Say Hello to the CrimBO

*A Blackstone’s Criminal Practice Guide to the new Criminal Behaviour Orders under the Anti-social Behaviour, Crime and Policing Act 2014*

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INTRODUCTION

For some years the perception within Government was that ASBOs were an increasingly ineffectual means of combating anti-social behaviour. The numbers of ASBOs issued by the courts has been on a steady decline since 2005 with breach rates heading in the opposite direction. With that perception firmly in mind in 2011 the Government began the process of reforming the powers available to all courts to tackle anti-social offenders. That process culminated in the passing of the Anti-social Behaviour, Crime and Policing Act 2014, or the ABCPA for short. As of 20 October 2014, Part 2 of the ABCPA came into force. It sweeps away the ‘post-conviction’ ASBO, or CRASBO, and replaces it with a new criminal behaviour order, more commonly referred to as a CBO or a CrimBO. This guide will consider the evolution of the Government’s response to the menace of anti-social behaviour and examine in detail the new statutory provisions concerning CBOs.

BACKGROUND

In February 2011, the Home Secretary, Theresa May, launched a consultation paper entitled ‘More Effective Responses to Anti-Social Behaviour’ with the stated aim of fostering a ‘new approach’ to combating this old problem. A ‘key part’ of this initiative was to ensure that the police and the courts have ‘the tools they need to deal with anti-social behaviour’. With that in mind, the Government suggested ‘proposals for radically simplifying and improving the toolkit’ so as to ‘provide faster, more visible justice for victims and communities’. As far as CRASBOs were concerned, the consultation paper identified one criticism with the regime as it then stood, namely that the courts could not impose positive requirements in an ASBO that would ‘enable the underlying causes of an individual’s behaviour to be addressed’. In view of this, the Government proposed the introduction of a CBO that could impose both prohibitions and requirements on offenders. The test for making a CBO would remain the same as for an ASBO, in particular there was no suggestion at that time of removing the requirement that such an order could be made only if it ‘was necessary to protect persons in any place in England and Wales’ from further anti-social acts by the offender.

The Government published its White Paper, ‘Putting Victims First: More Effective Responses to Anti-Social Behaviour’, in response to the consultation in May 2012. In respect of the proposed CBO, 58% of those who responded favoured the introduction of powers that would enable the
courts to impose mandatory requirements on anti-social offenders. No-one it seems was troubled by the retention of the ‘necessity’ requirement for making a CBO. Fortified by this response, in Annex C the Government formally proposed the abolition of the CRASBO and the Drinking Banning Order (DBO) and the introduction of the CBO. The proposed form of the new CBO was set out in paragraphs C.13 to C.23. In paragraph C.18, the Government indicated its intention to jettison the ‘necessity’ requirement in favour of a test that would allow a court to make a CBO if ‘the order will assist in the prevention of harassment, alarm or distress being caused to any member of the public’.

On 13 December 2012, a draft Anti-Social Behaviour Bill was published for pre-legislative scrutiny by Home Affairs Select Committee. The Committee published its report on 15 February 2013 (Twelfth Report of Session 2012-13, HC836). The Government published its response on 16 April 2013 (Cm 8607). The subsequently re-titled Anti-social Behaviour, Crime and Policing Bill was introduced into the House of Commons on 9 May 2013. The ABCPA received Royal Assent on 13 March 2014.

In October 2013, before the Bill received Royal Assent, the Government published a document entitled ‘Draft guidance for frontline professionals’ on the new suite of powers contained in the Bill. In July 2014, the Government replaced the draft guidance with its final ‘Statutory guidance for frontline professionals’, which was issued under ss. 19, 32, 41, 56, 73 and 91 of the ABCPA. The Guidance is directed at the chief officers of police and local authorities ‘about the exercise of their functions’ under the relevant parts of the statute.

The Guidance, at pp. 27 and 28, expressly states that the CBO ‘is aimed at tackling the most serious and persistent offenders where their behaviour has brought them before a criminal court’. Previously, in a Fact Sheet issued by the Home Office in October 2013, the same view was expressed in para. 14, namely that the CBO ‘will be available for the most seriously anti-social individuals’. This sentiment is reflected in a Standard Note, published by the Parliament and Consultation Centre of the House of Commons on 30 July 2014, which referred to CBOs in these terms:

The [CBO] is aimed at tackling the most serious and persistent offenders where their behaviour has brought them before a criminal court. It is issued by any criminal against a person who has been convicted of an offence to tackle the most persistently anti-social individuals who are also engaged in criminal activity.
The clear impression from the Guidance and the Standard Note is that CBOs will not be sought against ‘run-of-the-mill’ offenders who are not persistently anti-social. As a consideration of the new statutory provisions will show, however, there is nothing in the ABCPA that restricts the CBO to this class of offender and nor is there any indication in the guidance issued by the CPS to prosecutors to suggest that applications for CRASBOs (and presumably for CBOs too) should be made only in respect of ‘persistently anti-social individuals’: http://www.cps.gov.uk/legal/a_to_c/anti_social_behaviour_guidance/.

The Guidance issued in July 2014 does suggest, at p. 29, that agencies (including prosecutors) ‘must make proportionate and reasonable judgements before applying for a CBO’ but goes no further than that.

The Guidance goes on to outline three important differences between the CRASBO and the CBO as being (a) the need for the prosecution to consult with youth offending teams when applying for a CBO against an offender under 18, (b) the removal of the need for the court to be satisfied of the necessity requirement before making an order, and (c) the ‘[s]cope for positive requirements to focus on long-term solutions’. These are not the only differences between the two orders, as will become apparent from a consideration of the new provisions.

**IMPLEMENTATION**

On 24 September 2014, the Secretary of State made the Anti-Social Behaviour, Crime and Policing Act 2014 (Commencement No.7, Saving and Transitional Provisions) Order 2014 (SI 2014 No. 2590). Paragraph 3 of the 2014 Order brings into force, on 20 October 2014, Parts 2, 3 and 4 of the ABCPA. Part 2 (ss. 22 – 33) introduces the CBO to replace the CRASBO. Two points can made about the 2014 Order at the outset.

The first point is that the 2014 Order does not bring into force Part 1 (ss. 1 – 21), which creates the injunction to prevent nuisance or annoyance (IPNA) as a replacement for the ‘stand-alone’ ASBO. There is currently no indication from the Government as to when Part 1 will come into force but it is worth noting that some of the consequential amendments to the un-repealed provisions of the Crime and Disorder Act 1998 (the CDA) appear to foreshadow the introduction of Part 1. So, for example, the 2014 Order brings into force on 20 October 2014 paras. 25 and 26 of sch. 11 to the ABCPA, which amend ss. 8(1)(b) and 9(1B) of the CDA (parenting orders) to substitute the words ‘an injunction is granted under section 1 of the Anti-social Behaviour, Crime and Policing Act 2014, an
order is made under section 22 of that Act or a’ for the words ‘an anti-social behaviour order or’.

The second point is that the 2014 Order also brings into force certain provisions of para. 24(a) of sch. 11 to the ABCPA insofar as they ‘relate to the repeal’ of a number of specified provisions of the CDA. What this means in practice is that at the same time as Part 2 of the ABCPA ‘goes live’, the sections of the CDA that relate to CRASBOs will be repealed. However, s. 33 of the ABCPA, entitled ‘Saving and transitional provision’, states in subsection (1)(b) that this repeal will not apply to a CRASBO that was made under s. 1C of the CDA before 20 October 2014. It follows that, where an offender is subject to a CRASBO made under the CDA before that date, any application to vary or discharge that order which is made after that date must be made under s. 1CA of the CDA. To that extent, the CRASBO provisions of the CDA will remain relevant. However, s. 33(3) of the ABCPA limits the power to vary a CRASBO made under s. 1C of the CDA by effectively providing that, as of 20 October 2014, the criminal courts cannot vary a CRASBO by extending its duration. Furthermore, s. 33(4) of the ABCPA adds that ‘at the end of the period of 5 years beginning with the commencement date’ (so as of 20 October 2019), all CRASBOs still in force will be converted into CBOs and hence the provisions of Part 2 of the ABCPA will apply to them instead of the remaining provisions of the CDA: see para. 148 of the Explanatory Note.

THE NEW PROVISIONS

When can the court make a CBO?

The Crown Court, a magistrates’ court and a youth court will be able to make CBOs under s. 22 of the ABCPA whenever an offender is convicted of an offence. The type of offence committed by the offender is immaterial for the purposes of s. 22 as is the date of its commission, save that any behaviour of the offender that occurred before 20 October 2013 cannot be taken into account against him by the court in deciding whether to make a CBO. This position stands in marginal contrast to that established by the CDA where a CRASBO could only be made following the offender’s conviction of a ‘relevant offence’ (meaning one committed after the Police Reform Act 2002 came into force) and in respect of behaviour occurring after (but not before) the commencement date. This means that where an offender is convicted of an offence committed before 21 October 2013 (see s. 33(5)) his behaviour at the time he committed that offence cannot form the basis of the court’s decision to
make a CBO. Instead, the prosecution would have to rely on evidence (not necessarily adduced at trial) of the offender’s behaviour after 20 October 2013.

A CBO can be imposed only where the offender receives a ‘sentence…in respect of the offence’ or ‘an order discharging the offender conditionally’. It follows that where the offender receives an absolute discharge or is bound over to keep the peace, s. 22 is not engaged and the court cannot make a CBO in respect of him: see para. 136 of the Explanatory Note. This position was the same under the CDA. The court does not have to impose a CBO at the same time as it sentences the offender; it can adjourn the hearing of an application for a CBO until after sentencing but, as the Guidance points out at p. 27, the ‘court cannot consider an application for a CBO at a hearing after the offender has been sentenced unless the court has adjourned proceedings from the sentence date for the application to be considered’. If the offender is sentenced and then some days or weeks later the prosecution serves an application for a CBO, the court will be functus officio and unable to consider the application.

Who can apply for the court to make a CBO?

The court cannot make a CBO of its own motion but only on the application of the prosecution: see para. 137 of the Explanatory Note. This is in contrast to the position under s. 1C(3) of the CDA where the court could make a CRASBO if the prosecution asked it to or if the court itself ‘thinks it is appropriate to do so’. If the prosecution expressly declines to invite the court to make a CBO, the court will be powerless to make one. The Guidance issued in July 2014 contemplates that the prosecution can either apply for a CBO ‘at its own initiative or following a request from a council or the police’.

Section 22(8) provides that the prosecution must find out the views of the local youth offending team (YOT), as defined in s. 22(10), before applying for a CBO if the offender will be under the age of 18 when the application is made. According to para. 138 of the Explanatory Note and p. 29 of the Guidance, Parliament envisages that the police or the local authority will consult the YOT and inform the prosecution of the views expressed by them. The YOT cannot veto the application but clearly if the team members voice strong opposition to the imposition of any CBO the prosecution will take that on board before deciding whether to press ahead with an application. The Explanatory Note goes on to say that guidance will recommend that juveniles who will be affected by the order
should be given the chance to express their views in line with their rights under the UN Convention on the Rights of the Child. In fact, there is no mention in the Guidance issued in July 2014 so far as CBOs are concerned to indicate that the views of affected juveniles (in particular the offender) should be canvassed before the application is made. At p. 29 the Guidance does suggest that aside from the mandated consultation with the YOT, the police or the local authority might wish to consult with ‘local organisations that have come into contact with the individual, such as schools and colleges of further education, providers of probation services and social services, mental health services, housing providers or others’. The Guidance adds that the views of these agencies should be considered before the police or the local authority invite the prosecution to consider applying for a CBO. The obligation to consult in s. 22(8) of the ABCPA had no counterpart in the CDA. The guidance issued by the CPS in relation to CRASBOs stressed the need for ‘interagency working’ but did not go so far as to recommend a formal process of consultation with YOTs before seeking an order against a juvenile.

The Criminal Procedure Rules 2014 (the CrimPR) provide (in r. 50.3) that, where the prosecution wants the court to make a CBO, it must serve notice of that intention on the court, the offender and ‘any person on whom the order would be likely to have a significant adverse effect’. The prosecution must serve the application ‘as soon as practicable (without waiting for a verdict)’. It would be a mistake to assume, therefore, that as a matter of routine the prosecution should simply wait until conviction before serving an application for a CBO. The application must be served as soon as practicable whatever position has been reached in the criminal proceedings. The written application must summarise the relevant facts, identify the evidence on which the prosecution rely in support of the application, attach any written statement that the prosecutor has not already served and specify the order the prosecutor wants the court to make. If the prosecution wishes to rely on evidence not served during the criminal proceedings then it must serve that evidence along with the application. It does not matter whether that evidence would be admissible in the criminal proceedings (see s. 23(2)). Once the prosecution has complied with its obligation to serve the application and any necessary accompanying document on the defence, the defence must respond in writing ‘as soon as reasonably practicable (without waiting for the verdict)’, notifying the court and the prosecution of the defence position in relation to the application and identifying any evidence and attaching any witness statement the defence would wish to rely on in the proceedings for a CBO and which has not already been served.
What is the procedure for determining an application for a CBO?

Where the offender opposes the application for a CBO, the court will set the matter down for a contested hearing (CrimPR, r. 50.2(1)(b)). The court cannot make a CBO unless the offender has had an opportunity to consider what order is proposed and why and the evidence in support of the application and has had an opportunity to make representations.

Where the application is made in respect of an offender who is under 18, the normal restrictions on reporting certain information (such as the name, address or school of a child or young person) that apply in respect of criminal proceedings in relation to a person under 18 under s. 49 of the Children and Young Persons Act 1933 will not apply but s. 39 of that Act will apply and so the court will have a discretion to prohibit the publication of certain information that will identify a child or young person.

Where the prosecution proposes to call live witness evidence at any hearing, the special measures provisions in Chapter 1 of Part 2 of the Youth Justice and Criminal Evidence Act 1999 apply with certain omissions, as set out in s. 31(2) of the ABCPA, and subject to ‘any other necessary modifications’. By virtue of the CrimPR, r. 50.3(7), the rules about special measures contained in Part 29 apply too, with the exception of the time-limit in r. 29.3(a). Where the prosecution seeks special measures in respect of a witness in proceedings for a CBO, it must serve the application for special measures at the same time that it serves the written application for the CBO (CrimPR, r. 50.3(7)(a)). Such special measures can include the physical screening of a witness, enabling evidence to be given in private or the use of a video-recorded interview: see para. 146 of the Explanatory Note.

At the hearing of the application, the court is permitted to receive hearsay evidence, which should be understood as a reference to evidence consisting of hearsay within the meaning of s. 1(2) of the Civil Evidence Act 1995 and not as a reference to hearsay evidence within the meaning of s. 115 of the CJA 2003 (CrimPR, r. 50.1(3)). This will include bad character evidence as well (see para. 139 of the Explanatory Note and p. 29 of the Guidance). This is because proceedings on an application for a CBO are civil in nature notwithstanding the fact that the court will apply the criminal standard of proof. Any party (whether prosecution or defence) that wishes to adduce hearsay evidence in the proceedings must serve notice of its intention to do so. That notice must identify the evidence that is said to be hearsay, identify the person who made the
hearsay statement (or explain why that person is not identified) and explain why that person will not be called to give oral evidence (CrimPR, r. 50.6(1)). Where one party applies to adduce hearsay evidence, the other party must apply in writing not more than seven days after receiving the notice if it wishes to cross-examine the maker of the hearsay statement (r. 50.7). The court can determine that application without holding a hearing for that purpose. Instead of applying to cross-examine the maker of the hearsay statement, the other party can apply in writing within the same seven-day period if it wishes to ‘challenge the credibility or consistency of’ the maker of the hearsay statement. In response, the party seeking to adduce the hearsay evidence can then call the maker of the statement to give oral evidence if it so chooses (r. 50.8).

These provisions are intended to replicate in large measure the regimes in ss. 2 to 5 of the Civil Evidence Act 1995 and rr. 3, 4 and 5 of the Magistrates’ Courts (Hearsay Evidence in Civil Proceedings Rules) 1999 (SI 1999 No. 681, as amended by SI 2005 No. 617).

What test applies in an application for a CBO?

The court may make a CBO on the application of the prosecution if, but only if, two conditions are satisfied. The first is that the court is satisfied to the criminal standard that ‘the offender has engaged in behaviour that causes or was likely to cause harassment, alarm or distress to any person’. The second is that ‘the court considers that making the order will help in preventing the offender from engaging in such behaviour’ (ABCPA, s. 22(3) and (4)).

As to the first of these conditions, there does not have to be ‘a link between the criminal behaviour which led to the conviction and the anti-social behaviour’ for this condition to be satisfied (see Guidance, p. 29). In other words, it may be that the evidence relied on and served by the prosecution in support of the application for a CBO is wholly different to the evidence relied on to convict the offender. In such a case the conviction (and the evidence to support it) will be no more than a springboard for the prosecution to reach s. 22 of the ABCPA and invoke the court’s jurisdiction to make a CBO. Section 33(5) makes it plain that, in considering whether the first condition is satisfied, the court can take into account behaviour of the offender stretching back to a point in time no further than one year before the commencement date of Part 2 (in other words, to the 21 October 2013). Any behaviour on the part of the offender that occurred before that date would, it seems, be inadmissible in any application for a CBO.
The first condition is broadly similar to the corresponding provision in the CDA (‘the offender has acted...in an anti-social manner, that is to say in a manner that caused or was likely to cause harassment, alarm or distress to one or more person not of the same household as himself’) and so the authorities decided under s.1(1)(a) and s. 1C(2)(a) of the CDA will continue to be relevant: see Blackstones’ Criminal Practice, D25.12 et seq.

As to the second of these conditions, the court must determine whether making a CBO in the terms sought by the prosecution will (not may) assist in preventing the offender from engaging in further anti-social behaviour. This is a much weaker test than the one set out in s. 1C(2)(b) of the CDA, where the court had to be satisfied that a CRASBO was ‘necessary to protect persons in any place in England and Wales’ from further anti-social acts by the offender. In certain instances, a CRASBO was held to be unnecessary because the sentence imposed by the court offered sufficient protection for those who could be affected by the offender’s continuing anti-social behavior (see R (F) v Bolton Crown Court [2009] EWHC 2153). On other occasions, the Court of Appeal has ruled that a CRASBO is not necessary where the offender’s mental impairment meant that he would be unable to comply with its terms (see R (Cooke) v DPP (2008) 172 JP 596). Will those cases be relevant to the exercise of the court’s powers under s. 22 of ABCPA? It is doubtful that they will. Now that necessity has given way to usefulness as the benchmark for making an order against anti-social offenders, the likelihood of the courts issuing CBOs will increase. It is difficult to imagine circumstances in which a CBO would not be a helpful way of preventing anti-social behaviour in the future especially as the court may be inclined to view the terms of the CBO as a useful accompaniment to any sentence received by the offender. Arguments from the defence to the effect that the sentence alone is a sufficient safeguard against further harassing behaviour by the offender will be met with the response that, provided the CBO adds something to the protection afforded to the public by the sentence, then the second condition for making a CBO will be satisfied, and that is likely to be true in the majority of cases.

It is clear from the a consideration of the two conditions necessary for the imposition of a CBO that there is no requirement in s. 22 or elsewhere in Part 2 of the ABCPA that the offender must be a persistently anti-social individual before an order can be made. The Government’s stated intention, as set out earlier in this guide, was that CBOs should not be made against routine offenders and yet there is a very real possibility of that happening given how the second condition is now framed. It may be
that the CPS will reflect the Government’s intention in their approach to making applications for CBOs but that is not guaranteed. The prospect of first-time offenders who commit minor acts of civil disobedience for which they are fined then becoming subject to indefinite orders containing a wealth of prohibitions and requirements looms prominently on the horizon. This may well give rise to issues under the Human Rights Act 1998 (or whatever instrument follows it).

What terms can be included in a CBO?

Section 1C(2) of the CDA empowered the court to incorporate into a CRASBO any terms ‘which prohibit the offender from doing anything described in the order’. The focus under the CDA was on prohibiting the offender from engaging in anti-social behaviour by imposing suitable restrictions on him. Section 22(5) of the ABCPA, on the other hand, retains the power of the court to impose restrictions on the offender but compliments that with a further power to impose mandatory requirements on the offender too. Thus, a CBO can include both positive and negative obligations. Section 22(9) adds that any prohibitions or restrictions included in a CBO must, so far as is practicable, not interfere with the offender’s work or schooling or with the operation of any other order or injunction imposed by any other court. The Guidance also suggests (at p. 30) that, before inviting the court to impose prohibitions or requirements, the prosecution should consider with care ‘the impact on any caring responsibilities the [offender] may have and, in the event that the [offender] has any disability, whether he or she is capable of complying with the proposed’ terms.

The Guidance (at p. 29) states that ‘conditions on an order should not be designed to stop reasonable, trivial or benign behaviours that have not caused, or are not likely to cause, anti-social behaviour to victims and communities’ [their emphasis]. It is beyond doubt that the terms of the CBO, whether they be prohibitions or requirements, must be ‘reasonable, proportionate, realistic, practical, clear and enforceable’, as the Government acknowledged at p. 15 of its 2011 consultation paper in reliance on Boness [2005] EWCA Crim 2395. As to the sorts of terms that could be included in a CBO, para. 135 of the Explanatory Note suggests that ‘…prohibitions could include not being in possession of a can of spray paint in a public place, not entering a particular area, or not being drunk in a public place. The requirements in an order could include attendance at a course to educate offenders on alcohol and its effects.’ The Guidance adds (at p. 30), that requirements ‘should aim to tackle the underlying cause of the anti-social behaviour and be tailored to
the specific needs of the offender’. It suggests that requirements could include, by way of example, attendance at an anger management course where an offender finds it difficult to respond without violence, youth mentoring, a substance misuse awareness session where an offender’s anti-social behaviour occurred when they have been drinking or using drugs, or a job readiness course to help the offender get employment and move them away from the circumstances that cause them to commit anti-social behaviour’.

Section 24 of the ABCPA contains a number of provisions that relate specifically to the inclusion in CBOs of requirements rather than prohibitions. Before the court can impose a requirement on an offender, the person responsible for monitoring the offender’s compliance with the requirement (or a representative if that person is an organisation) will need to be identified so that he or she can provide the court with evidence about the suitability and enforceability of the requirement before it is imposed. Paragraph 140 of the Explanatory Note suggests that the supervisor could be ‘the local authority, recognised providers of substance misuse recovery or dog training providers for irresponsible dog owners’. The supervisor must be named in the CBO itself and he or she is entreated by s. 24(4) to make any necessary arrangements to further the offender’s compliance with the requirements, to promote the offender’s compliance with the requirements and to notify the prosecution and the chief officer of police if the offender either fails to comply with a requirement or complies with all of the requirements, assuming in the latter instance that the requirements are not continuous ones. By virtue of s. 24(6), where a requirement is included in a CBO, the offender is obliged to keep in touch with his supervisor in relation to that requirement in accordance with any instructions handed down by the supervisor from time to time and notify the supervisor of any change in the offender’s address. These obligations are treated as if they were terms of the CBO, so a failure to comply with them will amount to a breach of the order.

**What is the duration of a CBO?**

A CRASBO took effect on the day on which it was made, save that (pursuant to s. 1C(5) of the CDA) the court could suspend certain terms of the order during the period of the offender’s incarceration. There was no power, however, to order that different terms of the order should have effect for differing periods of time. With a CBO, the court can impose different periods for particular prohibitions and requirements so the overall ‘package’ can be tailored to
suit the individual offender’s case. But, like a CRASBO, a CBO takes effect on the day it is made. There is no power in the ABCPA for the court to suspend any term of the CBO until the offender is released from prison. The issue of suspension will only arise where the offender is already subject to a CBO when he appears before the court on an application for a further CBO to be made. The court can order that the terms of the new CBO will not take effect until the terms of the old CBO have expired. The duration of the CBO (and its individual prohibitions and requirements where their durations differ) must be set out in the CBO itself. Where the offender is under 18 at the time the CBO is made, the CBO must be for not less than one year and for not more than three years. In any other case, the CBO must be either for a fixed period of not less than two years or for an indefinite period, i.e. until further order (see para. 141 of the Explanatory Note).

Section 28 of the ABCPA provides for the periodical review of CBOs made against those under 18. Reviews must be held every 12 months. That period starts from the date the order was made, or from the date it was subsequently varied. The chief officer of police for the force where the offender is living or appears to be living is the person responsible for carrying out the review. According to the Guidance (at p. 31) the chief officer of police ‘may invite any other person or body to participate in the review. This could include youth offending teams, educational establishments or other organisations who have been working with the young person’. The review must include a consideration of the offender’s progress on the order, the adequacy of the support available to help him to comply with its terms and any other matters relevant to a consideration of whether the order should be varied or discharged. The statute does not say what the consequences of the review should be but the Guidance indicates that if the conclusion of the review is that the CBO should be varied or discharged then the chief officer of police will invite the prosecution to make the appropriate application under s. 27. Reviews must be carried out within each successive 12-month period so long as the offender remains under the age of 18 and the CBO remains in force. If the end of the next 12-month period occurs on a date beyond the offender’s 18th birthday then there is no obligation for the chief officer of police to hold a review.

**Can CBOs be varied or discharged?**

The court which makes a CBO is empowered under s. 27(1) of the ABCPA to vary or discharge the order on the application of either the
prosecution or the offender. The power to vary an order includes the power to add further prohibitions or requirements, and to extend the period for which the existing prohibitions or requirements have effect. Where an application to vary or discharge a CBO is dismissed, the unsuccessful party (whether the prosecution or the offender) can make no further applications under s.27 without either the consent of the court or the agreement of the other party. This ensures that neither the prosecution nor the offender can keep revisiting the same application again and again in the hope that a different composition of the court might accede to it.

The procedure for seeking a variation or discharge of a CBO is set out in the CrimPR, r. 50.5. The party seeking a variation or discharge must apply in writing as soon as practicable after becoming aware of the grounds for doing so, explaining what material circumstances have changed since the order was made and why the CBO should be varied or discharged as a result. If that party wishes the court to consider any particular evidence in support of the application then it should serve that evidence along with the written application. The court may decide an application under r. 50.5 with or without a hearing but (a) the court cannot dismiss the application unless the applicant has had an opportunity to make representations at a hearing and (b) the court cannot allow an application unless everyone who should have been served with a copy of the application has had at least 14 days to make representations.

What happens if an offender breaches a CBO?

An offender who breaches the terms of a CBO without reasonable excuse will commit an offence contrary to s. 30 of the ABCPA. A breach can occur whenever the offender ‘does anything he or she is prohibited from doing’ or ‘fails to do anything he or she is required to do’ under the order. The maximum sentence on summary conviction is six month’s imprisonment and the maximum sentence on conviction on indictment is five year’s imprisonment or a fine or both. The court cannot impose a conditional discharge following a conviction under s. 30. For those offenders under 18 who breach the terms of a CBO, proceedings will be held in the youth court where the maximum sentence is a two-year detention and training order (see the Guidance, at p. 31).

Where an offender aged under 18 is prosecuted for breaching the terms of his CBO, the automatic reporting restrictions contained in s. 49 of the Children and Young Persons Act 1933 do not apply to the CBO breach proceedings but the court will still have a discretion under s. 45 of that
Act to restrict the publication of certain information (for example, the offender’s name or address) in order to protect the identity of a child or young person.

**Can the court make an interim CBO?**

By the time a conviction is returned against the offender, the court should be in receipt of the prosecution’s written application for a CBO and the defence response (see CrimPR, r. 50.3). If the court decides to proceed to sentence immediately, it can either determine the application at the same time or adjourn the hearing of the application to some later date. Alternatively, the court could adjourn sentencing to some later date and either determine the application immediately or adjourn the hearing of the application to some later date, which could be the same date for the sentencing but would not have to be so. If the court, by whatever route, adjourns hearing the application for a CBO beyond the date of conviction it can, pursuant to s. 26 of the ABCPA, make an interim CBO to last until the final hearing of the application or until further order ‘if the court thinks it just to do so’. It follows, as Annex C.16 to the White Paper suggests, that ‘an interim order would be available at conviction (if the court adjourned for sentencing)’.

Section 26(3) disapplies certain provisions of ss. 22 and 25, with the effect that the court may make an interim CBO of its own motion and in circumstances where the prosecution has not sought the views of the YOT in a case where the offender is under 18. Under the CrimPR, r. 50.2(2), the court may make an interim CBO even though the offender has not had an opportunity to (a) consider what order is proposed and why, (b) consider the evidence served in support of the application for the order, or (c) make representations about whether the order should be made, provided the offender is present when the interim CBO is made and that he is handed a document recording the terms of the interim order not more than seven days after it is made.

**CONCLUSION**

The Government’s purpose behind the introduction of the CBO appears to have been two-fold. First, to increase the number of orders made by the courts to tackle anti-social behaviour, and, secondly, to improve the prospects of offenders sticking to the terms of such orders by forcing them to comply with positive requirements designed to educate them in the ways of civilized behaviour. Whether those ambitions have been truly realized in Part 2 of the ABCPA remains to be seen but there has to
be a certain amount of scepticism around the suggestion that an offender is more likely to comply with the terms of a court order when that order imposes more, not fewer, obligations upon him. Looking to the future it is likely that more CBOs will be made than CRASBOs were. On a superficial level that will satisfy the Government’s first objective but it does beg the question whether CBOs will be made against the right offenders, rather than against most offenders almost as a matter of routine. Therein lies the danger of an order whose pre-conditions will be easily satisfied in most cases.
PART 2 CRIMINAL BEHAVIOUR ORDERS

Criminal behaviour orders

Power to make orders

22 (1) This section applies where a person ("the offender") is convicted of an offence.

(2) The court may make a criminal behaviour order against the offender if two conditions are met.

(3) The first condition is that the court is satisfied, beyond reasonable doubt, that the offender has engaged in behaviour that caused or was likely to cause harassment, alarm or distress to any person.

(4) The second condition is that the court considers that making the order will help in preventing the offender from engaging in such behaviour.

(5) A criminal behaviour order is an order which, for the purpose of preventing the offender from engaging in such behaviour--

(a) prohibits the offender from doing anything described in the order;

(b) requires the offender to do anything described in the order.

(6) The court may make a criminal behaviour order against the offender only if it is made in addition to--

(a) a sentence imposed in respect of the offence, or

(b) an order discharging the offender conditionally.

(7) The court may make a criminal behaviour order against the offender only on the application of the prosecution.

(8) The prosecution must find out the views of the local youth offending team before applying for a criminal behaviour order to be made if the offender will be under the age of 18 when the application is made.

(9) Prohibitions and requirements in a criminal behaviour order must, so far as practicable, be such as to avoid--

(a) any interference with the times, if any, at which the offender normally works or attends school or any other educational establishment;
(b) any conflict with the requirements of any other court order or injunction to which the offender may be subject.

(10) In this section "local youth offending team" means--

(a) the youth offending team in whose area it appears to the prosecution that the offender lives, or

(b) if it appears to the prosecution that the offender lives in more than one such area, whichever one or more of the relevant youth offending teams the prosecution thinks appropriate.

Proceedings on an application for an order

23 (1) For the purpose of deciding whether to make a criminal behaviour order the court may consider evidence led by the prosecution and evidence led by the offender.

(2) It does not matter whether the evidence would have been admissible in the proceedings in which the offender was convicted.

(3) The court may adjourn any proceedings on an application for a criminal behaviour order even after sentencing the offender.

(4) If the offender does not appear for any adjourned proceedings the court may--

(a) further adjourn the proceedings,

(b) issue a warrant for the offender's arrest, or

(c) hear the proceedings in the offender's absence.

(5) The court may not act under paragraph (b) of subsection (4) unless it is satisfied that the offender has had adequate notice of the time and place of the adjourned proceedings.

(6) The court may not act under paragraph (c) of subsection (4) unless it is satisfied that the offender--

(a) has had adequate notice of the time and place of the adjourned proceedings, and

(b) has been informed that if the offender does not appear for those proceedings the court may hear the proceedings in his or her absence.

(7) Subsection (8) applies in relation to proceedings in which a criminal behaviour order is made against an offender who is under the age of 18.

(8) In so far as the proceedings relate to the making of the order--

(a) section 49 of the Children and Young Persons Act 1933 (restrictions on reports of proceedings in which children and young persons are concerned) does not apply in respect of the offender;
(b) section 39 of that Act (power to prohibit publication of certain matters) does so apply.

Requirements included in orders

24 (1) A criminal behaviour order that includes a requirement must specify the person who is to be responsible for supervising compliance with the requirement. The person may be an individual or an organisation.

(2) Before including a requirement, the court must receive evidence about its suitability and enforceability from--
   (a) the individual to be specified under subsection (1), if an individual is to be specified;
   (b) an individual representing the organisation to be specified under subsection (1), if an organisation is to be specified.

(3) Before including two or more requirements, the court must consider their compatibility with each other.

(4) It is the duty of a person specified under subsection (1)--
   (a) to make any necessary arrangements in connection with the requirements for which the person has responsibility (the "relevant requirements");
   (b) to promote the offender's compliance with the relevant requirements;
   (c) if the person considers that the offender--
      (i) has complied with all the relevant requirements, or
      (ii) has failed to comply with a relevant requirement, to inform the prosecution and the appropriate chief officer of police.

(5) In subsection (4)(c) "the appropriate chief officer of police" means--
   (a) the chief officer of police for the police area in which it appears to the person specified under subsection (1) that the offender lives, or
   (b) if it appears to that person that the offender lives in more than one police area, whichever of the relevant chief officers of police that person thinks it most appropriate to inform.

(6) An offender subject to a requirement in a criminal behaviour order must--
   (a) keep in touch with the person specified under subsection (1) in relation to that requirement, in accordance with any instructions given by that person from time to time;
   (b) notify the person of any change of address.
These obligations have effect as requirements of the order.

**Duration of order etc**

25 (1) A criminal behaviour order takes effect on the day it is made, subject to subsection (2).

(2) If on the day a criminal behaviour order ("the new order") is made the offender is subject to another criminal behaviour order ("the previous order"), the new order may be made so as to take effect on the day on which the previous order ceases to have effect.

(3) A criminal behaviour order must specify the period ("the order period") for which it has effect.

(4) In the case of a criminal behaviour order made before the offender has reached the age of 18, the order period must be a fixed period of--

(a) not less than 1 year, and

(b) not more than 3 years.

(5) In the case of a criminal behaviour order made after the offender has reached the age of 18, the order period must be--

(a) a fixed period of not less than 2 years, or

(b) an indefinite period (so that the order has effect until further order).

(6) A criminal behaviour order may specify periods for which particular prohibitions or requirements have effect.

**Interim orders**

**Variation and discharge**

**Variation or discharge of orders**
(1) A criminal behaviour order may be varied or discharged by the court which made it on the application of--
   (a) the offender, or
   (b) the prosecution.
(2) If an application by the offender under this section is dismissed, the offender may make no further application under this section without--
   (a) the consent of the court which made the order, or
   (b) the agreement of the prosecution.
(3) If an application by the prosecution under this section is dismissed, the prosecution may make no further application under this section without--
   (a) the consent of the court which made the order, or
   (b) the agreement of the offender.
(4) The power to vary an order includes power to include an additional prohibition or requirement in the order or to extend the period for which a prohibition or requirement has effect.
(5) Section 24 applies to additional requirements included under subsection (4) as it applies to requirements included in a new order.
(6) In the case of a criminal behaviour order made by a magistrates' court, the references in this section to the court which made the order include a reference to any magistrates' court acting in the same local justice area as that court.

Review of orders (under-18s)

Review of orders

(1) If--
   (a) a person subject to a criminal behaviour order will be under the age of 18 at the end of a review period (see subsection (2)),
   (b) the term of the order runs until the end of that period or beyond, and
   (c) the order is not discharged before the end of that period,

   a review of the operation of the order must be carried out before the end of that period.
(2) The "review periods" are--
   (a) the period of 12 months beginning with--
(i) the day on which the criminal behaviour order takes effect, or
(ii) if during that period the order is varied under section 27, the day on which it is varied (or most recently varied, if the order is varied more than once); (b) a period of 12 months beginning with--
   (i) the day after the end of the previous review period, or
   (ii) if during that period of 12 months the order is varied under section 27, the day on which it is varied (or most recently varied, if the order is varied more than once).

(3) A review under this section must include consideration of--
   (a) the extent to which the offender has complied with the order;
   (b) the adequacy of any support available to the offender to help him or her comply with it;
   (c) any matters relevant to the question whether an application should be made for the order to be varied or discharged.

(4) Those carrying out or participating in a review under this section must have regard to any relevant guidance issued by the Secretary of State under section 32 when considering--
   (a) how the review should be carried out;
   (b) what particular matters the review should deal with;
   (c) what action (if any) it would be appropriate to take as a result of the findings of the review.

Carrying out and participating in reviews

29 (1) A review under section 28 is to be carried out by the chief officer of police of the police force maintained for the police area in which the offender lives or appears to be living.

(2) The chief officer, in carrying out a review under section 28, must act in co-operation with the council for the local government area in which the offender lives or appears to be living; and the council must co-operate in the carrying out of the review.

(3) The chief officer may invite the participation in the review of any other person or body.

(4) In this section "local government area" means--
   (a) in relation to England, a district or London borough, the City of London, the Isle of Wight and the Isles of Scilly;
   (b) in relation to Wales, a county or a county borough.
For the purposes of this section, the council for the Inner and Middle Temples is the Common Council of the City of London.

**Breach of orders**

**Breach of order**

30 (1) A person who without reasonable excuse--
(a) does anything he or she is prohibited from doing by a criminal behaviour order, or
(b) fails to do anything he or she is required to do by a criminal behaviour order,

commits an offence.

(2) A person guilty of an offence under this section is liable--
(a) on summary conviction, to imprisonment for a period not exceeding 6 months or to a fine, or to both;
(b) on conviction on indictment, to imprisonment for a period not exceeding 5 years or to a fine, or to both.

(3) If a person is convicted of an offence under this section, it is not open to the court by or before which the person is convicted to make an order under subsection (1)(b) of section 12 of the Powers of Criminal Courts (Sentencing) Act 2000 (conditional discharge).

(4) In proceedings for an offence under this section, a copy of the original criminal behaviour order, certified by the proper officer of the court which made it, is admissible as evidence of its having been made and of its contents to the same extent that oral evidence of those things is admissible in those proceedings.

(5) In relation to any proceedings for an offence under this section that are brought against a person under the age of 18--
(a) section 49 of the Children and Young Persons Act 1933 (restrictions on reports of proceedings in which children and young persons are concerned) does not apply in respect of the person;
(b) section 45 of the Youth Justice and Criminal Evidence Act 1999 (power to restrict reporting of criminal proceedings involving persons under 18) does so apply.

(6) If, in relation to any proceedings mentioned in subsection (5), the court does exercise its power to give a direction under section 45 of the Youth Justice and Criminal Evidence Act 1999, it must give its reasons for doing so.
Supplemental

Special measures for witnesses

31 (1) Chapter 1 of Part 2 of the Youth Justice and Criminal Evidence Act 1999 (special measures directions in the case of vulnerable and intimidated witnesses) applies to criminal behaviour order proceedings as it applies to criminal proceedings, but with--

(a) the omission of the provisions of that Act mentioned in subsection (2) (which make provision appropriate only in the context of criminal proceedings), and
(b) any other necessary modifications.

(2) The provisions are--

(a) section 17(4) to (7);
(b) section 21(4C)(e);
(c) section 22A;
(d) section 27(10);
(e) section 32.

(3) Rules of court made under or for the purposes of Chapter 1 of Part 2 of that Act apply to criminal behaviour order proceedings--

(a) to the extent provided by rules of court, and
(b) subject to any modifications provided by rules of court.

(4) Section 47 of that Act (restrictions on reporting special measures directions etc) applies with any necessary modifications--

(a) to a direction under section 19 of that Act as applied by this section;
(b) to a direction discharging or varying such a direction.

Sections 49 and 51 of that Act (offences) apply accordingly.

(5) In this section "criminal behaviour order proceedings" means proceedings in a magistrates' court or the Crown Court so far as relating to the issue whether to make a criminal behaviour order.

Guidance

32 (1) The Secretary of State may issue guidance to--

(a) chief officers of police, and
(b) the councils mentioned in section 29(2),

about the exercise of their functions under this Part.
(2) The Secretary of State may revise any guidance issued under this section.

(3) The Secretary of State must arrange for any guidance issued or revised under this section to be published.

**Saving and transitional provision**

33 (1) The repeal or amendment by this Act of provisions about any of the orders specified in subsection (2) does not—

(a) prevent an order specified in that subsection from being made in connection with criminal proceedings begun before the commencement day;

(b) apply in relation to an order specified in that subsection which is made in connection with criminal proceedings begun before that day;

(c) apply in relation to anything done in connection with such an order.

(2) The orders are—

(a) an order under section 1C of the Crime and Disorder Act 1998 (orders on conviction in criminal proceedings);

(b) an individual support order under section 1AA of that Act made in connection with an order under section 1C of that Act;

(c) a drinking banning order under section 6 of the Violent Crime Reduction Act 2006 (orders on conviction in criminal proceedings).

(3) As from the commencement day there may be no variation of an order specified in subsection (2) that extends the period of the order or of any provision of the order.

(4) At the end of the period of 5 years beginning with the commencement day—

(a) this Part has effect in relation to any order specified in subsection (2) that is still in force as if the provisions of the order were provisions of a criminal behaviour order;

(b) subsections (1) to (3) cease to have effect.

This Part, as it applies by virtue of paragraph (a), has effect with any necessary modifications (and with any modifications specified in an order under section 185(7)).

(5) In deciding whether to make a criminal behaviour order a court may take account of conduct occurring up to 1 year before the commencement day.
In this section "commencement day" means the day on which this Part comes into force.

Criminal Procedure Rules 2014

PART 50 CIVIL BEHAVIOUR ORDERS AFTER VERDICT OR FINDING

When this Part applies

50.1 (1) This Part applies in magistrates’ courts and in the Crown Court where the court could decide to make, vary or revoke a civil order—
   (a) under a power that the court can exercise after reaching a verdict or making a finding, and
   (b) that requires someone to do, or not do, something.

(2) A reference to a ‘behaviour order’ in this Part is a reference to any such order.

(3) A reference to ‘hearsay evidence’ in this Part is a reference to evidence consisting of hearsay within the meaning of section 1(2) of the Civil Evidence Act 1995.

Behaviour orders: general rules

50.2 (1) The court must not make a behaviour order unless the person to whom it is directed has had an opportunity—
   (a) to consider—
       (i) what order is proposed and why,
       (ii) the evidence in support, and
   (b) to make representations at a hearing (whether or not that person in fact attends).

(2) That restriction does not apply to making an interim behaviour order, but such an order has no effect unless the person to whom it is directed—
   (a) is present when it is made; or
   (b) is handed a document recording the order not more than 7 days after it is made.

(3) Where the court decides not to make, where it could—
   (a) a football banning order;
   (b) a parenting order, after a person under 16 is convicted of an offence; or
   (c) a drinking banning order,
   the court must announce, at a hearing in public, the reasons for its decision.

Application for behaviour order and notice of terms of proposed order: special rules
50.3 (1) This rule applies where—
   (a) a prosecutor wants the court to make—
       (i) an anti-social behaviour order,
       (ii) a serious crime prevention order; or
       (iii) a criminal behaviour order;
   (b) a prosecutor proposes, on the prosecutor’s initiative or
       at the court’s request—
       (i) a sexual offences prevention order, or
       (ii) a sexual harm prevention order
       if the defendant is convicted.

(2) Where paragraph (1)(a) applies, the prosecutor must serve a
    notice of intention to apply for such an order on—
    (a) the court officer;
    (b) the defendant against whom the prosecutor wants the
        court to make the order; and
    (c) any person on whom the order would be likely to have
        a significant adverse effect,
        as soon as practicable (without waiting for the verdict).

(3) A notice under paragraph (2) must—
    (a) summarise the relevant facts;
    (b) identify the evidence on which the prosecutor relies in
        support;
    (c) attach any written statement that the prosecutor has
        not already served; and
    (d) specify the order that the prosecutor wants the court to
        make.

(4) A defendant served with a notice under paragraph (2)
    must—
    (a) serve written notice of any evidence on which the
        defendant relies on—
        (i) the court officer, and
        (ii) the prosecutor, as soon as practicable (without
            waiting for the verdict); and
    (b) in the notice, identify that evidence and attach any
        written statement that has not already been served.

(5) Where paragraph (1)(b) applies, the prosecutor must—
    (a) serve a draft order on the court officer and on the
        defendant not less than 2 business days before the
        hearing at which the order may be made; and
    (b) in a case in which a sexual offences prevention order
        is proposed, in the draft order specify those
        prohibitions which the prosecutor proposes as
        necessary for the purpose of protecting the public or
any particular members of the public from serious sexual harm from the defendant;
(c) in a case in which a sexual harm prevention order is proposed, in the draft order specify those prohibitions which the prosecutor proposes as necessary for the purpose of—
   (i) protecting the public or any particular members of the public from sexual harm from the defendant, or
   (ii) protecting children or vulnerable adults generally, or any particular children or vulnerable adults, from sexual harm from the defendant outside the United Kingdom.

(6) This rule does not apply to an application for an interim anti-social behaviour order.

(7) Where the prosecutor wants the court to make an anti-social behaviour order or a criminal behaviour order, the rules about special measures directions in Part 29 (Measures to assist a witness or defendant to give evidence) apply, but—
(a) the prosecutor must apply when serving a notice under paragraph (2); and
(b) the time limits in rule 29.3(a) do not apply.

Evidence to assist the court: special rules

50.4 (1) This rule applies where the court can make on its own initiative—
   (a) a football banning order;
   (b) a restraining order;
   (c) an anti-social behaviour order; or
   (d) a drinking banning order.

(2) A party who wants the court to take account of evidence not already introduced must—
   (a) serve notice in writing on—
       (i) the court officer, and
       (ii) every other party, as soon as practicable (without waiting for the verdict); and
   (b) in the notice, identify that evidence; and
   (c) attach any written statement containing such evidence.

Application to vary or revoke behaviour order

50.5 (1) The court may vary or revoke a behaviour order if—

(a) the legislation under which it is made allows the court to do so; and
(b) one of the following applies—
   (i) the prosecutor,
   (ii) the person to whom the order is directed,
   (iii) any other person mentioned in the order,
   (iv) the relevant authority or responsible officer,
   (v) the relevant Chief Officer of Police, or
   (vi) the Director of Public Prosecutions.

(2) A person applying under this rule must—
   (a) apply in writing as soon as practicable after becoming aware of the grounds for doing so, explaining—
      (i) what material circumstances have changed since the order was made, and
      (ii) why the order should be varied or revoked as a result;
   (b) serve the application on—
      (i) the court officer,
      (ii) as appropriate, the prosecutor or defendant,
      (iii) any other person listed in paragraph (1)(b), if the court so directs.

(3) A party who wants the court to take account of any particular evidence before making its decision must, as soon as practicable—
   (a) serve notice in writing on—
      (i) the court officer,
      (ii) as appropriate, the prosecutor or defendant, and
      (iii) as appropriate, anyone listed in paragraph (1)(b) on whom the court directed the application to be served; and
   (b) in that notice identify the evidence and attach any written statement that has not already been served.

(4) The court may decide an application under this rule with or without a hearing.

(5) But the court must not—
   (a) dismiss an application under this rule unless the applicant has had an opportunity to make representations at a hearing (whether or not the applicant in fact attends); or
   (b) allow an application under this rule unless everyone required to be served, by this rule or by the court, has had at least 14 days in which to make representations, including representations about whether there should be a hearing.

(6) The court officer must—
(a) serve the application on any person, if the court so directs; and
(b) give notice of any hearing to—
   (i) the applicant, and
   (ii) any person required to be served, by this rule or by the court.

Notice of hearsay evidence
50.6 (1) A party who wants to introduce hearsay evidence must—
   (a) serve notice in writing on—
       (i) the court officer, and
       (ii) every other party directly affected; and
   (b) in that notice—
       (i) explain that it is a notice of hearsay evidence,
       (ii) identify that evidence,
       (iii) identify the person who made the statement which is hearsay, or explain why if that person is not identified, and
       (iv) explain why that person will not be called to give oral evidence.

(2) A party may serve one notice under this rule in respect of more than one statement and more than one witness.

Cross-examination of maker of hearsay statement
50.7 (1) This rule applies where a party wants the court’s permission to cross-examine a person who made a statement which another party wants to introduce as hearsay.

(2) The party who wants to cross-examine that person must—
   (a) apply in writing, with reasons, not more than 7 days after service of the notice of hearsay evidence; and
   (b) serve the application on—
       (i) the court officer,
       (ii) the party who served the hearsay evidence notice, and
       (iii) every party on whom the hearsay evidence notice was served.

(3) The court may decide an application under this rule with or without a hearing.

(4) But the court must not—
   (a) dismiss an application under this rule unless the applicant has had an opportunity to make representations at a hearing (whether or not the applicant in fact attends); or
(b) allow an application under this rule unless everyone served with the application has had at least 7 days in which to make representations, including

Credibility and consistency of maker of hearsay statement

50.8 (1) This rule applies where a party wants to challenge the credibility or consistency of a person who made a statement which another party wants to introduce as hearsay.

(2) The party who wants to challenge the credibility or consistency of that person must—

(a) serve a written notice of intention to do so on—

(i) the court officer, and

(ii) the party who served the notice of hearsay evidence

not more than 7 days after service of that hearsay evidence notice; and

(b) in the notice, identify any statement or other material on which that party relies.

(3) The party who served the hearsay notice—

(a) may call that person to give oral evidence instead; and

(b) if so, must serve a notice of intention to do so on—

(i) the court officer, and

(ii) every party on whom the hearsay notice was served

not more than 7 days after service of the notice under paragraph (2).

Court’s power to vary requirements under this Part

50.9 The court may—

(a) shorten a time limit or extend it (even after it has expired);

(b) allow a notice or application to be given in a different form, or presented orally.
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