

# **ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014**

---

## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### **Part 4, Chapter 1: Community protection notices**

160. The community protection notice is intended to deal with unreasonable, ongoing problems or nuisances which negatively affect the community's quality of life by targeting the person responsible (section 43(1)). The notice can direct any individual over the age of 16, business or organisation responsible to stop causing the problem and it could also require the person responsible to take reasonable steps to ensure that it does not occur again (section 43(3)). For instance, where a dog was repeatedly escaping from its owner's back garden due to a broken fence, the owner could be issued with a notice requiring that they fix the fence to avoid further escapes and also, if appropriate, ensure that the owner and dog attended training sessions to improve behaviour (if this was also an issue).
161. This notice will replace current measures such as litter clearing notices, defacement removal notices and street litter control notices.
162. It is not meant to replace the statutory nuisance regime, although (as with these existing measures) there is no legal bar to it being used where behaviour is such as to amount to a statutory nuisance under section 79 of the Environmental Protection Act 1990. For example, a local authority could issue a CPN to address anti-social behaviour while investigating whether it constitutes statutory nuisance. Part 3 of the Environmental Protection Act 1990 places a duty on a local authority to investigate complaints of statutory nuisance from people living within its area. Issue of a CPN does not relieve the local authority of its obligation under Part 3 of the Environmental Protection Act 1990 to serve an abatement notice where the relevant test is met.
163. The notice should be issued to someone who can be held responsible for the anti-social behaviour (section 44). For instance, if a small shop were allowing litter to be deposited outside the property and not dealing with the issue, a notice could be issued to the business owner, whereas if a large national supermarket were to cause a similar issue, the company itself or the store manager could be issued with a notice.
164. The power to issue a notice will be available not only to the police and local authority staff but also to PSCOs, if designated by the chief constable (section 53(5); under section 53(6) a PSCO will also be able to issue a fixed penalty notice for the offence of breaching a community protection notice, if designated for that). In addition, the power to issue a community protection notice will be available to persons who are designated by the relevant authority, if they fall within a description specified in an order made by the Secretary of State. For example, if registered providers of social housing were specified in an order, a particular registered provider would be able to issue notices if designated by the local authority in question (section 53(1)(c) and (4)).

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

165. Before issuing a notice, an authorised person is required to inform whatever agencies or persons he or she considered appropriate (for example the landlord of the person in question, or the local authority), partly in order to avoid duplication (section 43(6)). The person would also have to have issued a written warning in advance and allowed an appropriate amount of time to pass (section 43(5)). This is to ensure that the perpetrator is aware of their behaviour and allows them time to rectify the situation. It will be for the person issuing the written warning to decide how long is appropriate before serving a notice. In the example above where a dog owner's fence needs to be fixed, this could be days or weeks, in order to allow the individual to address the problem. However, it could be minutes or hours in a case where, for example, someone was persistently playing loud music in a park.
166. Wherever possible, the notice should be issued in person. However, where this is not possible, it can be posted or left at the proper address (section 55(1)). In the case of the latter when it relates to a business, the address may be different from the location of the anti-social behaviour.
167. Remedial works or works in default can be added to the notice immediately or once the individual, business or organisation has had sufficient time to comply with any requirements (section 47). For instance, if the behaviour related to a front garden full of rubbish, the individual could be given a period of seven days to clear the waste. The issuing officer could also make clear on the face of the notice that if this was not complied with, they would authorise the works in default on a given date and at a given cost. Consent would only be required when that work necessitated entry to the perpetrator's property – those issuing a notice would be able to carry out remedial works in default in areas "open to the air" (section 47(5)), for instance clearing rubbish from a front garden. This is in line with current provision in section 92 of the Environmental Protection Act 1990.
168. In undertaking remedial works or works in default, the local authority is exempted from liability in the event of any damage caused by works carried out in good faith and with due care and attention (section 54).
169. A person issued with a community protection notice may appeal within 21 days to the magistrates' court. Grounds for appeal include that the conduct specified in the notice did not meet one of the limbs of the test for issuing a notice or that the person could not reasonably be expected to control the behaviour. While an appeal is pending, any requirements in the notice for the person to stop doing certain things will have effect, but positive requirements to do certain things will not (section 46). For example, where rubbish has accumulated in someone's front garden and a notice issued to the owner, a requirement to stop adding to the rubbish would continue in effect but a requirement to clear the garden would not.
170. Breach of any requirement in the notice, without reasonable excuse, would be a criminal offence, subject to a fixed penalty notice (which attracts a penalty of £100) (section 52) or prosecution. On summary conviction an individual would be liable to a level 4 fine (currently up to £2,500). An organisation such as a company is liable to a fine not exceeding £20,000. On conviction, the magistrates' court would have the power to order forfeiture and destruction of any item used in the commission of the offence – for instance, noise equipment (section 50). Where necessary, the court can also issue a warrant allowing a constable or local authority to seize such items (section 51).
171. The Secretary of State may issue and revise guidance to chief officers of police and local authorities about the exercise of functions under Chapter 1 of Part 4 of the Act (section 56).
172. Community protection notices will be different from the powers they replace in the following ways:

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

- a. They cover a wider range of behaviour (all behaviour that is detrimental to the local community's quality of life) rather than specifically stating the behaviour covered (for example, litter or graffiti);
- b. Noise disturbance could be tackled, particularly if it is demonstrated to be occurring in conjunction with other anti-social behaviour;
- c. The notices can be issued by a wider range of agencies: the police, local authorities and private registered providers of social housing (if approved by local authorities), thereby enabling the most appropriate agency to deal with the situation;
- d. The notices can apply to businesses and individuals (which is the same as for some of the notices they will replace but not all); and
- e. It would be a criminal offence if a person did not comply, with a sanction of a fine (or fixed penalty notice) for non-compliance. This is the case at the moment for litter-related notices but not defacement removal notices.