

Appendix 1 New anti-social behaviour powers and responsibilities

Community Trigger

Purpose	Gives victims and communities the right to request a review of their case and bring agencies together to take a joined up, problem-solving approach to find a solution.
Relevant bodies and responsible authorities	<ul style="list-style-type: none">• Councils;• Police• Clinical Commissioning Groups in England and Local Health Boards in Wales;• Registered providers of social housing who are co-opted into this group.
Threshold	<p>To be defined by the local agencies but not more than:</p> <ul style="list-style-type: none">• Three complaints in the previous six months period. <p>May also take account of:</p> <ul style="list-style-type: none">• The persistence of the anti-social behaviour;• The harm or potential harm caused by the anti-social behaviour;• The adequacy of response to the anti-social behaviour.
Details	<ul style="list-style-type: none">• When a request to use the Community Trigger is received, agencies must decide whether the threshold has been met and communicate this to the victim;• If the threshold is met, a case review will be undertaken by the partner agencies. Agencies will share information related to the case, review what action has previously been taken and decide whether additional actions are possible. The local Community Trigger procedure should clearly state the timescales in which the review will be undertaken;• The review encourages a problem-solving approach aimed at dealing with some of the most persistent, complex cases of anti-social behaviour;• The victim is informed of the outcome of the review. Where further actions are necessary an action plan will be discussed with the victim, including timescales.
Who can use the Community Trigger?	<ul style="list-style-type: none">• A victim of anti-social behaviour or another person acting on behalf of the victim such as a carer or family member, Member of Parliament or Councillor.• The victim can be an individual, a business or a community group.

Community Remedy

Purpose	The Community Remedy gives victims a say in the out-of-court punishment of perpetrators for low-level crime and anti-social behaviour.
The Community Remedy document	The Act places a duty on the Police and Crime Commissioner to consult with members of the public and community representatives on what punitive, reparative or rehabilitative actions they would consider appropriate to be on the Community Remedy document.
Applicants/who can use the Community Remedy	<ul style="list-style-type: none"> • Police Officer; • An investigating officer (which can include Police Community Support Officers for certain offences, if designated the power by their Chief Constable); • A person authorised by a relevant prosecutor for conditional cautions or youth conditional cautions.
Community resolutions	When dealing with anti-social behaviour or low-level offences through a community resolution the Police Officer may use the Community Remedy document as a means to engage the victim in having a say in the punishment of the perpetrator.
Test	<ul style="list-style-type: none"> • The officer must have evidence that the person has engaged in anti-social behaviour or committed an offence; • The person must admit to the behaviour or the offence (and agree to participate); • The officer must think that the evidence is enough for court proceedings including for a civil injunction, or impose a caution, but considers that a community resolution would be more appropriate.
Conditional cautions	The Community Remedy document should be considered when it is proposed that a perpetrator be given a conditional caution or youth conditional caution as a means of consulting the victim about possible conditions to be attached to the caution.
Failure to comply	If the perpetrator fails to comply with a conditional caution or youth conditional caution they can face court action for the offence.
Important changes/differences	The Community Remedy document is a list of actions which may be chosen by the victim for the perpetrator to undertake in consequence of their behaviour or offending.

Civil Injunction

Purpose	To stop or prevent individuals engaging in anti-social behaviour quickly, nipping problems in the bud before they escalate.
Applicants	<ul style="list-style-type: none"> • Local Councils; • Social Landlords; • Police (including British Transport Police); • Transport for London; • Environment Agency and Natural Resources Wales; and • NHS Project and NHS Protect (Wales)
Test	<ul style="list-style-type: none"> • On the balance of probabilities; • Behaviour likely to cause harassment, alarm or distress (non-housing related anti-social behaviour); or • Conduct capable of causing nuisance or annoyance (housing related anti-social behaviour); and • Just and convenient to grant the injunction to prevent anti-social behaviour.
Details	<ul style="list-style-type: none"> • Issued by the County Court and High Court for over 18s and the Youth Court for under 18s. • Injunction will include prohibitions and can also include positive requirements to get the perpetrator to address the underlying causes of their anti-social behaviour. • Agencies must consult Youth Offending Teams in applications against under 18s.
Penalty on breach	<ul style="list-style-type: none"> • Breach of the Injunction is not a criminal offence, but breach must be proved to the criminal standard, that is, beyond reasonable doubt. • Over 18s: civil contempt of court with unlimited fine or up to two years in prison. • Under 18s: supervision order or, as a very last resort, a civil detention order of up to three months for 14-17 years olds.
Appeals	<ul style="list-style-type: none"> • Over 18s to the High Court; and • Under 18s to the Crown Court.
Important changes/ differences	<ul style="list-style-type: none"> • Available to a wider range of agencies than Anti-Social Behaviour Injunctions. • Obtainable on a civil standard of proof unlike Anti-Social Behaviour Orders (ASBOs). • No need to prove "necessity" unlike ASBOs. • Breach is not a criminal offence. • Scope for positive requirement to focus on long-term solutions.

Criminal Behaviour Order

Purpose	Issued by any Criminal Court against a person who has been convicted of an offence to tackle the most persistently anti-social individuals who are also engaged in criminal activity.
Applicants	The prosecution, in most cases the Crown Prosecution Service (CPS), either at its own initiative or following a request from the Police or Council.
Test	<ul style="list-style-type: none"> • If the Court is satisfied beyond reasonable doubt that the offender has engaged in behaviour that has caused or is likely to cause harassment, alarm or distress to any person; and • The Court considers that making the order will help prevent the offender from engaging in such behaviour.
Details	<ul style="list-style-type: none"> • Issued by any Criminal Court for any criminal offence. • The anti-social behaviour does not need to be part of the criminal offence. • 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. • Agencies must find out the view of the Youth Offending Team (YOT) for applications for under 18s.
Penalty on breach	<ul style="list-style-type: none"> • Breach of the order is a criminal offence and must be proved to a criminal standard of proof, that is, beyond reasonable doubt. • For over 18s on summary conviction: up to six months imprisonment or a fine or both. • For over 18s on conviction on indictment: up to five years imprisonment or a fine or both. • For under 18s: the sentencing powers in the Youth Court apply.
Appeals	<ul style="list-style-type: none"> • Appeals against orders made in the Magistrates' Court (which includes the Youth Court) lie to the Crown Court. • Appeals against orders made in the Crown Court lie to the Court of Appeal.
Important changes/ differences	<ul style="list-style-type: none"> • Consultation requirement with YOTs for under 18s. • No need to prove "necessary" unlike Anti-Social Behaviour Orders. • Scope for positive requirements to focus on long-term solutions.

Dispersal Power

Purpose	Requires a person committing or likely to commit anti-social behaviour, crime or disorder to leave an area for up to 48 hours.
Used by	<ul style="list-style-type: none"> • Police Officers in uniform; and • Police Community Support Officers (if designated the power by their Chief Constable).
Test	<ul style="list-style-type: none"> • Contributing or likely to contribute to members of the public in the locality being harassed, alarmed or distressed (or the occurrence of crime and disorder); and • Direction necessary to remove or reduce the likelihood of the anti-social behaviour, crime or disorder.
Details	<ul style="list-style-type: none"> • Must specify the area to which it relates and can determine the time and the route to leave by. • Can confiscate any item that could be used to commit anti-social behaviour, crime or disorder. • Use in a specified locality must be authorised by a Police Inspector and can last for up to 48 hours. • A direction can be given to anyone who is, or appears to be, over the age of 10. • A person who is under 16 and given a direction can be taken home or to a place of safety.
Penalty on breach	<ul style="list-style-type: none"> • Breach is a criminal offence. • Failure to comply with a direction to leave: up to a level 4 fine and/or up to three months in prison although under 18s cannot be imprisoned. • Failure to hand over items: up to a level 2 fine.
Appeals	<ul style="list-style-type: none"> • A person who is given a direction and feels they have been incorrectly dealt with should speak to the duty inspector at the local Police Station. Details should be given to the person on the written notice.
Important changes/ differences	<ul style="list-style-type: none"> • It is a more flexible power; it can be used to provide immediate respite to a community from anti-social behaviour, crime or disorder. • An area does not need to be designated as a dispersal zone in advance. • Although there is no requirement to consult the local Council, the authorising officer may consider doing so in some circumstances before authorising use of the dispersal. • Police Community Support Officers may use all elements of the dispersal power (if designated the power by their Chief Constable).

Community Protection Notice

Purpose	To stop a person aged 16 or over, business or organisation committing anti-social behaviour which spoils the community's quality of life.
Who can issue a CPN	<ul style="list-style-type: none"> • Council Officers; • Police Officers; • Police Community Support Officers (PCSOs) if designated; and • Social Landlords (if designated by the Council).
Test	Behaviour has to: <ul style="list-style-type: none"> • have a detrimental effect on the quality of life of those in the locality; • be of a persistent or continuing nature; and • be unreasonable.
Details	<ul style="list-style-type: none"> • Written warning issued informing the perpetrator of problem behaviour, requesting them to stop, and the consequences of continuing. • Community Protection Notice (CPN) issued including requirement to stop things, do things or take reasonable steps to avoid further anti-social behaviour. • Can allow Council to carry out works in default on behalf of a perpetrator.
Penalty on breach	<ul style="list-style-type: none"> • Breach is a criminal offence. • A Fixed Penalty Notice can be issued of up to £100 if appropriate. • A fine of up to level 4 (for individuals), or £20,000 for businesses.
Appeals	<ul style="list-style-type: none"> • Terms of a CPN can be appealed by the perpetrator within 21 days of issue. • The cost of works undertaken on behalf of the perpetrator by the Council can be challenged by the perpetrator if they think they are disproportionate.
Important changes/ differences	<ul style="list-style-type: none"> • The CPN can deal with a wider range of behaviours for instance, it can deal with noise nuisance and litter on private land not open to the air. • The CPN can be used against a wider range of perpetrators. • The CPN can include requirements to ensure that problems are rectified and that steps are taken to prevent the anti-social behaviour occurring again.

Public Spaces Protection Order

Purpose	Designed to stop individuals or groups committing anti-social behaviour in a public space.
Who can make a PSPO	<ul style="list-style-type: none"> Councils issue a Public Spaces Protection Order (PSPO) after consultation with the Police, Police and Crime Commissioner and other relevant bodies.
Test	Behaviour being restricted has to: <ul style="list-style-type: none"> be 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.
Details	<ul style="list-style-type: none"> Restrictions and requirements set by the Council. These can be blanket restrictions or requirements or can be targeted against certain behaviours by certain groups at certain times. Can restrict access to public spaces (including certain types of highway) where that route is being used to commit anti-social behaviour. Can be enforced by a Police Officer, Police Community Support Officer and Council Officers.
Penalty on breach	<ul style="list-style-type: none"> Breach is a criminal offence. Enforcement Officers can issue a Fixed Penalty Notice of up to £100 if appropriate. A fine of up to level 3 on prosecution.
Appeals	<ul style="list-style-type: none"> Anyone who lives in, or regularly works in or visits the area can appeal a PSPO in the High Court within six weeks of issue. A further appeal is available each time the PSPO is varied by the Council.
Important changes/ differences	<ul style="list-style-type: none"> More than one restriction can be added to the same PSPO, meaning that a single PSPO can deal with a wider range of behaviours than the orders it replaces.

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	<ul style="list-style-type: none"> • Local Council. • Police.
Test	<p>The following has occurred, or will occur, if the closure power is not used:</p> <p>Closure Notice (up to 48 hours):</p> <ul style="list-style-type: none"> • Nuisance to the public; or • Disorder near those premises. <p>Closure Order (up to six months):</p> <ul style="list-style-type: none"> • Disorderly, offensive or criminal behaviour; • Serious nuisance to the public; or • Disorder near the premises.
Details	<ul style="list-style-type: none"> • A Closure Notice is issued out of Court in the first instance. Flowing from this the Closure Order can be applied for through the Courts. • Notice: can close a premises for up to 48 hours out of Court but cannot stop owner or those who habitually live there accessing the premises. • Order: can close premises for up to six months and can restrict all access. • 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.
Penalty on breach	<p>Breach is a criminal offence.</p> <ul style="list-style-type: none"> • Notice: Up to three months in prison; • Order: Up to six months in prison; • Both: Up to an unlimited fine for residential and non-residential premises.
Who can appeal	<ul style="list-style-type: none"> • Any person who had not been served the Closure Notice but has an interest in the premises; • The Council (where Closure Order was not made and they issued the Notice); • The Police (where Closure Order was not made and they issued the Notice).
Important changes/ differences	<ul style="list-style-type: none"> • A single closure power covering a wider range of behaviour. Quick, flexible and can be used for up to 48 hours out of Court.

New Absolute Ground for Possession

Overview	The Act introduces a new absolute ground for possession of secure and assured tenancies where anti-social behaviour or criminality has already been proven by another Court.
Purpose	To expedite the eviction of landlords' most anti-social tenants to bring faster relief to victims.
Applicants/Who can use the new ground	<ul style="list-style-type: none"> • Social Landlords (Local Authorities and Housing Associations). • Private Rented Sector Landlords.
Test	<p>The tenant, a member of the tenant's household, or a person visiting the property has met one of the following conditions:</p> <ul style="list-style-type: none"> • convicted of a serious offence (specified in Schedule 2A to the Housing Act 1985); • found by a Court to have breached a Civil Injunction; • convicted for breaching a Criminal Behaviour Order (CBO); • convicted for breaching a Noise Abatement Notice; or • the tenant's property has been closed for more than 48 hours under a Closure Order for anti-social behaviour.
Details	<ul style="list-style-type: none"> • Offence/breach needs to have occurred in the locality of the property or affected a person with a right to live in the locality or affected the landlord or his or her staff/contractors; • Secure tenants of Local Housing Authorities will have a statutory right to request a review of the landlord's decision to seek possession. Private registered providers are encouraged to adopt a similar practice.
Result of action	<ul style="list-style-type: none"> • If the above test is met, the Court must grant a Possession Order (subject to any available human rights defence raised by the tenant, including proportionality) where the correct procedure has been followed.
Important changes/differences	<ul style="list-style-type: none"> • Unlike the existing discretionary grounds for possession, the landlord will not be required to prove to the Court that it is reasonable to grant possession. This means the Court will be more likely to determine cases in a single, short hearing. • This will offer better protection and faster relief for victims and witnesses of anti-social behaviour, save landlords costs, and free up Court resources and time; • It will provide new flexibility for landlords to obtain possession through this faster route for persistently anti-social tenants. • The Court will not be able to postpone possession to a date later than 14 days after the making

	of the Order except in exceptional circumstances, and will not be able to postpone for later than six weeks in any event.
--	---

I:\Community Protection\Community Safety\Pete Cutts\Reform of Anti-Social Behaviour Powers.docx