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Department
for Environment
Food & Rural Affairs

Tackling irresponsible dog ownership

Draft practitioners' manual

October 2013

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Llywodraeth Cymru
Welsh Government

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<https://www.gov.uk/government/policies/protecting-animal-welfare/activity>

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PB 14038

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Anti-social behaviour: control and welfare of dogs

Part 1 – Introduction

Parts 1 – 6 of the Anti-social Behaviour, Crime and Policing Act 2014 introduce legislation to tackle anti-social behaviour in a flexible and responsive way. The Act follows a 2012 White Paper, *Putting Victims First: more effective responses to anti-social behaviour* (www.official-documents.gov.uk/document/cm83/8367/8367.pdf), with an increased emphasis on **local responses suited to individual problems**. For a wider understanding of the Act and the powers, please refer to the draft ASB guidance, available from <https://www.gov.uk/government/publications/anti-social-behaviour-crime-and-policing-bill-anti-social-behaviour>

Part 7 of the Act amends the Dangerous Dogs Act 1991. The amendments extend the offence of a dangerously out of control dog to all places, including private property where the dog has the right to be and make explicit that an attack on an assistance dog is an aggravated offence. Further information on these amendments is provided in Annex D.

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This manual is for officers in England and Wales.

Purpose of this manual

This document is written to assist front line staff in local authorities (including those authorised to act on their behalf, eg approved social landlords) and the police in dealing with irresponsible dog ownership¹, which is brought to their attention, using the powers contained within the Act². The aim is to increase responsible dog ownership and reduce the number of dog bites and other incidents involving dogs through early engagement, which prevents problems becoming serious.

The manual explains the law and assists each agency by defining their responsibilities and identifying the areas where a joint approach might be advisable. It has been prepared by Defra and Home Office in partnership with the Welsh Government, the National Policing lead on Dangerous Dogs, and representatives of local authorities from England and Wales. It has drawn on the 2009 Defra Guidance to Enforcers on dealing with dogs that

¹ There are no hard and fast definitions of “irresponsible dog ownership” but in general terms, it is understood to be where someone is repetitively unaware, or inconsiderate of the detrimental effect their dog’s behaviour, in perception or in reality, has on other people.

² From here on in, any person with the authority to issue one of the powers is referred as an authorised officer or officer. The specific sections on each power detail which persons are authorised by the Act.

present a danger to the public and the guidance on Dog Control Orders 2006, which it also replaces.

This guidance has been written using agreed inter-Government principles:

- **Working in partnership** – the Government's commitment to working closely with everyone involved in animal health and welfare.
- **Understanding and accepting roles and responsibilities** – ensuring that animal owners make a real difference to the health and welfare of their animals.
- **Prevention is better than cure** – it is essential that all owners of animals have the necessary skills to care for their animals.
- **Ensuring effective delivery and enforcement** – strategic objectives and priorities including appropriate tools for delivery.
- **Understanding the costs and benefits** – in relation to dogs this could mean neutering, training, microchipping and veterinary advice

Status

The manual is designed to improve understanding of the Act and to assist practitioners as they plan for introduction and implementation of the measures within the Act. It provides practical pointers when using the measures for cases involving dogs and should be the first point of call for enforcers. The manual is not intended to provide a definitive interpretation of the Act as ultimately, this is a matter for the courts.

The manual aims to complement the Act and should be read alongside the legislation. The Act and Explanatory Notes for the Act can be viewed by accessing the links provided:

- www.publications.parliament.uk/pa/bills/cbill/2013-2014/0093/14093.pdf
- www.publications.parliament.uk/pa/bills/cbill/2013-2014/0007/en/14007en.htm

Flowchart placeholder– to be completed

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Part 2 - Non-statutory measures: “Prevention is better than cure”

Educational campaigns

As many practitioners will be aware, a proactive approach to addressing irresponsible dog ownership can lead to considerable benefits: reduced costs for, local authorities in handling of stray dogs, police, councils and housing associations in investigating nuisance reports, the NHS in treating dog bites, and the court system in processing prosecutions for the most serious offences

Many local authorities and police forces have developed specific projects that aim to increase local residents' understanding about dogs and nip potential problems in the bud through community engagement initiatives. These can include providing information to local dog owners, outreach work in schools educating children and teenagers about appropriate behaviour around dogs and offering free services, such as microchipping and neutering, to dog owners.

Where there are significant problems related to dog ownership, authorities can consider such initiatives. Experience shows it is useful to liaise with local animal welfare and third sector organisations, many of whom also run educational projects and offer discounted or free services that will improve the welfare of dogs. The reach of such projects can be greatly increased by sharing information and resources with other interested parties. Some organisations may also be able to provide additional information and training for officers.

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Education: Staffordshire Moorlands Council

SMDC have a member of staff who completed Blue Cross education speaker training so that the council could provide a wider approach to the issue of dog fouling. When the council receives complaints in an area one of their actions is to offer an educational visit to the local school and talk to children about responsible ownership.

This approach has since been extended to High Peak Council.

Education: Wandsworth Borough Council

Wandsworth runs a number of educational programmes including a touring roadshow promoting responsible dog ownership, school visits and a work experience programme.

The council delivers three different talks aimed at shaping students' attitudes and behaviours as tomorrow's dog owners, visiting an average of 20 primary schools a year. During two week work experience placements, students discover the impact of irresponsible dog ownership. Placements are generally for year 10 (and occasionally mature students) and this year the council is accommodating a college student for one day a week, over nine months.

The benefits of this programme are strengthened ties with the community, education of a small number of pupils who will go back to their schools/colleges and act as ambassadors for the service and promote further consideration amongst their peers.

Similarly, engagement with young children about safety around dogs and responsible dog ownership offers considerable benefits by increasing awareness and reducing the risks to children. It informs the pet owners of the future, creating messengers to influence adults and other children at home. One such joint project was undertaken in Manchester. See Annex C *Examples of Good Practice* for further information.

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Early intervention using non-statutory measures

Before issuing a formal notice, officers should consider whether it is appropriate to make use of informal measures such as warning letters, meetings and in some cases, Acceptable Behaviour Contracts (ABCs). Research has shown that 76%³ of incidents involving anti-social behaviour were resolved through early intervention. Local officers on the ground in possession of the full details of a specific case will be best placed to judge the merits of using non-statutory measures. Cases may include instances where the behaviour is caused by a simple lack of dog training and control, it may be the first incident involving the dog, and there may be reasonable engagement from the dog owner.

Case Study - The benefits of first-incident engagement: London Borough of Sutton

Following a fatal dog attack in 2010, the London Borough of Sutton and the Metropolitan police reassessed the processes in place for dog incidents. The LEAD initiative (Local Environmental Awareness on Dogs) introduced new protocols for all dog-related incidents.

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In all cases where a dog owner or keeper comes to the attention of the police or the local authority, contact is made, regardless of whether a statutory offence has been committed. The police will send a tailored letter addressing the issue. Where the owner/keeper lives in social housing, a copy is also sent to the housing provider who, through agreements with the police, will follow up within 7 working days. The letter is accompanied by a LEAD pack, which includes information on the breed of their dog, the Good Citizen Guide from the Kennel Club, literature from the RSPCA and information on socialisation, training and park etiquette etc.

All contact cases are recorded by the police. This informs intelligence for other officers and provides a case file for any future incidents, allowing officers to easily build a case for any necessary applications, such as a Dog Control Order under section 2 of the Dogs Act 1871, based on evidence. All information is also passed onto housing providers to ensure tenancy agreements are met.

Please see page 7 and Annex C for example intervention letters.



³ Housemark, ASB benchmarking survey 2009/10

Example: London Borough of Sutton - Early engagement letter to individual with social landlord. A similar letter exists for privately

London Borough of Sutton

Chief Executive's Group

Warren Shadbolt, Exec Head of Community Safety & Youth Engagement



ZT – Sutton Police Station

To the owner of

Anti-Social Behaviour Unit
Sutton Police Station,
6 Catchallton Road
Sutton
Surrey
SM1 4RF

Telephone: 0208-649-0660
Date:

Dear *(Name of Owner of Dog)*

With a RSL

The Safer Sutton Partnership is targeting all forms of Anti-Social Behaviour. One of its objectives is to work with dog owners to try to get them to understand the full range of their responsibilities to their pet and the wider community.

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With the above in mind, I would like to bring to your attention an incident that happened with (name and breed) on, (date, time) at (location).

Please note that as we work in partnership with a number of agencies, including Registered Social Landlords. This information has therefore been shared with _____. You may or may not be aware that as you live in social housing the actions of your dog could have implications in regards to your tenancy. As part of this process, _____ will be contacting you within the next seven working days.

If such behaviour continues, it may eventually result in you being invited to sign an acceptable behaviour contract. The outcome of such action will mean the behaviour of your dog being closely monitored by the local Safer Neighbourhoods Team.

If you wish to discuss any areas of concern, please contact the unit on the number quoted above.

Yours sincerely,

Anti-Social Behaviour Unit



Working together for a safer Sutton



Chief Executive
Matt Baker

Acceptable Behaviour Contracts

Acceptable Behaviour Contracts (ABCs) are used by local authorities, the police and social landlords to reduce anti-social behaviour. ABCs can be used to nip issues in the bud and avoid the need for more formal measures. An ABC is a non-binding, non-statutory agreement allowing authorities to engage with an individual about their inappropriate behaviour by initiating a dialogue and offering appropriate advice, as well as insight into the consequences of the individual's actions. The ABC can also require a number of conditions of the individual. Although breach is not an offence in itself, any breach can be used as evidence for further legal action eg under the new powers, a Community Protection Notice (CPN) or an Injunction to Prevent Nuisance and Annoyance (IPNA) may be appropriate or a control order under section 2 of the Dogs Act 1871.

Some agencies have developed local initiatives to address irresponsible dog ownership, which include ABCs, potentially rebranded, as a part of the tools at their disposal. ABCs can be used in cases where the behaviour could escalate into more serious incidents but does not currently meet the threshold for a statutory thresholds or where an officer does not believe a statutory notice is appropriate, for instance in a first offence situation or where the owner/keeper of the dog is willing to work with the appropriate authority.

Case Study – ABCs: Eastleigh Council and Hampshire Constabulary

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The local council and police collaborated to modify Acceptable Behaviour Contracts into Dog Behaviour Contracts, which were more readily identifiable to members of the public. Eastleigh Council always involves the police at the earliest opportunity and the contracts are branded with both partner's logos adding weight to the process.

The informal nature of the contract reassures residents as there is a reduced risk of a prosecution of their neighbour or a dog being put down, whilst also addressing the behaviour. Dog owners also prefer the contracts as the threat of more formal action is temporarily removed, facilitating better engagement. Officers ensure that any original offence is part of the contract permitting evidence use as necessary.

The Council currently has 15 dog behaviour contracts in place, all of which have met the conditions set out and removed the need for formal action and improved dog welfare in the process.

Example: Eastleigh Borough Council and Hampshire Constabulary Acceptable Behaviour Contract



DOG BEHAVIOUR CONTRACT

This contract is made on ***** until (specify either a date or the death of the dog)

Between Hampshire Constabulary and ******, the owner/keeper of ***** (specify name, breed and microchip number if applicable).

Address:

In respect of the following occurrence(s), (specify) ***** and in respect of the probable dangerous nature of ***** (dog) behaviour, I hereby agree the following in respect of future conduct (specify conditions agreed, examples given below).

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- The said dog will always be kept on an appropriate lead when being walked OR in a public place.
- The said dog will be muzzled with an appropriate muzzle at all times when in a public place.
- The said dog will never be taken out other than in the presence of an appropriate person who has full control of the dog.
- The said dog will be micro-chipped and registered as such.
- The said dog will not be bred from in any circumstances.
- The said dog will be neutered.
- The said dog will not be left alone with children at any time.

Further the owner(s) of ***** enter into a commitment with the Police not to allow ***** to act in a manner that causes or is likely to cause harassment, alarm or distress to one or more persons not in the same household or commit an act of aggression against any person or animal.

Breach: If ***** does anything which has been agreed it will not do under this contract and the police consider that the act amounts to anti-social behaviour or an act of aggression to another person or animal, the following courses of action may be taken:

1. The police will make an application to the Magistrates Court for conditions to be placed on the dog, or for a Destruction Order for the dog.
2. Proceedings will be taken under the Dangerous Dog Act 1991 in appropriate circumstances.

DO NOT SIGN THIS DOCUMENT IF YOU DO NOT AGREE TO
THIS UNDERTAKING

DECLARATION

I confirm that I understand the meaning of this contract and that the consequences of breach of the contract have been explained to me.

PRINTED NAME

SIGNATURE

DATE

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POLICE OFFICER

PRINTED NAME

SIGNATURE

DATE

PARTNER OFFICIAL

PRINTED NAME

SIGNATURE

DATE

Agency Reference Number:

Example: Sutton LEAD initiative Acceptable Behaviour Contract

<p>BREACH if does anything which he has agreed not to do under this contract, which the Council and the police consider to amount to anti-social behaviour, the following courses of action may be taken:</p> <ol style="list-style-type: none">1. The Council and/or Police will make an application to the Magistrates' Court for an Anti-Social Behaviour Order to prohibit him from acting in a manner likely to cause harassment, alarm or distress to one or more persons not of the same household.2. The Council will pursue an injunction and/or initiate possession proceedings in the County Court to ensure compliance with the tenancy agreement.		<p>FURTHER.....agrees that:</p> <ol style="list-style-type: none">1. Where an Anti-Social Behaviour Order is made by the court and breached he will be liable on conviction to a term of imprisonment not exceeding five years, or to a fine, or both.2. Where a Possession Order is granted by the court, this could lead to the eviction of the tenant and his/her household.	<p>DECLARATION</p> <p>I confirm that I understand the meaning of this contract and that the consequences of breaching the contract have been explained to me.</p> <p>SIGNED: DATE:</p>	<p>WITNESSED</p> <p>SIGNED: DATE:</p> <p>POLICE OFFICER</p> <p>SIGNED: DATE:</p> <p>HOUSING OFFICER</p> <p>SIGNED: DATE:</p> <p>OTHER (please state title)</p>
 	<p>ACCEPTABLE BEHAVIOUR CONTRACT</p> 	<p>THIS CONTRACT is made on (date).....</p> <p>BETWEEN London Borough of Sutton Council, Safer Neighbourhoods Team and Sutton Police.(registered social landlord)</p> <p>AND</p> <p>NAME: D.O.B.: ADDRESS:</p> <p>AGREES the following in respect of future conduct.</p> <p>1. 2. 3. 4.</p>	<p>FURTHER.....enters into a commitment with the Council, and the Police not to act in a manner that causes or is likely to cause harassment, alarm or distress to one or more persons not in the same household.</p>	

For further examples of ABCs, please see Annex C *Examples of Good Practice*

Part 3 – Overview of the provisions of the Act

The purpose of this section is to highlight how the specific provisions in parts 1 to 4 of the Act can be used to address and prevent anti-social behaviour with dogs, whether intentional or not, and as a direct consequence reduce incidents of dangerous and out of control dogs by encouraging more responsible dog ownership and better dog welfare.

Without early intervention, there is an increased risk of problems escalating and higher potential for dog bites, some of which in recent years have resulted in fatalities⁴. Officers are reminded that the new powers are not a replacement for situations that meet the necessary thresholds for a complaint under section 2 of the Dogs Act 1871 or section 3 of the Dangerous Dogs Act 1991.

It is inevitable that some examples of anti-social behaviour with dogs may overlap with cases under the Dangerous Dogs Act 1991 or where the Dogs Act 1871 has been used. However, there are also cases which have not been taken forward by the Crown Prosecution Service (CPS) due to lack of evidence or failing to meet the public interest test. Using these new measures, action can be taken in order to address the cause of a problem before a more serious incident occurs and so help protect public safety.

A high level of multi-agency working may be necessary in order to maximise the potential benefit of the powers. Liaison between all authorities can aid enforcement of notices issued and alert key officers to issues. Whilst responsibility for different aspects of dog control is split between authorities, nominating a lead agency may help reduce duplication, avoid some cases falling through the gaps and enable better communication and records as information is held by one of the key partners. For more information, see Partnership Working on page 45.

Officers should be aware that the Anti-social Behaviour, Crime and Policing Act also introduced two new powers; the Closure Notice and the Dispersal Power, which are not detailed in this manual. These powers are unlikely to be used in situations concerning dogs. Detailed information on these provisions may be found in the general guidance available on the link below. The Community Trigger, also introduced in this Act requires authorities to review anti-social behaviour cases that meet a locally determined threshold. A brief overview is provided in Annex D and detailed information is in the general guidance.

*For a more detailed understanding of each section of the legislation, refer to the general guidance notes detailing the use of each power available from
<https://www.gov.uk/government/publications/anti-social-behaviour-crime-and-policing-bill-anti-social-behaviour>*

⁴ 16 deaths as a result of dog bites since 2005 in England and Wales.

Community Protection Notice

Summary of the Power

Community Protection Notices (CPNs) are a low level statutory notice that can require an individual to stop and address the cause of their anti-social behaviour.

The notices can be served by local authority officers, police officers and, if designated, registered social landlords and community support officers (PCSOs).

Community Protection Notices provide a statutory tool to tackle irresponsible dog ownership. A CPN can be used in cases where an Acceptable Behaviour Contract has not worked or in instances where the threshold is met and a statutory notice is more appropriate. CPNs can address behaviour that has a negative effect on anyone in the community. For example, in cases of dogs out of control in a park, alarming visitors to the home, or even a dog that strays and causes damage. The quick intervention process allows early engagement with individuals to improve their understanding of responsible dog ownership and the training and welfare requirements of their dog, thereby improving the behaviour of both the owner and the dog.

There are occasions when it is not possible to reach a voluntary agreement with an individual for an ABC, or where despite the best actions of the officers, ABCs are breached. In some areas, officers will continue to seek informal and pre-laws or applications under the Dogs Act 1871 or other relevant legislation. CPNs provide the low level formal power for tackling dog problems that do not meet higher thresholds, but which pose concern for local residents and the authorities, such as irresponsible ownership.

The test for a CPN

Under section 40 (1), an authorised person may issue a Community Protection Notice to an individual aged 16 or over, or a body, if satisfied on reasonable grounds that-

- The conduct of the individual is having a detrimental effect, of a persistent or continuing nature, on the quality of life of those in the locality, and
- The conduct is unreasonable

Example 1: CPN Test

In a privately owned apartment block, the owner of three dogs exercises them in the private gardens by allowing them to run loose. On many occasions, the owner has returned to his apartment and left the dogs in the gardens. This has resulted in damage to the flower beds and benches, whilst the owner has failed to make good the damage or clear up after the dogs. The behaviour of the owner of the dogs has detrimentally affected the lives of other residents of the apartment block. This could be demonstrated through photographic evidence and witness statements.

Example 2: CPN Test

During their round, a postal worker regularly has to face the unpredictability of dogs at one address. On previous occasions the dogs have chased the worker off the property and caused alarm by growling and attempting to bite when the worker has been posting letters through the door. The police have investigated but do not believe it meets the DDA 1991 section 3 threshold. Such a case meets the CPN threshold by having a detrimental effect on the quality of the postal worker's life during the course of their work. Reports from the postal worker of the persistent nature of the behaviour can be corroborated by records or alternatively by neighbours. Failure to heed the written notice warning of a potential CPN serving, can also serve as evidence of a persistent behaviour.

Example 3: CPN Test

Whilst in the park, a local authority officer notices that a dog appears to be on its own running loose. The dog has run at a group of young children before chasing other dogs being walked on leads. An owner eventually appears but does not attempt to bring their dog under control. In this situation the CPN threshold has been met through the unreasonable action of the owner not ensuring their dog is under control. It should be noted that the behaviour did not meet the non-aggravated threshold for a section 3 DDA 1991 offence. Should there have been a reasonable fear of injury, this may have applied.

As this is the first occasion an officer has witnessed the dog being out of control, it may be more appropriate to speak to the owner and discuss the problem. If there is little or no engagement, the officer must issue a written warning, detailing that the owner must bring the dog under control or a CPN will be issued. Failure to adhere to the written notice is evidence of the continuing nature of the behaviour by the individual in order to meet the CPN threshold. This may or may not be built upon by witness statements that detail other occasions where the owner and dog have behaved similarly. However, breach of the written warning alone is sufficient evidence to meet the 'continuing' or 'persistent' test.

Written warning

Under section 40 (6), an authorised person **must** issue a written warning to the individual or body before issuing a CPN. This check is in place for a number of reasons. It ensures that suitable evidence can be provided to meet the threshold test of persistent or continuing behaviour. It also acts as a safeguard against potential criticisms that legislation is being made by individual officers. The written warning may be a separate tear off form for cases that require a quick response. Alternatively, a written warning could be included

in correspondence to the individual or in an Acceptable Behaviour Contract, which makes clear that breach will result in the issuing of a CPN.

For otherwise responsible dog owners, it also provides a means to discuss issues with owners first and provide them with the opportunity to remedy their behaviour, before resorting to statutory measures, which could potentially alienate individuals from engaging with authorities. An authorised officer should take the time to communicate their concerns to the person responsible for the dog, before enforcing legislation.

Enough time must be allowed to correct the behaviour before a CPN is issued. The reasonable time is at the discretion of the officer and would be dependent on the circumstances.

Example: Reasonable time

Reasonable time for bringing a dog under control by putting it on a lead in a park may be five or ten minutes, for example, whereas fixing a fence through which a dog escapes into a neighbour's garden may be seven days, where there are no other welfare concerns. In such a situation the warning might require the dog to be kept under control whilst the fence is being fixed. Officers should consider the need to access advice from a suitably trained person. Dog Legislation Officers/ Police Dog Unity duty supervisor, as well as the Animal Behaviour Training Council (ABTC), National Dog Wardens Association (NDWA), Kennel Club Accreditation scheme for Instructors (KCAI) amongst others can all signpost to and/or provide appropriate advice.

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Community Protection Notice – Written Warning

I am now serving you with a final warning. This is because I believe that your behaviour is having a detrimental effect on the quality of life of those in the locality. I believe this behaviour to be unreasonable. As a result of this, if you do not comply with the request below, you may be issued with a Community Protection Notice.

You are requested to: *attach a letter guard to your front door by 5pm on 6th July.*

If you fail to comply with the requirements included in a Community Protection Notice, this is an offence under section 45 of the Anti-social Behaviour, Crime and Policing Bill [Act 2014]. This could result in a fixed penalty notice of up to £100 or prosecution resulting in a fine of up to £2,500 (£20,000 in the case of a body) and a criminal record.

Officer signature: P Smith

Authorising body: New Town Council

Date: 24 June

Working with other agencies

Under section 40 (7), officers should inform any individual or body they think appropriate of the impending notice, before it is served. This may include, but is not limited to, landlords and housing providers and other enforcement agencies such as the police or local authority who have not issued the notice, which may aid in enforcement. It should also include any individual who reported the behaviour so they are aware of action taken and may include local animal welfare organisations that may be able to offer additional support, if appropriate.

Example: Multi-agency working

Liaising with other agencies is all the more important for enforcing requirements related to dogs and ensuring preventative action is taken. Many organisations may come into contact with an individual as a result of their dog, including local authorities, police, neighbourhood safety teams, and housing associations and bodies.

Wandsworth Borough Council regularly meets with a SPOC (Single Point of Contact) at the Metropolitan Police to discuss any emerging dog issues. Similar discussions are held with all the Safer Neighbourhoods Teams and the Safer Parks Teams of the Met police and the internal Community Safety division. Such relationships are further enforced through joint patrols by the police and the local authority.

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Wandsworth has also previously worked with the following agencies, all of whom could be considered when informing other agencies of a notice:

- Youth Intervention Team
- Housing associations and RSLs
- Children's social services
- Drug intervention team
- District/community nurses
- Most major animal welfare charities
- Housemark
- LGA
- Corporation of London
- Youth Offending Team
- Adult social services
- Mental health team
- Gangs team
- Social workers
- APSE
- London Councils
- Mayor for London's office

For further information on working with other agencies, see Partnership Working on page 45

Format of a CPN

There is not a prescribed form for when issuing CPNs allowing authorities to adapt the CPN as necessary. However, authorities should include information on the behaviour that is having a detrimental effect and that it is considered unreasonable, along with details of the written warning (when it was served, date by which it had to be complied with). Additional information such as potential sanctions for breach of the notice, the individual's and issuing officers' details and the appeals process should also be included.

Multi-ownership / Unidentifiable owner

Notices must be served on the individual or body causing the anti-social behaviour. This may be the dog owner or the person in charge of the dog at that time. On occasion it may be necessary to serve a notice on the owner and the person in charge, if, for example, the owner is leaving the dog in the care of someone whom is not a fit and proper person, such as one who cannot control the dog(s).

In cases of multi-ownership or where one clear owner cannot be identified, officers should, where appropriate, issue a notice to anyone who has acted anti-socially with the dog and met the threshold for the Community Protection Notice. This could result in multiple notices being issued for behaviour with the same dog. Denying ownership of a dog is not a defence in rejecting the application of the Community Protection Notice. If the dog is microchipped, it may also be worth checking and updating details.

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Where specific conditions have been applied to the dog, for instance microchipping or walking on a lead, and a single owner has not been identified, officers should consider making it a condition of the notice that officers are notified of any transfer, gifting or sale of the dog. It may also be useful to make microchipping a requirement in order to aid in later identification of the same dog. In any event, microchipping will be compulsory from April 2016 in England and from March 2015 in Wales (see Annex B, *Examples of inclusions, for further details about microchipping*).

Example: How to tackle multi-ownership with a CPN

A dog may be used by several gang members or individuals within a group. These individuals will not own the dog, but will take control of the dog at specific times when they may be involved in acts of intimidation or criminal / anti-social behaviour. The dogs will then be handed back to, and retained by, individuals that they consider less likely to be stopped or searched by police, such as young males or females.

CPNs issued to members of a group and a specific dog would assist in preventing individuals avoiding accountability when a dog is being used by a number of individuals in an irresponsible or criminal manner. This may be evidenced by noting the full details of the dog including microchip number and photographic image if practicable.

Irresponsible behaviour of a minor (under 16)

Community Protection Notices cannot be served on anyone under the age of 16; however individuals under the age of 16 can own a pet⁵. Where a minor has acted anti-socially with their dog, officers should first consider whether it is appropriate to issue an Acceptable Behaviour Contract. These can be particularly successful where there is parental/guardian buy-in. Where it is not appropriate, it may be suitable to issue a Community Protection Notice to the parent or guardian of the individual. Community Protection Notices can be issued to anyone who can reasonably be expected to affect the behaviour. A parent/guardian could be expected to ensure the behaviour is stopped and the welfare of the dog is considered. Where there are welfare concerns, appropriate advice needs to be given - see partnership working for more information. Welfare concerns regarding the animal are the responsibility of the parent/guardian. In such cases, it may be necessary to serve a section 10 improvement notice under the Animal Welfare Act (AWA) 2006 and officers should contact those authorised under the Act or the RSPCA who are experienced in using the AWA 2006.

Inclusions in a notice

Under section 40 (3), a Notice can require the served person or body to

- i) stop doing something
- ii) do specified things
- iii) take reasonable steps to achieve specified results

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Anything included in the notice must prevent or reduce the detrimental effect of the behaviour identified in the notice. Under section 40(4), requirements must be reasonable. This flexibility allows authorised officers to use the most relevant action based on the specifics of the case and is particularly positive when considering dog behaviour and dog owners. An example of possible requirements is provided in Annex B, *Examples of inclusions*. Under section 40(9), authorised officers may include specific times by which the individual or body served with the notice must complete the specified actions or have taken the reasonable steps to achieve specific outcome included in the notice.

Prohibitions and requirements

It may be appropriate in some instances to prohibit a dog owner from doing certain things. Detailed information is included in Annex B on example requirements for all notices. Prohibitions could include, but are not limited to:

- Prohibiting dog and owner from entering certain areas – perhaps near a school or designated (often open-plan) children's play areas

⁵ It should be noted that for the purposes of the Animal Welfare Act 2006, a person shall be treated as responsible for any animal for which a person under the age of 16 years of whom he has actual care and control is responsible.

- Not allowing a dog to be exercised in certain areas at certain times eg immediately before schools start and immediately after schools finish for the day
- Prohibiting certain types of people from having charge of the dog eg it may not be appropriate for a small child to take charge of a large dog

It is most likely that in order to change the behaviour of an individual and potentially the behaviour of a dog, it will be necessary to make requirements of the individual or organisation. Requirements could include, but are not limited to;

- Keeping the dog on lead in certain areas (eg built up areas, some park areas)
- Muzzling the dog at certain times (eg near children / other dogs)
- Neutering the dog
- Microchipping the dog (microchipping is soon to be compulsory, see Annex B)
- Attending dog training classes, or seeking advice on behavioural modification and/or management
- Fixing fences and securing their property to prevent dogs straying and other dogs accessing property
- Installing a letter cage to protect postal workers delivering post
- Cleaning kennels that contain dogs and disposing of the dog related waste, where statutory nuisance thresholds are not met

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When issuing a CPN with a training attendance requirement, officers should avoid allowing individuals to arrange their own training. Officers can obtain advice about suitable courses and trainers from the Animal Behaviour Training Council (ABTC) or the Kennel Club Accredited Instructor scheme (KCACI), amongst others.

On occasion, it may help for a CPN to require an individual or body to take reasonable steps to achieve a specified outcome, rather than to specify things not to be done. For example this might be to take reasonable steps to reduce noise from a dog breeding or boarding establishment, allowing the body to choose how they should address this, provided the welfare of the animal(s) is fully considered.

The notices could provide advice on how the body or individual may choose to improve the behaviour, or information on organisations they may contact in order to help or give advice. For instance, in the example above, the owner of the establishment may take the necessary steps to reduce the noise, which has an adverse and unacceptable impact on the welfare of the dog(s). Where an officer is not in the position to offer advice, the officer may signpost in the CPN organisations that could help, such as the Kennel Club or local welfare organisations in addition to qualified behavioural experts in the area.

For further example requirements, see Annex B.

Seeking advice:

Any notice served in relation to dogs must be issued with consideration of safeguarding the dog's welfare, whilst balancing the duty to respond to public concerns and uphold public safety. Conditions should not be imposed that have a significantly detrimental impact on the welfare of the dog and the five needs outlined within the Animal Welfare Act 2006 (see Annex D *Dog Control Legislation*) must be met.

Where authorised officers include requirements that will impact on the dog, such as muzzling, keeping on a lead, neutering or behavioural based problems, rather than practical actions for the owner such as repairing fencing etc. those officers should consult someone experienced in dog welfare issues. Such advice can be accessed through Dog Legislation Officers and local authority officers such as Dog Wardens ABTC registered members and KCAL members (see '*Partnership Working*' for more information on page 45).

Reasonableness of requirements:

When including requirements within a notice, officers should be aware of the costs and burdens for the individual and their likely ability to meet these. Unreasonable requirements are grounds for appeal of a notice and would not constitute a breach. It is worth noting that a number of animal welfare organisations provide free or discounted services for low income pet owners which could be used.

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Example – bearing the cost:

The London Borough of Islington provides a stray dog service for Islington, the London Borough of Barnet and London Borough of Camden, collecting dogs 24 hours a day 365 days a year. The council currently does not charge a release fee where the owner allows the dog to be microchipped when it first strays. The dog will also be released for free on the next occasion that it strays if it has been microchipped. This approach allows the local authority to address the cause of the problem and prevent it from happening again, rather than issuing owners with punitive fees.

Similarly, when requiring individuals to undertake training, officers should be confident that there is dog training available locally, of a good standard, and at a reasonable cost for the individual. Organisations such as the Kennel Club and the ABTC can provide information on reasonable costs and whether there are discounted services available for those on low incomes. Local branches of animal welfare organisations should be able to provide officers with a clearer picture on what training is available or officers can consult the Kennel Club or the ABTC. See '*Educating the dog owner and the dog*' in Annex B for more information.

Appeal of a CPN

Under section 43, those served with a notice may appeal to a magistrates' court against the notice if the behaviour specified in the notice:

- Did not take place

- Has not had a detrimental effect on the quality of life of those in the locality
- Has not been of a persistent or continuing nature
- Is not unreasonable
- Is conduct that the person cannot reasonably be expected to control or affect

And / or

- Any of the requirements in the notice, or any of the periods within which or times by which they are to be complied with, are unreasonable
- There is a material defect or error in, or in connection with, the notice
- The notice was issued to the wrong person

Requirements that have an adverse effect on the welfare of the dog may be considered an unreasonable requirement, which would constitute grounds for appeal. Making requirements of the owner allows the cause of the behaviour to be addressed and any requirements issued to address anti-social behaviour with dogs should similarly address causes, whilst acknowledging that the focus is on public safety.

Appeals must be made within 21 days of the individual or body being issued with the notice. Only prohibitions remain in effect during the appeal process eg Individual A cannot take his dog onto the Common at the weekend between the hours of 10-4. The court can quash the notice, modify the notice or dismiss the appeal.

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A notice may specify the time by which the requirements have to be met. If the conditions of the notice are met, the notice will be discharged and conditions no longer apply. Where the issuing officer does not include a time frame in the notice, it is for officers to identify a suitable review period for discharging the notice. This issue is particularly important with respect to dogs. For example, where a dog is required to be on a lead and/or muzzled in public, the officer will need to consider how long this requirement should last. Ideally the notice should seek to address the dog's aggressive behaviour in the long term, perhaps through a requirement for dog training classes.

Remedial work

Under section 44, authorities can take **remedial action and recover costs**. This may be for requirements that were imposed within the notice, such as repairing inadequate fencing that is allowing a dog to escape and stray. Works outside can be carried out without the owner's consent. Works that require access to inside a building must be preceded by a notice to the individual or body that failed to meet the requirements of the original notice. The notice must state the specific work the authority wishes to carry out, the estimated cost of the work and invite the defaulter to consent to the work being carried out. The local authority must obtain the consent of the defaulter and the owner of the premises, if different. Once work is carried out, the local authority should provide a note to the defaulter stating how much the work cost. The defaulter is liable for the costs. Excessive costs may

be appealed at the magistrates' court within 21 days. For example, a local authority could repair the perimeter fencing that was allowing a dog to stray and recover the costs from the occupier. Section 44 would not cover work on a dog eg microchipping or neutering it.

Breach offence

Under section 45, it is an offence not to comply with a Community Protection Notice. An individual convicted of a breach of a notice is liable to a fine not exceeding level 4 on the standard scale. A body convicted of a breach is liable to a fine not exceeding £20,000. The court can order that the requirements included in the notice are met, either by requiring the defendant to carry out the necessary steps or permitting the local authority to do so.

Failure to comply with the court order is contempt of court and carries up to 3 months imprisonment. Although it is for the court to decide the most appropriate means to achieve the objectives of the Notice, practitioners should consider asking the court to allow them to carry out the necessary requirements, eg microchipping the dog, which will allow the dog to be returned to the owner quickly following straying, rather than the court issuing an order for the individual, which may be ignored.

The individual or body has defences against, and during, prosecution if the notice should not have been issued in the first place for any of the reasons listed above in the appeals section, or if the person took all reasonable steps to comply with the notice, or there is some other reasonable excuse for the failure to comply with it.

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If appropriate, the person or body in breach of the notice can be issued with a Fixed Penalty Notice under section 49 by a local authority, police officer or anyone designated, eg Police Community Support Officers or registered social landlord.

A fixed penalty notice is an alternative way deterring the breach of notices, whilst reducing the likelihood of court proceedings and a possible criminal conviction for the individual. Individuals have at least 14 days to respond to the FPN and no proceedings for the offence can be taken against them during that time. A FPN issued for a breach against a Community Protection Notice must not exceed £100. Authorised bodies may use their discretion in determining the correct figure, but it is recommended that issuing bodies within the same local council area maintain a consistency across penalties, by working with each other to determine the appropriate amount. Issuing bodies may include two amounts on the FPN, where the original penalty is reduced if paid in a timely manner.

A fixed penalty notice must –

- i) Give reasonably detailed particulars of the circumstances alleged to constitute the offence;
- ii) State the period during which proceedings will not be taken for the offence
- iii) Specify the amount of the fixed penalty notice
- iv) State the name and address of the person to whom the fixed penalty notice may be paid
- v) Specify permissible methods of payment

Should the FPN not be paid, the authority can begin proceedings once they have a certificate signed by or on behalf of the Chief Finance Officer of the local authority concerned stating that payment of the FPN was or was not received by the date specified in the certificate.

Use of FPNs is discretionary for authorities, and in some circumstances, it may be more appropriate to begin proceedings in case of breach.

Forfeiture and seizure

Under section 47, a court may impose a forfeiture order on any item used to breach a Community Protection Notice and require that the item be handed over to a constable to be destroyed or disposed of in whatever way the order specifies.

Therefore, although likely to be rare due to the low level nature of CPNs, where a Community Protection Notice was issued to address anti-social behaviour with a dog, breach of the notice could result in the court imposing a forfeiture order, resulting in the deprivation and re-homing or potential destruction of the dog. The police are responsible, following the court's instructions, for any forfeiture order and if not accompanied with instructions, they may seek suitable alternative accommodation, such as finding a responsible family member to look after the dog or identifying rescue organisations who can arrange re-homing. An order for the destruction of a dog following breach of a CPN is not envisaged, given the type of low-level incidents involving a CPN. However, it should be noted that there are a significant number of dogs for re-homing in local authority and rescue kennels, which may impact on the dog being re-homed. Advice of a suitably trained individual, for example from a welfare charity or recognised dog training organisation, should be sought in making arrangements for seized dogs.

Under section 48, a court may issue a warrant allowing a constable to enter premises within 14 days to seize items used to breach a Community Protection Notice. Provided proceedings are commenced within 28 days of seizing the item, the item can be retained until they are finalised. If proceedings have not been started within 28 days, the item must be returned. This provides authorities with the discretion in applying to the court to seize a dog upon breach, given that in law a dog is considered property. However, in any such cases, relevant bodies should bear in mind both practical and welfare concerns in seizing a dog. Officers should have appropriate accommodation and meet the welfare needs of the animal. Long periods of time spent in kennels can have a detrimental effect on the dog. It is for the appropriate officers to decide whether it is necessary to seize and retain the dog before requesting a warrant.

Please refer to general guidance notes for the full detailed requirements of Community Protection Notices, available at <https://www.gov.uk/government/publications/anti-social-behaviour-crime-and-policing-bill-anti-social-behaviour>

Injunctions to Prevent Nuisance and Annoyance

Summary of the power

The Injunction to Prevent Nuisance and Annoyance is a civil power, which can be applied for at the county or youth court against individuals (“the respondent”), aged 10 or over, who are engaging or threatening to engage in conduct capable of causing nuisance and annoyance (“anti-social behaviour”) to any person. The injunction is based on the Anti-social Behaviour Injunction (ASBI) previously used by social landlords. It can offer quick relief to victims by prohibiting the person from doing specified things and including positive requirements which address the root causes of the behaviour.

For dog-related anti-social behaviour, the injunction can be used to tackle incidents of a more serious nature than where a Community Protection Notice would be issued, but where the threshold of a dog being “dangerously out of control” in the Dangerous Dogs Act 1991 has not been met. The injunction still permits authorities to request prohibitions and requirements but also recognises the greater severity of the incident. It may be used for cases such as dog attacks on other animals or where prior engagement with the owner about their behaviour has failed and there is cause for concern. The injunction might be used for a wider range of anti-social behaviours being displayed by an individual, which might or might not include a dog.

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For further information on the new version see the general guidance:
<https://www.gov.uk/government/publications/anti-social-behaviour-crime-and-policing-bill-anti-social-behaviour>

The test for the Injunction

An injunction can be sought if applicants have suitable evidence, meeting the civil burden of proof (balance of probabilities) that the respondent has engaged or threatens to engage in conduct capable of causing nuisance and annoyance to another person ie acting or threatening to act in an anti-social way. The court must also consider that it is just and convenient⁶ to grant the injunction. This decision will be based on the evidence provided to the court.

It is recommended that agencies consider informal interventions before using statutory measures. However, in some cases such as where the anti-social behaviour is of a higher order or where there is poor engagement, it is more appropriate for a formal response in order to protect victims and communities. The injunction is likely to be sought to address behaviour that if left unaddressed could lead to serious attacks. The necessary intervention reinforces the need for early intervention and prevention, but the use of the

⁶ Convenient involves a weighing of competing interests to determine where the balance of convenience lies. This term is used in the test for other types of injunction too

injunction recognises that on occasion authorities will be alerted to the issue at a later stage where it is more problematic and requires a power which carries further weight.

Example: Injunction threshold and dogs

A housing association tenant has contacted the registered social landlord and the council to complain that a neighbour's dog has attacked the family's cat. The incident is so severe that the vet recommends the cat is euthanised. In this case, either the RSL or the council can apply for an injunction as witness statements from the complainant and reports from the vet would demonstrate that the owner has caused nuisance and annoyance by failing to keep the dog under proper control and preventing the injury to the cat.

If no action is taken, there may be concern that the attack on the cat may be repeated on other animals or on people. Whilst officers should have regard and not punish owners where dogs are exhibiting natural behaviours, attacks should not be treated as demonstration of such natural behaviour.

Which to use?

Community Protection Notice vs. Injunction to Prevent Nuisance and Annoyance

The injunction and its threshold test are of a higher level than that of the CPN. Although there will inevitably be some cross-over between CPN and IPNA cases, practitioners should use the CPN for low-level incidents that require preventative action, which if not addressed could result in an escalation. As a reminder, the CPN threshold test is met where behaviour is having a detrimental effect, of a persistent or continuing nature, on the quality of life of those in the locality, and is unreasonable. The injunction provides a tool for practitioners where the behaviour is of a level that already exceeds that of the CPN, (but does not meet the test for prosecution under section 3 of the Dangerous Dogs Act 1991) and requires more formal action eg a neighbour using their dog to intimidate residents outside their home and local amenities such as the community centre.

Example: Injunction threshold and dogs

A neighbour has notified the local authority that there are a number of large dogs in one house, which causes some concern to him and his children. Whilst the owner appears to look after the dogs, they do not appear to get on and one of the dogs has previously bitten the owner, although no action was taken. From talking to other neighbours, they hold similar concerns.

The local authority, through its investigation, could demonstrate that the dog owner was causing nuisance and annoyance by failing to keep the dogs under proper control.

The injunction is based on the Anti-social Behaviour Injunction used by social landlords. Unlike previous measures, applicants do not need to prove to the court that the injunction is necessary to stop or prevent the anti-social behaviour.

Hearsay evidence is admissible in court, but authorities must provide sound reasoning for non-attendance. This allows officers and professional witnesses to provide evidence based on statements made to them by victims and other witnesses. This could be police officers, healthcare official, local authority officer, or any other professional who has interviewed the witness directly. Where witnesses and complainants are fearful of repercussions, this can protect local residents, whilst addressing the behaviour.

Evidence Gathering

As a matter of good practice, practitioners should engage with other agencies and other potential witnesses to ensure they are fully aware of the details. This is all the more pertinent in cases involving dogs. Other local residents may have experienced similar problems with a neighbour that allows their dog to be out of control, aggressive or intimidating to other people or animals, but failed to report the incident to any authority or to the one currently investigating. Such investigations will be useful in putting together a case for applications.

Applying for an Injunction

The following organisations can apply for the injunction to prevent nuisance and annoyance:

- Local authorities (district council, a county council, a London borough council, unitary council, the Isle of Wight Council, the City of Bristol, the Council of the Isles of Scilly),
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- Housing providers (ie a housing trust, a housing action trust, a non profit private registered provider of social housing in England, a Welsh body registered as a social landlord in Wales)
- The Chief officer of police for the local area
- The Chief constable of the British Transport Police,
- Transport for London
- Environment Agency and Natural Resources Body for Wales
- NHS Protect and Public Health Wales

Housing providers can only apply if the application concerns anti-social behaviour that either directly or indirectly affects the accommodation or other tenants in the vicinity, to which providers have a duty. The applying body should consult with other relevant bodies, some of whom may be listed above, which will greatly assist in managing the enforceability of successful injunctions.

'With Notice' or 'Without Notice'

Applications for injunctions to prevent nuisance and annoyance can be made 'with notice' or 'without notice' being given to the respondent. Most applications will be with notice and will require the local authority or the police to inform the respondent, usually when the application is submitted to court and meet any pre-application consultation requirements, such as with the relevant Youth Offending Teams for under 18s.

For any application made against an under 18, officers must consult the Youth Offending Team. The teams, found in every local authority in England & Wales, can help to ensure the young person understands the conditions within the injunction and meets them. Applicants should be aware that 'with notice' applications may not be resolved at the first hearing date due to non-attendance of witnesses or if the respondent decides that they want to obtain legal representation. Regardless of possible circumstances, applicants should prepare for a full hearing.

Injunctions may be sought without notice being given to the respondent, but these are exceptional and intended to stop serious harm to the victim. The notification and consultation requirements that apply to 'with notice' applications do not apply to without notice applications.

With or without notice: Dogs

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It will be rare that anti-social behaviour involving dogs will require a 'without notice' requirement. Where a dog is causing a risk of harm to people, individual practitioners should consider using the Dangerous Dogs Act 1991. Where the risk of harm is to the animal, practitioners should use the Animal Welfare Act 2006. It may be necessary to apply both for an injunction and take forward a prosecution under the relevant legislation in order to address the cause of the behaviour.

Applications for injunctions should be submitted to the relevant court – county court for over 18s and youth court for under 18s. Applications should include the proposed terms of the injunction, including all proposed prohibitions and requirements, their duration and any powers of arrest attached, in addition to a summary of the evidence. The court will examine all of the proposed terms to ensure that each will aid in preventing anti-social behaviour.

Tenancy injunctions

Clause 13 allows housing providers, as defined above, to apply for tenancy injunctions against their tenants to deal with breaches or anticipated breaches of the tenancy agreement through anti-social behaviour. The court may attach a power of arrest to prohibition or requirement in a tenancy injunction. For further information, please refer to the wider guidance on the powers available at

<https://www.gov.uk/government/publications/anti-social-behaviour-crime-and-policing-bill-anti-social-behaviour>.

Prohibitions and requirements

Much like the CPN, the injunction can include prohibitions and requirements that will stop and prevent anti-social behaviour.

Prohibitions or requirements included within an injunction must be reasonable and must not

- conflict with the respondent's religious beliefs
- interfere with the times at which the respondent normally works or studies
- conflict with requirements of any other court order or injunction in place.

Prohibitions and requirements included in an injunction can have a specified end time or be indefinite. Prohibitions and requirements for under 18s must have a specified time limit, not exceeding 12 months. Applicants must submit evidence to satisfy the court that requirements are suitable, enforceable and compatible. A named supervising individual or organisation eg a local authority, must make any necessary arrangements for their requirements, as well as promote the respondent's compliance with requirements and report to the applicant and the relevant chief officer of police once requirements have been met, or otherwise. The respondent must stay in touch with the supervisor or organisation as requested and inform them of any change of address.

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An injunction for anti-social behaviour involving dogs could prevent or require an individual to do a number of things which would prevent or stop anti-social behaviour. Prohibitions within the injunction could include restricting an individual's access to certain areas where they have previously acted or threatened to act anti-socially with their dog, for instance near a school at specified times and that the dog is in their charge when in the area outside of the controlled times. For under 18s, the Youth Offending Team will be able to provide advice on suitable and enforceable requirements that will prevent recurrent anti-social behaviour with dogs, whilst also considering the welfare of the dog. Please see Annex B for more information.

Police National Computer (PNC)

The recording of injunctions on the PNC will assist police forces in enforcing breaches of the injunction effectively. After an injunction has been issued by the court, the relevant police force (either as the injunction applicant or on behalf of another injunction applicant) should input the injunction on the Wanted/Missing page of the PNC as an 'Injunction to Prevent Nuisance and Annoyance'. If the applicant is a local council, they should ensure that the relevant police force is notified with this information as soon as possible after the injunction is issued. It is vital that information is correctly entered and kept up-to-date, particularly when a power of arrest is attached to some but not all of the conditions of the injunction.

Applicants should be aware that a respondent's record of being subject to an injunction may be disclosed under certain circumstances. An enhanced Criminal Records Bureau check could disclose this information if the local police considered it relevant to a job application by the respondent and appropriate for a prospective employer to know.

Variation or discharge

Both the respondent and the applicant can apply to the court to vary an injunction. Applicants should actively review injunctions so as to make effective variation or discharge applications. The injunction applicant should notify the people and organisations they consulted as part of the application process. Applicants may consider applying to vary an injunction in response to changes in the respondent's behaviour. The court may vary an injunction by:

- Including additional prohibitions or requirements
- Extending/ reducing the period for which an existing prohibition or requirement has effect
- Attaching a power of arrest or extending the periods for which a power of arrest has effect

Applications to include additional prohibitions or requirements on the respondent must demonstrate that the new inclusion(s) is necessary to prevent anti-social behaviour. If the court dismisses an application to vary an injunction, the applicant may not be allowed to make a further application without the consent of the court or the agreement of the other party.

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The injunction applicant or the respondent may apply to the court to discharge an injunction. Applicants should consider applying to discharge an injunction when they believe that the aims of the injunction have been met. This will be when the injunction is deemed no longer necessary to prevent the respondent from committing anti-social behaviour. The court will need to see evidence that this is the case. Where an injunction has been issued for anti-social behaviour with dogs, suitable evidence may include for example, a certificate of completion of a dog training class and/or a character reference stating the behaviour of the dog has improved. Evidence of this sort may also need to be considered when considering discharging notices that have made requirements such as muzzling, in order to demonstrate that the muzzle is no longer necessary in reducing risk of biting.

Power of arrest

The court may attach a power of arrest to prohibitions or requirements. The court cannot attach a power of arrest to requirements that specify particular activities such as attending a dog training class. The court must consider that there has been or will be a significant risk of violence or harm as a result of the individual's anti-social behaviour. Harm includes serious ill-treatment or abuse, both physical and psychological. Attached powers of arrest

may specify their duration, which can be shorter than that of the prohibition or requirement to which it relates.

Powers of arrest can be requested at the time of applying for the injunction by including written evidence demonstrating why the power is necessary and proportionate. Such evidence may indicate that the respondent poses a high level of risk to the victim or the community should any of the conditions of the injunction be breached, eg a history of violent behaviour towards others.

Upon breach of an injunction which carries a power of arrest, a police constable can arrest the respondent without warrant if he or she has reasonable cause to believe that the respondent has breached that condition. Where there is not a power of arrest, any breaches should follow the procedure below.

Breach

For adults, breach of an injunction is considered civil contempt of court, which is punishable by up to two years in prison and/or an unlimited fine (section 14 (4A) of the Contempt of Court Act 1981 (as amended by the County Courts (Penalties for Contempt) Act 1983)).

For under 18s, breach could result in the court making a supervision order with a supervision, curfew or activity requirement and, in the most serious cases, the court may impose a detention order. Children between 14 and 17 years old can be detained for breaching an injunction and they cannot be detained for longer than three months. Serious breaches for dog related anti-social behaviour are likely to cross over into other relevant legislation such as the Dogs Act 1871 or the Dangerous Dogs Act 1991 and should be dealt with under those Acts. Officers and the CPS may take a decision based on the facts presented whether they wish to process the breach as well. Consequently, it is unlikely that breaches for ASB with a dog would result in a detention order for 14-17 year olds.

Remands

The court has the power to remand a respondent in custody or on bail if a respondent has been arrested for suspected breach of an injunction (with or without warrant). Once before the court, the court can remand the person in custody or grant the person bail. Under 18s can only be remanded in custody on medical grounds (please refer to wider guidance on this at (<https://www.gov.uk/government/publications/anti-social-behaviour-crime-and-policing-bill-anti-social-behaviour>). The respondent may not be remanded in custody or on bail for longer than eight days but exceptions are allowed if the court needs to remand the person for more than eight days. If the respondent is remanded in custody the adjournment period may not be longer than three weeks and if the respondent is remanded on bail the adjournment period may not be longer than four weeks. The court may further remand the person in their absence if it is satisfied that the person is not able to appear or are not able to be brought before the court due to illness or an accident. If the respondent is remanded in custody then arrangements would need to be in place for the dog to be cared for by others.

Appealing an injunction

Appeals may be lodged by both the applicant and respondent following the grant, refusal, variation or discharge of an injunction to prevent nuisance and annoyance. Appeals of decisions in adult cases made by a county court or the High Court are governed by Part 52 of the Civil Procedure Rules (CPR). (www.justice.gov.uk/courts/procedure-rules/civil/rules/part52).

Applicants and respondents should ensure they have understood the provisions of Part 52 and Practice Direction 52 before seeking to file an appeal. Applications for permission to appeal must normally be filed within 21 days of the court decision, or within any shorter period specified by the court. The applicant must give notice to the respondent when appealing an injunction made ‘with notice’, as soon as possible but at least 7 days after you file the appeal. The applicant is not required to give notice to the respondent when appealing a decision to refuse to grant an interim injunction for without notice applications (see CPR 52, 4(4)). Appeals against decisions of the youth court in under 18 cases are made to the Crown Court.

Grounds for appeal include that the statutory test was not met or that it was not just and convenient to grant the injunction.

See the general guidance notes for the full detailed requirements of Injunctions to Prevent Nuisance and Annoyance available at <https://www.gov.uk/government/publications/anti-social-behaviour-crime-and-policing-bill-anti-social-behaviour>

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Criminal Behaviour Order

Summary of the power

The Criminal Behaviour Order (CBO) allows authorities to tackle the most serious and persistent offenders where their behaviour has brought them before a criminal court. Authorities apply via a prosecutor to the courts to have a Criminal Behaviour Order put in place. An Order can require individuals subject to it to abide by specific prohibitions and/or requirements to stop and prevent future behaviour as well as address the underlying causes of their behaviour. The court must be satisfied that the individual has engaged in anti-social behaviour and that the Order would help prevent that behaviour continuing. The Order and the anti-social behaviour for which it has been served do not have to directly correlate to the offence for which the individual was convicted. Breach of an Order carries a maximum penalty of five years or an unlimited fine or both.

Anti-social behaviour is rarely packaged into distinct activities and an individual can engage in many different and cross-cutting forms of behaviour that can have a severe impact on victims. For cases involving dogs, this is pertinent. Anti-social behaviour with dogs can be fuelled by and run alongside other behaviour that has a detrimental impact on neighbours and those in the locality. The CBO can be used in situations of repeated and more serious offending, where alternative measures have been tried and failed to address the behaviour.

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The test for the Criminal Behaviour Order

The court must be satisfied that the offender has engaged in behaviour that

- caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household as the offender
AND
- the court considers that making the Order will help in preventing the offender from engaging in such behaviour.

The change in wording in previous measures from ‘necessary’ to prevent such behaviour to ‘will help’ is designed to make the process of applying for an order less onerous. A Criminal Behaviour Order can only be issued if it is made in addition to a sentence imposed in respect of an offence or an order discharging the offender conditionally.

It is not possible to issue a Criminal Behaviour Order where the individual was not convicted or the offence was dealt with under fixed penalty system.

Example: CBO Threshold and Dogs

The owner of three dogs is currently facing trial for possession of a weapon. The police had previously received complaints that the owner had used the dogs to intimidate other residents in the neighbourhood, but the owner had failed to engage with the police or the local authority and the threshold for action under the Dogs Act 1871 and the Dangerous Dogs Act 1991 were not met. The CBO threshold has been met due to the alarm and distress caused by the individual who has failed to properly control and train his dogs and uses them to intimidate. A CBO would allow the court to place restrictions on how the dogs are controlled in order to reduce the likelihood of an attack or the dog being used as an impromptu weapon. The CBO provides the vital preventative action necessary to reduce the risk of the dogs being used to cause injury or death.

Applying for an Order

Application for a Criminal Behaviour Order can only be made by the prosecution, usually the Crown Prosecution Service (CPS), alongside a criminal case. The prosecutor must consult with the Youth Offending Team where an application concerns an individual under the age of 18. The local authority or the police can request that the CPS apply for the CBO.

The CBO hearing will occur at the same time as the sentencing hearing for the criminal conviction. The hearings will be heard in the same court in which the prosecution is taking place; a Crown Court, a magistrates' court or a youth court (where the offender is under 18). The CPS will rely on the lead agency, either the police or the local authority, to build the case to be presented to the court. The process of gathering the evidence, including statements, will be the responsibility of the lead agency.

The court may consider evidence provided by the prosecution and the offender in making its decision on the suitability of making a CBO. The court may adjourn proceedings on an application for an Order at any time and should the offender not appear for any adjourned proceedings, the court may further adjourn proceedings. If the offender has been given adequate notice of the time and place and been informed that the proceedings may be heard in their absence, the court may issue a warrant for the offender's arrest or hear the proceedings in the offender's absence. The court may issue an interim Order where proceedings have been adjourned.

Evidence not heard in the criminal case can still be admissible at the CBO hearing, such as hearsay or bad character evidence. This allows witnesses who might be reluctant to give evidence in person to have their voice heard through an intermediary, usually a police officer. The Criminal Behaviour Order is a civil order, and generally, the civil standard of proof is on the balance of probabilities. However it is expected that courts will follow the

reasoning in the McCann case of 2002⁷ and apply the criminal standard of proof, which is beyond reasonable doubt.

Inclusions in an Order

The Criminal Behaviour Order, through prohibiting an offender doing anything described in the order and/or requiring the offender to do anything described in the Order, can be used to prevent behaviour that has caused or is likely to cause harassment, alarm or distress. Any inclusions must avoid conflict with the offender's religious beliefs, times at which the offender studies or works, or any requirements of any other court order or injunction in place on the offender. Similarly to other powers, officers should seek appropriate advice on proportionate requirements and prohibitions to be included in a CBO. Such advice can be accessed through police Dog Legislation Officers or welfare officers. Alternatively the ABTC and welfare organisations may be able to provide further information.

Any requirements included in the Order must also name an individual or an organisation that will supervise the requirements, promote compliance and report completion or non-completion to the CPS and police. CBOs can last for between 1-3 years for individuals under the age of 18. For individuals over the age 18, CBOs must last for a minimum of two years and can be in place indefinitely or until a further Order is made. For example, with anti-social behaviour involving dogs, there may be a requirement to ensure any dogs in the care of the individual are under control and that they undertake a training class. Upon completion of the training classes, the owner may choose to take the dog so that the individual must continue to keep their dogs under control, but would not need to continue to attend training for the duration of the Order having successfully completed the classes.

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Inclusions in a dog-related CBO

The CBO can make requirements and prohibitions of an individual much like the CPN and the injunction. Example requirements could include, but are not limited to:

- Requiring the owner to inform the authority of any change of ownership of the dog(s)
- Not allowing the owner to take the dog to certain places at certain times
- Prohibiting the owner from walking the dog in a group exceeding x number of people
- Keeping the dog on a lead
- Undertaking dog training and/or behaviour classes
- Undertaking owner education classes on responsible ownership (ie dog keeping)
- Ensuring the dog is not kept in the possession of anyone under the age of XX
- Prohibiting the owner from meeting named individuals with the dog

Further examples are included in Annex B

⁷ *Clingham (formerly C (a minor)) v Royal Borough of Kensington & Chelsea, R v Manchester Crown Court ex parte McCann*[2002] UKHL 39; [2003] 1 AC 787

Example: Criminal Behaviour Order

Criminal Behaviour Order

(Anti-social Behaviour, Crime and Policing Act 2014, Section 21)

In the: New Town Magistrates' Court
Court Address: 1 New Town Road, New Town, NT1

Date: 08/07/201X
Defendant: XX
DOB: 27/03/1981
Defendant's Address: XX, New Town, NT6

Local Government Area in respect of which application is made:

New Town Borough Council

Relevant authorities consulted:

New Town Police and New Town Borough Council

The New Town Magistrates' Court having found:-

- a) That XX having acted in an anti-social manner, that is to say, in a manner that has caused or is likely to cause harassment, alarm or distress to one or more persons not of the same household as himself ; and
- b) That a Criminal Behaviour Order will help in preventing XX from engaging in such behaviour

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XX is prohibited, anywhere within England and Wales, from:

1. Behaving in a manner causing or likely to cause harassment, alarm or distress to any person or persons not of the same household as himself
2. Being present in a group of two or more people with a dog, threatening or causing harassment, alarm or distress
3. Being in control of a dog in a public place unless the dog is on a lead of no more than 2 metres. The lead may be removed for the purposes of exercise in a public park or common.

XX is required to undertake the following requirements:

1. Attend and successfully complete a dog training course that will improve control of dogs in your possession
2. Microchip and neuter all dogs in your possession

Variation and discharge

The prosecution or offender can apply to the original court to change or discharge an Order. If a court dismisses an application by either party, the opposite party or court must agree before re-application. The Order can be varied by including new requirements or prohibitions.

Criminal Behaviour Orders for under 18s must be reviewed. Please refer to the wider guidance for an explanation of this process available at <https://www.gov.uk/government/publications/anti-social-behaviour-crime-and-policing-bill-anti-social-behaviour>

Breach of an Order

It is an offence not to comply with the requirements and prohibitions outlined in an Order. The maximum penalty for summary conviction is 6 months imprisonment or an unlimited fine or both. The maximum penalty for a conviction on indictment is 5 years imprisonment or an unlimited fine or both.

Appeals

A CBO imposed in the Youth Court or Magistrates' Court can be appealed in the Crown Court. There is a right to have the case heard afresh in that Court. A case heard in the Crown Court can be appealed to the Divisional Court (High Court) on a point of law.

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Public Spaces Protection Orders (PSPO)

Summary of the power

The primary purpose of the PSPO is to empower local authorities to tackle anti-social behaviour that adversely affects other people using the same public space, whether it is a park, town centre or rural footpath. Public Spaces Protection Orders (PSPOs) replace a number of other specific orders, thereby streamlining the process of making orders.

Local authorities can restrict persistent behaviour that adversely affects the community, by making a PSPO in consultation with the police and interested parties. Breaches can be dealt with by a fixed penalty notice or by prosecution which carries a maximum level four fine for individuals or £20,000 for businesses.

The PSPO replaces Dog Control Orders, under which a local authority could, for example, exclude dogs from designated areas and require dogs to be kept on leads. The PSPO will continue to allow these kinds of restrictions to be put in place, but will also allow the local authority to be more flexible when responding to local problems involving dogs.

The test for a PSPO

The test is designed to be broad and focus on the impact anti-social behaviour is having on victims and communities.

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A local authority may make a PSPO if satisfied on reasonable grounds that two conditions are met

1.
 - activities carried out in a public place within the authority's area having or have had a detrimental effect on the quality of life of those in the locality, or
 - it is likely that the activities will be carried out in a public place within that area and they will have such an effect
2.
 - the effect, or likely effect of the activities
 - Is or is likely to be of a persistent or continuing nature,
 - Is or is likely to be, such as to make the activities unreasonable, and
 - Justifies the restrictions imposed by the notice

Where can a PSPO apply?

PSPOs can only apply to public places. This means any place to which the public, or any section of the public, on payment or otherwise, have access to as of right or by virtue of express or implied permission, eg public park or a children's play area within a public park. However, a PSPO cannot be applied where the land in question is subject to a private Act of Parliament, which confers powers on a person other than a local authority. For instance, private Acts have been used to confer rights on railway operators for land that adjoins

railway lines. Local authorities should be aware of land that is subject to Private Acts within their area.

PSPOs can also be used to place restrictions on public rights of way, including highways (previously, under Dog Control Orders such restrictions could not be applied in relation to highways, but some restrictions still apply – see *Categories of highway over which public right of way may not be restricted* on page 45). However, before making such restrictions, a local authority must first consider the likely effect of the order on:

- occupiers of premises adjoining or adjacent to the highway;
- other people in the locality; and
- in cases where the highway constitutes a through route, the availability of an alternative route.

Making a PSPO

Under sections 55-68 of the Anti-social Behaviour, Crime and Policing Act 2014, local authorities have the power to make PSPOs. In England, this will be the responsibility of district and county councils or unitary authorities. In London, borough councils will be able to make PSPOs, as will the Common Council of the City of London and the Council of the Isles of Scilly. In Wales, responsibility will fall to county councils or county borough councils.

Unlike Dog Control Orders, there is no power available to parish councils, town councils or community councils (in Wales) or for other bodies designated by the Secretary of State to make Orders. This is because the PSPO is a flexible tool that allows a wider range of restrictions to be placed on a public space than the orders it replaces. Officers from relevant authorities should liaise closely with other council tiers to ensure that Orders are made to cover appropriate and necessary areas. Officers from such authorities may enforce the PSPOs if designated by the issuing local authority.

The PSPO identifies the public space as a restricted area and:

- prohibits specified things being done in the restricted area
- requires specified things to be done by persons carrying out specified activities in that area, or
- does both of the above

PSPOs and dogs

This power will be used much as Dog Control Orders have been. Primarily, they will allow local authorities to better control how public land is used by dog owners and balance this with wider uses of the area. The PSPO permits local authorities to address a number of issues on one Order, for the same area eg preventing alcohol and dogs in a children's play area, representing savings for the authorities.

Signage

It is good practice for signs to be erected on the perimeter explaining the restrictions or requirements that are in place and the area to which they apply. Where a PSPO applies to dog fouling it will not be feasible to post copies of the order on the land, but signs warning the public that it is an offence not to clear up dog faeces should be placed at regular intervals. Where Orders are made that apply only at certain times of the day or year, any signs provided to summarise the effect of an Order should also make clear the periods in which the PSPO will apply.

As best practice, local authorities may wish to place temporary information in areas where a consultation is currently underway. This will effectively notify those most likely to be affected by any possible restrictions or changes.

Consultation

Before making a PSPO, a local authority must consult the chief officer of police and the local policing body for the police area that includes the restricted area. This should be done formally but local agreements should be sought to enable the process. The local authority must also consult whatever community representatives it thinks appropriate to consult.

Although there is not a requirement to do so, it is good practice to consult with the land owner in advance of making an Order.

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Consultation & Dogs

Where a PSPO will affect dog owners or walkers eg by restricting access to all or certain parts of a park, the local authority must consult with them. This can be done through engaging with working groups, as well as locally organised pet groups and national organisations, such as the Kennel Club who will have a network of contacts.

Consultation may include, but is not limited to:

- Parish Councils
- Local dog societies
- Local animal welfare organisations
- Local professional dog walkers
- Local residents groups
- The Kennel Club and/or KC Dog (a free information network for dog owners see:
www.thekennelclub.org.uk/kcdog)

Unlike with Dog Control Orders, there is not a requirement to place an advert in a local newspaper. However, local authorities may wish to consider doing so, or a suitable alternative, in order to reach local dog walkers who will be most affected by any new restrictions.

Case Study: North Hertfordshire District Council consulting dog owners

The council planned to consult on Dog Control Orders within the district, following a number of local dog-related issues – namely dog fouling and dogs being out of control in public spaces. Through holding a number of community engagement events with the help of the Kennel Club, the council were able to communicate with local dog owners and received advice on effective alternatives to introducing restrictions. The guidance given by the Kennel Club, including the benefits of community engagement rather than restricting access for all dogs, enabled the council to review plans. These plans are still currently under review. Similar engagement could be undertaken when local authorities consider making PSPOs that will affect dog owners.

PSPO requirements and prohibitions: dog-related problems

A PSPO can:

- exclude dogs from designated areas (eg a children's play area in a park);
- require dog faeces to be picked up by owners;
- require dogs to be kept on leads;
- restrict the number of dogs that can be walked by one person at any one time; and
- put in place other restrictions or requirements to tackle or prevent any other activity that is considered to have a detrimental effect on the quality of life of those in the locality, or is likely to have such an effect.

A PSPO may only prohibit or impose requirements that are appropriate to prevent, or reduce, the detrimental effect from continuing, occurring or recurring. When considering what prohibitions or positive requirements to include in the PSPO, it is good practice to seek advice from a suitably trained person such as a police dog handler or local authority dog warden, as certain requirements can have a detrimental effect on the welfare of dogs. Restrictions that are arbitrary and unreasonable – for example ones that target particular breeds of dog – would be open to challenge and are regarded as a misuse of the legislation.

Local authorities are best placed to consider the most suitable requirements to include in any new PSPO that is issued, based on their knowledge of both park areas, park users and the local community. The following example demonstrates an innovative solution to address a local problem using bye-laws. Authorities have a similar degree of flexibility under PSPOs.

Local responses to local issues: Wandsworth Borough Council

Wandsworth Borough Council has developed a unique bye-law that assists the council in managing the growing dog walking industry developing in its parks and open spaces. Anyone who wishes to walk more than 4 dogs (under a current Dog Control Order) in any of their parks and open spaces must obtain a licence to do so. There is no cost in obtaining a licence, and licences are only granted for walking in the five big parks and commons. Although the maximum number of dogs that can be walked on a licence is eight dogs, all new licence holders begin with five or six. An increase of numbers on a licence is then considered after written application, and a blemish-free record. Wandsworth currently have 49 active licence holders in the borough.

An example of the application can be found at:

www.wandsworth.gov.uk/downloads/file/877/application_form_and_guidance_notes/432

A similar scheme could be put in place under a PSPO without the need to use additional bye-laws.

The order can also be prescriptive about the time in which certain activities can take place. For example, a local authority may require dogs to be kept on the lead near a school around the time of the school day starting or finishing.

Requirements and prohibitions within a PSPO may:

- apply to all persons, or only to persons in specified categories, or to all persons except those in specified categories.
- apply at all times, or only at specified times, or at all times, except those specified, and/or
- apply in all circumstances, or only in specified circumstances, or in all circumstances except those specified.

A PSPO must:

- Identify the activities that are having a detrimental effect on the locality (the first condition);
- Explain the effects of the offences; and
- Specify the period for which the PSPO has effect.

Considering Animal Welfare

When considering a PSPO that would restrict dogs and their owners, local authorities should ensure there are suitable alternatives for dogs to be exercised without restrictions. Under the Animal Welfare Act 2006, owners must provide for the welfare needs of their animals, including the necessary amount of exercise each day. Local authorities should be aware of the publicly accessible parks and other public places in their area which dog walkers can use to exercise their dogs without restrictions.

Maximum number of dogs under a PSPO

When setting the maximum number of dogs, the most important factor for authorities to consider is the maximum number of dogs which a person can control; expert advice is that this should not exceed six. Authorities should also take into account the views of dog owning and non-dog owning residents within the area to which the Order will apply, to establish what they consider to be an appropriate maximum number taking into account all the circumstances in the area. Key factors will include whether children frequently use the area, if the park is heavily populated etc.

Exemptions

A local authority should consider whether certain people and their dogs should be exempt from the restrictions or requirements of a PSPO. For example, registered blind people may be exempt from a requirement to remove dog faeces.

For further advice on exemptions, please refer to a person whose ability to move “everyday objects” is affected. A copy of the relevant guidance is available on the Gov.uk website:

<https://www.gov.uk/government/publications/disability-equality-act-2010-guidance-on-matters-to-be-taken-into-account-in-determining-questions-relating-to-the-definition-of-disability>

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Duration of PSPOs

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PSPOs can be put in place for up to three years. Following the three years, the PSPO must be reviewed to ensure it is still necessary. If the local authority is satisfied that the PSPO will continue to prevent:

- occurrence / recurrence of the detrimental activities identified in the Order; or
- an increase in the frequency or seriousness of those activities after that time

The PSPO can be extended for up to three years. There is no limit to how many times a PSPO can be reviewed or extended.

Before extending a PSPO, the local authority must first consult:

- the chief officer of police, and local policing body for the police area that includes the restricted area; and
- any community representatives the local authority thinks it appropriate to consult.

Any DCOs made by Parish Councils, or other bodies designated by the Secretary of State that do not have the power to make PSPOs, will need to be reviewed by the local authority in whose area the DCO is located.

Challenge to the validity of an Order

PSPOs can be challenged in the High Court by any interested person within six weeks of the Order being made. An interested person is someone who lives in, regularly works in, or visits the restricted area. This means that only those who are directly affected by the restrictions and the activities having the impact have the power to challenge.

Interested persons can challenge the validity of a PSPO on two grounds. They could argue that the council did not have power to make the Order, or to include particular prohibitions or requirements. In addition, the interested person could argue that one of the requirements (for instance consultation) had not been complied with.

When the application is made, the High Court can decide to suspend the operation of the PSPO pending the verdict in part or in totality. However, this would be a decision made on a case by case basis by the court. The High Court has the ability to uphold the PSPO, quash it, or vary it.

It is also possible for an interested person to challenge the validity of a PSPO where it is varied by a council; such a challenge must be brought within 6 weeks of the variation.

In order to reduce the likelihood of challenges to PSPOs that are made, local authorities should consider that the requirements and prohibitions are reasonable, such as they do not have an adverse effect on the welfare of the dog. Much like with DCOs, if a PSPO restricts access to land used for exercise dogs, it will be reasonable that there is sufficient other land available for exercise without restrictions.

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Offences

A person will commit an offence if, without reasonable excuse, they do something which is prohibited by a PSPO; or fails to comply with the requirement of a PSPO. This could mean a dog walker failing to remove dog faeces, or allowing their dog to be off a lead outside permitted hours, or exceeding the number of dogs one person is permitted to walk.

It is not an offence to fail to comply with a prohibition or requirement that the local authority does not have the power to include in a PSPO.

On summary conviction, the maximum penalty for breaching a PSPO is a fine not exceeding level 3 on the standard scale, which is currently £1,000.

Fixed Penalty Notices

A constable or authorised person (ie local authority officer or a person delegated by the relevant local authority) may issue a fixed penalty notice (FPN) to anyone he or she has reason to believe has breached a PSPO. The FPN will give the person 14 days to pay the fine. During that time no proceedings can be taken against the person.

The FPN must:

- Give reasonably detailed particulars of the circumstances alleged to constitute the offence;
- State the period during which proceedings will not be taken (14 days);
- Specify the amount of the fixed penalty (not more than £100);
- State the name and address of the person to whom the fixed penalty may be paid;
- Specify permissible methods of payment.

The FPN can specify two amounts: a lower one if paid within 14 days and a maximum higher amount of £100.

Variation

A local authority may vary an existing PSPO by:

- increasing or reducing the size of the restricted area;
- altering or removing a prohibition or requirement included in the PSPO, or adding a new one (eg an existing requirement for dog walkers to pick up dog faeces could be followed up with a requirement that all dogs should be on leads).

The area of a PSPO may be varied in relation to the area to which it applies only if the activities meet the threshold test; that is that the activity/ies have a detrimental effect on the quality of life of those in the locality or that if the activity/ies continue, it is likely that they will do so. The activity must also be of a persistent or continuing nature, be unreasonable and justify the restrictions imposed.

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A PSPO may only be varied by altering or removing a prohibition or requirement that will prevent or reduce the detrimental effect of the activity.

Before making a variation to a PSPO, the local authority must consult the chief officer of police and the local policing body that includes the restricted body. They must also consult any community representatives the local authority thinks is appropriate to consult.

A PSPO that is varied must be published in accordance with regulations made by the Secretary of State.

Where a PSPO is discharged, a notice identifying the PSPO and stating the date on which it ceases to have effect must be published in accordance with regulations made by the Secretary of State. As a matter of best practice, local authorities may also wish to inform those in the local area that the Order is to be discharged, perhaps through notifying the respondents to the original consultation and using temporary signage.

Highways

Before making an order that will place restrictions over a highway, local authorities must:

- notify potentially affected persons of the proposed Order;
- inform those persons how they can see a copy of the proposed Order;

- notify those persons of the period within which they make representations about the proposed Order; and
- consider any representations made.

Categories of highway over which public right of way may not be restricted

PSPOs cannot restrict the public right of way over a highway that is a special road, a trunk road, a classified or principal road, a strategic road, a highway in England of a description prescribed by regulations made by the Secretary of State, or a highway in Wales of a description prescribed by regulations made by the Welsh Ministers.

The definitions of the following terms can be found in “Classified road”, “special road” and “trunk road” section 281(1) of the Highways Act 1980 – “classified road”, “special road” and “trunk road”. “Highway takes the definition in section 328 of the same Act. “Principal road” is defined in section 12 and 13 of the same Act. “Strategic road” is defined in section 60(4) of the Traffic Management Act 2004.

Transitional arrangements

Existing Dog Control Orders can remain in place but will need to be reviewed three years after the coming into force of the Anti-social Behaviour, Crime & Policing Act 2014, in accordance with the new requirements of PSPOs. Any Dog Control Orders that are to remain will become PSPOs after those three years.

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See the general guidance notes for the full detailed requirements of PSPOs available at <https://www.gov.uk/government/publications/anti-social-behaviour-crime-and-policing-bill-anti-social-behaviour>

The Secretary of State for the Home Department will make regulations on how the PSPO shall be published.

Partnership working

Anti-social behaviour often requires a multi-agency approach as the cause and effect of the behaviour can fall across various areas of responsibility. In addition, victims are less interested in which agency addresses the issue, than having the issue addressed. This same is true of anti-social behaviour involving dogs. The Clean Neighbourhoods and Environment Act 2005 gave sole responsibility for stray dogs to local authorities. The police usually deal with issues of dangerous and prohibited dogs under the Dangerous Dogs Act 1991. Irresponsible dog ownership can encompass both sets of issues.

In areas where there is a significant problem with dogs, agencies should nominate a lead agency that will co-ordinate efforts and inform other appropriate agencies of new notices issued etc. Authorities could also form a working group to facilitate information sharing and collaboration. This would allow agencies to design innovative, cost effective and locally-

specific solutions, to foster more responsible dog ownership and help to create enforceable requirements. Beyond that, including non-traditional groups in any working group, such as welfare organisations, veterinary practices etc. would allow irresponsible dog ownership to be tackled in a context of better education and understanding for the public and practitioners about dogs and dog owners and the triggers for undesirable behaviour with dogs, which will contribute to enforcement and demonstrate the necessity of early intervention in preventing the most serious dog incidents.

Case Studies: Multi-agency working

- The West Midlands Police, Blue Cross, NFU Mutual, and ACPO, have held a series of puppy socialisation days across the country to socialise puppies with horses and a wide variety of animals, and raise awareness of the increase in dog attacks on livestock.
- Blue Cross, British Horse Society, and ACPO, launched the “Look at it from my point of view” campaign, offering advice to dog owners and equestrians’ alike on responsible ownership and riding. This was successfully launched at CRUFTS 2012.
- The Kennel Club and the Forestry Commission have worked together over the past ten years to develop a proactive and welcoming approach to managing dog access to woodland in Great Britain. The Kennel Club and Forestry Commission are marking their ten years of partnership by refreshing the partnership and guidance on managing dog walking in advance of a promotional campaign in 2014 focused in England and Wales. Ultimately, the partnership aims to encourage responsible dog walking to visits to woodlands in England and Wales. (Natural Resources Wales and Hambleton District Council are also involved in this 2014 project).

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Anti-social behaviour involving dogs may first come to the attention of an officer who does not have in-depth experience of dog behaviour and control. Where practical measures can be undertaken that do not affect the dog, such as repairing fences or installing a letter cage, it is reasonable that practitioners require this without recourse to further advice. In cases where practitioners are considering requirements which could have a direct impact on a dog's welfare, such as muzzling, neutering, prohibiting access to certain space etc., the practitioner should seek further advice (ie Dog Legislation Officer, veterinarian, qualified dog trainer/behaviourist) to ensure the requirements are reasonable, that they will address the behaviour they seek to prevent, and that there are no adverse consequences on the welfare of the dog. Through the local working group or a similar arrangement, all relevant agencies, including the police, the local authority and welfare organisations, should identify a point of contact as a source of advice on dog welfare for professionals working outside of welfare.

The police have trained Dog Legislation Officers. These officers and the relevant Dogs Unit may be able to provide advice in a timely manner.

A local veterinary practice may be able to advise or recommend qualified specialists in the area. ABTC includes information on qualified specialists who may be able to assist or provide advice/training - www.abtcouncil.org.uk/

A locally developed multi-agency working group involving behavioural and welfare professionals may be a suitable forum to consider such cases.

(See Annex C for further examples of multi agency working)

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