

Anti-social behaviour injunctions: can the Court rely on historic bad behaviour?

Birmingham City Council v Glenn Pardoe

[2016] EWHC 3119 (QB)

In this Birmingham High Court appeal, we have finally been given guidance on how the courts should use historical allegations of anti-social behaviour, when deciding whether to grant injunctions under section 1 of the Anti-Social Behaviour, Crime and Policing Act 2014.



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Glenn Pardoe and four others engaged in a particularly unpleasant form of anti-social behaviour by targeting elderly and vulnerable persons and charging them excessive sums for building works which were unnecessary and/or shoddy.

Birmingham City Council applied for an injunction under s.1 of the Anti-Social Behaviour, Crime and Policing Act 2014. They relied on 49 allegations, but some of those allegations were several years old.

Section 21(7) of the Act says that the court “*may take account of conduct occurring up to 6 months before the commencement day*” (that is, from 23rd September 2014).

Mr Pardoe said that a plain reading of s.21(7) was that the court could not take into account any evidence of conduct prior to 23rd September 2014. The County Court disagreed and, as a preliminary issue, decided that earlier conduct could be taken into account. The appeal was against that preliminary decision.

Mr Justice Holroyde dismissed the appeal, and his conclusions give helpful guidance on how to approach historic allegations of anti-social behaviour:

- 1 Where an application for an injunction is based on an allegation of actual anti-social behaviour, as opposed to an allegation of threatened anti-social behaviour, the applicant must prove, on the balance of probabilities, that the respondent engaged in anti-social behaviour after 23rd September 2014 (the “first condition”). If such behaviour is not proved, the court has no jurisdiction to grant an injunction.
- 2 Evidence of the alleged conduct prior to 23rd September 2014 cannot in itself satisfy the first condition. But such evidence (assuming there is nothing else making it inadmissible) may be taken into account by the court (whether as similar fact evidence, or to rebut a defence, or in any other way), to decide the question of whether the respondent did engage in anti-social behaviour after 23rd September 2014.



- 3 Evidence of the alleged conduct prior to 23rd September 2014 (again, assuming there is nothing else making it inadmissible) may also be taken into account by the court at the next stage, when considering whether it is just and convenient to grant an injunction.
- 4 In summary, s.21(7) does not prevent the court from taking into account, in either of those two ways, evidence of the respondent's conduct prior to 23rd September 2014.

This case provides a welcome, common sense confirmation of principles which most courts have been applying since the 2014 Act came into force.

We do not believe that a second appeal is likely, and so the guidance given by the High Court is likely to stand as authority for how to interpret s21(7).

This practice note has been written by Elizabeth England, a tenant at 42 Bedford Row who regularly undertakes landlord and tenant work including the wide range of issues which relate to social housing.