

Appendix B:

Provisions of Anti-Social Behaviour, Crime and Policing Act 2014, as updated in December 2017

Civil Injunction: This is a civil power that can be applied for by a range of agencies to deal with anti social individuals. Agencies that can apply for an injunction include; District Councils, Housing Providers, the Environment Agency and the Police. Applications must be made to County Court or High Court and to Youth Court for those under 18 years of age.

An injunction can prohibit the offender from doing certain things (prohibitions) but can also require them to undertake certain activities (positive requirements). These should aim to tackle the underlying causes of the anti-social behaviour and could include such requirements as attending an anger management course, participating in substance misuse awareness sessions, or attending a job readiness course.

Breach of an injunction is not a criminal offence but is dealt with by a civil contempt of court, which is punishable by up to two years in prison and/or an unlimited fine. For those aged under 18, breach proceedings are dealt with in youth court and could result in a supervision order, curfew or an activity requirement. Only in the most serious of cases, would the court consider imposing a detention order on a young person for breaching the terms of an injunction. This would be limited to those between 14 and 17 years of age and limited to a maximum of 3 months detention.

The 2017 amendments to the Home Office guidance add information to emphasise the potential use of injunctions to tackle gang related activity, either directly on gang members or on those being exploited by gangs, in order to disrupt their activities. Specific reference is now made to tackling issues such as 'county lines' where urban gangs exploit children and vulnerable people to move drugs and money to suburban areas, market and coastal towns.

Criminal Behaviour Order (CBO): The CBO is available on conviction for **any** criminal offence in any criminal court and can be used to curb the anti-social behaviour of an offender, even if the behaviour is not linked to the original conviction.

For instance, updated guidance highlights that a CBO can be used to address the anti-social behaviour of gang members to prevent them from associating with certain individuals or to require them to attend a job readiness course to help them to get employment. It is similar to the Civil Injunction in that it can include prohibitions and positive requirements. However, unlike the Injunction, it is a criminal offence to fail to comply with an order without reasonable excuse. Breaches of CBO by those aged under 18 are dealt with in the youth court. In all other cases, the offence will be considered by Magistrates or Crown Court.

Updated guidance draws attention to a guide published by the Crown Prosecution Service to assist the police and local councils in preparing CBO applications, setting out the general principles to consider.

Dispersal Power: This power can be used by the police to disperse anti-social individuals from a specific locality for up to 48 hours, to provide immediate short-term respite to the local community. The power is authorised by a Police Inspector or above and as well as dispersing of individuals from a location, police officers can also confiscate any item that they believe has been used, or is likely to be used, in anti-social behaviour. Failure to comply with the direction is an offence, which can result in imprisonment or a fine. Although there is no requirement to consult the council before authorising use of the dispersal power, the authorising officer in the police may consider doing so in some circumstances.

Community Protection Notice (CPN): The CPN is intended to deal with particular, on-going problems, or nuisances that negatively affect a community's quality of life by targeting those responsible. CPNs can be used to tackle a wide range of problem behaviours including graffiti, rubbish and noise. It can be issued against any person over the age of 16 or a body, including a business. A person found guilty of failing to comply with a CPN without reasonable excuse is liable to a fine of up to £2,500 (£20,000 in the case of a body).

In addition to designated council officers, CPNs can also be issued by police officers and police community support officers. The Home Office notes that councils already take the lead in dealing with many of the issues that can be targeted by a CPN and the updated statutory guidance recommends that other issuing bodies should involve local councils when deciding whether or not to proceed.

The guidance now also emphasises that the issuing body should be satisfied that there is sufficient evidence that the activity in question is having a detrimental effect on others' quality of life, is persistent or continuing and is unreasonable. It is also noted that there is some cross over with the Council's responsibilities to deal with statutory nuisance and the updated guidance details how these powers can and should work together to achieve the best results for the affected residents. There is also a need to have due regard to the Equality Act 2010.

Public Spaces Protection Order (PSPO): A PSPO is intended to deal with a particular nuisance or problem in a particular area, which is detrimental to the local community's quality of life by imposing conditions on the use of the area that apply to everyone. They are intended to help ensure that the law abiding majority can use and enjoy public spaces, safe from anti social behaviour. District Councils are responsible for making a PSPO, but police officers and police community support officers can also play a role in enforcing the orders. Orders are issued by councils after consultation with the police, PCC and other relevant bodies.

Council officers, if granted powers by their Chief Executive, can also enforce the restrictions and requirements. It is an offence to fail to comply with an order without reasonable excuse and can result in a fine of up to £1,000. Following a number of legal challenges to PSPOs nationally, a large proportion of the updates to the statutory guidance relate to clarifying the consultation and implementation of these orders. The guidance gives additional information about the need for proportionality, comprehensive consultation, accountability and the need to consider the impact on vulnerable and at risk groups when considering implementation. (Appendix A)

The Act provides the ability for authorised local authority officers, police and police community support officers to issue a fixed penalty notice for failure to comply with both a CPN and a PSPO as an alternative to prosecution. The amount of the fixed penalty notice can be set by the local authority but cannot exceed £100

Closure Power: The closure power can be used by local authorities and the police to close premises that are causing nuisance or disorder. The power comes in two stages. The closure notice can be used out of court to provide short term relief up to a maximum of 48 hours. The notice can then be extended upon application for a closure order to the magistrates' court for a period of up to three months. At any time before the expiry of the closure order, an application may be made to the court for an extension (or further extension) of the order up to a total of six months.

Recovery of Possession of Dwelling-Houses: The purpose of the new absolute ground for possession is to speed up the possession process in cases where anti-social behaviour or criminality has already been proven in another court. Landlords will no longer have to prove that it is reasonable to grant possession but, instead, courts must grant possession if the landlord followed the correct procedure and at least one of the specified conditions is met.

The updated guidance provides more detail about the notice required to the tenant and also provides more technical detail on requirements to seek possession on discretionary grounds and also further technical information referring to secure or assured tenancies.

Community Remedies: The Act requires The West Mercia Police and Crime Commissioner to prepare a community remedy document for his area with a list of actions to be carried out by a person who has a) engaged in anti-social behaviour or has committed an offence and b) is to be dealt with for that behaviour or offence without court proceedings.

An action is considered appropriate to be carried out by a person only if it has one or more of the following objects:

- assisting in the person's rehabilitation;
- ensuring that the person makes reparation for the behaviour or offence in question;
- punishing the person

The Act sets out rules for out-of-court disposals for anti-social behaviour and conditional cautions. This includes a duty to consult victims before deciding what conditions to attach to a conditional caution.

ASB Case Review / Community Trigger: The Case Review/Community Trigger allows victims who feel that they have not received an adequate response to their ASB complaint to call for a review of their case.

At the request of the West Mercia PCC North Worcestershire Community Safety Partnership leads on the implementation of ASB Case Reviews on behalf of the Council and the other responsible authorities. An agreed countywide process is in place to ensure a consistent approach and to avoid confusion for victims.

Wherever possible, the CSP also tries to mirror arrangements across West Mercia and Warwickshire. To activate the Review/Trigger victims need to meet the agreed threshold of three or more reports relating to the same anti social behaviour problem in the past six months to the Council, Police or a Registered Housing Provider (Social Landlord) where they believe no action has been taken. Or at least three individuals and/or groups in the local community have made reports about the same problem in the past six months to the Council, Police or Registered Housing Provider (Social Landlord) and they believe that no action has been taken. The Community Trigger can also be activated by a third party with the victim's consent

Within 5 working days of receipt of the application a member of the respective District/Borough Council's community safety team will confirm whether the threshold has been met. Within 10 working days of this confirmation, a case review will be conducted by a review Panel made up of the responsible organisations and any other partners involved, to discuss the anti-social behaviour and what further actions can be considered and taken. Recommendations will be made as necessary to progress the case in consultation with the victim.

A final written response is sent to the applicant(s) by the Community Safety Partnership, explaining the findings of the Review Panel and detailing any suggestions and actions that will be taken to resolve the anti-social behaviour case.

Updated Home Office guidance on implementing the review process focuses on the vulnerability of victims and suggests that a risk assessment process is employed as part of the decision on whether the threshold has been met and also makes recommendations on information sharing and publicising of the process.