

A guide to implementing the law on anti-social behaviour

The legal framework on anti-social behaviour has been drafted broadly to provide local enforcement agents, such as the police, with the necessary flexibility to tackle local challenges. The broad drafting of the relevant statutory provisions though causes uncertainty as to the true boundaries of the law, while raising concerns about its potential misuse through the regulation of innocent behaviour or the targeting of particular social groups.¹

The challenging nature of anti-social behaviour

Anti-social behaviour affects communities across England and Wales. It comes in many different forms and its impact and severity can vary considerably from one area to another.² As a result, the Anti-social Behaviour, Crime and Policing Act 2014 provided a flexible legal framework, which affords a significant magnitude of discretion to local enforcement agents regarding both the scope of the law and its implementation at a local level.

The broad and ambiguous scope of the legislation enables local enforcement agents to address certain kinds of behaviour that have or are likely to have a negative impact on their community. This can result in the inconsistent implementation of the legal framework across England and Wales, where in some parts of the country a particular kind of behaviour might be regarded as anti-social while in others it might go unnoticed. This can also result in the unjustifiable regulation of otherwise innocent behaviour, i.e. behaviour that does not have a negative impact on other people's quality of life. But, most importantly, it seems possible for these tools and powers to be used as a means of targeting specific social groups, such as young or homeless people.³

A guide to enforcement

As the result of a two-year empirical study conducted with local enforcement agents in two counties in England,⁴ a Guide has been developed on the implementation of the tools and powers available to combat anti-social behaviour. It provides an overview of the statutory powers and how these have been interpreted and applied by the courts, and advice for local enforcement agents on how to implement the measures. Legal practitioners working for local authorities, charities working with vulnerable individuals, and the public can also use it to find out more information on the circumstances under which these measures can be used.

The purpose of this Guide is not to replace the Home Office's guidelines regarding the implementation of anti-social behaviour tools and powers.⁵ Rather, its main objective is to complement the Home Office's guidelines with empirical findings on the use of these measures and to disseminate good practice and raise awareness about key issues underpinning the potential misuse of the relevant legal framework.

Underpinning principles

This Guide is underpinned by four principles to help ensure that the implementation of anti-social behaviour legislation is proportionate and justifiable:

1. Focus on behaviour that is truly problematic

Although the broad drafting of the 2014 Act provides local enforcement agents with the necessary flexibility to deal with a range of issues, a fair balance between the interests and views of those affected by anti-social behaviour and the rights and interests of the perpetrators must be struck.

2. Address the underlying causes of anti-social behaviour

There is evidence to suggest that on many occasions anti-social behaviour is the direct result of a number of social problems that can lead to a vicious circle of criminality. It is therefore imperative for local enforcement agents to identify and address the underlying causes of the perpetrators' behaviour.

3. Establish internal and external review procedures

It is really important for local enforcement agents to set up internal and external review procedures through which they can ensure each incident of anti-social behaviour is examined from various different perspectives. These review mechanisms can also facilitate the consistent implementation of these measures at a local level while facilitating the more effective management of the resource available.

4. Local enforcement agents to contemplate the impact of enforcement

Local enforcement agents need to be mindful of how the implementation of these tools and powers can affect those against whom they are used, ensuring that they are not used as a means of indirectly criminalising certain kinds of behaviour.

The successful incorporation of these principles into existing anti-social behaviour policies would clarify the scope of the law in this area, facilitate its consistent implementation across England and Wales and prevent its potential misuse.

Notes

¹S. Demetriou, 'From the ASBO to the injunction: A Qualitative Review of the Anti-social behaviour Legislation post-2014' (2019) Public Law 343-361.

²Home Office, Putting Victims First: More Effective Responses to Anti-Social Behaviour (Home Office, 2012), p.3.

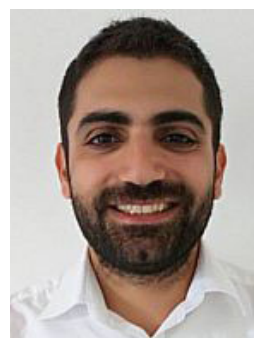
³S. Demetriou, 'From the ASBO to the injunction'.

⁴For more on this study see: S. Demetriou, 'From the ASBO to the injunction'.

⁵Home Office, Anti-social Behaviour, Crime and Policing Act 2014: Anti-social Behaviour Powers – Statutory Guidance for Frontline Professionals (Home Office, 2017).

About the guide

Stavros Demetriou is working closely with local enforcement agents and other interested parties in order to further develop this Guide. If you wish to access this Guide or participate in this project, please contact Stavros directly at: S.Demetriou@sussex.ac.uk



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