

Area Panels: December 2014

Briefing Paper: ASB Crime and Policing Act 2014

Background

In 2010, the Home Office carried out a review of the measures available deal with ASB began legislation to put in place a new approach designed to ensure that local authorities, the police and partners have faster, more flexible tools to respond to problems with victims at the heart of the response. The resulting Anti-Social Behaviour, Crime and Policing Act was given Royal Assent on 13th March 2014 and came into effect on various dates in 2014. The section regarding the new injunction power is delayed with an estimated commencement date in January 2015.

This report seeks to inform representatives about the new provisions for tackling anti-social behaviour contained within the Anti-Social Behaviour and Policing Act 2014.

New Tools and Powers

The Act replaces nineteen pre-existing measures with six new measures and introduces a new absolute ground for possession of secure and assured tenancies associated with anti-social behaviour or criminality and amends and extends the discretionary grounds for possession. It introduces two measures designed to give victims and communities a say in the way antisocial behaviour is dealt with.

- **Injunction**
- **Criminal Behaviour Order (CBO).**
- **Dispersal Power.**
- **Community Protection Notice (CPN).**
- **Public Spaces Protection Order (PSPO).**
- **Closure Power.**
- **Absolute Ground For Possession**
- **Discretionary grounds for possession**

- **Community Trigger**
- **Community Remedy**

Implications

The Act is intended to enable authorities to take faster and more effective actions to stop those making victims lives a misery. The statutory guidance accompanying the Act states that “the welfare, safety and wellbeing of victims whose complaints for the basis of any action must be the main consideration at every stage of the process”, and that the right response will depend on a range of factors but most importantly, on the needs of the victim and on the impact the behaviour is having on their lives”.

This represents a decisive shift in the approach that landlords and the police are to take towards case action and resolution measures from existing practice of seeking to sustain the tenancy, if achievable and practical whilst ending the ASB as soon as possible, to one where Housing is to develop its case actions around the victims

experience and give greater weight to victims needs, and early resolution, and less weight to the interventions of allowing time for developing behaviour change and tenancy sustainment. However the council and the police will still be required to have regard to the Equality Act 2010 and the Human Rights Act 1998 in how the new powers are implemented, in relation to the perpetrators as well as the victims of ASB. Until the new legislation is tested in Court we will not be clear as to the extent to which the balance will shift.

We have very high densities of vulnerable households living in our social housing stock. In a significant proportion of cases the perpetrators of ASB are vulnerable and can be victims as well as perpetrators of nuisance. It is the case that the most difficult/complex and intransigent cases are more likely to result in legal action to end a tenancy and that a number of such cases will be individuals or households with complex needs that sit across a number of services such as social services (children and families, learning disabilities), mental health services, and substance misuse services. There is therefore likely to be an increased demand for suitable alternative accommodation including supported accommodation, specialist mental health accommodation to enable us to avoid homelessness and a need for improved joint working between agencies to achieve best outcomes for individuals.

Housing has been operating a Victim and Witness Support and Risk based approach to supporting victims of ASB since 2011. This has been intended to ensure that needs and concerns of the victim are at the heart of decision making in relation to tackling ASB, that risk to them is actively reduced through proactive work usually involving multiple agencies, and that they are provided with adequate support to enable them to go through the process of bringing ASB to an end. This has been very successful with high satisfaction rates as to how ASB cases have been dealt with. In 2013 – 14 satisfaction rates have been between 73% and 96 %.).

One of the primary criticisms of statutory agencies is the length of time that it can take to bring cases to court where this is the only option for ending ASB. The powers outlined in the new Act do have the potential to lead to a reduction in the time taken to obtain possession and further improvements for residents who are suffering ASB and nuisance.

RECOMMENDATIONS:

That Area Panel notes the changes to anti-social behaviour tools brought about by the Anti-Social Behaviour, Crime and Policing Act 2014 as described in this report.

Why these recommendations have been brought to Area Panels

To seek the Area Panel representatives comments prior to the report being presented to Housing Committee in March 2015

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AREA PANELS		Agenda Item	
		Brighton & Hove City Council	
Subject:	Anti-social Behaviour Crime and Policing Act 2014		
Date of Meeting:	Housing Committee		
Report of:	Executive Director of Environment Development and Housing		
Contact Officer:	Name:	Richard Jordan - Penswick	Tel: 01273 294650
	Email:	Richard.Jordan@brighton-hove.gov.uk	
Ward(s) affected:	All		

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1. PURPOSE OF REPORT AND POLICY CONTEXT

- 1.1 In 2010, the Home Office carried out a review of the measures available to practitioners for responding to anti-social behaviour (ASB) which concluded that there were too many options available, that the options were bureaucratic, slow and expensive and that the growing number of people who breached their ASB Order suggested the potential consequences were not deterring a persistent minority and the methods that were designed to help perpetrators deal with underlying causes of their anti-social behaviour were rarely used.
- 1.2 The Home Office set in motion legislation to put in place a new approach designed to ensure that local authorities, the police and partners have faster, more flexible tools to respond to problems with victims at the heart of the response. The resulting Anti-Social Behaviour, Crime and Policing Act was given Royal Assent on 13th March 2014 and came into effect on various dates in 2014 with the main provisions regarding antisocial behaviour having a commencement date of 20th October. The section regarding the new injunction power (which also replaces the ASBO) is delayed with an estimated commencement date in January 2015
- 1.3 This report seeks to inform Members about the new provisions for tackling anti-social behaviour contained within the Anti-Social Behaviour and Policing Act 2014.

2. RECOMMENDATIONS:

- 2.1 That Area Panel notes and comments on the changes to anti-social behaviour tools brought about by the Anti-Social Behaviour, Crime and Policing Act 2014 as described in this report.

3. CONTEXT/ BACKGROUND INFORMATION

The Act covers a range of matters: parts 1 to 6 introduce new measures for responding to anti-social behaviour; part 7 addresses dangerous dogs and makes amendments to the Dangerous Dogs Act 1991. Please see appendix 1 for a more detailed summary.

3.1 New Tools and Powers

The Act replaces nineteen pre-existing measures with six new measures and introduces a new absolute ground for possession of secure and assured tenancies associated with anti-social behaviour or criminality and amends and extends the discretionary grounds for possession. It introduces two measures designed to give victims and communities a say in the way antisocial behaviour is dealt with.

- **Injunction**
Replacing Housing Act injunctions and the Antisocial Behaviour Order (ASBO). Previously the court would normally not grant an injunction against someone under the age of 18. Now an injunction can be made against anyone aged 10 or over.
- **Criminal Behaviour Order (CBO).**
Replacing the ASBO on conviction. The Criminal Behaviour Order (CBO) is available on conviction for any criminal offence in any criminal court. The order is aimed at tackling the most serious and persistent offenders where their behaviour has brought them before a criminal court.
- **Dispersal Power.**
Replacing the existing Section 30 Dispersal Order and Section 27 Direction to Leave. The dispersal power is a flexible power which the police can use to deal instantly with someone's behaviour and stop a problem before it escalates.
- **Community Protection Notice (CPN).**
The community protection notice (CPN) is intended to deal with particular, ongoing problems or nuisances which negatively affect the community's quality of life by targeting those responsible.

It is intended to be a wide ranging power to be used to deal with low /medium and serious situations. It is intended to be used in situations where a nuisance has been reported but it doesn't trigger an application for an injunction. CPNs can be used to tackle a wide range of problem behaviours including graffiti, rubbish and noise

- **Public Spaces Protection Order (PSPO).**
Replacing existing Litter Clearing Notice; Street Litter Clearing Notice; Graffiti/Defacement Removal Notice; Designated Public Place Order; Gating Order; Public spaces protection orders (PSPOs) are intended to deal with a particular nuisance or problem in a particular area that is detrimental to the local community's quality of life, by imposing conditions on the use of that area which apply to everyone. They are designed to ensure the law-abiding majority can

use and enjoy public spaces, safe from anti-social behaviour. They are similar to by-laws.

- **Closure Power.**

Replacing the ASB Premises Closure Order; Crack House Closure Order; Noisy Premises Closure Order. To allow the police or council to quickly close residential or commercial premises which are being used, or likely to be used, to commit nuisance or disorder.

- **Absolute Ground For Possession**

The Act also introduces a new absolute ground for possession of Secure and Assured tenancies associated with anti-social behaviour or criminality.

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 be granted a possession order, but instead courts must grant possession if the landlord followed the correct procedure and can demonstrate at least one of the specified conditions below is met.

These are:

- A conviction for a serious criminal offence
- A court order finding a person in contempt of court for breaching an injunction made under the Act
- Breach of a Criminal Behaviour Order
- Obtaining a premises closure order
- A conviction for breach of an abatement notice

- **Discretionary grounds for possession**

In an application under a discretionary ground for possession the court only makes a possession order if the ground is proven and it is reasonable to do so. Introduction of a new discretionary ground for possession relating to riot and an amendment to an existing ground.

- **Community Trigger**

The purpose of the community trigger is to give victims, who can be an individual, business or a community group, the right to request a review of their case if they have previously reported the issues to a relevant agency and feel that nothing has been done. The threshold can be set locally and Brighton and Hove Community Safety Partnership has set the threshold as being that a person has reported three separate incidents within the past six months.

When a case meets these criteria the complainant is informed within three working days and the case reviewed and outcomed within ten working days with recommendations made where appropriate.

- **Community Remedy**

The community remedy is intended to give victims a say in the out-of-court punishment of perpetrators of low-level crime and ASB. Each local policing body has prepared a community remedy document for its area detailing a list of interventions that form the local remedy actions.

The remedy may be used in relation to an individual who has: engaged in anti-social behaviour or has committed an offence and is to be dealt with for that behaviour or offence without court proceedings.

A police officer may use the community remedy if it is felt to be appropriate. It is envisaged this will be used when dealing with low-level criminal damage, low-value theft, minor assaults (without injury) and ASB.

3.2 Implications

- 3.2.1 The Act is intended to enable authorities to take faster and more effective actions to stop those making victims lives a misery. The statutory guidance accompanying the Act states that “the welfare, safety and wellbeing of victims whose complaints for the basis of any action must be the main consideration at every stage of the process”, and that the right response will depend on a range of factors but most importantly, on the needs of the victim and on the impact the behaviour is having on their lives”.
- 3.2.2 This represents a decisive shift in the approach that landlords and the police are to take towards case action and resolution measures from existing practice of seeking to sustain the tenancy, if achievable and practical whilst ending the ASB as soon as possible, to one where housing is to develop its case actions around the victims experience and give greater weight to victim’s needs, and early resolution, and less weight to the interventions of allowing time for developing behaviour change and tenancy sustainment . However the council and the police will still be required to have regard to the Equality Act 2010 and the Human Rights Act 1998 in how the new powers are implemented, in relation to the perpetrators as well as the victims of ASB. Until the new legislation is tested in Court we will not be clear as to the extent to which the balance will shift.
- 3.2.3 It is likely to be that, in a number of serious cases, there will increased enforcement action and it is possible that a limited number of very serious and complex cases may be ended through fast time actions including use of the mandatory ground or closure.
- 3.2.4 We have very high densities of vulnerable households living in our social housing stock. In 2014 41% of all households in council housing report that at least 1 person in their home has a disability as opposed to 18% of households across the whole city (in 2011)¹. Further to this 28% of council tenants are over 65 as opposed to 13% in the wider population of Brighton and Hove. While many vulnerable householders are good tenants, in a significant proportion of cases the perpetrators of ASB are vulnerable and can be victims as well as perpetrators of nuisance.

It is the case that under the application of the new legislation, the most difficult/complex and intransigent cases are more likely to result in legal action

¹ State of the City Report 2011

to end a tenancy and that a number of such cases will be individuals or households with complex needs that sit across a number of services such as social services (children and families, learning disabilities), mental health services, and substance misuse services. There is therefore likely to be an increased demand for suitable alternative accommodation including supported accommodation, specialist mental health accommodation to enable us to avoid homelessness and a need for improved joint working between agencies to achieve best outcomes for individuals.

- 3.2.5 Housing is continuing to work closely with the police and other council departments to ensure a solution focused multi-agency approach to dealing with cases of ASB and nuisance which seeks to reduce impacts on the victims of crime and minimise costs to the local authority and the police. Housing are also be in dialogue with the Commissioners of accommodation for those with complex needs to ensure the risk of greater demand for specialist accommodation is considered as part of future commissioning plans.
- 3.2.6 Statutory Agencies in the City have been operating a Victim and Witness Support and Risk based approach to supporting victims of ASB since 2011. This has been intended to ensure that needs and concerns of the victim are at the heart of decision making in relation to tackling ASB, that risk to them is actively reduced through proactive work usually involving multiple agencies, and that they are provided with adequate support to enable them to go through the process of bringing ASB to an end. This has been very successful with high satisfaction rates as to how ASB cases have been dealt with. In 2013 – 14 satisfaction rates were 96%).

One of the primary criticisms of statutory agencies is the length of time that it can take to bring cases to court where this is the only option for ending ASB. The powers outlined in the new Act do have the potential to lead to a reduction in the time taken to obtain possession and further improvements for residents who are suffering ASB and nuisance.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 4.1 This report outlines new Statutory legislation and is for noting. There are therefore no alternative options for consideration.

5. COMMUNITY ENGAGEMENT & CONSULTATION

The report will be taken to Housing Area Panels in January and this section will be completed after this process is completed.

6. CONCLUSION

- 6.1 The new ASB Crime and Policing Act 2014 introduces new powers to statutory agencies to streamline existing legislation.

6.2 The new powers are likely to enable improved performance in tackling ASB but could place additional pressure on temporary and specialist accommodation providers.

7. FINANCIAL & OTHER IMPLICATIONS:

7.1 For the Housing revenue Account (HRA), it is possible that there could be extra legal costs during 2015/16, as more cases are brought to court, resulting in a budget pressure for the HRA. It is very difficult to quantify the financial effect of these legislative changes on the HRA and as such these costs will be managed through the Targeted Budget Management (TBM) process during 2015/16 and built into the budget for 2016/17, if necessary. There are also possible cost implications for the general fund housing budgets and for Social Care budgets if individuals with complex needs need to be rehoused. Again, this situation will be monitored through the TBM process and any potential pressures identified at an early stage.

Finance Officer Consulted: Monica Brooks

Date: 09/01/15

Legal Implications:

7.2 The New Act can be described as a consolidation act. It has tried to simplify the range of other orders previously available and has included a range of new powers.

7.3 Those powers already existing will be covered under the current scheme of delegation. Some of the new powers will simply be amendments to existing legislation and these do not require further alterations to the scheme of delegations.

7.4 In relation to 'stand-alone' new powers – those not subject to an amendment to existing legislation or an alteration of an existing power will need to be delegated to officers. This can only be done through an alteration of the scheme of delegation which can only be done by either full Council or P&R committee. This is particularly the case as they are cross cutting powers impacting across several departments.

7.5 It also introduces a new Fixed Penalty Notice scheme for certain types of behaviour. There will need to be a clear policy around this.

7.6 It has been correctly advised above that any use of these powers will have to be in accordance with the Equalities Act and the Human Rights Act. Some of the powers may well be viewed as draconian (such as the Closure Order powers) and as such the decisions will need also to be reasonable and proportionate. Also we need to be alive to those who may have issues around capacity and so consideration is required to the Capacity Act.

Lawyer Consulted:

Name Simon Court

Date: 15/12/14

Equalities Implications:

- 7.7 Application of the provisions of the Act will be consistent with the provisions of the Equalities Act 2010 and the Human Rights Act 1998.
- 7.8 Provisions within the Act enable statutory bodies to take quicker action to deal with ASB. It is likely that this will result in improved outcomes and service delivery for individuals with protected characteristics

Sustainability Implications:

- 7.9 The way in which tenancies are managed encourages stable neighbourhoods, with teams dealing effectively with anti-social behaviour to enable this.

Crime & Disorder Implications

- 7.10 Implementation of the Act will help the council and the police prevent crime and disorder and the council fulfil its statutory obligations under the Crime and Disorder Act 1998.

SUPPORTING DOCUMENTATION

Appendices:

- 1. ASB Crime and Policing Act 2014 – details of new powers

Documents in Members' Rooms

- 2.

Background Documents

- 1.

APPENDIX 1

Anti-Social Behaviour Crime and Policing Act 2014

CIVIL INJUNCTION.

Replaces injunctions including Housing Act injunctions and ASBO's (except for ASBO on conviction)

Purpose.

“ to stop or prevent individuals engaging in antisocial behaviour quickly, nipping problems in the bud before they escalate ... The injunction can offer fast and effective protection for victims and communities and set a clear standard of behaviour for perpetrators” (Home Office ASB Crime and Policing Act 2014 statutory guidance)

Applicants.

Councils / the Police / Housing Associations / NHS / British Transport Police/ Transport for London / Environment Agency

Test .

Non housing related – “ conduct that has caused , or is likely to cause, harassment, alarm or distress to any person”

Housing related “ “ conduct that is capable of causing nuisance or annoyance to a person”

Changes.

- Previously the court would normally not grant an injunction against someone under the age of 18. Now an injunction can be made against anyone aged 10 or over.
- Applicant organisations can apply for an injunction irrespective of their areas of work. - in future the police can apply for injunctions relating to council housing for the first time and Housing can apply for injunctions that cover non housing areas including private sector housing and owner occupiers
- The new injunction may include both prohibitions to get individuals to stop behaving anti-socially and also positive requirements to get the individual to deal with the underlying cause of their behaviour e.g. the respondent attending alcohol awareness classes for alcohol-related problems; or irresponsible dog owners attending dog training classes provided by animal welfare charities; or the respondent attending mediation sessions with neighbours or victims.

Breach.

Breach of an Injunction is not a criminal offence. For adults, a breach is dealt with by a civil contempt of court and breach proceedings.

For under 18s, breach proceedings are dealt with in the youth court and could result in a supervision order with a supervision, curfew or activity requirement. In the most serious cases, (that is, ‘where the court determines that because of the severity or extent of the breach no other power available to it is appropriate’) the court may impose a detention order on a young person for breaching the terms of the injunction – including breach of a positive requirement (minimum age for a detention order is 14 years).

CRIMINAL BEHAVIOUR ORDER.

Replaces the CRASBO – also known as the ASBO on conviction.

Purpose.

The Criminal Behaviour Order (CBO) is available on conviction for any criminal offence in any criminal court. The order is aimed at tackling the most serious and persistent offenders where their behaviour has brought them before a criminal court.

Applicants.

Usually the Crown Prosecution Service – who can apply if requested by the council or the police.

Test .

If the court is “satisfied beyond reasonable doubt that the offender had engaged in behaviour that has caused , or is likely to cause, harassment, alarm or distress to any person”

DISPERSAL POWER.

The dispersal power is a flexible power which the police can use in a range of situations to disperse anti-social individuals and provide immediate short-term respite to a local community. The power is preventative as it allows an officer to deal instantly with someone’s behaviour and nip the problem in the bud before it escalates.

It isn’t intended to be used to deal with long term regular problems. It isn’t intended to be used to stop reasonable activities such as busking or other types of street entertainment which are not causing anti-social behaviour.

Applicants.

The police

Test .

- The officer must have reasonable grounds to suspect that the behaviour of the person has contributed, or is likely to contribute, to: members of the public in the locality being harassed, alarmed or distressed; or crime and disorder occurring in the locality.
- The officer considers that giving a direction to the person is necessary for the purpose of removing or reducing the likelihood of anti-social behaviour, crime or disorder.

What it does.

It makes a person leave the area for up to 48 hours. Can be used on individuals from age 10 upwards. The person can be required to hand over items causing or likely to cause anti-social behaviour. This could be any item but typical examples are alcohol, fireworks or spray paint.

Breach.

Breach is a criminal offence which can result in imprisonment (over 18's only) or a fine.

PUBLIC SPACE PROTECTION ORDER.

Purpose.

Public spaces protection orders (PSPOs) are intended to deal with a particular nuisance or problem in a particular area that is detrimental to the local community's quality of life, by imposing conditions on the use of that area which apply to everyone. They are designed to ensure the law-abiding majority can use and enjoy public spaces, safe from anti-social behaviour. They are similar to by-laws.

Applicants.

The Council

Test .

The test is designed to be broad and focus on the impact anti-social behaviour is having on victims and communities. A PSPO can be made by the council if they are satisfied that activities have had, or are likely to have, a detrimental effect on the quality of life of those in the locality

What it does.

The PSPO can be drafted from scratch based on the individual issues being faced in a particular public space. A single PSPO can also include multiple restrictions and requirements in one order. It can prohibit certain activities, such as the drinking of alcohol, as well as placing requirements on individuals carrying out certain activities, for instance making sure that people walking their dogs keep them on a lead.

It can restrict access to public spaces (where that route is being used to commit anti-social behaviour – for example motorbike racing).

Breach.

Breach is a criminal offence. Enforcement officers can issue a fixed penalty notice of up to £100 if appropriate or a fine on prosecution

COMMUNITY PROTECTION NOTICE.

Purpose.

The community protection notice (CPN) is intended to deal with particular, ongoing problems or nuisances which negatively affect the community's quality of life by targeting those responsible.

It is intended to be a wide ranging power to be used to deal with low /medium and serious situations. It is intended to be used in situations where a nuisance has been reported but it

doesn't trigger an application for an injunction. CPNs can be used to tackle a wide range of problem behaviours including graffiti, rubbish and noise

Applicants.

Council Officers / Police Officers / PCSO's will be able to issue CPNs.

Social Landlords can issue CPNs if approved by their Council

Who can be given a CPN ?.

Any person aged 16 or over or a body, including a business.

Test .

if the conduct of the individual, business or organisation:

- is having a detrimental effect on the quality of life of those in the locality;
- is persistent or continuing in nature; and
- is unreasonable.

What it does.

It formally requires that a person, organisation or body:

- do specified things and to take steps to achieve specified results within a time frame
- stop specified things and take reasonable steps to avoid further anti-social behaviour.

A CPN is be drafted from scratch to be appropriate to each situation.

Breach.

Breach is a criminal offence with a penalty of :

Fixed Penalty Notice -a fixed penalty notice can be issued of up to £100 if appropriate

Remedial Action- the landlord may for example clear the rubbish that is in someone's front garden

On breach the issuing body can apply to court and on conviction:

Remedial Order – and / or a

Forfeiture Order – this could be any items used in the commission of the offence i.e. spray paint, sound making equipment or poorly socialised dog

Failure to comply with the court order could lead to a custodial sentence and a fine of up to level 4 (for individuals), or £20,000 for businesses.

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.

Council or the police

Test .

Closure notice (up to 48 hours):

- Nuisance to the public or disorder nearby

Closure order (up to 6 months)

- Disorderly, offensive or criminal behaviour
- Serious nuisance or disorder nearby

Changes.

The threshold for a closure notice alters from “*significant and persistent disorder*” or “*serious nuisance to members of the public*” to “**public nuisance**” or “**disorder**”.

The threshold for a closure order alters from “significant and persistent disorder or persistent serious nuisance” to “**has engaged in or ... is likely to engage in disorderly, offensive or criminal behaviour**”

- These are far lower thresholds which are achievable in most situations of ASB. it is evident that the new notices and orders are intended to be used more broadly than the previous closure orders which were specifically aimed at very serious situations only.
- The new notices and orders are available for situations that doesn't meet the threshold for statutory nuisance i.e. noise in common ways .

The closure power moves from being a purely reactive tool to now being both reactive and proactive as we can close down premises in *anticipation* of potential nuisance if we consider that the use of the premises is *likely* to result in nuisance or disorder.

NEW ABSOLUTE GROUND FOR POSSESSION.

Purpose.

To expedite the eviction of landlord most antisocial tenants to bring faster relief to victims. As the landlord will no longer need to prove that it is reasonable to grant possession, the court will be more likely to determine cases in a single hearing

Applicants.

Social landlords and Private sector landlords

Test .

The court must grant possession (subject to any available human rights defence raised by the tenant, including proportionality) provided the landlord has followed the correct procedure and at least one of the following five conditions is met:

- the tenant, a member of the tenant’s household, or a person visiting the property has been found by a court to have breached a civil injunction;
- the tenant, a member of the tenant’s household, or a person visiting the property has been convicted for breaching a criminal behaviour order (CBO);
- the tenant’s property has been closed for more than 48 hours under a closure order for anti-social behaviour; or
- the tenant, a member of the tenant’s household, or a person visiting the property has been convicted for breaching a noise abatement notice or order.
- the tenant, a member of the tenant’s household, or a person visiting the property has been convicted of a serious offence;

Review.

Council tenants will have a statutory right to request a review of the landlord’s decision to seek possession under the new absolute ground. The process is to similar to the review of an introductory tenancy.

If a review hearing upholds the decision to evict the case will proceed to court where the tenant can raise any available human rights defence, including proportionality, against the possession proceedings.

Subject to any available human rights defence raised by the tenant, the court must grant an order for possession where the landlord has followed the correct procedure.

Schedule of offences:

“SCHEDULE 2A Absolute ground for possession for anti-social behaviour: serious offences

Violent offences

1Murder. .

2Manslaughter..

3Kidnapping..

4False imprisonment..

5An offence under any of the following sections of the Offences against the Person Act 1861—

(a)section 4 (soliciting murder), .

(b)section 16 (threats to kill), .

(c)section 18 (wounding with intent to cause grievous bodily harm), .

(d)section 20 (malicious wounding), .

(e)section 21 (attempting to choke, suffocate or strangle in order to commit or assist in committing an indictable offence), .

(f)section 22 (using chloroform etc. to commit or assist in the committing of any indictable offence), .

(g)section 23 (maliciously administering poison etc. so as to endanger life or inflict grievous bodily harm), .

(h)section 24 (maliciously administering poison etc. with intent to injure, aggrieve or annoy any other person), .

(i)section 27 (abandoning or exposing children whereby life is endangered or health permanently injured), .

(j)section 28 (causing bodily injury by explosives), .

(k)section 29 (using explosives etc. with intent to do grievous bodily harm), .

(l)section 30 (placing explosives with intent to do bodily injury), .

(m)section 31 (setting spring guns etc. with intent to do grievous bodily harm), .

(n)section 38 (assault with intent to resist arrest), .

(o)section 47 (assault occasioning actual bodily harm). .

6An offence under any of the following sections of the Explosive Substances Act 1883—.

(a)section 2 (causing explosion likely to endanger life or property), .

(b)section 3 (attempt to cause explosion, or making or keeping explosive with intent to endanger life or property), .

(c)section 4 (making or possession of explosive under suspicious circumstances). .

7An offence under section 1 of the Infant Life (Preservation) Act 1929 (child destruction)..

8An offence under section 1 of the Children and Young Persons Act 1933 (cruelty to children)..

9An offence under section 1 of the Infanticide Act 1938 (infanticide)..

10An offence under any of the following sections of the Public Order Act 1986—.

(a)section 1 (riot), .

(b)section 2 (violent disorder), .

(c)section 3 (affray). .

11An offence under either of the following sections of the Protection from Harassment Act 1997—.

(a)section 4 (putting people in fear of violence), .

(b)section 4A (stalking involving fear of violence or serious alarm or distress). .

12An offence under any of the following provisions of the Crime and Disorder Act 1998—.

(a)section 29 (racially or religiously aggravated assaults), .

(b)section 31(1)(a) or (b) (racially or religiously aggravated offences under section 4 or 4A of the Public Order Act 1986), .

(c)section 32 (racially or religiously aggravated harassment etc.). .

13An offence under either of the following sections of the Female Genital Mutilation Act 2003—.

(a)section 1 (female genital mutilation), .

(b)section 2 (assisting a girl to mutilate her own genitalia). .

14An offence under section 5 of the Domestic Violence, Crime and Victims Act 2004 (causing or allowing the death of a child or vulnerable adult)..

Sexual offences

15An offence under section 33A of the Sexual Offences Act 1956 (keeping a brothel used for prostitution). .

16An offence under section 1 of the Protection of Children Act 1978 (indecent photographs of children)..

17An offence under section 160 of the Criminal Justice Act 1988 (possession of indecent photograph of a child)..

18An indictable offence under Part 1 of the Sexual Offences Act 2003 (sexual offences)..

Offensive weapons

19An offence under either of the following sections of the Prevention of Crime Act 1953— .

(a)section 1 (prohibition of the carrying of offensive weapons without lawful authority or reasonable excuse), .

(b)section 1A (threatening with offensive weapon in public). .

20An offence under any of the following provisions of the Firearms Act 1968—.

(a)section 16 (possession of firearm with intent to endanger life), .

(b)section 16A (possession of firearm with intent to cause fear of violence), .

(c)section 17(1) (use of firearm to resist arrest), .

(d)section 17(2) (possession of firearm at time of committing or being arrested for offence specified in Schedule 1 to the Act of 1968), .

(e)section 18 (carrying a firearm with criminal intent), .

(f)section 19 (carrying a firearm in a public place), .

(g)section 20 (trespassing with firearm), .

(h)section 21 (possession of firearms by persons previously convicted of crime). .

21An offence under either of the following sections of the Criminal Justice Act 1988—.

(a)section 139 (having article with blade or point in public place), .

(b)section 139AA (threatening with article with blade or point or offensive weapon). .

Offences against property

22An offence under any of the following sections of the Theft Act 1968— .

(a)section 8 (robbery or assault with intent to rob), .

(b)section 9 (burglary), .

(c)section 10 (aggravated burglary). .

23An offence under section 1 of the Criminal Damage Act 1971 (destroying or damaging property).

24An offence under section 30 of the Crime and Disorder Act 1998 (racially or religiously aggravated criminal damage)..

Road traffic offences

25An offence under section 35 of the Offences against the Person Act 1861 (injuring persons by furious driving). .

26An offence under section 12A of the Theft Act 1968 (aggravated vehicle-taking involving an accident which caused the death of any person)..

27An offence under any of the following sections of the Road Traffic Act 1988—.

(a)section 1 (causing death by dangerous driving), .

(b)section 1A (causing serious injury by dangerous driving), .

(c)section 3A (causing death by careless driving when under influence of drink or drugs). .

Drug-related offences

28An offence under any of the following provisions of the Misuse of Drugs Act 1971— .

(a)section 4 (restriction of production and supply of controlled drugs), .

(b)section 5(3) (possession of controlled drugs with intent to supply), .

(c) section 8(a) or (b) (occupiers etc. of premises to be punishable for permitting unlawful production or supply etc. of controlled drugs there). .

29 An offence under section 6 of that Act (restrictions of cultivation of cannabis plant) where the cultivation is for profit and the whole or a substantial part of the dwelling-house concerned is used for the cultivation..

Inchoate offences

30(1) An offence of attempting or conspiring the commission of an offence specified or described in this Schedule. .

(2) An offence under Part 2 of the Serious Crime Act 2007 (encouraging or assisting) where the offence (or one of the offences) which the person in question intends or believes would be committed is an offence specified or described in this Schedule. .

(3) An offence of aiding, abetting, counselling or procuring the commission of an offence specified or described in this Schedule. .

Scope of offences

31 Where this Schedule refers to offences which are offences under the law of England and Wales and another country or territory, the reference is to be read as limited to the offences so far as they are offences under the law of England and Wales.”

COMMUNITY TRIGGER.

Purpose.

The Community Trigger is intended to help to reassure victims that agencies take their reports of anti-social behaviour seriously and to create a strong mechanism to make sure organisations take the actions necessary to deal with situations.

Victims will be able to use the Community Trigger to demand action, starting with a review of their case. Agencies including councils, the police, local health teams and registered providers of social housing will have a duty to undertake a case review and inform the applicant of the outcomes of that review and any recommendations emerging from the review.

There is a requirement for relevant bodies to produce “review procedures” for carrying out any ASB case reviews and ensure that the current review procedures are published. Relevant bodies must also report the number of applications received, the number of times the threshold was met, the number of reviews carried out and the number of reviews that resulted in recommendations being made.

Threshold.

That three complaints of anti-social behaviour have been received within a six months period

Case review.

One organisation (usually the one whom the trigger is raised against) will lead a thorough review of the case. The organisations involved will share information about the case, consider whether any new relevant information needs to be obtained, review previous actions taken and reach a conclusion either upholding the trigger application or not.

If the outcome is that insufficient action has been taken the investigating officer will produce an action plan and make recommendations regarding actions that need to be put in place.

COMMUNITY REMEDY.

Purpose.

The Community Remedy gives victims a say in the out of court punishment of perpetrators of low level crime and antisocial behaviour.

In preparing the remedy, the local police must consult with the local authority and carry out whatever other public consultation that it considers appropriate.

Threshold.

The Act requires each local policing body to prepare a community remedy document for its 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 objectives:

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