

Community Safety Team
Neighbourhoods service
Manchester City Council

22 January 2024

Dear Chair,

I am writing to submit feedback to the Public Bill Committee on the Criminal Justice Bill 2023 that proposes enhancement to the powers available to the police and other agencies under the Antisocial Behaviour Crime and Policing Act 2014 to tackle antisocial behaviour.

This has been submitted following consultation with colleagues across Manchester City Council including Housing, Homelessness, Legal and Compliance and Community Safety Services.

The feedback is as follows:

ASB Powers

Circumstances in which court may attach power of arrest to injunction

The proposal to extend power of arrest to all breaches of a Civil Injunction is not supported. The current legislation is appropriate and proportionate. Managing all injunction breaches through arrest creates an unnecessary and additional burden on police resources, legal services and the courts. An individual could be arrested for playing loud music prohibited through the Injunction. At court the likely outcome is that the hearing is adjourned with the individual being reminded to comply with the Order rather than be remanded. Practically the challenges this proposal presents are likely to lead to difficulties in managing the expectations of victims resulting in them becoming dissatisfied. An individual must be produced at court within 24 hours of an arrest, excluding Christmas Day, Good Friday and any Sunday and a legal representative instructed by the original applicant needs to be available to collate the evidence and present the case to the court. This presents challenges to provide an immediate responsive service, likely often outside of usual working hours, for the court, police and legal teams. Due to the time limits it is possible that the investigation and evidence is rushed, and the best possible case is not presented to the court. County Courts are not suitably equipped or resourced to deal with increased numbers of individuals appearing under arrest for breach of an Injunction. Unlike the Magistrates Court there are no victims' services, nor liaison and diversion services for vulnerable asb perpetrators and at times concerns about security arrangements.

Consideration also needs to be given as to whether it is proposed that power of arrest may be attached to all Injunction prohibitions for Injunctions against children. Again, this is not supported, and officers believe the current power of arrest thresholds are proportionate.

Dispersal Powers

The proposal to extend the Section 35 direction to leave to 72 hours is supported. Where direction is necessary 72 hours provides a longer respite period for the local community and allows time for the police and partners to consider if any additional medium-term interventions are required.

However, we do not support the proposal to extend the dispersal powers to Local Authorities. Local Authorities are not equipped to enforce the dispersal powers and any engagement regarding promoting compliance with a dispersal power would need to be done together with the police. In Manchester we do not expect ASB Council Officers to wear a uniform, have the power to arrest nor have the power to remove a person under 16 to their home address or a place of safety. It is appropriate that this is a police power only and is not extended to Local Authorities. Even if the LA was given the power, they would be unable to utilise it without full cooperation from the police. Currently if a LA officer believes as part of an asb strategy that a dispersal power should be introduced arrangements are in place to facilitate these conversations with the police at the appropriate level. Local Authorities should not be given the dispersal power.

Community Protection Notices – minimum age

Our view is that the minimum age a CPN can be issued should not be lowered from 16 to 10. As a Local Authority, working in partnership with the police and other partners, we intervene early to stop ASB by young children escalating and do not believe that lowering the CPN age would improve our ability to intervene. Essential to tackling anti-social behaviour involving children is to identify what factors may be contributing to the anti-social behaviour and engaging children with appropriate support and interventions. This is achieved through sharing information and working together with schools, youth services, children's services for example and engaging directly with parents and carers. Officers utilise existing informal and formal powers identified in the ASB Powers Statutory Guidance for frontline professionals [\[Title\] \(publishing.service.gov.uk\)](#) including verbal and written warnings, acceptable behaviour agreements, mediation and restorative justice, support and mentoring. When anti-social behaviour is serious and or persistent officers will consider applying for an Anti-Social Behaviour Injunction against a child (aged 10 years and upwards). Unlike the sanction of breaching a CPN, breach of an Injunction is not a criminal offence and therefore the child does not receive a criminal record if the Injunction is breached. Our experience is that the use of informal powers is effective, and officers rarely are required to consider applying for an Injunction. However, a serious case involved officers applying for and securing an interim Injunction against a child in December 2023. This action has been successful to date and there has been no further asb. The sanctions for breaching a CPN are not appropriate nor relevant for a child, a child cannot be expected to pay a Fixed Penalty Notice and a responsible local authority or other partner would not wish to prosecute a child at court for breaching a CPN.

Police powers to make public spaces protection orders and expedited orders

This proposal is not supported and an alternative is proposed. Officers understand the intention is that by the police having access to these powers this will ensure they are used quickly and efficiently to provide respite to communities.

The introduction of an expedited PSPO was welcomed and they can be used quickly. We used an expedited PSPO soon after they were introduced to help manage anti-social protests outside covid vaccination clinics in Manchester. We were unable to make a separate expedited PSPO for a different issue because the legislation states that 'An expedited order may not be made in relation to a public place if that place (or any part of it) is or has been the subject of an expedited order ("the earlier order"), unless the period specified in subsection (11) has expired.' Subsection 11 states, 'The period specified in this subsection is the period of a year beginning with the day on which the earlier order ceased to have effect.' This prevented us from using the power quickly and efficiently because a year had not elapsed. We ask that this is reviewed, and Local Authorities may make expedited PSPOs for different issues that run simultaneously if necessary.

PSPOs are not a quick process and sharing the power with the police is unlikely to speed up the process. Local Authorities and the Police form, along with other partners, Community Safety Partnerships. Within the partnership there are tried and tested processes for lead agencies, e.g. GMP lead on dispersal powers and the Local Authority leads on PSPOs. In Manchester we currently have seven active PSPOs for different issues and are experienced with the statutory process which always involves early consultation with the police as part of the investigation and evidence gathering process. Local Authorities are better equipped to lead on areas such as statutory consultation and the erection of signage in public spaces. These processes are required to be repeated when Orders are varied or discharged.

If the Police introduced a PSPO where would any FPN income be directed, currently FPNs are paid to the Local Authority.

Closure of premises by registered social housing provider

We recommend registered social housing providers consult the Local Authority's Community Safety Team/Lead and Police before issuing a Closure Notice. Other agencies may have received complaints or hold information that is relevant to the decision to close the property. Registered social housing providers should be reminded of their responsibility to prevent homelessness and fulfil 'duty to refer' obligations when they are aware that a person is a risk of homelessness.

Extending the timeframe that relevant agencies can apply to a magistrates' court for a Closure Order from 48 hours after service of a Closure Notice to 72 hours.

We support the proposal to extend the timeframe, this will help to manage for example urgent cases that arise on a Friday afternoon by allowing us to make an application to the magistrates' court on a Monday negating any need for out of hours hearings and legal representation.

Increasing the upper limit of Fixed Penalty Notices for breach of CPN and PSPOs from £100 to £500

We agree that this should be at the discretion of the Local Authority.

Reviews of responses to complaints about anti-social behaviour

In Manchester, the relevant bodies have a robust ASB Case Review procedure including an escalation process coordinated by the Local Authority. The LPB trusts the relevant bodies in Manchester to promote and respond to ASB Case Review requests appropriately. Transferring escalated reviews to the LPB is unnecessary and will have resource implications including the need for trained staff with asb experience and expertise.

Nuisance Begging

We welcome specific powers to deal with nuisance begging. However, the main concerns relate to the sentence for breach being up to 1 month in prison and/or up to a Level 4 fine. It is widely recognised that short term prison sentences do not support rehabilitation and fines are not a deterrent to people who beg. We would like to see a pre-sentence assessment and a report when a breach occurs which identifies need and leads to community sentences to achieve behaviour change such as; Rehabilitation Activity Requirement, Drug Rehabilitation Requirement, Alcohol Treatment Requirement, Mental Health Treatment Requirement. In addition, there is no escalation in sentence from breaching a written direction to move to a Nuisance Begging Prevention Order which appears to be incongruent in comparison to other powers.

We recommend that every nuisance begging intervention is accompanied by an offer of support which is set out in writing and confirmed verbally.

Nuisance begging direction

We welcome the introduction of a nuisance begging direction. Officers previously have not had any powers to ask a person who is causing a nuisance by begging to move on.

We consider that “specified location” should be defined within legislation or statutory guidance. A balance needs to be struck between simply moving the nuisance to another location and directing individuals to leave geographical areas or public transport systems.

Unlike other offences that the Bill creates, the offence under Section 38 does not include “without reasonable excuse”. We are unclear whether this is an oversight, or whether it is intended that the offence will be one of strict liability.

We have some concerns about the wording of some of the sections.

For example, we are unclear why the phrase “appearing to be over 18” has been used instead of the more customary wording of “an individual aged 18 or over” The latter is used in Section 43 of the Anti-social Behaviour, Crime and Policing Act 2014 in relation to issuing CPNs, and use of that phrase would ensure consistency of enforcement.

We welcome the provisions of Section 44 in respect of the power to include positive requirements in nuisance begging prevention orders and would welcome guidance to assist the Courts when deciding what requirements they could consider imposing to address the underlying behaviour.

We would also welcome guidance on the list of places in Section 49 where begging is automatically deemed nuisance begging. For example, how proximate must an individual be to a bus stop or taxi rank in order to be deemed to be “at a bus stop” or “at a taxi rank”?

We have some concerns about the use of “facilitates” in Section 50. Facilitates has an extremely broad meaning and would arguably include someone who gives a friend a lift to where they intend to beg, and possibly members of the public who donate blankets or sleeping bags.

Nuisance Rough Sleeping

Similar to concerns raised above, particularly the breach sanction and need to clarify ‘specified location.’ We are also interested to understand if consideration has been given to the appropriate response when an individual refuses to accept a reasonable offer of accommodation.

Many of the issues with drafting and terminology that we raise in the nuisance begging section also apply in respect of nuisance rough sleeping.

There are, however, a couple of additional points to raise in respect of nuisance rough sleeping.

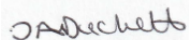
Section 61, which defines the meaning of nuisance rough sleeping, however we have some concerns about how officers can form a view on whether someone gives the “appearance that P is... intending to sleep rough.” Guidance on this point would be welcomed.

Also, in Section 61 we have concerns about penalising a group of persons who may be sleeping rough if “one or more members of the group does something that is a nuisance”. The members of the group should not be held responsible for the behaviour of one of the group.

Finally, we would welcome guidance on what is envisaged that is covered by “excessive smells”, and how such smells may damage the environment.

Many thanks for the opportunity to contribute to the development of the legislation, if you would like further clarification on any of the submissions, please let me know.

Yours sincerely,



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