

ASBO Not Conclusive

The issuing of an Anti-Social Behaviour Order (ASBO) against a tenant or a member of a tenant's family is strong evidence that the tenant has failed to do enough to retain entitlement to possession of the property. ASBOs are only issued when anti-social behaviour is both persistent and serious. Where such behaviour is serious enough to warrant forfeiture of the tenant's right of possession, the authority may apply to the court for a possession order. However, the issuing of an ASBO is not conclusive evidence that a repossession order is appropriate.

A tenant who is able to persuade the court that there is a reasonable basis for the belief that his or his family's anti-social behaviour will stop has a good chance of retaining possession. The ultimate test is whether the possession order would represent a fair balance between the rights of the tenant and those of his or her neighbours.

In a recent case, which involved a mother whose 13-year-old-son had a long history of vandalism and 'appalling misbehaviour', the continuing dreadful behaviour of the child who was subject to the ASBO, coupled with the absence of any signs of remorse or any reason to expect an improvement, meant that the tenant had forfeited her right to remain in the premises.