



# WHAT YOU NEED TO KNOW ABOUT THE ANTI-SOCIAL BEHAVIOUR CRIME AND POLICING ACT 2014: ABSOLUTE GROUNDS FOR POSSESSION

This briefing is one of eight papers that set out the new powers and tools available in the Anti-Social Behaviour, Crime and Policing Act 2014. These powers come into operation from 20 October.

The act introduces amendments to the Housing Act 1985 in respect of secure tenancies, and the Housing Act 1988 in respect of assured tenancies, to provide for absolute possession, and to add further discretionary grounds.

## **Purpose:**

To enable quick action to take possession of a property, where ASB or criminal behaviour has already been proved in another court.

## **Who can apply?**

- local authority and registered housing providers
- private landlords

The guidance acknowledges that most private sector landlords are likely still to use the 'no fault' grounds (section 21 Housing Act 1988), but this allows for action where ASB/ criminal behaviour occurs during the fixed term of an assured shorthold tenancy.

## **Test:**

Where the tenant/ resident/ person visiting:

- has been found guilty of a serious offence, as described on the certificate of conviction
- has been convicted of breaching provisions of an injunction (other than requirement to participate in a particular activity – the positive requirements)
- has been convicted of breaching provisions prohibiting anything described in a criminal behaviour order
- property is subject to a closure order
- has been convicted of a statutory nuisance



and these breaches/ offences were committed in, or in the locality of the dwelling house, or elsewhere against a person with a right to reside in the house or the landlord/ someone employed to exercise housing management functions by the landlord.

Or where:

- the property has been subject to a closure order for more than 48 hours
- there has been a conviction for breaching a statutory nuisance abatement.

**Details:**

- notice must be served by the landlord within 12 months from date of conviction (or determination on appeal).
- courts will only be able to postpone possession up to 14 days after making the order or up to 6 weeks maximum in exceptional circumstances.

**Appeal:**

- secure tenants will have a statutory right to request a review of the decision to seek possession; it is recommended that other landlords also allow a review as good practice.

**Additional discretionary grounds for possession:**

- further discretionary grounds for possession of both secure and assured tenancies are where conduct is or is likely to cause nuisance or annoyance to the landlord or person employed in the exercise of those housing management functions
- courts can grant possession where they consider it reasonable if a tenant or adult (over 18) residing in the dwelling house has been convicted of an indictable offence which took place during and at the scene of a riot (England only).

**Tips:**

Although possession of a property is a last resort, in some cases this may be a power that you wish to use, after exhausting all other possible interventions and tools.

- ensure that you have a robust and well publicised procedure for secure tenants to request a review of your decision to use the powers
- as a matter of good practice develop procedures for/ extend existing procedures on the right of review to assured tenants. It is recommended the review process mirrors that applied to secure tenants
- the review process must be relatively simple, in order that any request for the review can be



executed within the notice period

- ensure case management/ recording practices are effective and robust if using discretionary grounds in respect of housing management duties
- liaise with local police about notifications where tenants/ residents have been convicted of riot in other local authority areas
- establish good working relations with the local authority environmental health department. The breach of statutory nuisance maybe a quicker and easier route to eviction than the discretionary grounds

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Sign up to the [Respect Charter](#) – the ASB Charter for housing. It will help you to examine and improve your ASB services, to ensure that they are delivered effectively and efficiently.

For more information on how we can help you to prepare for and use the new tools and powers, and support your work on anti-social behaviour, contact [Gez Kinsella](#) or see our [website](#).