

Committee:	Date:
Police	5 th July 2013
Subject: Anti-social Behaviour, Crime and Policing Bill	Public
Report of: Remembrancer	For Information
<p><u>Summary</u></p> <p>This report informs the Committee of the relevant provisions of the Anti-social Behaviour, Crime and Policing Bill currently before Parliament.</p> <p>The Bill will replace the various measures currently available to tackle anti-social behaviour with a new set of powers, intended to provide a simpler and more streamlined framework. It will introduce new mechanisms with the aim of giving victims and local communities a greater say in the treatment of anti-social behaviour and low-level crime, and it will strengthen the ability of landlords to terminate tenancies on grounds relating to anti-social behaviour.</p> <p>The Bill will confer new commissioning powers on local policing bodies (including the Common Council), create a new framework for reviewing police officers' terms and conditions of service, and make other changes to police standards and governance.</p> <p>The Bill will make various modifications to the criminal justice system, including in respect of matters such as low-value shoplifting, the supervision of the Serious Fraud Office, and firearms control.</p> <p>Recommendation</p> <p>The Committee is invited to note the contents of this report.</p>	

Report

1. The Anti-social Behaviour, Crime and Policing Bill was introduced in Parliament following the Queen's Speech in May. Its main purpose is to reform the powers available to local authorities, the police and other bodies to tackle anti-social behaviour. Some 19 separate remedies—including the notorious 'ASBO'—are to be replaced with a simpler framework comprising six broad powers. The Bill also provides the vehicle for a number of less

fundamental reforms in the field of crime and policing. The general direction of the Bill is not expected to meet with significant parliamentary controversy, although the Opposition have criticised some of the reforms as 'watering down' the fight against anti-social behaviour.

Anti-social behaviour

2. The Bill will introduce six new powers to control anti-social behaviour, as set out below:

- Injunctions to prevent nuisance and annoyance. An injunction may be granted where a court is satisfied to the civil standard of proof that a person has engaged in (or is threatening to engage in) behaviour capable of causing nuisance or annoyance to another person. The injunction may include prohibitions or positive requirements for the purpose of preventing or reducing the likelihood of such behaviour. Injunctions may be accompanied with a power of arrest without warrant, and breach of an injunction will be punishable as a contempt of court. Local authorities, police forces, private providers of social housing and certain other public bodies will all be able to apply for injunctions. An injunction must specify a person or body responsible for supervising compliance, and that person or body must be consulted about the appropriateness of the measures in the injunction.
- Criminal behaviour orders. An order may be granted on the application of the prosecution when a person is convicted of a criminal offence, if it is proved beyond reasonable doubt that the person has engaged in behaviour which caused or was likely to cause harassment, alarm or distress to someone outside his household. Orders may include prohibitions or positive requirements for the purpose of preventing or reducing the likelihood of such behaviour. Breach of an order will be an imprisonable offence. An order must specify a person or body responsible for supervising compliance, and that person or body must be consulted about the appropriateness of the measures in the order.
- Dispersal powers. A police officer of the rank of inspector or above will be able to authorise the use of dispersal powers in a specified locality for up to 48 hours, for the purpose of preventing harassment, alarm or distress to the public, or preventing crime or disorder. Where dispersal powers are in force, a uniformed constable (or a community support officer designated by the chief officer of police) will be able to direct persons to leave the specified area (so long as they do not live or work there) if necessary to prevent the relevant outcome. Failure to comply with a direction will be an imprisonable offence.

- Community protection notices. A local authority or constable will be able to issue a notice to a person whose unreasonable behaviour (or unreasonable behaviour on whose premises) is having a persistent and continuing detrimental effect on the quality of life of those in the locality. The notice may impose such requirements as are reasonable to prevent or reduce the detriment. An order will only be made after written warning is given, and will be subject to a right of appeal to the magistrates' court. Failure to comply with a notice will be an offence punishable with a fine or by a fixed penalty notice. Local authorities will be given certain powers to carry out remedial work to mitigate failures to comply with notices.
 - Public spaces protection orders. A local authority will be able to make an order if activities are (or are likely to be) carried on in a public place in its area which are unreasonable, are persistent or continuing, and have a detrimental effect of the quality of life of those in the locality. An order will be able to include prohibitions or requirements for the purpose of preventing or reducing the detriment. The police and community representatives will have to be consulted before an order is made. Orders may last for up to three years at a time. Breach of an order will be punishable by a fine or fixed penalty notice. Orders will replace any byelaws covering the same subject-matter for the period during which they are in force.
 - Closure of premises associated with nuisance or disorder. A local authority or police officer of the rank of inspector or above will be able to issue a closure notice if necessary to prevent nuisance or disorder arising from the use of premises. Closure notices will be able to restrict access to the premises (other than by persons who live in or own the premises) for a period of up to two days, and must (unless first cancelled) be followed by an application to the magistrates' court for a closure order. A closure order will be able to prohibit access to the premises (other than by persons who live in or own the premises) for a period of up to three months. The relevant local authority or police force will be able to secure the premises against entry, and breach of a closure notice or order will be an imprisonable offence.
3. The new powers will replace an array of existing powers, including anti-social behaviour orders and injunctions, drinking banning orders, individual support orders, litter clearing notices, defacement removal notices, 'section 30' dispersal orders, premises closure orders, gating orders and dog control orders.

4. The Bill will introduce two new mechanisms to give local communities a greater say in the treatment of anti-social behaviour and low-level crime. Each local policing body (*i.e.* police and crime commissioners, the Mayor's Office for Policing and Crime, and the Common Council) will have to prepare a 'community remedy document' setting out actions which it might be appropriate to require those guilty of anti-social behaviour or low-level crime to perform as an alternative to court proceedings or a caution, or as conditions to a caution. Examples might include repairing damage or paying compensation. Where a police officer or prosecutor decides on an out-of-court disposal, the victim or victims must be consulted about whether the offender should be required to carry out any of the actions in the community remedy document, and the offender must be invited to comply with any appropriate suggestion rather than face the possibility of formal proceedings.
5. The other community mechanism in the Bill is the so-called 'community trigger'. This will require local councils, police forces, clinical commissioning groups and certain social housing providers to make arrangements for reviewing the response to anti-social behaviour where a certain number of complaints about the behaviour have been received and where an application for a review has been made. The Bill sets the number of complaints needed to engage the 'trigger' at three, but the arrangements will be able to specify a higher number.
6. The Bill will also provide new grounds for possession in relation to secure tenancies (the form of tenancy usually granted by local authority or social landlords). Conviction of certain serious criminal offences or infringement of certain controls on anti-social behaviour (including the injunctions, criminal behaviour orders and closure powers introduced by the Bill) will become a mandatory ground for possession available to landlords. Two new discretionary grounds of possession will also be created, namely conduct causing nuisance to landlords and conviction of an offence connected with rioting. Similar provision will be made in relation to assured tenancies in the private sector.

Police commissioning, standards and remuneration

7. The Bill will confer a wide power on local policing bodies (*i.e.* police and crime commissioners, the Mayor's Office for Policing and Crime, and the Common Council) to commission services from external providers. Such services may be commissioned to assist crime prevention and reduction, to support victims and witnesses, or for such other purposes as the Government may determine.

8. The Bill will abolish the Police Negotiating Board, which is made up of representatives of those governing, managing and serving in police forces, and which negotiates recommendations to put to the Government about police officers' terms and conditions of service. The functions of the Board in advising about remuneration and other terms of service will be transferred to a newly established, independent Police Remuneration Review Body.
9. The Bill will confer statutory functions on the recently established College of Policing (which is intended to replace and expand upon the work of the soon-to-be-abolished National Policing Improvement Agency). The College will take on the Secretary of State's functions of drawing up regulations about the ranks, qualifications, probationary periods and personal records of police officers, and of issuing codes of practice about the discharge of functions by chief officers of police. Police officers above the rank of chief superintendent will be eligible for appointment to the College.
10. The Bill will strengthen the role of the Independent Police Complaints Commission. The Government will be authorised to confer additional powers on the Commission of the sort usually used in criminal investigations, such as the questioning of witnesses and the searching of premises. The Commission will be able to require any person to provide it with information, and its ability to make recommendations will be extended to cases of unsatisfactory performance falling short of misconduct. A duty to respond to recommendations of the Commission will be introduced in cases of institutional or systemic failure. The Government will be empowered to extend the jurisdiction of the Commission to contractors employed by police forces.

Criminal justice

11. The Bill will require that low-value offences of shop-lifting (involving goods worth up to £200) be tried summarily (*i.e.* in a magistrates' court and with a maximum sentence of 51 weeks' imprisonment) unless the defendant opts for a trial in the Crown Court. This is intended to facilitate the police-led prosecution of such offences.
12. The Serious Fraud Office will be brought within the jurisdiction of the Chief Inspector of the Crown Prosecution Service. The right to compensation for miscarriages of justice will be limited to cases where innocence is shown beyond reasonable doubt. Police forces will be empowered to make protection arrangements for any person appearing to be at risk from criminal conduct, as opposed to the limited categories of person (such as witnesses and jurors) currently eligible for such arrangements.

13. Penalties for manufacturing, selling, transferring or illegally importing firearms will be strengthened. Greater safeguards will be placed on powers to detain for counter-terrorism purposes persons entering the UK, and technical modifications will be made to extradition procedures. The criminal law governing dangerous dogs will be extended to cover private property, and stronger penalties will be imposed where a guide dog is attacked by another dog. New offences will be created in relation to forced marriage.

Application to the City Corporation

Anti-social behaviour

14. In its capacity as the local authority for the City, the Common Council will be able to apply for injunctions to prevent nuisance and annoyance, and to exercise the new powers for community protection, public spaces protection and (subject to the control of the magistrates' court) the closure of premises associated with nuisance or disorder. It will have to participate in arrangements for reviewing the response to anti-social behaviour where the 'community trigger' is engaged.
15. In its capacity as the police authority for the City, the Common Council will be required to prepare a community remedy document setting out actions which it might be appropriate to require those guilty of anti-social behaviour or low-level crime to perform as an alternative to court proceedings or a caution, or as conditions to a caution.
16. The City Police will be able to apply for injunctions to prevent nuisance and annoyance and will be able to exercise the new powers for dispersal, community protection and (subject to the control of the magistrates' court) the closure of premises associated with nuisance or disorder. It will have to use the Common Council's community remedy document, in consultation with victims, when deciding on out-of-court disposals. It will have to participate in arrangements for reviewing the response to anti-social behaviour where the 'community trigger' is engaged.
17. In its capacity as a provider of social housing, the Common Council will be able to make use of the new powers to evict tenants who are guilty of crime or anti-social behaviour. Discussions are taking place with officials about the extent to which the Corporation will be permitted to make use of the new injunctions to prevent nuisance or annoyance in respect of its social housing outside the City.
18. The City Corporation is currently entitled to make dog control orders in respect of its open spaces. These orders will be among those abolished by the Bill. Discussions are taking place with officials about the extent to which

the Corporation could be permitted to make use of the new powers for the protection of public spaces in respect of its open spaces outside the City.

Policing and criminal justice

19. The provisions on policing and criminal justice have no special application to the City, although they will affect the operation of the City Police in the same way as other police forces.

Consultation

20. The Commissioner of Police has been consulted on this report and has commented as follows:

“The City of London Police and the City of London Corporation are already working together to assess the impact that the new legislation is likely to have on the City of London. The multi-agency Anti-social Behaviour (ASB) Strategic Group and Tactical Group are monitoring the progress of the Bill and are engaged in preparing for the new legislation once enacted.”

21. The Town Clerk, the Director of Children’s and Community Services and the Director of Open Spaces have also been consulted in the preparation of this report.

Recommendation

22. The Committee are invited to note the contents of this report.

Background Papers

- *Anti-social Behaviour, Crime and Policing Bill: Explanatory Notes, published by The Stationery Office by the authority of the House of Commons.*
- *Home Office, ‘Putting victims first: More effective responses to anti-social behaviour’, White Paper, May 2012.*
- *Home Office, ‘Community Remedy: Consultation Response’, April 2013.*
- *Ministry of Justice, ‘Getting it right for victims and witnesses: the Government response’, July 2012.*
- *Chief Constable Peter Neyroud QPM, ‘Review of Police Leadership and Training’, April 2011.*
- *Tom Winsor, ‘Independent Review of Police Officer and Staff Remuneration and Conditions’, March 2012.*

- *House of Commons Home Affairs Select Committee, 'Independent Police Complaints Commission', Eleventh Report of Session 2012-13.*

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