

Outcomes

Updates from Radian's in-house solicitor

Antisocial Behaviour (ASB) Outcomes August 2012 to April 2018

Outright possession orders	31
Suspended possession orders	18
ASB injunctions with power of arrest	14
Civil injunction under the new ASB, Crime & Policing Act 2014 with power of arrest	11
ASB injunction** with power of arrest and exclusion	10
Undertakings***	7
Civil injunction under the new ASB, Crime & Policing Act 2014	5
Adjourned	4
Civil injunction under the new ASB, Crime & Policing Act 2014 with power of arrest and exclusion	4
Outright possession order on absolute grounds*	3
ASB injunctions	2
Total number	109

* On absolute grounds means that if we have the right legal reasons, the court must give us an order allowing us to take back the property.

**An injunction is a court order requiring a person to stop doing something.

***An undertaking is a promise that's legally binding.

Drug dealing and gang activity forces possession

Radian v Miss A (Thames) Slough County Court

The police obtained an order to close Miss A's property because of drug dealing and other criminal activity. We successfully asked the court for absolute possession of the property.

Miss A's property had been closed by Thames Valley police for three months after they'd got a closure order in the Magistrates' Court because of serious crime at the property including drug dealing and disorder. Miss A had also allowed a criminal gang from London to use her property for drug dealing, and she helped gang members to access other properties in the block where vulnerable residents lived so they could be used to deal drugs.

Further, she and gang members disrupted the lives of other residents by entering the property late at night and during the early hours. Their shouting and violent conduct led police to attend many times. The police executed a search warrant at Miss A's property and found a large quantity of Class A drugs, drugs paraphernalia and weapons. They arrested several people including Miss A.

The closure order triggered our use of an absolute ground for possession in the ASB, Crime and Policing Act. We therefore relied on the closure order and related police evidence when we applied to take back Miss A's property.

Before we issued possession proceedings, Miss A requested a review of our decision to serve a notice based on the absolute ground. We convened a review panel and allowed Miss A to have her say. The review panel decided to proceed with the possession action because of the closure order.

Slough County Court made an outright order for possession based on the ASB absolute ground for possession. We took back her property with help from the court bailiff and the police.



Again, drugs and serious crime result in repossession

Radian v Mr B (Thames)
Slough County Court

Police closure of Mr B's property triggered our successful application to take it back so that further misuse and criminal activity would be prevented.

Thames Valley police obtained a closure order in the Magistrates' Court, preventing Mr B using the property for three months because of serious crime there. Class A drugs and drugs paraphernalia were found at his home. Mr B was also arrested for possession of Class A drugs with intent to supply after the police found and recovered 60 wraps of crack cocaine.

The closure order triggered our use of the ASB ground for possession in the ASB, Crime and Policing Act 2014. We got an outright order for possession based on this absolute ground at Slough County Court. We took back possession with help from the court bailiff and the police.

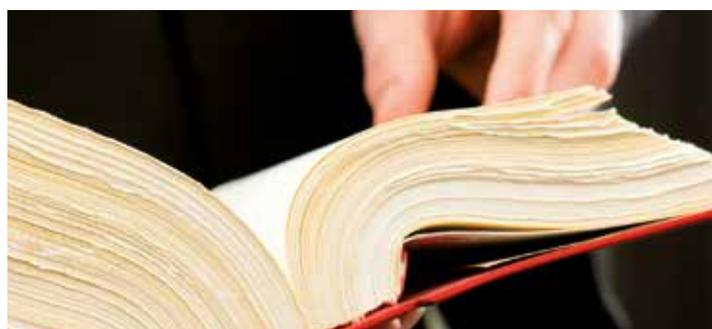
Serious sexual offences lead to a five-year suspended possession order

Radian v Mr C (Rother)
Portsmouth County Court

Mr C was convicted of sexual offences arising from his use of the property. At court, we succeeded in getting a suspended possession order.

Mr C was sentenced to 18 months' imprisonment, suspended for 24 months, for sexual offences. He was also given a five-year criminal control order. We relied on the conviction and supporting police evidence to apply for possession based on discretionary grounds.

In cases of serious criminal conduct, we will always consider seeking possession of a property. By agreement with the parties at court, a suspended possession order was granted rather than an outright order. Leading case law from the appeal courts suggests this is the correct approach, but the court made an order lasting five years to mirror the criminal control order. The order remains in force until 18 April 2023.



Illegal drug use and activity affects residents' wellbeing

Radian v Mr D (Avon)
Bournemouth & Poole County Court

We sought a possession order because of Mr D's drug and criminal activity. We were granted a suspended order and he was allowed to remain at the property, but under strict conditions.

Mr D's suspected drugs criminality was seriously disrupting other residents' lives. Visitors to his property were causing a nuisance, with some being arrested for possession with intent to supply Class A drugs. The police seized a significant amount of cash at the property. The police arrested Mr D for possessing Class A drugs at the property and found drugs paraphernalia there too.

The local council got a partial closure order at the Magistrates' Court under the ASB, Crime and Policing Act 2014. The order allowed him to remain at the property, but prohibited visitors coming and going for unlawful reasons.

The order was breached because someone did visit the premises contrary to the terms of the order. Mr D was convicted in the Magistrates' Court for this offence, receiving a sentence and conditional discharge for 12 months.

We therefore issued possession proceedings relying on the discretionary grounds for possession and the police evidence. Up to the court hearing, Mr D's conduct significantly improved: visitors stopped coming and going, and suspected criminality ceased. The court therefore decided to make a possession order, but suspended it as long as Mr D:

- complies with his tenancy agreement
- does not allow visitors to use, store, possess, cultivate or deal in illegal drugs at the property
- does not store any drugs paraphernalia at the property
- does not allow more than two other people at the property at any one time
- keeps the property in a good and clean condition
- gives Radian's employees access to the property for inspection when given written notice.

The suspended possession order remains in force until 26 June 2019.



Escalating threatening behaviour leads to criminal sentence and civil injunction

Radian v Miss E (Avon)
Southampton County Court

To protect other residents from further distress in this case of threatening behaviour, we successfully obtained a civil injunction and power of arrest.

Miss E and her visitor were abusive and threatening to other residents, which resulted in a criminal conviction for the visitor, a 23-week prison sentence and a restraining order to protect the neighbours. Criminal proceedings are also pending against the same visitor for allegedly threatening arson and committing a public order offence.

Miss E was tried in the Criminal Court, found guilty and sentenced to 12 weeks in prison, suspended for eight months, for her criminal offences. In addition, an 18-month restraining order was also made against her.

We applied for and obtained a civil injunction with power of arrest forbidding Miss E from:

- using or threatening the use of violence towards residents or Radian staff
- engaging in conduct causing or likely to cause harassment, alarm or distress to residents or Radian staff
- using threatening, foul or abusive language, including body language and gestures towards residents or Radian staff
- communicating directly or indirectly with named residents
- permitting or allowing named visitors to reside at or visit her property
- engaging in conduct causing or capable of causing a nuisance or annoyance to residents or Radian staff.

At the return hearing the court ordered that the injunction order and power of arrest should remain in force until 20 December 2019.

Court order restrains tenant's threatening visitors

Radian v Ms F and Mr G (Solent)
Portsmouth County Court

Repeated noisy behaviour and verbal abuse from our tenant's visitors forced us to get an extensive civil injunction and power of arrest.

The ASB in this case was caused by Ms F and Mr G (our tenant's visitors), and we applied for a civil injunction and power of arrest against them. The conduct included:

- violent arguments between Ms F and Mr G at the property
- loud noise and abusive language by both Ms F and Mr G coming from within the property
- verbal abuse directed at other residents
- noise nuisance and dogs barking
- shouting, screaming and verbal expletives
- risk of arson.

The court granted us a civil injunction and power of arrest forbidding Ms F and Mr G from:

- using or threatening the use of violence towards other residents or staff, Radian agents or contractors
- engaging in conduct causing or likely to cause harassment, alarm or distress towards any person listed above
- using threatening, foul or abusive language, including body language and gestures, towards any person listed above
- engaging in conduct causing or likely to cause a nuisance or annoyance to any person listed above.

At the return hearing the court ordered that the civil injunction and power of arrest should remain in force until 5 May 2018. There have not been further incidents since the order. We understand that Ms F and Mr G have left our tenant's property

The order has had the desired effect of protecting other residents in the block – and also our tenant.

Police find drugs, prompting a possession order

Radian v Mr J (Rother)

Aldershot & Farnham County Court

A police search found drugs and drug-taking paraphernalia in one of our properties, so we had to take action to prevent this serious criminal activity.

Hampshire police executed a search warrant at Mr J's property and seized Class B drugs. They also seized drugs paraphernalia and cash. Mr J pleaded guilty at the Crown Court to possession of a Class B drug (amphetamine) with intent to supply, possession of a Class B drug (ketamine) and possession of a controlled drug (cannabis). He was given a 24-month suspended prison sentence.

As a result of this serious criminal activity at the property, we applied for a possession order on discretionary grounds. The court made a suspended possession order on condition that Mr J:

- complies with all terms and conditions of the tenancy agreement including the behaviour of any visitors at the property
- agrees not to engage in conduct causing or likely to cause a nuisance or annoyance to any person residing, visiting or otherwise engaging in lawful activity in the locality of the property
- will not possess, or allow any visitor or household member to possess, carry or store, any illegal substance contrary to the Misuse of Drugs Act 1971 in any part of the property
- will not supply, or allow any visitor or household member to supply, any illegal substance contrary to the Misuse of Drugs Act 1971 in any part of the property.

The order remains in force until 23 November 2020.

Numerous issues lead to significant ASB problem

Radian v Miss H and Mr I (Avon)

Salisbury County Court

Several ASB issues left us no option but to seek a civil injunction with power of arrest.

Miss H is the tenant of our property and Mr I lives with her. The ASB they caused included:

- threats by Mr I towards neighbours, and an assault on one of them
- verbal abuse against neighbours
- noise including loud music, banging on walls and doors late at night and during the early hours of the morning, dogs howling loudly, and lots of shouting and screaming including verbal obscenities
- dog fouling
- smoking cannabis in the garden, smelt by other residents
- parking vehicles so as to obstruct allocated parking spaces.

These problems were causing significant disruption and nuisance to other residents, so we applied for a civil injunction and power of arrest. The court granted an order forbidding Miss H and Mr I from:

- causing or threatening violence to named residents
- verbally abusing, harassing or intimidating named residents
- causing any form of noise nuisance from the property which disturbs their neighbours
- causing nuisance and annoyance.

Miss H and Mr I did not attend the return hearing to represent themselves or put forward a defence, so the court ordered that the injunction and power of arrest should remain until 22 December 2018.



Non-occupation leads to possession order

Radian v Mr K (Rother)
Chichester County Court

As stated in the tenancy agreement, a Radian home must be the tenant's only or principal home.

Mr K was our tenant, but we had evidence that he was not living there as his only or principal home. Further, he had allowed others to enter and occupy the property, causing ASB to residents. This included possibly criminal conduct and a high volume of visitors coming and going late at night causing a nuisance. Suspecting drug dealing at or near the property, the police executed a Misuse of Drugs Act warrant.

We therefore applied for possession based on the non-occupation, which had led to ASB by the unlawful occupants. The court granted us outright possession on discretionary grounds. We took back the property with help from the court bailiff.

Bed bugs and nuisance leave tenant without a home

Radian v Mr L (Thames)
Slough County Court

In this continuation of a previous case, Mr L's refusal to allow us access has left him without a Radian home.

We reported in the last edition of Outcomes that we had got a civil injunction against Mr L. Regrettably, he continued to refuse us access to inspect and deal with a severe bed-bug infestation and a continuing water leak, which was affecting residents in the property below. He also continued to cause nuisance and annoyance to other residents and staff by directing abuse at them, banging doors, and shouting and swearing in the property.

We therefore applied to the court for possession on discretionary grounds. The court gave us an outright possession order. We took back possession of the property with help from the court bailiff and police.



Health and safety is our priority

Radian v Mr M (Solent)
Southampton County Court

We had to seek a civil injunction to gain access to replace a damaged front door and ensure tenant safety.

Mr M reported significant damage to the front door of the property as a result of someone trying to break in with a sledge hammer. However, he refused to allow us access to inspect and replace the door, which we regarded as a health-and-safety and fire risk to himself and neighbouring properties. We also tried to get access with help from the police, but again he refused access.

We therefore got a civil injunction at Southampton County Court in January 2018 requiring Mr M to give us access to inspect the property and do remedial work including a new front door.

If Mr M refused, the court gave Radian the right to force entry for the same purposes.

At last we got access to the property and replaced the front door, removing the risk to others.

As in this case, if there is a serious health-and-safety or fire risk, we will use civil injunctions to reduce and prevent that risk.

Serious fire risk leads to repossession

Radian v Mr N (Thames)
Slough County Court

We took possession of this property after a fire and a long period of neglect.

The fire service told us Mr N had caused a serious fire, leaving him with burns and the property so badly damaged it was uninhabitable. His actions had also endangered other residents.

Before the fire, Mr N had neglected the property. All the rooms were dirty. Rotting food and a build-up of rubbish made the whole place smell foul.

We obtained an outright order for possession on discretionary grounds. We took back possession of the property with help from the court bailiff.

Taking a proportionate response to ASB

In serious cases of ASB, we'll take a robust stance and use the enforcement tools available to us including civil injunctions and powers of arrest. If the defendant chooses to disobey a civil injunction order, we will issue possession proceedings.

In this edition, we have commented on two cases where we have obtained outright possession based on the absolute ground for possession that is provided in the ASB, Crime and Policing Act 2014. In both cases, police had closed the property for three months because of serious drug-related criminal activity. These closure orders enable us to use the absolute ground for possession. As these cases are so serious, the court has not hesitated to grant outright orders for possession.

We take a strong stance over criminal activity in our properties and have got several possession orders and suspended possession orders because of it. In some of the cases featured in this edition, the courts have regarded a suspended possession order as reasonable and proportionate to tackle the conduct complained of (see *Radian v Mr C* and *Radian v Mr J*).

Threats of violence towards our residents and staff are never acceptable. In such cases, we will seek enforcement using injunctions with power of arrest.

We also take very seriously any risk to the health and safety of our residents, including fire safety. In this edition, we cover two cases where we obtained a civil injunction and possession because of a serious fire risk to neighbours.

In many of the cases, civil injunctions have led the defendant to improve their behaviour and engage with us. By complying with the court order, they have avoided us having to take back the property.

In this edition we comment on cases where we have taken enforcement action that is both reasonable and proportionate. But in numerous cases we use other successful tools that avoid legal action including:

ASB contracts

We encourage perpetrators of ASB to take ownership of their conduct by recording in a document what they have done and what they will do to stop it happening again. These agreements really help people to take control of their conduct and prevent further incidents.

Mediation

In some less severe cases there may be a reason for the ASB. If at an early stage mediation can be used, it can often prevent more ASB and lead to an agreement between the individuals concerned.

Partnership working

We work closely with partner agencies such as the police and the local authority, particularly Adult Care Social Services, the Community Mental Health Team and environmental health. The agencies also have a range of legal remedies and powers that can help reduce and tackle ASB. These include closure orders, criminal behaviour orders, police dispersal powers, abatement notices, parenting contracts, parenting orders and community protection notices.

Preventive work

Our teams include our Community Safety Team, Neighbourhood Team and Community Involvement Team. They spend a great deal of time investing in projects, work and ideas in our communities to help reduce, prevent or stop ASB, but also to support vulnerable victims and vulnerable perpetrators. Some of this work includes:

- community events and schools projects
- employment and support team initiatives in communities
- referrals and signposting to other agencies that can give support
- tenancy support
- community café events in Mansbridge and Bordon
- training sessions with partner agencies.

Other activities...

- Cops and Coffee – a monthly relationship-building session where the local policing team attend the café and make themselves available to the community.
- Mansbridge Resident Association (MRA) – in this self-help initiative, the MRA has identified the perpetrators of crime and worked with them and the police to find solutions.
- Action on fly-tipping – a long-standing, collaborative, community project to prevent fly-tipping in the area has saved over £1,700.
- Active Nation – last summer, this project involved family-orientated activities in partnership with Southampton Healthy Living. During the time it ran, the number of reported ASB cases fell.



NEXT ISSUE

Keep up to date with the next issue of **Outcomes**, due in the Winter