

SCRUTINY COMMITTEE REPORT

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To: Scrutiny Committee

Date: 19 January 2015

Report of: Head of Environmental Development

Title of Report: Anti-Social Behaviour, Crime and Policing Act 2014

Summary

Purpose of report: Describe the new anti-social behaviour powers in the Anti-Social Behaviour, Crime and Policing Act 2014.

Key decision No

Executive lead member: Councillor Dee Sinclair, Board Member for Crime and Community Response

Report author: Richard Adams

Policy Framework: Safer communities

Appendices to report

Home Office Guidance on the ASB, Crime and Policing Act 2014

Background

The Scrutiny Committee requested a report to update them on the new tools and powers made available to the police and local authorities under the Anti-social Behaviour, Crime and Policing Act 2014.

Introduction

1. The ASB, Crime and Policing Act 2014 received Royal Assent in April 2014. It brought together 19 previous powers into six with the intention of making them quicker and easier to obtain. The majority of the anti-social behaviour (ASB) provisions came into effect in October 2014, the most notable exception being the civil injunction.
2. A number of existing pieces of legislation have been, or are to be, repealed including the Anti-Social Behaviour Order (ASBO). Gating Orders, Designated Public Places Orders and Dog Control Orders must be replaced by Public Spaces Protection Orders if still required.

Civil Injunctions

3. Injunctions are court orders that prohibit a person from doing something that adversely affects others and, with the new civil injunctions, include positive requirements the person must undertake.

4. There are two tests for a civil injunction, dependent upon whether the behaviour is housing or non-housing related. The court must decide, on the balance of probabilities if,:
 - where the perpetrator is impacting upon the housing management function of the landlord, the conduct needs to be capable of causing nuisance or annoyance.
 - for non-housing related behaviour, for example in the city centre or a shopping precinct, the behaviour is likely to cause harassment, alarm or distress.
5. If the court grants an injunction, a power of arrest can be attached to one or more prohibitions, but not the positive requirements. The police have responsibility to arrest, process and refer back to the applicant authority.
6. Breaching a civil injunction is not a criminal offence, as it was with ASBOs that it replaces, but breaches still require the criminal “beyond reasonable doubt” burden of proof. The offence is not the behaviour that caused the breach but the offence of contempt of court, carrying an unlimited fine or up to two years in prison.
7. Injunctions will be enacted sometime in early 2015, and can be applied for by the police, local authorities and social landlords. They will be issued by the High Court, County Court, or in the case of under-18s, the Youth Court.

Community Protection Notices

8. Community Protection Notices (CPNs) are designed to stop a person aged 16 or over, business or organisation committing anti-social behaviour that spoils the community’s quality of life, commonly environmental problems.
9. It can be issued by a local authority officer, a police officer, a PCSO, or a delegated social landlord.
10. A Written Warning is issued, advising the perpetrator of the problem behaviour to stop or put things right, and informing them of the consequences of continuing.
11. If the person fails to adhere to the warning, a Community Protection Notice is issued. Breach is a criminal offence where a fixed penalty notice of £100 can be served, or on prosecution, a fine of up to level 4, £2,500, or £20,000 for businesses.
12. A CPN allows the council, or its agent, to carry out works in default on behalf of a perpetrator. A court can order remedial works if the perpetrator is unwilling and issue a seizure order for property used in the anti-social behaviour.
13. The delegation of CPN powers to social landlords is due to be enacted early in 2015.

Public Spaces Protection Orders

14. Public Spaces Protection Orders (PSPOs) are designed to prevent individuals or groups committing anti-social behaviour in a public space where the behaviour is 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.

15. The maximum length of a PSPO is three years and breaching a PSPO is a criminal offence that can be dealt with through a fixed penalty notice of up to £100 or a level 3 fine, £1000, on prosecution.
16. Dog Control Orders, Gating Orders and alcohol Designated Public Places Orders must be replaced by PSPOs within three years.
17. The City Executive Board agreed a report on the use of PSPOs. The recommendations were that the decision to implement a PSPO within a single Neighbourhood Action Group area or relates to the waterways within Oxford is delegated to the Director of Community Services. All other proposed PSPOs and those that affect the city centre are to be decided upon by the City Executive Board.

Closure Order

18. A premises Closure Notice may be issued and Closure Order sought by either the Police or Local Authority for serious anti-social behaviour associated with a premises, such as:
 - nuisance noise and disturbance
 - violence, disorder and threatening behaviour.
 - the use, production or supply of drugs.
 - sexual exploitation and trafficking.
 - prostitution.

19. A Closure Notice lasts for a maximum of 48 hours but cannot stop the owner or those who habitually live there accessing the premises. If a longer period of time is necessary, the applicant must obtain a Closure Order from the courts which can close premises for up to six months and can restrict all access.

20. 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.

Criminal Behaviour Order

21. Issued by any criminal court for any criminal offence. The anti-social behaviour does not need to be part of the criminal offence.
22. 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 the offender's behaviour.
23. Agencies must find out the view of the youth offending team (YOT) for applications for under-18s.
24. Breach of the order is a criminal offence and must be proved to a criminal standard of proof, that is, beyond reasonable doubt.

Absolute grounds for possession

25. An amendment to the Housing Act 1985 that requires a judge to grant possession of a property to a housing provider if the tenant or a member of their household or visitor has committed one of the following:

- a serious criminal offence (as defined by the Act)
- be found to have breached a civil injunction
- be convicted of a breach of CBO
- be convicted of a breach of noise abatement order

or, only in the case of a tenant, had their property made subject to a closure order.

Next steps

26. The Committee is asked to note the report

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Version number: 1.0