

# Council conduct grossly unbecoming

**Neil Hodge** reports on one local authority's attempt to enforce order by persecuting the victim

**W**HAT should a local authority do when one of its residents complains of harassment, threatening behaviour and abusive language from a neighbour who has already been convicted for assaulting her friend? Apparently, the answer is: attempt to slap an anti-social behaviour order (ASBO) on her to shut her up. That, at least, seems to be the attitude of Rugby Borough Council in the West Midlands.

For three years, Julie Spires has been plagued by an abusive neighbour and a previous tenant living directly above her flat. Worse, the aggravation has delayed her plans to buy the property on a council right-to-buy scheme because an acceptable behaviour contract (ABC) which the council has asked her to sign would restrict her rights as a landlord through the council's leasehold agreement.

Spires applied to buy the flat for £23,000 in January 2002. Under normal circumstances, the deal would have taken 12 weeks to complete.

Yet three years later, she is reluctant to buy the property because of abuse from the neighbour and wrangles with the council. As a result of the delay, the price of the flat has doubled, although the council has said that she could buy the property at the original price, but would need to stay in it for a further three years in order not to incur any discount charges. This means that she could end up living with neighbour abuse for a further three years and possibly be left with a flat that she is unable to sell.

Spires made her first complaint to the police in May 2002 when she suspected that nails had been placed under the wheels of her van by the upstairs neighbour, Daniel Nolan. This was shortly followed by a meeting with the council's head of housing, Paul Davies, whose recommendation was for her to move.

The housing department has offered to provide alternative accommodation, but at a higher price if she wants to buy it through the right-to-buy scheme. But Spires has so far refused to

move and "give in to bullying from neighbours or the council on principle".

In October 2002, the tenancy in the flat above switched to the present resident, William Richardson. According to Spires, he was immediately abusive. Since she first made a complaint in 2002, there have been around 400 letters of correspondence between herself and the council, as well as three face-to-face meetings. The police have attended her home at least five times. However, the council has consistently refused to send housing officers to her address to assess the situation or to interview Richardson and other neighbours.

Two local councillors, Terry Deery and Patricia Wyatt, have supported her campaign to evict Richardson for the past two years. Both have listened to recordings that she has made to show the levels of noise and abuse that her neighbour causes at all hours of the day.

Yet, in December 2003, the council informed her that she would be receiving an acceptable behaviour contract (ABC) within weeks over a dispute concerning "rights of way" relating to the repositioning of a garden gate. Richardson is also thought to have received one. The contract did not arrive until June 2004. Spires has refused to sign it.

An ABC is a voluntary written agreement between a person who has been involved in anti-social behaviour and one or more local agencies whose role it is to prevent such conduct, for example, the police and local housing departments. The contract specifies a list of anti-social acts in which the person has been involved and which they agree to stop doing. Anti-social behaviour orders (ASBOs), on the other hand, are statutory measures that aim to protect the public from conduct that causes or is likely to cause harassment, alarm or distress. Such an order contains conditions prohibiting the offender from specific anti-social acts or entering defined areas. It is effective for a minimum of two years.

The civil status of ASBOs means hearsay and professional witness evidence can be heard in ASBO applications. While these provisions allow witness protection, human rights groups such as Liberty claim that the process can easily be abused by malicious and spurious complaints.

The Home Office's latest figures reveal that there have been 3,826 ASBOs issued in England and Wales since April 1999. On Wednesday September 10 2003, the Home Office's Anti-Social Behaviour Unit undertook the first national day count of reports of anti-social behaviour in England and Wales. Over this 24-hour period, 66,107 reports of anti-social behaviour were recorded – 1 report every 2 seconds.

Solicitors Bindmans in London has said that the ABC put forward by Rugby Borough



THE close proximity of flats means the problems of nuisance neighbours is exacerbated

Council is not binding because Home Office guidelines regarding how such contracts are issued have not been followed.

In a letter dated August 24 last year, the law firm sent the council a long list of questions asking for details about how the decision to propose an ABC came about and how the process was carried out. So far, neither the firm nor Spires have received a reply. Bindmans says that it will "rigorously defend" Spires if the council tries to put an ASBO on her, which the council has considered doing.

It is now evident that the council has acted improperly. On February 9 this year, the Local Government Ombudsman sent Spires a letter saying that "my provisional view is that the council has not followed Home Office guidance in drawing up an ABC".

The Ombudsman added that such guidance advises that a meeting should be sought with the subject of an ABC in order to get that person's agreement to the issues.

The guidance also states that the terms of the ABC should not be decided in advance of the

meeting.

The Ombudsman found that such procedures had not been carried out. "It is clear to me that this advice has not been followed", says the

**Richardson had threatened to beat him up on several occasions**

letter. Further, according to the Ombudsman, there was "no evidence that the cabinet was provided with any information as to how the ABC was drawn up and how this did not accord with Home Office guidance. I believe that these actions amount to maladministration on the part of the council."

Spires' relations with her neighbour have become a lot worse. On July 17 last year, Richardson assaulted Peter Harding, a close

friend of hers, outside a pub in the town centre. Richardson was convicted of actual bodily harm (ABH) a month later and was sentenced to 12 months community rehabilitation, 60 hours community service, and was ordered to pay £70 compensation, plus court costs. According to Harding, Richardson had threatened to beat him up on several occasions. Richardson was due to appear in court earlier in March for non-payment of fines, but did not turn up.

The past three years has been a "nightmare", says Julie Spires. "It is ironic that that the person who is making the complaints against systematic abuse should be the one fighting the threat of an ASBO from the council. What kind of message does it send out that the council should penalise me for making a legitimate complaint about a nuisance neighbour?"

A spokesperson for Rugby Borough Council said: "As we have not yet had a formal reply from the Ombudsman, we cannot comment at this stage."

**Adam Sampson** Director, Shelter



## More than sanctions must be authorised on ASBOs

PASSIONS run high around the issue of anti-social behaviour (ASB). The Government has recently reiterated its tough stance on "yobs" and "neighbours from hell", urging local authorities to make use of anti-social behaviour orders (ASBOs) and to publicise the personal details of offenders.

At the same time, it has said it will offer serial offenders a "last chance" to reform through intensive family support.

Passions also run high on the issue of ASB at Shelter. We deal with large numbers of cases involving neighbour nuisance, harassment and violence. Many of our clients have suffered at the hands of perpetrators so we strongly support effective ways that tackle it.

At the same time, we work with individuals accused of ASB, trying to avoid the necessity of eviction by finding ways of addressing the problems at the root of their behaviour.

Where behaviour is persistent and wilful, remedies must be available to protect the individual and community. There is a range of effective measures available to the authorities: injunctions, ASBOs and normal criminal sanctions.

These seem increasingly popular, with the latest statistics revealing that more than 4,000 ASBOs have been issued since 1999.

Clearly, there are circumstances where sanctions such as eviction may be the right course of action. However, there are clear indications of the limitations of a sanction-driven approach. Recent evidence shows that 50 per cent of ASBOs are breached

and questions are being raised over some of the circumstances in which they are being used. Eviction too may be effective in dealing with the immediate problem but, as well as causing homelessness, it often simply displaces it to a new area and a new set of neighbours.

On top of this, there is a cost to the public purse as another authority is obliged to foot the bill for a fresh set of interventions. In these circumstances, a sanction-driven approach to ASB alone is unlikely to produce a long-term solution to the problem.

Sanctions need to be allied to positive interventions such as Shelter's Inclusion Project, based in Rochdale, which aims to deliver real results by tackling the root causes of ASB, and produce cost savings to the public purse.

The approach taken by the Project shows that early intervention backed up by multi-agency support works and so far has helped more than 50 households curb their behaviour.

Cases are referred to the project because of allegations of ASB; in most instances, they are already subject to sanctions or the threat of sanctions.

Clients are assessed and a support programme is drawn up which they sign-up to in the form of a behaviour "contract". In this way the project addresses both the expression and the root cause of the behaviour.

The greatest proportion, more than half of households, were reportedly involved in noise nuisance.

Other problems involved youth nuisance

and neighbour disputes. Most of the households had received written or verbal warnings.

It is also worth noting that two-thirds of the households were subjected to ASB themselves. Initial evaluation of the Project has found high levels of support needs among the households.

Sixty per cent of adults reported depression or other mental health problems, while a quarter reported a drug or alcohol dependency. More than 1 in 10 children working with the project were reported as having behavioural or mental health problems.

As well as working to confront and tackle behavioural problems, the project provides a range of support including parenting advice, help in addressing children's behaviour, advice on accessing benefits and money management and health support particularly in relation to depression.

The success of the project in eliminating both ASB and evictions is obviously being picked up elsewhere, with other councils currently looking at the project as a possible blueprint.

However, in a charged political atmosphere before an election, it is vital that Government and local authorities resist the temptation to pander to populist emotions by concentrating on punishment rather than prevention.

Government attention to ASB is long overdue but, leaving passions aside, it is only by tackling the root cause of the problem that we can address this very pressing problem.