

Briefing document on the new Anti-Social Behaviour, Crime and Policing Act 2014

The Anti-Social Behaviour, Crime and Policing Bill 2014 received Royal Assent on 13 March 2014 and at present, Parts 2 to 6 will have come into force by 20th October 2014 with Part 1 delayed and expected to come into force sometime in early 2015.

The intention of the new legislation is to bring 19 current powers under various pieces of legislation into 6 easier to understand, simple tools.

Civil Injunction

Under Part 1 of the Act, this is not expected to come into force until early 2015 and will be used to prohibit offenders from committing the acts that they are accused of committing which cause harassment, alarm or distress, nuisance or annoyance to anyone in relation to that persons' residential premises or housing related nuisance or annoyance. The civil injunction can also include positive requirements to direct an offender to attend remedial classes for example anger management or other such requirements to rehabilitate the offender from causing such anti-social behaviour in the future.

This new legislation allows the police and council to apply for an injunction against anyone aged 10 years and above, regardless of their tenure, providing the actions of the offender meet the civil standard of proof (balance of probabilities) and that it is "just and convenient" to do so. Registered Social Landlords can also apply for an injunction where the behaviour affects their housing management functions.

Breach of such an injunction is a criminal offence for which offenders can be arrested on the spot (if a power of arrest is attached to the order) or on grant of an arrest warrant from the courts upon application. The council and/or police can also apply for Committal of the offender for Contempt of Court in the same manner as currently in place for breaches of an injunction.

The laws of the Court remain the same in that offenders under the age of 18 (10-18yrs) are dealt with in the Youth courts and those over 18 are dealt with in the County Court.

Criminal Behaviour Order (CBO)

The Criminal Behaviour Order in force on 20th October 2014, will replace the current CrASBO (anti-social behaviour order on conviction). The CBO will be applied for by the CPS, Police and/or Council if the offender is convicted of an offence and has caused harassment, alarm or distress to one or more persons (regardless of whether they are of the same household or not) and that the CBO will help prevent the offender from engaging in such behaviour in the future. The CBO can also include positive requirements to direct an offender to attend remedial classes for example anger management or other such requirements to rehabilitate the offender from causing such anti-social behaviour in the future.

Community Protection Notices

Where there is low level anti-social behaviour being complained of, the council, housing and/or the police can issue a warning letter to the alleged offender detailing the behaviour being complained of and what remedial action the alleged offender should take to remove the anti-social behaviour (in cases of littering / fly tipping etc) or stop the behaviour from continuing (in cases of noise or causing nuisance). If the warning letter fails to curb the alleged offender's behaviour then the council and/or the police can issue a Community Protection Notice requiring the behaviour to stop or remedial action to be taken.

Failure to adhere to a Community Protection Notice will result in the council and/or the police issuing a Fixed Penalty Notice to the alleged offender of £70 which can be reduced to £35 if paid within 10 days, or a decision may be taken to prosecute the offender if the action is deemed serious enough to warrant such enforcement.

Failure to pay a Fixed Penalty Notice will result in the council seeking to prosecute the alleged offender for the original offence committed.

The issuing of a warning and/or Community Protection Notice and/or Fixed Penalty Notice can be done along side or instead of, other enforcement action such as an application for a civil injunction which is a more immediate respite to ongoing anti-social behaviour if the actions of the offender are serious enough to warrant such action.

The Community Protection Notice does not repeal any statutory nuisance laws currently in place for example Statutory Noise nuisance. Statutory Noise action will still be taken alongside a CPN when two or more reports have been made. It is important to note that a breach of a Statutory Noise Notice can provide Absolute Grounds for Possession

Absolute Grounds for Possession

In force on 20th October 2014, the new Act brings in an Absolute Grounds for Possession of a Council tenancy when one of five conditions are met.

- Condition 1 is a conviction for a serious offence (post 20th October 2015)
- Condition 2 is where there have been committal/enforcement proceedings for breach of a s1 injunction. This is not in force until post January 2015 when the new Injunctions come into force
- Condition 3 is where there has been breach of a CBO
- Condition 4 is where there has been one of the new closure orders
- Condition 5 is convictions in respect of abatement notices and statutory nuisance.

Public Spaces Protection Order

These are introduced on the 20th October 2014 and are intended to replace the current Designated Public Place Orders (DPPO), the Dog Control Orders (DCO) and Gating Orders. The key difference is that there must be evidence of behaviour in a public space which is having or is likely to have a detrimental effect on the quality of life of the community and the behaviour must be persistent/continuing and

unreasonable. This means that other anti-social behaviour can be considered for a Public Spaces Protection Order and not just dog or alcohol issues.

Any current DPPO or DCO which is in place across the City will remain in force for a period of 3 years with an annual review, following which, they will be replaced by the Public Spaces Protection Order should the evidence to satisfy the threshold remain.

Dispersal Powers

These new powers are introduced on the 20th October 2014 and are intended to replace the current Police dispersal powers.

The key difference will be that a Police Officer will have the power to require any person causing anti-social behaviour through the use of any item – for example a paint spray can or stereo – to hand over this item. Failure to hand over the item is a criminal offence. An offender must be aged 10 or over and the behaviour must be contributing or likely to contribute to members of the public in the locality being harassed, alarmed or distressed and the direction must be necessary to remove or reduce the likelihood of the anti-social behaviour, crime or disorder.

Conviction for a breach of a Dispersal Order carries a maximum penalty fine of level 4 (currently £2500) and/or three months imprisonment. Failure to surrender items is also a criminal offence with a penalty of a level 2 fine (currently £500).

Closure Powers

The Closure Power is introduced on the 20th October 2014 and is intended to replace the Crack House Closure and the Premises Closure Orders.

The key difference to this power is that where a premises is likely to be associated with nuisance or disorder, a Police Inspector can issue a Notice closing the premises down prior to the disorder actually occurring. A premises with a Closure Notice attached, is only accessible by the landlord and the tenants (people who live on the premises habitually or not) and can be used where an event or party is proposed which is likely to result in nuisance or disorder.

Following a Notice being issued, an application must be made to the Court for a Closure Order which can last for up to 3 months or a Withdrawal Notice must be issued and the Courts made aware of both the Notice and Withdrawal.

Anyone found to be in breach of the Premises Closure Notice or a Premises Closure Order is committing a criminal offence and can be issued with a fine or imprisonment of up to 6 months or both.

Community Trigger

The Community Trigger is a process through which citizens or anyone acting on their behalf can request a review to be carried out on their case of anti-social behaviour where they have made three or more complaints and do not feel that the agencies involved are dealing with their case properly.

The Community Trigger is accessible online where a customer (or someone acting on their behalf) will be guided through 4 questions before being asked to complete a short form, or via the City Council's Customer Access Programme (CAP) by telephoning 0115 9155555 who will complete the form on behalf of the customer.

The review of the customer's case is carried out through the Complex Persons Penal and involves partners from the Police, Community Protection (on behalf of the City Council), any relevant Housing Association (including Nottingham City Homes) and the CCG plus any other person involved with or relevant to the case if appropriate.

Customers will receive an acknowledgment letter following their review request and will be kept updated by a Single Point of Contact (SPOC) throughout the process. If a customer is not satisfied with the outcome of the panel hearing, they have a right to request the Office of the Police and Crime Commissioner to carry out a further review of the process to ensure that the hearing was carried out in a fair and appropriate manner.