

ASB New powers and tools introduced by ASB crime and Policing Act 2014

1.0 Introduction

In March 2014 Royal Assent was given to the Anti-Social Behaviour, Crime and Policing Act 2014. The Act introduces some radical changes to how local bodies deal with anti-social behaviour, streamlining the tools available to them so that they can be more effective. With the introduction of this legislation, victims of anti-social behaviour will also have a tool to enable them to insist on a response to a problem where nothing seems to have been done.

2.0 Community Trigger

Allows a Community Group, Business, individual, or representative such as carer, family member, councillor or MP the right to request a review of their case when they feel that action has not been taken, and bring agencies together to take a joined up, problem-solving approach to find a solution. The trigger can only be used when an agreed threshold has been met and must take into account the persistence, potential harm and adequacy of response. The threshold must be defined locally but must not be not greater than 3 incidents in a 6 month period.

3.0 Community Remedy

There is a duty on the PCC in association with Police to produce a Community Remedy document. This will detail a menu of 'out of court' options for low level crime and ASB. The options can include punitive, restorative and rehabilitative elements or combination of all three. Once an offender admits the guilt the victim should be consulted on the outcome chosen. If the perpetrator does not complete the action(s) then the next step reverts back to court for the original offence.

4.0 Civil Injunction

This new power replaces the ASBO, and Housing injunction; this now covers conduct which:

Causes harassment or alarm

Causes nuisance or annoyance

Causes housing related nuisance

An order can include positive as well as prohibitive conditions. Orders can last for an indefinite amount of time or up to 12 months for those aged 10-18 years. Power of arrest can be applied to prohibitions and breach can be punished with up to 2 years imprisonment for over 18s or up to 3 months for 14-17 year olds.

5.0 Criminal Behaviour Orders

The CBO replaces ASBOs. The test is 'the offender has engaged in behaviour that caused, or was likely to cause, harassment, alarm or distress to any person; and that making the order will help in preventing the offender from engaging in such behaviour'. Duration is at least 2 years to indefinite or 12 months to 3 years for under 18s. Either the Police or Council can request CPS to make an application for a CBO to which the substantive offence does not need to relate.

The order can include both positive conditions as well as prohibitions. A breach is a criminal offence and punishable with up to 5 years in prison or up to 3 months for those aged 10 – 18 years.

6.0 Police Dispersal Power

Replaces power to create dispersal zones and the Section 27 direction to leave notices. The test is 'contributing or likely to contribute to members of the public in the locality being harassed, alarmed or distressed or the removing the person reduces the likelihood of the occurrence of crime and disorder'. A person who meets the test can be required to leave the area for up to 48 hours. The specific area must be authorised by an Inspector. The route and time to leave can be specified.

This Power can also require a person to hand over an item likely to contribute to committing ASB. Both elements apply to anyone aged over 10, although a person aged under 16 can be removed to a place of safety. Breach is a criminal offence and can be punished by fine or imprisonment for up to 3 months.

7.0 Community Protection Notice

Can apply to a person, business or organisation committing ASB. The test is 'behaviour has to be detrimental effect on the quality of life of those in the locality; be persistent and unreasonable'. An initial written warning to put right the ASB must be issued before a CPN can be issued by Council, Police or Registered Providers if designated by the Council. The notice can require someone to stop doing something or to put right.

If CPN is breached then the perpetrator can be punished by fine. The Council can also apply for a remedial or forfeiture order to put right. The behaviours that can be tackled include noise, odour, graffiti on private property etc.

8.0 Public Spaces Protection Order

Replaces a number of orders including DPPO, Dog Control Orders and Gating Orders. The test is – 'Behaviour has to be likely to or has had a detrimental effect on the quality of life of those in the locality; be persistent, unreasonable and justifies the imposed notice'. A single PSPO can include a number of restrictions for a specific area, although it needs to be renewed every 3 years. Breach is punishable by fine or dealt with by FPN.

9.0 Closure Power

Replaces a number of current closure orders and allows the Police or Council to quickly close premises which are being used or likely to be used to commit nuisance or disorder. An initial 48 notice will be followed up with an application for a 3 month closure. Breach is a criminal offence punishable by a fine or up to 51 weeks imprisonment.

10.0 New Absolute Ground for Possession

New possession power for secure and assured tenancies where ASB or criminal behaviour has been proven by another court. Can be used when a tenant, member of household or visitor has been; convicted of a serious offence, breached a Civil Injunction or CBO, convicted of breaking a noise abatement notice or been closed for more than 48 hours.