

**PRIVATE SECTOR HOUSING ENFORCEMENT
THE CRIMINAL LAW ACT 1977 &
THE PROTECTION FROM HARASSMENT ACT 1997**

(Report by the Head of Environmental & Community Health Services)

1 INTRODUCTION

- 1.1 The purpose of this report is to seek delegated authority for authorised officers to use provisions set out in the Criminal Law Act 1977 and the Protection from Harassment Act 1997 when dealing with allegations of harassment and illegal eviction in the private housing sector. The use of all enforcement powers is seen as a last resort but complaints of harassment and illegal eviction are frequently made in landlord/tenant disputes and occasionally enforcement action is warranted.
- 1.2 The definitions of the criminal offences of illegal eviction and harassment are contained in the Protection from Eviction Act 1977, as amended by the Housing Act 1988 but the Criminal Law Act 1977 and the Protection from Harassment Act 1997 provide additional powers that could prove useful in Private Sector Housing enforcement and are now recommended by the housing charity "Shelter".
- 1.3 This report sets out the potential benefits of these additional powers which can be used alongside the Protection from Eviction Act 1977 powers already delegated to officers involved in private sector housing enforcement duties.

2 BACKGROUND

- 2.1 The Protection from Eviction Act was introduced in 1977 in an attempt to give a measure of protection to residential occupiers, notably private sector tenants. The Act allows local authorities to prosecute offenders when investigations into complaints of harassment and illegal eviction are found to be justified. This legislation does not prevent harassment or illegal eviction from taking place and there is no sanction on the landlord for an illegal act unless the local authority can actually prove the offence has taken place. Often there is no written evidence that an illegal act has taken place and the local authority cannot proceed with a prosecution. In such circumstances, the landlord gains possession of the property and the tenant is rendered homeless in spite of the apparent protection afforded by the Act.
- 2.2 Illegal eviction is often the final act of a campaign by a landlord to harass the tenant in order to gain vacant possession of the property. Depriving the tenant of essential services such as heating or water, threatening the tenant or making living in the property unbearable are techniques used by unscrupulous private landlords to drive tenants out without going through the proper legal procedures for possession.

3 SUPPORTING INFORMATION

- 3.1 The Protection from Eviction Act 1977 and the Criminal Law Act 1977 create specific powers related to the protection of private sector tenants. Further powers are set out in the Protection from Harassment Act 1997 and these can be seen as a package of enforcement powers for local authority officers.
- 3.2 The Protection from Eviction Act 1977 powers have already been adopted by the Council and are delegated to authorised Environmental Health Officers. The housing charity "Shelter" recommends that local authorities also adopt the additional enforcement powers set out in the Criminal Law Act 1977 and the Protection from Harassment Act 1997.
- 3.3 In cases of illegal eviction the tenant is frequently terrified and does not wait around to see if the landlord will allow re-entry but immediately presents to the Council for emergency accommodation. Such cases are of course referred to Environmental Health for investigation but tenants are often unable to substantiate allegations of illegal eviction through lack of written contract or corroboration and so no evidence can be gathered to prosecute a landlord for illegal eviction. The Criminal Law Act 1977 creates offences of using or threatening the use of violence for gaining possession and allows for the restoration of a displaced occupier of residential premises. The use of these powers will secure the restoration of a tenant to their rented property in appropriate cases, at the landlord's expense, pending the institution of proper legal procedures for eviction.
- 3.4 The Protection from Harassment Act 1997 creates four criminal offences of harassment, putting another person in fear of violence, breach of a restraining order and breach of an injunction. These provisions can be used when a disreputable landlord attempts to make the occupation of a property unbearable. To avoid court costs and to gain quick access to a property a landlord may for instance deprive the tenant of heat or electricity or enter the property illegally without giving notice in order to force them out of the property. With delegated authority, the authorised officers could gather evidence of such actions and may initiate a prosecution against the landlord.

4. IMPLICATIONS

- 4.1 There are no financial or manning implications resulting from this report. The powers will be used by Environmental Health Officers in conjunction with existing enforcement powers.

5. CONCLUSION

- 5.1 The delegated enforcement powers currently available to authorised officers could usefully be extended by way of adoption of the specific powers available under the Criminal Law Act 1977 and the Protection from Harassment Act 1997.
- 5.2 The powers available under the Criminal Law Act 1977 may, in particular, enable authorised officers to regain possession of a property on the tenant's behalf and to allow them to stay there until such time as proper legal procedures for possession have been followed. This can be

done at the landlord's expense and demonstrates that there are consequences for such illegal actions.

- 5.3 The powers available under the Protection from Harassment Act 1997 would provide protection for tenants against unreasonable behaviour by unscrupulous landlords and their agents.

6 RECOMMENDATIONS

It is RECOMMENDED that delegated authority be given to:

- (a) The Director of Environmental & Community Services to appoint Environmental Health Officers and Environmental Health Protection Officers to enforce the provisions of the Criminal Law Act 1977 and the Protection from Harassment Act 1997;
- (b) Appointed Environmental Health Officers and Environmental Health Protection Officers to exercise the powers set out in the Criminal Law Act 1977 and the Protection from Harassment Act 1997; and
- (c) The Head of Environmental & Community Health Services, following consultation with the executive Councillor, to institute legal proceedings for offences under the provisions of the Criminal Law Act 1977 and the Protection from Harassment Act 1997.

BACKGROUND INFORMATION

Protection from Harassment and Illegal Eviction - Shelter
Criminal Law Act 1977
Protection from Harassment Act 1997

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