

ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3: Dispersal powers

149. The dispersal power will enable officers (constables in uniform and police community support officers (“PCSOs”)) to direct a person who has committed, or is likely to commit, anti-social behaviour to leave a specified area and not return for a specified period of up to 48 hours. The test would be that the officer is satisfied on reasonable grounds that the person’s behaviour is contributing, or is likely to contribute to anti-social behaviour or crime or disorder in the area and that the direction is necessary to prevent the same (section 35(2) and (3)). Police officers would have access to all elements of the power, and PCSOs could have access to some or all elements of the power at the discretion of the Chief Constable (section 40).
150. The dispersal power can only be used where an officer of at least the rank of inspector has authorised its use in a specified locality (section 34(1)). The authorisation can last a maximum of 48 hours. That authorisation can only be given where the police officer of or above the rank of inspector reasonably believes that, in respect of any locality within his police area, the exercise by a constable in uniform or PCSO of the dispersal powers in Part 3 of the Act may be required in order to remove or reduce the likelihood of the events mentioned in subsection (3)(a) or (b) of section 34 occurring. For instance, the inspector may have intelligence to indicate that there is likely to be anti-social behaviour on a particular housing estate during the weekend and authorise the use of the dispersal for 48 hours. Alternatively, in a situation where an officer needs to use the dispersal power in an area that has not been authorised, the officer can contact an inspector for an authorisation and describe the circumstances to him or her.
151. Before authorising the use of the dispersal power in a specified area, the authorising police officer must have particular regard to the rights of freedom of expression and freedom of assembly and association (section 34(3)). A similar duty is placed on a constable before issuing a dispersal direction (section 36(5)).
152. The direction would in most instances be given in writing to ensure that those individuals being dispersed are clear where they are being dispersed from. Where this is not reasonably practicable, the direction could be given orally (section 35(5)(a)) and the officer would keep a written record of the direction (section 38). Any constable can vary or withdraw a direction and must do this in writing to the person originally issued with the order unless not reasonably practicable (section 35(8) and (9)).
153. The officer must specify the area from which the person is excluded, and may specify when and by which route they must leave the area (section 35(5)(b) and (c)). Where the officer believes an individual is under the age of 16, an officer can remove that individual to a place where he or she lives or to a place of safety (section 35(7)).

These notes refer to the Anti-Social Behaviour, Crime and Policing Act 2014 (c.12) which received Royal Assent on 13 March 2014

154. Failure to comply with the direction would be a criminal offence and would carry a maximum penalty of a level 4 fine (currently £2,500) and/or three months imprisonment (section 39).
155. An officer would also be able to require an individual to hand over items causing, or likely to cause, anti-social behaviour – for instance, alcohol or a can of spray paint (section 37). Failure to comply with the requirement is a criminal offence, the maximum penalty for which is a level 2 fine (currently £500) (section 39(4)). These sanctions are in line with current equivalent powers, and are designed to ensure there is an appropriately serious consequence to failing to comply.
156. However, the officer does not have power under this provision to retain any seized item indefinitely. The officer must give the person information in writing about how and when they can recover the item, which must not be returned before the exclusion period is over. If the person is under 16 the officer can require that person to be accompanied by an adult when collecting the item.
157. [Section 41](#) provides that the Secretary of State may issue and revise guidance to chief officers of police about the exercise of functions under Part 3 of the Act by officers under their direction and control.
158. As a safeguard to ensure that the power is used proportionately, and to protect civil liberties, guidance will suggest that data on its use should be published locally. This would be via a website or other locally agreed media. Police and Crime Commissioners (or in London, the relevant policing body) would have a role in holding forces to account on their exercise of these powers to ensure that they are being used proportionately. Publication of data locally would also help highlight any “hot-spot” areas that may need a longer-term solution (for example, diversionary activities for young people or the introduction of CCTV cameras to help “design out” crime and anti-social behaviour).
159. [Section 42](#) makes saving provisions for authorisations given under section 30(2) of the Anti-social Behaviour Act 2003, and directions given under section 27 of the Violent Crime Reduction Act 2006 before the commencement day of Part 3 of the Act.