

Tools and powers for tackling criminal damage

ABOUT THESE GUIDES

This is one in a series of guides designed to share ideas for tackling vandalism and other forms of criminal damage. They are based, as far as possible, on examples we have found from around the UK and further a-field. Although in most cases these have not been rigorously evaluated, they are reported to have been successful in tackling this sort of crime.

This guide outlines the wide range of legislative and enforcement tools that can be used to tackle vandalism and other forms of criminal damage, which enable the police; police community support officers (PCSOs); street and neighbourhood wardens; and local authority officers to prevent its occurrence and take action against perpetrators. Other guides already produced in this series cover:

- tackling vandalism and other criminal damage;
- environmental approaches;
- tackling youth offenders; and
- high visibility “policing”

Further guides are in preparation including on arson, criminal damage to vehicles and analysing criminal damage data.

These guides are intended to be living documents that can be up-dated as necessary so if you have any comments on these guides or if there are any other subjects you would like covered, please send your suggestions to us via your regional Government Office or the Welsh Assembly Government.

WHAT IS VANDALISM / CRIMINAL DAMAGE?

Criminal damage refers to crimes where any person without lawful excuse intentionally or recklessly destroys or damages any property belonging to anotherⁱ. Activities resulting in non-permanent damage (i.e. that can be rectified, cleaned off or removed at no cost) such as letting down of car tyres should not be classed as criminal damage, nor should accidental damage.

Any damage around a point of entry to a house or vehicle should be treated as attempted burglary / vehicle crime rather than criminal damage if, on the balance of probabilities, one of those crimes is the more likely offence than criminal damageⁱⁱ.

Vandalism is the term used in the British Crime Survey. Whilst the definition has been kept as close as possible to that of criminal damage, it only covers crimes against households and household property, including cars.

PROSECUTION FOR CRIMINAL DAMAGE

Any damage to, or destruction of, property by vandalism is likely to be a criminal offence under the Criminal Damage Act 1971. The damage does not have to be permanent. Maximum prison sentences are:

- life for arson, criminal damage that endangers life, or for threat or possession with intent to commit criminal damage involving explosives;
- 14 years where racially or religiously aggravated; and
- 10 years for all other forms of criminal damage, including threat or possession with intent to commit criminal damage.

Often, however, the cases will be minor and so can be dealt with in a magistrates' court. The court will take into account the damage and trouble caused in restoring the property when sentencing:

- if the value of exceeds £5,000, the maximum penalty is six months in jail and a £5,000 fine
- if the value is less than £5,000, the maximum sentence is three months imprisonment or a fine of £2,500

PENALTY NOTICES

The police have the power to issue a range of penalty notices to tackle vandalism. Penalty notices are fines that can be issued by police and a limited range of other people (“accredited persons”) for offences that would normally be tried in court, offering a fast alternative to the judicial process.

Community Safety Accreditation was established under the Police Reform Act 2002 (sections 40-42). It allows chief officers of police to accredit non-police employees working in a community safety role with a discretionary and limited range of police powers similar to those of PCSOs. A wide range of different people can be accredited including neighbourhood wardens; security guards; fire and rescue service personnel; housing association employees; environmental health officers; and others working in a community safety role.

Penalty notices are designed for low-level crime only. If the police officer or accredited person suspects that the vandalism may, for example, have been religiously or racially aggravated then this is a more serious crime and a penalty notice would not be appropriate.

Fixed Penalty Notices (FPNs): police, PCSOs, local authority authorised officers and persons accredited by the chief officer of the police force may issue a fixed penalty notice of £50 for minor graffiti and fly posting (both of which are likely to constitute criminal damage) to individuals aged 10 years and over.

Penalty Notices for Disorder (PNDs): police and PCSOs (but not accredited persons) may also issue a penalty notice for disorder of £80 to those aged 16 years and over for destroying or damaging property that is valued at under £500. A PND of £40 for the same offence may also be issued to 10-15 year olds in a number of pilot police forces across the country, including West Midlands Police (including British Transport Police), Essex Police, Lancashire Constabulary, Nottinghamshire Police, Merseyside Police and the Metropolitan Police Kingston Division.

ANTI-SOCIAL BEHAVIOUR POWERS

As well as being a criminal offence, vandalism constitutes anti-social behaviour (ASB) and there a range of ASB tools that can be considered as part of a strategy to drive it down.

Acceptable Behaviour Contracts (ABCs): These are non-legal contracts between a perpetrator and a relevant authorityⁱⁱⁱ, in which the perpetrator agrees not to perform certain anti-social acts. These are useful early intervention tools, designed for very low level anti-social behaviour. These have been used successfully to curb the behaviour of those who are involved in vandalism at a very low level. However, it should be remembered that vandalism is criminal damage, and so an ABC, on its own, may be insufficient when other powers like fixed penalty notices are available.

In East Chesterton, **Cambridge**, three young people were causing a number of problems, including trespassing on and vandalising railway property. **ABCs** were issued to the youngsters, which included undertakings to attend the pupil referral unit; to not go to any other educational premises within the City of Cambridge; to not trespass on or cause damage to any railway property; and to not swear, shout, cause or incite anti-social behaviour in East Chesterton. In support of the ABC, a **detached youth worker** was directed at the individuals. The area has seen a steep reduction in ASB and one of the young people in the project now regularly attends local residents meetings where ASB is discussed and makes a positive contribution to the discussions.

Anti-Social Behaviour Orders (ASBOs) and injunctions: These civil orders protect the public from behaviour that causes - or is likely to cause - harassment, alarm or distress. ASBOs and injunctions prohibit the perpetrator from undertaking specific anti-social acts. Breach of an ASBO or injunction can lead to a custodial sentence. They can be used effectively to prevent criminal damage by targeting persistent

offenders and include appropriate prohibitions to ensure that perpetrators do not engage in persistent vandalism. There are 3 types of injunction that could be used to tackle vandalism issues: an anti-social behaviour injunction; an injunction against unlawful use of premises; and an injunction against breach of a tenancy agreement.

In **Loughborough**, local residents were suffering from anti-social behaviour from a range of youths who were involved in criminal damage as well as abuse and intimidation of other young people. Persistent ASB had engendered a feeling of fear and intimidation amongst local residents. The result being that this group felt they were untouchable. A group application for **8 ASBOs** was made against the main perpetrators, prohibiting them from committing anti-social acts, including vandalism. This application was approved and in the following 6 months there was an **88%** reduction in incident reporting and a **45%** reduction in crime, including vandalism.

On a deprived estate in **Preston**, a collaboration between victimised shop owners, the police and the local authority aimed to tackle a rising problem of loss of customers due to youths hanging around the shopping area and causing criminal damage to the buildings (including damage to the roof of one of the shops). A mixture of **high visibility policing** and **professional witnesses** were deployed to collect evidence of the harassment and damage. The local authority housing department identified and approached parents of offending youths to inform them of the **Harassment Act** and using **housing tenancy agreements** to lever them to take responsibility for their children's anti-social behaviour. This project led to a 71% reduction in reported incidents in the area. Fourteen youths were arrested and one ABC was applied (the first one used in the area).

VANDALISM AND THE NIGHT TIME ECONOMY

Alcohol misuse can cause and exacerbate many differing forms of anti-social behaviour. Vandalism is no exception and it is strongly linked with evening drinking at weekends: out of all the different offence types, taking alcohol at the time of the offence was most common for criminal damage (40% of incidents were committed when offender had taken alcohol or alcohol and drugs at time of incident) and 26% of offenders said that they'd been drunk when committing criminal damage^{iv}. Consequently, effective management of this problem is an important aspect of tackling vandalism. It is therefore critical that local partnerships take a strong stance against alcohol misuse.

In **Gateshead**, youth disorder exacerbated by alcohol was significant problem. An enforcement campaign was implemented to crackdown on the problem, including numerous **arrests** and **PNDs**. In addition, an **investigation of drinking establishments** was undertaken by licensing officers, looking for evidence of underage drinking. This strict approach led to a decrease in alcohol related disorder, which, in turn, has led to a reduction in vandalism.

In **Birmingham**, a zero tolerance approach to alcohol in the city centre was taken, implementing a **Designated Public Place Order (DPPO)**. This is an area that can be introduced by the local authority that allows the police, PCSOs and accredited persons to confiscate alcohol from people who are consuming it or intending to consume it in that area. Alcohol can also be confiscated from underage drinkers whether in a DPPO or not. These powers allow the police to curb excessive alcohol consumption and prevent the problems associated with it, including vandalism.

The Licensing Act 2003 has facilitated the use of test purchases to identify places selling alcohol to minors. Subsection (4) of section 152 (Sending a child to obtain alcohol) provides for police or trading standards officers, in the course of their duty, to send a child to obtain alcohol to test the compliance of the retailer with the prohibition on underage sales.

A project in **Valley Park** in Hampshire tackled the rising problem of anti-social behaviour, criminal damage and theft relating to underage drinking occurring around a parade of shops. This used a problem-oriented approach involving modification of shopping bags to identify shops **selling alcohol to minors**; **diversionary activities** (including construction of a youth shelter); **environmental modification** (including a clean up of the shopping area); and **high visibility policing** coupled with the disruption of an emerging drugs market (through drugs education and enforcement). These actions led to a net 30% reduction in recorded crime offences (principally criminal damage) and a 75% reduction in reported incidents. Police time spent dealing with ASB was subsequently reduced, freeing up resources for other police operations.

The Violent Crime Reduction Bill, if passed, will introduce a range of new measures for tackling alcohol related crime including drinking banning orders, alcohol disorder zones and directions to leave.

A How to Guide on Tackling Alcohol-Fuelled Disorder in Town and City Centres, prepared by ACPO and the LGA and available from the Crime Reduction Website⁶, provides advice on how problem premises and individuals can be tackled, and shows how councils are using street scene policies and partnership approaches to promote safety and responsibility amongst both licensees and drinkers.

DISPERSAL POWERS

Vandalism can often be associated with other forms of anti-social behaviour, including groups of youths hanging around intimidating others and vandalising street property. Dispersal powers are a useful way of tackling this sort of problem if it is localised to a specific area. The Anti-Social Behaviour Act 2003 allows a senior police officer, with the agreement of the local authority, to designate an area where there is persistent anti-social behaviour. These powers allow police officers to disperse groups of 2 or more, making them move out of the area. They can potentially be used to disperse those who are responsible for (existing or future) vandalism in the area.

In **Kidsgrove**, Stoke-on-Trent, a group of youths aged 11-16 and a large number of 'hangers-on' were causing regular and persistent anti-social behaviour, which included offences of damage, assault and harassment. This took place in the evenings and was often fuelled by alcohol. The police, council, local school and community entered into a partnership to tackle the problem and agreed the use of a **dispersal order** under section 30 of the Anti-Social Behaviour Act 2003. Negotiations with the school ensured that the order did not interfere with young people attending legitimate after-school activities during the week, whilst maintaining extra protection for the community on Friday and Saturday nights.

ASB RESPONSE COURTS

Dedicated and specialised courts have been set up to deal quickly with anti-social behaviour offences such as vandalism. The purpose of these courts is to ensure that magistrates are able to respond properly to anti-social behaviour cases in a visible and consistent way.

They can hold special sittings where local practitioners or the police can identify particular types of anti-social behaviour to be tackled – this may, for example, be when there have been a large number of criminal damage offences.

COMMUNITY IMPACT STATEMENTS

The purpose of a Community Impact Statement is to outline the effect that the anti-social behaviour is having on the wider community in a way that is clear and concise for the judge's or magistrates' consideration. In certain circumstances, some elements of evidence such as telephone reports, CCTV footage and letters of complaint can be put into a Community Impact Statement. It can be written by a caseworker (such as a housing officer or community safety officer) and / or the local police.

SUPPORTING WITNESSES AND VICTIMS

Witnesses and victims are crucial to tackling vandalism: whether they are victims of vandalism directed specifically against them or residents who witness these offences against others. As well as evidence against the perpetrators, information collected from these individuals will help you identify problem areas and develop a strategy for tackling vandalism. But witnesses and victims are often fearful of reprisals from offenders so need to be supported. Alternatives, like "professional" witnesses might also need to be considered.

In **Oldham**, a range of measures was used including **witness protection**: high-visibility patrolling, fireproof letter boxes, alarms, locks, and the provision of direct response phone numbers.

In **Loughborough**, time had been spent with local residents building their confidence, but many were still afraid to make statements. **Interim ASBOs** were obtained against a group of youths. The additional protection this provided increased confidence allowing more statements to be obtained. This, in turn, enabled the conversion of these interim orders into full orders. **Six months following the commencement of the orders, there had been an 88% reduction in incident reporting and a 45% reduction in crime.**

In other areas, **PCSOs** have been used to liaise with and support victims and witnesses.

Advice on how incidents of vandalism can be reported should be clear and the lines of reporting should be very simple. Schemes such as "It's your call"^{vi} can provide the public with a **dedicated helpline to facilitate reporting.**

On receipt of a report, let the person know that their report is important and tell them how it will be dealt with and in what timescales. See the Code of Practice for Victims of Crime for further information and advice.

MEDIATION

Being annoyed with the victim or for revenge are given as reasons for committing the offence by over a fifth of offenders^{iv}. In such instances, mediation between the two parties may prevent the problem continuing or escalating.

In **Preston**, social landlords worked together to develop a clear policy for dealing with anti-social behaviour and neighbour nuisance, and for vetting tenants. One-to-one meetings were encouraged to resolve the problems, supported as necessary by a local **mediation** service. A number of high profile **evictions** demonstrated the commitment to tackle problem residents.

WORKING TOGETHER

A vandalism problem within a community is usually best tackled by local people and organisations working together. The most effective interventions to tackle vandalism around the country are a result of partnerships between different local organisations. It is important that local businesses, community groups and others such as schools and youth groups are involved.

In **York**, the Anti-Social Behaviour Act was employed to restrict the **sale of aerosols**, with trading standards used to educate retailers and then carry out test purchases.

In **Gateshead**, police and licensing officers visited a number of pubs. One was found to have up to 40 **underage drinkers**. Under threat of a **closure order**, this pub voluntarily closed and was put up for sale. Customs and Excise targeted an off license where contraband tobacco was seized. Four vehicles were also seized after tickets were issued by traffic wardens. At the same time, a small budget was provided for **outreach youth workers** to do some intensive work during the month and one of the events they organised was a 'decks night' (DJing) for all young people in the area.

Communities need to be informed of their responsibilities and made aware of the penalties for committing a criminal damage offence. Leaflets, posters and briefings at community meetings are a good way of informing people of the types of offences and what the penalties are for breaking the law. These could be timed to coincide with any intervention work that you are doing.

NEED MORE HELP?

Further information and assistance on tackling criminal damage is also available via your regional Government Office / Welsh Assembly Government or from:

- i) Crime Reduction website (www.crimereduction.gov.uk)
- ii) Together Academies which bring together practitioners to provide advice and training on specific issues to transform the way that they tackle anti-social behaviour.
- iii) ASB Action Days when an expert practitioner will meet with ASB teams and their partners to help find solutions to intractable problems, refocus action to get results, encourage use of the full range of new anti-social behaviour powers or remove blockages that are preventing progress.
- iv) ASB Action Line (0870 220 2000) and website (www.together.gov.uk) which provide information, solutions and best practice to help practitioners tackle anti-social behaviour.

v) Overseas websites such as the International Centre for the Prevention of Crime (<http://www.crime-prevention-intl.org/index.php>); the Center for Problem-Oriented

Policing (www.popcenter.org); and the National Criminal Justice Reference Service (www.ncjrs.gov).

ⁱ Criminal Damage Act 1971 Section 1

ⁱⁱ Home Office Counting Rules for Recorded Crime

ⁱⁱⁱ Local authorities, police, registered social landlords or schools

^{iv} Crime and Justice Survey 2003

^v www.crimereduction.gov.uk

^{vi} See www.together.gov.uk for further information