

New Law on anti social behaviour (ASB) – 2014

Briefing note from Paul Lusk

On March 13th 2014, the **Anti-social Behaviour, Crime and Policing Act 2014** became law. This Act brings together, in one piece of legislation, several earlier laws which gave powers to councils and social landlords to tackle anti-social behaviour. The ASBOs, ASBIs and CrASBOs under these laws have been taken away, but replaced with a clearer system giving much the same powers.

A large part of the Act is concerned with ASB. The Act also has provision on forced marriage, sex offences, policing, firearms and dangerous dogs.

This briefing note deals with ASB especially as it concerns social housing tenants and providers. It covers sections 1 to 105 of the Act and related Schedules.

'Section 1' injunctions

A council or a social landlord can apply to a court for an injunction under section 1 of the 2014 Act if:

- On the balance of probabilities, there has been or there is a threat of anti-social behaviour, and
- an injunction is a 'just and convenient' way to stop it

Anti social behaviour here means conduct that meets any of these tests:

- It has caused, or is likely to cause, harassment, alarm or distress to any person, or
- it can cause nuisance or annoyance to a person in relation to that person's occupation of residential premises, or
- it can cause housing-related nuisance or annoyance to any person (this means it is related to the housing management functions of a council or social landlord)

The injunction is an order to someone to change their behaviour – by stopping doing something or by taking some particular action.

The body applying for the injunction must say who is responsible for seeing that its requirements are followed. This person or organisation must check what happens as a result of the injunction and report back if it is broken.

If an injunction is broken, the council or social landlord can apply to a judge for the person concerned to be arrested and brought before the court.

An injunction can also carry a power of police arrest without warrant, if there is an established threat of violence or harm.

Criminal behaviour order (CBO)

A CBO is an order made against someone who has been convicted of an offence and the court agrees with the Prosecutor that

- They have done things that have caused harassment, alarm or distress to anyone, and
- The CBO will help stop that happening again.

A CBO can be attached to any sentence or to a conditional discharge.

Breaching a CBO is an offence potentially carrying a long prison sentence.

Dispersal orders

The police can take power to order people to move on from an area, and to confiscate things. This is to stop behaviour that is leading to harassment, alarm or distress or causing crime or disorder. The order can last for up to 48 hours.

Community protection notices (CPNs)

CPNs are notices issued by the police or councils including people designated by councils to act for them. A CPN deals with unreasonable and persistent conduct which is detrimental to the quality of life in an area. If someone disagrees with a CPN, they can appeal to a magistrates' court.

A CPN requires the people responsible to stop or to do some action. CPNs can be issued to anyone including people who own or manage land and buildings, and can be posted on a building if the owner is not known. Before issuing a CPN, there must be a warning of the intention to do so. Breaching a CPN is an offence resulting in a fine. There are powers to issue a fixed penalty notice, to confiscate property, and enter property to do work and charge the cost to the offender.

Public space protection orders

A council can issue this order to prevent activities causing a detrimental effect on the quality of life in an area. The order can prohibit some activity or require people to do certain things. The order is for up to 3 years and includes powers to confiscate alcohol and (with safeguards) stop the use of right of way. Breaching a notice is an offence and there are powers to issue fixed penalty notices.

Closure of premises

This power gives councils and police ability, with the approval of magistrates, to close premises to prevent nuisance or disorder. The order can run for up to 3 months.

New grounds for possession

Courts are required to grant possession of homes to landlords (i.e. to enable landlords to evict tenants) if there is proof of one of:

- A serious offence committed by a resident or visitor, if it happened in or near the home, or the victim is a neighbour or the landlord (serious offences are listed in Schedule 3 and include violence, sex offences, offensive weapons, robbery, burglary, serious road traffic offences and drug dealing)
- Breach of a section 1 order or a criminal behaviour order, where the breach is in or near the home or affects neighbours or the landlord
- A closure order of more than 48 hours
- Breach of the Environmental Protection Act in relation to nuisance or noise

Courts may also grant possession if a resident has been convicted of an offence linked to rioting.

Community remedy

Police must publish their local policies for dealing with ASB out of court. They must consult on these policies. This publication is called the 'community remedy document.'

Where authorities decide to deal with a case of ASB out of court, they must first consult with victims. Where there are conditions attached to a conditional discharge, the prosecution must consult with victims. These consultations must refer to the policies in the community remedy document.

People who are not happy with the result of a complaint of ASB may request a case review by the authorities. If the complaint is about something serious, or more than two people complain about the same thing, the case review takes place. Case reviews can result in recommended actions. Case review procedures are set up by councils, police, health and social landlords working together locally.

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