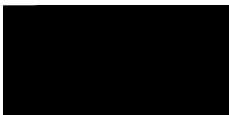


# Anti-social Behaviour

## The New Regime

Anesh Pema  
District Judge, Leeds Combined Court

Justin Crossley  
Barrister, Zenith Chambers, Leeds



Published by  
Jordan Publishing Limited  
21 St Thomas Street  
Bristol BS1 6JS

Whilst the publishers and the author have taken every care in preparing the material included in this work, any statements made as to the legal or other implications of particular transactions are made in good faith purely for general guidance and cannot be regarded as a substitute for professional advice. Consequently, no liability can be accepted for loss or expense incurred as a result of relying in particular circumstances on statements made in this work.

© Jordan Publishing Ltd 2015

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted in any way or by any means, including photocopying or recording, without the written permission of the copyright holder, application for which should be addressed to the publisher.

Crown Copyright material is reproduced with kind permission of the Controller of Her Majesty's Stationery Office.

'National Policing Guidelines on the Prosecution for Breaches of Community Protection Notices and Public Spaces Protection Order' produced by the Association of Chief Police Officers is reproduced with permission.

British Library Cataloguing-in-Publication Data

A catalogue record for this book is available from the British Library.

ISBN 978 1 84661 947 2

Typeset by Letterpart Limited, Caterham on the Hill, Surrey CR3 5XL

Printed in Great Britain by Hobbs the Printers Limited, Totton, Hampshire SO40 3WX

# CONTENTS

Preface	v
Table of Cases	xv
Table of Statutes	xvii
Table of Statutory Instruments	xxiii
Table of European Material	xxv
Chapter 1	
Introduction	1
Background to the new legislation	1

---

Without notice	24
Minors – Youth Court	24
Interim injunctions	24
Variation or discharge of injunctions	25
Breach	25
Power of arrest	26
Remand	27
Remand for medical examination and report	28
Procedure for committal proceedings in the County Court	28
Sentencing of adults	29
Purging contempt	31
Breach of injunctions – powers of court in respect of minors	31
Supervision Orders	32
Supervision requirement	32
Activity requirement	32
Curfew	33
Non-compliance with a supervision order	34
Detention orders for young persons	34
Appeals	35
Transitional provisions	35
Chapter 3	
Criminal Behaviour Orders	37
When can an order be made?	37
Consultation	39
Procedure for applying	39
Criminal Procedure Rules – Part 50	39
The contents of the Notice	40
Defendant’s response	40
Special measures for witnesses	41
Hearing	41
Orders	42
Duration	43
Review of orders	43
Interim Orders	44
Breach	44
Sentencing	45
Sentencing starting points	47
Youths	48
Variation and discharge	49
Publicity	49

---

Chapter 4	
Evidence	51
Sources of evidence	51
Housing services	51
Social services	52
Environmental services	52
Education/school records	52
Police	52
Previous convictions	53
Lay witnesses	53
Professional witnesses	54
Videos and CCTV	54
General	54
Using video footage	55
Hearsay evidence	55
Use of hearsay evidence	55
Adducing hearsay evidence before the court	56
Hearsay notices	56
Special measures	58
Procedure for applications	59
Opposing an application	60
Defendant's evidence direction	61
Witness anonymity order	61
Special measures directions	62
Special measures for child witnesses	63
Screens	63
Live link	64
Evidence to be given in private	64
Removal of wigs and gowns	65
Video-recorded evidence-in-chief	65
Video-recorded cross-examination or re-examination	65
Examination of a witness through an intermediary	65
Aids to communication	65
Status of evidence	66
Restrictions on reporting directions under Chapter I	66
Chapter 5	
Publicity of Injunctions	67
Introduction	67
Minors	67
Defendant's case	69
Respondent's arguments	70
Court of Appeal ruling	70

Chapter 6	
Parenting Orders	73
Introduction	73
When?	73
Criteria	74
Procedure	74
What can be ordered	75
Variation or discharge	76
Breach	76
Appeals	77
Chapter 7	
Dispersal Powers	79
Introduction	79
Authorisation to use the power	79
Direction to Leave	80
Restrictions on directions to disperse	81
Surrender of property	82
Record keeping	82
Breach	83
Chapter 8	
Community Protection Notices	85
What is a Community Protection Notice?	85
Who can issue a CPN	85
When?	86
Warning Notice	86
The Test	87
What can be ordered?	88
Issue/service of notices	88
Appeal against Notice	89
Remedial action by local authority	90
Exemption from liability	91
Failure to comply with notice	91
Forfeiture	92
Seizure of an item used in commission of an offence	92
Fixed Penalty Notices	93
Prosecution of Breach of CPN and Issuing of FPNs	94
Chapter 9	
Public Spaces Protection Orders	95
Introduction	95
Who can make a PSPO	95

---

The grounds upon which to make an order	96
Contents of PSPO	97
Prohibition on consuming alcohol	97
Restrictions on public rights of way	98
Duration of a PSPO	99
Variation and discharge of orders	99
Challenging the validity of a PSPO	99
Enforcement of PSPO	100
Chapter 10	
Closure of Premises	101
Introduction	101
Closure Notices	101
Who can apply?	101
When can a Closure Notice be issued?	102
Duration of the Closure Notice	102
The power of a Closure Notice	102
Content and service of Closure Notice	103
Closure Orders	104
Who can apply?	104
Temporary orders	105
Extension and discharge of Closure Orders	106
Appeals	107
Penalty on breach	107
Reimbursement of costs and compensation	107
Exclusion of civil liability	108
Chapter 11	
Community Trigger	109
Introduction	109
Purpose	109
'Relevant bodies' and 'responsible authorities'	110
Threshold	110
Qualifying complaints	111
Once the Community Trigger is activated	112
Conclusion	112
Chapter 12	
Community Remedies	115
Introduction	115
The Community Remedy Document	115
When will a Community Remedy apply?	116

Chapter 13	
New Grounds for Possession of a Residential Property	119
Introduction	119
New absolute grounds for possession	119
Absolute grounds	119
Serious offence	120
Locality	120
Notice requirements	120
Statutory review	121
Defences to claims	122
Post Possession Order	123
Amendments/additions to the existing discretionary grounds	124
Appendix 1	
Precedents	127
1. Criminal Behaviour Order	127
2. Community Protection Notice	130
3. Public Spaces Protection Order	132
4. Closure Notice	136
5. Absolute Ground for Possession	141
Appendix 2	
Statutes	149
Anti-social Behaviour, Crime and Policing Act 2014 (ss 1–105, Sch 2)	149
Youth Justice, Crime and Evidence Act 1999 (ss 16–63)	222
Crime and Disorder Act 1998 (ss 8–10)	258
Civil Evidence Act 1995 (ss 1–16)	262
Housing Act 1988 (ss 8, 21, Sch 2)	268
Housing Act 1985 (ss 83ZA, 83, 84, 84A, 85, 85ZA, Sch 2, Sch 2A)	277
Children and Young Persons Act 1933 (ss 39, 49)	288
Appendix 3	
Statutory Instruments	293
The Magistrates' Courts (Injunctions: Anti-Social Behaviour) Rules 2015, SI 2015/423	295
Assured Tenancies and Agricultural Occupancies (Forms) (England) Regulations 2015, SI 2015/620	301
The Absolute Ground for Possession for Anti-social Behaviour (Review Procedure) (England) Regulations 2014, SI 2014/2554	307
Anti-social Behaviour, Crime and Policing Act 2014 (Publication of Public Spaces Protection Orders) Regulations 2014, SI 2014/2591	311



---

Appendix 4	
Procedural Rules	313
Civil Procedure Rules 1998 (CPR 33.1–33.5, 65.37–65.49; PD 65, SS. I, II, VII; CPR 81.1–10, 81.28–31; PD 81, S. 8)	313
Criminal Procedure Rules 2014 (Pts 29, 50; CrimPD Div V and Application Form)	329
Appendix 5	
Anti-social Behaviour and Crime and Policing Act 2014: Reform of Anti-social Behaviour Powers	357
Appendix 6	
Sentencing Guidelines Council: Breach of an Anti-social Behaviour Order	425
Appendix 7	
ACPO Guidelines for the Prosecution of Breaches of CPNs and PSPOs	441
Appendix 8	
Parenting Contracts and Orders Guidance (ss 4–8, Annexes D–E)	449
Index	469