

**CRIME AND DISORDER
COMMITTEE**

16 July 2013

Subject Heading:

REVIEW OF NATIONAL POLICY CHANGES
ON ANTI SOCIAL BEHAVIOUR

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Policy context:

Anti-Social Behaviour

SUMMARY

This report details proposed changes to Anti-Social Behaviour Legislation as proposed in Anti-Social Behaviour, Crime and Policing Bill 2013-14.

RECOMMENDATIONS

That the Crime and Disorder Overview and Scrutiny Committee note the contents of this report.

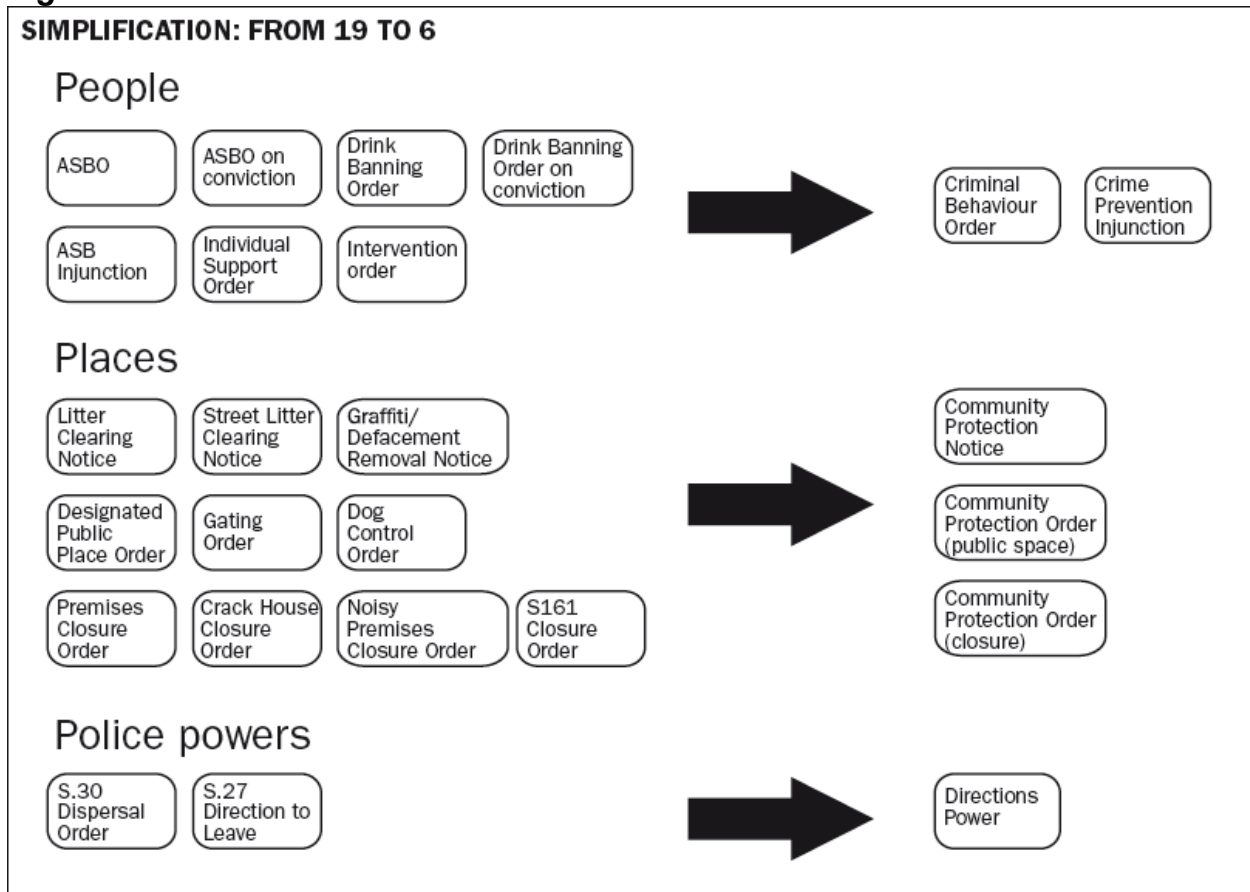
REPORT DETAIL

The Queens Speech outlined the Anti-Social Behaviour, Crime and Policing Bill 2013-14. The bill details proposed changes to Anti-Social Behaviour Legislation with a focus on the needs of the victim, enabling communities to play a bigger role in tackling ASB and simplifying and speeding up the process for dealing with Anti-Social Behaviour.

The bill looks to reduce the current powers used to tackle Anti-Social Behaviour, such as Anti-Social Behaviour Order (ASBO), Crack House Closures and Section 30 Dispersal into 6 Orders.

Figure 1 breaks down existing powers and new powers that will replace them.

Figure 1:



Source: *Putting Victims First: More Effective Responses to Anti-Social Behaviour* (Home Office May 2012)

Below is a brief summary of the proposed new powers:

1. Injunctions to Prevent Nuisance and Annoyance:

- Civil injunction available in the County Court for adults and the Youth Court for 10 to 17 year olds. (If under the age of 18 must seek the views of Youth Offending Team).
- Range of agencies including the police, local authority (including housing) and social landlords will be able to make applications.
- Requires proof 'on the balance of probabilities' rather than 'beyond reasonable doubt'.
- Can prohibit activity and require positive activity.
- Power of arrest can be attached to an injunction in cases of violence (use/threats) or there is a significant risk of harm to others.
- Breach of injunction would not be a criminal offence but persistent behaviour could result in imprisonment (civil contempt of court).

2. Criminal Behaviour Orders:

- Courts can grant these orders on application by the prosecution where an offender has been convicted or been given a conditional discharge.
- Only to be granted where the offender has caused or is likely to cause harassment, alarm or distress to people outside their household and making the order will prevent them doing it again.
- Can prohibit activity and require positive activity.
- Breach of order will be a criminal offence.

3. Community Protection Notice

- Designed to deal with particular, on-going instances of environmental anti-social behaviour. (Behaviour is detrimental to the local community, is unreasonable and is having a persistent effect).
- They can be used against individuals, businesses or organisations, and can be issued by the police, council officers or staff of social housing providers.
- Impose a requirement to stop or start specified activity to achieve specified results.
- Power to issue will be available to police officers, police community support officers, authorised persons within the local authority and staff of registered social landlords (if designated by the relevant local authority).

4. Public Space Protection Orders

- Designed to deal with a particular nuisance or problem in a particular area and apply to everyone.
- Impose a requirement to stop behaviour or carry out a specified activity.
- Only the Local Authority can make these orders: if activities in a public place have had or are likely to have a detrimental effect on the quality of life of local people and are likely to be of a persistent or continuing nature, unreasonable and justifies the restrictions of the notice.
- Local Authority must consult the police and appropriate community representatives before issuing these orders.
- Breach of the order would be a criminal offence, subject to a fixed penalty notice or prosecution.

5. Closure of Premises Associated with Nuisance and Disorder

- A closure notice prohibits access to the premises for a specified period up to a maximum of 48 hours. A closure order prohibits access to premises for a maximum of 3 months.
- Police or Local Authority can issue a closure notice if it believes that the use of a particular premises has resulted or is likely to result in nuisance to the public, or there is or likely to be such nuisance nearby.
- Appropriate bodies or individuals must be consulted. (Including owner/landlord/licensee and anyone who appears to be residing in premises).
- Police or Local Authority must then apply for closure order which must not be heard any later than 48 hours of service of the notice. (Unless the notice is cancelled within the 48 hours period).

6. Dispersal Powers

- These will allow police officer/PCSO to direct people to leave a public place and not return for a specified time where they suspect their presence or the behaviour of the person will result in people being harassed, alarmed or distressed, or will lead to crime and disorder.
- There would be no advance designation or consultation but an officer of at least Inspector level must approve the use of the power in a particular area.
- The direction would be given in writing, unless not reasonably practicable.
- Officers would be able to confiscate any item that is likely to be used in the behaviour.
- If a person is under the age of 16 officer can take them home or to a place of safety.

The bill also makes provision for the following:

Recovery of Possession of Dwelling Houses: Anti-Social Behaviour Grounds

The bill looks to amend possession proceedings and where Anti-Social Behaviour has been proved against a tenant the court will have to evict that tenant.

Landlords can seek to evict tenants involved in anti-social behaviour or criminal activity on the basis that if it proves the involvement of the tenant in this behaviour the courts will have to order the eviction of the tenant. (Currently left at the courts discretion).

The bill also looks to give more accountability around complaints and how they are being addressed (Community Trigger) and a say to victims of Anti-Social Behaviour in the punishment of offenders (Community Remedy).

Community Trigger

This will allow a member of the public to request a review of an ASB case where a person makes 3 separate complaints in a 6 month period or 5 individuals have complained in a 6 month period and they consider no action has been taken. (As set by London Borough of Richmond in recent pilot). The mechanism for carrying out a case review will be set locally. There is a requirement to decide and publish the thresholds, criteria, process and reporting mechanism for the community trigger in the area.

Community Remedy

The community remedy will give victims of low-level crime and anti-social behaviour a say in the punishment of offenders out of court.

There are four key elements:

- a) Police and Crime Commissioners will be required to consult the public on a range of sanctions that can be used to deal with low level crime and anti-social behaviour outside of the court system ensuring the final menu is proportionate.
- b) Police Officers will work from the resulting menu of sanctions when using existing types of out of court disposal (informal community resolutions and conditional cautions).
- c) Victim must be consulted on the sanction to be offered to the offender and given the option to choose from menu.

d) Police Officer will give the offender the choice to accept the sanction chosen by the victim or potentially face more formal action.
The menu may include mediation, acceptable behaviour contract and unpaid work.

IMPLICATIONS AND RISKS

Financial implications and risks: This report concerns proposed changes to ASB legislation. The bill is currently being discussed in Parliament with no date as to when it will come into effect.

The full financial implications of the Council's potential statutory responsibilities are not yet clear but could range from legal costs applying for injunctions through to staff time spent dealing with people appealing against orders or notices.

There will also be costs associated with the Community Trigger as there will be a requirement to publicise the process as well as potential costs around the publicising of an area that has been granted a Community Protection Order (Public Space).

At this stage officers are unsure as to the cost implications of imposing positive conditions such as attending drug treatment. This may be undertaken by existing services or there could be an additional cost.

Currently the post of ASB caseworker in Community Safety is funded through reward grant monies which is due to end in March 2014. Failure to secure funding for this post will impact on the Council's ability to respond to ASB cases for private tenants.

In summary then, there are cost pressures. Current intelligence is that Councils will not receive additional central government funding to meet the cost of these pressures (confirm or otherwise?). Such additional costs will need to be contained within the spending service.

Legal implications and risks: New powers will mean changes in legal process and subject to challenges which will result in stated cases etc. There will be a risk that people may challenge orders, notices and public space orders which may result in lengthy court cases. The bill will repeal some existing legislation, e.g. Litter Notices, that the Council currently uses, and the proposed new procedure is lengthier. This will impact on the ability of the Council to deal with littering.

Human Resources implications and risks: Consideration will need to be made by service areas including, Community Safety (Community Trigger), Licensing (Community Protection Order Closure), Street Care (Community Protection Notices) and Housing (Recovery of Possession of Dwelling Houses on Anti-Social Behaviour Grounds) Other powers will be available to the Local Authority such as Injunctions to Prevent Nuisance and Annoyance and Community Protection Order

(Public Space) which will have an impact on the Local Authority including Community Safety as there will be a requirement to consult between agencies when using certain powers.

Equalities implications and risks: The report outlines key changes to Anti-Social Behaviour Legislation as proposed in the Anti-Social Behaviour, Crime and Policing Bill 2013-14 (The Bill). It is envisaged that several provisions of the Bill will have positive impact on victims of ASB, crime and forced marriage cases, will potentially improve crime prevention and public protection, as follows:

- a) Simplifying and improving anti-social behaviour powers that will reduce bureaucracy and will enable professionals to focus on the needs of victims;
- b) Empowering the public to hold agencies to account, and providing respite to victims, particularly the victims of persistent anti-social behaviour who will have a say in the way their complaints are dealt with;
- c) Introducing new approaches to crime prevention and community remedy where police officers will be required to consult victims and the community on the menu of sanctions for those committing low-level crime and ASB;
- d) Enabling forced marriage cases to be dealt with more effectively;
- e) Further reform the policing institutions to support professional standards, integrity and efficiency.

Once the bill is passed into law it would need to be applied by appropriate authorities adhering to P.L.A.N (Proportionate/Legal/Appropriate/Necessary).

As there are a number of caveats identified with regards to the costs and benefits of the proposed changes, the equalities implications for people with protected characteristics from the implementation of certain provisions cannot be fully assessed at this point of time. For example, the introduction of the absolute ground of possession will have a positive impact on and bring faster relief to victims and witnesses will benefit landlords and will reduce burden on courts. However, if the evicted tenant presents to the local authority as homeless and due to their circumstances and protected characteristics is found to be in a priority need, the local authority has a duty to provide them with temporary accommodation and if required, signpost the person to relevant social or other services. It remains to be seen if the total number of evictions will increase as a result of the proposed changes and if yes, the impact on Council services needs to be fully assessed.

BACKGROUND PAPERS

Sources of Information:

1. Anti-Social Behaviour, Crime and Policing Bill 2013-14
<http://services.parliament.uk/bills/2013-14/antisocialbehaviourcrimeandpolicingbill.html>
2. Anti-Social Behaviour, Crime and Policing Bill (Website) Anti-Social Behaviour, Crime and Policing Bill
 - Overview of Anti-Social Behaviour Factsheet
 - Replacing the ASBO Factsheet
 - Environmental Anti-Social Behaviour Factsheet
 - Recovery of Possession of Dwelling Houses on Anti-Social Behaviour Grounds Factsheet
 - Community Empowerment Factsheet<https://www.gov.uk/government/organisations/home-office/series/anti-social-behaviour-crime-and-police-bill#publications>
3. Putting Victims First: More Effective Responses to Anti-Social Behaviour (May 2012)
<http://www.official-documents.gov.uk/document/cm83/8367/8367.asp>
4. LGA Briefing - Draft Anti-Social Behaviour Bill (December 2012)
http://www.local.gov.uk/web/guest/briefings-and-responses/-/journal_content/56/10171/3820552/ARTICLE-TEMPLATE
5. The Anti-Social Behaviour Bill, A London Councils Member Briefing (February 2013)