

# **Social Housing Law Association**

## **MORE EFFECTIVE RESPONSES TO ANTI-SOCIAL BEHAVIOUR**

### **CONSULTATION QUESTION RESPONSES FROM SHLA**

#### **1) REFORMING THE TOOL KIT**

- 1. What do you think of our proposals to reform? In particular, do you think merging existing powers into the new orders proposed is a good idea?**

SHLA is generally in favour of the proposals for reform set out in the Consultation Paper ("the Paper") and consider the merging of existing powers to be a positive step to making the ASB toolkit more streamlined and straightforward for landlords and practitioners alike. In particular, we welcome more effective inter-agency co-operation when it comes to tackling ASB so that it can be dealt with in a more efficient and less bureaucratic manner.

However, the Paper fails to recognise two things:

Firstly, that the Anti-Social Behaviour Injunction (ASBI) has (especially since 2003 when its ambit was clarified and enlarged) has proved to be an effective tool for Registered Providers dealing with ASB. In cases of severe ASB it has proved to be highly effective in providing an immediate remedy on without notice applications to the County Court, especially when combined with a power of arrest or exclusion order. Members of SHLA are concerned that the new Crime Prevention Injunction will restrict the ability of social landlords to combat ASB and protect victims in the same way.

Secondly, the current delays in the judicial system which often prevent ASB practitioners from obtaining speedy remedies. Our members know from direct experience that the County Courts and Magistrates Courts simply cannot cope with the number of cases they are being asked to deal with. This means that social landlords, local authorities and the police are often unable to obtain ASB orders (in whatever form) as quickly as they should be able to do so. The new proposed tools, if introduced, will be of little help unless more is done to improve resources to the Courts so that the tools can be effectively and quickly deployed.

Our members remain concerned however at the lack of detailed attention given in the Consultation Paper to the issue of ASB in the context of social housing which we believe stems from a continued, unnecessary and unhelpful, division of responsibility between Government Departments for dealing with ASB generally (the Home Office) and ASB in the social housing context specifically (CLG).

- 2. Are there other tools and powers for dealing with anti-social behaviour you think should be repealed? If so, why?**

No

- 3. Do you think these proposals will reduce bureaucracy for frontline professionals? Will they have other benefits as well?**

It is not clear at this stage whether the proposals would reduce bureaucracy. As we have said above, one of our members' main concerns about enforcing ASB remedies is to do with the lack of capacity in the Courts to deal with cases quickly enough. This applies to the County Courts and to the Magistrates Courts.

In addition, it does not appear that any less evidence will need to be obtained to apply for a Crime Prevention Injunction, for example, than the current ASBI. However, we hope that the new proposals will make the process of obtaining evidence from the Police/Local Authority more straightforward.

**4. Do you think there are risks related to the introduction of any of the new orders?**

We believe that there are risks associated with the introduction of the new orders in particular: who will have the responsibility to take action against people causing ASB? How will this be decided? The cost implications and consequences if there are problems with this i.e the community trigger and precisely which agency will be responsible for taking steps? This is left open in the Paper (see para 2 of page 25).

In the context of the judicial system we would also highlight the need for effective, focussed training of the judiciary to ensure that before these tools come into force, Judges in the County Courts and Magistrates Courts are well versed in the nature, effect and intention of the Orders. In the past, our members have been concerned at the lack of judicial training before new forms of ASB remedy are introduced which has led to a reluctance on the part of Judges to make the orders (for example, it took some time before judges became familiar with and comfortable with granting ASBIs and demoted tenancy orders following the 2003 Act).

**5. Do you think these proposals risk particular groups being disadvantaged in a disproportionate way? If so, how?**

Other than streamlining the legal remedies available, the proposed order/injunction and powers do not appear to us to create any new remedies to tackle ASB to those already available. However, our members are concerned that victims of domestic violence may be disadvantaged by the requirement of the Crime Prevention Injunction that victims are "not of the same household". ASBIs are currently used to good effect by local authorities and social landlords to combat DV and this exclusion risks removing that current avenue/remedy.

There is also scant recognition in the Paper of problems associated with ASB caused by individuals with mental health difficulties and the associated problems which social landlords and other agencies experience in obtaining remedies against those with mental health problems. Our members are concerned that this issue is not acknowledged and that such an important facet of ASB practice is not being addressed by Government by proposing reforms to Court procedures for dealing with perpetrators of ASB with mental health problems.

**6. Because community safety is a non-devolved matter in Wales, are there any specific issues there that should be recognised?**

None that we are aware of.

**2) THE CRIMINAL BEHAVIOUR ORDER**

**1. What do you think of the proposal to create a Criminal Behaviour Order?**

We do not oppose this proposal. The proposal states that the order will be available post-conviction only and applied for by the prosecutor alongside prosecution for an offence. In theory this appears to be a time-saving exercise which we support.

However, the Criminal Behaviour Order will need to be driven by the Police and we are concerned that use of this type of order will decline in use as the Police face front-line cuts which cause them to focus on criminal behaviour rather than ASB.

In addition, social landlords currently face difficulties in ensuring that CRASBOs are obtained by the Police/CPS when criminal action has been taken against social housing tenants who have committed ASB-related crimes. Often, social landlord will only discover that criminal proceedings have taken place against a tenant of theirs after the fact and without being able to lobby the prosecutor/Police for a CRASBO to be made.

Accordingly, we would wish to see some positive duty on the Police/CPS to liaise with the landlord of any Defendant prior to sentencing of that individual to obtain representations from the landlord about the appropriateness of a CBO.

**2. Thinking of existing Civil Orders on conviction, are there ways that you think the application process for a Criminal Behaviour Order could be streamlined?**

We do not apply for civil orders on conviction as this is a matter for the CPS so do not have any suggestions as to how this could be streamlined. However, as we have said above, our members remain concerned that as with the current CRASBO, CBO's will rely on the initiative of the Police and the CPS with little opportunity for intervention or persuasion by other agencies with an interest, such as social landlords.

We would welcome some form of statutory obligation on the CPS and/or the police to consult with relevant agencies where a CBO application is possible so that the views of, inter alia, social landlords can be taken into account where, for example the perpetrator is causing ASB in or in the vicinity of social housing.

**3. What are your views on the proposal to include a report on the person's family circumstances when applying for an order for someone under 16?**

We are generally supportive of this proposal as the current law relating to ASB does not properly address ASB problems caused by underage perpetrators. Our members frequently deal with cases where people under 16 have been guilty of anti-social behaviour and that the behaviour stems from a turbulent, abusive or unsettled family environment.

We are in favour of a report setting out the family circumstances as this will allow the Court to make appropriate and constructive restrictions and positive requirements to guide the individual and give them the tools to improve their behaviour for the better. This will be a positive reform as the individual's behaviour will be addressed rather than the individual simply facing punishment for the offence they have committed.

This will also mean that steps can be taken to address the family circumstances if it becomes apparent that parents are not taking responsibility for the actions of their children, such as the making of parenting orders.

4. **Are there other Civil Orders currently available on conviction you think should be incorporated in the Criminal Behaviour Order? (for example the Drinking Banning Order)**

No

5. **Should there be minimum and maximum terms of Criminal Behaviour Orders, either for under 18s or for over 18s? If so, what should they be, and should they be different for over or under 18s?**

We consider the minimum term for a Criminal Behaviour Order to be in force should be 12 months but do not think that there should be an upper limit. This should depend on the severity and duration of the conduct. Equally, there should be opportunity for orders to be extended so that if an individual is not responding, the order can remain in force.

We do not think that the rules should differ for under- and over- 18 year olds.

6. **Should the legislation include examples of possible positive requirements, to guide applicant authorities and the courts?**

Yes, this would be of assistance provided that it is not an exhaustive list and is clearly expressed to be by way of example only.

7. **Are there examples of positive requirements (other than formal support provided by the Local Authority) which could be incorporated in the order?**

- Acceptable Behaviour Contracts/Agreements
- Parenting Programmes/Classes
- Youth Intervention Schemes
- Involvement in Community Projects

8. **Do you think the sanctions for breach of the prohibitive elements of the order should be different to those for breach of the positive elements?**

We think that it is important that both the positive and prohibitive elements of an order should be of equal importance and, therefore, carry the same sanctions for breach. If a breach of the positive elements of an order does not carry the same sanction as the prohibitive elements, it is foreseeable that an individual may treat the positive elements as less significant and fail to comply when in reality the positive elements are likely to assist the individual in their rehabilitation.

9. **In comparison to current orders on conviction, what impact do you think the addition of positive requirements to a Criminal Behaviour Order will have on the breach rate?**

The breach rate may increase because an individual will have to do a positive act to comply rather than refrain from acting, such as staying out of a particular area. Our members do not see this as a disadvantage but are concerned about effective enforcement of any breach by the prosecuting authorities. If breaches are not properly and effectively enforced - as has been the experience of breaches of ASBOs – the effectiveness of the CBO could well be compromised.

10. **In comparison to current orders on conviction, what do you think the impact would be of the Criminal Behaviour Order on i) costs and ii) offending outcomes?**

Our members do not apply for civil orders on conviction as this is a matter for the CPS so we are unable to comment.

**11. In comparison to current orders on conviction, how many hours, on average, of police and practitioner time do you think it would take to prepare and apply for a Criminal Behaviour Order?**

Our members do not apply for civil orders on conviction as this is a matter for the CPS so we are unable to comment.

### **3) CRIME PREVENTION INJUNCTION**

**1. What do you think of our proposals to replace the ASBO on application and arrange other court orders for dealing with anti-social individuals with the Crime Prevention Injunction?**

The current anti-social behaviour injunction (ASBI) is a successful tool to tackle ASB and is used on a regular basis by local authorities, social landlords and practitioners. Therefore, our members would prefer retention of the ASBI as it stands. If it is to be replaced, we would like reassurance that the Crime Prevention Injunction would be of equal effect and as straightforward to obtain.

As stated above, the Paper fails to acknowledge the significant impact of ASB in the social-housing related context and our members are concerned that the Home Secretary does not appreciate how widespread is the use of ASBIs by social landlords currently in combating ASB. For the majority of registered providers of social housing the ASBI is the favoured tool for dealing with tenants and members of their household behaving in an anti-social manner. Any proposal which might weaken the effectiveness of the ASBI would be strongly opposed by our members

Subject to those important caveats, we do not oppose the Crime Prevention Injunction in principle, and welcome the proposal that it could be obtained against minors.

We do however have concerns about the procedure for obtaining CPI's against minors and query whether a litigation friend would need to be appointed to act on behalf of the minor in accordance with CPR rule 21. If so, this is likely to remain a hindrance to the obtaining of Orders against minors and delay the process of obtaining an effective remedy – as is the case currently.

If the ASBO is to be replaced, our members would expect the Crime Prevention Injunction to be more far-reaching than the ASBI and allow a Court to prohibit an individual from acting in a certain way in the whole of England and Wales and not just in the locality of their property or the landlord's properties – as can be achieved with ASBOs currently.

**2. Which tests should the court apply when deciding whether to impose a Crime Prevention Injunction – that the individual's behaviour caused 'harassment, alarm or distress' or the lower threshold 'nuisance or annoyance'?**

The lower threshold is appropriate. We are very clear that an individual should only have to cause "nuisance or annoyance" for a Crime Prevention Injunction to be granted. If this is not the case a local authority or social landlord would not be able to take action against an individual for ASB such as frequent littering, graffiti, fly tipping, and similar "low level" ASB which when persistent and cumulative, can be as

damaging to the health and welfare of its victims as ASB which directly causes harassment, alarm or distress.

Almost all, if not all, of our members' tenancy agreements use the threshold of "nuisance and annoyance" in relation to ASB and this would bring the new Order in line with this and allow social landlords to take action against individuals at an earlier stage before behaviour develops into "harassment, alarm or distress".

We consider the inclusion of the words 'not of the same household as himself' to be unnecessarily restrictive and – unlike the ASBI - would prevent social landlords taking action in the following circumstances: a) to prevent a person returning to their home following release from prison having been convicted of assaulting a person of the same household; or b) in cases involving domestic violence generally. It is a characteristic of DV cases that the victim often does not want to get involved in proceedings against the perpetrator and will often refuse to give/avoid giving evidence for obvious reasons. Our members have used ASBI's to good effect in such circumstances, relying on evidence from other agencies/neighbours. Were this remedy not available, our members ability to deal with DV would be compromised and they would not be able to protect some of their most vulnerable residents.

The Paper does not state whether a Defendant could be excluded from their own home as is possible currently using the ASBI. This is currently an effective tool both as a first order and on breach of an ASBI and should not be lost.

**3. Do you think the Crime Prevention Injunction should be heard in a County Court or the Magistrates Court?**

Our members are very clear that Crime Prevention Injunctions should be heard in the County Court and not in the Magistrates Court. ASBI's are currently often obtained before or as part of possession proceedings and it assists the smooth running and continuity of a case where both actions are dealt with at the same Court and often by the same County Court Judge.

Our members believe that having different remedies heard in different courts would create significant logistical problems for a social landlord who also seeks to obtain possession of an individual's property due to their anti-social behaviour but wishes to restrain that behaviour pending possession being obtained.

The proposal would also have a significant cost implication for landlords in terms of legal fees incurred in dealing with a case in two courts; staff time in preparation of cases in two separate regimes; additional staff training for social landlord staff who do not currently take action in the Magistrates Courts.

Our members' experience of obtaining an ASBO in the County Court and then seeking to enforce a breach of that ASBO in the Magistrates then the Crown Court, is that at each stage it is treated as a new matter. For the victims who have to appear in one court after another, each time being expected to give evidence as if it is a new issue, the process is disheartening and they eventually lose faith in the system.

For these reasons, the CPI should be available and enforceable in the County Court.

**4. If you think that the Injunction should be heard in the Magistrates Court do you think the Crime Prevention Injunction for those under the age of 18 should be heard in the Youth Court?**

Our members are categorically NOT in favour of CPI's being available only in the Magistrates Court for the reasons given above.

- 5. Should the Crime Prevention Injunction carry a minimum and / or maximum term. If so, how long should these be and should they be different for over or under 18s?**

We consider the minimum term for a Criminal Behaviour Order to be in force should be 12 months but do not think that there should be an upper limit. This should depend on the severity and duration of the conduct. Equally, there should be opportunity for orders to be extended so that if an individual is not responding, the order can remain in force.

We do not think that the rules should differ for under- and over-18 year olds.

- 6. Should there be a list of possible positive requirements in the primary legislation to provide guidance to Judges?**

Yes, this would be of assistance providing that it is not an exhaustive list and is clearly provided by way of example only.

- 7. Are there examples of positive requirements (other than formal support provided by the Local Authority) which could be incorporated in the order?**

- a. Acceptable Behaviour Contracts/Agreements
- b. Parenting Programmes/Classes
- c. Youth Intervention Schemes
- d. Involvement in Community Projects

- 8. What are your views on the proposed breach sanctions for over 18s and for under 18s for the Crime Prevention Injunction?**

We broadly agree with the proposals for sanctions for breach for both under- and over-18 year olds and consider them to be appropriate and proportionate for the different age brackets. However, we do query how a breach by a minor could be serious enough to warrant detention but not serious enough to warrant a criminal conviction and how detention could be imposed as a civil order (p18 –“Breach”).

- 9. In comparison to current tools what do you think the impact would be of the Crime Prevention Injunction on i) costs and ii) offending outcomes?**

We do not foresee the cost implications of Crime Prevention Injunctions nor offending outcomes to differ very much from current experience of our members using ASBIs.

- 10. What impact do you think the inclusion of positive requirements would have on the Crime Prevention Injunction breach rate?**

The breach rate may increase because an individual will have to do a positive act to comply rather than refrain from acting, such as staying out of a particular area. Our members do not see this as a disadvantage.

- 11. Thinking of other civil injunctions available, how many hours, on average, of police and practitioner time do you think it would take to prepare and apply for a Crime Prevention Injunction?**

It takes approximately 5-10 hours to prepare an ASBI application but this is dependant on the complexity of the case and how many witness statements need to be prepared.

#### **4) THE COMMUNITY PROTECTION ORDER**

- 1. What do you think of the proposal to bring existing tools for dealing with persistent place-related anti-social behaviours together into a single Community Protection Order?**

We generally agree with the proposal for a Community Protection Order but consider that the different Levels will need to be clearly distinguished, possibly by calling the Level 1 notice the "Community Protection Notice".

The Level 1 notice sounds as though it would be a useful tool for our members and allow them to address less serious anti-social behaviour with an official notice giving the offender a formal warning. However, more guidance is required as to whose responsibility it will be to serve this notice, whether the notice would be in a prescribed form and who would be responsible for enforcement of breach of such a Notice.

Whilst we agree with the proposal that a breach of the notice should be a criminal offence and consider this an appropriate sanction and one which would convey the importance of such a notice, we remain unclear from the Paper how enforcement would take place, and in particular who would hold the final decision as to whether enforcement proceedings should take place.

- 2. Are there problems with the existing tools you think should be addressed in the Community Protection Order?**

The CPO should be available to all social landlords whether local authorities or housing associations at both Levels 1 and 2 where the ASB is housing-related or relates to behaviour in the locality of the social landlord's premises.

There is no justification for allowing local authorities the power to use this tool in relation to management of their housing stock but to prevent other registered providers such as housing associations from having access to the same power.

We would also oppose any obligation on social landlords to consult before applying for a CPO. Too often in the past our members have seen the duty to consult over use of an ASBO interpreted by the police/local authority as giving them the power to prevent the social landlord from applying for an ASBO. We would therefore be very much against any duty to consult as in our experience it has prevented social landlords from acting swiftly to protect residents and staff using ASBOs.

- 3. Are there other existing tools you think should be included, such as a Special Interim Management Order?**

Our members' view is that SIMOs serve a different purpose and should not be included.

- 4. Who should be given the power to use a Level 1 Community Protection Order?**

Local authorities, housing associations, and the Police.

- 5. In comparison to current tools what do you think the impact of the Community Protection Order would be on (i) costs and (ii) offending outcomes?**

This is difficult to assess. Our members' concerns relate to the attitude of the judiciary to these new Orders and the training which Judges and Magistrates are given in how and when to grant these Orders. Generally, our members would like to see a more pro-active approach being taken by Judges and Magistrates and greater consideration given by them when deciding on penalties and sentences to the effect of ASB on its victims and the wider community. ASB tools are only effective if those who have the power to impose them do so effectively.

**6. In your area, is there any duplication of current orders issued to deal with the problems tackled by either level of the Community Protection Order? If so, could you indicate the extent of duplication?**

Our members operate across the UK but anecdotal evidence suggests there is little duplication; rather, because of the number of tools available there is a lack of understanding and experience amongst the judiciary about how and when the various tools may be employed. This can lead to a reluctance on the part of Judges and Magistrates to grant Orders as they do not have the necessary experience to understand their effect.

**7. What impact do you think the introduction of the proposed Community Protection Order would have on the number of orders issued?**

We know from our members that two of the biggest ASB issues they face operationally are dealing with noise and with unruly dogs. We consider that social could use Level 1 and Level 2 orders to deal very effectively with these sort of issues and we expect to see them used regularly. If social landlords were given the power to apply for and obtain Level 2 Orders this would spread the administrative and costs burden so it did not fall disproportionately on the police and local authorities. However, we anticipate that smaller housing associations with limited resources would still need to rely on the police and local authorities to take action on their behalf.

Our members are also concerned that Environmental Health Officers may stop using their powers under the Environmental Protection Act (EPA) if they see overlap with the CPO regime. At least one London Local Authority has already stated that they will charge housing associations £450.00 for the installation of noise recording equipment to evidence breaches of the EPA. Given the statutory duty imposed by the EPA we suspect such a decision is questionable. It is a however a clear indication of the steps that might be taken to avoid duties in these times of funding cuts.

**8. Thinking of current orders to tackle environmental disorder, how many hours do you think it would take to prepare and issue a Level 1 Community Protection Order? Is this more or less than the time taken to issue current notices aimed at tackling the same problems?**

We think it unlikely that timescales will be very different given that there will be no material change to the nature and extent of the evidence needed to support an application.

**9. Thinking of the place-related orders that it would replace, how many hours do you think it will take, on average, to prepare, issue, and implement a Level 2 Community Protection Order?**

We think it unlikely that timescales will be very different given that there will be no material change to the nature and extent of the evidence needed to support an application. However, all of the new orders will require re-training of staff and a review of ASB procedures operated by social landlords and local authorities. As the duty on social

landlords to publish ASB procedures remains, will there be an obligation for landlords to review and publish new procedures following the introduction of this new legislation? We assume so.

## **5) THE DIRECTION POWER**

### **1. What do you think of the proposal to combine the existing police powers for dealing with anti-social behaviour into a single directions power?**

This proposal will make the powers available to the police and PCSOs more straightforward which should allow them to deal with ASB more efficiently and effectively.

Our members are increasingly having to deal with groups of people, often youths, loitering in stairwells and communal areas or public spaces in or near their properties who cause ASB so the simplification of the police powers will hopefully help to alleviate the this problem.

However, our members remain sceptical that the Police will willingly adopt and use these powers. Our members are already used to hearing the familiar refrain from the Police and PCSOs that low level ASB is a “civil matter” and not one which the Police can deal with. The proposed changes in the Paper will only be effective if this culture is changed fundamentally so that the Police fully understand their responsibilities and duties with regard to ASB matters.

Our members are also concerned that spending cuts will impact on frontline police services such that these changes will be of little effect in practical terms.

### **2. Do you think the power should be available to PCSO’s as well as police officers?**

Yes. For this tool to be effective PCSOs need to be provided with the authority to use and enforce the Direction Power as well as police officers. PCSOs are community officers and deal with ASB on a daily basis. If PCSOs are not able to use the Directions Power it will send the wrong message to those causing ASB as they will believe that there are no consequences when the PCSOs are around.

### **3. What safeguards could be put in place to ensure that this power is used proportionately and does not discriminate against certain groups, particularly young people?**

Training will be essential to ensure that the power is used proportionately and does not discriminate against any groups of people. A guideline giving examples of how the power could be appropriately may assist officers.

### **4. What do you think would be the most appropriate sanction for breach of the new direction power?**

We believe that an individual should be informed of an initial breach in writing and in the event that they breach the direction again, they should be given a fine or arrested. For this system to work, inter-agency co-operation will be imperative so that breaches are reported and recorded and the police take action to enforce the breaches.

- 5. Thinking of its existing powers to leave a locality, how much police and Local Authority time do you think would be saved by removing the requirement of having a designated area from which to move individuals or groups from?**

Removing the requirement of having a designated area will save time for all involved as the process will be less bureaucratic and provide a more flexible and efficient tool to prevent ASB.

- 6. What do you think the impact would be of removing the need for a pre-designated area on the volume of directions issued?**

It is hard to tell what the impact will be on the volume of directions.

- 7. Do you expect there to be a change in the use of the direction power (compared to the use of existing tools)? If so, what do you estimate the change would be and what proportion of the direction powers used will be aimed at those under 18?**

If the power is easier to implement it is foreseeable that the power will be used more frequently and probably in respect of those under 18.

Our members often receive complaints from residents about groups of youths loitering in common areas of Estates or housing areas and this undoubtedly causes ASB such as noise nuisance, littering, damage to property and generally nuisance. Therefore, it is foreseeable that a significant proportion of police action will be aimed at those under 18.

## **6) INFORMAL TOOLS AND OUT OF COURT DISPOSALS**

- 1. How do you think more restorative and rehabilitative informal tools and out of court disposals could help reduce anti-social behaviour?**

The informal tools available to our members, such as warning letters and anti-social behaviour contracts (ABC), are essential for carrying out their housing functions as they can help address a problem as soon as it occurs and can be tailored to the individual. In some cases a warning letter or ABC is effective and resolves the problem but in some cases individuals do not respond to the informal tools and legal steps have to be taken to address the problem.

- 2. What are the barriers to communities getting involved in the way agencies use informal and out of court disposals in their area?**

Anti-social behaviour can create fear in the community which often dissuades victims/witnesses from reporting issues and getting involved with dealing with ASB.

In certain parts of the UK ASB is so common that it has become accepted as the "norm" within some communities, particularly those where there is a significant proportion of social housing. This creates a substantial problem for the police and social landlords who are trying to deal with ASB as the residents perception of what is normal needs to be changed.

In addition, delays in the judicial system due to lack of resources/hearing time means that communities can lose confidence in the processes used to deal with ASB. The media obsession with ASBOs over recent years has meant that social landlords have to spend a

lot of time managing residents' expectations so they are clear as to what is achievable and the role they can play.

- 3. Are there any other changes to the informal and out of court disposals that you think could help to tackle anti-social behaviour?**

None

## **7) THE COMMUNITY TRIGGER**

- 1. What do you think of the proposal to introduce a duty on Community Safety Partnerships to deal with complaints of persistent anti-social behaviour?**

This is potentially a positive step but clear guidelines must be provided to confirm which organisation(s) will be responsible and a framework developed to establish clearly when the duty will be engaged. We are concerned about the possibility of RP's and other agencies being inadvertently opened up to negligence claims for failure to comply with the new duty. SHLA members would want reassurance that any breach of the Community Trigger would not lead to Court action and damages claims against RP's.

- 2. Do you think the criteria for the Community Trigger are the right ones? Are there other criteria you think should be added?**

A definition for ASB will need to be provided as a standard approach will need to be taken by all.

The criterion appears to be on the right lines but we are concerned that only three complaints by one individual may trigger the duty too easily. The type of complaints may need to be graded.

- 3. Do you think this proposal risks particular groups being disadvantaged in a disproportionate way? If so, what measures could be put in place to prevent this?**

It does not appear than any particular group will be disadvantaged by the criterion. However, care will need to taken by the relevant organisation(s) to ensure that complainants do not have any undisclosed motive behind making complaints. Again, guidance will be required.

**Social Housing Law Association**

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