

## **Anti Social Behaviour in Brent Appendices**

### **Appendix One: Legislation: Noise**

#### **Noise nuisance**

A nuisance is often difficult to establish but, generally speaking, if something is unreasonable to the average person, a court might decide it is a statutory nuisance. Noise nuisance is covered by Part III of the Environmental Protection Act 1990 (EPA). This law empowers local authorities to deal with noise from fixed premises (including land) if they consider that the noise amounts to a statutory nuisance. Proceedings may be taken against noise from factories, shops, pubs, dwellings and stationary vehicles.

#### **Night time noise**

The Anti-social Behaviour Act 2003 amended the Noise Act 1996 and enables local authorities in England and Wales to tackle night time noise emitted from dwellings and gardens between the hours of 11.00 pm and 7.00 am. To enforce these powers local authorities must ensure that an environmental health officer takes reasonable steps to investigate complaints about noise emitted from dwellings. If the officer is satisfied that noise exceeds the permitted level, a warning notice may be served on the person responsible. If the warning is ignored, the officer may issue a fixed penalty notice of £100, enter the dwelling and confiscate the noise making equipment (obstructing confiscation carries a fine of up to £1000), or prosecute (fine up to £1000). In Scotland similar action can be taken under the Anti-Social Behaviour (Noise Control) (Scotland) Regulations 2005. An extension of the Noise Act came into force in February 2008, enabling local authorities in England and Wales to tackle night time noise from licensed premises.

#### **Loudspeakers**

The use of loudspeakers in the streets is banned between 9.00 pm and 8.00 am (the police, ambulance and fire brigade are exempt). Local authorities can license use outside these hours – e.g. for entertainment but not for advertising purposes or electioneering. Vehicles selling perishable foods may use loudspeakers between 12.00 noon and 7.00 pm and these times can be varied with local authority consent. Complaints about loudspeakers or chimes should be made to the environmental health department.

#### **Fireworks**

Recently fireworks have become an increasing noise problem for people and pets. They are let off not only for traditional celebrations such as Bonfire Night, New Year and Diwali, but year round to mark public and private celebrations. The Fireworks

Regulations 2004 prohibit anyone under 18 from possessing a firework, and anyone except professionals from possessing display fireworks. They also prohibit the use of fireworks between 11.00 pm and 7.00 am except for Chinese New Year, Diwali, New Year's Eve and Bonfire Night. Since January 2005 only licensed traders can supply fireworks year round <http://www.environmental-protection.org.uk/neighbourhood-nuisance/fireworks/>

Unlicensed traders can only sell them for short periods around the festivals mentioned above.

Noise legislation on the whole is seen as non controversial and does not engender much if any public debate. On the other hand noise itself generates complaints nationwide. The detrimental affect noise has on health both mental and physical is well recognised and this may be why any attempt to counter noise pollution is welcomed.

## **Appendix Two legislation Antisocial Behaviour**

<http://www.legislation.gov.uk/ukpga/2003/38/part/8>

In March 2003 the government published a white paper that outlined its proposals for tackling antisocial behaviour. The report, [Respect and Responsibility](#) – taking a stand against antisocial behaviour recommended the government provide local authorities and the police with a wider, more flexible range of powers to tackle nuisance crime and low-level criminality. The bill was designed to target what the then home secretary, David Blunkett, described as "a [yobbish minority](#)" who could make "the lives of hard-working citizens a living hell" and includes a wide range of sanctions such as [parenting orders](#) and [contracts](#), curfews, and fixed penalty notices. The act also [strengthened and extended the application](#) of antisocial behaviour orders first introduced in England, Scotland and Wales by the [Crime and Disorder Act 1998](#)

### **Main provisions**

- Widens the use of antisocial behaviour orders (asbos) to allow local authorities, registered social landlords and the British Transport police to apply for asbos.
- Allows police and community support officers to issue [dispersal orders](#) to any group of two or more people, within a designated area, whose behaviour they believe is likely to cause harassment, alarm or distress to members of the public. Refusing to leave or returning to the area constitutes a criminal offence.
- Grants police officers the power to [order young people](#) under the age of 16 to return home after 9pm.
- Creates [on-the-spot fines](#) for noise, graffiti and truancy.
- Creates closure orders. Quickly nicknamed the "[crack house closure order](#)" this provision enables the police to [shutter premises](#) used for the supply, use or production of class A drugs for a period of up to six months.

- Amends the definition of "public assembly" in Section 16 of the Public Order Act 1986 so that instead of 20 people being required to constitute an "assembly", only two are needed.

Unlike noise legislation the Antisocial Behaviour legal framework always causes heated debates. Early debate revisited the argument about whether ASBO mark an [unacceptable blurring](#) of criminal and civil law. ASBO are issued on a civil burden of proof ("on the balance of probabilities"), but incur a criminal penalty if breached.

Children's charities claimed police already had sufficient powers to deal with so-called "nuisance" crime. Cathy Evans, from the Children's Society, said: "[We are very concerned](#) at the prospect of creating more ways, more reasons to punish children and to demonise children." This concern has been echoed by critics including Professor Rod Morgan, the government's chief adviser on youth crime. Morgan warns that asbos can lead to children to be [demonised](#) because the orders criminalise otherwise legal behaviour.

Liberty expressed disquiet over the new police powers to disperse groups of two or more individuals. They described the protections written into the act as insufficient to ensure the protection of rights granted under [article 11](#) of the European convention of human rights (freedom of assembly). Liberty also expressed concern over the change to the definition of "public assembly" from 20 people to two. Under section 14 of the Public Order Act 1986, a senior police officer has wide-ranging powers to impose conditions on public assemblies. Liberty said: "[Any situation where](#) the police are able to self-authorise restrictions on the right to protest should be treated with great caution ...The fact that over 20 people were required to trigger the powers was at least a concession to the fact that it would only be appropriate for them to be used when there were a substantial number of people involved...It is now the case that if a senior police officer decides that two people could cause disorder he could order that a third person could not join them and if an extra person did appear the 'organiser' (if two people can have an organiser) will commit an offence punishable by up to three months imprisonment."