

## **Anti Social Behaviour, Crime and Policing Act 2014**

### Civil Injunction

- The anti social behaviour injunction will replace the ASBO, ISO, ASBI and DBO with an Injunction for Community based ASB and an Injunction for Housing related ASB. An Injunction may be granted against anyone who is 10 years of age or over.
- These are purely civil injunctions so proceedings will take place in the County Court for over 18's and the Youth Court for under 18's, not in the Magistrates Court as they did with ASBO's.
- The Injunction is a lower standard of proof. The Injunction uses the civil standard of proof that on the balance of probabilities the perpetrator has engaged or threatens to engage in ASB, unlike the ASBO that used the criminal standard of proof beyond reasonable doubt.
- There are two tests for the Injunctions. For community based ASB it is conduct that has caused, or is likely to cause, harassment, alarm or distress to any person. For housing related ASB it is conduct capable of causing nuisance or annoyance. To grant the Injunction in either circumstance the Court must consider it just and convenient to grant the injunction for the purpose of preventing further engagement in ASB.
- The Injunction can include positive requirements as well as prohibitions which is an addition compared to the ASBO that only included prohibitions.
- The minimum and maximum terms for the Injunction are different to the ASBO. The ASBO had a minimum term of two years but no maximum for over and under 18's, the Injunction for over 18's can be for a fixed or indefinite period with no minimum or maximum terms and for under 18's the Injunction must have a specified time limit with a maximum term of 12 months.
- Breach of the Injunction will be contempt of Court not a criminal offence as it was with the ASBO but the breach must still be proven to the criminal standard that is beyond reasonable doubt. The penalty for breach of the Injunction for over 18's is an unlimited fine or up to two years in prison, for under 18's it is a supervision order or, as a very last resort, a detention order of up to three months for 14-17 year olds. The ASBO in comparison carried a sentence on conviction to imprisonment for a term not exceeding five years or to a fine or both,
- Breach of the Injunction is not a criminal offence so is therefore not an arrestable offence, the Court can attach a power of arrest to an Injunction but only in circumstances of use or threatened use of violence or significant risk of harm to others. Where there is no power of arrest attached the proceedings for breach will be taken by the applicant (in our case the Council) and not prosecuted by the CPS like a breach of ASBO. The applicant will have to apply for the issue of an arrest warrant for breach before the perpetrator can be arrested by the Police and dealt with for the breach.
- In Stockton the Injunction will replace the ASBO in our procedure as a last resort to dealing with anti social behaviour following an extensive focus on early and informal interventions of support and prevention that includes, warnings, community remedy, diversionary activities, mediation, ABC's, parenting contracts, counselling and targeted support. This is in line with the Home Office guidance that informal interventions should be considered first in most cases, particularly when dealing with young people, as they can stop bad behaviour before it escalates. In Stockton this is determined by our experienced ASB Officers on a case by case basis so in cases

where informal interventions are not the appropriate step we would consider progressing directly with more formal enforcement action. Stockton Council's ASB Team will continue to lead on and deal with the community based ASB in partnership with other key agencies such as the Police ensuring appropriate use of the new powers that the Home Office have acknowledged will work best when complimented by more effective ways of working – in particular, working in partnership, sharing information and using the early and informal interventions, all of which we already have in place and will continue to work with in Stockton.

### Criminal Behaviour Order

- The Criminal Behaviour Order will replace the CRASBO, DBO and ISO made with a CRASBO although there is very little difference with the new order.
- These are civil orders attached to a criminal conviction to tackle the persistent ASB that is associated with the criminal activity although the ASB does not need to be part of the criminal offence that they are being sentenced for.
- It is the CPS that applies for the order at its own initiative or at the request of the Council or Police.
- One of the main differences with the new CBO is that they can include positive requirements as well as prohibitions which is an addition compared to the CRASBO that only included prohibitions.
- The minimum and maximum terms for the CBO for over 18's is a minimum of two years up to an indefinite period and for under 18's the order must be between one and three years.
- Breach of the order is a criminal offence. The penalty for breach for over 18's on conviction in the Magistrates Court is a maximum of six months in prison or a fine or both and in the Crown Court a maximum of five years in prison or a fine or both. The penalty for breach for under 18's on conviction in the Youth Court is a maximum sentence of a two year detention and training order.

### Dispersal Power

- The Dispersal Power will replace the Dispersal Order and Section 27 Direction to Leave Police powers.
- This power can be used by a Police Officer in uniform and PCSO's if designated the power by their Chief Constable to require a person committing or likely to commit ASB, crime or disorder to leave an area for up to 48 hours.
- Use of the dispersal power in a specified locality must be authorised by an Officer of at least the rank of Inspector and can last for up to 48 hours or make a decision on a case by case basis.
- The test requires two conditions to be met for a direction to be given. The first is that the behaviour has contributed or is likely to contribute to members of the public in the locality being harassed, alarmed or distressed or the occurrence of crime and disorder. The second is that the direction is necessary to remove or reduce the likelihood of ASB, crime and disorder. The direction must be given in writing.
- The test includes behaviour likely to cause harassment, alarm or distress, allowing the dispersal to be used as a preventative measure. The power is for use in public places.

- A direction can be given to anyone who is, or appears to be, over the age of 10 and a person who is under 16 can be taken home or to a place of safety.
- Breach is a criminal offence and the penalty for failure to comply with a direction is up to a level 4 fine and/or up to three months in prison although under 18's cannot be imprisoned.
- The main changes/differences are that it is a more flexible power and can be used to provide immediate respite to a community unlike the dispersal order that required an area to be designated as a dispersal zone in advance with notice. The new power has removed the requirement to gather evidence and consult with the local authority although the authorising Officer may consider doing so in some circumstances before authorising use of the dispersal. Unlike the Section 27 power the new dispersal power may be used by PCSO's, if designated, which is a positive change as previously it was found to restrict effective use of the Section 27 power.

### Public Spaces Protection Order

- The public space protection order will replace the Gating Order, DPPO and the Dog Control Order.
- The order can be used to deal with a particular nuisance or problem in a particular area by imposing conditions on the use of that area which apply to everyone.
- Councils will be responsible for making the new order after consultation with the Police, PCC and other relevant bodies. The Council can make a PSPO on any public space within its own area.
- The test for making a PSPO is that the Council are satisfied on reasonable grounds that the behaviour being restricted has had or is likely to have a detrimental effect on the quality of life of those in the locality, is persistent or continuing in nature and is unreasonable to justify the restrictions imposed.
- The order can include restrictions and requirements set by the Council and these can be blanket restrictions/requirements or can be targeted against certain behaviours by certain groups at certain times. The order can prohibit activities such as drinking alcohol or can restrict access to public spaces where that route is being used to commit ASB but an important difference to the new power is that activities are not limited to those covered by the orders being replaced so can be used more flexibly to deal with local issues.
- As with the current DPPO's the new power does not allow for a blanket ban on alcohol to create an alcohol free zone. The PSPO will not create an offence to drink alcohol in a controlled drinking zone, it will be an offence to fail to comply with an Officers request to cease drinking or surrender alcohol.
- The order can be enforced by a Police Officer, PCSO and Council Officers.
- Breach is a criminal offence and a person found guilty of an offence is liable to a fine not exceeding level 3 on the standard scale. Enforcing Officers can issue an FPN of up to £100 if they decide that it would be the most appropriate sanction.
- The maximum duration of a PSPO is three years and at any point before expiry the Council can extend a PSPO by up to three years if they consider it necessary to prevent the original behaviour from occurring or reoccurring.

- The transition period for any existing DPPO, Gating Order or dog control order currently in force will be that they will continue to be valid for a period of three years following commencement of the new power. At this point they will be treated as a PSPO.

### Closure Power

- The closure power will replace the crack house closure notice and order, the premises closure notice and order, the noisy premises closure order, a section 161 closure order by Police and a section 165 closure order by the Magistrates Court.
- The order allows the Police or Council to protect victims and communities by quickly closing premises which are being used, or likely to be used to commit nuisance or disorder.
- The power comes in two stages of the closure notice and the closure order which are linked. The closure notice can be used by the Council or the Police out of Court and then following the issuing of a notice an application must be made to the Magistrates Court for a closure order.
- A closure notice can be issued for 24 hours up to a maximum of 48 hours if the use of particular premises has resulted in nuisance to members of the public or there has been disorder near those premises, associated with the use of the premises and that the notice is necessary to prevent the nuisance and disorder from continuing.
- A closure order can be issued by the Court if it is satisfied that there has been disorderly, offensive or criminal behaviour on the premises, or that the use of the premises has resulted in serious nuisance to members of the public or that there has been disorder near those premises, associated with the use of the premises and that the notice is necessary to prevent the nuisance and disorder from continuing.
- Consultation is required as part of the closure notice so before issuing a notice the Council or Police must ensure that they consult with anyone they think appropriate.
- Breach of the notice is a criminal offence carrying a penalty of either imprisonment for a period of up to three months or an unlimited fine or both. Breach of the order is a criminal offence carrying a penalty of either imprisonment for a period of up to six months or an unlimited fine or both.
- It is a criminal offence to obstruct a police officer or local council employee who is serving a closure notice, entering the premises or securing the premises.

### Community Trigger

- The Community Trigger is a new measure introduced in the Legislation designed to give victims and communities the right to request a review of their case.
- Agencies including the Council, Police, Registered Social Landlords and the CCG have a duty to undertake a case review when a victim requests one and the case meets a locally defined threshold.
- The request to activate the trigger can be made by a person on behalf of the victim, for example a carer, family member, MP or local Councillor to ensure all victims are able to use the community trigger. However the victims consent/permission should be sought by the person using the Trigger on their behalf. The victim can be an individual, a business or a community group.

- The locally defined threshold for Stockton is that an application for a review has been made, there is a qualifying complaint and one of the following has been met;

An individual has reported **three** or more **separate** incidents of anti-social behaviour regarding the **same** problem in the past six months to Stockton Borough Council, Cleveland Police and/or a Registered Social Landlord.

OR

**Five** individuals from **five** different households have reported **separately** the **same** problem with anti-social behaviour in the last six months to Stockton Borough Council, Cleveland Police and/or a Registered Social Landlord.

- The legislation sets out what will be considered a qualifying complaint to prevent someone reporting historical incidents of ASB in order to use the Trigger. A report of ASB is a qualifying complaint for using the Trigger if the ASB was reported within one month of the alleged behaviour/incident taking place and if the application to use the Trigger is made within six months of the report of ASB.
- For the purpose of the Community Trigger ASB is defined as behaviour causing harassment, alarm or distress to a member, or members, of the public.
- As well as considering if the threshold has been met and if there is a qualifying complaint the decision to activate the Trigger may also take into account the vulnerability of the victim including the harm or potential harm caused by the ASB, the persistence of the ASB and the adequacy of the response from agencies.
- When a request to activate the Trigger is received a decision must be made on whether the threshold has been met and communicate this to the victim. In Stockton the decision will be made by Legal Services.
- If the threshold is met a case review will be undertaken by the relevant agencies who will share all of the information related to the case, review what action has been taken and decide whether additional actions are possible agreeing any recommendations in an action plan.
- The victim will be informed of the outcome of the review and where further actions have been agreed these will be discussed with the victim.
- If the applicant is dissatisfied with the decision on whether the trigger was activated or with the outcome of the case review they have the option of appealing to the PCC.
- The relevant bodies must publish the Community Trigger procedure including the point of contact for making an application.
- It is important to note that the Trigger is not to be used to facilitate a complaint; it is possible that this may be seen as a complaints procedure but the Trigger process is more of an attempt to fix the problem for the victim as opposed to a complaints process that is designed to identify the fault in a particular response. We have been clear in the procedure for Stockton that the trigger is not activated where an applicant is unhappy with the action taken or service received from an agency – that would be a matter for the internal complaints procedure of the agency in question. Also if a problem is on-going and action is being taken the trigger is not activated – the applicant would be referred back to the agency dealing with the investigation.