

# Anti-social behaviour: civil injunctions

by [Practical Law Public Sector](#), with thanks to [Richard Hanstock](#), Cornerstone Barristers

Practice notes | **Maintained** | England, UK

A note on civil injunctions introduced under Part 1 of the Anti-social Behaviour, Crime and Policing Act 2014.

This note covers procedural issues associated with applying for injunctions, breach and appealing against an injunction.

## Scope of this note

This note covers civil injunctions to tackle anti-social behaviour, introduced by the [Anti-social Behaviour, Crime and Policing Act 2014](#) (ASBCPA 2014).

This note does not cover all aspects of the ASBCPA 2014, just those relating to injunctions under Part 1, therefore other parts of the ASBCPA 2014 will not be covered.

For more information on the ASBCPA 2014 generally, see [Anti-social behaviour toolkit](#).

## Civil injunctions to prevent anti-social behaviour: Part 1 of the ASBCPA 2014

Civil injunctions were originally referred to as "crime prevention injunctions" in the government's 2012 White Paper (see [Home Office: Putting victims first: more effective responses to anti-social behaviour \(May 2012\)](#)). They primarily replace anti-social behaviour orders under the [Crime and Disorder Act 1998](#) (see [Practice note, Anti-social behaviour orders \(ASBOs\)](#)).

The injunctions are civil in nature and are available in the County Court or High Court (for adults) and Youth Court (for those over the age of 10 but under the age of 18). They are intended to tackle low-level anti-social behaviour, with criminal behaviour orders available for more serious, persistent behaviour (see [Practice note, Anti-social behaviour: criminal behaviour orders](#)).

Civil injunctions also replace several other existing tools for dealing with anti-social behaviour including:

- Drinking banning orders.
- Individual support orders.
- Intervention orders.

Civil injunctions under the ASBCPA 2014, like ASBOs, are still intended to be a formal sanction used after other informal approaches to dealing with the anti-social behaviour have been exhausted. However, a key difference is that they are intended to be much more flexible than ASBOs allowing agencies more flexibility in dealing with anti-social behaviour at a local level.

The government has published statutory guidance on the reforms introduced by the ASBCPA 2014 including civil injunctions (see [Home Office: Anti-social Behaviour, Crime and Policing Act 2014: Reform of anti-social behaviour powers Statutory guidance for frontline professionals](#)) (Reform of anti-social behaviour powers guidance).

For the effect of Part 1 of the ASBCPA 2014 on orders made under legislation repealed by the new provisions, see [Transitional and saving provisions: existing orders and injunctions dealing with anti-social behaviour](#).

### Who can apply for an injunction?

An injunction can be applied for by:

- Local authorities.
- Housing providers (but only where the behaviour affects their housing management functions ([section 5\(3\)](#)).
- Chief officers of police for a police area.
- The chief constable of the British Transport Police.
- Transport for London.
- Environment Agency and Natural Resources Wales.
- A special health authority or the Secretary of State exercising security management functions as defined in [section 195\(3\)](#) of the National Health Service Act 2006 (NHS Protect and NHS Protect (Wales)).

([Section 5](#), ASBCPA 2014.)

The statutory guidance recommends that local agencies establish protocols and arrangements for applying for injunctions in order to ensure a joined up approach to dealing with anti-social behaviour.

### Conditions for granting an injunction

For an injunction to be granted, a court must be satisfied that the following two conditions are met:

- On the balance of probabilities the person has engaged or threatens to engage in anti-social behaviour (see [Anti-social behaviour: definition](#)). This is different to what was required in relation to the first limb of the test for granting an ASBO, which required a court to be satisfied to the criminal standard (beyond reasonable doubt) that the defendant has acted in the anti-social manner alleged (see [Clingham v Royal Borough of Kensington and Chelsea \[2002\] UKHL 39](#)).

Under the saving and transitional provision relating to Part 1 of the ASBCPA 2014 (which came into force on 23 March 2015), when deciding whether to grant an injunction under [section 1](#), a court may consider conduct occurring up to six months before the day on which Part 1 came into force ([section 21](#)).

- It considers it just and convenient to grant the injunction in order to prevent the person engaging in anti-social behaviour.

([Section 1\(2\)](#) and (3), ASBCPA 2014.)

### Anti-social behaviour: definition

The definition of anti-social behaviour now depends on the type of behaviour alleged:

- If the anti-social behaviour is not "housing-related" then this will be conduct that has caused, or is likely to cause, harassment, alarm or distress to any person.
- If the anti-social behaviour is "housing-related" then this will be conduct capable of causing nuisance or annoyance to any person in relation to their occupation of residential premises or conduct capable of causing housing-related nuisance or annoyance to any person (in the case of social landlords). "Housing-related" means behaviour directly or indirectly relating to a social landlord's housing management functions, for example, the protection of social housing stock or ensuring tenants comply with their leases or tenancies. This is similar to the previous *anti-social behaviour injunction* (ASBI) under the *Housing Act 1996* (see *Practice note, Anti-social behaviour: housing*).

In the case of housing-related anti-social behaviour, only social landlords, local authorities or the police can make injunction applications. These can be made in relation to perpetrators in social housing, the private rented sector and owner-occupiers. In addition, they can be made where the subject of the injunction may not have engaged in behaviour themselves but allowed it to continue, for example, where a visitor or lodger has been acting anti-socially then an injunction can be used against the visitor, lodger or owner if the test for applying for an injunction can be satisfied (*Reform of anti-social behaviour powers guidance*).

(*Section 2, ASBCPA 2014*.)

### Applying for an injunction: procedural issues

#### Notice

Injunctions can be applied for and made with or without notice (*section 6*). However, the latter are likely to be rare. An applicant in such a case will need to produce evidence demonstrating that a without notice application is needed to stop serious or significant harm to victims, for example, where there is an urgent need to protect witnesses or local authority staff from an individual acting anti-socially or there is concern over how an individual will react when served with an application. A without notice application should not be sought routinely or because an applicant is not sufficiently prepared for a with notice injunction application (in the case of a without notice application the notification and consultation requirements are not required (*section 14*)).

Where an injunction application is made without notice in relation to someone over 18 then the High Court and County Court must do one of the following:

- Adjourn the proceedings and grant an interim injunction (see *Interim injunctions*).
- Adjourn the proceedings without granting an interim injunction. This may be where the application has merit but the court considers that it should be not be granted on a without notice basis.
- Dismiss the application.

(*Section 6, ASBCPA 2014*.)

## Interim injunctions

Where a court has adjourned the hearing of a with or without notice application under [section 1](#), the court can grant an interim injunction lasting until the final hearing of the application or until a further order is made if it considers it just to do so.

An interim injunction made at a without notice hearing cannot require a respondent to participate in particular activities (positive requirements) ([section 7\(3\)](#)).

## Special measures for vulnerable or intimidated witnesses

Chapter 1 of Part 2 of the *Youth Justice and Criminal Evidence Act 1999*, which deals with special measures directions in the case of vulnerable or intimidated witnesses, applies to injunction proceedings in the same way as it does to criminal proceedings (except in relation to those provisions that are only appropriate in criminal proceedings) ([section 16, ASBCPA 2014](#)).

## Evidence

At least one witness statement in support of an application for an injunction must be filed with the application (*CPR 65.43(2)(c)*). This should exhibit all relevant documents and include evidence showing that the relevant consultation steps have been taken. Further evidence may be filed at a later date. This statement will usually be from an officer of the applicant body, such as an anti-social behaviour officer, setting out the background of the case and the need for the injunction.

It may be helpful to include a schedule of incidents that lists when certain events have occurred. This will assist the court in putting together a timeline of what has happened as well as identifying the type of incidents that have occurred.

In cases involving anti-social behaviour it is likely that much of the evidence will be hearsay evidence, for example, because witnesses are concerned about identification and being subject to further anti-social behaviour. This evidence will generally appear in the anti-social behaviour officer's statement where residents have informed the officer that anti-social behaviour has taken place and they do not want to be identified or the information has been heard second-hand.

For hearsay evidence to be admissible in injunction proceedings, notice must be given ([section 2, Civil Evidence Act 1995](#)). The procedure at *CPR 33.2* should be followed.

However, those applying for injunctions relying on hearsay evidence should consider:

- The relative weight a court will attach to hearsay evidence compared to direct evidence from a witness.
- The potential for identifying witnesses even where they have chosen to remain anonymous, particularly where the anti-social behaviour itself has focused on a small group of people.

- The potential difficulties of bringing committal proceedings following an alleged breach of an injunction based solely on hearsay evidence, in the light of the individual's potential loss of liberty and the need to prove a breach to the criminal standard (see [Breach: adult offenders](#)).

### Court documents

The following documents should be completed by those applying for an injunction:

- [N16A: Application for injunction \(County Court\)](#).
- [N16\(1\): General form of injunction for interim application or originating application \(formal parts: see complete N16 for wording of operating clauses\)](#).
- Witness statements, statements of truth and notice of intention to rely on hearsay evidence (if this is the case).

Applications are made under the Part 8 procedure, even where there is likely to be a significant dispute of fact. Form N16A shall be treated as the Part 8 claim form (*CPR 65PD.1 at 1.1(1)*).

### Injunction prohibitions and requirements

An injunction can prohibit a respondent from acting anti-socially or require them to perform certain actions in order to deal with the cause of anti-social behaviour. For example, prohibiting them from entering a particular area or requiring them to attend an alcohol misuse course ([section 1\(4\)](#)).

An injunction must, as far as reasonably practicable, avoid any conflict with the respondent's education or work, or any other court order ([section 1\(5\)](#)). In addition, an applicant should also consider any caring responsibilities that the offender may have and whether they have a disability, and whether the particular requirements or prohibitions can therefore be complied with ([Reform of anti-social behaviour powers guidance](#)).

A court will not make an order in circumstances in which there is clear evidence that the respondent lacks the capacity to comply with its terms: this is sometimes referred to as "specific capacity" or "Wookey capacity" ([Wookey v Wookey \[1991\] Fam 121](#); [R \(Cooke\) v DPP \[2008\] EWHC 2703 \(Admin\)](#)) and is distinct from litigation capacity. For more information on capacity in civil proceedings, see [Practice note, Assessing mental capacity](#).

### Positive requirements

Where an injunction imposes positive requirements then it should set out who will be responsible for supervising compliance (this can be an individual or organisation, for example, a local authority, community mental health team or youth offending team).

The person (or organisation) responsible for supervising compliance must:

- Give evidence to the relevant court on the suitability and enforceability of the injunction requirement(s). If there are multiple requirements, the court will go on to consider the compatibility of these with each other.
- Make any necessary arrangements in relation to the requirements.

- Promote compliance with the requirements.
- Inform the person who applied for the injunction and the appropriate chief officer of police that the individual subject to the injunction has complied or failed to comply with it.

([Section 3, ASBCPA 2014](#).)

The respondent must keep in touch with their supervisor and notify them of any change of address.

The statutory guidance and ASBCPA 2014 do not prescribe who is responsible for funding any positive requirements, for example, the attendance of an anger management course. However, in the light of the fact that many of those subject to injunctions may be unable or unwilling to fund their own attendance, it is likely to fall on the applicant to resource this as part of their wider strategy for reducing anti-social behaviour.

### **Prohibitions**

It is likely that many prohibitions contained in civil injunctions will be drafted in a similar fashion to those under the previous anti-social behaviour regime. For example, prohibitions preventing the subject of the injunction from entering certain geographical areas or associating with particular individuals. For more information, see [Practice note, Drafting valid anti-social behaviour prohibitions](#).

### **Attaching a power of arrest to an injunction**

A court granting an injunction can attach a power of arrest to it where it considers that:

- The anti-social behaviour in which the respondent has engaged or threatens to engage consists of or includes the use or threatened use of violence against another person.
- There is a significant risk of harm to other persons from the respondent.

([Section 4](#)).

If an applicant wishes to apply to have a power of arrest attached to an injunction then it must submit written evidence in support of this, stating why there is high risk of harm to others if any of the injunction prohibitions or requirements are breached. However, a power of arrest cannot be attached to a positive requirement.

For more information on how the power of arrest is exercised in the event of breach, see [Exercising a power of arrest](#).

### **Power to exclude person from home in cases of violence or risk of harm**

An injunction can exclude a person over the age of 18 from their home if they have been engaging in anti-social behaviour ([section 13](#)). It is expected that this power of exclusion will be used rarely and its use will involve considerations under Article 8 of the European Convention on Human Rights and the issue of proportionality (see [Practice note, Article 8 of the ECHR: right to respect for private and family life](#)).

An injunction containing this power of exclusion must meet the following conditions:

- The court considers that the anti-social behaviour includes the use or threatened use of violence against other persons, or there is a significant risk of harm to other persons, from the respondent. Harm is defined in [section 20](#) of the ASBCPA 2014 and includes emotional and psychological harm.
- The injunction must have been applied for by a chief officer for police for the police area that the dwelling is located in, a local authority or by a social landlord (although note, in the case of a social landlord, exclusion can only relate to properties owned or managed by them). In the case of excluding private tenants or owner-occupiers, the police or relevant local authority should take the lead on exclusion and, where the individual is a renter, inform and consult their landlord ([Reform of anti-social behaviour powers guidance](#)).

(Section 13, ASBCPA 2014.)

Exclusion from the home is also available where an interim order is made at a hearing without notice, though such orders are particularly draconian and should be used sparingly.

Factors relevant to the discretion to exclude from the home include the impact on the respondent and any children or other dependents, the severity of the anti-social behaviour, the likelihood and consequences of recurrence, and the availability or otherwise of suitable alternative accommodation.

#### **Duration: adult offenders**

An injunction must specify how long it will take effect for or state that it will have effect until a further order is made ([section 1](#)). This allows a court to make an injunction that will take effect for an indefinite period.

A court is also able to state for how long any particular prohibitions or requirements outlined in the injunction will take effect (and this may be for a shorter period than the injunction itself) ([section 1\(7\)](#)).

For more information on the duration of injunctions in relation to under 18s, see [Injunctions: under 18s](#).

#### **Breach: adult offenders**

Wilful breach of an injunction by an adult offender may be considered to be contempt of court punishable by an unlimited fine or imprisonment for up to two years by the County Court ([Explanatory notes to the Anti-Social Behaviour, Crime and Policing Act 2014](#)).

Although breach is not a criminal offence, the criminal standard of proof ("beyond reasonable doubt") will be applied when proving breach of an injunction ([Reform of anti-social behaviour powers guidance](#)). Agencies can therefore make a choice over how they choose to enforce depending on the severity of the breach, for example, by choosing to issue a warning letter rather than immediately instituting committal proceedings.

Where the breach of an injunction involves the commission of a criminal offence, prosecution for the criminal offence does not preclude the commencement of committal proceedings (subject to it being in the public interest to bring both sets of proceedings), but the court should consider the totality of sentence across both sets of proceedings.

In social housing cases, one important consequence of a finding by a court that a defendant has breached a negative obligation of an injunction under [section 1](#) of the ASBCPA 2014 is that a mandatory ground for possession may arise ([section 84A, Housing Act 1985; Ground 7A, Part 1, Schedule 2, Housing Act 1988](#)). For this reason, social landlords may be less willing than under previous legislation to compromise injunction claims in exchange for an undertaking from the defendant in the terms of the injunction applied for. For more information on the interaction between possession proceedings and section 1 injunctions, see [Practice Note, Anti-social behaviour: recovery of possession on dwelling houses based on anti-social behaviour](#).

### Exercising a power of arrest

Where a power of arrest has been attached to an injunction then a constable will be able to arrest a respondent without a warrant, if they have reasonable cause to suspect that respondent has breached the terms of their injunction. In this case:

- The constable must inform the injunction applicant of the suspected breach.
- The person arrested must appear in front of a High Court, County Court judge or justice of the peace (depending on where the original injunction was granted) within 24 hours of the time of arrest (this does not include Sundays, Christmas day and Good Friday ([Reform of anti-social behaviour powers guidance](#))).
- Where the matter is not disposed of immediately then the respondent may be remanded on bail or in custody.

([Sections 9 and 11.](#))

The applicant may also apply for the issue of an arrest warrant where they think that the respondent is in breach of their injunction conditions, but the injunction does not currently have a power of arrest attached ([section 10](#)). In the case of an adult this application should be made to the County Court and in the case of an under 18 to a [magistrate](#). Where an application to issue an arrest warrant is made, a court will only grant a warrant where it has reasonable grounds for believing that the respondent is in breach of the terms of the injunction. In practice, where the purpose of the arrest is to deter further breaches rather than to effect punishment for a one-off breach, it may be wise to apply to vary the existing order to include a power of arrest.

### Injunctions: under 18s

An injunction can only be granted in respect of a person aged ten or over ([section 1, ASBCPA 2014](#)).

Any person applying for an injunction in relation to someone under the age of 18 must consult the local youth offending team (YOT) and also inform any other body or individual that it considers appropriate (for example, a mental health team) ([section 14](#)). This should also occur where an application is made to vary or discharge an injunction or following an adjournment in relation to a without notice injunction application (but not in the case of an injunction application made without notice). The obligation to consult a local YOT does not give it a power to veto an injunction application, although as YOTs will play a key role in ensuring compliance in the case of a young person, it is important that their views are listened to ([Reform of anti-social behaviour powers guidance](#)).



When making an injunction in relation to a young person there is no specific form for making an application but a written complaint under the *Magistrates' Court Act 1980* should be used (*Magistrates' Courts (Injunctions: Anti-Social Behaviour) Rules 2015 (SI 2015/423)*).

### **Duration: under 18s**

In the case of a young person under the age of 18, an injunction must specify how long it will last and this must be less than 12 months (*section 1(6)*). This can be contrasted with the case for over 18s where an injunction can be made lasting indefinitely (see *Duration: adult offenders*).

### **Breach: under 18s**

In the case of a young person under the age of 18, breach of a civil injunction will result in a supervision order (with a supervision, curfew or activity requirement) if a Youth Court is satisfied beyond reasonable doubt that the respondent had, without reasonable excuse, breached the injunction (*Paragraph 1, Schedule 2, ASBCPA 2014*).

A detention order can also be used where a respondent has breached a supervision order imposed following breach of an injunction and where the severity and extent of a particular breach merits it. A detention order should only last for a maximum of three months and can only be imposed on those between the ages of 14 and 17 (*Schedule 2*).

Following breach of an injunction by someone under the age of 18, a court can remand them in custody on medical grounds if it is satisfied that they are suffering from a mental disorder (based on medical evidence) and it would not be practical to get a medical report if they were to be granted bail (*Reform of anti-social behaviour powers guidance*).

### **Cases involving mixed age respondents**

In the case of multiple respondents where one or more is over the age of 18 and one or more is under 18, an applicant may apply for the application of the older respondent to be heard in the Youth Court as joint hearings. A court would be able to grant the application if it considers it to be in the interests of justice (*section 18*). However, any subsequent proceedings against a respondent over the age of 18 will take place in the County Court. For more information, see *Legal update, Two sets of rules on applying for injunctions in the Youth Court published*.

### **Publicising an injunction issued to a young person**

Section 49 of the Children and Young Persons Act 1933 (CYPA 1933) (restrictions on reports of proceedings in which children and young persons are concerned) does not apply to proceedings under Part 1 of the ASBCPA 2014. Therefore, relevant bodies are able to report on instances of when they have successfully applied for injunctions in the case of young people engaging in anti-social behaviour if they choose to do so. A decision to publicise must involve consideration of proportionality and the likely level of interference with the young person's right to privacy against the need to reassure victims and the wider community that anti-social behaviour is being dealt with and to enable breaches to be reported. When considering whether to publicise, each case should be considered individually (*Reform of anti-social behaviour powers guidance*).

However, section 39 of the CYPA 1933 still applies allowing a court to restrict the publication of certain information to protect the identity of that young person (*section 17, ASBCPA 2014*). In this case the police or local authority will be unable to publicise the injunction.

## Varying or discharging an injunction

An injunction may be varied or discharged on the application of:

- The person who applied for the original injunction.
- The respondent.

(*Section 8(1)*.)

An application to vary an injunction could include adding an additional prohibition or requirement to the injunction, extending or reducing the duration of a prohibition or attaching a power of arrest (see *Attaching a power of arrest to an injunction*).

If an application to vary or dismiss an injunction is dismissed, then the party who applied for the variation or dismissal is prevented from making any further applications to vary or discharge the injunction without the consent of the court and other party (*section 8(4)*).

## Appealing against the grant, refusal, variation or discharge of an injunction

The route of appeal against an injunction depends on the age of the respondent:

- In the case of a respondent under the age of 18, the route of appeal against an injunction granted by the Youth Court will be to the Crown Court (*section 15*).
- In the case of a respondent over the age of 18, the route of appeal against an injunction granted by the County Court will be to the High Court.

## Transitional and saving provisions: existing orders and injunctions dealing with anti-social behaviour

There are saving and transitional provisions which apply in relation to certain existing orders and injunctions which pre-date the ASBCPA 2014 (*section 21*) (see *a422529*).

The repeal or amendment of provisions concerning existing orders or injunctions dealing with anti-social behaviour will not apply to:

- An application made before the commencement day (that is, 23 March 2015) for an existing order.
- An existing order (whether made before or after that day) applied for before that day.
- Anything done in connection with such an application or order.
- An individual support order made before the commencement day or anything done in connection with such an order.

From 23 March 2015 (the date on which Part 1 of the ASBCPA 2014 came into force) an existing order dealing with anti-social behaviour cannot be varied to extend its duration or vary any of its provisions. However, five years from the date of commencement, any of the existing orders or injunctions which are still in force, will be automatically treated as injunctions ([section 21\(5\), ASBCPA 2014](#)).

For a discussion of the law concerning anti-social behaviour which predates the commencement of the ASBCPA 2014 but is relied on as part of a civil injunction, see [Legal update, Conduct evidencing an injunction for anti-social behaviour not limited by section 21\(7\) of the Anti-Social Behaviour, Crime and Policing Act 2014 \(High Court\)](#).

### Existing orders or injunctions dealing with anti-social behaviour: definition

Existing orders or injunctions refer to:

- An anti-social behaviour injunction under section 153A of the [Housing Act 1996](#).
- An injunction made under sections 153B, 153D(3) or (4) of the Housing Act 1996.
- An ASBO under section 1 or 1B of the [Crime and Disorder Act 1998](#).
- Individual support orders under the Crime and Disorder Act 1998.
- Intervention orders under the Crime and Disorder Act 1998.
- Drinking banning orders under the [Violent Crime Reduction Act 2006](#).

### When an injunction might be used: examples

Examples of when an injunction may be appropriate include:

- **Alcohol or drug dependency or misuse.** Applying for an injunction in this situation would enable an applicant to include a requirement in the injunction to try and assist the respondent to change their behaviour and seek support for their alcohol or drug misuse.
- **Bullying in schools.** Although schools are encouraged to continue to adopt their existing approach to dealing with bullying (that is, only approaching a local authority or the police where their own disciplinary framework has failed), applying for an injunction may be a useful last resort. In this case, an injunction could also include a provision prohibiting a perpetrator from associating with a victim outside of school hours or alternatively requiring them to attend bullying awareness training or counselling.
- **Irresponsible dog ownership.** An injunction could deal with an irresponsible dog owner, for example, by requiring them to attend dog training classes.
- **Vandalism.**
- **Noisy or abusive behaviour towards neighbours.**
- **Excluding an individual from a location where they have repeatedly been the cause of anti-social behaviour.** A case study set out in the government's fact sheet gives an example of this:

"An individual is always drunk and abusive and repeatedly visits the Accident and Emergency department of a local hospital demanding to be seen by doctors. He often threatens the staff and public when he is refused treatment.

NHS Protect, the body responsible for protecting NHS staff, property and resources against crime and disorder, decide to apply directly to the court for an injunction to stop the offender's ASB. The court agrees that the individual's behaviour is anti-social and an injunction is granted to provide immediate protection for staff, patients and members of the public.

The injunction prohibits the offender from visiting A&E without a legitimate reason and from causing ASB. It also includes a positive requirement to get the offender to deal with the underlying cause of his behaviour, namely misuse of alcohol, by attending a local alcohol awareness session."

*(Home Office: Fact sheet: Replacing the ASBO (Parts 1 and 2).)*

For an example of the application of the ASBCPA 2014 in anticipation of public disorder, and the relationship with the freedom of expression, see *Bedfordshire Police v Golding and another [2015] EWHC 1875 (QB)*.

---

END OF DOCUMENT