

TONBRIDGE & MALLING BOROUGH COUNCIL

COMMUNITIES ADVISORY BOARD

11 January 2016

Report of the Director of Central Service and Monitoring Officer

Part 1- Public

Matters for Information

1 IMPLEMENTATION OF THE ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014

1.1 Executive overview

- 1.1.1 The Anti-social Behaviour, Crime and Policing Act 2014 (the Act) received Royal Assent on 13th March 2014
- 1.1.2 The Act replaces nineteen pre-existing measures with six new measures for tackling anti-social behaviour and introduces a new absolute ground for possession of secure and assured tenancies associated with anti-social behaviour or criminality.
- 1.1.3 The Anti-Social Behaviour, Police and Crime Act 2014 places new duties on the Council to tackle ASB, working co-operatively with the police, social landlords and other agencies.
- 1.1.4 The Government make it clear that their reforms are designed to put victims at the heart of the response to ASB and give professionals the flexibility they need to deal with any given situation.
- 1.1.5 In guidance issued by the Home Office in July 2014, it is made clear that the new powers are designed to be flexible, allowing professionals to adapt them to protect victims in a wide range of situations. There is also an expectation of increased partnership working, sharing of information and using early and informal interventions. *“Solutions need to be jointly developed by local agencies, bringing their own experience and expertise to work together with communities and victims.”*
- 1.1.6 At the weekly CSU meeting held with partner agencies, any anti-social activity, together with proposed use of any of the measures under the Act will be reviewed, discussed and recorded. Updates are given by agencies such as Kent Police, who have powers delegated under the Act to them alone (Dispersal power).

1.1.7 On the 7 October 2015 the Cabinet delegated authority to the Director of Central Services and Monitoring Officer:

- to exercise all functions of the Council under and in connection with the Anti-social Behaviour, Crime and Policing Act 2014, including any orders or regulations made thereunder
- to authorise injunction proceedings in respect of anti-social behaviour under section 2(1)(b) or (c) of the Anti-social Behaviour, Crime and Policing Act 2014,
- to make public spaces protection orders.

Background

1.1.8 The Anti-social Behaviour, Crime and Policing Act received Royal Assent on 13 March 2014. The Home Office aim is that reforms within the Act will *'put victims at the heart of the response to anti-social behaviour and give professionals effective powers that are quick, practical and easy to use, providing better protection for victims and communities and a real deterrent to perpetrators'*.

1.1.9 The kind of anti-social behaviour the Act is aimed at is that which causes harassment, alarm, or distress. Such a wide range of behaviours means that responsibility for dealing with anti-social behaviour is shared between a number of agencies, particularly the police, councils and social landlords.

1.1.10 Victims can feel helpless, bounced from one agency to another and then back again. In many cases, the behaviour is targeted against the most vulnerable in our society and even what is perceived as 'low level' anti-social behaviour, when targeted and persistent, can have devastating effects on a victim's life. The Act also introduces two new measures that aim to give victims a greater say in the way their reports are dealt with via a new Community Remedy and the anti-social case reviews (the Community Trigger) process.

1.1.11 To assist frontline professionals the Home Office issued guidance on the Reform of Anti-social Behaviour Powers in October 2013 and further guidance was issued in July 2014.

1.1.12 The Act broadens existing powers to enable Police and Crime Commissioners to provide or commission support services for victims and witnesses of, and those affected by, crime and anti-social behaviour. The Act also covers a range of other matters relating to firearms; protection from sexual harm and violence; forced marriage; amends the Extradition Act 2003; introduces changes to criminal justice and court fees; and amends various policing provisions. These matters are listed for information purposes only.

New measures for tackling anti-social behaviour

- 1.1.13 The Act replaces nineteen pre-existing measures with six new measures for tackling anti-social behaviour and introduces a new absolute ground for possession of secure and assured tenancies associated with anti-social behaviour or criminality. Each of the new measures is considered in turn below and further information is provided at in the appendices. A summary of the existing powers to be replaced is provided in **Annex 1**.

Civil Injunctions

- 1.1.14 The injunction under Part 1 of the Act is a civil power which can be applied for to deal with anti-social individuals. The injunction is designed to be a fast and effective protection for victims and communities and set a clear standard of behaviour for perpetrators, stopping the person's behaviour from escalating.
- 1.1.15 Although the injunction is a civil power, it is still a formal sanction and it is expected professionals will want to consider informal approaches before resorting to court action, especially in the case of under 18s. However, where informal approaches have not worked or professionals decide that a formal response is needed more quickly, they should be free to do so. See **Annex 2** for more information.

Criminal Behaviour Order (CBO)

- 1.1.16 The CBO is an additional sanction a court can impose during sentencing following a conviction for any criminal offence. The Council cannot make a CBO or apply to court for a CBO as it can apply for an injunction. A CBO can include prohibitions and requirements and it is a criminal offence to fail to comply with an order without reasonable excuse. Breaches of CBO by those aged under 18 will be dealt with in the youth court. In all other cases, the offence will be considered by the magistrates' court or Crown Court. See **Annex 3** for more information.

Example - CBO handed out for Tunbridge Wells and Tonbridge

Mr A was handed a Criminal Behaviour Order after being convicted at Sevenoaks Magistrates Court on Thursday, July 23 2015 for a variety of offences relating to being drunk and disorderly. This follows a 120 day custodial sentence given on 17th July 2015.

Upon his release from prison he will be prohibited from being in possession of an open container of alcohol in any public place within the alcohol control zone, or within a one mile radius of Tonbridge Railway Station.

He will also be unable to be drunk or consume alcohol in any public place within the same zones.

A breach of the order, which in this case lasts for two years, can result in a prison term of up to five years.

Dispersal Power

- 1.1.17 The dispersal power is a flexible power which the police can use in a range of situations to disperse anti-social individuals and provide immediate short-term respite to a local community. The Council is not able to use this power.
- 1.1.18 The power is preventative as it allows an officer to deal instantly with someone's behaviour and nip the problem in the bud before it escalates. In areas where there are regular problems, the police force is expected to work with the local council to find sustainable long-term solutions. In all instances, the impact on the local community should be considered before using the dispersal power. See **Annex 4** for more information.

Community Protection Notice (CPN)

- 1.1.19 The CPN is intended to deal with particular, on-going problems, or nuisances that negatively affect the community's quality of life by targeting those responsible. CPNs can be used to tackle a wide range of problem behaviours including graffiti, rubbish and noise. It can be issued against any person over the age of 16 or a body, including a business. The Home Office notes that councils already take the lead in dealing with these kinds of issues. In addition to designated council officers, CPNs can also be issued by police officers and police community support officers. See **Annex 5** for more information

Public Spaces Protection Order (PSPO)

- 1.1.20 The PSPO is intended to deal with a particular nuisance or problem in a particular area that is detrimental to the local community's quality of life, by imposing conditions on the use of the area which apply to everyone. This could include, but is not restricted to, placing restrictions on the use of parks, alleyways, or communal areas to prevent problems with misuse of alcohol, dogs or noise. Local authorities will be responsible for making a PSPO but police officers and police community support officers can also play a role in enforcing the orders. See **Annex 6** for more information.

Closure Power

- 1.1.21 The closure power can be used by local authorities and the police to close premises that are causing nuisance or disorder. The power comes in two stages.

The closure notice can be used to provide short term relief up to a maximum of 48 hours. The closure notice can be issued in the first instance for 48 hours or extended from 24 hours up to a maximum of 48 hours by the council's chief executive or designate thereof, or by a police superintendent.

- 1.1.22 The notice can then be extended upon application for a closure order to the magistrates' court for a period of up to three months. At any time before the expiry of the closure order, an application may be made to the court for an extension (or further extension) of the order up to a total of six months. See **Annex 7** for more information.

New Absolute Grounds for Possession

- 1.1.23 The purpose of the new absolute ground for possession is to speed up the possession process in cases where anti-social behaviour or criminality has already been proven in another court. Landlords will no longer have to prove that it is reasonable to grant possession but, instead, courts must grant possession if the landlord followed the correct procedure and at least one of the specified conditions is met. See **Annex 8** for more information.

Other Measures

- 1.1.24 The Act also introduces the power for the Secretary of State to make regulations under which the keeper of a vehicle may be required to pay a fixed penalty where litter has been thrown, dropped or otherwise deposited from the vehicle. Currently, a fixed penalty notice can only be issued when litter is thrown from a car if the person responsible for throwing the litter can be identified. This new provision would bring the legislation for littering offences in line with that for fly-tipping with the keeper of a vehicle being deemed responsible for any offences committed by those within the vehicle.
- 1.1.25 No such Regulations have been made as of the 17 September 2015.

Community Remedy

- 1.1.26 The Act requires each local policing body (and therefore not the Council) to prepare a community remedy document for its area with a list of actions to be carried out by a person who has:
- a) engaged in anti-social behaviour or has committed an offence; and
 - b) is to be dealt with for that behaviour or offence without court proceedings.
- 1.1.27 The community remedy document will be used by the police as part of the existing process for delivering community resolutions. It is proposed that this will give victims of low-level crime and anti-social behaviour a say in the punishment of

perpetrators out of court. The community remedy may also be used by the police when a conditional caution or youth conditional caution is given, as a means of consulting the victim about the possible conditions to be attached to the caution.

- 1.1.28 The Police and Crime Commissioner (PCC) have consulted with members of the public, community groups and local authorities on the options to be included in a community remedy menu. A community remedy allows victims to request how the perpetrator is dealt with when a community resolution is used. If the victim asks for a community remedy to be used, the offender must agree and the police officer has to agree it is proportionate and appropriate as well.
- 1.1.29 See **Annex 9** for more information.

Anti-social Behaviour Case Reviews (Community Trigger)

- 1.1.30 The **Community Trigger** is a way of allowing the public to request a review of the actions taken around ASB complaints. The Community Trigger criteria is:

“At least three separate incidents reported to the relevant bodies within the previous six months. The ASB must be a repeat of the same or similar incident which was reported within one month or the alleged incident taking place”.

- 1.1.31 If someone feels that they have met the Trigger criteria then they will need to complete an application form which will ask for details about the reports that have been made. Members of the Community Safety Unit will then check to see if the evidence presented is correct and if it meets the threshold then a Panel will need to meet to review the case and look at the actions that were (or were not) taken. That panel can then make recommendations to other agencies (although those agencies will be under no obligation to accept them). The Panel must include representatives from the Borough Council, the Police, Clinical Commissioning Groups and Social Landlords who are co-opted onto the Panel.
- 1.1.32 The **Community Remedy** will give victims of low-level crime and anti-social behaviour a say in the punishment of offenders out of court. It will be a list of actions that the victim will be invited to choose from when a community resolution is to be used. The offender must have given an admission of guilt and it must be appropriate for a Community Remedy to be used. The Community Remedy is entirely voluntary.

Example – Community Trigger Review Panel

- 1.1.33 TMBC received a Community Trigger 13 November 2014. On 18 November Community Safety and Kent Police met to review the application and decided that as three incidents had been reported, all within a month of the incidents taking place and all within a six month period that the threshold had been met. The complaints mainly centred around excessive noise, as well as rubbish dumped on the door way

- 1.1.34 One of the incidents had been reported to Circle Housing Russet (dumped rubbish) and two to the Police (regarding noise issues).
- 1.1.35 The Panel met on the 2 December 2014 and agreed actions to take place. Actions were carried out and case closed.
- 1.1.36 This has been the only Community Trigger Panel held at TMBC.
- 1.1.37 See **Annex 10** for more information.

1.2 Legal Implications

- 1.2.1 As the Council is a regulatory authority for the legislation given in the report there are no alternative options. Failure to update the Scheme of Delegations to reflect changes in legislation could mean that the Council may be subject to legal challenge if regulatory action is taken by unauthorised officers, or that any legal action taken under these regulations would be invalid.
- 1.2.2 The proposed revised scheme of delegations will ensure that officers continue to be authorised to undertake their duties and to ensure that statutory notices are signed by the appropriate competent person. These further delegations will ensure that any prosecution is undertaken with statutory authority and shall not fail for that reason alone.

1.3 Financial and Value for Money Considerations

- 1.3.1 Liability for certain offences within the Act can be discharged by payment of a fixed penalty notice to the local authority. The local authority is likely to incur legal costs when applying for the new Injunction to Prevent Nuisance and Annoyance or for example if it prosecutes an individual, or body, for failure to comply with a notice, etc.
- 1.3.2 It is anticipated that the powers will be used by existing staff within current budget parameters.
- 1.3.3 While some training may be required for individual staff it is anticipated that these will come from within existing budgets.

1.4 Risk Assessment

- 1.4.1 The vast majority of these powers are unlikely to be used frequently by the Council, as they are in many cases a last resort, when other options have been tried and failed. However in some circumstances their use may be both proportionate and appropriate.

1.4.2 The appendices give more detail on which powers are relevant to which agency.

1.5 Policy Considerations

1.5.1 Community

1.5.2 Crime & Disorder Reduction

Background papers:

Ni The Anti-social Behaviour, Crime and Policing Act 2014 (the Act)

Home Office draft guidance - October 2013

contact:

Anthony Garnett 6151

Adrian Stanfield

Director of Central Services and Monitoring Officer

Annexes:

1. Powers to be replaced by the 2014 Act
2. Civil Injunctions
3. Criminal Behaviour Order (CBO)
4. Dispersal Power
5. Community Protection Notice (CPN)
6. Public Spaces Protection Order (PSPO)
7. Closure Power
8. New Absolute Ground for Possession
9. Community Remedy
10. Anti-Social Behaviour Case Reviews (Community Trigger)
11. Summary sheet of different actions that can be taken

Annex 1:

Summary of the existing powers to be replaced by the Anti-social Behaviour, Crime and Policing Act 2014

Alcohol

	Existing Power	Replacement Power	Consequences
1.	Drinking banning orders on application (s. 3/4 Violent Crime Reduction Act 2006)	Civil Injunctions (s. 1)	Orders can continue to be applied for until section 1 comes into force. After that, existing orders and ones applied for before s. 1 came into force can continue to be enforced as now for 5 years after s. 1 came into force. After that, existing orders are treated as if they were anti-social behaviour injunctions (s. 21).
2.	Drinking banning orders on conviction (s. 6 Violent Crime Reduction Act 2006)	Criminal Behaviour Orders (s. 22)	Orders can continue to be made in connection with criminal proceedings begun before section 22 came into force. After that, existing orders can continue to be enforced as now for 5 years after s. 22 came into force. After that, existing orders are treated as if they were criminal behaviour orders (s. 33).
3.	Orders designating public places for restrictions on alcohol consumption (s. 13 Criminal Justice and Police Act 2001)	Public Spaces Protection Orders (s. 59)	Orders can continue to be made until section 59 comes into force (s. 75). See para 27 for enforcement.

Anti-social Behaviour

	Existing Power	Replacement Power	Consequences
4.	Anti-social behaviour orders on application (s. 1/1B Crime and Disorder Act 1998)	Civil Injunctions (s. 1)	Orders can continue to be applied for until section 1 comes into force. After that, existing orders and ones applied for before s. 1 came into force can continue to be enforced as now for 5 years after s. 1 came into force. After that, existing orders are treated as if they were anti-social behaviour injunctions (s. 21).
5.	Individual support orders (s. 1AA Crime and Disorder Act 1998) in connection with anti-social behaviour orders on application (s. 1/1B Crime and Disorder Act 1998)	Civil Injunctions (s. 1)	Any outstanding application for an individual support order will lapse when section 1 comes into force but the application for the ASBO will survive. After that, existing orders can continue to be enforced as now for 5 years after s. 1 came into force. After that, existing orders are treated as if they were anti-social behaviour injunctions (s. 21).

	Existing Power	Replacement Power	Consequences
6.	Intervention orders (s. 1G Crime and Disorder Act 1998) in connection with anti-social behaviour orders on application (s. 1/1B Crime and Disorder Act 1998)	Civil Injunctions (s. 1)	Orders can continue to be applied for until section 1 comes into force. After that, existing orders and ones applied for before s. 1 came into force can continue to be enforced as now for 5 years after s. 1 came into force. After that, existing orders are treated as if they were anti-social behaviour injunctions (s. 21).
7.	Anti-social behaviour orders on conviction (s. 1C Crime and Disorder Act 1998)	Criminal Behaviour Orders (s. 22)	Orders can continue to be made in connection with criminal proceedings begun before section 22 came into force. After that, existing orders can continue to be enforced as now for 5 years after s. 22 came into force. After that, existing orders are treated as if they were criminal behaviour orders (s. 33).
8.	Individual support orders (s. 1AA Crime and Disorder Act 1998) in connection with anti-social behaviour orders on conviction (s. 1C Crime and Disorder Act 1998)	Criminal Behaviour Orders (s. 22)	Orders can continue to be made in connection with criminal proceedings begun before section 22 came into force. After that, existing orders can continue to be enforced as now for 5 years after s. 22 came into force. After that, existing orders are treated as if they were criminal behaviour orders (s. 33).
9.	Parenting orders (s. 8 Crime and Disorder Act 1998)	No change	Will apply in relation to anti-social behaviour injunctions as they currently apply to anti-social behaviour orders

Littering

	Existing Power/ Offence	Replacement Power	Consequences
10.	Defacement removal notices for graffiti and fly-posting (s. 48 Anti-social Behaviour Act 1998)	Community Protection Notices (s. 43)	Notices can continue to be served until section 43 comes into force. Notices made before but not served until after s. 43 comes into force will be of no effect. After s. 43 comes into force, existing notices can continue to be enforced as now (s. 58).
11.	Depositing litter (s. 87/88 Environmental Protection Act 1990)	No change	Can continue to issue fixed penalty notices as now
12.	Failure to comply with a waste receptacles notice (s. 46/47/47ZA/47ZB Environmental Protection Act 1990)	No change	Can continue to issue fixed penalty notices as now. Can also continue to issue waste receptacles notices as now.

	Existing Power/ Offence	Replacement Power	Consequences
13.	Failure to produce authority to transport waste (s. 5/5B Control of Pollution (Amendment) Act 1989)	No change	Can continue to issue fixed penalty notices as now
14.	Failure to produce waste documents (s. 34 Environmental Protection Act 1990 and regulations)	No change	Can continue to issue fixed penalty notices as now
15.	Litter abatement notices (s. 92 Environmental Protection Act 1990)	Community Protection Notices (s. 43)	Notices can continue to be served until section 43 comes into force. Notices made before but not served until after s. 43 comes into force will be of no effect. After s. 43 comes into force, existing notices can continue to be enforced as now (s. 58).
16.	Litter clearing notices (s. 92A Environmental Protection Act 1990)	Community Protection Notices (s. 43)	Notices can continue to be served until section 43 comes into force. Notices made before but not served until after s. 43 comes into force will be of no effect. After s. 43 comes into force, existing notices can continue to be enforced as now (s. 58).
17.	Street litter control notices (s. 93 Environmental Protection Act 1990)	Community Protection Notices (s. 43)	Notices can continue to be served until section 43 comes into force. Notices made before but not served until after s. 43 comes into force will be of no effect. After s. 43 comes into force, existing notices can continue to be enforced as now (s. 58).
18.	Unauthorised distribution of free printed matter (sch. 3A Environmental Protection Act 1990)	No change	Can continue to issue fixed penalty notices as now

Miscellaneous

	Existing Power	Replacement Power	Consequences
19.	Closure orders for noisy premises (s. 40 Anti-social Behaviour Order 2003)	Closure Notices/ Orders for Premises Associated with Nuisance or Disorder (s. 76/80)	Orders can continue to be made until sections 76/80 come into force. After that, existing orders can continue to be enforced as now indefinitely (s. 93).
20.	Dog control orders (s. 55 Clean Neighbourhoods and Environment Act 2005)	Public Spaces Protection Orders (s. 59)	Orders can continue to be made until section 59 comes into force. After that, existing orders can continue to be enforced as now for 3 years after s. 59 came into force. After that, existing orders are treated as if they were public spaces protection orders (s. 75).
21.	Gating Orders (s. 129A Highways Act 1980)	Public Spaces Protection Orders (s. 59)	Orders can continue to be made until section 59 comes into force. After that, existing orders can continue to be enforced as now for 3 years after s. 59 came into force. After that, existing orders are treated as if they were public spaces protection orders (s. 75).

Police Powers

	Existing Power	Replacement Power	Consequences
22.	Closure notices/ orders for premises associated with persistent disorder or nuisance (s. 11A/11B Anti-social Behaviour Act 2003)	Closure Notices /Orders for Premises Associated with Nuisance or Disorder (s. 76/80)	Notices/orders can continue to be made until sections 76/80 come into force. After that, existing notices/orders can continue to be enforced as now indefinitely (s. 93).
23.	Closure notices/ orders for premises where drugs used unlawfully (s. 1/2 Anti-social Behaviour Act 2003)	Closure Notices/ Orders for Premises Associated with Nuisance or Disorder (s. 76/80)	Notices/orders can continue to be made until sections 76/80 come into force. After that, existing notices/orders can continue to be enforced as now indefinitely (s. 93).
24.	Closure orders for premises with premises licence or temporary events notice (s. 161/165 Licensing Act 2003)	Closure Notices/ Orders for Premises Associated with Nuisance or Disorder (s. 76/80)	Orders can continue to be made until sections 76/80 come into force. After that, existing orders can continue to be enforced as now indefinitely (s. 93).
25.	Directions to individuals who represent a risk of disorder (s. 27 Violent Crime Reduction Act 2006)	Dispersal Power (s. 34/35)	Directions can continue to be given until sections 34/35 come into force. After that, existing directions can continue to be enforced as now (s. 42).
26.	Dispersing groups of young people (s. 30 Anti-social Behaviour Act 2003)	Dispersal Power (s. 34/35)	Authorisations can continue to be given until sections 34/35 come into force. After that, directions under an existing authorisation can continue to be given and enforced as now until the authorisation expires (s. 42).
27.	Enforcing orders designating public places for restrictions on alcohol consumption (s. 13 Criminal Justice and Police Act 2001)	Public Spaces Protection Orders (s. 59)	Orders existing when section 59 comes into force can continue to be enforced as now for 3 years after s. 59 came into force. After that, existing orders are treated as if they were public spaces protection orders (s. 75).

Tenants

	Existing Power	Replacement Power	Consequences
28.	Anti-social behaviour injunctions (s. 153A Housing Act 1996)	Civil Injunctions (s. 1)	Injunctions can continue to be applied for until section 1 comes into force. After that, existing injunctions and ones applied for before s.1 came into force can continue to be enforced as now for 5 years after s.1 came into force. After that, existing injunctions are treated as if they were anti-social behaviour injunctions (s.21).
29.	Injunctions against breach of tenancy agreement (s. 154D(1) Housing Act 1996)	Civil Injunctions (s. 1)	Uncertain, but any outstanding application for an injunction is likely to lapse when section 1 comes into force. After that, existing injunctions are likely to continue to be enforceable as now and remain in existence indefinitely.
30.	Injunctions against breach of tenancy agreement (s. 154D(1) Housing Act 1996) which also prohibit being in or entering specified premises or areas (s. 154D(3) Housing Act 1996) and/or include a power of arrest (s. 154D(4) Housing Act 1996)	Civil Injunctions (s. 1)	Injunctions can continue to be applied for until section 1 comes into force. After that, existing injunctions and ones applied for before s.1 came into force can continue to be enforced as now for 5 years after s.1 came into force. After that, existing injunctions are only partially treated as if they were anti-social behaviour injunctions and any other elements fall away (s.21).
31.	Injunctions against unlawful use of premises (s. 153B Housing Act 1996)	Civil Injunctions (s. 1)	Injunctions can continue to be applied for until section 1 comes into force. After that, existing injunctions and ones applied for before s.1 came into force can continue to be enforced as now for 5 years after s.1 came into force. After that, existing orders are treated as if they were anti-social behaviour injunctions (s.21).

Annex 2: 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 Protect 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 year 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 requirements to focus on long-term solutions.

Annex 3: 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 "necessity" unlike Anti-Social Behaviour Orders. • Scope for positive requirements to focus on long-term solutions.

Annex 4: 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	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).

Annex 5: Community Protection Notice (CPN)

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 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.

Annex 6: Public Spaces Protection Order (PSPO)

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	<p>Behaviour being restricted has to:</p> <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 officers 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. • 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.

Annex 7: 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 hrs 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 the closure notice was served on; • 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.

Annex 8: 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.

Annex 9: 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 the 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.





Annex 10: 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 month 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.


Annex 11: Summary of different actions that can be taken




The Anti-social Behaviour, Crime and Policing Act 2014

	Examples of “anti-social behaviour and Purpose	Who can be served?	Who can serve?	Weekly Tuesday Meeting
<p>Civil Injunction</p>  	<p>A civil Injunction is to stop or prevent individuals engaging in anti-social behaviour quickly, nipping problems in the bud before they escalate</p> <p>Examples</p> <ul style="list-style-type: none"> • Vandalism • Public drunkenness • Aggressive begging • Irresponsible dog ownership • Noisy or abusive behaviour towards neighbours • Bullying 	<ul style="list-style-type: none"> • Over 18 years of age via County court or High Court • Under 18 years of age via Youth Court 	<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 Protect and NHS Protect (Wales) 	<ul style="list-style-type: none"> • Review issue • Understand case details • Injunction sought • Case heard in County Court or Youth Court
<p>Criminal behaviour order (CBO)</p>	<p>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.</p> <p>Examples</p> <ul style="list-style-type: none"> • Criminal damage • Vandalism • Hate crimes • Assault • Verbal abuse • Or any other criminal offence 	<ul style="list-style-type: none"> • An individual who has been convicted for a criminal offence 	<ul style="list-style-type: none"> • The prosecution, in most case the Crown Prosecution Service (CPS), either at its own initiative or following a request from the police or council. 	<ul style="list-style-type: none"> • Review issue • Understand case details • Injunction sought • The prosecution applies for a CBO after the offender has been convicted of the criminal offence.

	Examples of “anti-social behaviour and Purpose	Who can be served?	Who can serve?	Weekly Tuesday Meeting
Dispersal power 	<p>Requires a person committing or likely to commit anti-social behaviour, crime or disorder to leave an area for up to 48 hours.</p> <p>Example</p> <ul style="list-style-type: none"> There is likely to be ASB, crime or disorder in an area and it may be necessary to use the dispersal power. 	<ul style="list-style-type: none"> Person committing or likely to commit anti-social behaviour, crime or disorder 	<ul style="list-style-type: none"> The dispersal power can be used by police officers in uniform; and Police Community Support Officers (if designated the power by their chief constable). 	<ul style="list-style-type: none"> Briefing by Police on issue – There is no need for the Police to consult with partners before using Dispersal power
Community Protection Notice (CPN)  	<p>The Community Protection Notice (CPN) is to deal with “ongoing problems” or “nuisances” that negatively affect the “Community Quality of Life” by targeting those responsible.</p> <p>Examples</p> <ul style="list-style-type: none"> Graffiti Noise Nuisance Rubbish 	<ul style="list-style-type: none"> Individual who is 16 years of age or over Business Body Organisation 	<ul style="list-style-type: none"> Council officers; Police officers Police community support officers (PCSO’s) if designated; and Social landlords (if designated by the council) 	<ul style="list-style-type: none"> Review issue Written warning issued Time given to address the conduct CPN Issued
Public Spaces Protection Orders (PSPO) 	<p>The Public Spaces Protection Notice (PSPO) are intended to control and restrict anti-social behaviour or potential anti-social behaviour in public spaces</p> <p>Examples</p> <ul style="list-style-type: none"> Drinking alcohol in public places 	<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 	<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. 	<ul style="list-style-type: none"> Review issue Before Issuing Notice – Consultation Before Issuing Notice – publicity Issue

	Examples of “anti-social behaviour and Purpose	Who can be served?	Who can serve?	Weekly Tuesday Meeting
	<ul style="list-style-type: none"> Public access to public rights of way Dogs in public places 	<p>public spaces (including certain types of highway) where that route is being used to commit anti-social behaviour.</p> <ul style="list-style-type: none"> Can be enforced by a police officer, police community support officers and council officers. 		
<p>Closure power</p>   <p>www.tmbc.gov.uk</p>	<p>To allow the police or council to quickly close premises which are being used, or likely to be used, to commit nuisance or disorder</p> <p>Example</p> <ul style="list-style-type: none"> That the use of particular premises has resulted, or is likely soon to result, in nuisance to members of the public; or that there has been, or is likely soon to be, disorder near those premises associated with the use of those premises, and that the notice is necessary to prevent the nuisance or disorder from continuing, recurring or occurring. 	<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 hrs 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 	<ul style="list-style-type: none"> Local council - superintendent or designate of council CEO. Police. – Inspector and above 	<ul style="list-style-type: none"> Review issue Nuisance – occurred or likely to occur Disorder – occurred or likely to occur Before Issuing Notice – publicity Issue Notice Issued - premises closed for up to 48 hours Magistrates Court - Within 48 hrs, notice goes to magistrates' court if a closure order of up to three months is required

	Examples of “anti-social behaviour and Purpose	Who can be served?	Who can serve?	Weekly Tuesday Meeting
<p>New absolute ground for possession</p>  <p>TONBRIDGE & MALLING BOROUGH COUNCIL www.tmbc.gov.uk</p>	<p>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.</p> <p>Example</p> <ul style="list-style-type: none"> To expedite the eviction of landlords' most antisocial tenants to bring faster relief to victims. 	<ul style="list-style-type: none"> Tenants 	<ul style="list-style-type: none"> Social landlords (local authorities and housing associations). Private rented sector landlords. 	<ul style="list-style-type: none"> Review issue Tenant/member of their household or visitor has met one of the following conditions: <ol style="list-style-type: none"> Convicted for serious criminal offence Found by a court to have breached a civil injunction Convicted for breach of CBO Convicted for breach of Noise Abatement Notice OR Tenant's property closed under Closure Order <p>Offences must have been committed in locality/affected other residents or landlords' staff anywhere.</p> <ul style="list-style-type: none"> Serve Notice - Generally four week or one month notice period (depending on tenancy type) before landlord applies to court.

	Examples of “anti-social behaviour and Purpose	Who can be served?	Who can serve?	Weekly Tuesday Meeting
<p>Community Remedy</p> 	<ul style="list-style-type: none"> The Community Remedy gives victims a say in the out-of-court punishment of perpetrators for low-level crime and anti-social behaviour. The Police and Crime Commissioner consults the local community about what actions should be included in the Community Remedy document. 	<ul style="list-style-type: none"> Perpetrators for low-level crime and anti-social behaviour. 	<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. 	<ul style="list-style-type: none"> Review and update by Kent Police Offender admits to offence Police considers appropriate resolution Perpetrator agrees Police officer makes decision as to what appropriate action Perpetrator agrees action <ul style="list-style-type: none"> Cleaning graffiti Written apology Acceptable Behaviour Contract
<p>Community Trigger</p>  	<ul style="list-style-type: none"> 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. At least three incidents of anti-social behaviour reported to the relevant bodies within the previous six months. The anti-social behaviour must be a repeat of the same or similar incident which was reported within one month of the alleged incident taking place. 	N/A	<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. 	<ul style="list-style-type: none"> Application form received by CSU by Victim Community Trigger activated If evidence meets threshold then arrange a Panel (The Panel must include representatives from the Borough Council, the Police, Clinical Commissioning Groups and Social Landlords who are co-opted onto the Panel). This encourages a problem-solving approach. Action Plan Applicant requests a secondary review carried out by an independent panel.

