Reform of anti-social behaviour powers

Young people

What is the issue?

Frontline professionals should consider the particular needs of young people when deciding whether to use the new anti-social behaviour powers in the Anti-social Behaviour, Crime and Policing Act 2014 (“Act”). In view of this, the services available to a young person and their family are very different to those offered to adults. There are Youth Offending Teams, Early Intervention Services, and Troubled Families Teams in all local councils in England and Wales. They work with children, young people and their families to support them and intervene to move families away from anti-social or offending behaviour.

Importance of working with the family

When dealing with young people who are behaving anti-socially it is important to consider the factors which are causing the behaviour, for example, a chaotic home life or parents/guardians who need help to control their children’s behaviour. Preventing anti-social behaviour from a young age starts in the home and responsible parenting plays an important part. Parenting interventions are designed to help improve parenting skills so that they can deal with problems at an early stage and take the appropriate action to prevent them becoming more serious.

Informal interventions

Frontline professionals should use informal interventions as a means of tackling anti-social behaviour, rather than resorting immediately to a formal route, where they consider it is appropriate and will protect victims. Informal methods can establish clear standards of behaviour and reinforce the message that anti-social behaviour will not be tolerated. When dealing with young people, informal interventions should usually be considered first; timely and early intervention is important in correcting a young person’s behaviour before it escalates into more serious offending.

Verbal/written warnings: Verbal or written warnings should be specific about what behaviour has occurred and why this is not acceptable, including the impact on any victims or local community. Local agencies should alert each other that the warning has been given so that it can be effectively monitored.

Acceptable behaviour contracts (ABCs): ABCs, sometimes called acceptable behaviour agreements, can be an effective way of dealing with anti-social individuals, especially where there are a number of problem behaviours. They can also be very effective at dealing with young people early, to nip problem behaviours in the bud before they escalate. ABCs are a written agreement between a perpetrator of anti-social behaviour and the agency or agencies acting locally to prevent that behaviour. The terms of an ABC can be discussed with the perpetrator before they are drafted and signed to encourage compliance. However, there is no formal sanction associated with refusing to sign an ABC, so if an individual does not wish to
sign, they cannot be forced to do so. However, refusal to sign an ABC may persuade a court that only a civil injunction\(^1\) or a criminal behaviour order will prevent the anti-social behaviour.

**Parenting contracts:** Agencies, including schools, local councils and youth offending teams can enter into parenting contracts with parents of children either truanting or engaging (or likely to engage in) criminal or anti-social behaviour. They are a voluntary agreement where both parents and the agency play a part in improving the young person’s behaviour. These are not punitive measures against parents. Parenting contracts are a two-sided arrangement whereby both the parents and the agency will play a part in improving the young person’s behaviour.

Where the terms of this contract are not met, or if parents refuse to engage in a contract at all, it may be appropriate to apply to the courts for a formal parenting order. The parent must comply with any specific conditions in a parenting order which will usually require the parent to attend counselling or guidance sessions, for example, parenting classes for up to three months. Breach of a parenting order without reasonable excuse is a criminal offence. Information on both parenting contracts and orders can be found at the Youth Justice Board website: [http://www.justice.gov.uk/youth-justice](http://www.justice.gov.uk/youth-justice).

**Troubled Families Programme:** With a potentially troubled family, agencies should consider discussing the matter with other bodies with an interest – for instance the local youth offending team, social services and school to assess the scale of the problem. Family intervention programmes and the local Troubled Families Unit should also be contacted where appropriate to discuss potential interventions. The Troubled Families Programme has identified many of the issues faced by young people and the young person being dealt with may be known to the Troubled Families Unit. Further information on the troubled families programme can be found at: [https://www.gov.uk/government/policies/helping-troubled-families-turn-their-lives-around](https://www.gov.uk/government/policies/helping-troubled-families-turn-their-lives-around).

**Family Intervention Projects (FIP):** The Family Intervention Project (FIP) provides the most ‘at risk’ families with the high level, intensive support they need to make positive changes. Intensive support is provided by a specialist team based within the local authority using a ‘signs of safety’ model and all work is underpinned by the trans-theoretical model of change. Families are supported to move through this change process, including relapse stages, to a point where they are able to function effectively without intensive support and with a view to keeping families together where possible. FIPs take a whole-family approach, which considers the needs of the whole household and assesses the underlying problems driving the family’s behaviour, in order to identify which services need to be involved. These projects are run in many areas around the country, implemented by various agencies or charities, and funded in the main by local councils. When a family enter a FIP they have to sign a contract, committing to good behaviour. The agencies that they deal with also sign the agreement, which is not a legal document, but a commitment for both parties to achieve results.

**Multi-systemic Therapy (MST):** MST is an intensive family and community based intervention for children and young people aged 11-17, where young people are at risk of out-of-home placement in either care or custody and families have not engaged with other services. MST teams focus on the whole environment of the young person - their homes and families, schools and teachers, neighbourhoods and friends. MST staff will go to where families are and work with them intensively for three to five months, including being on call to families 24 hours a day, seven days a week. More on information can be found on the MST website: [http://mstuk.org/mst-uk/mst-uk-teams/general-information](http://mstuk.org/mst-uk/mst-uk-teams/general-information).

**Role of the youth offending team (YOT)**

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\(^1\) The Civil Injunction will not commence on 20 October 2014. We expect it to come into force in January 2015 but until such time the ASBO on application should continue to be used.
Children and young people who offend often have multiple needs that must be identified and addressed in order to reduce their risk of offending. YOTs are an important agency when dealing with young people and are made up of a range of representatives. This includes the police, probation, social services, health, education, drugs and alcohol misuse service and housing services, providing a comprehensive response to their needs. The YOT will identify suitable programmes to help prevent further offending.

There is a YOT in every local council area in England and Wales, and in the vast majority of cases where anti-social behaviour has been identified the YOT will already be aware, or are already working with, that young person and/or other siblings in the family and their parents.

When considering any action against a young person the early involvement of the local YOT is important. YOTs play a central role in preventing and reducing anti-social behaviour by young people and will be able to provide their expertise and knowledge in individual cases in developing a programme of action to deal with the young person’s offending for the benefit of the community and to help that young person tackle their underlying problems.

More information on the role of the YOTs in tackling anti-social behaviour can also be found on the Youth Justice Board’s website (http://www.justice.gov.uk/about/yjb/).

**How the new powers can be used?**

All the new anti-social behaviour powers could apply to young people, though in the case of the Community Protection Notice this is limited to those aged 16 and over. However, some of the new powers have a particular bearing on young people.

**Civil injunction:** The civil injunction\(^2\) is a purely civil order and is designed to be used early to stop a person’s anti-social behaviour before it gets out of control and escalates into serious criminal behaviour, both to protect the victim and the community. Applications for the civil injunction against someone aged under 18 years of age are heard in the youth court. Applicants must consult the local YOT and inform any other body or individual they think appropriate before applying for an injunction against someone aged under 18 years of age. This consultation requirement does not give the YOT a veto power over applications for the civil injunction. The injunction will include prohibitions but applicants can also apply to the court to include positive requirements in the order to tackle the underlying causes of the young person’s anti-social behaviour. The use of positive requirements should be considered as part of the injunction application process rather than as an additional order.

**Criminal behaviour order:** The CBO is available on conviction for any criminal offence in any criminal court and CBO proceedings against someone under 18 years of age are heard in the Youth Court. In cases where the offender is under 18, the prosecution must find out the view of the local YOT before applying for a criminal behaviour order. In practice, the consultation will be carried out by the organisation preparing the application for the CBO, namely the council or police force. This requirement does not give the YOT a veto power over applications for CBOs. The views of the YOT must be included in the file of evidence forwarded to the prosecution. It is advisable to engage early in the process with the YOT.

There is a requirement for an annual review of the CBO where it has been made against someone under 18 years of age. The review must consider the young person’s compliance with the conditions in the CBO and consider whether an application should be made to vary or discharge the order. The review should be carried out by the police with the local council and social services and the court may impose a positive requirement as an additional order.

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any other relevant body such as the local YOT or other organisation which may have been working with the young person. In CBO breach cases involving someone aged under 18 years of age, it is possible that the court will impose a form of community sentence instead of a custodial sentence. Such sentences can contain a variety of requirements for the young person as well as prohibited activities, which may be similar to what is included in a CBO. The court must not give multiple orders that conflict with each other, and this should be considered before the court hearing. The YOT will prepare a pre-sentence report with recommendations of a package of appropriate interventions to address the assessed likelihood of reoffending and risk of serious harm to others.

**Dispersal power:** The new police dispersal power replaces the section 30 dispersal order under the Anti-social Behaviour Act 2003 and the section 27 direction to leave under the Violent Crime Reduction Act 2006. The new dispersal power allows for police officers to move on individuals or groups of people behaving anti-socially in public places for up to 48 hours. This can include young people and children aged ten and over. In practice it will be down to the police officer to judge the age of any child and the power can be used where it appears that an individual is ten or over.

The police have a safeguarding duty towards children. Where a young person is believed to be under 16 years of age the police can take them home or to another place of safety. The officer dealing with the situation must use their judgement about what is in the best interests of the child or young person. Police forces have safeguarding arrangements in place to ensure that children are not returned to unsafe homes or placed in potentially harmful situations.

**Reporting restrictions**

The Act provides that in civil injunction and CBO hearings (application and breach proceedings) the automatic reporting restrictions established by section 49 of the Children and Young Persons Act 1933 do not apply in cases against someone under 18 years of age. However, section 39 of that Act does apply, which gives the court the discretion to prohibit the publication of certain information that would identify the child or young person in application proceedings for the injunction and CBO. In other words, it will be for the court to decide what information should be reported.

The breach of a CBO is a criminal offence and will result in criminal proceedings being taken against the offender. As with the application for the order, the automatic reporting restrictions under section 49 of the Children and Young Persons Act 1933 do not apply to CBO breach proceedings. The Act provides that section 45 of the Youth Justice and Criminal Evidence Act 1999 (currently not in force) applies to CBO breach proceedings. That section gives the court the power to restrict reporting of criminal proceedings involving individuals under the age of 18. Until that provision is in force, section 39 of the 1933 Act continues to give the court the discretion to prohibit the publication of certain information that would identify the child or young person in the proceedings.

**Publicising orders:** Making the public aware of the offender and the terms of the order can be an important part of the process in dealing with anti-social behaviour. It can provide reassurance to communities that action will be taken when they report anti-social behaviour. It will also provide the information local people need to identify and report breaches. The decision to publicise a Civil Injunction or a CBO will be taken by the police or council unless the court has made a section 39 order prohibiting publication. When deciding whether to publicise a civil injunction or a CBO, public authorities (including the courts) must consider that it is necessary and proportionate to interfere with the young person’s right to privacy, with each case decided carefully on its own facts.