

From ASBI to 'Super' ASBI

The 6th April 2007 brought about a change in the law governing the way Anti-Social Behaviour Injunctions can be applied, which offers more protection to those threatened by anti-social behaviour. The previous section 153A has been replaced by a new section 153A – the “Super ASBI”.

The introduction of this amendment is a result of a section included in the Police and Justice Act 2006.

Why has there been a change?

Some of you may have noticed that Judges have been keen to ensure that the protected persons within an Injunction are those who had already been affected by the Defendant's behaviour (those of you who haven't had this problem have been very lucky!). As a result of this, some orders being made would be aimed at preventing a Defendant from causing a nuisance or annoyance to Mr & Mrs Smith or to specific people living on a certain street.

Clearly this meant that the terms of the Order were quite narrow and, if the same Defendant caused problems for someone else, even someone in the same street, who was not covered in the first Application, they were not protected by the Injunction.

This meant that Landlord's would have to make a further Application for the Order to be varied - the new section added to the act is expected to change that.

So what is the change that has taken place?

The relevant part of the new s153A reads as follows: (our emphasis added)

153A (1) “anti-social conduct” means conduct capable of causing nuisance or annoyance to some person (**who need not be a particular identified person**)

153A (4) ... a kind of conduct may be described in an anti-social behaviour injunction by reference to a person or persons and, if it is, may (in particular) be described by reference –

- (a) to persons generally,
- (b) to persons of a description specified in the injunction, or
- (c) to persons, or a person, specified in the injunction.

Which means...

Potentially, the impact of the amended section could be considerable. It could ensure that a wider area/class of persons are protected from any future anti-social behaviour that the Defendant may engage in. For example, instead of asking for an Order to protect people in a particular street, you may decide to ask for people in the entire area that you have Housing Stock to be protected.

As the amendment is so new, it is important to ensure that you take a copy of the law to Court with you if you are asking for an Injunction in wide terms.

If you wish to read through the legislation and the amendments, all 184 pages are available at www.opsi.gov.uk (the relevant section is 26), however would like further information or a chat about how you can use the new powers, please get in touch.