

## **Briefing Note - Mental Health & Anti Social Behaviour (ASB)**

Problems with mental health and anti social behaviour have been increasing over the years, both as victims and perpetrators. Coupled with this, there has been an increase in the number of cases, who have 'Dual Diagnosis,' which are cases where the person has mental health issues and drugs and alcohol problems. These cases are more complex and need more input from Officer than cases where there are no issues about vulnerabilities.

### **Mental Health as Victims**

People with mental health issues are often victims of ASB. Nationally evidence shows that people with mental health are more likely to be victims than perpetrators, and this has been the case within York also. A study in 2005 found that people with mental health issues were eleven times more likely to be a victim of crime than the general population. This led to Housing Services establishing a multi agency meeting to investigate cases where vulnerable people are targeted by predators, who target them because of their issues.

We are currently talking with Adult Safeguarding to ensure that this complements the safeguarding process. Often in these cases the victim, does not want action to be taken, either because they think the people are their friends, or because they are too scared.

### **Perpetrators with Mental Health**

The numbers of cases involving people with mental health has grown steadily over the last few years, and from a Housing perspective, they are not keen to take enforcement action against people who have mental health issues (or any other vulnerability), but they have to balance this against their responsibilities to the neighbours and the wider community. There have been several high profile cases that have gone through the

court system, including one which is still ongoing several years after legal proceedings were first started, because of difficulties caused by conditions imposed by the Judge in the case. In many cases though because of the perpetrator not recognising the problems that they are causing, either because of a lack of perception, not taking medication or because they are abusing drugs or alcohol, there are only a very limited number of alternative options to enforcement action though.

The Environmental Protection Unit and other registered providers have also highlighted an increased number of similar cases.

### **Scale of the problem**

City of York Council has struggled to obtain good evidence of the number of people, who are either causing ASB or who are victims. Housing Services recently checked through their active cases over a 3 year period. This highlighted that 75 cases had a mental health element, and that in 20 of those cases the tenant had been evicted. Anecdotally, the Housing Options service established a meeting to look at cases involving people who were going through the resettlement process, who had mental health issues and another area of concern such as ASB, and they have struggled to deal with the numbers of those cases.

### **Areas of concern**

City of York Council provides general needs accommodation, Officers can make requests for support from specialist support agencies, but a lack of specialist accommodation remains an issue. Housing Services have been working with the Clinical Commissioning Group (CCG) to look at converting some accommodation at Queen Anne's Road into specialist accommodation, but this will only add a relatively small number of extra units. To tackle this CYC is working with partners to undertake a count to assess the numbers of people who are not housed appropriately. On a wider point, a supported housing strategy is currently being developed to ensure that the right supported housing options are available at the right time and the right place for those who need them. As part of this, research has been undertaken to look at best practice in terms of: type of accommodation, facilities and support arrangements, size and design of the scheme.

Problems can arise also between interactions between different agencies, particularly where they have different priorities and targets. An example of this would be people who are discharged without appropriate care plans

being drawn up (usually to reduce bed blocking) because of the lack of a formal process. This often happens without Housing Services being made aware that the person has been discharged.

### **Legal Perspective.**

If a tenant has mental health issues (particularly if these are profound) then early consideration should be given to whether any challenges brought by the Defendant's representative under the Equality Act 2010 might succeed. Under that Act, landlords seeking to evict or take other enforcement action against a tenant with a mental disability must consider whether they would be able, if necessary, to demonstrate to a court that they have not, because of the tenant's disability, treated the tenant less favourably than they would have treated others without that disability.

The usual test of reasonableness - applied by the judge at trial when making a possession order - will also apply, but should perhaps be particularly borne in mind by the landlord at commencement of the proceedings where a tenant is mentally unwell. Early anticipation of potential, later challenges under public law/Article 8 ECHR rights (Right to Private and Family Life) and whether bringing the proceedings is a proportionate means of bringing about a legitimate aim, may also in certain cases be applicable.

Some tenants/defendants are so unwell as to lack mental capacity to conduct their own proceedings, in which case the Official Solicitor may be appointed to act on the tenant's behalf. The process of the appointment of, and interaction with, the Official Solicitor – who then conducts the litigation via a nominated solicitor – often makes defended cases more protracted and complex.

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