



Anti – Social Behaviour tools available to councils



Daryl Edmunds,
Lead Associate – LASBAS
Director - AuxilliumASB



List of key powers

- Community Trigger
- Community Remedy
- **Injunction**
- Criminal Behaviour Order
- **Police Dispersal**
- **Community Protection Notice**
- **Public Spaces Protection Order**
- **Closure Power**

Community Trigger

□ AIM

- **Victims and Communities have the right to request a review of their case and bring agencies together to take a joined up, problem-solving approach to find a solution.**

□ RESPONSIBLE BODIES

- a) **Councils** b) Police c) Clinical Commissioning Groups d) Registered providers of social housing who are co-opted onto this group.

□ THRESHOLD

- To be defined by the local agencies but not more than: Three complaints in the previous six month period.
- Must also take account of:
 - a) **The persistence of the ASB**
 - b) **The harm or potential harm caused by the ASB**
 - c) **The adequacy of response to the ASB.**

Community Trigger

□ DETAILS

- When a request to use the Community Trigger is received, agencies must decide whether the threshold has been met and communicate this to the victim;
- If the threshold is met, a case review will be undertaken by the partner agencies.
Agencies will share information related to the case, review what action has previously been taken and decide whether additional actions are possible. The local Community Trigger procedure should clearly state the timescales in which the review will be undertaken;
- The review encourages a problem-solving approach aimed at dealing with some of the most persistent, complex cases of ASB;
- The victim is informed of the outcome of the review. Where further actions are necessary an action plan will be discussed with the victim, including timescales.

□ WHO CAN USE THE TRIGGER

- A victim of ASB / person acting on behalf of the victim such as a carer or family member, MP or **councillor**.
- The victim could be an individual, a business or a community group.

Reason for Community Trigger

THE DIARY OF DESPAIR

THESE are just some of the 33 calls from Fiona Pilkington recorded on police logs.

■ November 17, 1997: Miss Pilkington reports chequebook and disability book stolen from car.

■ October 4, 2000: Her mother Pam Cassell, 72, calls police about youths lighting fires in the street.

■ October 30, 2000: Youngsters throw eggs at the house. No officers available.

■ March 26, 2003: Anthony, who is being bullied at school, goes missing. An officer visits and the teenager returns hours later.

■ August 3, 2003: Anthony is punched in the mouth.

■ January 9, 2004: Youths throwing stones and bottles and setting fire to gates and fences. No officers attend.

■ January 24, 2004: Bullies threaten Anthony's life. Police say it is a matter for the school.

■ January 28, 2004: Further threats to kill the teenager.

Police offer but do not visit.

■ June 11, 2004: Officer attends offence has taken place.

■ June 22, 2000 reports youth daughter. She is in a shed at night.

■ June 25, 2000 her son is being attacked with a knife. Officer attends.

■ July 3, 2004: In a shed at night.

■ July 28, 2000 attacked with a knife. Arrive but Miss Pilkington is afraid of reprisals.

■ October 28, 2000 not want a prosecution. Officer attends about yobs. Police officer available.

■ November 3, 2000 ing on hedge, s officer available.

■ October 13, 2006: Anthony pushed into a car, hurting his hand. Officer attends eight days later, no action.

MISERY DAY AFTER DAY

THURSDAY MAY 10, 2007

Youngsters are riding their bikes into the front hedge of the family home. Miss Pilkington, pictured, says her son Anthony, now 19, is so frightened at the noise he is 'pacing up and down the stairs'.

SATURDAY, MAY 12

'They were outside shouting up at my window. I draw back my curtains and they vanish. I turned my lights out and sat in the dark until 2.30am. Stressed out.'

SUNDAY, MAY 13, 4PM
(Youths are shouting

and attacking her hedge again) 'It's chucking down with rain. Fed up. Cheesed off. Why can't they just walk past without doing anything? Why can't they walk on the other side of the road?'

SATURDAY, JUNE 2

(After stones were thrown at the house) 'They went to number 57, lit a fag and then tried to set fire to fences between the houses. Really cheesed off. Can't they just walk down the street without doing anything? It seems impossible.'



■ October 23, 2007: Two girls jumping on the hedge and taunting Francessca. Miss Pilkington advised to draw the curtains.

Community Remedy

□ PURPOSE

- **The Community Remedy gives victims a say in the out-of-court punishment of offenders for low-level crime and anti-social behaviour.**

□ THE COMMUNITY REMEDY DOCUMENT

- The Act places a **duty on the PCC** to consult with members of the public and community representatives on what punitive, restorative or rehabilitative actions they would consider appropriate to be on the Community Remedy document.

□ APPLICANTS/USERS

- a) Police officer b) An investigating officer (which can include Police Community Support Officers for certain offences, if designated the power by their Chief Constable) c) A person authorised by a relevant prosecutor for conditional cautions or youth conditional cautions.

□ COMMUNITY RESOLUTIONS

- When dealing with anti-social behaviour or low-level offences through a community resolution the police officer may use the Community Remedy document as a means to engage the victim in having a say in the punishment of the offender.

Community Remedy

- The officer must have **evidence that the person has engaged in anti-social behaviour** or committed an offence;
- **The person must admit to the behaviour or offence;**
- The officer must think that the evidence is enough for court proceedings including an injunction to prevent nuisance and annoyance, or impose a caution, but considers that a community resolution would be more appropriate.
- **CONDITIONAL CAUTIONS**
- The Community Remedy document should be considered when an offender is given a conditional caution or youth conditional caution.
- **FAILURE TO COMPLY**
- If the offender fails to comply with a conditional caution or youth conditional caution they can face court action for the offence.
- **IMPORTANT CHANGES/DIFFERENCES**
- The Community Remedy document is a list of actions which may be chosen by the victim for the perpetrator to undertake in consequence of their behaviour or offending.

Effective Powers

- **Early and informal interventions:**
 - **Warnings (verbal & written)**
 - **Community Resolution**
 - **Mediation**
 - **Acceptable behaviour contracts**
 - **Parenting contracts**
 - **Support and counselling**

Injunction to Prevent Nuisance and Annoyance

□ AIM

- To stop or prevent individuals engaging in anti-social behaviour quickly, nipping problems in the bud before they escalate.

□ APPLICANTS

- a) **Local councils** b) Social landlords c) Police (including British Transport Police d) Transport for London e) Environment Agency f) NHS Protect

□ TEST

- **On the balance of probabilities**, the respondent has **engaged or is threatening to engage** in conduct capable of **causing nuisance or annoyance** to any person; **AND**
- The court considers it **is just and convenient** to grant the injunction to stop the anti-social behaviour.

□ DETAILS

- Issued by the **county court for over 18s** and the youth court for under 18s.
- Injunction will include **prohibitions** and can also include **positive requirements** to get the perpetrator to address the underlying causes of their behaviour.
- Agencies must consult youth offending teams for applications for under 18s.

Injunction to Prevent Nuisance and Annoyance

□ BREACH

- Breach of the injunction is **not a criminal offence** but breach **must be proved to the criminal standard**, that is, beyond reasonable doubt.
- Over 18s: civil contempt of court with unlimited fine or up to **two years in prison**.
- Under 18s: supervision order or, as a very last resort, a detention order of up to three months for 14-17 year olds.

□ APPEALS

- Over 18s to the High Court; and
- Under 18s to the Crown Court.

□ IMPORTANT CHANGES /DIFFERENCES

- Available to a wider range of agencies than Anti-Social Behaviour Injunctions.
- Obtainable on a civil standard of proof unlike Anti-Social Behaviour Orders (ASBOs).
- Lower anti-social behaviour test than ASBOs.
- No need to prove “necessity” unlike ASBOs.
- Scope for positive requirements to focus on long-term solutions.

Criminal Behaviour Order

□ PURPOSE

- Issued by **any criminal court against a person who has been convicted of an offence** to tackle the most persistently anti-social individuals who are also engaged in criminal activity.

□ APPLICANTS

- The prosecution, in most cases **the Crown Prosecution Service (CPS)**, either at its own initiative or **following a request from the** police or council.

□ TEST

- If the court is satisfied **beyond reasonable doubt** that the offender has **engaged in behaviour that has caused or is likely to cause harassment, alarm or distress to any person;** AND
- The court considers that making **the order will help prevent** the offender from engaging in such behaviour.

□ DETAILS

- Issued by any criminal court for any criminal offence.
- **The anti-social behaviour does not need to be part of the criminal offence.**
- Order will include prohibitions to stop the anti-social behaviour but it can also include positive requirements to get the offender to address the underlying causes of their behaviour.
- Agencies must consult the youth offending teams (YOT) for applications for under 18s.

Criminal Behaviour Order

□ PENALTY ON BREACH

- Breach of the order is a criminal offence and must be proved to a criminal standard of proof, that is, beyond reasonable doubt.
- For over 18s on summary conviction: up to six months imprisonment or a fine or both;
- For over 18s on conviction on indictment: up to five years imprisonment or a fine or both;
- For under 18s: the sentencing powers in the youth court apply.

□ APPEALS

- Appeals against orders made in the magistrates' court (which includes the youth court) lie to the Crown Court.
- Appeals against orders made in the Crown Court lie to the Court of Appeal.

□ IMPORTANT CHANGES/DIFFERENCES:

- Consultation requirement with YOTs for under 18s.
- No need to prove “necessity” unlike Anti-Social Behaviour Orders.
- **Scope for positive requirements to focus on long-term solutions.**

Police Dispersal Power

□ PURPOSE

- **Requires a person committing or likely to commit anti-social behaviour, crime or disorder to leave an area for up to 48 hours.**

□ USED BY

- **Police officers in uniform and Police community support officers** (if designated the power by their chief constable).

□ TEST

- Contributing or likely to contribute to members of the public in the locality being harassed, alarmed or distressed (or the occurrence of crime and disorder); AND
- Direction necessary to remove or reduce the likelihood of the anti-social behaviour, crime or disorder.

□ DETAILS

- Must specify the area to which it relates and can determine the time and the route to leave by.
- Can confiscate any item that could be used to commit anti-social behaviour, crime or disorder.
- Use in a specified locality **must be authorised by a police inspector and can last for up to 48 hours.**
- A direction can be given to anyone who is, or appears to be, **over the age of 10.**
- **A person who is under 16 and given a direction can be taken home or to a place of safety.**

Police Dispersal Power

□ PENALTY ON BREACH

▪ **Breach is a criminal offence.**

- Failure to comply with a direction to leave: up to a £2,500 fine and/or up to three months in prison
- Failure to hand over items: up to a £500 fine.

□ APPEALS:

- A person who is given a direction and feels they have been incorrectly dealt with should speak to the Duty inspector at the local police station. Details should be given to the person on the written notice.

□ IMPORTANT CHANGES / DIFFERENCES:

- It is a more flexible power; it can be used to provide immediate respite to a community from anti-social behaviour, crime or disorder.
- An area does not need to be designated as a dispersal zone in advance.
- **Although there is no requirement to consult the local council, the authorising officer may consider doing so in some circumstances before authorising use of the dispersal.**
- Police community support officers may use all elements of the dispersal power (if designated the power by their chief constable).

Community Protection Notice

□ PURPOSE

- To stop a **person, business or organisation** committing anti-social behaviour which spoils the community's quality of life.

□ WHO CAN ISSUE A CPN

- a) **Council officers** b) Police officers c) Police community support officers (PCSOs) and d) **Social landlords (if designated by the council)**.

□ TEST

- Behaviour has to:
- **have a detrimental effect on the quality of life of those in the locality;**
- **be of a persistent or continuing nature; and**
- **be unreasonable.**

□ DETAILS

- **Written warning** issued informing the perpetrator of problem behaviour, requesting them to stop, and the consequences of continuing.
- **Community protection notice (CPN) issued** including requirement to stop things, do things or take reasonable steps to avoid further anti-social behaviour.
- **Can allow council to carry out works in default on behalf of a perpetrator.**

Community Protection Notice

□ PENALTY ON BREACH

▪ **Breach is a criminal offence.**

- A fixed penalty notice can be issued of up to £100 if appropriate.
- A fine of up to £2,500, or £20,000 for businesses.

□ APPEALS:

- Terms of a CPN can be appealed by the perpetrator **within 21 days of issue.**
- The cost of works undertaken on behalf of the perpetrator by the council can be challenged by the perpetrator if they think they are disproportionate.

□ IMPORTANT CHANGES / DIFFERENCES:

- The CPN can deal with a wider range of behaviours for instance, it can deal with noise nuisance.
- The CPN can be used against a wider range of perpetrators.
- The CPN can include requirements to ensure that problems are rectified and that steps are taken to prevent the anti-social behaviour occurring again.

CPN Example



Public Spaces Protection Order

□ PURPOSE

- Designed to stop individuals or groups committing anti-social behaviour in a public space

□ WHO CAN MAKE A PSPO

- **Councils issue a public spaces protection order (PSPO)** after consultation with the police, Police and Crime Commissioner and other relevant bodies.

□ TEST

- Behaviour being restricted has to:
 - **be having, or be likely to have, a detrimental effect on the quality of life of those in the locality;**
 - **be persistent or continuing nature; and**
 - **be unreasonable.**

□ DETAILS:

- **Restrictions and requirements set by the council.**
 - These can be blanket restrictions or requirements or can be targeted against certain behaviours by certain groups at certain times.
 - Can restrict access to public rights of way where that route is being used to commit anti-social behaviour.
 - Can be enforced by a police officer, Police community support officers and council officers.

Public Spaces Protection Order

□ PENALTY ON BREACH

- **Breach is a criminal offence.**
- Enforcement officers can issue a fixed penalty notice of up to £100 if appropriate.
- A fine of up to £1,000 on prosecution.

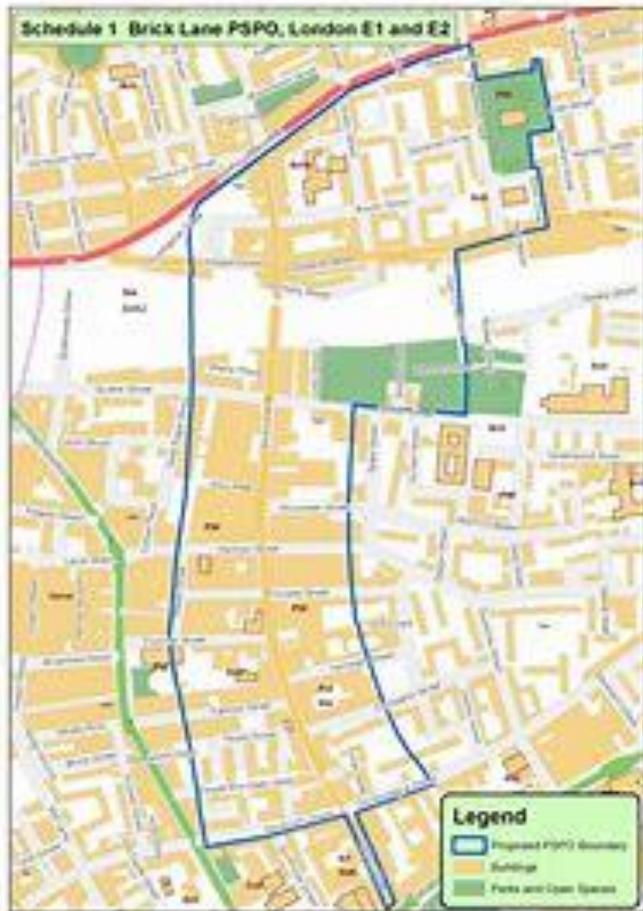
□ APPEALS:

- Anyone who lives in, or regularly works in or visits the area can appeal a PSPO in the High Court **within six weeks of issue.**
- Further appeal is available **each time the PSPO is varied** by the council.

□ IMPORTANT CHANGES / DIFFERENCES:

- More than one restriction can be added to the same PSPO, meaning that a single PSPO can deal with a wider range of behaviours than the orders it replaces.

PSPO Example



Closure Power

□ PURPOSE

- To allow the police or **council** to quickly close premises which are **being used, or likely to be used, to commit nuisance or disorder.**

□ APPLICANTS

- **Local council** and Police.

□ TEST

- Following has occurred, or will occur, if the closure power is not used:
- **Closure notice (up to 48 hours):** a) Nuisance to the public or b) Disorder near those premises.
- **Closure order (up to six months):** a) Disorderly, offensive or criminal behaviour b) Serious nuisance to the public c) Disorder near the premises.

□ DETAILS

- **A closure notice is issued out of court in the first instance.** Flowing from this the closure order can be applied for through the courts.
- Notice: can close a premises for up to 48 hrs out of court but cannot stop owner or those who live there accessing the premises.
- Order: can close premises up to 6 months and can restrict all access.
- **Both the notice and the order can cover any land or any other place, whether enclosed or not including residential, business, non-business and licensed premises.**

Closure Power

□ PENALTY ON BREACH

- **Breach is a criminal offence.**
- Notice: Up to three months in prison;
- Order: Up to six months in prison;
- Both: Up to an unlimited fine for residential and non-residential premises.

□ WHO CAN APPEAL

- Any person who the closure notice was served on;
- Any person who had not been served the closure notice but has an interest in the property;
- **The council (where closure order was not made and they issued the notice);**
- The police (where closure order was not made and they issued the notice).

□ IMPORTANT CHANGES / DIFFERENCES

- A single closure power covering a wider range of behaviour. Quick, flexible and can be used for up to 48 hours out of court.

Example of closure



Summary of changes

Replacement Powers Introduced by the Anti-Social Behaviour, Crime and Policing Act 2014

From Cornerstone on Anti-Social Behaviour; The New Law - www.bloomsburyprofessional.com/asb

- 1. Anti-Social Behaviour Order (ASBO)
- 2. Drinking Banning Order (DBO)
- 3. Anti-Social Behaviour Injunction
- 4. Individual Support Order
- 5. Intervention Order



Part 1 Civil Injunction

- 6. ASBO on conviction
- 7. DBO on conviction



Criminal Behaviour Order (CBO)

- 8. Litter Cleaning Notice
- 9. Street Litter Cleaning Notice
- 10. Graffiti/Defacement Removal Notice



Community Protection Notice

- 11. Designated Public Place Order
- 12. Gating Order
- 13. Dog Control Order



Public Spaces Protection Order

- 14. ASB Premises Closure Order
- 15. Crack House Closure Order
- 16. Noisy Premises Closure Order
- 17. Section 161 Closure Order



New Closure Power

- 18. Section 30 Dispersal Order
- 19. Section 27 Direction to Leave



Dispersal Powers

Questions

Thank you

Enquiries@asbsupport.co.uk
Asbsupport.co.uk

