
Reforming the Toolkit

1. What do you think of the proposals for reform? In particular, do you think the merging of existing powers into the new orders proposed is a good idea?

We are broadly supportive of the principles behind reforming and merging the existing antisocial behaviour powers into a range of more streamlined orders and feel this is a common sense position. We favour proposals for any enforcement process that is less bureaucratic, more efficient and enables us to respond quickly to our tenants' ASB issues.

However, we raise a question around the consultation's lack of practical, operational detail in the potential deployment of these tools. As a group of responsible social landlords actively involved in ASB management in our neighbourhoods, we would also have welcomed the consultation's acknowledgement of ASB's housing context.

2. Are there other tools and powers for dealing with anti-social behaviour you think should be repealed? If so, why?

No. However, we do support the retention of the Antisocial Behaviour Injunction, unless its replacement is demonstrably as robust.

3. Do you think these proposals will reduce bureaucracy for front line professionals? Will they have any other benefits at all?

Given the lack of detail in the proposals, it is difficult to assess whether red tape would decrease. We are not entirely convinced that delays currently experienced in the courts system would necessarily be resolved by these proposals being implemented.

4. Do you think there are any risks related to the introduction of any of the new orders?

There is always a level of risk when introducing any new measures. However, we would like to highlight two in particular: the risk of orders being misapplied or misinterpreted by courts as a result of lack of judiciary training on new orders, as well as risks around what will happen to pending and current prosecutions while the new measures are being implemented.

5. Do you think these proposals risk particular groups being disadvantaged in a disproportionate way? If so, how?

We wish to highlight that great care is needed concerning the use of the community trigger, which may exacerbate existing ethnic or racial tensions within neighbourhoods. We also raise concerns around perpetrators with vulnerabilities or mental health issues and how these proposals would address this issue.

6. Because community safety is a non-devolved matter in Wales, are there any specific issues there that should be recognised?

Not applicable.

2) Criminal Behaviour Order

1. What do you think of the proposal to create a Criminal Behaviour Order?

We are concerned that the Criminal Behaviour Order will follow a similar pattern to the ASBO. Statistics released in January 2011 highlight the decline in the use of the ASBO over the past five years. When the ASBO was first introduced it was relatively easy and quick to obtain from the court, however as time went on this stopped being the case. We feel a repeat of this situation would be very unfortunate and negate the money spent on developing this new measure.

We would furthermore wish safeguards to be put in place to enforce that the police communicated with us prior to sentencing so that we as landlords could make representations to court about the appropriateness of a Criminal Behaviour Order.

2. Thinking of existing Civil Orders on conviction, are there ways that you think the application process for a Criminal Behaviour Order could be streamlined?

As we do not apply for civil orders on conviction, it is difficult to comment. However, we would like to underline that we would like a duty to be imposed on the police to consult with relevant agencies before a CBO application is submitted, so that our views can be taken into account.

3. What are your views on the proposal to include a report on the person's family circumstances when applying for an order for someone under 16?

We are supportive of the proposal to include a report on the person's family circumstances as we feel this will give us a greater understanding of vulnerable perpetrators and assist us to provide a better service to them in terms of their long term rehabilitation. We would welcome clarity however on how this report will be produced and submitted.

4. Are there other civil orders currently available on conviction you think should be incorporated in the Criminal Behaviour Order (e.g. drinking banning order)

No, but we do stress as above, the need for communication duties to be imposed on the lead agencies involved.

5. Should there be minimum and maximum terms for Criminal Behaviour Orders, either for under 18s or for over 18s? If so what should they be, and should they be different for over 18s?

We feel there should be a minimum term of 12 months but no upper limit for the order, as this will need to depend on the complexity and severity of the behaviour. This should be the same for under-18s too. The order should also include a separate impact statement as well for over-18s to ensure fairness, and a section in the family report on this for under-18s.

6. Should the legislation include examples of possible positive requirements, to guide applicant authorities and the courts?

We feel there should be a list of possible positive requirements listed in the primary legislation, as long as this is not exhaustive.

7. Are there examples of positive requirements (other than formal support provided by the local authority) which could be incorporated in the order?

Yes we both operate and work in partnership with a range of different programs. These programs are often used prior to any enforcement action but also afterwards to help to maintain tenancies where possible.

These include:

- Parenting programs
- Family intervention projects
- Parenting agreements
- Acceptable behaviour agreements
- Good neighbour agreements
- Drug programs
- Alcohol programs
- Youth intervention schemes
- Using effective neighbourhood management
- Street and neighbourhood patrols
- Community led diversionary projects
- Mediation.

We clearly set out our expectations for behaviour when tenants first sign a tenancy agreement with us and this is continually reinforced through communications and community activities.

8. Do you think the sanction for breach of the prohibitive elements of the order should be different to those for breach of the positive elements?

Sanctions for breaches should be the same level if both elements of the order are to form equally important parts. If the prohibitive elements of the order form the more important part of the order then this should be reflected in the sanctions.

9. In comparison to current orders on conviction, what impact do you think the addition of positive requirements to a Criminal Behaviour Order will have on the breach rate?

The breach rate may in fact increase.

10. In comparison to current orders on conviction, what do you think the impact would be of the Criminal Behaviour Order on i) costs and ii) offending outcomes?

It is difficult for us to say how this will affect costs and outcomes given the lack of detail in the consultation.

11. In comparison to current orders on conviction, how many hours, on average, of police and practitioner time do you think it would take to prepare and apply for a Criminal Behaviour Order?

We are unable to comment on this.

3) Crime Prevention Injunction (CPI)

- 1. What do you think of the proposals to replace the ASBO on application and a range of other court orders for dealing with anti-social individuals with the Crime Prevention Injunction?**

In principle we do not oppose the Crime Prevention Injunction and feel that it could be a useful tool for us to tackle antisocial behaviour. However, the current Antisocial Behaviour Injunction (ASBI) is used regularly and effectively by antisocial behaviour teams within the Circle Housing Group. It would be disappointing if the new injunction wasn't as effective as the current injunction and as easy to obtain.

However, the ASBI has in general been a useful tool and as a group of landlords we would need to be assured that the Crime Prevention Injunction (CPI) is wider in scope than the ASBI, particularly in relation to its geographical enforcement.

We would be interested to know how much CPIs will cost and how long it will take to apply for as there are some questions to be raised over how long the process in reality may take.

- 2. Which test should the court apply when deciding whether to impose a Crime Prevention Injunction – that the individual's behaviour caused 'harassment, alarm and distress' or the lower threshold of 'nuisance or annoyance'?**

We feel the court should use the lower threshold of nuisance and annoyance. It is more difficult to prove harassment, alarm and distress. The nuisance and annoyance threshold is cited in our tenancy agreements. To use the lower threshold acknowledges that low levels of antisocial behaviour can have a significantly detrimental effect on victims and neighbourhoods. We would like to see 'not of the same household as himself' removed.

- 3. Do you think the Crime Prevention Injunction should be heard in the County Court or the Magistrates Court?**

Ultimately we feel that the Crime Prevention Injunction should only be heard in the County Courts as they are familiar with assessing cases using the 'burden of proof.' We absolutely endorse the continuation of the practise of applying for a possession order and at the same time applying for an injunction. However we are concerned about the length of time these injunctions may take to be processed by the courts. In the case where there are delays in the court process this can lead to the victims of anti-social behaviour becoming disillusioned and disappointed with the process. Often the antisocial behaviour is continuing to occur while the victim is waiting for the case to go to court.

We also raise concerns about the costs of having a case in two courts and how resource-heavy it will be for staff to prepare two sets of court papers.

- 4. If you think the injunction should be heard in the Magistrates' Court, do you think the Crime Prevention Injunction for those under the age of 18 should be heard in the Youth Court?**

We are strongly supportive that it is heard in the county court, for reasons outlined above.

5. Should the Crime Prevention Injunction carry a minimum and/or maximum term? If so, how long should these be, and should they be different for over and under 18s?

The injunction should be a minimum term of 12 months with no upper limit. This should be the same for under-18s too.

6. Should there be a list of possible positive requirements in the primary legislation to provide guidance to judges?

Yes

7. Are there examples of positive requirements (other than formal support provided by the local authority) which could be incorporated in the order?

Yes we run and work in partnership with a range of different programs.

These include:

- Parenting programs
- Family intervention projects
- Parenting agreements
- Acceptable behaviour agreements
- Good neighbour agreements
- Drug programs
- Alcohol programs
- Youth intervention schemes
- Using effective neighbourhood management
- Street and neighbourhood patrols
- Community led diversionary projects
- Mediation/restorative justice
- Community payback.

8. What are the views on the proposed breach sanctions for over 18s and for under 18s for the Crime Prevention Injunction?

We broadly agree with the proposed breach sanctions suggested in the consultation. As with the current injunction the power of arrest should be attached to the injunction in order to take serious breaches into account.

9. In comparison to current tools, what do you think the impact would be of the Crime Prevention Injunctions on i) costs and ii) offending outcomes?

It is difficult to foresee.

10. What impact do you think the inclusion of positive requirements would have on the Crime Prevention Injunction breach rate?

The inclusions of the positive requirements mark a definite step forward although they may increase breach rates and raise costs. As an organisation we would be happy to work with statutory partners and government to ensure that any positive requirements are used in the most locally effective and efficient way.

11. Thinking of other civil injunctions available, how many hours, on average, of police and practitioner time do you think it would take to prepare and apply for Crime Prevention Injunction?

A current injunction takes us approximately 5 to 10 hours to prepare and apply for, depending on the complexity of the case.

4) Community Protection Order (CPO)

1. What do you think of the proposal to bring existing tools for dealing with persistent place-related anti-social behaviour into a single Community Protection Order?

We feel that the Community Protection Order, Level 1 could be more appropriately named 'Community Protection Notice' to indicate its lower level and make the distinction clear. At this stage of the consultation we do not know if social landlords will be able to issue these orders, although we would be in favour of this. One of the challenges we could face, if we have the power to issue these orders, is that the registered providers within the Circle Housing Group cover a very wide range of areas, with some covering up to 52 different local authorities. Without further clarity being provided in the consultation it would seem that enforcement in general could be an issue.

2. Are there problems with the existing tools you think should be addressed in the Community Protection Order?

We would not wish to have a consultation duty imposed before applying for a CPO as this can cause blockages.

3. Are there other existing tools you think should be included, such as a Special Interim Management Order?

No

4. Who should be given the power to use a Level 1 Community Protection Order?

We feel this power should be given to local authorities, housing associations and the police.

5. In comparison to current tools, what do you think the impact of the Community Protection Order would be on (i) costs and (ii) offending outcomes?

This is difficult to assess without having more detail provided.

6. In your area, is there any duplication of current orders issued to deal with the problems tackled by either level of the Community Protection Order? If so, could you indicate the extent of the duplication?

No, but we envisage there may be issues when a landlord works across a number of local authorities.

7. What impact do you think the introduction of the proposed Community Protection Order would have on the number of orders issued?

We are concerned that Environmental Health Officers may stop using their powers under the Environmental Protection Act and effectively avoid their duties if they see cross-over with CPOs.

8. Thinking of current orders to tackle environmental disorder, how many hours do you think it would take to prepare and issue a Level 1 Community Protection Order? Is this more or less than the time taken to issue current notices aimed at tackling the same problems?

We currently do not have the power to issue orders to tackle environmental disorder so cannot confidently comment on how long they will take to prepare.

9. Thinking of the place-related orders that it would replace, how many hours do you think it will take, on average, prepare, issue, and implement a Level 2 Community Protection Order?

This is difficult to define and will depend on the circumstances.

5) Police 'Direction' Power

1. What do you think of the proposal to combine these existing police powers for dealing with antisocial behaviour into a single Direction power?

This proposal appears to be a sensible measure and would hopefully offer quicker solutions to disperse groups from public access areas. We feel that this power could be used to remove groups from the communal areas of residents' buildings such as stair wells and lobbies.

2. Do you think the power should be available to PCSOs as well as the police officers?

Yes, as PCSOs deal with ASB on a regular basis. The fact that they do not have the power of arrest may, however, lessen that effectiveness.

3. What safeguards could be put in place to ensure that this power is used proportionately and does not discriminate against certain groups, particularly young people?

Safeguards need to be in place to ensure agencies do not breach their equality duties in responding to community triggers. As housing associations we are used to monitoring our work to ensure we are meeting our requirements to our residents. We are confident that the police will have similar safeguards in place but we are happy to share information and best practice with partners to ensure that certain groups within our neighbourhoods are not being unduly targeted.

4. What do you think would be the most appropriate sanction for breach of the new Direction power?

We feel sanctions for breaches should be a warning, arrest or fine depending on the seriousness of the breach and whether the individual is a persistent offender. We would welcome the attachment of positive requirements where possible to any sanction. Making it a criminal offence would send a clear message around the seriousness of breaches.

Where a lesser sanction may be employed, it will be important to reinforce the importance of properly communicating breaches to all the different agencies involved so that additional action can be taken if needed. This may be especially important if individuals are committing antisocial behaviour in other places too. Properly communicated information surrounding the breaches of this power will help us to work more effectively with perpetrators in programs and schemes in partnership with the police.

5. Thinking of existing powers to leave a locality, how much police and local authority time do you think would be saved by removing the requirement of having a designated area from which to move individuals from?

From our experience of working with partners, this will reduce the time spent asking people to leave an area.

6. What do you think the impact would be of removing the need for a pre-designated area on the volume of Directions issued?

This is very difficult to assess.

7. Do you expect there to be a change in the use of the Direction power (compared to the use of the existing tools)? If so, what do you estimate the change would be and what proportion of the Direction powers used will be aimed at those under 18?

If the Directions are easier to issue then it is likely they will be used more widely to ask different groups including people drinking alcohol in the street to leave. Inevitably the new powers will be used to for under-18s but at this stage it is hard to predict what this proportion will equal.

6) Informal Tools and Out of Court Disposals

1. How do you think more restorative and rehabilitative informal tools and out-of-court disposals could help reduce anti-social behaviour?

We have had mixed feedback relating to the use of restorative justice in cases of antisocial behaviour across the Circle Group. So far this has mainly been used on an ad hoc, informal basis, and mainly been led by the Community Safety Partnership and the police. However, it needs to be made clear that if informal tools do not work, then legal steps will have to be taken to address the issue.

2. What are the barriers to communities getting involved in the way agencies use informal and out-of-court disposals in their area?

It is likely that the usual barriers which prevent our residents from getting involved in our work will stop wider communities getting involved. Our experience has shown that communication and language issues, as well as fear of retribution has stopped people getting involved in the past. Antisocial behaviour can be very divisive for communities and induce fear in people and neighbourhoods. This could further stop communities getting involved.

3. Are there any other changes to the informal and out-of-court disposals that you think could help in tackling anti-social behaviour?

We already undertake a wide range of informal and out of court measure to tackle anti-social behaviour including:

- Parenting programs
- Family intervention projects
- Parenting agreements
- Acceptable behaviour agreements
- Good neighbour agreements
- Drug programs
- Alcohol programs
- Youth intervention schemes
- Mediation.

We also feel that there should be more investment in these programs that would essentially form part of an offender's court order; namely, the rehabilitation part.

7) Community Trigger

1. What do you think of the proposal to introduce a duty on Community Safety Partnerships to deal with complaints of persistent antisocial behaviour?

We are broadly supportive of this proposal and would be interested in greater clarification on how this duty will sit with the current schedule and workload of the community safety partnership and which specific organisations will be responsible.

2. Do you think the criteria for the Community Trigger are the right ones? Are there other criteria you think should be added?

There is the ever present of issue of how we define antisocial behaviour. What some communities may consider antisocial behaviour, another community would not. We would support joint working to create new guidelines, taking into account the equality duties of all statutory partners.

We feel that the threshold is quite low and could be easily manipulated. There are thresholds in place within the Antisocial Behaviour Act to stop vexatious or frivolous complaints being upheld but it is not clear how this will be translated within the community trigger. Perhaps the various types of complaints need to be assessed and graded.

However, the positive side of this low threshold is that it acknowledges the very negative impact anti-social behaviour can have on people's lives even when only a number of people report it. In some cases of anti-social behaviour not everyone affected will report it due to fear and other barriers.

3. Do you think this proposal risks particular groups being disadvantaged in a disproportionate way? If so, what measures could be put in place to prevent this?

It is important that all complaints are closely monitored to ensure that malicious and vexatious complaints are duly noted and do not lead to a group or individual being unfairly targeted.