

PUTTING VICTIMS FIRST

MORE EFFECTIVE RESPONSES TO ANTI-SOCIAL BEHAVIOUR



Home Office

May 2012





PUTTING VICTIMS FIRST – MORE EFFECTIVE RESPONSES TO ANTI-SOCIAL BEHAVIOUR

Presented to Parliament
by the Secretary of State for the Home Department
by Command of Her Majesty

May 2012

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ISBN: 9780101836722

Printed in the UK by The Stationery Office Limited
on behalf of the Controller of Her Majesty's Stationery Office

ID P002493530 05/12 20857 19585

Printed on paper containing 75% recycled fibre content minimum.

Home Secretary Foreword

No one should have to accept graffiti on their walls, public drunkenness on their streets or harassment and intimidation on their own doorstep. But for too many communities in this country such crime and anti-social behaviour remains a fact of everyday life. Despite years of central Government initiatives, targets and top down plans, more than three million incidents of anti-social behaviour are still recorded by the police each year, with many more likely to go unreported. And as recent tragic cases have shown, it is often the most vulnerable in our society who are at greatest risk. It's clear that the old approach isn't working; we need a new way of dealing with this serious problem.

The mistake of the past was to think that Government could fix the problem with a 'one size fits all' model. It cannot. Anti-social behaviour is a fundamentally local issue, one that looks and feels different in every area, in every neighbourhood and to every victim. The answers lie in local agencies that respond to the needs of victims and communities. They should take the problem seriously, have the freedom to do what they know will make a difference, and have the right powers to act.

I know that the police, local authorities and social landlords are doing a great deal to tackle anti-social behaviour – they need to maintain and accelerate their work, and focus more on the impact that anti-social behaviour has on victims. Government's role should be to support these local agencies and to provide them with the powers they need to do this. We know that the current powers do not work as well as they should. More than half of all Anti-Social Behaviour Orders (ASBOs) are now breached at least once and those that do get breached, are breached more than four times on average.

As part of our consultation in the past year we asked victims what they wanted to see happen. They told us three things. First, they want their problem to be taken seriously. Second, they want an efficient service and a quick response. And third, they want the problem to stop and for it not to happen again. The aim of this White Paper is to help make that happen.

We want to empower victims and communities. Too often people in a local area are desperate to have the behaviour that's blighting their neighbourhood dealt with, they just don't know how to get the authorities to take action. Elected Police and Crime Commissioners and neighbourhood beat meetings will help, but we will support local communities by introducing a new Community Trigger to compel agencies to respond to persistent anti-social behaviour. We are working with a number of leading local areas, including Manchester, West Lindsey and Brighton & Hove to trial the trigger this year.

We want to support the police and other agencies to understand better the impact anti-social behaviour can have on victims. That is why we have worked with eight local police forces to help them prioritise the highest-risk and most vulnerable victims. That work has highlighted to police officers the damage anti-social behaviour can cause to victims' lives.

We will introduce faster and more effective powers to stop the dangerous and yobbish behaviour of those who make victims' lives a misery. We will replace 19 complex existing powers with six simple new ones. The powers will include a new court order available on conviction that will stop the behaviour of the most destructive individuals and will address the underlying causes of that behaviour – addressing one of the main failings of the ASBO. There will be a new civil injunction that agencies can use immediately to protect victims and communities; simpler powers to close premises that are a magnet for trouble; and a more effective police power to stop anti-social behaviour in public places. We will also help speed up the eviction of anti-social tenants to stop 'nightmare neighbours' who ruin the lives of those around them.

We will also do more to help the police and local agencies deal with anti-social behaviour informally. I strongly support police officers using their professional knowledge and experience to deal with a problem in the way they see fit. Our wider police reform programme is helping restore that discretion. To support the work of local agencies, we will focus national resources on preventing the issues that drive much anti-social behaviour, such as binge drinking, drug use, mental health issues, troubled family backgrounds and irresponsible dog ownership.

Anti-social behaviour still ruins too many lives and still damages too many communities. It is time to start putting victims first and it is time to put a stop to anti-social behaviour.

The Rt Hon Theresa May MP
Home Secretary
May 2012

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Executive summary

The phrase ‘anti-social behaviour’ takes in a range of nuisances, disorder and crimes which affects people’s lives on a daily basis: from vandalism and graffiti; to drunk or rowdy behaviour in public; to intimidation and harassment. All have huge impacts on the lives of millions of people in this country. None are acceptable.

The Government is committed to stopping the pain, the fear, and the damage caused by anti-social behaviour. The starting point must be the impact that behaviour is having on victims.

We know what victims of anti-social behaviour want to happen. First and foremost they want the behaviour to stop, and the perpetrators to be punished for what they’ve done. They want the authorities to take their problem seriously, to understand the impact on their lives and to protect them from further harm. They want the issue dealt with swiftly and they want it to stop happening.

The mistake of the past was to think that the Government could meet these demands with a ‘one size fits all’ model. Anti-social behaviour is a local problem, that looks and feels different in every area and to every victim. A single, central model is not appropriate for tackling this most local of problems, although a strong message that it has to be taken seriously can come from the centre. Local agencies need to respond to the needs of victims, to work with the communities they serve, and to have the freedom to do what they know will make a difference. From November, directly elected Police and Crime Commissioners will play a key role.

The Government does have a vital role in supporting local agencies to meet this challenge and to ensure that agencies and the public have all the information and power they need to stop anti-social behaviour once and for all.

First and foremost, **local agencies must focus their response to anti-social behaviour on the needs of victims** and we will support them to do this by:

- **Helping agencies to identify and support high risk victims**, particularly through the work we have done with eight areas to ensure the police and their partners get it right the moment a call comes in and that they identify and manage high-risk victims effectively and take their problems seriously. The results have been encouraging, with forces showing an improved service to the victim and the start of a shift in culture, with call handlers responding to the needs of the victim, rather than just ticking boxes;
- **Giving frontline professionals more freedom**, stopping telling experts how to do their jobs but supporting them to use their discretion and common sense, including using informal measures for example using restorative or reparative approaches, or Acceptable Behaviour Contracts where appropriate. The evidence suggests that these measures work for most perpetrators and provide faster relief for victims. We will encourage agencies to make greater use of them to deal with anti-social behaviour swiftly and effectively; and
- **Improving our understanding of the experiences of victims**, for example by improving the way anti-social behaviour is measured in the Crime Survey for England & Wales¹ – moving away from a measure based on perceptions to one based on people’s actual experience. This will provide a more accurate picture of what is happening across the country, and a better understanding of the impact that anti-social behaviour has on victims’ quality of life.

1 The survey was previously called the British Crime Survey, and the name was changed from 1 April 2012 to better reflect the coverage of the survey.

Second, **we want to support people and communities in establishing what is and isn't acceptable locally and in holding agencies to account**, and we want to help people feel more empowered to do that by:

- Giving victims and communities the power to ensure action is taken – too often some victims find themselves going round in circles trying to get agencies to deal with persistent anti-social behaviour. To address this we are introducing the Community Trigger, which will give victims and communities the right to require action to be taken where a persistent problem has not been addressed. We will be working with Manchester, West Lindsey and Brighton & Hove to trial the trigger this year; and
- Making it easier to demonstrate the harm caused to victims and communities by anti-social behaviour, for example through the new Community Harm Statements which will ensure that terrorised communities' voices are heard in the court room and will inform agencies' decisions on what action to take.

Third, we **will ensure professionals have the powers they need** to deal with the persistent anti-social behaviour which causes serious harm to victims or their community by:

- **Introducing faster, more effective formal powers.** For those individuals who don't respond to informal measures, or who are causing serious harm, we will replace 19 current tools with just six, to give frontline professionals a handful of faster, more effective powers to replace the bloated and confusing toolkit they have now. The new powers will enhance agencies' ability to deal with anti-social individuals and anti-social behaviour in public places. We will introduce:
 - A civil injunction that agencies can use immediately to protect victims and communities before an individual causes serious harm;
 - A new court order for the most anti-social individuals, available on conviction, that allows the courts to require them to stop their behaviour and address its underlying causes;
 - Simpler powers to deal with 'quality of life' crime and anti-social behaviour, and to close premises that are a magnet for trouble; and
 - A more effective police power to stop anti-social behaviour in public places.
- **Speeding up the eviction of anti-social tenants** – the threat of eviction from rented housing is a very powerful incentive to stop 'nightmare neighbours' making the lives of those around them a misery. However that threat is undermined by a process that can take many months or even years. We will provide a faster route to eviction for the most serious criminal or anti-social behaviour, to bring relief to victims and communities more quickly.

Finally, we will focus on long term solutions to anti-social behaviour by addressing the issues that drive much of it in the first place – binge drinking, drug use, mental health issues, troubled family backgrounds and irresponsible dog ownership.

Introduction

Anti-social behaviour is a broad term used to describe the day-to-day incidents of crime, nuisance² and disorder that make many people's lives in this country a misery – from litter and vandalism, to public drunkenness or aggressive dogs, to noisy or abusive neighbours. Such a wide range of behaviours means that responsibility for dealing with anti-social behaviour is shared between a number of agencies, particularly the police, councils and social landlords.

The last Government tried to tackle anti-social behaviour. Through more than ten separate pieces of legislation, they introduced a raft of new powers. However, this led to a variety of very similar tools being developed to deal with slightly different problems, creating a bloated toolkit which is confusing for practitioners and the public alike.

Many of these same powers have proved over time to be slow and ineffective, and are now used less and less. For example the number of Anti-Social Behaviour Orders (ASBOs) issued has declined to just 1,664 in 2010 compared with 4,122 in 2005. And over half of ASBOs are breached at least once, with 42% of these being breached more than once. In some local areas, the focus is still too much on “management” of individuals causing anti-social behaviour, rather than working quickly to stop problems causing serious harm to victims. As Her Majesty's Inspectorate of Constabulary (HMIC) found, endless rounds of partnership meetings and the resulting delays mean victims' needs are not addressed quickly enough.

Despite all of this activity, anti-social behaviour remains stubbornly high. In 2010/11, 3.2 million incidents of anti-social behaviour were recorded by the police – which is likely to still only be the tip of the iceberg as many incidents are reported to other agencies or not at all³. It is understandable that problems go unreported given the lack of prioritisation that some agencies give to anti-social behaviour. This has led to a situation where HMIC found that only half of the anti-social behaviour victims they surveyed felt the police and their partners were dealing with local anti-social behaviour effectively⁴.

This Government is committed to significant reform of how we deal with crime and anti-social behaviour.

We need to ensure that the approach to anti-social behaviour is changed, to put victims at the heart of the response; not bureaucratic targets or pointless meetings. We want the response to be locally driven, overseen by directly elected Police and Crime Commissioners. To improve the response we want to see:

- Agencies identifying vulnerable and repeat victims earlier, and responding at the first sign of trouble, through better logging of calls and managing of cases;
- A simpler toolkit, with 19 powers reduced to just six, including an injunction which can be secured in a matter of hours not months, to nip behaviour in the bud;
- Tough orders which can deal with anti-social behaviour if it escalates into criminality, which are flexible enough to deal with a range of yobbish behaviour including out of control dogs, public drunkenness, mini-motos and others;

2 Here and throughout the document, we refer to the dictionary, rather than a specific legal, definition of 'nuisance'. For example, we do not mean nuisance as defined in the Environmental Protection Act 1990.

3 2004/05 Crime Survey for England & Wales reported in Upson 2006 Home Office report 21/06.

4 Policing anti-social behaviour: the public perspective. Research report prepared for HMIC by Ipsos MORI 2010.

- The community getting involved in tackling anti-social behaviour, for example through inputting into a Community Harm Statement to highlight to the court the impact of the behaviour on their daily lives; and
- Agencies held to account locally by directly elected Police and Crime Commissioners, and by victims through our new Community Trigger.

This White Paper also highlights the range of work underway across Government to tackle the drivers of anti-social behaviour, including tackling binge drinking, drugs and irresponsible dog ownership, as well as dealing with mental health issues, and turning round the lives of 120,000 troubled families. It also summarises the response to last year's Home Office consultation on new powers in detail in Annex A and provides detail on how we propose implementing the changes in chapter three and Annexes B and C.

1. Putting victims first: Focusing the response to anti-social behaviour on the needs of victims

- 1.1 This Government has clearly set out a new approach to crime, policing and community safety, one based on a fundamental shift from bureaucratic to democratic accountability through directly elected Police and Crime Commissioners, increased transparency, and increasing professional discretion. This chapter outlines how central Government and local agencies are overhauling the whole system of dealing with anti-social behaviour (ASB) to put the needs of victims first.
- 1.2 This marks a decisive shift from the top-down, directive approach of the past. It makes no sense for officials in Whitehall to decide local ASB priorities, or whether and how agencies should respond to specific issues. Similarly, setting crude targets to reduce ASB or to respond to incidents in a specific time period has sometimes resulted in perverse outcomes, with agencies focusing on problems that were not a priority for those most in need of help and protection. This has meant that some areas have failed to identify the needs of victims and have not put the right actions in place to stop harmful behaviour quickly and effectively.
- 1.3 In terms of the behaviour itself, what is seen as ‘anti-social’ will vary from victim to victim, and neighbourhood to neighbourhood. The right response in each case will depend on a range of factors, but most importantly, on the needs of the victim and the impact the behaviour is having on their lives. As a result, solutions need to be jointly developed by local agencies, each with their own understanding of the situation and context, working together with victims and communities. Frontline professionals must be free to use their judgment as to how best to meet the needs of the victim and the community, rather than following a ‘one size fits all’ approach.
- 1.4 There is, however, a vital role for central Government in supporting local areas and agencies to reduce ASB and protect victims. There is more that we can and should do to facilitate innovation, and to share examples of what has (and hasn’t) worked so that others can learn from them. From November 2012, directly elected Police and Crime Commissioners will also be able to build upon our work in this area, sharing success and best practice within their force areas.
- 1.5 This chapter shares learning about the best ways to identify and support high risk victims and demonstrate the impact of ASB on victims’ lives. It outlines what central Government is doing to free up professionals to support victims quickly and effectively, including use of informal approaches like Acceptable Behaviour Contracts. It also outlines how we are improving our understanding of the experiences of victims by improving the way ASB is measured in the Crime Survey for England & Wales.

HELPING AGENCIES TO IDENTIFY AND SUPPORT HIGH RISK VICTIMS

- 1.6 Government has an important role in supporting and helping directly elected Police and Crime Commissioners and local agencies to work more effectively. We are doing this in a number of ways, for example through supporting the Tilley Awards which recognise innovative local projects; launching a new ‘Effective Practice’ hub on the Home Office website to help local agencies share ideas; and using new approaches to trialling new ways of working. This section outlines effective ways to identify and support high risk victims of ASB, to help ensure victims are identified early and protected quickly.

Identifying and supporting high risk victims: ASB call handling and case management trials

- 1.7 Repeated or targeted ASB causes misery to people’s lives. And, as recent cases have shown, a response that dismisses concerns, passes the buck between agencies, or which doesn’t join up can have tragic consequences. The police and others need to get this right first time. However, a 2010 Her Majesty’s

Inspectorate of Constabulary (HMIC) report showed that few forces had the right systems in place, and so this Government has trialled new ways to ensure that the right simple, practical measures are taken. This typifies our focus on moving away from headline-grabbing initiatives and instead on working with experts on the detail of what works.

- 1.8 We worked with eight police forces⁵ and their local partners, who volunteered to trial new ways of handling ASB calls from the public. The trials have tested ways of identifying vulnerable victims earlier, and bringing agencies together to manage high-risk cases by introducing five principles, outlined in more detail in the box below. These principles were intended to focus agencies' response on identifying and stopping harm to the victim or community, rather than on categorising the behaviour itself. To ensure the trials were genuinely 'bottom-up', the participants were given complete flexibility to implement the five principles in a way that suited their circumstances, and to adapt their approach during the trials in response to emerging issues or problems.
- 1.9 The results from the forces have been encouraging, and the findings were published in a report in April 2012⁶. The participating forces have reported better identification of vulnerable victims, closer working with other local agencies in dealing with those high-risk cases and an improved service to victims. However some have noted that there remains a tendency among some officers to underestimate the potential seriousness of ASB. There is still more to do ensure that the police, local authorities and other agencies put the victim at the heart of their response, but the new approach in the call handling trials – where the response is driven by an assessment of harm to the victim, rather a box-ticking approach to categorisation – offers concrete steps towards doing so.

5 Avon and Somerset, Cambridgeshire, Leicestershire, Lincolnshire, Metropolitan Police Service, South Wales, Sussex, and West Mercia.

6 Focus on the victims: Summary report on the ASB Call Handling trials: www.homeoffice.gov.uk/publications/crime/asb-focus-on-the-victim

Focus on the victim: a new approach to dealing with ASB cases

The call handling and case management trials focused on introducing five key principles into all of the forces. These principles were based on a review of local areas that were recognised as providing an excellent service to ASB victims, and what they were doing differently to the rest.

1. Having an effective call handling system for ASB incidents, that could log information from the first point of contact so that repeat callers and flag up high-risk cases.
2. Assessing the potential risks to victims early on in the call handling process.
3. Using simple, 'off-the-shelf' IT to share information between local agencies and enable a more joined-up approach to protecting victims at risk.
4. Ensuring that all agencies dealing with ASB in an area have a shared set of case-management principles.
5. Actively engaging local people to identify issues which are causing the most harm to individuals and communities.

In terms of an effective call-handling system, although all forces have different approaches to gathering and managing information, it was striking how simple the procedural changes needed to be in order to be able to identify repeat and vulnerable victims. All call handlers need to do, is to find out from each caller:

- Who is doing it?
- What are they doing?
- Why are they doing it?
- Has this happened before?
- What effect is it having on you?

These questions, or a version of them, provide a simple and light touch approach to risk assessment, reducing bureaucracy and getting to the heart of the issue quickly. For example, as reporting rates for ASB are low, many people are already a repeat victim the first time they call for help. In addition, some people are targeted because of who they are, and the second question enables the call handler to find this out.

The other key thing that forces should do is ensure that all reports, whether to an officer on the beat, over the phone via 101 or 999, or to staff in the police station, are logged so that the information can be shared and the right action taken. Without this, individuals may continue to report in different ways, with incorrect, ineffective or isolated action taken in response each time.

- 1.10 The Home Office will work with the Association of Chief Police Officers (ACPO) to encourage all 43 forces in England and Wales to use the Home Office summary report and the eight trial reports to further develop their response to vulnerable and repeat victims of anti-social behaviour. HMIC has also repeated its ASB inspection of all 43 forces in England and Wales this year with the report due shortly. The inspection will focus particularly on the service to repeat and vulnerable victims of ASB, which was highlighted again in the Inspectorate's recent work on crime recording. For forces still not doing enough in this area, the call handling report provides valuable evidence and information on what has worked in other areas, and what hasn't, to help them change culture and attitudes towards victims of ASB.

Case study: Putting the needs of victims at the heart of agency responses in Sussex

This case relates to targeted acts of anti-social behaviour towards a group of vulnerable elderly women aged 91, 82, and 65 who were all neighbours in a quiet road. The problems started when a group of five local youths walked past one of the houses and damaged the roses that were growing in one of the women's garden, adjacent to the footpath. She challenged the youths, and asked them not to do that, because the roses were planted by her husband who had since passed away. The youths were abusive to her, and this incident was the catalyst to what followed in the days to come. The youths then returned over the next couple of days, throwing things at the houses, causing damage to garden ornaments and causing further damage to flowers.

One of the youths also threatened to "set fire to the house", and "burn the victim at the stake". Local Neighbourhood Policing Team (NPT) officers quickly identified this as repeat victimisation of vulnerable people and visited them all, an ASB risk assessment was completed which scored high, and officers began an investigation and put protective measures in place. The area was made a "directed patrol activity" to increase police activity at the key times. The following day, the youths returned again and caused further problems, but this time it resulted in one of the victims suffering a heart attack, and another having chest pains. An ambulance subsequently attended and took one of the victims to hospital. NPT officers arrived quickly at the scene and detained two suspects nearby who fitted the description and admitted to some involvement in the incident. Upon questioning, and realising the seriousness of their behaviour they named the other three youths who had been involved.

There was clear evidence that the behaviour had been affecting the physical and mental wellbeing these residents who were terrified by what has been happening. One of the victims had taped up her letter box and padlocked her gate due to fears for her safety.

A meeting was quickly arranged, attended by different agencies, and a number of actions were agreed as part of a safety plan. This included crime prevention advice, alarm systems, and fire retardant letter box protection. The five suspects, aged 14-16 years, were all arrested and interviewed, and were given conditional police bail to protect the victims. Three of these suspects were subsequently charged with harassment (currently awaiting trial), and one received a final warning.

The swift intervention of police in identifying this as a high risk case, supporting the victims, and identifying and dealing with the perpetrators, stopped any further incidents occurring and this matter escalating with more tragic consequences.

Local officers maintain regular contact with the victims, who recently sent a thank you card to all of the officers involved for the help and support they had provided to them in dealing with the incidents.

Identifying and supporting high risk victims: supporting early risk assessments

- 1.11 In addition to the call handling trials, there has also been work in all forces to change the approach to recording ASB incidents. In the past ASB was categorised according to 14 separate categories (for example animal problems, abandoned vehicles, begging/vagrancy etc). This encouraged call handlers and response teams to focus on what the incident was, rather than the effect it was having on the victim.

In addition, HMIC recently looked at police recording of ASB incidents⁷ and found that the recording of crimes arising from ASB incidents varied between forces. A failure to identify crimes correctly, when coupled with a failure to identify vulnerable or repeat victims, can lead to victims not getting the response that their situation warrants, and continuing to suffer.

- 1.12 To address this ACPO, along with the National Policing Improvement Agency (NPIA), led a review of how ASB is categorised in 2010. Following that review, the recording of ASB incidents has been simplified and the emphasis changed from categorisation of incidents to identifying the impact of the behaviour in order to identify vulnerable or high risk callers. Police forces should now be using just three categories – environmental, public nuisance and personal threat – making it easier to focus on the impact on the victim and decide on the appropriate response.
- 1.13 This now means that, since April 2011, the principal aim of the new system has been to ensure that all incidents are risk assessed at the earliest opportunity, leading to an appropriate response and making it easier to assign a lead agency to a case quickly. Along with the learning from the call handling trials, this new system will ensure that forces focus on the needs of the victim at the outset.

Identifying and supporting high risk victims: ASB Multi-Agency Risk Assessment Conferences (MARACs)

- 1.14 As a number of tragic cases have demonstrated, joined-up working across agencies and effective information sharing are vital to providing an effective response for victims. Too often, barriers between agencies (e.g. as a result of different IT systems, poor information sharing or different locations) can result in un-coordinated action which doesn't deal with the problem effectively or support the victim. The trials outlined above are one way to address these issues, as will the new Community Trigger outlined in the next chapter.
- 1.15 A third way that we are addressing these issues is through effective management of cases through MARACs. These are action-oriented sessions where agencies come together to agree specific tasks to help protect the most vulnerable and stop ASB. They were initially developed as a way to deal with domestic violence, where different agencies were likely to be involved in supporting one family. A number of areas have now realised their benefits in helping other high-risk or vulnerable victims of, for example, ASB or hate crime. These areas include Blackpool, Greater Manchester, Hastings and Ealing, as well as Avon & Somerset and Sussex (in Brighton & Hove) who used this approach as part of the call handling trials. We want to encourage more areas to use this approach to managing cases. For example we have promoted them through the call handling report and will continue to demonstrate their benefits to areas through our work to highlight effective practice.

7 HMIC 'The Crime Scene' 2012.

Case study: Addressing risk, harm and vulnerability – ASB and hate crime MARACs in Brighton & Hove

Brighton & Hove City Council has set up a new way of managing its multi-agency response to the most vulnerable victims of crime, hate crime and ASB. The aim of the new process was to turn the existing regular ASB meeting into a victim-focused ‘tasking’ session, based on the domestic violence MARAC model. The agencies involved are community safety, environmental health (noise team), neighbourhood police, council housing, family intervention, housing providers, adult safeguarding/social care and youth offending.

At these monthly meetings, in addition to focusing on enforcement action, officers look in detail at the ten highest risk or most vulnerable victims (as identified across all agencies). The meetings are a chance to assess and review what is happening for those ten individuals, with each partner having to be clear about the actions being taken collectively and individually to reduce the harm to that person or household. This is supported by a new internet-based case management system which enables agencies to share information quickly, be clear about which different interventions had been used and how effective these have been. The meeting holds agencies to account and the objective is to reduce the levels of harm and risk down through co-ordinated action and support to victims.

To take one example, a neighbour of an elderly man highlighted a series of noise and ASB problems at his address. Further checks and a short investigation revealed that the alleged perpetrator was a 77 year man who lived alone. It was discovered that a daughter of a housing association tenant in the same street and her associates had been exploiting his isolation by using his address as place to take drugs and as a party house, which was causing a range of ASB concerns to residents.

A vulnerability assessment was carried out which highlighted him as high risk. As a result a range of interventions were put in place which involved the housing provider (including warnings of potential tenancy action against the housing association tenant), neighbourhood police, community safety and a vulnerable safeguarding alert was created. As a result, locks were changed and the girl has now stopped going to the property. The matter has now been down-graded to medium risk but continues to be monitored by agencies.

FREEING UP PROFESSIONALS TO SUPPORT VICTIMS QUICKLY

- 1.16 Once victims of ASB have been properly identified, it is important that we allow professionals the freedom they need to take the right action to stop perpetrators. To do this, we have got rid of centrally mandated targets, action plans and centralised minimum standards on ASB, so that the needs of victims in a local area can drive the actions of local agencies, rather than officials in Whitehall.
- 1.17 We want to support professionals in their decisions on how to deal with anti-social individuals to protect victims by giving them evidence on what works. Recent research commissioned by the Home Office⁸ identified two key types of perpetrator: a larger group whose ASB was ‘transitional’, committed when the individual was adapting to a specific life change (e.g. adolescence, moving out of the family home, following a divorce); and those whose behaviour was persistent and ‘entrenched’, partly as a result of underlying factors such as substance abuse, mental health issues or a dysfunctional family background.

8 Clarke et al. 2011. Describing and assessing interventions to address anti-social behaviour

- 1.18 Evidence shows that early intervention, informal interventions, such as through restorative and reparative approaches are successful in stopping the ASB committed by the vast majority of perpetrators. For example, a recent HouseMark survey showed that 76% of ASB cases dealt with by social landlords were resolved through early intervention⁹. One tool that can be used early is an Acceptable Behaviour Contract (also known as an Acceptable Behaviour Agreement) which gets the individual to acknowledge their behaviour and its effect on victims, with the aim of stopping it quickly. Acceptable Behaviour Contracts are informal, voluntary agreements between an individual who has committed ASB, and a local agency (and also sometimes involving the local community). In addition, verbal or written warnings can be very effective at stopping people behaving anti-socially at an early stage.
- 1.19 By giving professionals a means of challenging all unacceptable behaviour immediately, rather than going through a formal court process, these informal tools can establish clear standards of behaviour and reinforce the message that ASB will not be tolerated. In many cases, awareness of the impact of the behaviour on their neighbours, and the threat of more formal enforcement tools, can be a sufficient incentive for an individual to change their behaviour. It is for local areas to decide when and how to use these approaches, not Whitehall, but we would like to encourage professionals to use informal methods where they deem them to be appropriate.
- 1.20 It is much harder to stop the second type of perpetrator committing ASB – for example, the National Audit Office research found that 7% would not desist even after three interventions¹⁰. These individuals need tough and effective powers to stop their behaviour quickly, and tackle the root causes of their problems. This is one of the key problems with the current formal powers as they impose stringent conditions to stop future ASB, but don't address underlying causes. This may partly explain the high breach rate for ASBOs, showing that these tools do not change behaviour and so fail to protect victims and communities in the long-term. This is something we are addressing in our reforms, outlined in chapter three and Annex B.

IMPROVING OUR UNDERSTANDING OF THE NEEDS OF VICTIMS

- 1.21 In order to be able to put victims first, we need to understand more about victims of ASB, and the impact ASB has on their lives. Some of this is obvious but there are other perhaps more surprising results. We know that there are some people that are more likely to be victims: people living in less affluent urban areas particularly those living in social housing; and people who report a disability and long-term health condition. But, despite common perceptions, young people are just as likely as older people to identify ASB as a local problem¹¹.
- 1.22 Understanding victims, and the harm that ASB causes, is vital if agencies are to respond in the right way, and stop the problem quickly and effectively. However, experience of ASB cannot easily be measured in the same way as experience of crime, as it is sometimes not possible to specify who the 'victim' is (as it may, for example, be the community as a whole) or to identify one specific 'incident'. As a result, the Crime Survey for England & Wales¹² (CSEW) has measured perceptions of ASB for a number of years,

9 Housemark, ASB benchmarking survey 2009/10

10 National Audit Office: The Home Office: Tackling Anti-Social Behaviour 2006

11 Taken from research conducted for HMIC by Cardiff University (building on Crime Survey for England & Wales data): Re-thinking the policing of anti-social behaviour (Innes and Weston, 2010).

12 The survey was previously called the British Crime Survey, and the name was changed from 1 April 2012 to better reflect the coverage of the survey.

using ‘proxy’ questions about how much of a problem a range of different types of behaviour are in the local area (for example, ‘teenagers hanging around on the streets’ or ‘abandoned cars’).

- 1.23 Our understanding of the needs of victims is hampered by the fact that these questions do not provide detailed information of the actual experience of victims of ASB. To address this, we developed and piloted new questions which have been included in the CSEW from April 2011. These explore the public’s actual experiences of ASB. The new questions will provide a richer source of contextual information on people’s experiences of ASB, their interaction with police and local authorities and the impact the behaviour has had on their quality of life. This will help local agencies to understand better the problems in their areas and how to tailor their services to meet the needs of their communities, and allow the public and directly elected Police and Crime Commissioners to hold them to account.
- 1.24 Results from the first 12 months of interviews will be available for publication later in 2012. Responsibility for the publication of Crime Statistics has now passed to the Office for National Statistics and they will give consideration to when and how such data will be published.

SUMMARY:

The starting point for all our actions here, and throughout the White Paper, is **to ensure that all agencies and individuals focus on the need of victims**. This is the key shift to ensure ASB is dealt with more effectively, with agencies looking to the needs of victims rather than Whitehall in deciding their response.

In particular, we will ensure our approach to tackling ASB focuses on the needs of victims by:

- Ensuring agencies identify vulnerable and repeat victims of ASB more quickly through improvements in call handling, case management, incident recording and encouraging agencies to adopt the MARAC model to put the victim at the heart of the process;
- Giving professionals more discretion to be able to respond to the needs of the victim in the most appropriate way by getting rid of centrally driven targets and minimum standards, and sharing evidence on the effectiveness of informal tools such as Acceptable Behaviour Contracts; and
- Giving local areas a better understanding of victims’ experience of anti-social behaviour by introducing new questions into the Crime Survey for England & Wales.

2. Empowering communities: Protecting victims

2.1 Individuals and communities themselves know exactly what problems they face, and so can often be the most effective actors in establishing what is and isn't acceptable in their neighbourhood, and challenging behaviour that crosses the line. We want to do all we can to devolve control of public services to individuals and communities, and support them to hold the various agencies to account. As a result, this chapter outlines a range of initiatives to help victims, communities and businesses get involved in dealing with the issues that matter to them. It also outlines our final policy proposals on a new Community Trigger, which will act as a backstop to ensure victims and communities are not ignored even once new victim-focused approaches are in place.

GIVING VICTIMS AND COMMUNITIES THE RIGHT TO DEMAND THAT AGENCIES TAKE ACTION

2.2 Identifying and supporting victims and empowering communities will help ensure that agencies respond effectively to their needs. Many police forces, councils and housing providers are already working hard to deal with the issues that really matter locally, but there are still too many horror stories of victims reporting the same problem over and over again, and getting no response. These long-running problems – and the sense of helplessness that goes with them – can destroy a victim's quality of life and shatter a community's trust in the police and other agencies. The Government is determined to give the public the power to make agencies take them seriously.

2.3 That's why we have proposed introducing a Community Trigger as part of our reforms to the tools for tackling anti-social behaviour. The trigger would give victims and communities the right to demand that agencies who had ignored repeated complaints about anti-social behaviour (ASB) take action. Many respondents to the consultation agreed that agencies need to do more to protect repeat or vulnerable victims of ASB. 41% of the public, the very people who this is aimed at supporting, said the trigger would improve the way ASB is dealt with in their area, compared with only 16% who thought it would make things worse. As one member of the public commented:

“The degree of accountability guaranteed by the trigger is the most welcome of all the new proposals. Police and local authorities will now be compelled to act upon reasonable requests by the communities they serve. I believe that the public knowing that their complaints are listened to and acted upon will greatly improve confidence amongst communities.”

A more detailed summary of the feedback from the consultation is in Annex A.

2.4 As a result, and with many respondents agreeing that the importance of protecting repeat and vulnerable victims outweighs the various practical issues raised by some agencies, our final proposal is for a high level duty on local authorities, police and health¹³ to deal jointly with complaints raised by members of the community regarding ASB¹⁴ where no action has previously been taken. Private registered providers of social housing would also have a duty to cooperate with this group, as they play a key role in tackling ASB in local areas. Authorities would be able to reject those complaints deemed vexatious or malicious.

2.5 We do not propose to spell out in legislation exactly how local areas should implement the trigger. Instead, relevant authorities (at district council level or above) will be required to decide and publish the thresholds, criteria, process (including a single point of contact) and reporting mechanism they intend

¹³ This would currently be the Primary Care Trust, but will be replaced by Clinical Commissioning Groups once the relevant section of the Health and Social Care Act 2012 is enacted.

¹⁴ Defined as causing 'harassment, alarm or distress' to members of the public.

to use locally. There would be a role for the directly elected Police and Crime Commissioner to ensure democratic accountability. We envisage existing processes and channels of communications being used where possible to minimise bureaucracy and would ensure that areas could join up across local authority boundaries if they wanted to.

- 2.6 In addition we will specify that the trigger can be initiated by a third party (e.g. carer, family member) in the case of vulnerable victims, and that it will also be open to use by businesses as well as individuals.
- 2.7 Framing the duty in this way will ensure agencies can design the process to suit local circumstances and focus on local priorities. Given the perennial difficulties that agencies face in sharing information, we will also emphasise in the legislation that relevant authorities have a duty to share information, and also to publish data on how often the trigger has been used and the outcomes in order to aid transparency.
- 2.8 We are working with a number of leading areas, including Manchester, West Lindsey and Brighton & Hove, to test the trigger on the ground, as we did with the call handling trials. Testing the trigger like this before we apply it nationwide will be key to ensuring that our reforms work without imposing unnecessary bureaucracy or, for example, unanticipated burdens on responsible local businesses.

Manchester City Council, Greater Manchester Police and a range of other partners are keen to see how they can work together to improve the service they offer to victims and communities suffering persistent anti-social behaviour, and will test the Community Trigger across the whole of the City of Manchester.

The threshold for the trigger will be behaviour causing “harassment, alarm and distress”, based on either:

- three or more complaints from one individual about the same problem, where no action has been taken; or
- five individuals complaining about the same problem where no action has been taken by relevant agencies.

Victims will be able to activate the trigger through a simple online form (accessible on all relevant authorities’ websites), by letter or by telephone, describing the anti-social behaviour they are experiencing, and when it was previously reported. They will receive an acknowledgement within 24 hours, setting out a clear timeline for the response.

If the complaint meets the threshold, a single lead professional will pool information from all the relevant authorities to build up a full picture of the case and identify any action that could resolve the problem, including support for the victim(s). The Chair of the Community Safety Partnership will then reply to the complainant, setting out what agencies propose to do to.

DEMONSTRATING THE HARM CAUSED TO COMMUNITIES BY ANTI-SOCIAL BEHAVIOUR

- 2.9 Sometimes it can be difficult for agencies to show the impact that ASB is having on a whole community. To help social landlords, and others, to do this more effectively, the Chartered Institute of Housing were funded by the Department of Communities and Local Government to work with key housing partners including the Social Landlord Crime and Nuisance Group (SLCNG), a selection of social landlords,

the police and solicitors to develop Community Harm Statements for use in the County Court¹⁵. The guidance on these can be found on the Chartered Institute of Housing website (www.cih.org).

- 2.10 The Community Harm Statement provides a recognised template to present evidence of harm on communities to court in a consistent way. It gives a stronger voice to communities by helping ensure that the damage inflicted by ASB is properly demonstrated when landlords take legal action. For example, it can show judges the impact that ASB is having on a whole community, to balance alongside considerations of the rights of the perpetrator.
- 2.11 It can also be used to support non-judicial actions, casework and partnership working. For example, ASB officers can use statements to show the cost of ASB to an organisation in increased repairs, increased calls for service and higher staff costs (e.g. if officers have to work in pairs for safety). This enables them to demonstrate that swift action to stop ASB quickly will save money in the long run as well as protect victims. Statements can also be used by one agency to demonstrate to another why increased activity is needed. For example, a housing association could show that residents in one area were regularly experiencing ASB at specific times, and use this to get foot patrols increased by neighbourhood policing teams. This all helps to ensure that partnership working results in actions which make a visible difference to victims and communities, rather than just meetings.

Case study: Taunton Deane Borough Council's effective use of a Community Harm Statement to protect victims and stop anti-social behaviour

The Community Harm Statement was used to deal with ASB caused by a tenant and his ex-partner in a small block of flats. Residents in the block complained of shouting, screaming, general verbal abuse and items being thrown out of the windows. The verbal arguments and the banging of doors between them were so loud that they could be heard throughout the flat complex. Police attended on numerous occasions and often found the tenant and his ex-partner to be drunk. The tenant also made complaints to the police about his ex-partner but the police found that he had invited her into the property.

The statement was used to help collate information on harm to the community. It showed that the block was a small community which had a neighbourly feel, where all the residents looked out for each other. However, they felt isolated by the ASB and did not venture outside their front doors at night for fear of meeting the tenant or his ex-partner when they were drunk, as they would then subject residents to abuse and threats.

Analysis of incidents indicated that there was only nuisance and annoyance to other residents when the tenant's estranged partner visited the property. She had no "rights" to be at the property. The issues in the statement were explained to the tenant who, having been confronted with clear evidence of the impact of his behaviour, agreed to sign an Acceptable Behaviour Agreement that he would not invite his estranged partner into the property and he would not do anything to annoy or be a nuisance to his neighbours. At the time of preparing the case study the ASB had stopped and the agreement had not been breached.

¹⁵ In some areas, Community Impact Statements are used in a similar way in criminal proceedings, to inform the court of the concerns and priorities of a specific community over a set time period.

HELPING COMMUNITIES AND BUSINESSES TO TACKLE ANTI-SOCIAL BEHAVIOUR AND PROTECT VICTIMS

- 2.12 Many communities and activists are already leading the way in standing up to anti-social behaviour and making their neighbourhoods better places to live. However, too often, the old top-down approach made it harder, not easier, for people to make a difference. We are exploring new ways for the public to get involved and to shape the approach to the issues that really matter in their area. We have also made more information available through the national crime mapping website, www.police.uk, so they know what those issues really are and what agencies are doing about them. For example, by October 2012 we will produce court-by-court details of the number of Anti-social Behaviour Orders (ASBOs) issued. We will also explore the feasibility of separately showing breach of ASBO criminal offences on the website and will work to ensure these types of data are also available on the new ASB tools once they come into force.
- 2.13 In addition, some communities are already working together to challenge local agencies to deal with ASB in the way that they think is most appropriate. For example, young people in some communities have challenged the use of ‘mosquito’ devices which seek to disperse teenagers by emitting a high-pitched tone which only children and young people can hear. They have successfully challenged local authorities to take a more constructive approach to ASB by young people. The case study below demonstrates the effect of one such example of locally driven action.

Case study: Young people influencing how ASB is tackled locally

Following a successful campaign led by Harrison Carter, the member of the UK Youth Parliament for Sheffield, the Cabinet of Sheffield City Council voted unanimously in January 2011 to end the use of mosquito devices on all council buildings. It also recommended that partners such as the police do likewise and refuse to endorse the use of mosquito devices across Sheffield.

Sheffield’s Safer Neighbourhood Teams work with local providers to challenge the behaviour of the small minority of young people who have been identified as causing, or at risk of causing anti social behaviour. This has made a major contribution to the lowest levels of reported anti-social behaviour for three years.

Other authorities that have taken similar action against the mosquito device include Lancashire (May 2007), Knowsley (June 2007), Kent (June 2008) and Kirklees (September 2010) – all as a result of successful campaigns by young people.

- 2.14 Some businesses are also working closely with local agencies to tackle anti-social behaviour. For example, some local authorities have established voluntary landlord accreditation schemes to help private landlords provide a better service to tenants, including tackling ASB. Local authorities encourage landlords to sign up by offering incentives such as direct support from council officers to help deal with problem tenants, as well as public recognition that a landlord and letting agent is responsible and maintains good standards in their properties. This partnership working helps landlords to provide a better service to their tenants, and also makes it easier for them to work with the local authority to deal with ASB and protect victims.
- 2.15 Other areas have introduced mandatory ‘selective licensing’ to ensure private landlords take responsibility for dealing with the behaviour of their tenants. In an area of selective licensing the local authority can introduce licensing for all privately rented properties. Private landlords must then pay for a license and

have to show they can manage their properties properly, including taking action against nuisance tenants. This ensures that landlords take action to deal with anti-social tenants, providing respite to victims and communities suffering as a result of neighbours from hell. Selective licensing operates in a number of areas including Salford, Manchester, Middlesbrough, Gateshead, Burnley, Bolton, Blackburn, Leeds, Hartlepool, Sunderland and London Borough of Newham. In addition to these partnership approaches, our proposals in chapter three including new powers of eviction and a new injunction, will tackle ASB in the private rented sector to protect victims and communities.

GIVING VICTIMS AND COMMUNITIES A SAY IN NEIGHBOURHOOD JUSTICE

- 2.16 Restorative Justice is a vital tool for giving victims and communities a say in how an offender should make amends for the crime they have committed and getting the offender to face up to the consequences of their actions. Restorative Justice is used in both the youth and adult justice systems and is most effective when it is locally driven and therefore responsive to tackling ASB, crime and disorder in the local area.
- 2.17 We want to get community representatives more involved in delivering Restorative Justice, and one of the ways we are doing this is by working with a number of local areas to set up and test Neighbourhood Justice Panels. Panels can be used to deal with low-level crime and ASB, which does not require a formal criminal sanction, but which is having a detrimental impact on local communities and causing harm to victims. Facilitated by representatives of the local community, panels bring those who have caused harm face to face with their victims, and all parties work together to reach an agreed outcome including reparation to the victim. We are trialling Neighbourhood Justice Panels in a number of areas across England and Wales to test these approaches and understand how panels enable the community to be more involved in Restorative Justice.

SUMMARY:

We will empower communities to protect victims and hold agencies to account by:

- Giving communities, including businesses, the power to ensure action is taken through the Community Trigger;
- Making it easier to demonstrate the harm caused to victims and communities by anti-social behaviour through the Community Harm Statements; and
- Giving victims and communities a say in how anti-social behaviour and low level offending which affects them is dealt with, by trialling Neighbourhood Justice Panels in a number of areas across England and Wales.

3. Swift, effective action: Giving professionals the tools they need to protect victims

- 3.1 Practitioners have told us what works¹⁶ in tackling anti-social behaviour (ASB). They know that a balanced response, incorporating elements of both enforcement and prevention is essential in stopping ASB, especially for the most persistent perpetrators. As outlined in chapter one, it is vital that professionals have discretion to use informal approaches such as Acceptable Behaviour Contracts to tackle ASB, as the evidence shows that this is often the right response to protect victims.
- 3.2 However, there will always be a minority of cases where the informal approach will not work, and where high-end, formal interventions are needed to stop the dangerous and yobbish behaviour of some individuals who make victims' lives a misery. These individuals need tough action to prevent them behaving anti-socially, and need to know that there will be swift and effective sanctions if they fail to stop.
- 3.3 Our consultation proposed changes to streamline the existing system of having a specific tool for every type of behaviour, to more flexible tools available to professionals from a range of organisations (e.g. social landlords, local authorities and police officers). The aim of our proposals is to provide high-end formal tools to help agencies take action quickly and prevent problems from re-occurring. We also want to build support into the system to change behaviour, thus protecting victims in the long-term by getting lasting change. Our changes will mean that we are cutting the existing alphabet soup of unwieldy powers, replacing 19 complex existing powers with six simple, flexible and adaptable new ones.
- 3.4 As we are proposing simplification of a wide range of existing law, we want to consider all the detailed issues fully in order to get it right first time. Rather than introducing reactive initiatives and narrow powers one after another, like the last Government, we know we need to involve the experts who will use these powers in their development. As a result we will publish our legislative proposals as part of a draft Bill for pre-legislative scrutiny. We will continue to work closely with victims, communities, businesses and practitioners to shape the legislation so that it offers the best possible protection to the public and reflects the likely impacts across the wide range of groups affected by anti-social behaviour.
- 3.5 These proposals will apply in England and, where relevant, in Wales. Whilst most of the issues covered in this White Paper are not devolved, the Welsh Government does have an important role in community safety so we are working with them on implementing these reforms in Wales.

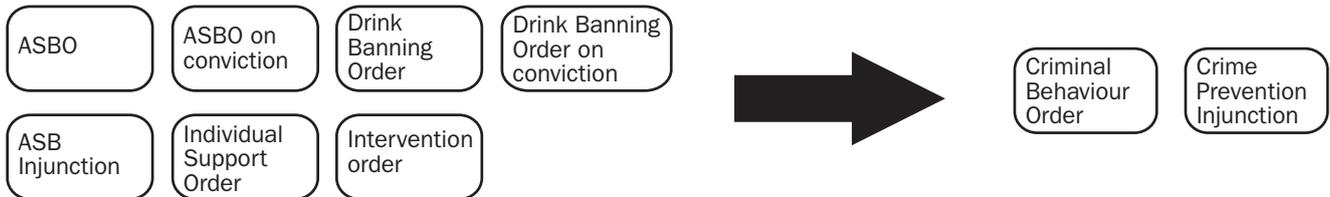
Consultation response

- 3.6 Overall, the reaction to the proposals in the ASB consultation has been positive, with a great deal of support for our overall aim of simplifying the current system. For example, the Association of Chief Police Officers (ACPO) called them “practical, positive, reasonable and balanced.”
- 3.7 57% of stakeholder consultation respondents (e.g. local authorities, police, Community Safety Partnerships, housing providers, judiciary, and the voluntary sector) were in favour of simplification of the tools and powers, with only 9% against the proposals. Of the public respondents, 40% felt the proposals would improve the response to ASB and only 9% felt they would be less effective than the current system. Annex A gives a detailed summary of responses to our consultation on each of the proposals, and Annex B provides a table which summarises the tools being repealed and what they will be replaced with.

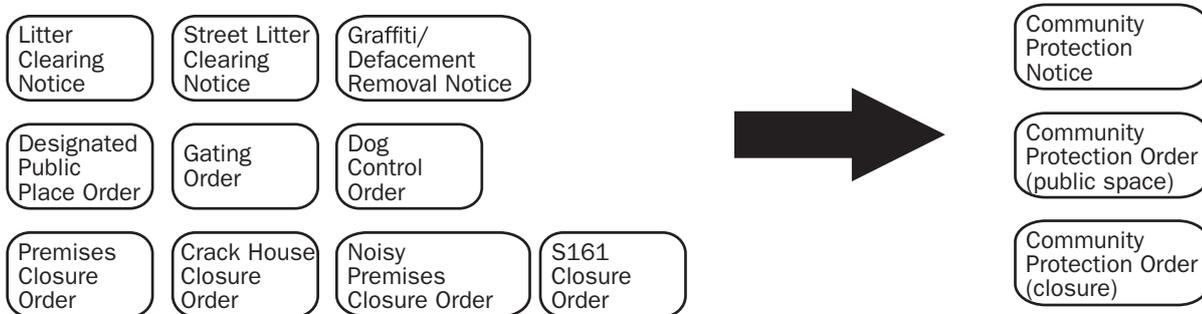
¹⁶ Clarke *et al.* 2011. Describing and assessing interventions to address anti-social behaviour. And the ASB Consultation: *More effective responses to anti-social behaviour.*

SIMPLIFICATION: FROM 19 TO 6

People



Places



Police powers



DEALING WITH ANTI-SOCIAL INDIVIDUALS – PROTECTING THEIR VICTIMS

- 3.8 Much of what is described as ASB is criminal (e.g. vandalism, graffiti, dangerous dogs, street drug dealing and people being drunk and disorderly), but civil powers to deal with anti-social individuals can also be useful as they give the police an alternative to criminal charges in cases where it is difficult to prove that an offence had been committed or where victims are afraid to give evidence. If used effectively, they can also help to stop the kind of sustained harassment directed at vulnerable victims seen in some high-profile cases.
- 3.9 We consulted on proposals to create a **purely civil order** (i.e. with sanctions under the civil, rather than criminal law) that agencies can secure quickly, in a matter of days or even hours, to stop an individual's anti-social behaviour and protect victims. Following consultation, we propose introducing the **Crime Prevention Injunction**, which would be a purely civil injunction available in the County Court for adults and the Youth Court for 10 to 17 year olds. This would be faster to use than the Anti-Social Behaviour Order (ASBO) and could be used at an earlier stage and secured using the civil burden of proof (i.e. on the balance of probabilities rather than beyond reasonable doubt). Breach would be contempt of court and carry serious penalties, including custody.
- 3.10 Our injunction will build on the success of the ASB Injunction, which social landlords use effectively to stop problems and protect victims, and which is faster and easier to use than the ASBO. We will

improve the ASB Injunction by broadening out the range of agencies who can apply for it (for example including NHS Protect who deal with anti-social behaviour against hospital staff) and ensuring it can be used in a wider range of circumstances (for example against nightmare neighbours in the private rented sector). Use of the injunction would need to be proportionate and the impact on vulnerable individuals considered.

- 3.11 Another new feature of the injunction will be that it could include both prohibitions on behaviour and positive requirements to address underlying issues and change behaviour in the long term. Including positive requirements addresses a major flaw of the ASBO – that by focusing solely on prohibitions and enforcement, the order fails to change the behaviour of the perpetrator, and therefore fails to stop breaches and protect victims. More detail on how the Crime Prevention Injunction would work is outlined in Annex C.
- 3.12 The following examples demonstrate how the new Crime Prevention Injunction will enable agencies to protect victims more quickly and more effectively than the current system:
- **Example 1:** An individual who repeatedly calls an ambulance after feigning chest pain in public places and is regularly drunk and aggressive to paramedics on route to hospital. Under the current system, hospital authorities must persuade the police or local authority to apply for an ASBO, which takes many months and which must then be enforced by others. Under the new system, NHS Protect, the body responsible for protecting NHS staff, property and resources against crime and disorder, will be able to apply direct for an injunction to immediately protect staff, and will be able to enforce and manage the injunction themselves.
 - **Example 2:** An individual renting a property in the private rented sector who was regularly using abusive language towards their owner occupier neighbours and threatening them. Under the current system local agencies could take months to apply to the courts for an ASBO, during which time the neighbours would continue to suffer as a result of the individual's increasingly threatening behaviour. Under the new system, local agencies could, in a matter of hours, apply to the civil courts to get an injunction on the individual, providing respite to their neighbours and preventing the behaviour from escalating.
 - **Example 3:** An individual who had allowed and encouraged their dogs to intimidate people, causing distress to others in their local community and preventing others from using a local park. Under the current system that individual could be banned from the park through an ASBO (though this would usually take months to secure). Under the new system, an injunction could be secured very quickly to ban the individual from the park, but also to require them to always have their dog muzzled and on a lead in public, and to attend dog training classes so that they understood how to control their dog.
- 3.13 To give agencies and communities what they need to deal with the hard-core of persistently anti-social individuals who are also engaged in criminal activity¹⁷ we consulted on introducing a **new civil order available alongside a conviction**. Following consultation we propose introducing the **Criminal Behaviour Order**, which would be available alongside a conviction for any criminal offence and in any criminal court. The order would have tough criminal sanctions on breach, with a maximum sentence of

¹⁷ For example, in 2006 the National Audit Office found in a sample of 606 cases in six areas that 80% of those being given an ASBO had a previous criminal conviction, and this group of individuals had an average of 50 criminal convictions each.

five years in prison, to ensure that there were serious consequences if an individual failed to change their behaviour and continued to make their victims' lives a misery.

- 3.14 The court could use the order to ban an individual from certain things to prevent future ASB e.g. going to specific places or being out at certain times. Crucially, it would also allow the court to require the individual to undertake positive activities to address underlying issues that may be driving his or her behaviour, or to deal with problems such as irresponsible dog ownership. It would also allow the individual to pay to attend an approved course to address the causes of their behaviour, as currently happens in relation to drink driving. By addressing the causes of an individual's behaviour, we would expect breach rates to fall in the long term.
- 3.15 We will give the police flexibility to deal with a first breach to determine its seriousness and, where it is sufficiently minor, to deal with it immediately either by informal measures (for example reparative approaches where appropriate) or a formal out-of-court disposal. This builds on evidence which suggests that the longer the gap between action (i.e. breach) and consequence (i.e. court appearance), the lower the likelihood that the potential consequence will deter the individual in the first place. By taking all breaches seriously, and enabling the police to deal with them quickly, we will demonstrate to individuals that breaching an order has consequences and protect victims by preventing future breaches.
- 3.16 The following examples demonstrate how the new Criminal Behaviour Order will enable agencies to deal more effectively with ASB than the current system:
- **Example 1:** A persistent beggar and street drinker convicted of being drunk and disorderly who had been harassing passers by asking for money and being abusive to members of the public. Under the current system they could be given order alongside the conviction which prevented them from approaching people to ask for money in a specific area, but nothing could be done to address their alcohol problem. Under the new system, they could still be prevented from begging in a specific area and could also be required to attend alcohol treatment, awareness, or advice and support programmes, which would in the long term reduce the likelihood of them breaching the order.
 - **Example 2:** A young person convicted of criminal damage after having broken the window of an elderly person's house following an ongoing campaign of harassment. Under the current system, they could be prevented from going near their victim's house, but under the new system, the same order could also require them to make good the damage to the victim's window and engage with a mentoring programme to address the reasons why they were harassing the victim.
 - **Example 3:** An individual being convicted for riding an unlicensed mini-moto on a road and of causing nuisance to their local community because of the noise. Under the current system that person could be given an order to prevent them from owning a mini-moto in the future, but under the new system, they could also choose to pay to attend a locally available driver awareness course, which would show them the impact of their behaviour on others and reduce the likelihood of breach.

PROTECTING COMMUNITIES – IMPROVING QUALITY OF LIFE

- 3.17 Everyone wants to live in a safe, secure and welcoming environment and not to be a victim of ASB in their neighbourhoods. We consulted on proposals to simplify, consolidate and strengthen the tools available to deal with environmental and place-based ASB through a 'Community Protection Order'.

This approach shifts the emphasis from having a specific tool to deal with every type of behaviour, often only available to individuals with a particular specialism, to ensuring a wider range of professionals can respond effectively to a wide range of problems. As that range of problems will include anti-social behaviour caused by irresponsible businesses, we will work with business forums to ensure our new approach imposes minimal burdens on responsible businesses, in agreement with the Government's independent economists on the Regulatory Policy Committee.

Protecting local neighbourhoods

- 3.18 Following the feedback received in the consultation we propose introducing a **Community Protection Notice**, issued to an individual or responsible person within a business or other organisation, to deal with a particular problem negatively affecting the community. It could be used to tackle the impacts of a range of anti-social behaviour (for example graffiti, littering, dog fouling or using a skateboard somewhere inappropriate). The notice would be issued to stop persistent, unreasonable behaviour that is detrimental to the amenity of the locality or is having a negative impact on the local community's quality of life. The notice would replace Litter Clearing Notices, Street Litter Control Notices and Defacement Removal Notices.
- 3.19 This notice is not designed to be issued for a single incident – guidance would make it clear that informal measures (as well as low-level sanctions such as a Fixed Penalty Notice where appropriate) should be used at first to try to elicit a change in behaviour. Only where such measures have proved ineffective would a notice be used – by which time the subject would have been given ample warning that the behaviour was unacceptable and have chosen to continue regardless.
- 3.20 The notice could be used in a variety of other situations not addressed by the powers it is directly replacing, allowing areas to respond flexibly to local issues as they arise. For example, relatively low-level, but persistent, neighbourhood noise can be one of a number of behaviours that, when combined, can have a significantly detrimental effect on a community¹⁸ Noise is currently the preserve of local authorities, yet many members of the public call the police when they are a victim of noise nuisance (for example, the police were called out to deal with noise 88,317 times in 2008/09). Our proposals would enable the police to issue a notice to stop the behaviour, with criminal sanctions if the individual failed to comply, rather than simply attending or taking a call and referring on, as is currently the case. This would extend the powers the police have to deal with noise problems (as they currently only have some limited powers to control noise from road vehicles)¹⁹.
- 3.21 Examples of where the notice could be used, and how this differs from the current system, include:
- An individual who regularly allows their dog to foul in a communal garden (this situation is not covered by current notices);
 - A group regularly taking the same route home late at night whilst drunk, making noise and waking their neighbours (this is behaviour not covered by the statutory nuisance regime); and

¹⁸ The statutory nuisance regime under the Environmental Protection Act 1990 would take precedence, and we will also ensure that the changes do not have any unintended implications for the planning system, including the enforcement of planning permissions.

¹⁹ The onus would still be on the local authority to take the lead on noise as they would still be the only authority empowered to use the statutory nuisance powers under the Environmental Protection Act 1990.

- A takeaway which persistently allows its customers to drop litter on the pavement outside and causes noise nuisance late at night, being required to put bins outside the shop and to ensure that customers leave quietly after 10pm (current notices can only be used to deal with one type of behaviour).
- 3.22 Community Protection Notices could be issued by a range of professionals including the police and designated private registered providers of social housing, although we anticipate that most will be issued by local authorities. It would be for the local authority to work with private registered providers of social housing to agree which (if any) of them should be given the power to issue notices in their area and for all the relevant competent authorities to ensure the necessary liaison arrangements are in place to avoid duplication of effort or complaints falling between the gaps.
- 3.23 A notice could only be issued where the behaviour is occurring without reasonable excuse, and we propose having a defence on breach if all practical measures have been taken to avoid or prevent the problem. For example, someone may find a baby crying in the night has a negative impact on their quality of life, but it would not be reasonable for an agency to serve a notice on someone to stop a baby crying so the notice couldn't be used.
- 3.24 Non-compliance (or 'breach') would be a criminal offence, punishable by a fine of up to £2,500, or £20,000 for businesses. Practitioners would have the option of issuing a Fixed Penalty Notice, rather than pursuing prosecution, where appropriate. Where requirements to 'make good' were not carried out, the local authority could complete the works and charge the individual responsible a reasonable amount to cover this – strengthening the powers local areas currently have to deal with graffiti and other defacement. The police and local authority could obtain a warrant from the court to be able to enter an individual's premises to confiscate items used to breach the notice.

Protecting public places – the local authority

- 3.25 Following the consultation, we propose giving local authorities a flexible power to put in place local restrictions to address a range of ASB issues in public places, and prevent future problems, called a **Community Protection Order (public space)**. This would replace Dog Control Orders, Gating Orders, and the Designated Public Place Order (designed to tackle public drinking), but again covers a much wider range of problem behaviours, including those currently covered by the 'good rule and governance' byelaws²⁰. The order would be issued by the local authority (in consultation with the police and the directly elected Police and Crime Commissioner) either to deal with existing problems or to prevent future ones.
- 3.26 Examples of where the order could be used include:
- To prevent groups from using a public square as a skateboard park and to discourage drunken anti-social behaviour in the same place by making it an offence not to hand over containers of alcohol when asked to do so;
 - To prevent dogs fouling a public park or being taken into a children's play area within that park; and

²⁰ Under Section 235 of the Local Government Act 1972

- To restrict public access to any public highway, whether for 24 hours a day or only at certain times of day or night, in order to prevent crime or ASB from occurring. For example by gating an alleyway running between two blocks of flats on an estate where there has been a lot of ASB caused by non-residents loitering in the alleyway causing noise nuisance late at night and using the alley to take drugs.

This would be different to the current situation as one order would be able to cover all of these issues, rather than needing to follow separate processes for each. This would reduce bureaucracy for local authorities, and make it easier for local businesses and communities to influence restrictions in place in their areas.

- 3.27 Given that the order affects use of public space, the local authority would be required to consult the local community and the directly elected Police and Crime Commissioner before making the order, and to publicise it. Failure to comply with the restrictions would be a criminal offence, with a maximum fine of £1,000 on conviction. Again, practitioners would be able to issue a Fixed Penalty Notice as an alternative to prosecution.
- 3.28 In keeping with the Government's desire to devolve powers to local areas, the order would allow local authorities to make decisions without the burden of having to go through central Government. This provides more local discretion than current byelaws which require Secretary of State sign-off. Instead, the local community, the Police and Crime Commissioner and the police would have oversight. Guidance on consultation and publication of these orders, which aims to strike the balance between flexibility and fairness, will follow legislation.

Protecting public places – the police

- 3.29 We also consulted on giving the police a new power to disperse individuals causing or likely to cause ASB in public which combines the most effective elements of the various current powers into a single, less bureaucratic police power. A significant limitation in current police powers to disperse individuals causing ASB is that they have to be agreed in advance and can only be used in a pre-arranged area. In a fast moving situation, where groups can quickly convene to cause ASB or disorder and then move to different areas, the current powers are ineffective.
- 3.30 Following the consultation we propose introducing a new flexible police power which combines the most effective elements of the various current dispersal powers into a single, less bureaucratic power. This would enable police officers or Police Community Support Officers (PCSOs)²¹ to require a person who has committed, or is likely to commit, anti-social behaviour²² to leave a specified area and not return for up to 48 hours. There would be no need to designate an area in advance. The power could operate in any public place, and in common areas of private land with the landowner's consent. This means the police could quickly deal with emerging troublespots, providing immediate respite to victims.
- 3.31 We would retain the current power for the police to return children under 16 home or to a place of safety if acting anti-socially and not accompanied by a responsible adult after 9pm. We will use the accompanying guidance to mitigate the risks raised by children's charities such as Barnardo's, that this

²¹ If designated the power (or elements of it) by their Chief Constable.

²² The test would be that the constable has reasonable grounds for suspecting 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'

could increase the risk to vulnerable children (e.g. by returning them to an abusive home environment). We are also protecting children who are vulnerable to abuse or exploitation through our wider safeguarding work to deliver our commitments in the Child Sexual Exploitation Action Plan (including for example work with ACPO on training for police officers to ensure they recognise the signs of child sexual exploitation).

- 3.32 A police officer would be able to require an individual to hand over items causing or likely to cause anti-social behaviour (e.g. alcohol). Any confiscated items would need to be held at the police station for a set period of time (e.g. 28 days) to enable the individual to reclaim it. A constable may also refuse to return the item to an individual under 16 unless they are accompanied by a parent or other appropriate adult, to enforce parental responsibility.
- 3.33 Failure to comply with the direction would be a criminal offence and would carry a maximum penalty of a £2,500 fine and/or three months imprisonment. Failure to hand over confiscated items would also be a criminal offence and would have a penalty of a £1,000 and/or one month imprisonment. These sanctions are in line with current equivalent powers, and will ensure there is a serious consequence to failing to comply.
- 3.34 As a safeguard to ensure that the power is used proportionately and to protect civil liberties, we propose that data on its use would have to be published locally. Police and Crime Commissioners would have a key role in holding forces to account on this to ensure that officers are using the power proportionately. Publication of data locally would also help highlight any 'hot-spot' areas that may need a longer-term solution (e.g. diversionary activities for young people or introduction of CCTV cameras to help 'design out' crime and ASB).
- 3.35 This power could be used in a range of situations to disperse anti-social individuals and provide immediate respite to a local community. For example, if someone was riding a mini-moto on an estate and causing distress to others as a result of the noise, they could be asked to move on and their mini-moto could be confiscated, and if they were under 16 and it was after 9pm, they could be taken home. Or if a group of individuals were using their dogs to intimidate and harass others in a public park, they could be asked to leave and not return for up to 48 hours. At the moment, agencies would have to go through the process of designating the area as a dispersal zone – a process that can be very slow – before they could deal with problems such as these, leaving victims at the mercy of the ASB for months.

Protecting local neighbourhoods – closing properties used to carry out criminal or anti-social behaviour

- 3.36 In some communities there are particular premises that are a constant focus for severe ASB, making the lives of those living nearby a misery. Although there are existing powers to close these properties, they are very similar and overlap in a number of ways, which is confusing for those who use them, and for the victims they were designed to protect. We propose consolidating four of those powers (Section 161 Closure Notices; Local authority temporary closures for noise nuisance; Crack House Closure Orders; and ASB Premises Closure Orders) into a single order.

Community Protection Order (closure)

- 3.37 The new, simpler, closure powers would allow the police or local authority to protect victims quickly by issuing an order to temporarily close any property, including licensed premises, businesses and private residences for up to 48 hours if there is a public nuisance or if there is or is likely imminently to be disorder and if the closure is necessary. The police or local authority would have to apply to the Magistrates' Court as soon as reasonably practicable after the order comes into force for the court to consider the order and any extension. The habitual resident, owner or landlord would still be able to enter a property subject to a closure for less than 48 hours. Breach of the 48 hour closure would carry a maximum fine of £5,000 fine for individuals, a maximum fine of £20,000 fine for businesses and/or up to three months in prison.
- 3.38 The notice could be used in a range of situations related to both licensed and other premises, including:
- Closing a nightclub, where the police have intelligence to suggest that disorder is likely in the immediate vicinity on a specific Friday night; and
 - Closing a property where loud music is being played at unsociable hours in a residential area, where negotiation had failed to resolve the issue.
- 3.39 The test for continuing the closure of the property for longer than 48 hours would be higher than the initial test: that a person has engaged in disorder, anti-social or criminal behaviour on the property, and that the premises is associated with disorder or serious nuisance. A property subject to such an order could be completely closed for up to three months initially, and up to a maximum of six months in total. Breach of the longer closure order would carry a maximum fine of £5,000 fine for individuals, a maximum fine of £20,000 fine for businesses and/or up to six months in prison.
- 3.40 Examples of where a longer closure order might be sought are:
- A premises used for drug dealing, associated with serious anti-social behaviour in the immediate vicinity;
 - A premises where the persistent behaviour of the residents (e.g. visitors coming and going at all hours, frequent loud parties, harassment and intimidation of neighbours) is associated with serious anti-social behaviour in the immediate vicinity.

EVICTING NIGHTMARE NEIGHBOURS

- 3.41 Those who abuse their tenancies should expect to face the consequences. Making neighbours' lives a misery through anti-social or criminal behaviour is not acceptable. The Government recognises that eviction should be used only exceptionally and when other interventions have been tried and failed. Too often however, where private or social landlords seek possession as a last resort in order to provide respite to communities and as a serious sanction, the process can take far too long.
- 3.42 A recent Department for Communities and Local Government (DCLG) consultation proposed introducing a new mandatory route to possession for anti-social behaviour, as a way of significantly reducing the length of the possession process and providing faster relief to victims and communities.

This could be used by social landlords and private landlords. They could choose to use this mandatory route where serious housing-related anti-social behaviour had already been proven by another court. Where they did so the court would, subject to the landlord following the correct procedure and considerations of proportionality (where the landlord is a public authority), be required to grant possession. The Welsh Assembly Government has also consulted on introducing this new mandatory route to possession in Wales.

- 3.43 Following the widespread rioting of August 2011, the DCLG consultation was extended to seek the views of consultees on broadening landlords' existing powers to seek possession on discretionary grounds to include convictions for riot-related offences, committed beyond as well as in the locality of the property.
- 3.44 Responses to the consultation showed a roughly even split of opinion in relation to this latter proposal. There was widespread support, particularly from landlords, for the introduction of a new mandatory route for possession, though also a strong emphasis on the need to look at whether to use the mandatory route on a case by case basis and to ensure proper protections for tenants.
- 3.45 In the light of consultation responses our final proposals in England are to:
- Extend the existing discretionary ground for possession to cover convictions of tenants or members of their household for offences committed at the scene of a riot wherever that took place in the United Kingdom. Those offences would include violent disorder and affray and provocation of violence and include violence against property as well as people and theft;
 - Introduce a new mandatory route to possession, modelled on the process for bringing introductory tenancies to an end for local authority landlords and on existing mandatory grounds for possession (for example for rent arrears) for private registered providers of social housing and landlords in the private rented sector;
- 3.46 Landlords could choose to use a mandatory route to possession rather than existing discretionary grounds, where one of the following four 'triggers' applied:
- A tenant, member of their household or visitor to the property had been convicted of a violent or sexual offence, an offence against property, supplying drugs, or production with intention to supply drugs, where the offence was indictable and committed in the locality of the property in the previous 12 months;
 - A court had determined that a Crime Prevention Injunction obtained by or in consultation with the landlord had been breached by a tenant, member of their household or visitor to the property within the previous 12 months;
 - The property had been closed as a result of a court granting a Community Protection Order (closure) for more than 48 hours;
 - A tenant, member of their household or visitor had been convicted by a court for breach of a noise abatement notice, in respect of the tenant's property, under the statutory nuisance regime.

- 3.47 These triggers should provide a good basis for ensuring that the mandatory route of possession is ring-fenced to serious proven anti-social behaviour or crime that is causing harm to the local community or individuals within it. In these limited circumstances, where a court had already determined that serious anti-social behaviour or criminality had occurred, we think it is right that an expedited eviction process should be available to private and social landlords.
- 3.48 A summary of responses to this consultation and more detail on final proposals in the light of consultation responses can be found on the Department for Communities and Local Government website.

SUMMARY:

We will give professionals the tools they need to protect victims effectively by:

Cutting the existing alphabet soup of unwieldy powers by over two thirds, replacing the 19 complex existing powers with six simple new ones. The six tools we are introducing are:

1. The Crime Prevention Injunction – an injunction available to a wide range of agencies, which can be used quickly to protect victims by dealing with anti-social behaviour by private tenants and owner occupiers, as well as social tenants (addressing a criticism of the existing ASB Injunction)
2. The Criminal Behaviour Order – an order available on conviction for any criminal offence which will allow courts to attach positive requirements to ensure perpetrators deal with the underlying issues that are driving their behaviour (addressing a criticism of the ASBO), as well as including prohibitions to immediately protect victims.
3. The Community Protection Notice – designed to deal with particular anti-social behaviour impacting on a community's quality of life (for example to deal with noise, litter or graffiti).
4. The Community Protection Order (public space) – a locally determined order which could impose controls on behaviour in public places, for example controlling drinking in public as well as preventing other behaviour which has an impact on quality of life.
5. The Community Protection Order (closure) – simplifying the current complex number of powers available to close premises that are a magnet for trouble.
6. The Direction Power – a simpler and less bureaucratic power to enable the police to disperse situations to protect victims without needing to go through a long and slow process to designate an area in advance.

Speeding up the process of eviction for nightmare neighbours who make victims lives a misery. To do this we are introducing a new mandatory route to possession for anti-social behaviour for both private and social landlords, as a way of significantly reducing the length of the possession process and providing faster relief to victims and communities.

4. Long term solutions: Tackling the drivers of anti-social behaviour

- 4.1 Anti-social behaviour (ASB) cannot be addressed long term by dealing reactively with the behaviour of those who already have entrenched and serious behavioural problems. In line with the approach of other initiatives, such as the Government's recently published strategy for Social Justice, we must also prevent ASB from happening in the first place, for example by tackling the risk factors that can drive it across society: from early interventions in parenting and education to dealing with drug abuse and problem drinking. This chapter outlines the work being undertaken by Government and local agencies to address these issues.

TACKLING PROBLEM DRINKING

- 4.2 Alcohol has been a major driver of crime and disorder over the last decade. The link between alcohol and violence is well known, with almost half of violent crimes (i.e. around one million in 2010/11) being alcohol-related. Alcohol is also a key driver of ASB, both in terms of widespread drink-fuelled disorder in town centres, and also, for example, the more persistent, entrenched ASB committed by some street drinkers. According to the 2010/11 Crime Survey for England & Wales figures, around a quarter of the public think people being drunk or rowdy in public places is a very or fairly big problem in their local area.
- 4.3 Alcohol plays a key role in our economy, community and social life. However, untargeted regulation and a failure of individuals, businesses, local agencies and ultimately Government to take responsibility for the harms associated with irresponsible drinking has led to a culture of acceptance and tolerance of those excessively drunk in public and causing a nuisance to others. The Government has set out plans to change this in the new Alcohol Strategy and has legislated through the Police Reform and Social Responsibility Act 2011 to give more powers to the police and local communities to take action against irresponsible businesses.
- 4.4 We are also tackling problem drinking through our reforms to the ASB tools and powers outlined in chapter three. Our proposed new powers to deal with anti-social individuals would enable the courts to require someone to stop drinking, as well as barring them from specific pubs. We are also improving the system for local authorities and the police to deal with ASB in public places. This means it will be easier for them to stop the nuisance and disorder caused by those excessively drunk in public, and to prevent problems from occurring by, for example, confiscating alcohol. In addition, we propose simplifying and consolidating powers to close problem premises, including licensed premises, which make the lives of those living nearby a misery.
- 4.5 In her third report as Government champion for active, safer communities, published in February, Baroness Newlove announced the creation of a new £1m Alcohol Fund to support local communities tackle the crime and anti social behaviour caused by binge and underage drinking. The fund, which is administered by the Department for Communities and Local Government will be made available to local authorities to spend over a two-year period. Community groups, local residents, the police, health workers, retailers and educationalists are absolutely integral to identifying the problems, and delivering the solutions.
- 4.6 The successful ten applicants for funding were announced earlier this month. They are Bury East, Chelmsford, Cornwall, County Durham, Lincoln, Maidstone, Moseley, Newcastle, Shropshire, Wakefield. Smaller innovative projects will also be funded. Over the next two years, Baroness Newlove will work very closely with these partnerships to ensure that local community-led action will drive down anti social

behaviour caused by problem drinking. She will encourage others to help, knock down the barriers to success and unnecessary red tape, and see that the best ideas are adopted more widely. More information is available from the Department of Communities and Local Government website.

STOPPING ILLICIT DRUG USE

- 4.7 Illicit drug use can play a role in perpetuating ASB (e.g. as a contributing factor in troubled families or because of the impact of an individual's own substance misuse on their behaviour). However, there are specific types of ASB that are caused as a result of illicit drug use itself.
- 4.8 The most obvious of these is the taking over of a local property to sell and take illicit drugs, commonly known as 'crack houses', although this covers a wider range of class A drugs. The disruption and anxiety caused to neighbouring properties can range from noise throughout the day and night and discarded drugs paraphernalia to threatening behaviour to prevent the 'crack house' being reported to the police. As outlined in chapter three, we reviewed 'crack house' closure powers as part of our review of the ASB legislation, and our plans for reform will keep the best elements of them, whilst simplifying the number of very similar powers available to close properties.
- 4.9 The Government's Drug Strategy is clear that illicit drug use undermines communities. Robust action delivered at a local level by the police in collaboration with local partners and the communities themselves is key to tackling these drug problems. One example of how we are doing this in the Drug Strategy is through the £10 million Positive Futures programme, which will deliver prevention and diversionary activities that target and support vulnerable 10-19 year olds to stop them from becoming drawn into ASB, crime and substance misuse. Another is how, in local areas, the Drugs Intervention Programme continues to identify drug misusing offenders and divert them away from crime and into treatment and recovery support. In 2010-11, the Programme managed nearly 63,000 adult Class A drug misusing offenders into drug treatment.

ADDRESSING THE PROBLEMS CAUSED BY TROUBLED FAMILIES

- 4.10 The Government's recent Social Justice Strategy²³ sets out the importance of the family as the first and most important building block in a child's life. It describes how an increased emphasis on early intervention will help to ensure that families can access the support they need to prevent problems arising and tackle issues before they become embedded. The Department for Education provides funds worth more than £2.2 billion per year to local authorities – through the Early Intervention Grant – that can be used to fund early intervention and preventative services; and the Government is currently procuring an Early Intervention Foundation that will provide an overview of 'what works' to local authorities and commissioners and act as a hub for existing expertise and services in the field. This is alongside investment already committed to provide relationship support for couples and parents to help them work together for the benefit of themselves and their children.
- 4.11 However, the Government recognises that even with this increased focus on early intervention, there will still be some families whose lives are blighted by crime, worklessness, substance dependency, low aspirations and educational failure. A dysfunctional family background and poor parenting are often associated with young people committing ASB and crime given so many of the early influences on a

23 ^{[1][1]} *Social Justice: transforming lives*, March 2012

child relate to the family setting in which they grow up. Many professionals can quickly pinpoint the families who consistently cause problems in their neighbourhood. This is why the Government has committed to turning around the lives of the 120,000 most troubled families in England by the end of this Parliament²⁴.

- 4.12 This group of families have a huge impact on the well-being of those around them and cost the tax payer an estimated £9 billion per year, equivalent to £75,000 per family which is largely spent on reacting to problems such as dealing with their crime and ASB, as well as safeguarding children. Children who live in these families are 36 times more likely to be excluded from school and six times more likely to have been in care or to have been in contact with the police²⁵. This is not a cost that we can afford to bear any longer – either financially or in wasted lives.
- 4.13 These families are not beyond help and their lives can be turned around with coordinated and intensive support. Many areas and services around the country are already working intensively with these families, such as through Family Intervention Projects (FIP), where families are assigned a key worker to work with them to take a grip of their problems and to coordinate the involvement of agencies engaged with them. The increased investment in intensive support is underpinned by evidence²⁶ which shows that FIPs are effective in tackling entrenched problems faced by these families, including a 58% reduction in anti-social behaviour and over 50% reduction in truancy, as well as significant improvements in other health and social problems.
- 4.14 A new Troubled Families Team based within the Department for Communities and Local Government and headed by Louise Casey, has been established to join up and drive forward efforts across Whitehall and to provide expert help. Their aim is to ensure that these families are supported into education and employment, that their crime and ASB are tackled. A total of £448 million will be made available from the existing budgets of six Departments to meet this commitment over the next three years. £420 million of this will fund action and interventions in areas across England by local authorities and their partner agencies, and £28 million will be used to boost Department for Work and Pensions support for Troubled Families.

ADDRESSING MENTAL HEALTH AND OTHER HEALTH NEEDS

- 4.15 There are strong links between anti-social or criminal behaviour and certain health needs. There is a high risk that once someone with those health needs comes into contact with the Youth or Criminal Justice System, they will become locked into a recurring cycle of criminality and punishment. This cycle will have a significant impact on both their life chances, and on the people and community around them. This is recognised in *No Health Without Mental Health*, the Government's mental health outcomes strategy for people of all ages, which has the twin aims of improving the population's mental health and improving mental health services.
- 4.16 The Strategy recognises that mental health problems can also contribute to perpetuating cycles of inequality through generations. Intervening early, particularly with vulnerable children and young people, can improve lifetime health and wellbeing, prevent mental illness and reduce costs incurred by ill health, unemployment and crime. Such interventions not only benefit the individual during their childhood and

24 See <http://www.communities.gov.uk/communities/troubledfamilies/> for further information and case studies.

25 Social Exclusion Taskforce, *Families at Risk* Cabinet Office 2007.

26 Monitoring and Evaluation of Family Intervention Projects and Services to March 2011.

into adulthood, but also improve their capacity to parent, so their children in turn have a reduced risk of mental health problems and their consequences.

- 4.17 Like mental health problems, behavioural problems, including substance misuse, frequently start early in life. The approach adopted by the strategy focuses on promoting mental wellbeing, preventing mental illness and early intervention as soon as problems arise. For young people, for example, emotional and behavioural disorders are associated with an increased risk of experimentation with, misuse of and dependence on drugs and alcohol. Multi-systemic interventions that involve young people, parents, schools and the community have been shown to reduce conduct disorder, offending and anti-social behaviour improve family relationships and reduce costs to the social care, youth justice, education and health systems.
- 4.18 The Department of Health is working with Department for Education and the Youth Justice Board to support local authorities and their health partners to develop evidence based interventions for young people on the edge of custody or care, including Multisystemic Therapy (MST) and for continued research into outcomes for families and communities. There are currently 17 MST teams across England and it is planned to expand this to 30 teams by April 2013. Nine of these teams have been part of a Randomised Controlled Trial of MST ‘START’ led by University College London.. This research trail is due to complete recruitment by summer 2012 and report in 2014.
- 4.19 The Department of Health and Ministry of Justice have also been working to develop a system of ‘liaison and diversion’ which looks to balance the interests of the victim and protection of the public with the needs of the offender. The principle of liaison and diversion is to assess an offender’s health needs and any vulnerabilities as early as possible after they start to exhibit offending behaviour. This means that decisions about any treatment needed to address underlying issues can sit alongside decisions on appropriate punishment, with the ultimate aim of preventing a pattern further of offending and protecting the public.
- 4.20 We are currently developing a liaison and diversion service for adults and young people at a number of sites around the country. These pathfinder sites are being used to build up evidence of the effect of these services on both health and reoffending outcomes, with the aim being to have services in place nationwide by November 2014. As part of the work to develop a national model of liaison and diversion, a number of sites will be given development funding to explore ways of intervening earlier. There are two sites that are receiving funding from April 2012 which will be exploring the potential for extending liaison and diversion to those young people who are known to be involved in ASB. This work will run for two years and will be evaluated.

TACKLING ANTI-SOCIAL BEHAVIOUR BY ENCOURAGING RESPONSIBLE DOG OWNERSHIP

- 4.21 There is strong evidence to show that over the past few years there has been a sharp rise in the problems associated with irresponsible dog ownership. For example, the total number of adults sentenced for offences relating to dangerous dogs has increased by 39%, from 855 in 2009 to 1192 in 2010²⁷. Getting dog owners to take responsibility for their pets is key to tackling the growing problem caused to the public by dogs that are out of control. Irresponsible dog ownership can cause ASB (as well as sometimes leading to violent attacks), and a number of dog charities responded to our 2011 consultation, including

Battersea Dogs and Cats Home, the Blue Cross, the Dogs Trust, the Kennel Club and the RSPCA. They all emphasised the importance of animal welfare and focusing on supporting dog owners to look after their dogs responsibly as one of the ways of dealing with dog-related ASB.

- 4.22 To help encourage responsible dog ownership there are a number of local community-based projects in England and Wales operating in areas with high levels of dog-related problems. These typically involve the local authority working with the police and dog welfare charities to engage with dog owners through a range of events, for example workshops and activities in estates, youth clubs, schools, etc. Often free micro-chipping and neutering is offered to dog owners. Proactive action of this kind often prevents dogs either becoming a nuisance or danger to the community or owners having to be prosecuted for dog welfare offences. The Department for Environment, Food and Rural Affairs (Defra) is working with key welfare organisations to look at evaluation processes and ensuring a more joined up approach between local initiatives, to include the sharing of good practice.
- 4.23 For those owners who still fail to take responsibility for their dogs, the proposals set out in chapter three will give agencies the flexibility to deal with a wide range of problems and protect victims:
- Informal interventions such as Acceptable Behaviour Contracts can be used to nip emerging issues in the bud, where the owner recognises the impact their behaviour is having on the community, and understands that continuing will trigger more formal consequences;
 - Where a more formal response is required on the spot, the Community Protection Notice will allow professionals to require an owner to stop behaviour they judge is affecting the community's quality of life. That could include, for example, requiring an owner to repair inadequate fencing if their dog regularly escapes and attacks other dogs. In addition, the Directions Power will allow the police to move an owner on if, for example, their aggressive dog was frightening parents and children outside a school.
 - In the most serious cases, an irresponsible owner could be given a Crime Prevention Injunction very quickly which could prevent them taking their dog to certain locations at certain times, require them to muzzle their dog in public and require them to attend dog training classes. Or if an individual is convicted of having a dangerous dog, they could be given a Criminal Behaviour Order preventing them from owning a dog again in the future.
- 4.24 This flexibility means we do not believe it is necessary to legislate for a dog-specific power, as may have happened in the past. However, we will continue to work with the Association of Chief Police Officers (ACPO) and a range of groups representing the interests of dogs and their owners to ensure our final proposals are of maximum benefit in dealing with dog-related anti-social behaviour.
- 4.25 In addition to using the new flexible ASB powers to protect victims of dangerous dogs, the Government considers that the law on dangerous dogs needs changing to promote more responsible ownership of dogs and to reduce the number of dog attacks. Defra is currently consulting on a package of measures to do this. Included in the consultation are proposals for the compulsory micro-chipping of puppies and extending the current law on dangerous dogs to cover private property as well as other plans to improve the standards of dog ownership. The consultation can be found on the Defra website: www.defra.gov.uk.

SUMMARY:

We will tackle the drivers of anti-social behaviour by:

- Reducing alcohol consumption and alcohol related crime and ASB through our improved and streamlined powers to tackle ASB, and through the measures introduced through the Alcohol Strategy and the Police Reform and Social Responsibility Act 2011.
- Tackling illicit drug use through our reforms to the tools and powers and through the Drug Strategy, for example through the £10m Positive Futures programme and the Drug Intervention Programme.
- Addressing the problems caused by troubled families through a new programme led by Louise Casey to turn around the lives of the 120,000 most troubled families in England by the end of this parliament.
- Addressing mental health and other health needs through trialling extending liaison and diversion to young people who are known to be involved in anti-social behaviour.
- Tackling ASB caused by dog-related problems by encouraging responsible dog ownership and getting tough on irresponsible dog ownership through our new streamlined ASB powers.

Annex A

Summary of consultation responses

CONSULTATION RESPONSES ON THE COMMUNITY TRIGGER, INCLUDING RESPONSES TO SPECIFIC POINTS

A.1 Many respondents to the consultation agreed that agencies need to do more to protect repeat or vulnerable victims of anti-social behaviour. 41% of the public who responded said the trigger would improve the way anti-social behaviour (ASB) is dealt with in their area, compared with only 16% who thought it would make things worse. Views from agencies were more balanced, with 31% saying the trigger would improve how ASB was dealt with, and 33% saying it would make things worse. However, for many concern stemmed from a belief that the thresholds and criteria suggested in the consultation document were too prescriptive and would not meet the needs of people in their area. Some argued that more local flexibility was needed to ensure the trigger reached the people who needed it most.

Criteria

- We consulted on whether the criteria for the Community Trigger were right. This received a mixed response with some respondents deeming the threshold too low and so open to abuse by the ‘worried well’. Others felt they were too high and so would be less likely to be used by the most vulnerable victims. Of those respondents that answered this specific question, 17% agreed with the proposed criteria, and 25% disagreed with the proposed criteria.
- Many felt that the proposed criteria were not flexible enough, and there were calls for the legislation to give local areas the scope to amend the criteria if they did not appear to be working effectively.
- Several respondents felt that some reference needed to be made to the timescales in which the complaints were received as this would affect the priority level of the cases.
- It was also suggested that there should be a clear definition of ‘action’ as this should not necessarily mean ‘action that the complainant wants to be taken’.

Impact on particular groups

- In the consultation, we asked if the proposal risked disadvantaging particular groups in a disproportionate way, and what safeguards could be put in place to mitigate this.
- In general it was felt that the Community Trigger would impact equally on most groups. However, some respondents felt that unless the right thresholds were in place, some communities might try to use the trigger to stop young people ‘hanging around’.
- Several respondents suggested developing rigorous criteria to guard against unsubstantiated, frivolous, malicious or vexatious complaints to prevent individuals being unnecessarily targeted through this process. However, care must be taken to ensure that these are not so strict that the Trigger is never used (like the Councillor Call for Action).
- It was also suggested that local areas develop clear examples of differing lifestyles and what does and does not constitute ASB.

- Others highlighted the need for regular reviews of use of the Trigger to determine any local trends, and adjustments to be made to criteria as appropriate.

CONSULTATION RESPONSES ON THE CRIMINAL BEHAVIOUR ORDER, INCLUDING RESPONSES TO SPECIFIC POINTS

- A.2 The percentage of stakeholder respondents that thought the order on conviction would be more effective in tackling ASB was 46%, with 19% thinking it would be less effective.
- A.3 *Positive requirements:* 58% of respondents welcomed the inclusion of positive requirements in the Criminal Behaviour Order (CBO) and Crime Prevention Injunction (CPI), and a further 38% supported the idea but had concerns about how these would be funded locally. However, the majority agreed that this was not a reason to not pursue this option as the potential benefits in terms of reduced reoffending and reduced downstream costs were seen to be substantial.
- A.4 *Report on family circumstances:* The majority of respondents supported the idea of including information on the family circumstances of a young person when applying for an order. However, following discussions with practitioners who use current orders on conviction, it was felt that this broader contextual information on the young person and their family circumstances could be provided through the pre-sentence report (given the order would be attached to a criminal conviction) and that a separate report required by statute would duplicate existing processes.

In order to ensure the young person's needs are taken into account, it was suggested that the Youth Offending Team (YOT) should be consulted before an order is made, and they could provide further information in situations where a pre-sentence report was not required (e.g. where a community order or custodial sentence is unlikely). We will also emphasise in accompanying guidance the importance of taking the young person's family circumstances into account, as well as any mental health issues or learning difficulties when applying for an order.

- A.5 *Other civil orders that could be included:* In relation to other orders that could be included, the one most suggested by respondents who answered this question was the Drinking Banning Order. It was felt that it should be incorporated given its similarity to the Anti-Social Behaviour Order (ASBO) and our aims of simplifying the process. Other specific orders suggested were Restraining Orders, Football Banning Orders and gang injunctions. We do not proposing rolling these into the CBO as well as they are aimed at different types of behaviour (domestic violence, football-related violence and gang-related violence respectively).
- A.6 *Minimum and maximum terms:* Again there were a variety of responses to the question about minimum and maximum terms for the orders. In general it was felt that the current minimum term of two years was too long, especially for young people. Opinion was divided on maximum terms, with some people thinking these were useful, and others arguing that in some cases orders until further notice were necessary.

CONSULTATION RESPONSES ON THE CRIME PREVENTION INJUNCTION, INCLUDING RESPONSES TO SPECIFIC POINTS

- A.7 The percentage of stakeholder respondents that thought the faster, more effective civil injunction would be more effective in tackling ASB was 42%, with 13% thinking it would be less effective.

A.8 *Test:* We consulted on whether the test for the new injunction should be behaviour causing ‘harassment, alarm or distress’ (as with the ASBO) or ‘nuisance or annoyance’ (as with the ASB Injunction). There was mixed feedback on this, with social landlords in particular arguing for the latter, which is now clearly established in caselaw. This threshold was also seen as reducing evidence requirements and helping provide respite to communities more quickly. For example the National Bench Chairman’s forum stated, in relation to the threshold of ‘nuisance or annoyance’ that “The advantages would be a significant saving in the extent of evidence to be collated by the applicant and a reduction in protracted hearings before the court”.

Some children’s charities and local authorities, on the other hand, argued that this threshold was too low. For example Liberty argued that “The CPI is effectively going to be a super-punitive ASBO which will be easier to obtain for even more broadly defined ‘behaviour’.” Overall, for those who answered this question, 64% opted for ‘nuisance and annoyance’, whilst only 25% wanted ‘harassment, alarm or distress’.

A.9 *Courts:* In the consultation, we asked whether the injunction should be heard in the County or Magistrates Court, and responses were mixed on this point citing arguments on either side. For over-18s, 46% said County Court, 32% said Magistrates Court, and 9% wanted CPIs heard in both courts. We had very strong feedback from social landlords, who were concerned at the prospect of losing the current Anti-social Behaviour Injunction (ASBI), that the CPI should be heard in the County Court as they are more familiar with civil orders and have access to higher sentencing powers for contempt (two years imprisonment, rather than two months). Others also supported this position, for example one Community Safety Partnership (CSP) stated that “I would favour the County Court as their knowledge of injunctions is likely to result in fewer applications that fail and they are more familiar with the civil evidence standard.” However the Magistrates Association stated that “these injunctions should be dealt with in Magistrates’ Courts and not in any other way.”

A.10 *Injunctions on young people:* As the current ASBI does not apply to young people, there was a question about where the new CPIs for young people should be heard. Children’s charities, for example the Children’s Commissioner and the Independent Commission on Youth Crime and ASB were keen that if the CPI were to apply to young people, these cases should be heard in the Youth Court, as they are a more appropriate court venue for under-18s. There were also concerns raised in a number of responses about the cost of hearing youth cases in the County Court, because of the need for litigation friends. Some argued that it would be preferable to hear youth cases in the same court as adults as this could save costs in a situation where a CPI was being applied for on a mixed age group. Overall, for those who answered the question relating to under-18s, 57% said the Youth Court, 15% said the County Court, 5% said the Magistrates Court, and 9% specified they should be heard in the same court as for over-18s to help deal with cases involving groups of perpetrators.

A.11 *Minimum and maximum terms:* Again there were a variety of responses to the question about minimum and maximum terms for the orders. As with the responses to the Criminal Behaviour Order questions, in general it was felt that the current minimum term of two years was too long, especially for young people. As the CPI replaces the ASBI (which has no statutory minimum or maximum terms), and is designed to be used at an earlier stage, some respondents argued that it should mirror other civil injunctions, where the length of the order is left to the discretion of the courts and the applicant.

A.12 *Breach sanctions:* We asked whether respondents agreed with the proposed breach sanctions. Some respondents were concerned about the loss of a criminal sanction on breach in the CPI. For example, once local authority commented “the sanctions need to be greater to add weight to the CPI”. Whereas others supported this because of the advantages in a purely civil injunction being quicker to get, and as they would be able to take action themselves to address breaches of injunctions they have applied for, thus having control of the process from end to end. For example, the Law Society commented that “on balance, we prefer the use of injunction-based remedies for anti-social behaviour, resulting in a civil penalty rather than a criminal conviction, and thus avoiding the mixing of criminal and civil legal processes”. However, there were some concerns as to whether County Court judges have sufficient flexibility on sentencing for contempt of court, especially as they do not have access to rehabilitative orders or community sentences.

For young people, 57% agreed with the CPI breach sanctions for under-18s, and only 22% disagreed, with a further 4% against any custody for under-18s. In relation to the question of custody for under-18s for breach of a civil order, a number of children’s charities were strongly against this, whereas the majority of ASB practitioners across all sectors were supportive.

CONSULTATION RESPONSES ON THE COMMUNITY PROTECTION ORDER, INCLUDING RESPONSES TO SPECIFIC POINTS

A.13 Respondents have generally welcomed the move to rationalise existing powers to deal with the place-specific anti-social behaviour that affects quality of life, arguing that the number available at the moment creates confusion for professionals and the public alike. 51% of stakeholders (local authorities, police, CSPs, housing providers, judiciary, and the voluntary sector) who responded stated that they thought the proposal would be better than the existing system, with only 11% saying that it would be worse. In particular, respondents have highlighted issues with the service provided to the public (e.g. the police can’t use current nuisance noise powers, but some local authority noise teams only work office hours).

A.14 Some have also noted that the proposed Community Protection Order would fit with certain councils’ moves to reconfigure their services to provide better value for money, moving to delivery through cross-functional neighbourhood teams rather than separate specialists. However, there were others who were concerned that opening out these powers to a wider range of applicants could cause duplication or risk more than one notice being served on the same individual. This is a risk that we propose mitigating through the legislation and guidance.

CONSULTATION RESPONSES ON THE DIRECTIONS POWER, INCLUDING RESPONSES TO SPECIFIC POINTS

A.15 The consultation responses on this proposal have generally been positive, with 60% of respondents in favour of the new approach, thinking that it would be more effective in reducing anti-social behaviour. Only 11% of respondents felt that it would be less effective than the current dispersal powers.

A.16 Many police officers welcome this power to act immediately to prevent escalation of localised ASB, with the Association of Chief Police Officers (ACPO) response stating that “These proposals have received significant support as it strengthens police powers to remove people from public places for poor behaviour in general and not overly focusing on alcohol related disorder as it is at present. Both Section

30 and Section 27 Dispersal orders have proved to be very effective tools and combining these orders will simplify their administration and should reduce costs.”

- A.17 Respondents liked the flexibility of the new proposal, in particular, the ability to deal with cases such as individuals standing just outside a dispersal zone. Many also noted that the move would “remove the stigma of labelling an area a dispersal zone”. However, some concerns were raised in relation to displacement, safeguarding and civil liberties, and more detail is outlined on these below.
- A.18 *Police Community Support Officers (PCSOs)*: The vast majority 78% of respondents felt that PCSOs as well as police officers should be able to administer this power as they are often a fundamental contact point for the community. However, given the potentially confrontational elements of some aspects of the power e.g. confiscation, and their lack of power of arrest, we propose enabling Chief Constable discretion on which elements of the Directions Power (if any) they wish to designate to PCSOs.
- A.19 *Displacement*: There was some feedback that the new power would just result in the anti-social behaviour being displaced to another area. However, there was general agreement that existing dispersal powers are effective at diffusing situations and providing immediate respite for victims. One Community Safety Partnership stated that “Currently some of the tools and powers take time to be sanctioned and implemented which can delay resolution of some more simplistic elements of ASB, allowing them to escalate”. The Direction Power is not intended to be a long-term solution and a longer term approach looking at the root causes of problems should be used in cases of repeated dispersals, either of a particular perpetrator or from a specific area.
- A.20 *Safeguarding young people*: Some interest groups, including Barnardo’s (who felt strongly about this and organised an email campaign which elicited around a hundred responses), and a few other respondents felt that the new power could increase the risk to vulnerable children (e.g. by returning them to an abusive home environment, or moving them from one area to another that was less safe). They felt that this risk could only be mitigated if officers were undertaking full risk assessments when using the power. However, this applies as much to the existing regime as to our proposal, and addressing the issue in the legislation would be likely to undermine our aim of reducing bureaucracy. As a result we plan to meet these concerns through the accompanying guidance and our wider safeguarding work to deliver our commitments in the Child Sexual Exploitation Action Plan (including for example work with ACPO on training for police officers to ensure they recognise the signs of child sexual exploitation).
- A.21 *Oversight and monitoring*: Many respondents commented that oversight and monitoring of use of the power would be an essential safeguard, especially with the removal of the need to designate an area in advance.
- A.22 *Confiscation*: There was concern that confiscation would make this power an extension of ‘stop and search’, and would be disproportionate. A few people mentioned that it would be difficult to prove that an item was going to cause anti-social behaviour before confiscating it. There were also some concerns raised about the practical implications of this, for example what would be done with the confiscated items.
- A.23 *Partnership working*: There was also a concern from Local Authorities and Community Safety Partnerships that many of the benefits of existing dispersal orders would be lost. “Many of the benefits that derive from dispersal orders stem from the process of seeking authorisation and the associated activities that

are triggered, rather than the powers as such. The authorisation process creates opportunities to enhance police community relations and provides openness and prior accountability.”

Whilst the Directions Power will enable the police to act alone to provide immediate respite to victims and communities, we would envisage a partnership approach to identify longer term solutions as appropriate including ‘designing out crime’ interventions to improve local areas and discourage anti-social behaviour.

Annex B

Summary of new simplified powers

DEALING WITH ANTI-SOCIAL INDIVIDUALS

	Existing system		Final proposals	Benefits of the new system
1	Anti-social Behaviour Order (ASBO) on conviction	1	Criminal Behaviour Order – available on conviction for any criminal offence, and including both prohibitions and support to stop future behaviour likely to lead to further anti-social behaviour or criminal offences.	– The new order contains support to change behaviour and help prevent re-offending, rather than simply prohibitions to stop the person from doing something (e.g. going to a particular place). The ASBO only included prohibitions on behaviour.
2	Drinking Banning Order (DBO) on conviction			
3	ASBO on application	2	Crime Prevention Injunction – a purely civil order with a civil burden of proof, making it much quicker and easier to obtain. The injunction would also have prohibitions and support attached and a range of civil sanctions for breach.	<ul style="list-style-type: none"> – The civil standard of proof requires proof ‘on the balance of probabilities’ rather than ‘beyond reasonable doubt’ which will make injunctions quicker to get. This means that problem behaviour can be addressed more quickly. – Police officers and other professionals can give evidence on behalf of the community, which protects vulnerable witnesses. – The new injunction contains support to change behaviour rather than just stopping the person from doing something. This should help reduce re-offending. – Sanctions for breach are civil not criminal, which prevents people getting a criminal record unnecessarily.
4	ASB Injunction			
5	DBO on application			
6	Individual Support Order			
7	Intervention Order			

DEALING WITH ANTI-SOCIAL BEHAVIOUR IN THE COMMUNITY

Existing system		Final proposals		Benefits of the new system
1	Litter Clearing notice	1	Community Protection Notice A notice designed to deal with particular problems which negatively affect the community's quality of life which could direct the person responsible to stop causing the nuisance and/or require them to 'make good'.	<ul style="list-style-type: none"> – The notice can be used in a variety of other situations not addressed by the powers it is directly replacing, allowing areas to respond flexibly to local issues as they arise. (for example, if an irresponsible owner is not controlling their dog properly). – The notice will also extend the powers the police have to deal with noise nuisance – this is currently the preserve of Local Authorities, many of whom do not have out of hours services.
2	Street Litter Control notice			
3	Defacement Removal Notices			
4	Designated Public Place Order	2	Community Protection Order (public space) An order to deal with anti-social behaviour in a public place, to apply restrictions to how that public space can be used.	<ul style="list-style-type: none"> – The order can be used in a variety of other situations not addressed by the powers it is directly replacing, allowing areas to respond flexibly to local issues as they arise. – The order allows local areas to make decisions without the burden of having to go through central government, with oversight provided by communities and the Police and Crime Commissioner.
5	Gating Orders			
6	Dog Control Orders			
7	Dispersal Order (s30 of the ASB Act 2003)	3	Directions Power – a power to direct any individual causing or likely to cause crime or disorder away from a particular place, and to confiscate related items.	<ul style="list-style-type: none"> – The new power will not require the police to designate a zone as a 'dispersal zone'. This will reduce bureaucracy for the police and mean they can act more quickly to address problems in an area.
8	Direction to Leave (s27 of the Violent Crime Reduction Act 2006)			
9	Premises Closure Order	4	Community Protection Order (closure) – An order which could be used to close a premises temporarily, or for up to six months.	<ul style="list-style-type: none"> – Bringing the premises closure powers together simplifies the system while keeping the benefits of the existing system in providing respite to communities.
10	Crack House Closure Order			
11	Noisy Premises Closure Order			
12	Section 161 Closure Order			

Annex C

New Powers – Detailed Proposals

FINAL PROPOSALS: A COURT ORDER TO STOP ANTI-SOCIAL BEHAVIOUR QUICKLY TO PROVIDE IMMEDIATE RESPITE TO VICTIMS

- C.1 The **Crime Prevention Injunction** would be a purely civil injunction available in the County Court for adults and the Youth Court for 10 to 17 year olds. The injunction would replace a range of current tools including the Anti-social Behaviour Order (ASBO) on application, the Anti-Social Behaviour Injunction (ASBI), the Drinking Banning Order on application, intervention orders and individual support orders.
- C.2 We would allow a wide range of applicants in order to reduce the burden falling on any particular agency to make applications on behalf of others. The following agencies would be able to apply: the police (including the British Transport Police), local authorities, private registered providers of social housing²⁸, NHS Protect, Transport for London and the Environment Agency.
- C.3 The only formal consultation requirement would be to consult with the Youth Offending Team (YOT) if the order is on someone under-18, though the applicant would need to take into account the views of other agencies if raised. We would also recommend in guidance that the young person is given the chance to express their views, in line with their rights under the UN Convention on the Rights of the Child. Consulting young people would ensure that the applicant would understand their perception of why they had behaved anti-socially and would help inform any decisions on positive requirements, though it wouldn't mean that their views took precedence.
- C.4 Interim orders can be given without notice and ex parte (i.e. in the defendant's absence). There would be no requirement to consult for an interim order.
- C.5 The test to get the injunction would be that the person has engaged in conduct which is capable of causing nuisance or annoyance to any person and that it is just and convenient to grant the injunction. This is in line with the current Anti-social Behaviour Injunction which is used effectively by many private registered providers of social housing and local authorities (in relation to their housing management function) to stop Anti-social Behaviour (ASB) quickly.
- C.6 The injunction would be 'tenure neutral', so could be used to deal with any anti-social individual, regardless of where they lived.
- C.7 A power of arrest could be attached to the injunction if the individual had used or threatened violence, or if there is risk of significant harm to the victim.
- C.8 The order could include any prohibitions or requirements that assist in the prevention of future anti-social behaviour. The requirements would be designed to deal with the causes of their behaviour, thus reducing breach rates in the long term;
- C.9 Before making any requirement, the court must be sure that it is available and enforceable, and that it does not duplicate or conflict with any other orders (e.g. a community sentence).
- C.10 There would be no minimum or maximum terms set out in the legislation, in line with the majority of existing injunctions. However, as feedback in this area was mixed in the consultation, we will continue to consider whether there should be a statutory maximum term for these injunctions as part of the process of pre-legislative scrutiny.

28 Also known as registered social landlords in Wales.

- C.11 Breach by an adult would be contempt of court, punishable in the usual way for the County Court by up to two years in prison or an unlimited fine, as outlined in the Contempt of Court Act 1981;
- C.12 Breach by someone aged 10 to 17 would result in a curfew, activity or supervision requirement, or as a very last resort, repeated breach causing serious harm could result in custody for up to three months for someone aged 14 to 17 years old. Questions were raised in the consultation as to whether it is proportionate to have a custodial penalty for breach at all. As a result, we will continue to seek the views of individuals and organisations as to whether a custodial sentence should be available for breach of a Crime Prevention Injunction by a young person²⁹. The government is committed to ensuring the judiciary have tough powers at their disposal on breach, but also that custody is used in a proportionate way. This is something we will return to as part of the process of pre-legislative scrutiny.

FINAL PROPOSALS: A COURT ORDER TO PREVENT FUTURE ANTI-SOCIAL BEHAVIOUR BY INDIVIDUALS WHO HAVE A CRIMINAL CONVICTION

- C.13 The **Criminal Behaviour Order** would be a civil order, available following a conviction for any criminal offence and in any criminal court. This would replace the Anti-social Behaviour Order (ASBO) on conviction and the Drinking Banning Order on conviction.
- C.14 The order could be applied for by the prosecutor, either at the initiative of the prosecutor, or following a request from the police or the relevant local authority. We would also allow local authorities to publish the number of requests they had made, and how many had been taken forward at court, in order to improve transparency.
- C.15 The only formal consultation requirement would be for the police or local authority to consult with the Youth Offending Team (YOT) if the order is on someone under-18, though the prosecutor should be made aware of and take into account the views of other agencies if raised. We would also recommend in guidance that the young person is given the chance to express their views, in line with their rights under the UN Convention on the Rights of the Child. We suggest that this could be done either by the YOT at the time that the Pre Sentencing Report (PSR) is produced, or by the judge interacting directly with the young person at the time of the application. Consulting young people would ensure that the court would understand their perception of why they had behaved anti-socially and would help inform decisions on positive requirements, though it wouldn't mean that their views took precedence.
- C.16 An interim order would be available at conviction (if court was adjourned for sentencing).
- C.17 The court would have the power to proceed to make an order in the defendant's absence if the defendant had previously been warned by the court that this could occur.
- C.18 The test to get the order would be that the order will assist in the prevention of harassment, alarm or distress being caused to any member of the public. There would be no need to prove specific past behaviour (this is in line with other orders on conviction).
- C.19 The order can include any prohibitions or requirements that assist in the prevention of future anti-social behaviour, and could be related to wider (relevant) behaviour than that proved through the criminal

²⁹ As breach by an adult would fall under long-standing Contempt of Court procedures.

conviction the order would be attached to. We will state that the court may consider evidence led by the prosecution and the defence, including that which would have been inadmissible in the criminal proceedings in which the offender was convicted.

- C.20 Before making any requirement, the court must be sure that it is available and enforceable, and that it does not duplicate or conflict with any other orders (e.g. a community sentence) or conflict with the European Convention on Human Rights.
- C.21 We are also exploring the possibility of the individual being able to choose to attend an ‘approved course’ in order to have the length of their order reduced and to address the underlying causes of their behaviour to further drive down breach rates. This aspect of the order would only be applicable to those aged 16 or over.
- C.22 The minimum term would be one year for under-18s and two years for adults, and the maximum term would be three years for under-18s and indefinite for adults.
- C.23 Breach of the order would be a criminal offence, with a maximum sentence of five years in custody. This would demonstrate to the offender and the community the seriousness of breach, and, as it is an order on conviction, there is no risk of criminalising someone for the first time for breach of a civil order.

FINAL PROPOSALS: A NEW POLICE POWER TO DISPERSE INDIVIDUALS CAUSING OR LIKELY TO CAUSE ANTI-SOCIAL BEHAVIOUR

- C.24 The police Directions Power would enable officers to require 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. No advance designation or consultation would be required.
- C. 25 The test would be ‘that the constable has reasonable grounds for suspecting 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’.
- C.26 Police officers would have access to all elements of the power, and Police Community Support Officers (PCSOs) could have access to different elements of the power at the discretion of the Chief Constable.
- C.27 The ability to return children under the age of 16 home or to a place of safety if not accompanied by a responsible adult after 9pm would be retained. Concerns were raised as part of the consultation, and particularly by children’s charities such as Barnardo’s, that this could increase the risk to vulnerable children (e.g. by returning them to an abusive home environment). We plan to mitigate this risk through the accompanying guidance and our wider safeguarding work to deliver our commitments in the Child Sexual Exploitation Action Plan (including for example work with the Association of Chief Police Officers (ACPO) on training for police officers to ensure they recognise the signs of child sexual exploitation).
- C.28 The direction would have to be given in writing, stating the name of the individual(s) being dispersed to ensure they are clear where they are being dispersed from, and in case the direction is later challenged. The police could also take photographs of the person without their consent, again to assist with enforcement and monitoring.

- C.29 The power could operate in any public place, and in common areas of private land with the landowner's consent.
- C.30 A police officer would also be able to require an individual to hand over items causing or likely to cause anti-social behaviour (e.g. alcohol).
- C.31 Failure to comply with the direction would be a criminal offence and would carry a maximum penalty of a level four fine and/or three months imprisonment. Failure to hand over confiscated items would also be a criminal offence and would have a penalty of a level three fine and/or one month imprisonment. These sanctions are in line with current equivalent powers, and will ensure there is a serious consequence to failing to comply.
- C.32 Any confiscated items would need to be held at the police station for a set period of time (e.g. 28 days) to enable the individual to reclaim it. A constable may also refuse to return the item to an individual under 16 unless they are accompanied by a parent or other appropriate adult to enforce parental responsibility.
- C.33 As a safeguard to ensure that the power is used proportionately and to protect civil liberties, we propose that data on its use would have to be published locally. Police and Crime Commissioners would have a key role in holding forces to account on this to ensure that officers are using the power proportionately. Publication of data locally would also help highlight any 'hot-spot' areas that may need a longer-term solution (e.g. diversionary activities for young people or introduction of CCTV cameras to help 'design out' crime and ASB).

FINAL PROPOSALS: THE COMMUNITY PROTECTION NOTICE

- C.34 The Community Protection Notice is intended to deal with particular, ongoing problems or nuisances which negatively affect the community's quality of life by targeting the person responsible.
- C.35 The notice will direct the individual, 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.
- C.36 This notice is intended to replace current measures such as litter clearing notices, defacement removal notices and street litter control notices. It is not meant to replace the statutory nuisance regime or interfere with the planning regime – and where the behaviour is such as to amount to a statutory nuisance under section 79 Environmental Protection Act (EPA), then it should be dealt with as such.
- C.37 The power to issue a notice should be available to the police (and PCSOs), authorised persons within the local authority and staff of registered providers of social housing (as designated by the relevant local authority)
- C.38 The test will be that the authorised person 'reasonably believes that the behaviour is detrimental to the amenity of the locality and/or is having a negative impact on the local community's quality of life without reasonable excuse.
- C.39 We would want the authorised person, before issuing a notice, to inform such agencies or persons as they consider appropriate (a person's landlord, or the local authority) to avoid duplication.

- C.40 The notice should clearly state: what the behaviour or action (or inaction) is that is having a negative impact on the local community or is otherwise detrimental to the amenity of the locality; what action is required; and the consequences of not complying.
- C.41 The requirement(s) set out in the notice could include: a requirement to desist from a specified action or behaviour; a requirement to make reasonable efforts to make good any outstanding issues within a specified period of time; a requirement to take reasonable steps to prevent future occurrence of the behaviour or problem.
- C.42 Breach of any requirement in the notice, without reasonable excuse, would be a criminal offence, subject to a Fixed Penalty Notice or prosecution. On summary conviction an individual would be liable to a fine not exceeding level four on the standard scale. A business, organisation, statutory undertaker, Crown authority or education authority is liable to a fine not exceeding £20,000. On conviction, we would also envisage the Magistrates' Court having the power to order forfeiture and destruction of any item used in the commission of the offence.
- C.43 An alternative to prosecution would be for the relevant agency to make good itself, and recover the costs of doing so from the person.

FINAL PROPOSALS: COMMUNITY PROTECTION ORDER (PUBLIC SPACES)

- C.44 The Community Protection Order (public spaces) is intended to deal with a particular nuisance or problem in a particular area that is detrimental to the local community's quality of life, by imposing conditions on the use of that area which apply to everyone. We would also envisage that the order could be used to deal with likely future problems.
- C.45 Only a local authority could issue the order, and before doing so, they must consult with the chief officer of police, the Policing and Crime Commissioner and any representatives of the local community they consider appropriate.
- C.46 The test for issuing the order will be that the local authority reasonably believes that the behaviour is detrimental to the local community's quality of life, and that the impact merits restrictions being put in place in a particular area. The behaviour must also be ongoing or persistent (or there must be a reasonable belief that future behaviour will be ongoing or persistent).
- C.47 The order should clearly state: what behaviour the order is seeking to prevent; what the prohibitions or requirements are in the specified area (which the local authority reasonably believes will remedy the problem); the specified area itself; and the consequences of not complying
- C.48 The order must be in writing and it must be published. There would also a requirement that reasonable signage is put up in the areas affected.
- C.49 The order could last for up to three years and could be renewed before the three year time period expired.

- C.50 Breach of the order, without reasonable excuse, would be a criminal offence, subject to a Fixed Penalty Notice or prosecution. On summary conviction, an individual would be liable to a fine not exceeding level three on the standard scale.
- C.51 Any person who breached an order prohibiting the consumption of alcohol in a public place could be required to hand over, to any person who can issue a Fixed Penalty Notice any containers or item they reasonably believe to contain alcohol. Failure to comply would be a criminal offence which on summary conviction means an individual is liable to a fine not exceeding level two on the standard scale. If alcohol is confiscated, it can also be disposed by the person who confiscates it.

FINAL PROPOSALS – COMMUNITY PROTECTION ORDER (CLOSURE)

- C.52 The Community Protection Order (Closure) would consolidate various existing closure powers related to licensed and all other premises which are causing anti-social behaviour.
- C.53 We envisage this power being available to the police (officers of the rank of Inspector and above) and the local authority (LA) (persons designated by the Chief Executive).
- C.54 Within 24 hours of the order being issued, it must, in order to continue to be valid, be signed off, in the case of a police order, by an officer of at least Superintendent rank and, in the case of a LA order, by either the Chief Executive or a person designated by them.
- C.55 Before issuing the order, the police or local authority must consult any person or agency they consider appropriate, as well as informing the owner, landlord, licensee and anyone who appears to be residing in the premise.
- C.56 The test for issuing an order will be that the police or local authority reasonably believes: that there is a public nuisance or there is or is likely imminently to be disorder in the vicinity of and related to the premises; and that the order is necessary in the interest of preventing the occurrence or reoccurrence of such disorder or behaviour.
- C.57 The order would have effect for up to 48 hours – although to last for longer than 24 hours, senior sign off would be required. The order should clearly state: that access to the premises by any person other than someone who habitually resides in the premises or the owner of the premises is prohibited; that failure to comply is an offence; details as to when and where the order will be considered by the Magistrates’ Court; and information about relevant advice providers (e.g. persons and organisations in the area which provide advice about housing and legal matters)
- C.58 In guidance we will make it clear that the police or local authority must take into account any special considerations arising from the presence or likely presence of any children or vulnerable adults on the premises.
- C.59 We would envisage authorised persons having a power of entry to the premises, using reasonable force if necessary, to serve the order.
- C.60 If the police or local authority wants to extend the order beyond 48 hours (up to three months), they should apply to the Magistrates’ Court as soon as reasonably practicable after the order comes into

force The court can continue the order beyond 48 hours if it is satisfied that: a person has engaged in disorder, anti-social or criminal behaviour on the premises; the use of the premises is associated with the occurrence of disorder or serious nuisance to members of the public; and that the order is necessary in the interested of preventing the occurrence or reoccurrence of such disorder or behaviour.

- C.61 Before the time specified in the order expired, the police or local authority could apply to the Magistrates' Court for a further extension of the order if this was deemed necessary. The maximum period an order could last overall would be six months.
- C.62 Breach of the order, without reasonable excuse, would be a criminal offence. On summary conviction, a person would be liable to a fine not exceeding level five on the standard scale and/or up to three months imprisonment if in breach of an order which lasted up to 48 hours and up to six months imprisonment if in breach of an order which lasted more than 48 hours. Organisations and businesses would be subject to a higher maximum fine of £20,000.

Annex D

Overview of the consultation process

- D.1 The consultation document was published on 7 February 2011. It outlined proposals to radically streamline the toolkit available to tackle anti-social behaviour. It presented a number of questions across five key policy proposals which were:
- The Criminal Behaviour Order
 - The Crime Prevention Injunction
 - The Community Protection Order
 - The Directions Power
 - The Community Trigger.
- D.2 The consultation took place over a fourteen week period. The consultation was made available on the Home Office website, www.homeoffice.gov.uk/asb-consultation as a PDF document. It was provided in English and Welsh. We also produced a public facing version of the consultation document. Responses to the consultation could be completed anonymously online, submitted via email or posted to the Home Office in written form.
- D.3 To support the consultation process six days of regional events were held to canvass opinions from frontline practitioners, including local authority, police, social landlords, youth offending teams and representatives from the voluntary sector. Key themes from the workshops and details of the discussions were noted and have been reflected in the summary of responses below.
- D.4 We received a total of 547 responses to the stakeholder consultation document (232 posted or emailed in and 315 online comments) and have grouped these by sector (e.g. police, local authority, social landlords, judiciary, voluntary sector etc). We also received a total of 425 responses from members of the public, the majority of which were received via the online form, and received 102 emails as part of a campaign organised by Barnardo's.
- D.5 We are grateful to the significant number of organisations across a number of sectors and individuals who took the time to respond to this consultation. We have not listed all the individuals who responded to the consultation but a list of organisations who responded is included at the end of this document.
- D.6 We have now considered all the responses received.

D.7 1,074 responses were received from stakeholders and members of the public. The table below sets out the full breakdown of the origin of responses:

Type of respondent	Number of responses
Community Safety Partnership	48
Housing Provider	103
Justice	35
Local Authority	147
Miscellaneous	80
Police	39
Police Authority	3
Voluntary and Community Organisations	42
No organisation given	50
Members of the Public	425
Barnardo's email campaign	102
	1,074

D.8 Not all respondents replied to each question and a number of responses either did not follow the structure of the questions or expressed equivocal views. Therefore, the calculations for each statistic have been based on the number of respondents to the relevant questions.



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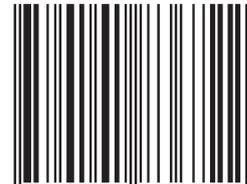
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