



Executive Summary

Disabled people's experiences of anti-social behaviour and harassment in social housing: a critical review

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Making rights a reality

Executive Summary

This research undertaken for the Disability Rights Commission had two key aims, which were to establish, in the context of social housing, what is known about:

- the extent to which disabled people are victims of harassment and anti-social behaviour and the effectiveness of strategies by social landlords to address this; and,
- the extent to which a person's impairment or associated behaviour is being interpreted as constituting anti-social behaviour.

Key Findings

- Despite weaknesses in the published studies, there is extensive evidence to show very high rates of susceptibility by disabled people, particularly those with mental health disabilities, to becoming a victim of anti-social behaviour, often as a result of their impairment.
- Little is known about the impact of the ever increasing number of legal remedies on disabled people living in social housing, although there is reliable evidence which suggests that disabled people living in social housing, particularly those with learning difficulties or mental health problems, comprise a significant proportion of those individuals who are subject to interventions designed to tackle anti-social behaviour.
- Young people with mental health disorders and learning difficulties may be disproportionately subject to ASBOs, but little robust empirical evidence is available about the context and use of ASBOs in those circumstances.
- The evidence base as to how social landlords respond to either victims or perpetrators of anti-social behaviour who are disabled is very weak, as monitoring and reporting on this is limited and around half of landlords do not include consideration of disability within their anti-social behaviour policies. Landlords are therefore likely to be unable to evidence whether they comply with their disability equality duty in this area of work.
- Over half of landlords reported having considered the impact of ss. 22 – 24, DDA 1995 on anti-social behaviour action they were taking more than five times

in the previous 12 months. 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.

- Guidance from central government on the interaction between anti-social behaviour and disability is limited and does not assist social landlords in developing local policies

Research Context

Concern with anti-social behaviour has increased over the last ten years and been accompanied by an explosion of the use of legal remedies to tackle such behaviour, many of them exclusive to social landlords. At the same time the Disability Discrimination Act (DDA) 1995 placed disability rights firmly on the agenda for the first time, and required that landlords did not discriminate against disabled people by eviction or by subjecting a disabled tenant to any other detriment without justification (DDA 1995, s.22 - 24). Perhaps more significant, however, have been the amendments to the DDA 1995 by the Disability Discrimination Act 2005, which has placed a general duty on local authorities and registered social landlords 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.

Research Methods

The research has four key strands:

- A critical review of the literature relating to disabled people's experiences of harassment and anti-social behaviour within the social housing environment in Britain.

- An analysis of policies and procedures at both a national and local level of local authorities and registered social landlords (RSLs).
- A small-scale survey of social housing providers.
- Consultation through three focus groups, with housing providers, disabled people and carers.

National Guidance

The research examined a range of documents published at a national level:

Welsh Assembly Government (2005). <i>Anti-social behaviour: policies and procedures – code of guidance for local authorities and housing associations</i> . Cardiff, Welsh Assembly.
ODPM (2004). <i>Anti-social Behaviour: Policy and Procedure</i> . London, ODPM.
Housing Corporation(2004). <i>Anti-social behaviour: policy and procedure</i> . London, Housing Corporation.
Scottish Executive (2004a). <i>Guidance on Antisocial Behaviour Strategies</i> . Edinburgh, Scottish Executive.
Home Office (2006) <i>A Guide to Anti-social Behaviour Orders</i>
Scottish Executive (2004b) <i>Guidance on anti-social behaviour orders</i>

It was 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. The 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. 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, however, recognises with more than a passing reference that there are particular issues about disability and perpetrators of anti-social behaviour, referring to the need for specific consideration for those with autistic spectrum disorders and Attention Deficit Hyperactivity Disorder

(ADHD). Over two-thirds of landlords felt that there was a lack of clear national guidance on this issue.

Policies and procedures at a local level

Just over half of all organisations responding to the survey reported that they had no policy or procedure for dealing with disabled perpetrators, a higher number of RSLs had no policy or procedure to deal with disabled victims, although the position was slightly better amongst local authorities and ALMOs. The findings from the survey were borne out by the examination of documents, where a significant number made no reference to disability at all. There does appear to be a growing awareness of disability issues amongst social landlords, although its impact in relation to anti-social behaviour has not yet become apparent. Social landlords are moving to recording disability of customers although this is not routinely linked to complaints of and action taken to deal with anti-social behaviour. Thus although there is evidence that social landlords are aware of the importance of disability, in practice there is still a significant implementation gap in ensuring that social landlords fully discharge their disability equality duty.

National Guidance has not proved to be at a level of detail to assist landlords in translating growing awareness into detailed policies and procedures on the ground. Disability, where referred to in local policy documents, is rarely defined and again we see it often encompassed within vulnerability, and it is certainly not broken down by reference to different impairments.

Our findings also raise questions around training and multi-agency working. Although many social landlords are trying to establish practices to ensure the equitable treatment of disabled people, there appears to be a lack of awareness among housing staff about disability and necessary knowledge about how best to treat perpetrators of anti-social behaviour who are disabled. This is compounded by deficiencies, in some local contexts, in partnership working.

The use of legal action

There is a wide range of legal action which may be taken to combat anti-social behaviour and harassment. The evidence would suggest that in most cases when a legal order is sought it is granted. However, in some instances social landlords may, prior to taking such action, consider whether the prospective defendant is

disabled and the applicability of the DDA 1995, ss. 22 - 24. At the moment there is no evidence as to how this affects decision-making by landlords, although the evidence from our own survey is that it is relatively regularly considered by them, with over half of landlords having considered it more than five times in the previous 12 months.

Evidence of harassment and victimisation of disabled people

A number of studies have looked at levels of harassment and victimisation amongst disabled people. These studies have a number of weaknesses. A number involved self-completion postal questionnaires. It is likely that these will tend to give higher levels of reported problems. It is not always possible from the studies to be precise about the behaviour which is involved as a number of terms are used: harassment, victimisation, bullying. Nor in each case is the time-frame over which the incidents have taken place clearly specified. Nonetheless a consistent picture emerges from them all of very high rates of susceptibility to behaviour which falls within definition of anti-social social behaviour, and which is often targeted at people because of their impairment.

The majority of studies have focused on those with mental health conditions. These found extremely high levels of harassment and victimisation for this group ranging between 47% and 60% of respondents having been a victim of some form of harassment. Where comparators with non-disabled persons have been used (Berzins et al, 2003, Wood and Edwards 2005) these show that harassment occurs more frequently for those with mental health conditions than for those without.

Two studies focused on people with learning difficulties. The Mencap research (1999) indicated an extremely high level of bullying in the previous 12 months, with 66% of respondents stating that it happened regularly (i.e. at least once a month). The smaller study by Thurgood and Hames (1999) revealed that 16% had been hit by neighbours.

Three studies (Market Research UK, 2003, DRC/Capability Scotland, 2004, GLA 2003) considered the experiences of people with a range of impairments. The Market Research UK study shows the lowest rates of harassment with between 25% and 22% of disabled respondents reporting experience of harassment in public relating to their disability. In the 2004 DRC study across the

range of impairments, 73% of respondents reported having been verbally attacked and 35% physically attacked. Prevalence was highest though amongst those with mental health conditions. In the GLA study 50% had suffered abuse or bullying.

None of the evidence examines the experience of those with multiple risk factors e.g. disability and race, although our own focus group did include some people who fell into this category, and who felt it led to multiple discrimination.

None of the studies examined set out to consider in detail the responses of housing agencies to complaints of harassment, nor specifically to differentiate between the experiences of tenants of social housing and others. A number (Kelly and Mckenna, 1987, Williams, 1995 and Wood and Edwards, 2005) do point to the location of housing for disabled people (primarily in areas of poverty) as giving rise to greater susceptibility to harassment. A number of reports have considered police responses and found that reporting to the police by those with mental health conditions or learning difficulties may be particularly problematic for a range of reasons. Where housing organisations are mentioned some of the same problems seem to occur, with a lack of confidence in the responses of such organisations. This was also reflected in complaints to the DRC help-line and also in our own focus group. Given the higher rates of disability amongst tenants of social landlords, and the indications in the research reported here, there is a need for a more comprehensive assessment of how social landlords respond to and encourage confidence in victims of anti-social behaviour who are disabled.

Evidence of use of the impact of anti-social remedies on disabled people

Turning to what is known about perpetrators of anti-social behaviour, Government policy requires that anti-social behaviour is a core concern for social landlords and the overall numbers of anti-social behaviour control measures served are constantly on the increase. However, this review demonstrates that little is known about the impact of these tools on disabled people living in social housing. The focus of the work that there has been is on young people and anti-social behaviour orders (BIBIC, 2007). The BIBIC research (2007) indicates reasons to be concerned about the way that ASBOs are being used against young people with mental health disorders and learning difficulties. Further research is

needed to 'get behind' these statistics to examine, in detail, the ways ASBOs are utilised by practitioners.

There is some reliable evidence which suggests that disabled people living in social housing, particularly those with learning difficulties or mental health problems, comprise a significant proportion of those individuals who are subject to interventions designed to tackle anti-social behaviour (Dillane et al, 2001, Jones et al, 2005, Nixon et al, 2006). This was corroborated by housing staff and other stakeholders during the consultation phase of the review during which focus group participants recounted several anti-social behaviour cases which involved people with mental health problems and learning difficulties including ADHD, Asperger Syndrome (AS), schizophrenia, autism, brain injuries, and obsessive compulsive disorder (OCD). ADHD in particular, is emerging as a central issue in debates about disability and anti-social behaviour (Thapar et al, 2006) and, on the basis of our review, we can say with *some* degree of certainty that a large percentage of those subject to anti-social behaviour measures appear likely to have or be given a diagnosis of ADHD.

In the consultation groups, disabled people and parents of disabled people gave accounts of personal stories about inappropriate responses to behaviour that is symptomatic of a particular condition. While these testimonies are disturbing, there is a lack of robust evidence as to whether disabled people are disproportionately and inappropriately subject to anti-social behaviour control mechanisms and what the implications of this are. In part, this is a result of the lack of monitoring at a national and local level which means that there is currently no way to investigate whether disabled people are over-represented in the numbers subject to an anti-social behaviour measure.

While our findings are not conclusive, they do point to evidence that the subjects of anti-social behaviour interventions often have mental health problems, learning difficulties and neurological disorders. This raises crucial questions about the extent to which the use of potentially punitive control mechanisms among vulnerable individuals, many of whom are young people and children, can be justified. ASBOs in particular could have drastic impacts on disabled people by not only failing to address 'root causes' of disruptive behaviour, but the effects of employing a regulatory mechanism that can have exclusionary effects, and

even result in a custodial sentence, may serve to exacerbate their problems. This highlights an urgent need for not only proper monitoring at a national and local level but also qualitative research into the particular 'problems' that social landlords seek to address through the use of anti-social behaviour control measures, together with a critical assessment of the effectiveness and impact of these (and alternative) tools in providing 'solutions' from the perspectives of those subject to them.

Recommendations

The report makes a number of recommendations:

- Social landlords should ensure that their policies and procedures incorporate mechanisms for identifying whether victims and perpetrators are disabled so that appropriate responses follow from complaints.
- 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.
- Policies also need to incorporate consistent and comprehensive monitoring procedures, which will enable local practices to be monitored and also to be aggregated at a national level.
- Government guidance needs to be more comprehensive in this area in order to assist social landlords in developing their policies and procedures.
- Those involved with the inspection of social landlords, the Audit Commission, Welsh Assembly Government, Housing Corporation and Communities Scotland can also ensure that disability is included within the anti-social behaviour agenda by making questions regarding the impact of disability part of the inspection regime.
- More care needs to be taken with the use of language on this subject area, so that 'disability' is not subsumed into generic categories of "vulnerability", and to ensure

that “harassment” of disabled people is not given less weight because it is described as “bullying” or other apparently less serious behaviour.

- In addition to monitoring, further qualitative research is needed to unpack the ways in which disability impacts on both those disabled people who are victims and those who are accused of perpetrating anti-social behaviour and to examine the good practice that exists.