

Anti-social behaviour and disability – the response of social landlords

Caroline Hunter,* Nick Hodge, Judy Nixon, Sadie Parr
University of Manchester and Sheffield Hallam University

Abstract

This paper reports some of the findings of a review conducted by the authors for the Disability Rights Commission (DRC) on 'Disabled people's experiences of anti-social behaviour and harassment in social housing.' The paper focuses on two elements of the review: the impact of disability on the decision to take legal action and how policies and procedures to tackle anti-social behaviour deal with disability issues. It also briefly considers how social landlords monitor disability. It illustrates how many social landlords may be failing to fulfil their disability equality duties imposed by the Disability Discrimination Act 2005 when dealing with anti-social behaviour directed at or committed by disabled people.

Key words: anti-social behaviour, disability, social housing.

Introduction

Issues around anti-social behaviour have been high on the political agenda in Britain for at least ten years, and have been matched by a raft of legislation and policy initiatives. While these legal and policy measures may have the potential to address anti-social behaviour and provide relief for victims, there is growing concern about the consequences of legal action for alleged perpetrators. For example, the National Association of Probation Officers has collected a number of case studies which point to a potential misuse of anti-social behaviour orders (ASBOs) (NAPO, 2005).

Similarly there is some evidence to suggest that disabled people are frequent victims of harassment and other forms of anti-social behaviour within their communities, with levels of victimisation particularly acute for some impairment groups, such as people with learning disabilities and mental health problems (Williams, 1995; Berzins et al, 2003; DRC/Capability Scotland, 2004).

This paper reports some of the findings of a review conducted by the authors for the Disability Rights Commission (DRC) (Hunter et al, 2007) on disabled people's experiences of anti-social behaviour and harassment in social housing. The paper focuses on two elements of the review: the impact of disability on the decision to take action against disabled people and how policies and procedures to tackle anti-social behaviour deal with disability issues. It also briefly considers how social landlords monitor disability. A paper to be published in a later issue of this journal will focus on what is known about disability amongst victims and perpetrators of anti-social behaviour.

Methods

The review for the DRC comprised an extensive literature review, plus an analysis of both national ASB Guidance and a sample of individual policies and procedures from a range of social landlords, a survey of social landlords and focus groups with disabled persons, their parents/carers and a group of ASB/housing professionals. The findings reported here draw principally from the analysis of local policies and procedures, the survey, and a focus group with professionals.

The policies of 20 English local authorities, ten Scottish authorities and 6 Welsh authorities together with 18 English, seven Scottish and eight Welsh RSLs were analysed to evaluate the extent to which they address the issue of anti-social behaviour with regard to disabled people, either as victims or perpetrators, whether they are sensitive to the needs of disabled people and how far they are consistent across different organisations.

The survey was distributed to 265 members of the Social Landlords Crime and Nuisance Group (SLCNG) and, given that SLCNG does not cover Scotland, an additional sample of 20 Scottish landlords were selected for inclusion in the study. A separate sample of 30 social landlords was also identified who specialise in providing housing specifically for disabled people. The overall response rate from 'non-specialist' providers was 25 per cent (70) and 23 per cent (7) from 'specialist' providers. This is not a large enough data set to provide detailed analysis, but it is large enough to indicate possible trends.

Why social housing?

The paper focuses on anti-social behaviour in the context of social housing. Social housing providers, by which we mean local authorities, arm's length management organisations (ALMOs) who have taken over the management of local authority housing stock, and housing associations which are registered as a social landlord with the appropriate regulatory body (the Housing Corporation in England, the Welsh Assembly Government or Communities Scotland) (RSLs), provide only 19 per cent of accommodation in Great Britain (Wilcox, 2007). Notwithstanding this, the evidence suggests that those living in social rented housing are most at risk of perceiving high levels of anti-social behaviour (Wood, 2004).

The evidence further suggests that there is a significant number of disabled people living in the social housing sector rendering them potential recipients and beneficiaries of anti-social behaviour interventions. In England and Wales Census data indicates that in 46 per cent (compared to 32 per cent in the general population) of households living in social

rented housing, at least one person has a long term or limiting illness, health problem or disability which limits their daily activities or the work they can do, including problems that are due to old age. In Scotland, 29 per cent of households containing at least one member with a long-term illness and 28 per cent of households containing at least one disabled member, reside in a property which is being rented from a local authority/RSL in 2005, compared to just 11 per cent of households containing no disabled members or members with a long-term illness (Scottish Executive, 2006). Those with mental health conditions are more than one and a half times more likely to be living in rented accommodation than the general population (SEU, 2000, p.85).

Legal framework available to social landlords to tackle anti-social behaviour

The legal framework governing anti-social behaviour is extremely complex, particularly since, given the nature of the behaviour, there is inevitably a cross-over with criminal law provisions. Most tenants of social landlords in England and Wales have security under either the Housing Act 1985 (secure tenants) or the Housing Act 1988 (assured tenants). In Scotland, most tenants have a Scottish secure tenancy under the Housing (Scotland) Act 2001. All these statutory regimes make provision for tenants to be evicted in certain prescribed circumstances relating to instances of anti-social behaviour, providing the behaviour can be proved and that the relevant judge/sheriff considers that it is reasonable to make the order. The relevant Acts also make provision for tenants to be demoted to a lesser form of security as an alternative to eviction. In Scotland any such demotion must also be accompanied by the offer of some form of tenancy support.

In England and Wales social landlords have been given specific injunction powers to order both tenants and in certain circumstances non-tenants to cease to behave in an anti-social manner. In addition they may also seek to have a power of arrest and/or an exclusion order attached to the injunction.

Perhaps the most notorious legal measure has been anti-social behaviour order (ASBO), introduced in England, Wales and Scotland by the Crime and Disorder Act 1998. In England and Wales it has been possible, since their introduction, to obtain an ASBO against anyone from the age of 10 upwards, whereas in Scotland they were initially only available against adults. Since 2002 the power to apply for an ASBO has been extended in England and Wales to RSLs, and from 2007 ALMOs and Tenant Management Organisations have been given the power to apply. In Scotland the relevant provisions are now contained in the Anti-social Behaviour etc. (Scotland) Act 2004. This Act extended the power to apply for ASBOs to RSLs, and also permitted applications to be made in relation to children from age 12 upwards.

It is also worth noting that, although not strictly a 'legal remedy,' many social landlords have also adopted the use of acceptable behaviour contracts or agreements. These are (Home Office, 2007a):

- a written agreement between an anti-social behaviour perpetrator and their local authority, Youth Inclusion Support Panel, landlord or the police
- ABCs are usually used for young people but can also be used for adults
- the ABC consists of a list of anti-social acts that the offender agrees not to continue and outlines the consequences if the contract is breached.

The Disability Discrimination Acts 1995 and 2005

The coming into force of the Disability Discrimination Act (DDA) 2005 in December 2006 is particularly significant for social landlords. The Act makes a number of amendments to the DDA 1995, including the imposition of a general duty on public authorities when carrying out their functions to have due regard to the:

- promotion of equality of opportunity between disabled people and other people
- elimination of discrimination that is unlawful under the DDA 1995
- elimination of harassment of disabled people that is related to their disability
- promotion of positive attitudes towards disabled people
- encouragement of participation by disabled people in public life
- taking of steps to meet disabled people's needs, even if this requires more favourable treatment.

The duty applies to all local authorities and also to the bodies regulating local authorities and RSLs, for example the Housing Corporation. Further the Disability Rights Commission has taken the view that this general duty also applies to RSLs (DRC, 2006a, p.14).

In addition to the general duty, the 2005 Act imposes a number of specific duties and under these local authorities and regulatory bodies will have had to produce a Disability Equality Scheme and Action Plan, by December 4, 2006. Although this specific duty does not apply to RSLs, the Housing Corporation in England has stated that (DRC 2006a, p. 15):

Following publication of its own DES and Action Plan by November 2006 the Corporation will expect associations to develop appropriate Disability Equality Schemes and Action Plans of their own during 2007, for publication from December 2007.

Furthermore, because the duty applies to those bodies which monitor and inspect local authorities, ALMOs and RSLs, compliance will be one aspect which will be built into their monitoring and inspection regimes. These measures undoubtedly mean that social landlords will have to become much more aware of the impact on disabled people of their policies and procedures to deal with anti-social behaviour.

In addition to these general duties, the use of legal remedies against tenants who are disabled is constrained by the DDA 1995, ss.22 - 24. Section 22(3)(c) of the DDA 1995 provides that:

- (3) It is unlawful for a person managing any premises to discriminate against a disabled person occupying those premises...
- (c) by evicting the disabled person, or subjecting him to any other detriment.

Discrimination is defined in s.24, which also provides a 'defence' to discrimination if the treatment is justified:

- (1) For the purposes of [sections 22 and 22A], a person ("A") discriminates against a disabled person if—

- (a) for a reason which relates to the disabled person's disability, he treats him less favourably than he treats or would treat others to whom that reason does not or would not apply; and
 - (b) he cannot show that the treatment in question is justified.
- (2) For the purposes of this section, treatment is justified only if—
- (a) in A's opinion, one or more of the conditions mentioned in subsection (3) are satisfied; and
 - (b) it is reasonable, in all the circumstances of the case, for him to hold that opinion.
- (3) The conditions are that—
- (a) in any case, the treatment is necessary in order not to endanger the health or safety of any person (which may include that of the disabled person); ...

As pointed out by Cobb (2006) it was not until eight years after the passing of the legislation that the impact of the DDA on the capacity of social landlords to take action against disabled people became apparent. This followed the publicity for the case of *North Devon Homes v. Brazier* [2003] EWHC 574; [2003] HLR 59. This High Court decision was then quickly followed the next year by a Court of Appeal decision in *Manchester City Council v. Romano* [2004] EWCA Civ 834; [2004] H.L.R. 47. Cobb (2006) continues that the litigation in the *Brazier* case, where the social landlord was unable to obtain possession because of a failure to consider the implications of the tenant's disability, came as a "considerable shock to social landlords who had apparently failed to appreciate the impact of the DDA upon housing management before this point."

The effect of the decision in *Romano*, however, was to limit the practical impact which the Act might have. In *Brazier*, discrimination was found to occur where a tenant, whose behaviour is caused by the impairment is treated in a different way from a person without that impairment and who would accordingly not act in the same way. This was followed in *Romano*, but the Court of Appeal made it relatively easy for landlords to justify the discriminatory treatment by taking a wide view of the meaning of health. Thus the impact of any behaviour is likely to make the less favourable treatment necessary in order not to endanger the health of any victim of the anti-social behaviour.

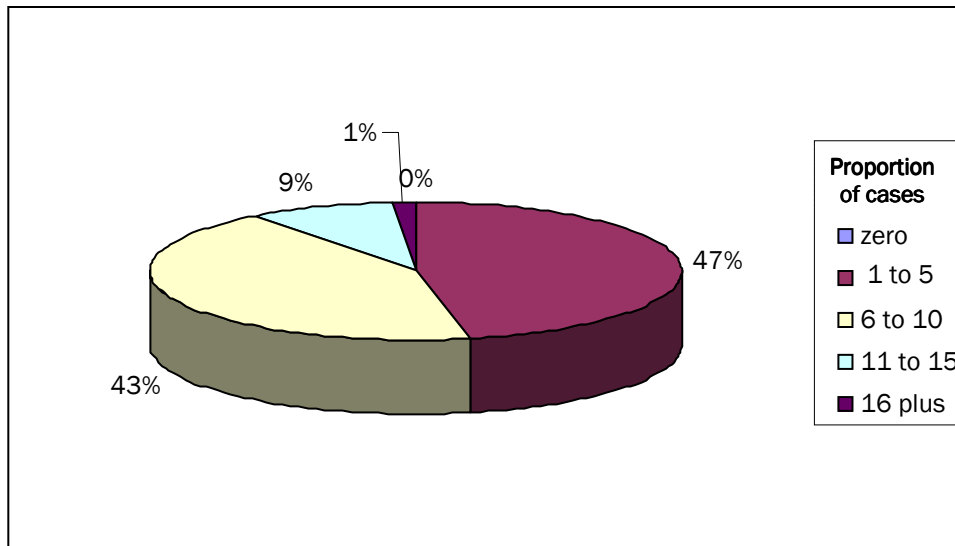
Section 22 (3) (c) applies to persons managing premises in relation to possession action or subsection to 'any other detriment.' In *Romano*, the Court of Appeal indicated that although sending a warning letter to a tenant is not subjecting him to a detriment, once the possession process is initiated by the service of a notice of seeking possession the DDA is brought into play. It is also suggested that obtaining an injunction also falls within the definition of 'detriment.' The Court did not consider whether entering into an acceptable behaviour contract (ABC) or seeking an ASBO would also qualify, and there must be some doubt about these. An acceptable behaviour contract may not fall within the definition of a detriment. Furthermore it may be argued that in both the case of an ABC and an ASBO the landlord is not acting as a person managing premises, but in a wider community safety role. None of these questions, have however, been tested in the courts.

The response to the decision in *Romano* in the legal press was a number of articles which gave practical guidance on how social landlords should respond (see for example Marsh and Bhaloo, 2005, Murdoch, 2004, Arden, 2004). None of the literature which has explicitly considered the impact of the decisions in *Brazier* and *Romano*, however, gives any indication of the number of cases it affects or whether social landlords have taken on board this advice.

Research Findings

Our own survey of social landlords asked landlords how frequently in the last 12 months they had considered the application of the DDA, ss.22-24. All had done so at least once, and just over half had done so more than 6 times (see Figure 1). This indicates an awareness of the applicability of the DDA amongst social landlords, and that it is not an uncommon occurrence for landlords to be considering its application. We do not have any evidence, however, as to the proportion of cases to which it is applied or the affect of its consideration.

Figure 1: Proportion of areas in which DDA considered in the last 12 months



Note: n=77

The majority of landlords (79 per cent of non-specialist providers) reported applying the same criteria to cases involving ASBOs or ABCs. Although the majority of organisations were still likely to consider ss.22 and 24 in at least some cases that involved ABCs or ASBOs; over one fifth of non-specialist providers (21 per cent) reported never having done so.

As with so much about anti-social behaviour there is a clear gap in our knowledge here. We can see from the survey that ss.22 – 24 are relatively regularly considered by landlords in relation to eviction cases, but at the moment there is no evidence as to how they affect decision-making by those landlords. Does it actually prevent proceedings being taken or do landlords find that the action they are proposing is justified and proceed in any event? Further given the evidence below about the lack of monitoring there must also be strong doubts as to whether landlords identify all those cases where the perpetrator is disabled.

Another issue is raised by those living in non-secure, particularly supported housing. We do not know how far landlords are taking ss.22-24 into account when evicting tenants of such housing. The applicability of the Act to non-secure tenancies was recently upheld in the case of *Lewisham LBC v. Malcolm* [2007] EWCA Civ 763. Yet a Housing Corporation study (Housing Corporation, 2007) indicates that tenants in supported housing (who are

both more likely to have some form of disability and to have a non-secure form of tenancy) are 15 times more likely to be evicted for anti-social behaviour, than those in general needs housing.

National policies and procedures

The national focus on anti-social behaviour has led to much national government guidance to social landlords on how to manage the issue. Reflecting the paucity of debate at a policy level about the intersection of anti-social behaviour and disability, the review of national guidance found that, although disability is generally mentioned in guidance, there is very little detail as to how agencies should address anti-social behaviour where either the victim or the perpetrator is disabled (see for example ODPM 2004 and Housing Corporation 2004).

Guidance is consistent in so far as it advises on the requirement to comply with the DDA, but also in giving very little assistance in how this should be achieved. Disability is often encompassed into the category of vulnerability, and then often only in terms of mental health problems, this means that the specific legal issues which arise in relation to disabled people are not addressed (as will be seen below, this is then reflected in the practices of social landlords). In very broad terms most of the Guidance documents recognise that disabled people may be particularly susceptible to being victims of anti-social behaviour. Only the ASBO Guidance in Scotland (Scottish Executive 2004), and the much more recent Home Office Guidance on Acceptable Behaviour Contracts and Agreements however, recognise with more than a passing reference that there are particular issues about disability and perpetrators of anti-social behaviour. The latter states (Home Office 2007b, p.11):

Special educational needs, disability and mental health difficulties of a perpetrator may of course be highly relevant to his/her behaviour. Where he/she has a disability, mental health difficulty or special educational needs, practitioners with specialist knowledge of the circumstances ought to be involved in the assessment, to help determine what form the intervention should take. Agencies should ensure that those with disabilities, mental health difficulties or special educational needs are not excluded/discriminated against and are able to access the same quality and level of support and have their support needs met. Experts familiar with the perpetrator or with his/her presenting conditions ought to be involved in the ABC process in order to ensure appropriate support is in place.

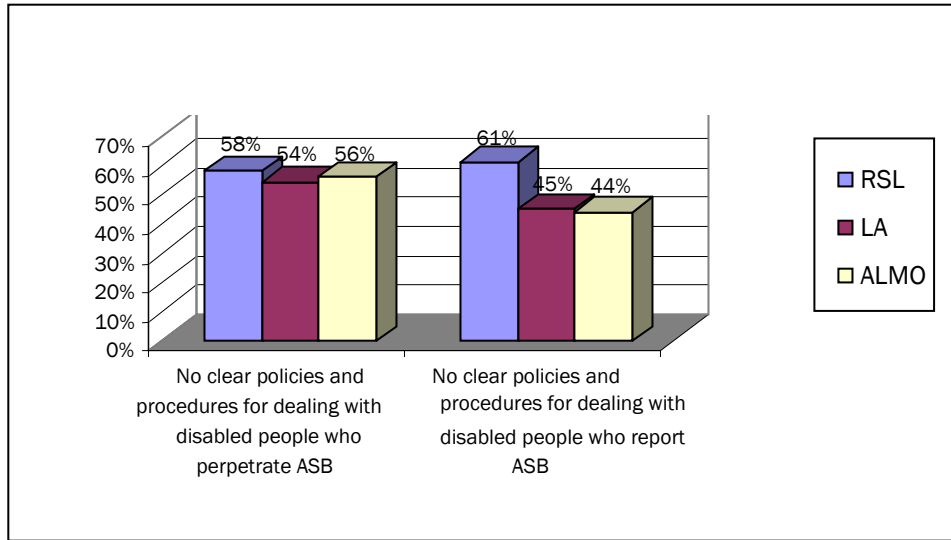
Even this does not amount, however to detailed guidance on how to assess and respond to perpetrators who are disabled. These failings were reflected in the survey of landlords with over two-thirds stating that there was a lack of clear national guidance on this issue.

Local policies and procedures

The survey of social landlords indicates that many organisations recognised that there were gaps in their policies and procedures, with RSLs the least likely to consider their policy or procedure was adequate to deal with disabled persons who report anti-social behaviour

(see Figure 2), and just over half of all organisations reporting that they had no policy or procedure for dealing with disabled perpetrators.

Figure 2: Proportion of organisations who considered they had no policy or procedure for dealing with disabled people who report or are accused of anti-social behaviour



Note: n=77

Even where organisations did have a policy on anti-social behaviour and disabled people, seventy per cent of non-specialist providers (n= 49) stated that disabled people had not been involved in the formulation process. It was suggested at the focus group with social housing providers that this may be changing. Many social landlords are now, in the light of the DDA 2005, looking to involve disabled people more actively in consultation processes.

As noted above, in addition to the survey, a documentary analysis of policies and procedures was undertaken. In most cases these were obtained from web-sites, although in a number of instances where web-site copies of policies were not available researchers sought paper copies. The limitations of this method of obtaining policies and procedures must be acknowledged, as more detailed documents may be held internally by organisations which are not publicly readily available. Nonetheless the publicly available documents do give a useful indication of how disability is dealt with in social housing organisations. It was, however, pointed out by focus group participants and by respondents to the survey that many social landlords are currently undertaking or planning to undertake a review of their policies and procedures before the end of the year, in line with the statutory requirement in England and Wales to review the policy and procedure from time to time. As such, these findings may change over the next 12 months, particularly in the light of the requirement under the Disability Equality Duty for public authorities to assess the impact of their activities on disability equality.

The key outcomes are summarised in Table 1.

Table 1: References to disability in anti-social behaviour policies and procedures

	England		Scotland		Wales	
	LA (n=20)	RSL (n=18)	LA (n=10)	RSL (n=7)	LA (n=6)	RSL (n=8)
Some reference to disability	10	9	10	7	3	5
Explicit statement of compliance with DDA	4	6	0	2	2	2
Highlight disabled people as potential victims of anti-social behaviour	6	13	4	4	4	2
Refer to support for vulnerable, including at least mentally ill people	8	8	1	3	6	6

All the documents in Scotland, but only half in England and Wales make some reference to disability. Of the authorities mentioning disabled people somewhere in their documents, disability is usually used as a generic term and there are no definitions of who is included in this category, and consequently it is difficult to tell whether it covers the full range of impairments. The issue of mental illness is often referred to, usually as a separate issue from disability, and is cited as a vulnerability which could cause or exacerbate anti-social behaviour. Few documents mentioned people with learning disabilities.

As can be seen from Table 1, it was not uncommon for policies to highlight harassment of disabled people as a possible anti-social behaviour issue which would need to be addressed. A smaller number of policies highlighted the fact that malicious complaints may be motivated by the complainant's prejudice towards an alleged perpetrator for a number of reasons, including disability. Southend was the only authority to specify and fully quote the section of the DDA (s. 22(3)) which is applicable to anti-social behaviour complaints. It acknowledges issues which might arise for people with disabilities both as victims and perpetrators of anti-social behaviour, stating that in the case of victims:

It is important to take a sensitive and victim-orientated approach when responding to complaints of harassment made by such vulnerable groups and recognise that some people may not be in a position to make their concerns readily known to the Council.

Many of the local authority documents mention issues around dealing with vulnerable people; definitions of this group often do not include all disabled people, but do always include those with mental health problems. Mental illness, or the social exclusion it results in, is cited in some strategies as a possible cause of, or reason for, the anti-social behaviour. Camden Borough Council acknowledges that disability or mental health issues could result in behaviour that is viewed as anti-social, stating that:

Sometimes the person causing the nuisance may suffer from illness or vulnerability that is causing nuisance to others. In other cases the complainant may be suffering from mental illness that may be causing them to make fictitious complaints or exaggerated complaints against their neighbours. In such cases, it may be appropriate to involve other agencies in order to tackle the incidents of nuisance.

Consider a referral where the agency is then able to take action or, more usually, where multi-agency work can jointly bring about a solution.

This recommendation is echoed in many of the strategies. In line with the ODPM guidance (ODPM 2004), measures of support for people suffering from harassment, in the form of assistance from other agencies, are mentioned in many of the documents. All of those which mentioned any guidance for dealing with vulnerable people recommended bringing in support from other agencies, which are usually listed within the policy and include social services and mental health teams. In the majority of cases there is little elaboration on this advice. However, some authorities do outline procedures which should be followed in more detail. For example, in addition to the above statement Camden's strategy outlines procedures for setting up initial support for vulnerable tenants, the process and agencies involved, and also guidance on who to contact and the legal position when dealing with a complaint of anti-social behaviour either by or against a vulnerable person, together with details of support teams and methods of referral.

Registered social landlords also tended to refer to 'the vulnerable.' This category always includes people with mental health problems, but does not always mention people with disabilities and only one specified learning disabilities. As with the local authority policies, where measures of support are outlined it is in the form of support from other agencies which are listed in the policy. This is generally a very brief outline but a minority of policies do go into much further detail. For example, Bristol Churches, part of the Places for People Group, states that:

In certain situations it may be appropriate to tackle an anti-social behaviour issue by supporting the perpetrator to address and change their behaviour. This may be the appropriate course of action where the perpetrator has dependence issues (drugs or alcohol), mental health or disability issues.

The policy identifies dependency and disability issues and the support options available to deal with them. It outlines information that should be kept on file and questions that should be asked of any alleged anti-social behaviour perpetrator. It includes definitions of mental illnesses, departments and agencies available to provide support and detailed options for treatment and referral along with a step-by-step guide to dealing with an anti-social behaviour case involving mental health issues and the associated legal information.

As with some of the local authority policies, some RSLs also address the issue of disabled people and people with mental health issues behaving in a manner that may be construed as anti-social. Knightstone's policy states that:

Some vulnerable people may cause a disturbance without realising the consequences of doing so. Being vulnerable does not mean people cannot take responsibility for their actions; however their personal circumstances or ability may mean that they need help to live in a socially acceptable manner.

This quote is interesting because it still places responsibility on the disabled person and does not recognise that the person because of their impairment may be challenged by particular aspects of the environment around them and that an assessment of what is happening around them should also be carried out.

These definitional issues, which arise at a national level as well as locally, raise important issues for social housing providers. Definitions of 'disability' have been a major

focus for debates and consequently definitions have undergone a number of changes and modifications. The DDA 1995, and in particular the requirements of the 2005 Act are premised on a social model of disability, i.e. that:

people with impairments are disabled by physical and social barriers. The 'problem' of disability results from social structures and attitudes, rather than from a person's impairment or medical condition. (DRC 2006b, p.9)

The DDA itself provides a detailed definition of disability, yet the policies and procedures do not refer to this or in any way acknowledge it. This subsuming within undefined categories such as "the vulnerable" may both obscure the legal responsibilities of landlords and lead to a focus on the person as the "problem" rather than on the social structures and attitudes of response to a person's disability in line with the social model.

Most of the recommended actions are designed to address issues of anti-social behaviour either perpetrated or experienced by disabled people once incidents have occurred. Some authorities, such as the Derbyshire partnership, do mention preventative work in order to avoid such problems arising. However, advice was scant, with housing staff in Derbyshire being instructed to: 'Ensure the protection of vulnerable adults and children by encouraging staff to be alert to behaviours or action which place vulnerable people at risk and to report such actions.'

Overall there is very little advice given by local authorities to their staff on dealing with issues of anti-social behaviour with regard to disabled people. What there is concentrates around the awareness of harassment of disabled people as an anti-social behaviour issue, and the importance of bringing in support measures from other agencies when dealing with vulnerable people, as recommended by the English and Welsh national guidance. For RSLs, as with local authorities, there is little specific mention of people with disabilities in the documents, although there was a lower percentage of policies (than local authorities) which did not mention anything at all. There was also much fuller guidance found in a small number of policies than was present in any of the local authority documentation.

Monitoring

The Public Accounts Committee has recently pointed out the failures to monitor and evaluate the impact of anti-social behaviour interventions at a national level (Public Accounts Committee, 2007). This was also reflected at a local level where the survey revealed that disability is monitored by less than half of landlords, with only 43 per cent collecting the data in relation to complainants and even fewer (38 per cent) collecting it in relation to perpetrators. This is why at the moment it is very hard to draw any firm conclusions about the impact of anti-social behaviour policies on disabled persons.

The general feeling from the focus group was that landlords were investing much more effort in finding out who their 'customers' are and this included whether tenants and members of their families are disabled. Such monitoring tends to use more accepted definitions of disability arising out of DRC Guidance. Although the focus group provided evidence that some landlords do routinely record information about tenants' disabilities, this data is rarely, if ever, linked to the systems used for managing anti-social behaviour.

Discussion in the focus group indicated that staff in some housing organisations might not have the necessary knowledge and are not adequately supported by other agencies to

ensure that disabled people involved in anti-social behaviour (whether as victims or perpetrators) are dealt with in an appropriate and equitable manner. Focus group participants pointed to inadequate training around disability issues for housing staff, described by one as a 'massive hole' which impacted on efforts to monitor for disability: 'disability is only just coming on to the radar.' Key (overlapping) issues raised in the landlord focus group around that hindered monitoring included: difficulty in trying to determine whether anti-social behaviour is a symptom or manifestation of a person's mental health problem; lack of confidence and expertise to make judgements about underlying causes of anti-social behaviour; fear of making inappropriate assumptions; and reluctance to ask people if they considered themselves to be disabled and/or to undergo psychiatric assessments.

Conclusions

The review highlighted how in the clamour to tackle anti-social behaviour the issue of disability has been largely ignored and obscured. At the moment we know little about how decisions are taken about what enforcement action is used in cases of anti-social behaviour, how social landlords find out about whether victims or perpetrators are disabled and what impact it has on decisions as to what action is taken. Because of a lack of recording and clear policy, many social landlords may simply be unaware when they deal with a complaint of anti-social behaviour whether the victim or the perpetrator is disabled. In order to comply with the disability equalities duty, landlords will need to know whether victims or perpetrators are disabled and have mechanisms for identifying this. This will then enable appropriate action, whether of support to the victim or of referral to appropriate support agencies of a perpetrator to be taken.

As social landlords review their anti-social behaviour policies and procedures they should consider the implications of the disability equality duty. Such reviews should be led by disabled users and should consider the impact of anti-social behaviour policies on disabled people. Procedures should recognise the higher levels of harassment that disabled people are likely to be subject to and include mechanisms to encourage reporting. They also need to incorporate consistent and comprehensive monitoring procedures, which will enable local practices to be monitored and also for aggregating at a national level.

Failure to move in this direction may well mean that social landlords are in breach of their disability equality duty and leave themselves open to criticism when inspected. More importantly they may be failing the needs of their tenants.

★ Correspondence Address: Caroline Hunter, School of Law, University of Manchester, Oxford Road, Manchester, M13 9PL, UK. Email: Caroline.Hunter@manchester.ac.uk.

References

- Arden A. (2004) Who cares in and who cares about the community? *Journal of Housing Law*, Issue 5, 65-67.
- Berzins, K. et al (2003) Prevalence and experience of harassment of people with mental health problems living in the community. *British Journal of Psychiatry*, 183, 12, 526-533.

- Cobb, N.A. (2006) Patronising the mentally disordered? Social landlords and the control of anti-social behaviour under the Disability Discrimination Act 1995. *Legal Studies*, 26, 2, 238-266.
- Disability Rights Commission/Capability Scotland (2004) *Hate Crime Against Disabled People in Scotland: A survey report*. Stratford upon Avon: Disability Rights Commission.
- Disability Rights Commission (2006a) *Housing and the Disability Equality Duty: A guide to the Disability Equality Duty and Disability Discrimination Act 2005 for the social housing sector*. Stratford upon Avon: Disability Rights Commission.
- Disability Rights Commission (2006b) *The Disability Equality Duty: Guidance on gathering and analysing evidence to inform action*. Stratford upon Avon: Disability Rights Commission.
- Home Office (2007a) *Acceptable Behaviour Contracts*. Definition on website at: <http://www.homeoffice.gov.uk/anti-social-behaviour/penalties/acceptable-behaviour-contracts/?version=1> [last accessed October 12, 2007].
- Home Office (2007b) *Acceptable Behaviour Contracts and Agreements* available at <http://www.crimereduction.homeoffice.gov.uk/antisocialbehaviour/antisocialbehaviour058a.pdf> [last accessed October 12, 2007].
- Housing Corporation (2004) *Anti-social behaviour; policy and procedure. Guidance for housing associations*. London: Housing Corporation.
- Housing Corporation (2007) *Housing Associations' Use of Anti-social Behaviour Powers: Sector Study 59*. London: Housing Corporation.
- Hunter, C., Hodge, N., Nixon, J., Parr, S., Willis, B. (2007) *Disabled people's experiences of anti-social behaviour and harassment in social housing: a critical review*. London: DRC available at: http://83.137.212.42/sitearchive/DRC/library/research/services_and_transport.html
- Marsh M. and Bhaloo Z. (2005) Disability Discrimination Act 1995 and the Romano Decision: Part II. *Landlord and Tenant Review*, 9, 6, 159 - 160.
- Murdoch S. (2004) Careful who you evict. *Estates Gazette*, Issue, 443, 141.
- National Association of Probation Officers (2005) *ASBOs: An analysis of the first six years*. NAPO.
- Office of the Deputy Prime Minister (2004) *Anti-social Behaviour: Policy and Procedure Code of guidance for local housing authorities and housing action trusts*. London: ODPM
- Public Accounts Committee (2007) *Tackling Anti-Social Behaviour, 44th Report of Session 2006-7 HC 246*. London: The Stationery Office Ltd.
- Scottish Executive (2004) *Guidance on anti-social behaviour orders*. Edinburgh: Scottish Executive.
- Scottish Executive (2006) *High Level Summary of Equality Statistics: Data Extracts by Disability*. Edinburgh: Scottish Executive.
- Social Exclusion Unit (2000) *Report of Policy Action Team 8: Anti-social behaviour*. London: The Stationery Office.
- Wilcox, S. (2007) *UK Housing Review 2006/2007*. London: CIH/CML.
- Williams, C. (1995) *Invisible victims*. London: Jessica Kingsley.
- Wood, M. (2004) *Perceptions and experience of anti-social behaviour: findings from the 2003/2004 British Crime Survey*. Home Office Online Report 49/04.