two neighbours, mediation is the best way in order for both parties to settle a dispute and come to an agreement about how each party intends to behave in the future. Cross Keys Homes can make

a referral to the Peterborough Mediation service, which is an independent confidential organisation that has trained mediators to help bring about a resolution. Mediation does not need to be face – to – face; the mediator can 'shuttle' between both parties' concerned if this helps to resolve the problem.

You can also refer your case yourself to the Mediation service by calling 01733 566536.

Legal Methods

In cases where there has been the use or threatened use of violence, serious criminal convictions (such as supplying drugs from home), a serious hate crime; or non legal remedies have failed to resolve the problem; Cross Keys Homes have a range of legal remedies that we can use to curb anti - social behaviour.

Please note that legal action is considered very carefully using evidence that is gathered by witnesses and other sources such as the police. This is decided on a case by case basis.

Injunctions

An injunction is an order from the county court telling someone to do or not to do something. Cross Keys Homes can apply for an injunction against tenants and people who are not tenants. Injunctions can be used when there has been the use, or threatened use of violence, abusive language, or continuous nuisance such as loud music.

In very serious cases of violence, or threatened use of violence, we can apply to the court 'without notice', meaning that the judge could grant an order without the perpetrator knowing, before a

proper hearing with the perpetrator takes place later and a final decision is made.

Injunction orders can also be made with a power of arrest or an exclusion order depending on the severity of the behaviour.

An injunction order is a very serious order, if it is breached the punishment can be a fine or imprisonment for up to two years. Strong evidence of anti - social behaviour is therefore needed if the Judge is to grant an order such as this.

Anti – Social Behaviour Order (ASBO)

ASBO's are very similar to injunctions, but can be made against anyone over the age of ten. They are mostly made in the Magistrates Court and tell someone to do or not to do something. They can also exclude someone from an area; depending on the severity of the behaviour.

A breach of an ASBO becomes a criminal offence and can lead to a range of punishments including a prison sentence up to five years.

Demotion of tenancy

Cross Keys Homes can demote an existing secure tenancy to a less secure tenancy for up to one year as a result of anti - social behaviour caused by a tenant, family members or visitors to the property. The demotion period lasts for one year. Once the county court has granted a demotion of tenancy, if there are further problems in the demotion period then we can seek possession of the tenant's home, which the court must grant; unless it is found that Cross Keys Homes has failed to use correct procedures.

Demoting a secure tenancy also means that the tenant will lose important rights. If they transferred to Cross Keys Homes in October 2004 with a secure tenancy they will permanently lose their preserved right to buy (excluding those in sheltered accommodation or specially adapted homes).

Those tenants who did not transfer to Cross Keys Homes in October 2004 and have an assured (non – shorthold) tenancy will have the right to acquire their homes after two years (excluding those in sheltered accommodation or specially adapted homes).

Demotion of tenancy would mean they would lose the right to acquire.

In both cases (losing the right to buy or right to acquire), at the end of the demotion period it

would be two years before the tenant would then have the right to acquire.

Other benefits of the secure tenancy such as the right to exchange, or take in lodgers would be lost until the end of the demotion period.

If, at the end of the demotion period, Cross Keys Homes is satisfied with the improvement of the person(s)' behaviour the demoted tenancy will then become an assured (non – shorthold) tenancy and some of the rights will be regained immediately, except for the right to acquire which will be gained after two years.

Possession

In serious cases of anti - social behaviour where there is clear evidence to show that other action has failed, and the anti social behaviour has continued, Cross Keys Homes can seek possession of the property where the tenant lives.

Possession action is the last resort, and requires strong supporting evidence as the Judge will need to decide whether it is reasonable, based on the evidence to take someone's home from them. It is also important to remember that possession cases can take several months, as there may have to be many court hearings before a decision can be made.

In some cases, where possession proceedings have caused a positive change in someone's behaviour and the Judge is confident that they will continue to behave, they may grant a suspended possession order, allowing someone to stay in their property providing they behave. In the most serious cases however, the Judge can grant possession of the property and allow the perpetrator a short time to leave their home.