

Appendix 2

Reforming the Toolkit

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

We broadly welcome the rationalisation of powers and orders that simplifies the process for agencies to respond to anti-social behaviour in their areas.

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 Are there other tools and powers for dealing with anti-social behaviour you think should be repealed?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

No

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

The proposals will simplify the range of powers available to practitioners. However, until the new processes are implemented and tested it is difficult to ascertain whether they will reduce bureaucracy.

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

In order to ensure effective introduction of the orders it is paramount that clear guidance on how the orders should be used, for what issues and when. This needs to be introduced through training packages for frontline staff and magistrates to ensure proportionate and consistent use of the orders.

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

The orders are likely affect children and young people disproportionately, mainly because the nature and volume of calls received are about ASB perpetrated by young people. This is also in part due to common perceptions amongst some communities that young people's behaviour is frequently anti-social. It is important that young people are not labelled as anti-social simply for being out and about.

Notwithstanding this the proposals do present a solution for dealing with the persistent and unacceptable behaviour of a minority of individuals and we welcome the inclusion of the offer of support and positive activities alongside the restrictions the orders pose.

It is imperative however, that adequate funding for the support and positive activities is made available in order for the orders to be successful.

The Criminal Behaviour Order

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

We welcome the requirement to include positive action to address the underlying causes of behaviour contained within the Criminal Behaviour Order. We feel that this element is crucial.

We are concerned however, that there is no need to show that other remedies had been exhausted or that an order was the only suitable way of dealing with the problem as we would want to see the out of court informal tools utilised to their fullest extent in the first instance.

In Leicestershire we have had very positive results from informal voluntary interventions and would not want to see those interventions sidelined where they could have an effective result. Therefore it would be useful to include the need to utilise informal routes, where possible, in any new legislation, acknowledging that there would be times when it is appropriate to go straight for the 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?

We feel there is considerable overlap with the Restraining Order which is now available on conviction and acquittal and that this order could be merged with the Criminal Behaviour Order. Restraining orders are much more readily obtainable and much easier to draft and prepare. To make Criminal behaviour orders available on acquittal as well as conviction and to have positive requirements available for restraining orders, e.g. attending alcohol awareness courses even for section 5 Public Order Act cases, where community penalties are not available, would be most beneficial.

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 welcome the 'whole family approach' to dealing with anti-social behaviour, especially in relation to supporting young people under the age of 16 which links into Leicestershire's Community Budget work around Families with Complex Needs.

It is important to ensure adequate resources are available to support the needs identified in the reports produced.

Furthermore, a template on what should be included would be useful to ensure a consistent response by all agencies.

4. Are there other civil orders currently available on conviction you think should be incorporated in the Criminal Behaviour Order? (for example the Drinking Banning Order)

No

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 or under 18s?

For young people the Criminal Behaviour Orders should be restricted to 2 years maximum and 6 months minimum in order to ensure they both have the time to be implemented and remain active for a young person. This should be the same for adults

However, we would need to be mindful that a Criminal Behaviour Order comes into effect from the date it is made and so if is attached to a Drug Treatment Order (DTO) it would need to exceed the length of the DTO by at least 6 months.

Any order would need to be reviewed during its implementation period and would of course need to be proportional.

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

It would be useful to include some guidance on positive requirements, however, we would need to be mindful of the differences in provision across the Country and leave it flexible enough to enable appropriate local response.

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

It may be useful for local areas to develop and share examples of local positive requirements available.

Leicestershire Youth Offending Service offers one to one support to young people who have been made subject to a voluntary acceptable behaviour contract in higher risk cases in order to prevent the escalation of behaviour and therefore the need for a more formal response.

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

There needs to be sanctions for both, however, they need to be appropriate to the order and requirements.

There needs to be some inclusion of personal responsibility for the positive elements of the order to engage the individual in change. However if positive elements are breached then it would be useful to enable the practitioner to explore reasons for this breach before taking formal action. Persistent breach of positive requirements should lead to the inclusion of more prohibitive requirements. There would need to be clarification about what constituted a breach and how many breaches of the positive requirements would lead to prohibitive requirements being attached.

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?

We think the inclusion of positive requirements will have an extremely positive impact on breach rates.

In Leicestershire, breach rates for young people on Acceptable Behaviour Contracts supported by the YOS are very low and there is a high rate of successful completion; this in turn negates the need to escalate the proceedings further.

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 hard to predict this, however if the positive requirements are implemented then this should increase the success of the orders and reduce re-offending. However these have resource implications.

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?

Ensuring that the positive requirement is appropriate and deliverable might lengthen the time it takes to prepare the application; but it is of course imperative that it is completed properly.

Crime Prevention Injunction

1. What do you think of our 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?

Whilst the process has been simplified there is still a cost to the application and feel this may affect the willingness of agencies to apply.

In terms of breach of the injunction we are mindful that many agencies will not go back to court to recover minimal costs.

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

We would suggest that the current threshold of “harassment, alarm or distress” should be maintained, given that a body of case law in relation to the interpretation of the definition of the existing threshold has been built up over a number of years.

However, we are aware that the lower threshold of ‘conduct causing or likely to cause nuisance or annoyance to a person not of the same household as himself’ is already being used by the Police National Recording Standards

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

The Magistrates Court. It would also be preferable that that the same magistrates responsible for making an order should also deal with any breach.

4. If you think that 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?

To ensure proportionality it would be helpful if they were heard in the same Court. However consideration could be given to the use of the Family Court when dealing with young people which would help to support a “whole family” approach.

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 or under 18s?

For young people the Criminal Behaviour Orders should be restricted to 2 years maximum and 6 months minimum in order to ensure they both have the time to be implemented and remain active for a young person. This should be the same for adults

However, we would need to be mindful that a Criminal Behaviour Order comes into effect from the date it is made and so if is attached to a Drug Treatment Order (DTO) it would need to exceed the length of the DTO by at least 6 months.

Any order would need to be reviewed during its implementation period and would of course need to be proportional.

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

Yes it would be useful to include some guidance on positive requirements, however, we would need to be mindful of the differences in provision across the country and leave it flexible enough to enable appropriate local response.

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

It may be useful for local areas to develop and share examples of local positive requirements available eg agreement to a course of counselling, agreement to be involved in mediation and agreement for parents to attending parenting groups.

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

We would support the proposed sanctions. Consequences of breach need to be meaningful for young people and have an effect on future behaviour and we therefore welcome the use of existing tools within the Youth Justice System to deal with breaches.

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

It is hard to predict this, however if the positive requirements are implemented then this should increase the success of the orders and reduce re-offending.

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

We think the inclusion of positive requirements will have a positive impact on breach rates.

Community Protection Order

1. What do you think of the proposal to bring existing tools for dealing with

persistent place-related anti-social behaviour together into a single Community Protection Order?

We welcome the rationalisation of tools as it simplifies the process for agencies to respond to anti-social behaviour in their areas.

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

There are currently issues with noise nuisance as Environmental Health Officers are often unable to progress complaints as the noise does not breach the statutory level; despite being extremely loud.

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?

The officers who currently exercise the powers eg Environmental Health Teams, Street Wardens and PCSO's

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?

The simplification of the process will aid the reduction in time and cost.

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 duplication.

No

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

The number of orders issued may increase.

Public opinion may influence implementation and we feel that practitioners may find the process clearer and therefore feel more confident to use it more often.

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 are unclear about the time implications. However the simplification of the toolkit ought to make it easier for practitioners to apply for and issue the orders.

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

As Q8 above.

The Direction Power

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

We welcome the direction power as it simplifies the current process.

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

Yes. PCSOs are a skilled workforce working in localities and it simply wastes time to have to call a police officer to administer these powers.

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?

There should be a shared agreement or protocol in place, on how powers will be used both in a proportionate way and also to ensure consistency, albeit with some local flexibility.

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

Sanctions could include fixed penalty notices, as well as restorative justice disposals and community payback.

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 or groups from?

We feel there would be time saved by removing the requirement of having a designated area but it is difficult to quantify.

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

We would expect an increase in the number of Directions issued which may counteract some of the time saving from the removal of the pre-designated area. Nonetheless we see it as a positive move. We see this as a positive move. It is the behaviour of individuals that needs addressing rather than the geography so the change is helpful.

7. Do you expect there to be a change in the use of the Direction power (compared to the use of 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?

There is a risk that the Direction Power could be used disproportionately in relation to young people; local standards should be established, accompanied by training and guidance to ensure that this does not occur.

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 antisocial behaviour?

In Leicestershire, our partnership work in relation to ASB has a good track record. Our Tiered Approach to dealing with ASB ensures that informal actions such as warning letters and Acceptable Behaviour Agreements are used initially, particularly with young people, before invoking statutory powers.

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

Time is often an issue for communities getting more involved in out of court disposals, both on the part of community members and practitioners. Another barrier is the perception from communities that it is the authorities responsibility to 'deal with' these issues, not that of members of the community. In order to overcome these issues we need to think carefully about how we implement the proposals and engage communities to take responsibility for the issues in their areas. Involving victims of ASB in informal disposals through the use of restorative justice is an excellent way of engaging communities, However there are resource implications if it is to be done properly.

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 feel there is a gap between the current Acceptable Behaviour Agreements and the Anti Social Behaviour Order; this is where a perpetrator of ASB refuses to sign the Agreement or breaches the agreement but the behaviour does not warrant an ASBO. Adding a new element to the tool kit utilising restorative justice in between these two sanctions, for example an Acceptable Behaviour Agreement plus Restorative Justice, may go some way to reducing this gap.

We are also keen to see the use of preventative element further emphasised throughout the document as the first solution to low level anti-social behaviour. In Leicestershire we have excellent results from our low level preventative approaches from street based work in the evening having a significant effect on the number of youth related ASB calls being made to the Police to our low level of breach of Acceptable Behaviour Contracts. We would welcome a strong emphasis on preventative, informal approaches throughout the document.

The Community Trigger

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

We have some concerns regarding the proposals to introduce a Community Trigger. Whilst it may be helpful in ensuring vulnerable victims are identified and the perpetrators dealt with, it also presents a risk that in some communities vulnerable individuals and groups could be targeted inappropriately. Key to the effective implementation of the Community Trigger will be clear guidance for CSPs on steps that can be taken to resolve issues that don't necessarily utilise punitive approaches. Therefore we welcome the proposal to allow CSPs the flexibility to decide how the Community Trigger is applied in practice.

In Leicestershire we already undertake a range of work around the identification of repeat and vulnerable victims and the resolution of issues these victims present. This is achieved through the deployment of the risk assessment matrix and common understanding of vulnerability. The Community Safety Partnerships take a lead role in dealing with ASB and this is further reinforced by the work of scrutiny committees which oversee the work of the Community Safety Partnerships.

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

In order for the community trigger to work successfully it would need to be made explicit what the definition of 'action' is. For example it may be that following a complaint action has been taken but it is not the action desired by the complainants due to a variety of reasons. Clear guidance alongside transparent communication from CSPs is crucial to the success of the Community Trigger

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?

There is a risk that malicious and discriminatory complaints could be escalated through the Community Trigger mechanism. This is especially in relation to members of the community with mental health issues, both as complainants and perpetrators, as well as those families who are perceived as being different by their neighbours for a variety of reasons. Appropriate safeguards through guidance would need to be in place to ensure the Community Trigger is not used inappropriately and does not disproportionately affect certain groups. We would suggest that the detailed framework for the operation of the Community Trigger should be left to local discretion.