

## Appendix 9: ASB tools and powers summary

### Anti-Social Behaviour enforcement remedies

- 5.1. Prior to formal enforcement action, the case officer will ensure all reasonable steps have been taken to identify any vulnerabilities and safeguarding needs, and that all appropriate supportive actions have been considered.
- 5.2. In complex cases enforcement options will be discussed with the Council's Legal Services Team and a written note of the advice given will be filed against the case notes. Having first obtained approval by their line manager the case officer will compile a full case file with all documentary evidence obtained during the investigation for enforcement by the Council's Legal Services Team. This will include all available evidence such as photographs, statements, letters, ABCs, Cautions and CCTV evidence. In these complex cases, all draft legal notices will be sent to Legal Services for their approval, prior to serving.
- 5.3. All complex cases that involve homeless people, or may bring a significant media attention on the Council will be signed off at a senior level, Head of Service or above.
- 5.4. Managers will provide advice and guidance in regard to appropriate legal measures, taking full account of the perpetrator's age, tenure, vulnerabilities and the seriousness of the case.
- 5.5. In line with Home Office guidance, no enforcement action will take place if it would result in an individual being disproportionately and unreasonably affected. Reasonable steps will be made to obtain relevant information and advice on a person's vulnerabilities from support agencies, which may include outreach teams, GPs, mental health services, housing providers and the police.
- 5.6. **Civil Injunction.** The ASB, Crime and Policing Act 2014 repealed the ASBO and replaced it with a Civil Injunction granted by the County court. It is available for perpetrators of ASB aged 10 years or over. There is no minimum and maximum term for an injunction for adults but for under 18s, the maximum term is 12 months and the local Youth Offending Team must be consulted.
- 5.7. The Injunction can include positive requirements which are relevant to getting the perpetrator to address underlying reasons for their ASB. A power of arrest can be attached if violence has or is threatened, or there is significant risk of harm to others.
- 5.8. Breach of an Injunction is a contempt of court and not a criminal offence. However, the county court can still apply serious sanctions including prison.
- 5.9. **s.152 Housing Act 1996 Injunction.** This injunction is granted by the County court in order to prohibit a person from engaging in or threatening to engage in conduct causing or likely to cause a nuisance or annoyance to a person residing in, visiting or otherwise engaging in a lawful activity in residential premises. This also includes using the premises for immoral or illegal purposes. A power of arrest (**s.153**) can be attached.
- 5.10. In very serious cases it may be possible to apply for an Interim Injunction whereby the court issues the injunction without the need for the perpetrator to be at the hearing. A full hearing is scheduled for a later date.
- 5.11. **Injunctions for trespass.** The Council can send a prohibition letter banning individuals from entering council owned land. If the letter is ignored this will be trespass and the Council can apply for an injunction banning the individual from continuing the trespass.

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- 5.12. **Injunctions under s.222 Local Government Act 1972.** The Council can use the authority of s. 222 Local Government Act 1972 to bring proceedings in the County Court to prohibit a person from continuing to cause a public nuisance, if it can be shown that it is expedient for the promotion or protection of the interests of the inhabitants of the area.
- 5.13. **Closure Notices and Closure Orders.** The Council can issue a Closure Notice and if relevant apply for a Closure Order for a premise that is the cause of significant and persistent disorder, or persistent serious nuisance to a community. The Closure Notice lasts for a maximum period of 48hrs if signed by a police Superintendent or Senior Council Official, and 24 hours if signed by a police Inspector. A Notice can prohibit everyone from the premise or allow access to certain people, for example, the people who habitually live on the premise and the owner of the premise. A Closure Order is issued by the court and the application must be made within 48hrs of the issuing of a Closure Notice. The closure period is three months and can be extended to a maximum of 6 months.
- 5.14. **Seizure of sound equipment.** Section 10(7) of the Noise Act 1996 confirms the power of a local authority to abate any statutory noise nuisance by seizing and removing equipment used in the emission of the noise in question.
- 5.15. **Community Protection Notices.** Community Protection Notices (CPNs) can be issued to stop a person, 16 or over, business or organisation from causing anti-social behaviour. The behaviour must be unreasonable, persistent and have a detrimental effect on the quality of life of those in the locality. A warning of a CPN (CPW) must be issued first, followed by the CPN if the behaviour continues. Failure to adhere to the CPN can result in a fixed penalty notice, prosecution at court or the Council can undertake remedial action. The CPN can include positive requirements on the person or organisation, although the Council cannot prosecute for breaches of positive requirements.
- 5.16. CPNs are most commonly used for environmental crimes and noise complaints. For the less complex cases a set of common prohibitions are available for case officers to use. For more complex cases involving more bespoke prohibitions the CPWs and CPNs are agreed with Legal Services as set out in paragraph 7.2.
- 5.17. **Public Spaces Protection Order (PSPO).** PSPOs are designed to deter anti-social behaviour in public spaces by placing conditions on the use of the area. Breaches of a PSPO will usually result in officers issuing a verbal warning, often alongside an information sheet that explains the Order in more detail. Further breaches can result in the issuing of a fixed penalty notice or prosecution at court.
- 5.18. **Criminal Behaviour Orders (CBO).** Available to the Crown Prosecution Service and Local Authorities, these Orders can be applied for on conviction of a criminal offence and are designed to curb the behaviour of perpetrators of persistent ASB and criminality. The Council may apply for a CBO when a person is convicted of breaching a CPN, PSPO, Environmental Protection Act 1990, S80 abatement notice, bye-law or other criminal offence the Council has the power to prosecute.