

<b>SUBJECT:</b>	<b>PROPOSED CHANGES TO NATIONAL ANTI-SOCIAL BEHAVIOUR TOOLS AND POWERS</b>
<b>REPORT BY:</b>	<b>DIRECTOR OF DEVELOPMENT AND ENVIRONMENTAL SERVICES</b>
<b>LEAD OFFICER:</b>	<b>SIMON COLBURN, ENVIRONMENTAL PROTECTION AND ANTI-SOCIAL BEHAVIOUR MANAGER</b>

## 1. Purpose of Report

- 1.1 To inform members of the committee of proposed changes to national anti-social behaviour tools and powers.

## 2. Background

- 2.1 In February 2011, Home Secretary launched a consultation called “More Effective Responses To Anti-Social Behaviour”. It proposed a radical streamlining of the tools and powers currently available to anti-social behaviour (ASB) practitioners.
- 2.2 Although no date has been set as yet, however the Home Office is anticipating that the proposed regulations will be fundamentally the same as those proposed in the consultation and that changes may be legislated for this year, with the legislation unlikely to come into force before 2013. This is likely to tie in with the introduction of elected Police and Crime Commissioners.

## 3. Executive Summary

- 3.1 The consultation proposed a radical streamlining of the tools and powers with a move away from having a tool for every different problem to ensuring that the councils, police and other partners have faster, more flexible tools.

The powers and more effective sanctions, will help professionals and, where necessary, the courts stop anti-social behaviour earlier, and better protect victims and communities.

The specific proposals are to:

- repeal the ASBO and other court orders for anti-social individuals, and replace them with two new tools that bring together restrictions on future behaviour and support to address underlying problems

- a Criminal Behaviour Order that can be attached to a criminal conviction, and a Crime Prevention Injunction that can quickly stop anti-social behaviour before it escalates;
- ensure there are powerful incentives on perpetrators to stop behaving antisocially – for example, by making breach of the new orders grounds for eviction from social housing;
- bring together many of the existing tools for dealing with place-specific anti-social behaviour, from persistent litter or noisy neighbours, to street drinking and crack houses, into a Community Protection Order;
- bring together existing police dispersal powers into a single police power to direct people away from an area for anti-social behaviour;
- make the informal and out-of-court tools for dealing with anti-social behaviour more rehabilitative and restorative; and
- introduce a Community Trigger that gives victims and communities the right to require agencies to deal with persistent anti-social behaviour.

#### **4. The Consultation Proposals**

- 4.1 The toolkit practitioners currently use is extensive, and runs from warning letters all the way up to court orders like the Anti-social Behaviour Order (ASBO). A government review found that:
- there are simply too many tools – with practitioners tending to stick to the ones they are most familiar with;
  - some of the formal tools (particularly the ASBO) are bureaucratic, slow and expensive, which puts people off using them;
  - the growing number of people who breach their ASBO suggests the potential consequences are not deterring a persistent minority from continuing their anti-social or criminal behaviour; and
  - the tools that were designed to help perpetrators deal with underlying causes of their anti-social behaviour are rarely used.

- 4.2 The proposed tools and powers are

#### **4.3 Criminal Behaviour Order (CBO)**

A civil preventative order that is available on conviction for any criminal offence, to protect the public from behaviour that causes or is likely to cause harassment, alarm or distress. The order would allow the court to ban an individual from certain activities or places and could also require the offender undertakes positive activities, proposed by the relevant authority, to address the underlying causes of their offending.

The Home Office is currently proposing that the applicant for the CBO in the court will be the prosecutor, as it is attached to a criminal conviction. The prosecutor would generally be the CPS, but could be the local authority in some circumstances (as local authorities are allowed to prosecute their own fly-tipping offences for example).

It is likely that agencies (including the council) would have worked together to prepare the case for, and conditions contained in, the CBO before the criminal case is prosecuted. They should work with the CPS to decide whether a CBO should be applied for, and if so, what it should say, though only the police could directly instruct the CPS.

The proposal suggests that breach of the order would be a criminal offence, with a range of sanctions available to the court and a maximum sentence of 5 years in custody.

This proposal is the very similar to the current procedure for the current ASBO on Conviction (CrASBO).

#### 4.4 Crime Prevention Injunction

The proposal is that the Crime Prevention Injunction is a civil order with a civil burden of proof, making it quicker and easier to obtain than the ASBO. The applicant authority would have to prove to the court 'on the balance of probabilities' that an individual was engaging, had engaged or was likely to engage in anti-social behaviour to one or more persons not of the same household.

Hearsay evidence would be permitted, as would the use of professional witnesses.

The injunction would also have prohibitions and support attached. For adults, breach of the injunction would be punished as contempt of court, through a fine or custody. For under 18s, the penalty for breach would be a menu of sanctions, including curfews, supervision, activity requirements and detention.

Police forces, local authorities and registered providers of social housing would be able to apply for the injunction, consulting the relevant Youth Offending Team (YOT) before any application related to an individual under the age of 18.

#### 4.5 Community Protection Order (CPO) Level 1

This is proposed as a notice issued by a practitioner in cases of environmental ASB that was affecting victims' or community quality of life. It would require the recipient to desist from their behaviour and/or 'make good' (i.e. by clearing up litter) and would replace existing measures such as Litter Clearing Notices, Graffiti/Defacement Removal Notices and could be used as an alternative to Noise Abatement Notices where the noise was caused by an individual and believed to be deliberately anti-social.

The Home Office envisages a range of professionals being able to issue a Level 1 CPO, including council and housing association staff, as is currently the case with the tools it would replace.

Failure to comply with a Level 1 order would be a criminal offence, as is currently the case with most of the tools it would replace. It would generally be punishable by a Fixed Penalty Notice (FPN) or, if the offence was heard in court, a fine. The consultation is also proposing that where specific sanctions have been developed to deal with specific types of behaviour (for example, the seizure of noise-making equipment, or the ability of a local authority to clear litter and then recover the cost from the perpetrator), these would be preserved.

#### 4.6 Community Protection Order (CPO) Level 2

A local authority and police power to restrict use of a place or apply to the courts to close a property linked with persistent ASB. This could involve imposing restrictions on the use of that space, for example having to keep dogs on a lead, if sufficient evidence of ASB was provided to a LA officer of a senior level (this is likely to be specified in the regulations).

In cases of more serious or persistent disorder, evidence could be provided by the police or the LA to the Magistrates' Court to request an order to close a premises for an initial period of up to three months, regardless of tenure. The Level 2 order would replace the Dog Control Order (DCO), the Gating Order, the Designated Public Place Order, the Premises Closure Order, the Crack House Closure Order and the Brothel Closure Order.

The police or the LA would have the power to exercise the Level 2 CPO. If the order imposed restrictions on use of a space (but did not close it altogether), then it could be agreed by the LA and would not have to be heard in court. If the order was intended to close a premises, this would need to be approved by the Magistrates' Court (as is currently the case with e.g. Premises Closure Orders).

Breach of a Level 2 order would be a criminal offence, as is currently the case with most of the tools it would replace

A breach of any restrictions imposed would be punishable by an on the spot financial penalty for £50 or arrest and prosecution with a maximum fine of £500.

A breach of closure would be punishable by a fine or up to 6 months in prison.

Clearly the Community Protection Order has potential to impact on a number of different team across the authority that carry out environmental or enforcement.

#### 4.7 Direction to Leave Police 'Direction' Power

A power to direct any individual causing or likely to cause crime or disorder away from a particular place, and to confiscate related items (e.g. alcohol).

This power would be available to police officers and P.C.S.O.s only.

#### 4.8 Community Trigger

This proposal would place a new duty on the statutory members of the Community Safety Partnership (CSP) to take action to deal with persistent anti-social behaviour suffered by victims or communities. The duty would be triggered by members of the public making a complaint that meets certain criteria.

Once the duty had been triggered, one or more of the partners within the CSP would be required to take steps to resolve the problem, and reply to the complainants explaining what it proposed to do. That reply would be copied to the elected Police and Crime Commissioner, who would have the power to call in the CSP where he or she did not think the proposed response was adequate.

The criteria for the trigger is

- That five individuals, from five different households in the same neighbourhood, had complained about the same issue, and no action had been taken; or
- That the behaviour in question had been reported to the authorities by an individual a minimum of three times (for example, at neighbourhood beat meetings), and no action had been taken.

The Home Secretary's speech on the 30 January announced that the Home Office are currently working with a number of local authorities to test the community trigger through pilot schemes over the summer.

West Lindsey District Council have been invited to take part in the pilot study and have asked the City Council to join them.

### **5. Financial Implications**

- 5.1 Once the regulations come into force then training will be required for staff across the authority (ASB team, Tenancy Enforcement team, environmental enforcement staff).

Some other minor operational costs may be incurred (e.g. purchase of new FPN books).

However no financial costs have been specifically identified at the moment.

**6. Legal Implications**

6.1 The legal Implications are highlighted above.

**7. Recommendations**

7.1 Committee are asked to note the contents of the report.

7.2 During the discussions of the committee, recommendations may arise that require approval by other committees or actions by officers.

**Does the report contain Appendices?** No

**If Yes, how many Appendices?** No

**List of Background Papers:** Home Office consultation "More Effective Responses To Anti-Social Behaviour".

**Lead Officer:** Simon Colburn, Environmental Protection and Anti-Social Behaviour Manager  
Telephone 873241