

Guidance in respect of Civil Injunctions, under section 1 of the Anti-Social Behaviour, Crime and Policing Act 2014

Section 1 of The Act introduces a Civil Injunction and enables a number of bodies, including the Police, to make an application where appropriate. The Act consolidates a number of pieces of legislation so that there is now one process to apply for a civil injunction. Applications in the case of an adult will be made to the High Court or County Court. In the case of an individual under the age of 18, the application will be brought before the local Youth Court. The application may be brought in the area where the Respondent resides or where the behaviour has taken place.

Contents of the Injunction

Civil Injunctions contain provisions which either prohibit the Respondent from doing anything relevant to the ASB, or which require the Respondent to do certain things in an effort to change the ASB. A civil injunction may be made for an indefinite period but in the case of a person under the age of 18, must be for no longer than 12 months. Further, specific prohibitions or requirements may be for a shorter period than the length of the injunction itself.

If an Injunction is to include a specific requirement, it must be identified which individual or organisation will supervise compliance with that requirement. It must also be identified how that requirement may be funded. Requirements must also be compatible with one another.

The Civil Injunction may include an exclusion from the Respondent's home address in the case of an adult Respondent whose ASB includes the use of threats or violence, or there is a significant risk of harm to other persons from the Respondent.

An application for a Civil Injunction may include a power of arrest to a prohibition or requirement of the injunction where the Court thinks that the anti-social behaviour in question presents the threat or risk of violence, or there is a risk of significant harm to other persons from the Respondent.

Requirement to consult

Before applying for a Civil Injunction, the agency making the application must consult with the Youth Offending Team in the case of a Respondent under the age of 18, and any other body or individual it considers appropriate in all cases.

In any event, it is expected that there will be a multi-agency approach to obtaining evidence and identifying suitable cases for a Civil Injunction.

A Partnership approach in practice

At an early stage it should be identified which partner will take the lead in preparing the application for a civil injunction.

As a starting point to making that decision, it is recommended that whichever partner receives the majority of the information relating to the ASB in question, that agency should take the lead in preparing the application for an Injunction. For example, complaints of nuisance by tenants of either a housing provider or local authority is likely to be led by that agency; complaints of ASB made to the police which fall short of criminal offences are likely to be led by the Police. There may of course be cases which are less straight-forward in which event advice can be sought from the appropriate legal departments.

The content of the Application

Whichever partner takes the lead, the relevant legal department must be approached at an early stage to initially advise on the merits of the application and give guidance as to the content of it, including what additional evidence may be required to proceed.

It is anticipated that the following evidence would be included:-

- Witness statements, to include professionals, Police and members of the public (those statements may include hearsay evidence);
- Incident prints;
- Diary sheets supplied by LA or housing providers;
- CCTV where in existence;
- Evidence of previous interventions, such as warning letters, ABC;
- Record of Respondent's previous convictions

As ASB can vary in its nature, it is not appropriate to apply a formulaic approach to applications for Injunctions, but approach each on a case by case basis.

The civil standard of proof applies to the test that the Respondent has engaged or threatened to engage in ASB.

Post Court

Once the injunction has been served on the defendant then the Police should be informed as soon as possible. County Court staff should provide an information leaflet that advises that the orders should be scanned and emailed to csio@derbyshire.pnn.police.uk so that the Police National Computer can be updated as quickly as possible.

In addition, copies of paper orders can still be left with the relevant police station for the information of the local policing teams. In many instances such

injunction applications will already have been discussed via local tasking/partnership meetings.

Where the Civil Injunction relates to ASB, a copy should be uploaded to E-CINS as a 'Document' and recorded as an 'Action'.

Breach of a Civil Injunction

Breach of a requirement or prohibition of the Civil Injunction is not a criminal offence, but a civil contempt of Court, being the breach of a Court Order. As such, where a power of arrest is attached to the Order, then a constable may arrest the Respondent where he or she has reasonable cause to suspect that the Respondent is in breach of that provision. Although a civil contempt of Court, the criminal standard of proof applies to proving a breach of the Civil Injunction, so the reasonable cause must be supported by evidence.

Once arrested, the Respondent must be brought before a Judge of the High or County Court depending on which made the Order, the County Court in the case of a Respondent who has reached the age of 18 years since being made subject to an Injunction and, in the case of a Respondent under the age of 18, the Magistrates Court.

The Respondent must be brought before the Court within 24 hours of arrest, excluding Sundays, Christmas Day and Good Friday.

If no power of arrest is attached to the Civil Injunction, the agency which applied for the injunction must apply to the appropriate Court for an arrest warrant. The appropriate Court is the High or County Court depending on which made the Order or where the Respondent is now over 18, and the Magistrates Court where the Respondent is under 18 years.

Where a Respondent breaches an Order obtained on application by any partner other than the Police, the arresting officer must inform the appropriate agency of the arrest and provide all relevant evidence to it. Partners should supply contact numbers for both office hours and out of office hours for the purpose of this notification being made.

The Police contact centre will hold most of the relevant telephone numbers for local partners or failing that, a search on an organisation's website page should assist.

Variation/Discharge

The agency which applied for the injunction and Respondent can make an application to vary or discharge the Injunction. That may include applying for an additional requirement or to add a power of arrest.