



Office of the
Deputy Prime Minister

Creating sustainable communities

information sheet

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Anti-Social Behaviour Act

A large, dark grey TPAS logo at the bottom of the page, featuring the letters 'TPAS' in a bold, sans-serif font, with a dark grey swoosh above the letters.

ANTI-SOCIAL BEHAVIOUR

ACT 2003

Introduction

This Information Sheet outlines the main powers contained in the Anti-Social Behaviour Act 2003.

Drugs

The main drugs related power in the Act is intended to enable the swift closure of 'crack houses'.

- If a senior police officer (superintendent or above) has reason to believe that a house is being used for the production or supply of a class A drug then they can issue an immediate closure notice.
- The closure notice must be ratified by the Courts within 48 hours.
- If the Court is satisfied that the premises has been used to produce or supply the drug(s), that it is associated with disorder or serious nuisance and that an Order is needed to stop the disorder/serious nuisance it will serve an Order.
- The Order will last for three months and can be extended to 6 months. The property will be sealed and it will be an offence to enter it.

Notes:

As with many of the powers in the Act this power implies a greater need for housing providers, Police and other agencies to work together. Housing providers will often be in a better position to know when a crack house has been set up and should liaise carefully with the police to decide the best way forward. While the power to close down crack houses is very

beneficial, members should give some thought to the possible community safety issues connected with having a property kept empty for as long as six months.

Housing

Landlords' policies and procedures

The key duty contained in the Act is the requirement for landlords to publish their anti-social behaviour (ASB) policy and procedure. While this has been good practice for some time, the establishment of a legal right to this information is a real step forward.

Notes:

The duty to publish is a general, not a statutory duty. Tenants will not be able to prosecute their landlord for failing to follow their policy. Landlords would argue, with some justification, that a deluge of court cases for technical infringements would undermine their efforts to deal with the problem; particularly as some areas of ASB are notoriously difficult to resolve to all parties' satisfaction.

All tenants should familiarise themselves with their landlord's ASB policies. They should also put pressure on their landlord to consult on the commitments in these policies. ASB policies can be enormously complicated, so a good training programme is essential to proper ASB management. Wherever possible tenants' representatives and tenant participation staff should be included in any specialist training to housing staff on ASB management.

Both the Office of the Deputy Prime Minister (ODPM) and the Housing Corporation have committed to undertaking consultation on their guidance for landlord ASB strategies. TPAS will be consulted as a stakeholder by both organisations.

Housing injunctions

All housing providers will now be able to apply for injunctions from the court, without notice, on the day that the ASB occurs. Injunctions will be available to prevent 'behaviour [by any person] capable of causing nuisance and annoyance which indirectly or directly affects their housing management functions.'

A power of arrest or exclusion order can even be attached to the injunction where there has been no violence or threat of violence.

Notes:

Injunctions have been identified as a rapid and effective way of intervening in serious ASB issues. They offer the opportunity of quickly stopping relatively serious behaviour. They are not an appropriate answer to more minor nuisance issues.

Demotion orders

This new power allows housing providers to remove some security of tenure from tenants who are responsible for ASB. If a tenant or their visitor behaves anti-socially then the court can order that their tenancy becomes an assured shorthold (allowing for more rapid eviction and removing the Right to Buy). After one year, if the tenants' conduct has been satisfactory, their security of tenure is returned (secure tenancy for local authority tenants, assured tenancy for registered social landlord (RSL) tenants).

Notes:

This has been one of the most hotly contested of the new powers. It offers significant control to landlords and adds a useful 'half-way house' where the behaviour is too far developed for a mediated (or letter based) solution and falls short of an injunction, anti-social

behaviour order (ASBO) or eviction. Significantly, it also offers the opportunity for perpetrators of ASB to change their behaviour before they are past 'the point of no return'. However, it will take some time for case law to be developed and there almost certainly will be challenges to the legality of the power.

Proceedings for possession

The Courts will now be required to consider the impact of ASB on victims and witnesses in all nuisance related possession cases.

The above powers came into effect on 30 June 2004. If previous new initiatives, such as ASBOs, are a useful guide it will take some time before the Police, the Courts and housing providers are skilled and comfortable in using the powers to good effect (see also, new powers, on page 6).

Parents

Broadly, the ASB Act 2003 extends the impact of Parenting Contracts and Parenting Orders. The main focus for action is placed on schools, local authorities and youth offending teams so this note does not consider the detail of the new powers. However, as a point of good practice it is worth considering that housing providers and tenant activists should engage with the work of all of the agencies above. If a young person is displaying challenging behaviour in school, there is a good chance that their behaviour will also be challenging in their neighbourhood.

Intimidating groups

A senior police officer (superintendent or above), with the agreement of the local authority, will now have the power to designate an area as a 'dispersal zone' [author's description]. The area must be advertised in a local newspaper and/or through notices in the area. Once this has

been completed a police officer or community support officer will be able to disperse any groups 'where their presence or behaviour has resulted, or is likely to result, in a member of the public being harassed, intimidated, alarmed or distressed.' The exclusion from the area can last up to 24 hours and refusal to disperse will be an offence. Police and community support officers will be able to return any unsupervised child to their home after 9pm (this will not constitute a curfew and need not apply to all children in the group).

Notes:

One of the most controversial and highly debated powers in the new Act; 'dispersal zones' are a measure which can limit a person's movement even if they have not committed a crime. It is clearly aimed at areas where young people congregate, although you can also imagine it having a positive effect close to pubs. While there is no doubt that large groups of young people can cause great distress there must be some concern that the setting up of a 'dispersal zone' will simply displace the nuisance problems elsewhere, often to places where young people will put themselves in danger. The main concern must be that this power does nothing to address the root causes of youth disorder and will leave young people feeling harassed and angry, further reinforcing their negative behaviours.

Tenants and RSLs will need to find effective ways of engaging with Crime and Disorder Partnerships in order to make sure that, where 'dispersal zones' are going to be applied, they meet the needs of the neighbourhood.

Firearms

There are broad new powers in the Act to both ban and control air weapons and imitation firearms.

Environment

Noise nuisance

The Noise Nuisance Act 1996 gave environmental health officers the power to issue a fixed penalty fine of £100 for continuing noise nuisance at night if a warning had already been given. However, local authorities needed to adopt this power and it came with extra statutory duties. All local authorities will now be able to employ this power without further responsibilities. Local authorities will be able to keep the proceeds of any fines issued.

The ASB Act allows for the closure of noisy nightclubs and pubs for a period of 24 hours.

Notes:

It seems that much of the government's recent attention has been focussed on finding remedies to high level ASB that verges on, or crosses the line of, criminality. However, a study in Brixton by NACRO in 1997, suggested that noise nuisance was the largest cause of distress for people in that area. In all likelihood that has been the experience of most local authorities. The ability to issue fines, without other duties, is a welcome addition to environmental health officers' armoury. The ability to keep the fine should help to focus the minds of local authorities.

Graffiti and fly-posting

Local authority officers, community safety officers and other persons accredited by the chief constable (e.g. specially trained security guards) will be able to issue a £50 fine for minor graffiti and fly-posting.

Local authorities will now be able to issue a graffiti removal notice to 'statutory undertakers' (port authorities, railways, telecom's companies). If the graffiti is not

removed within 28 days the local authority can undertake the work and recharge the company.

Fines will be increased for fly-posting.

It will be an offence to sell spray paint to the under 16s.

Notes:

It is extremely annoying when you have a landlord who is diligently dealing with graffiti issues, only for the street furniture (cable boxes, phone exchanges, electricity sub-stations) to be covered with graffiti, with, seemingly, no-one taking responsibility. The most interesting power in this part of the Act is the one to hold 'statutory undertakers' responsible for their fixtures and fittings.

Fly-Tipping

Previously, only the Environment Agency had the power to stop, search and seize vehicles suspected of being used for fly-tipping. This power has now been extended to local authorities.

Local authorities and the Environment Agency can now be required to submit data on fly-tipping incidents. The Environment Agency already has a database and local authorities are to be encouraged to utilise this resource.

Litter

A loophole that meant local authorities could not clear Crown Land or the land of 'statutory undertakers' has been closed. Only Ministry of Defence (MOD) property will now be exempt.

Public order and trespass

In the Public Order Act of 1986 an assembly was described as twenty or more people. This number has been lowered to two people. The limited circumstances under which conditions can

be imposed have not changed.

In the Criminal Justice and Public Order Act, powers to close illegal raves could only be used if the event was outdoors and involved more than 100 people. These powers now apply to raves of twenty people or more, both indoors and outdoors.

Aggravated Trespass will now apply to people committing the offence both outdoors and indoors.

Senior police officers will now be able to move-on unauthorised encampments if there are two or more people, in one or more vehicle, trespassing and there is a suitable local authority pitch available.

High hedges

Where a hedge is out of control, providing the complainant has made reasonable attempts to resolve the problem, the local authority will now be able to intervene, although they will be able to charge a fee for the service. If appropriate, the local authority will be able to issue a 'remedy order' and, if this is not followed, they will be able to do the work themselves and recharge the homeowner.

New Powers

The ASB Act also brings in a number of new powers which 'tinker at the edges' of existing powers to make them more effective, the most important of these are summarised below.

Anti-Social Behaviour Orders (ASBOs)

- The addition of County Councils and Housing Action Trusts (HATs) to the providers that are able to apply for ASBOs.
- Relevant authorities are able to attend breach proceedings in a Youth Court.
- Local authorities are able to prosecute an ASBO breach (previously only the

Crown Prosecution Service (CPS) could do this).

- The duty to attach a parenting order to a youth ASBO where the court believes it will help to prevent repetition of crime.
- The CPS can bring forward ASBO evidence to attach an ASBO to a criminal offence.
- Reporting restrictions for orders made on the conviction of offences in a Youth Court will be lifted.

Additional information on ASB can be found at:

www.homeoffice.gov.uk/crime/antisocialbehaviour/index.html

Injunctions

The power of arrest for violence or threat of violence can be attached to Section 222 Injunction (Local Government Act 1976)

Notes:

This injunction is a wide-ranging power 'to protect the rights of inhabitants in their area'.

Further Reading

The **Anti-Social Behaviour –TOGETHER Campaign Pack**, which includes an overview of the Act and the government's ASB Action Plan, can be obtained from:

The Home Office
50 Queen Anne's Gate
London
SW1H 9AT
Tel: 0870 000 1585

Alternatively, the Pack can be downloaded from the Home Office website at:

www.homeoffice.gov.uk/docs2/asb_campaign_pack.html

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**5th Floor
Trafford House
Chester Road
Manchester
M32 0RS
Tel: 0161 868 3500
Fax: 0161 877 6256
e-mail: info@tpas.org.uk**

**For further information about TPAS,
visit our website at: www.tpas.org.uk**