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Anti-social behaviour in England: leave the home alone

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ABSTRACT

Neighbour disputes are not a new phenomenon, but the increasing density of urban areas, where people live cheek-by-jowl, exacerbates tensions. This paper provides a critical examination of a dominant strand of English policy which categorises certain behaviour as 'anti-social' and tackles it by evicting – or threatening to evict – perpetrators from their home. It argues that this tenure-based approach to dealing with anti-social behaviour is particularly ill-suited to modern, mixed-tenure living arrangements. The paper makes two principal contributions. First, it highlights the disparities in treatment caused by the tenure-based approach that results in renters being subjected to significantly greater behavioural management, compared with owners (the equality of treatment issue). Secondly, it examines the Renters' Rights Bill 2025 to identify how it will significantly alter private rental sector (PRS) landlords' response to anti-social behaviour. It also explores the contentious extension of behavioural management into the private rental sector (PRS) (the transfer of responsibility issue) through licencing schemes. It concludes that making PRS landlords responsible for managing their tenants' behaviour, under threat of losing their licence, risks further disadvantaging vulnerable households who have very limited alternative housing options.

KEYWORDS

Anti-social behaviour; urban density; mixed-tenure; eviction

Introduction

Neighbour disputes are not a new phenomenon, but the increasing density of urban areas, where people live cheek-by-jowl, exacerbates tensions (MacCutcheon 2021). This paper offers a critical examination of a dominant strand of English policy which categorises certain behaviour as 'anti-social' and tackles it by evicting – or threatening to evict – perpetrators from their home. This approach, based on how people hold their property, rather than their behaviour, has its origins in the 1990s. It is particularly ill-suited to modern, mixed-tenure living arrangements, since it has long been recognised that neighbour disputes occur regardless of housing tenure.¹ The paper has two objectives. First, it highlights the disparities in treatment caused by the tenure-based approach that results in renters being subjected to significantly greater behavioural management, compared with owners (the equality of treatment issue). Secondly, it explores the extension of behavioural management into the private rental sector (PRS) (the transfer of

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responsibility issue). I argue that this development creates a perverse incentive for landlords to evict – or exclude – vulnerable households who have very limited alternative housing options. The focus here is eviction, as the most severe manifestation of housing-based powers, but it should be noted that local authorities have a panoply of alternative housing-related powers at their disposal, including the ability to exclude people from accessing housing (Housing Act 1996, s160ZA(8)). Moreover, an extensive array of alternative legal provisions that apply directly to perpetrators, irrespective of their housing status, is available to local authorities and the police.² Therefore, recourse should be to these powers alone where action is needed.

The paper is structured in four sections. I first set the scene by drawing on the expansive socio-legal and housing studies literature to outline the origin of UK policy on anti-social behaviour. This section explains why public housing initially became the locus of the fight against anti-social behaviour. It is followed, in the second section ‘The modern urban landscape’, by an explanation of the changes in the housing market which have diminished the public housing stock, made mixed-tenure housing the norm, as well as increasing housing density. With this context in mind, in third section ‘The equality issue’ examines the policy-driven legislation that subjects renters to more intensive behavioural management and contrasts it with the position of leaseholders and freeholders. The final section ‘The transfer of responsibility issue’ focuses on the PRS. I consider how treatment of anti-social behaviour will be affected by the Renters’ Rights Bill 2025.³ I then examine the justification for licencing schemes that require certain private landlords to become intermediaries between the state and their tenants to control anti-social behaviour (Carr *et al.* 2007).

The creation of the anti-social behaviour agenda

The anti-social behaviour label was created in 1997 as an all-embracing term that has come to dominate British public order enforcement (Burney 2012). It continues to hold sway, with the recent Victims Commissioner report highlighting the profound detrimental impact it can have on victims (Victims Commissioner 2024). It is undisputed that repeated and severe anti-social behaviour can have extremely detrimental effects on those subjected to it (Housing Ombudsman Service 2025). Nevertheless, I contend that housing-based action is inappropriate for several reasons. The scope of the term ‘anti-social’ is both uncertain and contested, it creates unjustified disparities in treatment and is over-inclusive, punishing the whole family, rather than just the perpetrator.⁴ The effectiveness of eviction as a remedy is also questionable, as it displaces problematic behaviour, rather than dealing with the root cause. As will be discussed, the prevalence of mixed-tenure housing in high density urban areas may mean that the welcome respite for neighbours, if the perpetrator is evicted, proves to be short-lived.

As alluded to, one of the most contentious and troubling features is the absence of a precise definition (Hunter *et al.* 2005). In the UK, anti-social behaviour has two legal definitions, depending on where it takes place. In the housing context, it is defined as ‘conduct that is capable of causing nuisance or annoyance’.⁵ Where the behaviour occurs in public spaces, its meaning is behaviour that causes or is likely to cause ‘harassment, alarm or distress’ (Anti-social Behaviour, Crime and Policing Act 2014, s2(1)(a)).⁶ The threshold is equally variable, spanning behaviour that violates acceptable social standards

through to criminal acts (Cheshire and Fitzgerald 2014). Policy discourses incorporate a multiplicity of diverse, low and high level deviant and criminal behaviour (Nixon *et al.* 2008), with typical examples ranging from noisy neighbours to drug dealing (Victims Commissioner 2024). Moreover, it is understood in terms of how a person's behaviour affects, or is perceived by others, rather than by reference to an objective standard. Thus, what may be understood merely as a neighbour dispute in one context, may be construed as anti-social behaviour in another. The lack of clarity about the relevant behaviour – or threshold – is important when considering the housing-based penalties that may be deployed for objectively similar behaviour.

The intersection with the criminal law is emphasised through measures contained in the Anti-social Behaviour, Crime and Policing Act 2014 which encourage collaborative working between civil and criminal agencies (Home Office 2023). Research into the implementation of that Act confirms that front-line professionals from both agencies struggled to define clearly the boundaries (Demetriou 2019). Because of the imprecise meaning, problems with neighbours 'often arise as much from differences in lifestyles and breaches of socially sanctioned "grammars of living", as they do from non-compliance of any recognised law' (Cheshire and Fitzgerald 2014, p. 105).

Any behaviour could be classed as being anti-social depending on a number of factors including, the context in which it took place, the location, the tolerance levels of the local community and expectations about the quality of life in an area. (Nixon *et al.* 2008, p. 6)

Noise nuisance is particularly problematic and has been identified as the main source of neighbour disputes in many countries, and a widespread urban problem exacerbated by proximate living (MacCutcheon 2021). Nevertheless, to make legitimate complaints, neighbour noise must be constructed as a 'non-normative breach of everyday neighbour or family activity' (Walsh *et al.* 2021, p. 617). In other words, noise nuisance is subjectively perceived and dependent on the dominant norms. Easthope and Judd (2010) show that perceptions of noise differ according to its type and nature (whether constant or intermittent, anonymous or identifiable). The problematic nature of defining the appropriate threshold was discussed recently in Parliament. The Housing Minister expressed concern that vulnerable tenants, including those experiencing domestic abuse, could be unfairly affected if the threshold was set too low (HC Debs, Public Bill Committee, col.127, 29 October 2024, Matthew Pennycook MP). Tellingly, the Housing Ombudsman found that cases categorised as 'household noise' were most frequently mishandled by social landlords. This category can comprise such mundane activities as closing doors, and people talking and walking around in their homes (The Housing Ombudsman Service, 2022, p. 9). The built environment is clearly significant in this regard. The post-WWII inner city housing built by local government, consisting typically of medium- and high-density flats, are often characterised by poor noise insulation and lack of privacy (Cheshire and Buglar 2015). In her analysis of 20 'less successful' social housing estates, Tunstall (2020, pp. 131–132) notes that in a number of instances noise problems, caused by the estates' high density and poor sound insulation, were identified soon after construction. Yet when anti-social behaviour became embedded in political and media rhetoric in the 1990s, noise problems were increasingly viewed from that perspective (Tunstall 2020). Indeed, the Housing Ombudsman reported in 2022 that 76% of social landlords dealt with every noise report under their anti-social behaviour policy, with the

unfortunate consequence of escalating neighbour tensions, rather than resolving them (Housing Ombudsman Service 2022).

Social housing has a long history as a site for regulating the behaviour of problematic classes (Lemanski 2022). Linking crime control with housing goes back to the nineteenth century and concerns with ‘pauperised deviance’ (Carr *et al.* 2007, p. 101). Policy and legal responses to anti-social behaviour in public housing are based on the premise that problems occur because of personal deficiencies in residents’ conduct, rather than acknowledging that policies have led to the spatial concentration of social problems (Morgan 2007). As Flint explains, as problems inevitably manifest themselves, it becomes possible for government ‘to construct an intuitive narrative suggesting that social landlords should be amongst the primary agencies given responsibility for addressing these problems’ (Flint 2006, p. 176).

Social landlords were at the forefront of innovations to deal with anti-social behaviour (Burney 2012) and consistently cast as key institutions in the fight, not only in their role as landlords, but more broadly as local government bodies (Housing Act 1996, s218A). Indeed, the initial target was families living on large, often run-down public housing estates in inner city areas. In the words of Ward LJ, ‘When not loitering idly on street corners, young vandals damage cars, kick down fences, smash windows and are generally foul mouthed and abusive to all and sundry’ (Manchester City Council v Higgins [2005] EWCA Civ 1423, [2005] All ER (D) 342 at [1]). The dominant neo-liberal governance of the 1980s and ‘90s cast individuals as active citizens, responsible for their own destiny, and the narrative was thus framed by the government and media alike as symbolic of the moral decline and lack of personal responsibility of public sector tenants (Flint 2003). Drawing on Flint’s (2004) work, Cowan and McDermont (2006) argue that the normalisation of home ownership creates a presumption that the social sector is occupied by the marginalised, flawed consumer. The solution was framed primarily in exclusionary terms, giving local government authority landlords sweeping powers to evict disruptive families. The reality is that the housing estates were situated in areas of social and economic deprivation which had suffered years of decline in investment (Murie 2014). Simultaneously, Prime Minister Margaret Thatcher’s 1980 flagship Right to Buy (RTB) policy led to around 2 million public sector homes being sold. Consequently, the remaining housing became increasingly residualised and, in turn, resulted in the spatial concentration of disadvantaged households with complex social and psychological support needs (Hunter and Nixon 2001).

The modern urban landscape

This section sketches an outline of the modern urban landscape, to provide the context for comparing tenure-based legal responses to anti-social behaviour. I argue that the urban landscape has changed radically since the anti-social behaviour agenda took centre stage in the 1990s. The consistent policy trajectory has been to increase housing density and create mixed-tenure neighbourhoods. The combined effect has produced the closest of neighbours who will potentially be subject to different treatment for the same behaviour, simply because of their occupation status.

Increasing density has been viewed as an effective way to address the UK housing crisis and make cities more affordable (Livingston *et al.* 2013). Unsurprisingly, housing

density is higher in major cities, with London leading the way in the UK (London Assembly Research Unit 2024). High residential density is not necessarily problematic (Dempsey *et al.* 2012) and it can bring benefits of greater environmental and social sustainability (Blanc *et al.* 2020). However, there is little consensus on how dense 'high-density' residential development should be, nor on the impacts on residents of these urban environments (Dempsey *et al.* 2012). At the luxury end of the market, 'vertical urbanisation' is the term coined to describe high-rise buildings built by private developers and marketed as prestigious apartments for wealthy owners (Bright *et al.* 2025). However, critics claim that densification often goes hand in hand with reduction in unit size. Concern has been expressed that it can result in 'substandard housing that will end up occupied by those with no choice' (Blanc *et al.* 2020, p. 13). As identified earlier, neighbour noise is routinely identified as the source of disputes and living cheek-by-jowl exacerbates tensions (MacCutcheon 2021). Attention to building design and construction may mitigate its effects (Şentop Dümen and Rasmussen 2025), but different expectations and lifestyles, associated with mixed tenure developments, have been identified as particularly problematic (Easthope and Judd 2010).

Tenure mix initially occurred because of the RTB which radically altered the structure of the housing market, as part of a wider Conservative government policy agenda to promote housing privatisation. Mixed-tenure accommodation continued to dominate urban regeneration projects throughout New Labour's term in office (Moreira de Souza 2019). Indeed, tenure mix is claimed to be the main policy instrument through which the UK has attempted to achieve more socially mixed communities (Livingston *et al.* 2013). While the RTB initially boosted ownership figures, more recently it has been estimated that 40% of these properties are now part of the private rented sector (Layard 2019). The PRS has grown rapidly to become the second largest tenure after home-ownership. Shared PRS housing has become the norm in many cities where housing costs are high (Goodall *et al.* 2023). In the UK, this type of housing will typically fall into the legal classification of a House in Multiple Occupation (HMO) (Housing Act 2004, s254). This form of accommodation may be high-quality and spacious (Goodall *et al.* 2023) but, as will be discussed later, it is also an important source of housing for poor and vulnerable people. Also at the lower end of the price range, the student market has driven an increase in HMOs which are often converted pre-WWI homes or former council homes (Sage *et al.* 2012). The concentration of high density, lower quality PRS housing has become associated with anti-social behaviour and consequently a focal point for action. The final section explains how this numerical increase and diversification of households living in the sector has led to the instigation of licencing schemes that oblige certain private landlords to proactively manage their tenants' behaviour (Carr *et al.* 2007). Densification has also been driven by the proliferation of purpose-built student accommodation (PBSA) in university cities to provide better quality housing for the burgeoning HE student numbers. These developments are usually characterised by higher density living (Livingston *et al.* 2013), albeit that they may be akin to luxury city developments (Heslop *et al.* 2022). Nevertheless, concerns have been expressed about the effect on neighbourhoods of high concentrations of students (Livingston *et al.* 2013).

Within the public sector itself, since the 1990s local authorities have been re-envisioned as strategic managers of housing, rather than direct providers (Flint 2003) and consequently a broader range of social landlords, referred to as 'private registered

providers' (Housing and Regeneration Act 2008, s80), now own a greater proportion of housing than local authorities.⁷ They are also responsible for a larger proportion of new social housing development (MHCLG, Live tables on Affordable homes, Table 1000) and, more contentiously, 'affordable housing'.⁸ Burney (2012) observes that while these social landlords share the same extensive powers as local authority landlords, they may have less political incentive to use them. Their legal powers will be outlined in conjunction with traditional public landlords.

A further feature of the modern urban landscape that potentially creates further complexity and inequality of treatment, is the creation of new tenure models. For example, the government has recently committed to making commonhold, as an alternative to the traditional leasehold model, the default for flats and apartments (Ministry of Housing, Communities and Local Government 2025). Shared ownership schemes have been developed to open home ownership to a wider range of households (Levelling Up, Housing and Communities Committee 2024). Typically, households buy a share in the property and pay rent on the remaining portion (Bright and Hopkins 2011). There is insufficient space here to describe legal responses to anti-social behaviour in these different tenures, but the broader point is that diversification further undermines the justification for housing-based responses. As already mentioned, many alternative tenure-neutral mechanisms are available to local authorities and the police to deal with the perpetrator's behaviour directly.⁹

The equality issue

This section highlights the disparities in treatment that arise from the tenure-based approach to managing anti-social behaviour. The key argument here is that renters have been subjected to much greater behavioural management, compared with freehold and leasehold owners who remain largely free from equivalent intrusion. There is insufficient space here to consider whether the approach towards owners results from intentional policy decisions. Nevertheless, it is worth observing that, as Sherry comments, 'there is no inherent or inevitable content to property law. It is geographically, culturally, politically, and historically specific' (Sherry 2021, p. 46). It has also long been recognised that tenure is socially constructed and is used to achieve policy objectives (Cowan and Wheeler 2020). There are, of course, differences between owners and renters, most significantly in terms of their investment interest in their property but I contend that they do not justify imposing additional regulatory control on the latter.

I first explain the development of intrusive regulation of public sector tenants and then compare it with the relatively hands-off approach to owners. The final section of the paper explores the PRS which has become increasingly important, both because of its expansion and the greater variety of households who make their home there. I outline the major changes that will be made by the Renters' Rights Bill 2025 to how landlords respond to anti-social behaviour. I then consider how the logic of behavioural management originating in the public sector has been extended to the PRS through controversial licencing schemes.

It was described earlier that public sector housing became the initial target for action against anti-social behaviour. This regulation is enabled by the direct legal relationship between the local authority landlord and the tenant. Perhaps more saliently, however, its

success as a focus of intervention is attributable to being ‘managed housing’ (Carr *et al.* 2007, p. 101). It also has a long history of demanding tenants who are ‘deserving’ of the privilege of subsidised housing (Card 2006, Humphry 2019). While these landlords have always had the ability to evict tenants because of their behaviour, a key feature of the legal developments from the 1990s onwards is the creation of new tenancy types that reduce tenants’ security of tenure, making eviction easier and faster. In particular, the courts’ involvement has been substantially curtailed and replaced by a largely administrative process.

Inroads into judicial discretion were made in 2003 by the requirement for the courts to exercise so-called structured discretion, when deciding the reasonableness of granting a possession order based on behaviour (Housing Act 1985, s.85A). The provision, which directs the court to consider the effect of the behaviour on neighbours, may be understood as an expression of disquiet about pro-tenant judicial bias. Nevertheless, it seems that this semi-constrained judicial involvement still presented a barrier to the government’s anti-social behaviour agenda (Smith and George 1997). The response was therefore to create a raft of new tenancy types allowing landlords to evict ‘problem’ tenants with less rigorous judicial oversight. The first of these is a probationary tenancy (Housing Act 1996, s.124), whose policy purpose was explained as being to allow landlords to terminate the tenancies of ‘the minority of tenants who do not behave responsibly’ (Department of the Environment 1995, p. 44). Writing in this journal in 1997, Smith and George presciently hypothesised that the ‘hidden agenda’ of these new tenancies was ‘an assault on security of tenure in its own right’ (Smith and George 1997, p. 315). The logic of the probationary tenancy was subsequently extended to create the new demoted tenancy which can be applied to existing tenants (Housing Act 1985, s.82A, inserted by the Anti-social Behaviour Act 2003, s.14(2)). These latter tenancies are at least less draconian because greater substantive judicial input is required for their creation (Housing Act 1985, s.82A(4)(b)). Landlords’ arsenals were further strengthened by the introduction of the Family Intervention Tenancy (Housing and Regeneration Act 2008 s.297) and, most recently, a mandatory ground of possession because of anti-social behaviour (Housing Act 1985, s.84A inserted by the Anti-social Behaviour, Crime and Policing Act 2014 c. 12 Pt. 5 s.94(1)). Thus, far-reaching regulatory intervention provides landlords with extensive and potentially oppressive powers to evict problematic tenants and their families, without a full judicial process.

As already mentioned, social housing providers (Private Registered Providers) now play an increasingly important role as providers and managers of below-market rent housing. These quasi-public housing organisations occupy a curious and sometimes uneasy position between the public and private sectors (McDermont 2010), and exhibit attributes of the public, private and voluntary sectors (Crook and Kemp 2019). Despite being one step removed from local authority landlords, they are regulated by the same body and subject to the same performance standards (Housing and Regeneration Act 2008, Part 2). These standards require them to have policies concerning reporting and responding to anti-social behaviour, as well as obliging them to work in partnership with local authorities (Regulator of Social Housing 2024). Unsurprisingly, therefore, their powers of eviction are equivalent to those described for local authorities, albeit under different legislation. The reform of the PRS through the Renters’ Rights Bill 2025, which is discussed below, will diminish social landlords’ housing-based anti-social behaviour

powers. Specifically, they will lose the ability to create the equivalent of introductory and demoted tenancies.¹⁰ There has been surprisingly little reaction from their representative body – the Housing Federation – to the loss of these powers in its submissions to the Bill Committee.¹¹ It is therefore possible that they have been little used. Unfortunately, official data sources are insufficiently granular to know how they are used or their effectiveness in dealing with anti-social behaviour.

The treatment of public renters stands in stark contrast with the position of owners. Despite a decline since its zenith in 2003 (English Housing Survey 2022–23 Headline Report, Annex Table 1.1), home ownership maintains its dominant position as the largest tenure. While English policymakers categorise ‘owners’ as comprising both freeholders and those with a long lease,¹² freeholders have superior rights (Bright and Hopkins 2011). Freehold owners, whether subject to a mortgage or not, enjoy the greatest home-based security since they generally cannot be evicted because of anti-social behaviour. A very narrow exception exists, in the form of a civil injunction which may potentially be used to exclude a person from their home, irrespective of their tenure status.¹³ However, statutory guidance emphasises the high threshold that would need to be surmounted to justify the proportionality of applying this approach (Home Office, Anti-social Behaviour, Crime and Policing Act 2014 Statutory Guidance, p35). As legal scholars have noted, the lack of regulatory intervention coincides with ‘certain expectations that often flow from ownership, particularly relating to the degree of autonomy enjoyed by owners in relation to the management and use of owned property’ (Bright and Hopkins 2011, p. 381) and reinforces ‘[th]e powerful meta-narrative of property as individual, exclusive, sovereign control over territorial space’ (Blandy 2021, p. 14).

While leaseholders regard themselves as owners (Cole and Robinson 2000), they do not enjoy the same autonomy as freeholders, as they are subject to a direct legal relationship with the freehold owner (landlord) through the lease. Long leases are the most common device used in England and Wales to regulate those living in multi-owned buildings. They comprise 19% of the housing stock,¹⁴ making leasehold the same size as the private rented sector.¹⁵ Because of the dominance of policies on tenure mixing, outlined earlier, leaseholders and renters are likely to be neighbours in the same multi-occupied housing. Yet a leaseholder is highly unlikely to be evicted from their home because of anti-social behaviour. Leaseholders do, of course, differ from renters as the former pay an initial lump sum to purchase their home and therefore have an investment interest, as well as a use interest. Bright and Hopkins have suggested that it is the ownership of the value of the property that characterises popular perceptions of home-ownership as being distinct from renting (Bright and Hopkins 2011). Nevertheless, my central argument is that this difference cannot justify disparate treatment with regards to behavioural management.

The sharply contrasting treatment between social renters and leaseholders is well illustrated by two instances in which legal action was taken against leaseholders for anti-social behaviour caused by letting their home to Airbnb guests. In these separate cases, breaches of the lease were found, despite the leaseholder not being personally responsible for the behaviour. In the first, the complaint was of ‘noisy and at times riotous parties’ organised by Airbnb guests (*Laxcon Developments v St John Guy Rogers*, cited in Hunter 2017, p. 39). Similarly, a breach was established where a leaseholder let their flat to a couple who ‘continually disrupted the lives’ of other occupiers by smoking drugs,

causing regular and severe noise nuisance, littering and various acts of antisocial behaviour (LON/00BF/LBC/2021/0056, cited in Hunter *et al.* 2017) However, establishing a breach is merely the preliminary stage in action against a leaseholder; a further judicial process is required for eviction. Moreover, unlike for social housing tenants, where newer tenancy types have reduced independent judicial scrutiny, the task of deciding if the lease has been breached is undertaken by the first-tier tribunal of the Property Chamber (Commonhold and Leasehold Reform Act 2002, s.168 and the Transfer of Tribunal Functions Order 2013, Sch. 1, para. 141 (SI 2013/1036). This tribunal forms part of the wider courts system and is thus entirely independent of the parties. The panel usually comprises a legally qualified judge and professionally qualified surveyor and the outcome may be appealed, with permission, on a point of law to a higher-level tribunal.¹⁶ The relevant point is that, even at the preliminary stage of proving the allegation, this is a substantially more rigorous process than is applied to renters. At the second stage, a further judicial process is available through an application for relief from forfeiture (Law of Property Act 1925, s146(2)). This statutory process gives the court wide discretion whether to grant relief and, if so, on what terms. According to Duckworth and Sissons (2016), there is a consistent pro-tenant tendency, and Dixon (2024, p. 221) notes that the statutory process and protections are very effective, making ‘forfeiture of a long residential lease [...] extremely rare’. Thus, while long leaseholders do not enjoy the same absolute freedom as freehold owners, their security from eviction based on anti-social behaviour is substantially greater than for renters. Naturally, I recognise that the lessee’s investment interest, as well as their home, is at stake and this draconian consequence justifies a more rigorous legal process. Nevertheless, I return to my central contention that action to control behaviour should not depend on a person’s legal status in relation to their home (or property interest).

The transfer of responsibility issue

In this final section, I turn my attention to the private rental sector. It provides a particularly interesting point of comparison because it is ostensibly a purely private relationship, akin to leaseholders. Nevertheless, responsibility to manage tenants’ behaviour has been transferred from the state to private landlords through a system of licencing. This action is contentious because, first, no equivalent duty is imposed on freeholders in respect of their leaseholders and it thus creates inequality in treatment. Secondly, I argue that imposing behavioural management obligations through the licencing scheme creates a perverse incentive for landlords to evict – or exclude – vulnerable households who have very limited alternative housing options.

As explained earlier, following substantial deregulation of the PRS in the 1980s, aimed at reviving its fortunes (Cowan and McDermont 2006), it was principally viewed as a niche sector for students and young professionals who would ultimately progress to owner-occupation. However, the PRS now accommodates more households than the social sector. Its growth is attributable partly to the inability of new buyers to secure mortgage finance, or to service the loan, which has led to a decline in the rate of home ownership (Tunstall 2023). The sector has also increased because of the scarcity of social housing, as described above. The consequence is that the PRS is now home for an increasingly heterogeneous population, a proportion of which comprises those who

either cannot access social housing because of limited supply, or families who have been evicted because of rent arrears or anti-social behaviour (Department for Levelling Up, Housing and Communities 2022). On the supply side, private individuals have been attracted to landlordism as an investment opportunity for property-based welfare (Soaita *et al.* 2016). More recently it has been reported that landlords are leaving the sector because of altered tax arrangements and concern about increased regulation (HC Debs, Public Bill Committee, col 6, 22 October 2025, Ben Beadle, Chief executive of the National Residential Landlords Association).¹⁷

Concerns have been expressed that high concentrations of privately rented accommodation lead to increased anti-social behaviour, poor property conditions, low housing demand and elevated levels of crime (Ministry of Housing, Communities and Local Government 2019). As explained earlier, shared housing (typically HMOs) is common in city and urban centres and a vital source of housing for very low-income households who are often vulnerable (Green *et al.* 2016). The perception that multi-occupancy housing is problematic has a long history (Brookfield 2022). Its function more recently as part of the quasi-social sector prompts Green to compare the inhabitants with the ‘problematic populations’ (Flint 2004, 2006) initially associated with social housing. It is therefore unsurprising that the link has been made between high-density HMO communities and greater anti-social behaviour (Green *et al.* 2016).

Before developing the argument on licencing, I explain landlords’ current powers to deal with anti-social behaviour and then consider how they will be altered by the Renters’ Rights Bill 2025. The Bill represents the first major change to the PRS and a key feature is the removal of the simple and relatively speedy route to eviction that has become a defining characteristic of the sector. The use of this provision has become so ubiquitous that it is widely referred to simply as a section 21 notice (Housing Act 1988, s.21). Although PRS landlords have the same access as social landlords to grounds of possession to deal with anti-social behaviour (Housing Act 1988, s.5 and Schedule 2, Part 2, ground 14), there has been little incentive for them to use them. As such, it is widely recognised that section 21 has masked the motivations behind possession claims (DLUHC/MHCLG 2022) and therefore there is a gap in understanding about the extent to which landlords have acted against anti-social tenants. During the debates, it was recognised that, in the absence of section 21, landlords would need robust mechanisms to deal with tenants’ behaviour (HC Debs., col. 335, 9 October 2024, Angela Rayner). In particular, landlords have been vocally critical that the abolition of section 21 will cause lengthy court delays (HC Debs., Public Bill Committee, col. 6, 22 October 2025, Ben Beadle, Chief executive of the National Residential Landlords Association). The Bill attempts to address this point, by reducing to zero the amount of notice landlords must give to start proceedings on this ground).¹⁸ Nevertheless, it is widely acknowledged that the civil justice system is already overwhelmed (House of Commons Justice Committee July 2025) and this change seems unlikely to make much difference to the overall timeframe. The government has also tried to square the circle of giving courts discretion to assess all the circumstances of an anti-social behaviour claim, while ensuring judges explicitly recognise the effects of that behaviour on others. As such, the Bill amends the requirement for courts to consider the effect of anti-social behaviour on neighbours (‘structured discretion’), discussed above in relation to public sector landlords, in two significant ways. First, it directs judges to consider whether the perpetrator

has cooperated with the landlord's attempts to encourage them to desist from their behaviour.¹⁹ The Housing Minister identified the dual purpose of this requirement. First, to incentivise landlords to manage proactively and, secondly, to signal to the courts that the tenant's non-engagement is a reason to award possession (HC Debs., col. 132, 29 October 2024, Matthew Pennycook MP). The second important addition is a new requirement that recognises the particularly proximate living conditions in HMOs, by directing courts to consider the effect of anti-social behaviour when accommodation is shared.²⁰ The abolition of section 21 is welcome, not least because it will prevent tenants accused of anti-social behaviour from simply being evicted without a full judicial process that can consider all the circumstances. Nevertheless, the obligations imposed on some landlords through licencing schemes may result in poor and vulnerable households effectively being excluded from PRS housing.

Despite the availability of section 21, government research indicated that some landlords lacked the time and expertise to act against anti-social tenants. Where the tenant pays the rent on time and the landlord is not personally affected by the behaviour complained of, it is unlikely that action will be taken (Nixon *et al.* 2003). The English sector is dominated by small-scale, part-time landlords and is notoriously under-professionalised (MHCLG 2024). England currently has no mandatory landlord register,²¹ unlike Scotland (Antisocial Behaviour etc. (Scotland) Act 2004 Pt. 8, as amended by the Housing (Scotland) Act 2006 and the Private Rented Housing (Scotland) Act 2011) and Wales (Housing (Wales) Act 2014, s.4), and so it is virtually impossible for central or local government to identify landlords, let alone to disseminate information to them. In areas of low housing demand, even responsible and well-intentioned landlords were found to be reluctant to take action because finding a better tenant may be difficult. Research into responses to anti-social behaviour in mixed-tenure areas found that 'there was a tendency for initiatives to focus on tackling problems in the social rented sector', partly because of difficulties experienced with gaining cooperation from private landlords (Nixon *et al.* 2003). As noted earlier, the managed nature of social housing has facilitated behavioural control but, by contrast, the amorphousness of the private rented sector led it to be described as an attempt to 'govern the ungovernable' (Carr *et al.* 2007, p. 108).

The difficulty of engaging with some private landlords led to the creation in 2004 of a new licencing regime incorporating a 'potent mixture of governance techniques' (Cowan and McDermont 2006, pp. 156–157) which stand in stark contrast to the generally permissive regulation of the sector. The initial focus was on certain types of multiple occupancy housing (HMOs) (Housing Act 2004, s.61 and the Licensing of Houses in Multiple Occupation (Prescribed Description) (England) Order 2018/221). As already outlined, HMOs are typically, older houses divided into bed-sitting rooms with shared facilities, including kitchens and bathrooms. They are an important source of housing for low-income, vulnerable households who cannot gain access to – or have been evicted from – the social sector (Green *et al.* 2016). They have been a site of regulation for many years because of their risk to the health and safety of tenants (Carr *et al.* 2007). More recently, the licencing model of control has been extended to address more general concerns about high density, low cost PRS housing. Local authorities can impose licencing requirements on all landlords in neighbourhoods identified as experiencing low housing demand and/or a 'significant and persistent' problem caused by anti-social

behaviour (Housing Act 2004, s80). This form of licencing is highly relevant because it imposes responsibilities on landlords to manage tenants and, specifically, deal with anti-social behaviour. As Green *et al* observe, licencing is used as a mechanism ‘through which the government delegates the surveillance and control of certain spaces, activities and people’ (Green *et al.* 2016, p. 271). In this way, the behavioural management associated with the social sector has been extended to certain sections of the private sector.

To designate an area for licencing, local authorities must decide whether landlords’ lack of effective management is contributing to the incidence of anti-social behaviour. Licence conditions can include, for example, requiring landlords to take action to deal with the behaviour, or ensuring that properties are not let to persons with a known record of anti-social behaviour (MHCLG 2024 para. 25). There does not seem to be any official record of authorities operating selective licencing schemes but it is estimated that a third of London boroughs are affected (London Property Licensing – online). Licencing has been justified as targeting only the minority of ‘bad’ and ‘exploitative’ landlords who rent poor quality housing and attract anti-social tenants (Green Paper 2000 cited in Cowan and McDermont 2006). On the face of it, therefore, it is protective of tenants. Nevertheless, I argue that making landlords responsible for managing their tenants’ behaviour, backed by the threat of civil and criminal sanctions (Housing Act 2004, s.95(2)), provides a compelling incentive for those unwilling, or lacking the expertise to manage vulnerable tenants (Green *et al.* 2016), simply to evict them. It may also encourage discrimination in letting practices for certain groups (Harrison and Davis 2001).

Government guidance emphasises the need for authorities to support landlords and tenants and for schemes to be sufficiently resourced to assist landlords to comply with the licencing conditions (MHCLG 2024). Nevertheless, in areas of social and economic deprivation, compounded by 10 years of a central government public sector austerity agenda and the effects of the current ‘cost of living crisis’, it is questionable the extent to which these lofty aspirations will be achievable. With the current availability of relatively fast and inexpensive no-fault eviction, through section 21, it must surely be in landlords’ interests to evict problematic tenants to ensure compliance with their licence. Indeed, given the government’s sustained emphasis on creating ever more extensive legal mechanisms for social landlords to evict tenants because of their behaviour, it is surely hypocritical to expect private landlords to act differently. Consequently, while licencing ostensibly aims to improve conditions in the private sector by regulating ‘bad’ landlords, it may effectively serve to penalise poor or vulnerable tenants.

Conclusion

Increasingly densely populated urban environments are characterised by mixed-tenure living, where neighbour tensions and disputes arise irrespective of housing tenure. I argue that the consistent line of English policy that responds to anti-social behaviour by evicting people from their homes is inappropriate. My primary concern is to highlight the unjustified disparity in treatment that can occur between the closest of neighbours, simply based on their occupation status. The paper demonstrates that renters have been subjected to significantly more intrusive behavioural control than home owners. The initial focus was public housing tenants but more recently behavioural management has

been extended to the PRS. The managed nature of public sector housing has facilitated the creation of less secure tenancy types that deny tenants a full judicial process where action is taken because of anti-social behaviour. The expansion of behavioural control into the PRS is controversial because of its private law nature. Nevertheless, concerns have been prompted by high density, lower cost housing, which may act as a social housing substitute for some low-income and vulnerable families. These fears have motivated the imposition of licencing requirements for some PRS landlords that make keeping their licence contingent on proactive management of tenants' behaviour. These measures are not replicated for leaseholders who may be neighbours in the same housing block. The current law allows landlords a straightforward way to evict problematic tenants but this position will change with the Renters' Rights Bill 2025. Imposing specific obligations on landlords, many of whom are small-scale and side-line, risks creating perverse incentives to evict or exclude vulnerable households who lack alternative housing options. The treatment of renters stands in stark contrast with the position of owners. Freehold owners are virtually immune from being excluded from their home because of their behaviour, and leaseholders enjoy significantly greater substantive and procedural protection. The investment interest of owners is, of course, recognised but does not justify unequal treatment for the same behaviour. Local authorities and the police have extensive tenure-neutral powers to deal directly with perpetrators and therefore recourse should be to these actions alone.

Notes

1. One report claims that neighbour disputes are more prevalent amongst owner-occupiers than tenants (H. Genn with National Centre for Social Research, 1999, *Paths to Justice* (Oxford: Hart)).
2. See, for example, the Anti-Social Behaviour, Crime and Policing Act 2014, Pt 1.
3. At the time of writing the Bill is completing its parliamentary passage.
4. See, for example, *Manchester City Council v Higgins* [2005] EWCA Civ 1423.
5. Housing Act 1996, s.82A for a demotion order.
6. Changes will be made by the Crime and Policing Bill 2024–25 (HC Bill 187) but the substantive conduct remains unchanged.
7. 1.6 million dwellings, compared with 2.6 million for private registered providers; MHCLG, *Live tables on housing*, Table 100 <https://www.gov.uk/government/statistical-data-sets/live-tables-on-dwelling-stock-including-vacants> [accessed 4/3/25].
8. House of Commons Library, *What is affordable housing?* Research briefing Number CBP07747, 23 July 2023. Affordable housing is defined as being offered at rents of up to 80% of the market rate.
9. See, for example, the Anti-social Behaviour, Crime and Policing Act 2014, Pt. 1.
10. Both tenancies will be removed by the abolition of assured shorthold tenancies; Renters' Rights Bill 2025, clause 2.
11. Written evidence submitted by The National Housing Federation (NHF) to The Renters' Rights Public Bill Committee (RRB75) <https://publications.parliament.uk/pa/cm5901/cmpublic/RentersRights/memo/RRB75.htm>.
12. See, for example, MHCLG, *English Housing Survey 2023–24*, Chapter 1.
13. Housing injunctions will be added to the Anti-social Behaviour, Crime and Policing Act 2014, s1A by the Crime and Policing Bill 2024–25 (HC Bill 187) Sch.1 para.3.
14. Ministry of Housing, Communities and Local Government, *Official Statistics Leasehold dwellings, 2022–2023* (May 2024) <https://www.gov.uk/government/statistics/leasehold-dwellings-2022-to-2023/leasehold-dwellings-2022-to-2023> [accessed 6/3/25].

15. Around 300,000 of those leaseholds are owned by social landlords.
16. Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013/1169, rule 52.
17. For a more nuanced view see A Marsh, K Gibb, N Harrington and B Smith, The impact of regulatory reform on the private rented sector (2023) UK Collaborative Centre for Housing Evidence (CaCHE).
18. Clause 4(3) amends the Housing Act 1988, s.8(4).
19. Clause 4 inserts new Housing Act 1988, s9A(2)(d).
20. Clause 4 inserts new Housing Act 1988, s9A(3).
21. The Renters' Rights Bill 2024–25 will introduce a private rented sector database; Part 2, Chp 3.

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