

The Future of Managing and Preventing Anti-Social Behaviour

BY JANE TALBOT AND EMMA KELLY

A look at the Crime and Policing Bill

1. The much-anticipated Crime and Policing Bill had its first reading in the House of Commons on 25 February 2025. What is it, and what does it mean for providers of Social Housing?
2. The crux of the proposed changes for landlords is the management and prevention of Anti-Social Behaviour with key changes to the current Injunction Order process and Closure Orders.

Respect Orders and Housing Injunctions

3. The Bill, as introduced to Parliament, is a not insignificant 332 pages, covering matters of Anti-Social Behaviour such as Offensive Weapons, Stalking and Sex Offences but also Exploitation and Cuckooing. The Bill looks to introduce Respect Orders, in a shake-up of the current Anti-Social Behaviour Injunction procedure. The Bill as currently drafted, reads:

"PART A1

RESPECT ORDERS

Respect orders

A1 Power to make respect orders

- (1) A court may make an order under this section ("a respect order") against a person aged 18 or over ("the respondent") if—
 - (a) the court is satisfied, on the balance of probabilities, that the respondent has engaged in or threatens to engage in anti-social behaviour, and
 - (b) the court considers it just and convenient to make the order for the purpose of preventing the respondent from engaging in anti-social behaviour.
- (2) A respect order may for the purpose of preventing the respondent from engaging in anti-social behaviour—
 - (a) prohibit the respondent from doing anything described in the order;
 - (b) require the respondent to do anything described in the order.
- (3) Prohibitions and requirements in a respect order must, so far as practicable, be such as to avoid—

- (a) any interference with the times, if any, at which the respondent normally works or attends any educational establishment;
 - (b) any conflict with the requirements of any other court order or injunction to which the respondent is subject.
 - (4) A respect order must—
 - (a) specify the period for which it has effect, or
 - (b) state that it has effect until further order.
 - (5) A respect order may specify periods for which particular prohibitions or requirements have effect.
 - (6) A respect order may be made only on the application of a relevant authority.
 - (7) An application for a respect order may be made to the High Court or the county court.
 - (8) A court may treat an application for a respect order as an application under section 1A (power to grant housing injunctions) for an injunction under that section.
 - (9) In this Part, “anti-social behaviour” means conduct that has caused, or is likely to cause, harassment, alarm or distress to any person.
4. What is a “relevant authority” includes Local Authorities and Housing Providers, and there is the stipulation that the behaviour must directly or indirectly relate to or affect its housing management functions, similar to s5(3) of the Antisocial Behaviour Crime and Policing Act 2014.
5. The Government reports that its aim with the Respect Order is to enhance and strengthen the powers available to the police, local authorities and other partners, to tackle anti-social behaviour. The Bill proposes to streamline the enforcement procedure and widen the availability of the power to seize vehicles being used for Anti-Social Behaviour
6. Significantly, the meaning of anti-social behaviour when considering Respect Orders does not include causing “*nuisance and annoyance*” which likely forms the basis of, or is included within, most current ASB injunctions. This was much debated in 2013 when it was proposed that the 2014 Act would also only refer to the higher, “*harassment, alarm and distress*” test. Landlords lobbied the House of Lords on the importance of the lower test. It will be interesting if similar arguments are run in relation to Respect Orders.
7. A breach of a Respect Order will be a criminal offence, like the former ASBO, which police can enforce by way of arrest. We suspect that the higher test will remain as a result of this. However, this enforcement method may assist housing providers from a financial perspective, although the success of them will rest with whether the police have sufficient resources available to enforce them.

8. A Respect Order can also contain positive requirements to “*compel perpetrators to take action to address the root cause of their behaviour.*” Yet to be subject to the intended pilot, it is unclear how far these positive requirements will extend. Applicants will still be able to seek an interim order and make an application on a without notice basis.
9. One key consideration is the proposed amendments to the definition of anti-social behaviour in the Anti-Social Behaviour Crime and Policing Act 2014 (“ASBCPA”) which will now provide for ‘Housing Injunctions’ which it appears the Court can make when seized with an application for a Respect Order without the need for a separate application:

2 Meaning of “anti-social behaviour”

(1) In this Part “anti-social behaviour” means—

- (a) conduct that has caused, or is likely to cause, harassment, alarm or distress to any person,
- (b) conduct capable of causing nuisance or annoyance to a person in relation to that person's occupation of residential premises, or
- (c) conduct capable of causing housing-related nuisance or annoyance to any person.

10. Applying the proposed amendments to this section it will become:

2 Meaning of “housing-related anti-social conduct”

(2) In this Part “housing-related anti-social conduct” means—

- (a) conduct capable of causing nuisance or annoyance to a person in relation to that person's occupation of residential premises, or
- (b) conduct capable of causing housing-related nuisance or annoyance to any person.

11. The eagle-eyed amongst you will notice that conduct capable of causing “*harassment, alarm or distress to any person*” has been removed and the overall definition appears more narrowly focussed on housing management functions. It is worth remembering that the ASBCPA has always had the requirement of the behaviour impacting the management functions and this, at present, is interpreted widely to include the Landlord's duty of care to other residents and the often incredibly time-consuming efforts to engage perpetrators of ASB.

12. Housing Injunctions therefore appear to be remaining in this narrower fashion, with the potential for a Power of Arrest and enforcement by way of committal application. The fact that the Court can treat an application for a Respect Order as an ASBCPA injunction application will be helpful when the behaviour is on the cusp of the two tests or spans both.
13. Breaches of Respect Orders will be dealt with in the Magistrates Court, either summarily by the Magistrates or Indictable offences by the Crown Court, with the differences in penalty depending on venue, but with scope for a fine or imprisonment to be imposed. We anticipate that the breaches will be prosecuted by the CPS, as ASBOs were.
14. The Bill also inserts a requirement to undertake a Risk Assessment before applying to obtain a Respect Order (to be inserted as a section 13A of the ASBCPA). The risk assessment is to include an assessment of:
 - (a) the risk of any person being caused nuisance or annoyance in relation to their occupation of residential premises by the respondent's conduct,
 - (b) (in relation to an application for a youth injunction), the risk of any person being caused harassment, alarm or distress by the respondent's conduct,
 - (c) any vulnerabilities of the respondent,
 - (d) any alternative means of preventing the respondent from engaging in relevant conduct, and
 - (e) such other matters as the person considers relevant.
15. Many Social Housing providers undertake a similar justification exercise as a matter of course, but now there will be a prescribed assessment, with guidance expected from the Secretary of State. More paperwork, which won't be happy reading for most, but the more immediate consequences of a breach require the Court to have consideration of all matters.
16. Another key change is that ASBCPA injunctions can be sought against youths aged 10-17 in the Civil Courts. This was another battle ground in 2013 with many landlords preferring youths (with the protections afforded by the processes already adopted in the family courts and the need for litigation friends) to be dealt with in the Civil Court's. Magistrates' Courts were thought to be uncertain how to deal with civil applications and the process, from personal experience, was slow and cumbersome.

Closure Orders

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17. An effective and often underused tool in the arsenal of a Local Authority or the Police is a Closure Order. Providing a quicker and more immediate period of respite for neighbours in the locality by closing, either fully or partially, the offending property. A full Closure Order can completely prevent attendance at the Property, albeit for a shorter period. The new Bill widens the scope for Closure Orders to include Regulated Providers or Social Housing, making the option more widely available for the more severe cases of repeat offending.
18. This comes, as it should, with a greater understanding in the Bill of “Cuckooing” and the creation of a separate offence for perpetrators taking advantage of the properties of vulnerable tenants.

Improved Powers

19. On a first reading of the key parts of this Bill, it is hoped that it encourages a more symbiotic approach by housing providers and the Police to be able to manage Anti-Social Behaviour more efficiently, and as it happens. As well as the above, the Bill seeks to introduce improved powers for Police and Local Authorities to deal with fly-tipping and seizing cars used for Anti-Social Behaviour, which will increase peace of mind in neighbourhoods affected. Further, penalties have been increased for other pre-existing mechanisms such as the Community Protection Notice and Public Spaces Protection Order (PSPO). It is likely envisaged that this will be more widely used as a deterrent in the infancy of ASB cases and to protect high risk areas and neighbourhoods.

Conclusion

20. The Bill has only had its first reading, and it remains to be seen what the future of it looks like, but overall, some much needed, positive improvements for managing anti-social behaviour in the housing sector.



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Law is correct as at 10 March 2025

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