

Part 2A of the Sexual offences Act 2003 - Addendum to the 2010 guidance on closure orders

1. Introduction

1.1 It is critical that we protect the most vulnerable members of our society. A feature of recent child sexual exploitation cases has been the use of premises such as take away outlets or rented/privately owned accommodation by offenders to groom and sexually exploit children. These cases have highlighted an emerging gap in the scope and function of existing powers to close premises to protect children.

1.2 Closure notices and orders are already available under Part 2A of the Sexual Offences Act 2003 Act (the 2003 Act) in relation to prostitution (involving adults and children) and child pornography offences. As the closure powers in the 2003 Act are circumscribed in this way, they do not cover premises which are being used to perpetrate other sexual offences, including rape of a child under 13 and other child sex offences. This means the police cannot currently issue notices to close premises where these offences have been or are likely to be committed.

1.3 To address this gap, the government introduced provisions in the Anti-social Behaviour, Crime and Policing Act 2014 (the 2014 Act) to amend Part 2A of the 2003 Act to extend existing powers to provide for the temporary closure of premises used for child sexual exploitation. Schedule 6 of the 2014 Act makes the existing closure powers available to premises which are used for activities related to other specified child sex offences.

1.4 The extension of the existing closure powers will allow police forces to take rapid and effective action against crimes that cause considerable harm to individuals and communities. This will enable the police to close down premises and take enforcement action against a wider range of child sex offences and disrupt the activities of those involved in child sexual exploitation. Used with the proper safeguards and with judicial oversight, these changes will be a vital tool in the fight against child sexual exploitation and an important addition to the powers that the police already have.

1.5 This addendum updates the existing guidance, which unless otherwise stated will also apply to the extended powers.

2. Process of applying for a closure notice

2.1 As with the existing closure powers in the 2003 Act, before applying to a court for a closure order, a police constable must first issue a closure notice, which must be authorised by a police officer of at least the rank of superintendent. The closure notice may be issued orally or in writing. If it is given orally, the authorising officer must confirm it in writing as soon as it is practicable.

2.2 The extended powers mean that a closure notice may now be issued where the following three conditions are met:

(i) the officer has reasonable grounds for believing that in the past three months the premises were used for activities related to a specified child sex offence, or the premises are likely to be used for such activities;

(ii) the officer has reasonable grounds for believing that the making of a closure order is necessary to prevent the premises being used for such activities; and

(iii) the officer is satisfied that reasonable efforts have been made to consult the relevant local authority, and to establish the identity of any residents or persons who have control of or responsibility for or an interest in the premises.

2.4 In cases of urgency, where it is not possible to consult the local authority in advance, it must be consulted as soon as possible after the closure notice has been issued. The existing guidance on consultation with the local authority continues to apply.

2.4 A specified child sex offence is defined by reference to the offences in the 2003 Act. These include not just the specific child sex offences in sections 5 to 13 of that Act and offences relating to indecent images in the Protection of Children Act 1978, but also other offences where the victim is under 18, including rape, sexual assault, abuse of position of trust, and abuse of children through prostitution and pornography.

2.5 It should be noted that it is not a requirement of making a closure notice that the officer believes that any of the specified offences have been committed, simply that there are reasonable grounds for believing that activities relating to an offence will take place at the premises in the future if a closure order is not made.

3. Safeguards

3.1 We have been careful to preserve the existing framework and safeguards in the 2003 Act where possible. The existing guidance on applying for a closure order through the Magistrates' Court continues to apply.

3.2 Although an initial closure notice can be issued by the police, a court must decide whether or not to make a closure order within 48 hours of it taking effect. Furthermore, a closure notice cannot prevent a person who regularly resides on or owns the premises from entering or remaining on them. Finally, the occupier of the premises, and any other person who has an interest in the premises, may contest a subsequent application to the court to make an order.

3.3 As with the existing powers, the extended closure powers deal with problematic premises and not individuals. Aside from the three statutory criteria, the authorising officer should therefore also take into account:

- whether the proposed actions will have the intended impact on the problem at hand;
- the circumstances of the individuals regularly visiting or residing on the premises

- the suitability of the powers to tackle the problems occurring at the premises;
- the evidence about the level of criminal behaviour, relating to the specified offences associated with the premises;
- how this action is to be followed up, ensuring that the premises do not become re-occupied for similar purposes, and how the closure can be followed up as part of the prostitution strategy for the area;
- the views of the relevant local authority;
- any other powers –that may be more suitable; and
- the availability of other powers, and supportive interventions, that can be used alongside the closure power

4. Consideration of other potential powers

4.1 Closure orders should be considered as part of a comprehensive approach to tackling child sexual exploitation. There are a variety of investigative and other measures that can be used to address and prosecute perpetrators of the specified offences, including the new Sexual Risk Orders and Sexual Harm Prevention Orders introduced in the 2014 Act and Child Abduction Warning Notices.

4.2 Alternative interventions may be as effective in preventing further activity, and thereby make a closure order unnecessary. For example, regular monitoring and visiting of the premises may be sufficient to prevent activities associated with the specified offences recurring or informing the landlord about the use to which the premises are being put could be enough for that landlord to take action where he is not involved in the commission of the specified offences.

4.3 The authorising officer should be able to demonstrate that he or she has considered all of these options before authorising the issue of a closure notice.

4.4 If such interventions have been tried and have been unsuccessful this will help provide evidence that a closure order is necessary in order to prevent the activities from re-occurring.