

# Tackling anti-social behaviour - our tools and powers

## Undertaking

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An undertaking is a signed promise by the tenant that they will comply with certain conditions of behaviour given at Court.

## Closure Power

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The Closure Power replaces the previously used 'crack house closures'. The use of this order means that either the Police or the Council can apply to Court to close the premises which have been or are likely to result in nuisance or there has been or likely to be disorder in the area. The Closure Power is a fast, flexible power that can be used to protect victims and communities by quickly closing

premises that are causing nuisance or disorder. The power comes in two stages; the Closure Notice and the Closure Order which are intrinsically linked. The Closure Notice can be used by the council or the police out of court. Following the issuing of a Closure Notice, an application must be made to the magistrates' court for a Closure Order, unless the closure notice has been cancelled.

## Civil Injunction

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A Civil Injunction is a court order that forbids a person from specific acts, for example causing anti-social behaviour relating to housing and for nuisance or harassment. The injunction under Part 1 of the 2014 Act is a civil power to deal with anti-social individuals. The injunction can offer fast and effective protection for victims and communities and set a clear standard of behaviour for perpetrators, stopping the person's behaviour from escalating. In serious cases it can carry the power of arrest and

the terms can include excluding a person from a property or area. If breached it is a criminal offence and may result in imprisonment. An injunction carries a maximum sentence of 2 years imprisonment if breached. Injunctions can be quick to obtain. An injunction can be applied for to anyone over the age of 10 years. An application for a child will be heard in the youth court. They are aimed at stopping the anti-social behaviour rather than punishing the perpetrator.



## New Absolute Grounds for Possession

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This is an order whereby the landlord can recover possession of the property under a new mandatory power if the person has either been convicted of a serious offence; they have breached a court order such as an injunction or a criminal behaviour

order. Should a tenant's property be closed by way of a closure order then the absolute ground for possession can be applied. This power can only be used for the most serious cases.

## Community Trigger/ASB Case Review

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The community trigger is intended to give victims and communities the right to request a review of their case where a local threshold is met, and to bring agencies together to take a joined up, problem-solving approach to find a solution for the victim. This can be used when the victim feels that

the anti-social behaviour has been persistent, there has been an inadequate response or when they perceive themselves ignored by relevant agencies. It is then intended that agencies will come together to take a collective approach to address the issues.

## Extension of Introductory Tenancy

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An introductory tenancy is the initial 12-month period of a secure contract. The introductory tenant is not subject to the same tenancy security as a secure tenant meaning that a breach of tenancy can result in mandatory possession being granted. Also, introductory tenants do not have the right to buy

their property. In certain circumstances it could be necessary to extend the introductory tenancy to inhibit an anti-social tenant from obtaining security of tenure with a secure tenancy and therefore makes it easier to gain possession when and if required.

## Notice of Possession Proceedings (NPP)

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Chapter 1 of Part 5 of the Housing Act 1996 allows local housing authorities to adopt an introductory tenancy scheme for all new tenants. Introductory tenants are essentially on probation and the landlord can evict them fairly easily during the probationary period. They do not have as many rights as secure tenants. If a landlord decides to seek possession, there is no requirement for them to demonstrate to the Court any of the grounds for possession. NPP are served and at the possession hearing, the courts

only consider whether the appropriate procedure was followed, and do not consider the facts on which the landlord's decision was based, or the merits of its decision. Where the Court is satisfied that the correct procedure was followed a possession order must be granted. The procedure does, however, include a statutory right to an internal review of the landlord's decision to seek possession. The review must be conducted fairly and in accordance with the Introductory Tenants (Review) Regulations 1997.

## Notice of intention to Seek Possession (NOSP)

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A notice of intention to seek possession is a legal notice served on the tenant by the landlord notifying of the intention to take eviction proceedings. Once

the NSP is served, it remains valid for a period of 12 months and the landlord can seek possession at any time within this period.

## Demoted Tenancy

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If the County Court orders a demotion, the Council is granted the power to terminate a secure tenancy and substitute it for a demoted tenancy. Where a demotion has been granted and the tenant or a person residing in or visiting the dwelling house goes on to engage or threatens to engage in anti-social behaviour an outright possession of the

property can be applied for. If a secure tenancy is terminated and substituted with a demoted tenancy, this removes the tenants right to buy and security of tenure for a period of one year. Should problems continue to persist the Council may serve a notice of intention to proceed for possession of the tenancy.

## Possession Order and Postponed Possession Order

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A court order that may lead to the eviction of a tenant if it is shown that they are guilty of anti-social behaviour. The court will give the landlord possession of the property after a specified period of time, usually 28 days but this can be less. The court may suspend the possession order. This means that the tenant will not be evicted. For example, if they comply with the terms of the tenancy and do not carry out anti-social acts. In cases where the anti-social behaviour continues, and the conditions of the postponement are not adhered to the landlord may return to the court to apply for a warrant of eviction.



# Acceptable Behaviour Agreement (ABA)

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An Acceptable Behaviour Agreement (ABA) is an agreement between Housing and a perpetrator of ASB. we use ABA's on adults and individuals under 18 years but not under 10 years. The ABA sets out the types of behaviour that needs to change and warns what will happen if it does not. We use ABAs

to manage behaviour over a six-month period, although they can last for longer periods.

## Mediation and Restorative Justice

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In appropriate circumstances, mediation can be an effective way of resolving an issue by bringing all parties together. This can be effective in resolving neighbour disputes, family conflicts, lifestyle differences such as noise nuisance complaints and similar situations.

However, mediation is unlikely to work if forced on those involved. All parties should be willing to come to the table and discuss their issues.

It is most likely to succeed if the referral is made promptly and before feelings on both sides become entrenched. It is considered inappropriate in some cases (for example: where there is a history of violence, when mental health issues are a factor, where legal proceedings have commenced, where the perpetrator is involved in hate related anti-social behaviour/crime and where it is reasonable to assume the perpetrators

past behaviour indicates they will not respond to mediation.) Restorative practice (or restorative justice) is a harm reduction process where all parties with a stake in a particular offence or behaviour come together to resolve collectively how to deal with the aftermath of the offence or behaviour and its implications for the future.



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