



Home Office

Review of the operation of injunctions to prevent gang-related violence

January 2014

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**Presented to Parliament pursuant to Section 50(3) of the Police
and Crime Act 2009**

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You can download this publication from www.gov.uk/home-office

ISBN: 9780108560231

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

ID 2620207 01/14

Printed on paper containing 75% recycled fibre content minimum.

Introduction

This memorandum provides a review of Part 4 of the Policing and Crime Act 2009 ('the 2009 Act') on injunctions to prevent gang-related violence ("gang injunctions"). This has been prepared by the Home Office and is required by Section 50(3) of the 2009 Act, which states that the Secretary of State will review the operation of gang injunctions and lay a report before Parliament on the outcome of this review within three years of the commencement of Part 4 of the Act.

Objectives of the Police and Crime Act 2009 ("The 2009 Act")

The aim of a gang injunction is to prevent a person from engaging in, encouraging or assisting gang-related violence and to protect them from gang-related violence.

Background

Gang injunctions are a civil tool that enables the police or a local authority to apply to a county court (or the High Court) for an injunction against an individual to prevent gang-related violence. Gang injunctions allow courts to place a range of prohibitions and requirements (including supportive, positive requirements) on the behaviour and activities of a person involved in gang-related violence. These conditions could include prohibiting someone from being in a particular place or requiring them to participate in rehabilitative activities.

Part 4 of the Policing and Crime Act 2009 ('the 2009 Act') contains provision for injunctions to prevent gang-related violence to be sought against an individual; these were commenced on 31 January 2011.

Section 34(5) of the 2009 Act defines gang-related violence as:

"Violence or a threat of violence which occurs in the course of, or is otherwise related to, the activities of a group that:

- a) consists of at least 3 people;
- b) uses a name, emblem or colour or has any other characteristic that enables its members to be identified by others as a group; and
- c) is associated with a particular area."

The legislation was amended by the Crime and Security Act 2010 to enable gang injunctions to be taken out against those aged between 14 and 17.

Section 18 of the Crime and Courts Act 2013 makes provision for applications for gang injunctions for 14 to 17 year olds to be heard in the youth court, sitting in a civil capacity, rather than in the county court. At the time of writing this report, arrangements are being made to commence this provision.

Guidance

Guidance and support has been provided to local authorities and police, to assist in their local approach to gang injunctions; including the statutory guidance¹ and Ministry of Justice operational guidance to the courts and Youth Offending Teams². The Judicial College has also provided information to judges and magistrates.

Legal

The gang injunction legislation has had one major challenge which was successfully defended. The case of *Birmingham City Council v James* [2013] EWCA Civ 552 clarified a number of points. Most importantly, the court endorsed the civil standard of proof required for gang injunctions.

The judgement stated that the anti-social behaviour order (ASBO) and gang injunction were directed towards different social problems and although some gang activity could comprise anti-social behaviour, the Crime and Disorder Act 1998 s.1(1) had not been enacted to deal specifically with gang culture but with all kinds of anti-social behaviour, whereas the Part 4 of the Policing and Crime Act 2009 was Parliament's considered response to gang-related violence and so the standard of proof in the Act was justified.

As a separate matter, the Court stated that there were many situations in which more than one different pre-emptive order was available to a judge, but there was no principle of "closest fit" to be derived from the case law, meaning that the decision of which order to use should rest with the applicant.

Review process

To review the operation of gang injunctions in line with the requirement set out in the 2009 Act, information was collated from a range of sources:

- An exploration of practitioners' experience of using gang injunctions, highlighting perceived strengths and weaknesses of the gang injunction process. A qualitative approach was followed, consisting of interviews and focus groups with 42 individuals involved in the gang injunctions process in two urban areas outside London, and two London boroughs. The findings of this work represent the consensus views of those interviewed.
- A data request sent to the 33 Ending Gang and Youth Violence programme local authority areas, to gauge the extent of the use of gang injunctions, the age ranges of those subject to gang injunctions, and the types of conditions included within the gang injunction. Twenty-five of the 33 areas responded to this data request.
- The peer reviews conducted in the 33 areas as part of the Ending Gang and Youth Violence programme in 2012-13. These peer reviews were a key element of the support offered within the Ending Gang and Youth Violence programme and were designed to provide constructive insights into the strengths and weaknesses of local partnership approaches to gang and youth violence.
- Ad hoc Home Office communication with local areas and police forces about specific parts of the gang injunction process.

1 <http://www.official-documents.gov.uk/document/other/9780108511288/9780108511288.pdf>

2 <http://www.justice.gov.uk/youth-justice/courts-and-orders/disposals/gang-injunctions>

Key findings: overview

- The 25 Ending Gang and Youth Violence priority areas that returned data reported that, between January 2011 and January 2014, 88 gang injunctions had been put in place. Eleven of the 25 areas had used gang injunctions, but one (non-London) area accounted for over half (46) of the total number. No information is available on the use of gang injunctions more widely across England and Wales.
- The gang injunctions reported were all against male respondents, and only two were taken out against under 18s.
- The most commonly reported prohibitions were geographic (i.e. restrictions from a place or area) and non-association (i.e. restriction from being with a certain individual).
- Gang injunctions were generally seen as a valuable tool in tackling gang-related violence, and seemed to work most effectively in areas with strong multi-agency arrangements in place.
- Most participants in the interviews and focus groups saw gang injunctions as a potentially beneficial tool for tackling gang-related violence. However, due to early implementation issues and practical challenges, this value was not necessarily realised. While participants mentioned cases where gang injunctions had been used successfully, the qualitative evidence identified opportunities for improvements that could increase the utility of gang injunctions generally.

Key findings: areas for improvement

- Raising awareness and understanding: there was a perception that awareness and understanding of gang injunctions was relatively low amongst police officers, local authority representatives, legal representatives and the judiciary. There was some uncertainty about the benefits of gang injunctions compared to other interventions. In part this may be due to their relatively recent introduction.
- Easing time and resource pressures: It was reported that gang injunctions sometimes took a substantial amount of time and effort to complete, with evidence-gathering proving particularly resource-intensive. Police officer participants in particular felt that the standard of evidence required for an injunction was disproportionately high. It was felt that the outcomes of injunctions were sometimes not commensurate with the resources invested in them. These issues reportedly discouraged participants from subsequently pursuing more gang injunctions.
- Enabling better targeting of injunctions: Practitioners reported some difficulty in proving an individual's gang association to meet the requirements of the injunction legislation – with those not directly involved in violence (but potentially influencing violent activity) and those on the periphery of gangs proving difficult to target. This meant that, in these cases, the injunctions were only being applied to a subset of gang-associated individuals, and that it was difficult to use injunctions as an early intervention to divert individuals away from violence.

The definition of a gang used in the injunction legislation was seen by police officer participants to have some limitations for addressing local gang issues. In addition, courts' understanding of gangs and the harm gangs could cause was felt to be generally low, and this was seen to make it difficult to convince courts of the necessity for strict prohibitions.

- Setting effective prohibitions and requirements: Prohibitions and requirements were seen to work well in discouraging gang violence. However, there were several challenges with setting effective positive requirements (which were intended to provide support to move away from gangs). It was felt that where prohibitions and requirements were planned together, they were more effective. However, for practical reasons this did not always happen – with a perception that positive requirements were sometimes ‘tacked on’ to injunctions. The effectiveness and choice of positive requirements was limited by what was available locally, the length of the injunction, and the willingness of the respondent to engage.
- Improving adherence and enforcement: Ensuring injunctions were adhered to, in particular positive requirements, was felt to be difficult and quite resource-intensive; and this meant that injunctions were reportedly not being enforced as strongly as many police and local authority participants would have liked. There was a particular difficulty for service providers, for example those offering mentoring support, in balancing the need to maintain a trusting relationship with respondents and informing the police of breaches. This was seen by some to limit the effectiveness of the positive requirements.

Response to key findings

The Government welcomes the finding that gang injunctions are seen positively by local authorities and the police, and are valued as part of a suite of tools they can use to prevent gang violence.

As with all new legislation, there are early implementation issues to be overcome. This review has highlighted some practical challenges to using the legislation to its maximum potential that we will seek to address. In particular:

- The Government will work with the College of Policing to develop more practical advice and support on the use of gang injunctions. This will include peer-led support and practice sharing between local areas, and a series of seminars across the country.
- The Government will also produce an up to date reference document which lists all available legislative powers to tackle gang activity by type of intervention (e.g. housing), a description of what provision the legislation provides, and the lead agency. This will further support police and local authorities in their use of gang injunctions, and is a commitment in the Ending Gang and Youth Violence Annual Report 2013³.
- As part of the move of gang injunctions for under-18s currently issued within the county court to the youth court, advice and support will be provided to local authorities, police, the judiciary and court staff. This will include revised statutory guidance, practical advice and the sharing of good practice examples, and a review of the operational guidance and training available to local partners.
- The Government will consult interested parties to explore whether the definition of a gang within the legislation should be changed to reflect the evolving nature of street gang activity across the country and ensure that gang injunctions can be used to target the right individuals.

³ <http://www.official-documents.gov.uk/document/cm87/8746/8746.pdf>



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ISBN 978-0-10-856023-1



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