

Anti-Social Behaviour, Crime and Policing Bill

Purpose of report

For information and discussion.

Summary

Lord Taylor, Minister of State at the Home Office, will be attending the Board to discuss the progress with the Anti-Social Behaviour, Crime and Policing Bill.

Recommendations

Members are invited to:

1. note the progress of the Anti-Social Behaviour, Crime and Policing Bill through Parliament;
2. note the publication of draft guidance on the use of the new tools and powers in the Bill; and
3. discuss with Lord Taylor the Board's concerns around the community trigger and powers to tackle anti-social tenants in private rented accommodation.

Action

Officers to action as appropriate.

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Anti-Social Behaviour, Crime and Policing Bill

Background

1. The Board received a report on the Anti-Social Behaviour, Crime and Policing Bill at its meeting in July. As Board members will recall the Bill was included in the Queen's Speech in May to implement the changes to the tools and powers for tackling anti-social behaviour first outlined by the Home Office in 2011. The Bill replaces the existing 19 measures with six new orders and notices.

Passage of the Bill through the Commons

2. The Bill has now finished its passage through the House of Commons. During committee stage in the House of Commons a range of amendments were debated and considered and a small number of changes made. One of the most significant from the Home Office's perspective was a decision at committee to allow head teachers and principals of further education colleges to apply in their own right for the injunctions to prevent nuisance and annoyance. The intention behind this proposal was to provide schools with another tool to tackle bullying. The proposal was however opposed by the teaching unions and a range of other organisations. The LGA's Children and Young Peoples Board were also asked for their views on this and their reservations about this amendment were reported to Home Office officials working on the Bill. The amendments to the Bill that allowed head teachers or principals to apply for the injunctions were removed at report stage in the Commons.
3. Amendments made by the government during its time in the Commons include repealing various orders in the Sexual Offences Act 2003 and replacing them with two new orders: the sexual harm prevention order and the sexual risk order. The new orders will continue to allow the courts to prohibit the offender or defendant from doing anything prescribed in the order but have a lower risk requirement so can be used to manage risk against adults and vulnerable adults abroad. The remit of the new orders will also be wider allowing restrictions on foreign travel to be imposed under either order. The Home Office also put forward amendments to give Police Community Support Officers powers to issue fixed penalty notices for cycle light offences, and to allow chief constables to be appointed from approved overseas police forces. This amendment follows on from the Home Office consultation on changing the way direct entry into police forces work – which in their response published in mid-October the Home Office indicated they are proceeding with.
4. One area of considerable debate at the report stage of the Bill in the Commons was on the introduction of dog control orders. As proposed these would have allowed authorised officers to issue written notices where the officer believed a dog was not under sufficient control and also specify steps the owner had to take such as keeping the dog muzzled. Although the government rejected the need for dog control orders on the basis that the new powers in the Bill would allow what the dog control notices were seeking, they did commit to bringing in an amendment in the Lords that increases the maximum penalty for dog attacks.

The House of Lords

5. The Bill had its first reading in the House of Lords on 15 October, and there was a more substantive debate on 29 October at second reading. When considering the provisions in the Bill in July Board members were clear that in their view there should be greater powers to tackle anti-social behaviour by tenants in private rented accommodation, and that there should be more senior police officers authorising the use of dispersal powers than those proposed in the Bill.
6. The Board's chair gave evidence to the Bill Committee in June and raised the need for greater powers to tackle anti-social private tenants. This point was supported by other witnesses in the same session. As a result of this lobbying and widespread support for greater power to tackle anti-social private tenants the Home Office amended the Bill at report stage in the Commons.
7. Where the original draft of the Bill only allowed councils to use the injunctions to exclude anti-social tenants from social housing, the Bill is now tenure neutral. Councils and the police will be able ask the court when applying for an injunction to exclude someone from where they live irrespective of the type of housing they occupy. The court will have to be persuaded that the anti-social behaviour the injunction is designed to tackle includes the use or threatened use of violence or there is a significant risk of harm before excluding someone from their home. This represents a clear win for the LGA's lobbying on this issue.
8. Members may therefore wish to consider whether councils need any additional powers in this area. One further provision could be greater powers for councils to compel landlords to take action under the terms of their tenancy agreements with their tenants. The Anti-Social Behaviour (Scotland) Act 2004 gives councils the powers to issue landlords with an anti-social behaviour notice setting out actions the landlord has to take to address anti-social behaviour by their tenant. Where the landlord does not take action and the council has to the council can seek to recover its expenses from the landlord, and can also seek an order from the court preventing the landlord from getting rent from that property.
9. The other issue the Board raised in July was the seniority of the police officer able to authorise the use of the dispersal powers set out in the Bill and the lack of any requirement to consult or notify councils about what they are doing. The Bill still specifies that authorisation for the use of the dispersal powers can be given by an inspector, and there are no requirements on the police to inform or consult councils. Members may therefore want to raise this issue with Lord Taylor and suggest that the Home Office look to amend the level at which use of the dispersal power could be authorised – one suggestion made at the Board meeting in July was this should be at superintendent level. Members may also wish to press on Lord Taylor that councils would where at all possible want to be notified by the police about the use of dispersal powers.

Item 1

Draft guidance

10. Ahead of the report stage consideration of the Bill the Home Office and Defra issued draft guidance in relation to the Bill. The Home Office guidance looks at each power in the Bill and explains who can use them, who they can be used against, what they can be used to deal with, the penalties for breaching them, and the appeals process. The Defra guidance looks specifically at the tools and powers in the Bill in the context of tackling dangerous dogs and irresponsible dog ownership. It includes examples of good practice for tackling irresponsible dog owners without using statutory powers such as Eastleigh's dog behaviour contracts. It then looks at how community protection notices and injunctions for example could be used. Councils and practitioners are invited to comment on these draft guides so that they can be amended and improved ahead of the Bill completing its passage through parliament.

Conclusion and next steps

11. Subject to members' comments officers will continue to provide briefings on the Bill to peers as it passes through the House of Lords, with further reports brought back to the Board if there are any significant changes to it.

Financial Implications

12. There are no financial implications arising from this report as any work will be met from existing resources.