



WHAT YOU NEED TO KNOW ABOUT THE NEW ASB INJUNCTION...

The ASB, Crime and Policing Bill 2014 received royal assent in March 2014. Most of the new powers came into force in October 2014. The new injunctions were delayed in order for changes to be made to enable minors to access legal aid provision – the injunctions will now come into force on 23rd March 2015. The new civil injunction replaces the previous Anti-Social Behaviour Injunction (ASBI).

So, what are the key attributes of the injunction?

A court may grant an injunction against a person aged 10 or over if two conditions are met:

- the first condition is that the court is satisfied, on the balance of probabilities, that the respondent has engaged or threatens to engage in anti-social behaviour
- the second condition is that the court considers it just and convenient to grant the injunction for the purpose of preventing the respondent from engaging in anti-social behaviour

ASB will be defined as:

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

The injunction:

- will be heard in a County Court for adults and the Youth Court for under 18's
- will prohibit the respondent from doing anything described in the injunction
- can require the respondent to do anything described in the injunction (positive requirements)

Power of arrest:

A court granting an injunction may attach a power of arrest to a prohibition or requirement of the injunction if the court thinks 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 other persons, or



- there is a significant risk of harm to other persons from the respondent

Applicants for the injunction:

- a local authority
- a housing provider
- the chief officer of police for a police area
- the chief constable of the British Transport Police Force
- Transport for London
- the Environment Agency
- the Natural Resources Body for Wales
- the Secretary of State exercising security management functions, or a Special Health Authority exercising security management functions on the direction of the Secretary of State, or
- the Welsh Ministers exercising security management functions, or a person or body exercising security management functions on the direction of the Welsh Ministers or under arrangements made between the Welsh Ministers and that person or body

The injunction will also include the power to exclude persons from the home in cases of violence or risk of harm regardless of tenure.

What might the challenges be?

Who will take the lead? We sometimes take it for granted that partnership working is embedded in how we manage ASB. However, this is not always the case, and there are still issues around information sharing, working in silos and establishing a lead agency. It might be that the injunction will encourage us all to communicate more effectively and share responsibility.

Who will pay? This is a key question, particularly in the current financial climate. Might this delay the process of applying for an injunction, as agencies might be reluctant to pay for it, when they think another agency should be footing the bill? It might be that nothing changes and that housing continues to use the injunction in the same way that they use the ASBI.

Who will monitor? Again, this relies on a collaborative approach between organisations.

How can the positive requirements be resourced? We are seeing many cuts to services in the public sector and third sector organisations due to a lack of funding. It is highly likely that in some cases, there may not be resources to seek positive requirements, such as for a perpetrator to attend an anger management course or an alcohol support group. Will a judge be reluctant to grant an order if there is not a positive requirement?

Our top five tips in preparing for these potential challenges...



1. Identify who your partners are and start speaking with them
2. Plan how your organisation will lead and communicate with partner agencies
3. Ensure that case management principles are followed to enable the use of the injunction
4. Think about joint training with partners to ensure consistent approaches
5. Be creative with 'positive requirements' – it's not all about money...

For more information on how CIH can support you visit our [ASB web page](#) or contact our ASB experts [Sarah Davis](#) or [Gez Kinsella](#)