



Home Office

BUILDING A SAFE, JUST
AND TOLERANT SOCIETY

A Guide to
Anti-Social Behaviour Orders
and
Acceptable Behaviour Contracts



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FOREWORD

FOREWORD BY THE RT HON JOHN DENHAM MP, MINISTER OF STATE FOR CRIME REDUCTION, POLICING AND COMMUNITY SAFETY AT THE HOME OFFICE

Of the problems which most affect neighbourhoods up and down the country, anti-social behaviour – covering as it does a whole complex of thoughtless, inconsiderate or malicious activity – has perhaps the greatest potential to blight the quality of community life. Every week I hear of aggressive or loutish behaviour which can cause something close to despair among people who are forced to put up with it. Anti-social behaviour is never victimless, and too often the victims are the elderly, the minorities, the poor, and the vulnerable.

But as a society we can fight back. And you, the practitioners to whom this guidance is primarily addressed, are the people who can lead that fight back. Recognising the extent and urgency of the problem is the first step; working in partnership with each other, bringing to bear a co-ordinated and strategic approach to the problem, is the next; and using the full range of instruments available to you is the third. And this guidance note is intended to help you to make the most effective possible use of two of the most important of the weapons in your armoury – the anti-social behaviour order or ASBO, and the acceptable behaviour contract or ABC.

This Government brought in the ASBO in the Crime and Disorder Act 1998. It represented a completely new approach to the problem, bringing the flexibility of civil law procedures to bear on perpetrators while ensuring that the strength of the criminal law was brought into play in case of breach. Although they have had a comparatively short life, they have already had a real impact in reducing anti-social behaviour and protecting individuals and communities. But the procedures have not been trouble-free. Too often, the process of applying for an ASBO has been protracted and expensive, while the remedy available has not always proved adequate. We have listened to practitioners, and brought forward a major package of changes in the Police Reform Act 2002. This guidance sets out to explain exactly what those changes are and how they can help.

But the guidance goes much wider than that. It completely overhauls the guidance produced when ASBOs first came out, offering you a single point of reference for all the questions which arise most frequently when an ASBO is being contemplated or applied for. Supplementary information will also be made available on the Crime Reduction Website.

And the guidance also, for the first time, offers practitioners a ready source of information and guidance on acceptable behaviour contracts. I cannot praise too highly the professionals in local authorities and police forces, in Islington and elsewhere, who came up with the concept of the acceptable behaviour contract and made it work. It is hard to think of a better example of local initiative bringing practical results in the whole field of social policy. This guidance is written in the belief that ASBOs and ABCs are not competing alternatives: the circumstances of the case will determine which is the right intervention – and you, the professional, are the right person to make that decision.

All of this is of course undermined without the effective enforcement of ASBO breaches by the court. Those who continue to bring fear, distress and misery to local communities should not go unpunished. Sentences should reflect the seriousness of the crime and do so in a consistent manner. Without this communities are denied the justice to which they are entitled and ASBOs are deprived of their powerful deterrent effect.

Tackling anti-social behaviour effectively is one of the greatest challenges facing our communities and those whose job it is to protect them. I hope that this guidance will prove itself to be of real help in that task.

A handwritten signature in black ink, appearing to read "John Deed". The signature is written in a cursive, slightly stylized font. The first name "John" is written in a larger, more prominent script, and the last name "Deed" is written in a smaller, more compact script. The signature is positioned in the lower-left quadrant of the page.

TAKING A STRATEGIC APPROACH

The crime and disorder reduction partnership lies at the heart of the Government's approach to the reduction of both crime and anti-social behaviour (much of which is of course criminal in nature). All crime and disorder reduction partnerships have been strongly recommended to appoint an anti-social behaviour co-ordinator, and over 90% of them have now done so. All partnerships, too, are required to draw up strategies for the reduction of anti-social behaviour in their areas, and the anti-social behaviour co-ordinators are in the best position to ensure that those strategies genuinely reflect the needs of the community served by the partnerships.

Anti-social behaviour has a wide legal definition – to paraphrase the Crime and Disorder Act 1998, it is behaviour which causes or is likely to cause harassment, alarm or distress to one or more people who are not in the same household as the perpetrator. Among the forms it can take are:

- graffiti – which can on its own make even the tidiest urban spaces look squalid
- abusive and intimidating language, too often directed at minorities
- excessive noise, particularly late at night
- fouling the street with litter
- drunken behaviour in the streets, and the mess it creates
- dealing drugs, with all the problems to which it gives rise.

All these are issues which concern everyone in the community. They cannot be written off as generational issues – they impact on the quality of life of young and old alike. And they require a response which puts partnership into action.

Just as the problems of anti-social behaviour are multifarious, the solution too must operate equally effectively on many levels. While an energetic and constructive police response is essential, it must be supplemented by engagement from a wide variety of partners. To take only the most obvious, schools need to have effective policies in place against truancy and bullying. Local authorities and registered social landlords need to take responsibility for acting against anti-social behaviour by their tenants, and against their tenants. Social services need to ensure that they are taking the welfare of the community fully into account when making their decisions. And, just as important, all of these bodies need to be sharing information with each other to the fullest possible extent in order to act fairly and decisively against the problems of anti-social behaviour.

ASBOs and ABCs can only work properly when they are based on this approach of partnership in action. As the guidance which follows will make clear, they are powerful instruments, and they will be at their most effective when all the agencies confronted by an individual's anti-social behaviour collaborate to make the best possible use of them.

Why ASBOs and ABCs?

ASBOs and ABCs are both comparatively recent developments designed to put a stop to anti-social behaviour by the individuals on whom they are imposed. But they work in very different ways, and these differences will inform the judgement of professionals on which of them may be the best option in any particular case.

The most obvious difference is that the ASBO is a statutory creation, and carries legal force; the ABC is an informal procedure, though not, as will be made clear, without legal significance. Both types of intervention are aimed at stopping the problem behaviour, rather than punishing the offender. Because the ABC is a voluntary contract, it has greater flexibility, while the ASBO, because of its more formal status, offers advantages in terms of enforcement.

ASBOs were introduced by Section 1 of the Crime and Disorder Act 1998 and first used in 1999. Home Office research published in 2002¹ found that the orders had delivered real improvement in the quality of life to communities around the country; its use of civil law procedures and the wide powers granted to courts to impose conditions once satisfied that an ASBO was necessary were widely welcomed. But the research also made clear that these new procedures had brought new problems with them, and these problems were part of the explanation for the fact that in some parts of the country ASBOs were being very little used by practitioners.

Once identified, the Government acted quickly to address these difficulties. The Police Reform Act 2002 contains five important changes, four of which are now (November 2002) being implemented. Courts may decide that an ASBO will be valid throughout the country; it will be possible to apply for interim ASBOs; registered social landlords and the British Transport Police will be able to apply for ASBOs; and it will be possible for a court to impose an order at the same time as passing sentence for a criminal conviction. From spring 2003 the fifth change, enabling county courts to impose orders under certain circumstances, will also be in force.

¹ Home Office Research Study 236, "A Review of anti-social behaviour orders" by Dr Siobhan Campbell, published April 2002

This guidance, which supersedes the guides to ASBOs produced by the Home Office in 1999 and 2000², explains these changes and aims to provide all the information with practitioners are likely to need in making the most effective possible use of these orders.

Acceptable behaviour contracts are voluntary agreements made between people involved in anti-social behaviour and the local police, the housing department, the registered social landlord, or the perpetrator's school. They are flexible in terms of content and format. Initially introduced in the London Borough of Islington to deal with problems on estates being caused by young people aged between 10 and 17, they are now used with adults as well as young people, and in a wide variety of circumstances. They have proved effective as a means of encouraging young adults, children, and importantly, parents to take responsibility for unacceptable behaviour. They are being used to improve the quality of life for local people by tackling behaviour such as harassment, graffiti, criminal damage and verbal abuse.

This guidance on ASBOs and ABCs draws on the experience of police services, local authorities, youth offending teams, and other organisations. It is intended for use by practitioners – people with a professional responsibility for tackling anti-social behaviour, whether they represent local authorities, the police, youth offending teams, registered social landlords, prosecutors, the judiciary, or any other agency which seeks to tackle the problem of anti-social behaviour.

The relationship between ASBOs and ABCs

It is important that all concerned should understand that ASBOs and ABCs are in no sense competing for business. Both are potentially extremely powerful tools for dealing with cases of anti-social behaviour, and it will be very much a matter for the individual practitioner to decide which of them it might be appropriate to go for in any particular case. It is particularly important to dispel any impression that anti-social behaviour orders should be regarded as measures of last result, only to be tried when other interventions such as acceptable behaviour contracts have already failed.

Where an ABC is selected as the best option, it is recommended that it should contain a statement that the continuation of unacceptable behaviour may lead to an application for an ASBO. Where a contract is broken, that should be used as evidence in the application for an ASBO. It may also be possible to use the evidence of anti-social behaviour which was originally collected for the ABC in any subsequent ASBO application.

² Home Office, "Anti-Social Behaviour Orders: Guidance", published March 1999; Home Office, "Anti-Social Behaviour Orders: Guidance on drawing up Local ASBO Protocols", published June 2000

Anti-social behaviour that can be tackled by ASBOs and ABCs includes:

- Harassment of residents or passersby
- Verbal abuse
- Criminal damage
- Vandalism
- Noise nuisance
- Writing graffiti
- Engaging in threatening behaviour in large groups
- Racial abuse
- Smoking or drinking alcohol while under age
- Substance misuse
- Joyriding
- Begging
- Prostitution
- Kerb-crawling
- Throwing missiles
- Assault
- Vehicle crime.

The terms of each order or contract should be tailored to the circumstances of the individual case.

ANTI-SOCIAL BEHAVIOUR ORDERS

1. Anti-social behaviour orders: the basics

What are anti-social behaviour orders?

Anti-social behaviour orders (ASBOs) were introduced by section 1 of the Crime and Disorder Act 1998 in England and Wales and have been available since April 1999. The powers to impose ASBOs were strengthened and extended by the Police Reform Act 2002, which introduced orders made on conviction in criminal proceedings, orders in county court proceedings and interim orders. Orders can now also extend across any defined part of England and Wales.

ASBOs are civil orders that exist to protect the public from behaviour that causes or is likely to cause harassment, alarm or distress. An order contains conditions prohibiting the offender from specific anti-social acts or entering defined areas and is effective for a minimum of two years. The orders are not criminal penalties and are not intended to punish the offender. An order should not be viewed as an option of last resort.

Stand-alone applications for ASBOs are made to the magistrates' court acting in its civil capacity. The order can be applied for during related proceedings in the county court; and requested (without the need for a formal application) if a defendant is convicted of an offence in the criminal courts. It remains a civil order irrespective of the issuing court.

ASBOs are community-based orders that involve local people not only in the collection of evidence but also in helping to enforce breaches. By their nature they encourage local communities to become actively involved in reporting crime and disorder and contributing actively to building and protecting the community.

The civil status of ASBOs has implications for the type of court proceedings at which applications are heard. The civil nature of the order means that hearsay and professional witness evidence can be heard. This is an extremely important feature of ASBOs because those subjected to the anti-social behaviour or those reporting the behaviour can be protected (see page 28).

Legal definition of anti-social behaviour for the purpose of obtaining an order

Under the terms of the Crime and Disorder Act 1998 the agency applying for the order must show that:

- the defendant behaved in an anti-social manner **and**
- an order is necessary for the protection of persons from further anti-social behaviour by the defendant.

This is sometimes referred to as the "two stage test".

Section 1(1) of the Act defines acting in an "anti-social manner" as "a manner that caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household" as the perpetrator. The definition is intentionally wide-ranging to allow for the orders to be used in a variety of circumstances.

The expression "likely to cause" has the effect that someone other than a victim of the anti-social behaviour can give evidence of its occurrence. This is intended specifically to validate the use of professionals as witnesses where those targeted by the behaviour feel unable to come forward, for example, for fear of reprisals or intimidation.

Standard of Proof

The House of Lords confirmed in the case of McCann³ that ASBOs were civil orders and set out the law on the standard of proof as follows:

"they [magistrates] must in all cases under section 1 apply the criminal standard ... it will be sufficient for the magistrates, when applying section 1(1)(a) to be sure that the defendant has acted in an anti-social manner, that is to say in a manner which caused or was likely to cause harassment, alarm, or distress to one or more persons not of the same household as himself." (Lord Steyn, paragraph 37)

This means that the criminal standard of proof applies to the past acts of anti-social behaviour alleged against the defendant.

³ House of Lords, *Clingham (formerly C (a minor)) v Royal Borough of Kensington and Chelsea* (on Appeal from a Divisional Court of the Queen's Bench Division); *Regina v Crown Court at Manchester Ex p McCann (FC) and Others (FC)*, October 2002

However, Lord Steyn went on to explain,

“The inquiry under section 1(1)(b), namely that such an order is necessary to protect persons from further anti-social acts by him, does not involve a standard of proof: it is an exercise of judgement or evaluation.”

It should be noted that it is the effect or likely effect of the behaviour on other people that determines whether the behaviour is anti-social. The agency applying for the order does not have to prove an **intention** on the part of the defendant to cause harassment, alarm or distress.

The Court will, however, disregard any behaviour shown to be reasonable in the circumstances under section 1(5) of the 1998 Act.

Types of behaviour for which ASBOs have been used

The most common behaviour tackled by ASBOs is general loutish and unruly conduct such as verbal abuse, harassment, assault, graffiti and excessive noise. ASBOs have also been used to combat racial harassment, drunk and disorderly behaviour, throwing missiles, vehicle crime and prostitution. Many other problems, for instance the use of air guns, would also lend themselves to this approach.

The wide range of anti-social behaviour that can be tackled by ASBOs and the ability to tailor the terms of the order to each specific case illustrates their flexibility.

Protecting hospital staff and patients – Cumbria Constabulary

Issue Two men persistently caused problems in the Accident and Emergency Department in Carlisle. Sometimes they came in with a genuine complaint (usually an injury, drug overdose or alcohol related problem), sometimes not. They were disruptive and abusive to patients and staff, caused a nuisance, used threatening behaviour and obstructed the proper treatment of the other patients.

Approach Timely case conferences were held with agencies relevant to the case – in this instance the probation service and social services. The issues explored included what had been done previously to address the behaviour and what new action should be taken. All participants supported the ASBO applications; the probation service saw the orders as an incentive to get the individuals into treatment. Evidence was collected by police community beat managers.

Outcome The ASBOs clearly defined the limits of acceptable behaviour. Prior to the orders being made the A&E department put up with a high level of nuisance before calling the police. Once the orders were in place staff felt able to call the police immediately if either of the men became abusive or disruptive. The police enforced breaches of the order, which have resulted in a range of sentences including custody. There was an 83% reduction in the number of incidents attended and an 81% reduction in arrests during the period of the order for one of the offenders. ASBOs are seen as having teeth and the threat of an order has resulted in a reduction of anti-social behaviour amongst several other individuals.

Lessons learned Case conferences put on record everyone's involvement and their accountability. Two-year orders were used but the anti-social behaviour by one of the men escalated when it expired. Carlisle police are preparing a new application for this man and are considering five-year orders for new cases. In addition, a planned programme of reviews will be introduced so that all parties are updated on progress. ABCs will also be considered for new cases.

Contact Sgt Andy Baines, Community Safety, Carlisle Police, North Cumbria Area Police Headquarters, 01228 528191

Who can an order be made against?

An order can be made against anyone aged 10 years or more who has acted in an anti-social manner and where an order is needed to protect person(s) from further anti-social acts.

The orders are tenure-neutral and can be used against offenders living in any type of housing (not just social housing). ASBOs can be used to combat anti-social behaviour in a wide range of situations and settings. They are highly relevant to misconduct in public spaces such as parks, shopping centres, transport hubs; but are by no means confined to such areas.

Where groups of people are engaged in anti-social behaviour a case needs to be made against each individual against whom an order is sought. However, the cases can be heard together by the court. Agencies have found that targeting ringleaders with orders is an effective deterrent to other members of the group.

Targeting Ringleaders – West Mercia Police

Issue A group of youths hanging around a village engaged in abusing drink and drugs, racially motivated incidents and causing damage

Approach Four ASBOs were obtained on the ringleaders, which prohibited them from:

- loitering in particular areas,
- entering named shops, and
- using threatening, abusive or racist language.

The police engaged the community in the process. The local beat manager and local councillor arranged a meeting with local people where they were able to voice their concerns. The police anti-social behaviour representative set out the plan to tackle the problems and explained what support and assistance was needed from the community for gathering evidence.

The ASBOs were used in parallel with other measures. These included:

- Targeting shop keepers selling alcohol to under 18s
- Tackling the local drugs problems by preventing incoming phone calls to local telephone boxes which were being used to arrange drug deals
- Working with the local bus company to make it more difficult for the troublemakers to get to their usual meeting place. Alternative arrangements were made for other users of the bus service

Targeting Ringleaders – West Mercia Police (*continued*)

- Following up on the behaviour after the ASBO had been made
- Meeting with the community again to review progress
- Prosecuting for breach.

Outcome Local police measured 24 reports of disorder in the month before the order, and five in the month after. There was no evidence of displacement of the problem to other areas. Following the success of the ASBOs local councillors took ownership of the situation and the community committed itself to helping with local initiatives to deter anti-social behaviour.

Contact Sgt Singh, West Mercia Police, Clive Road, Monkmoor, Shrewsbury, SY2 5RW
01743 232888

When investigating complaints about anti-social behaviour, it is vital that agencies satisfy themselves that complaints are well founded. In particular, they should consider the possibility that complaints may have been motivated by discrimination, perhaps on racist grounds, or to further a pre-existing grudge.

Failing to act against instances of anti-social behaviour can lead to an escalation of the problem by increasing fear of crime or leading those subjected to the anti-social behaviour to retaliate.

Who can apply for an order?

Agencies able to apply for orders are defined as 'relevant authorities' in the legislation (section 1(1A) of the Crime and Disorder Act 1998). These are:

- Local authorities
- Police forces (including the British Transport Police)
- Registered Social Landlords as defined by section 1 of the Housing Act 1996

Under section 1(12) of the 1998 Act the local authority is the district council or unitary authority. This is defined as the council for the local government area, which in relation to England means a district or London borough, the City of London, the Isle of Wight and the Isles of Scilly; and in relation to Wales, a county or county borough.

Local authorities and the police may apply for an order where they consider it necessary to protect persons in their area ('relevant persons') irrespective of where the original anti-social behaviour took place. An order can be sought which provides protection not just to the relevant persons but also, where necessary, to any persons in England and Wales.

The British Transport Police (BTP) and registered social landlords (RSLs) are empowered to apply for orders by changes introduced under the Police Reform Act 2002. This enables these agencies to deal with their particular problems of anti-social behaviour in a more effective and timely manner. RSLs may apply for orders against non-residents as well as residents and should consider doing so where the anti-social behaviour of non-residents is affecting the quality of life for residents.

Applications from the BTP or RSLs must concern anti-social behaviour related to the premises for which they are responsible by persons who are on or in the vicinity of such premises or likely to be either on or in the vicinity of such premises.

The British Transport Police and registered social landlords are required to consult both the local authority and local police force when applying for an order.

Neither agency is compelled to use the power. The police or local authority may still apply for ASBOs on their behalf. Under section 17 of the 1998 Act, the police and local authorities have a joint responsibility to develop and implement strategies for tackling anti-social behaviour and disorder in the local area. This responsibility is not changed in any way by allowing registered social landlords and the British Transport Police to apply for orders.

Which courts can make ASBOs?

- Magistrates' courts (acting in their civil capacity)
- County courts (where the principal proceedings involve anti-social behaviour by those who are party to the proceedings)
- Magistrates' courts (on conviction in criminal proceedings)
- The Crown Court (on conviction in criminal proceedings)
- Youth courts (on conviction in criminal proceedings)

Improving communication with the Courts – Coventry CDRP

Issue The need to improve understanding amongst the local judiciary of (1) the impact of anti-social behaviour on the community, (2) the potential benefits of ASBOs as a tool to protect the local community, and (3) the work that is put into an ASBO application and prosecuting breaches.

Approach The ASB co-ordinator and the court clerk arranged a seminar on ASBOs for lay magistrates and clerks in the area. Speakers included representatives from the police, a registered social landlord, the local authority and the Home Office. The local authority also produced a ten-minute video comprising of professional witness footage of ASB in the local area, which graphically illustrated the behaviour to which communities are being subjected.

Outcome The event was attended by over 70 magistrates, many of whom had been unclear about the problem of anti-social behaviour and the purpose of ASBOs. The event increased awareness of local issues as well as the powers available under the ASBO legislation. It has also raised awareness of the partnership approach used by local agencies, particularly the on-going efforts of the local police, local authority and registered social landlords.

Lessons learned The video has been used as part of a series of training sessions for the police and neighbourhood wardens and there are plans to use it for community safety officers.

Contact Andrea Poole, andrea.poole@coventry.gov.uk, 02476 832580

Orders made in county court proceedings (section 1B of the Crime and Disorder Act 1998)

The person who is the subject of an application made in the county court must also be party to the 'principal proceedings' (such as an eviction). Where the relevant authority is not a party to the principal proceedings, an application to be made a party and the application for an ASBO should be made as soon as possible after the authority becomes aware of the principal proceedings. The county court will be able to grant orders where the principal proceedings involve evidence of anti-social behaviour.

Enabling the county courts to make ASBOs may remove the need for a separate legal process in the magistrates' court and enables the public to be protected from anti-social behaviour more quickly.

An order made in county court proceedings might, for example, be useful to prevent an individual who is evicted from their accommodation for harassing their neighbours and/or others in the area from returning to the same area to continue the harassment.

An application could also be made in the county court for an order made where, for example, a private landlord was seeking a possession order and a relevant authority successfully applied to be joined to the proceedings.

The county court will be able to make ASBOs on the application of any relevant authority.

Orders made on conviction in criminal proceedings

Criminal courts – the magistrate's court, the Crown Court and the youth court – will be able to make orders against an individual who has been convicted of a criminal offence.

The order on conviction is considered and made by the court after the verdict during a civil hearing. It is not part of the sentence the offender receives for the criminal offence. It can only be made in addition to a sentence or a conditional discharge. The order will be granted on the basis of the evidence presented to the court during the criminal proceedings and any additional evidence provided to the court after the verdict.

The court may make an order on conviction on its own initiative and an application for an order is not required. Alternatively, the order can be requested by the police or local authority, who may make representations to the court in support of the request.

The order on conviction is a civil order and has the same effect as an ASBO made on application – it contains prohibitions rather than penalties and is made in civil proceedings. It is similar to the football banning order on conviction in that it is a civil order made following a criminal procedure⁴.

If the offender is detained in custody the court may make provision for the order on conviction to become effective on his or her release.

Where is an ASBO valid?

Before the changes introduced by the Police Reform Act 2002, the conditions an ASBO could impose applied only in the local government area in which the behaviour occurred and adjoining areas. An order can now extend across any defined area within, or indeed the whole of, England or Wales⁵.

⁴ Section 1C(2) of the Crime and Disorder Act 1998 states that the court may make an order which prohibits the offender from doing anything described in the order. Section 14A of the Football Spectators Act 1989 places a duty on the court to impose a Football Banning Order if a person is convicted of a relevant offence or to state in open court why such an order has not been made

⁵ The geographical area over which an order may cover is defined by section 1(6) for ASBOs and orders made in county court proceedings; and section 1C(2)(b) for orders made on conviction in criminal proceedings

The power to make an order over a wide area is for use where there is reason to believe that the person concerned may move or has already moved. It goes some way to addressing the problem of offenders moving to other areas and continuing the behaviour.

An order covering a wider area could address problems such as ticket touting at different train stations, anti-social behaviour on trains and help deal with the minority of the travelling community who persistently engage in anti-social behaviour around the country.

Any evidence of the itinerant nature of the defendant's lifestyle; evidence that the individual may move to another area; or wide geographical spread of offending behaviour should be submitted with the application file. The applicant does not have to prove that anti-social behaviour will occur elsewhere, just show that it is likely to. The more serious the behaviour, the more likely that the court will grant a geographically wide order.

Can interim orders be made?

Interim orders are available under section 1D of the Crime and Disorder Act 1998 (as amended by section 65 of the Police Reform Act 2002) in both the magistrates' court and the county court. This is an order made at an initial court hearing held in advance of the full hearing. This temporary order can impose the same prohibitions and has the same penalties for breach as ASBOs.

The interim order can, with leave of the justices' clerk, be made *ex parte* (without notice of proceedings being given to the defendant).

The benefit of the interim order is that it enables the courts to order an immediate stop to anti-social behaviour and thereby to protect the public more quickly. It reduces the scope for witness intimidation by making it unlawful for the offender to continue the behaviour whilst the ASBO application is being processed. It also removes any incentive for delaying the proceedings on the part of the perpetrator. The interim order will send a clear message to the community that swift action against anti-social behaviour is possible.

The orders can be made at the outset of proceedings for an application for an ASBO if the court considers that it is **just** to make such an order. The applicant authority should request an interim order at the same time as submitting an application for a full order.

When considering whether to make an interim order the court will be aware that it may not be possible at the time of the interim order application to compile all the evidence which would prove that a full ASBO is necessary. Rather the court will determine the application for the interim order on the question of whether the application for the full order has been properly made and where there is sufficient evidence of an urgent need to protect the community.

Applications for interim orders will be appropriate, for example, in cases where the applicant feels that persons need to be protected from the threat of further anti-social acts which might occur before the main application can be determined.

Where an interim order is granted *ex parte* (without notice of proceedings to the defendant) it is expected that the court will usually arrange an early return date. An individual who is subject to an interim order will have the opportunity to respond to the case at the hearing for the full order. The defendant is also able to apply to the court for the interim order to be varied or discharged. In this instance the matter will be dealt with at a hearing dealing specifically with the interim matter.

The interim order:

- Will be for a fixed period
- Can be varied or discharged on application by the defendant
- Will cease to have effect if the application for the ASBO or county court order is withdrawn or refused
- May extend over any defined area of England and Wales
- Has the same breach penalties as for a full order.

Interim Orders made in the Magistrates' Court (acting in its civil capacity)

An application for an *ex parte* interim order is subject to leave being given by the justice's clerk or court clerk. If agreement is given, a hearing may go ahead without notice being given to the defendant.

If the order is granted it should be served personally on the defendant together with the application for a full order and a summons giving a date for the defendant to attend court. The order will not take effect until it is served.

The court procedures and forms to be used when applying for or making an interim order are set out in the Magistrates' Courts (Anti-Social Behaviour Orders) Rules 2002, which will be available on introduction.

Interim Orders made in the county courts

A relevant authority may apply for an interim order in the county court once it is party to the 'principal proceedings'. The application for an interim order should be made early in the proceedings.

The procedure for making applications for orders in the County Court will be set out in the Practice Direction of the updated Civil Procedure Rules⁶.

Orders against children and young people

Under the Crime and Disorder Act 1998 applications for ASBOs against juveniles can be heard in the magistrates' court. Applications for orders are not heard in the youth court as a matter of course because of the civil status of the orders, although youth courts may as indicated above make orders where appropriate on conviction.

Automatic reporting restrictions would apply (under Section 39 of the Children and Young Persons Act 1933) to orders made on conviction in the youth court, but there are **no automatic reporting restrictions** in the magistrates' courts against juveniles.

A court making an ASBO does have the power to impose restrictions to protect the identity of a person under 18. But the imposition of reporting restrictions may restrict the effectiveness of the order if the effectiveness of the ASBO will largely depend on the wider community knowing the details.

Under the 1998 Act as amended applications for ASBOs against juveniles can also be heard in the county court. But such applications will happen only rarely where, for example, a juvenile is a tenant in possession proceedings.

Breach of an order

Breach of an order is a criminal offence; criminal procedures and penalties apply. The standard of proof required is the criminal standard. Guilt must be established beyond reasonable doubt. Breach proceedings are heard in the magistrates' court and may be referred to the Crown Court. Such proceedings are the same irrespective of whether the order is a full or interim order made on application to the magistrates' court or the county court, or an order on conviction in criminal proceedings.

The maximum penalty for breach of an order is five years imprisonment for an adult offender.

⁶ Available in January 2003; the order in county court proceedings is available from 1 April 2003

The maximum sentence for breach by juvenile is a detention and training order, which has a maximum term of 24 months – 12 months of which is custodial and 12 months is in the community. The DTO is available for 12 to 17 year olds (although a 12-14 year old must be a persistent (criminal) offender to be given a DTO). A 10-11 year old can be given a community order for breach of ASBO.

The sentence given should be proportionate and reflect the **impact** of the anti-social behaviour. Proceedings should be swift and not fractured by unnecessary adjournments either during the proceedings or before sentencing.

When the offender has been found guilty of breaching an order, and before sentencing, the court may take reports from the local authority or police and any applicant agency. The court should also consider the original reasons for the making of the order.

2. Managing the application process

This section focuses on the main issues involved in applying for an order. For an ASBO to be effective the process of evidence gathering and applying to the courts should be as swift as possible.

Groups of organisations and partnerships such as crime and disorder reduction partnerships may wish to consider buying specialist legal advice in blocks or pool expertise and experience. This is likely to be more cost-effective than buying in legal advice on a case by case basis.

Partnership working

A fully co-ordinated approach is essential if anti-social behaviour is to be tackled. Effective defence of communities depends on all agencies – including housing organisations, social services, education authorities and youth services – accepting that promoting safe and orderly neighbourhoods is a priority and working together to agree a response to unacceptable behaviour.

Taking Ownership

It is vital that a specified individual within the lead agency takes on a lead role with responsibility for the ownership, direction and management of the case. This will help to ensure that there is no confusion about who is expected to make sure that the necessary actions are taken on the right timescale.

The lead individual should manage and co-ordinate the involvement of other agencies so that they add value by contributing their own specialist knowledge and expertise.

A multi-agency approach should be adopted so that all agencies that could hold information on the individual in question are involved in the process at an early stage. Such agencies include the probation service, social services, health services, the youth offending team and voluntary organisations, all of which may have come into contact with the individual or members of their family.

Crime and disorder reduction partnerships should consider adopting the 'orders group' structure developed by Coventry CDRP.

- The orders group has delegated authority from the CDRP to establish and manage protocols and processes for implementing ASBOs (including information sharing).
- The orders group should comprise the local authority ASB co-ordinator and designated representatives from the police, education, social services, youth offending team, probation, RSLs, health, Crown Prosecution Service and the Courts. Other agencies should engage as is appropriate to the local area or particular case.
- Members of the orders group are senior officers with delegated decision making authority from their respective agencies. Each is responsible for the communication of the relevant protocols and partnership arrangements within their organisations.

A comprehensive protocol for the consideration of potential ASBOs and the pursuit of applications, where appropriate, should be committed to by the relevant partner agencies⁷. A lead officer should be identified to oversee each case.

- The protocol should also enable communication with agencies not directly represented on the main orders group or the CDRP (e.g. other RSLs or the fire service).
- A case conference approach should be established whereby potential ASBO cases are considered by the agencies who are able to contribute to the case and have information about the individual in question. The case conference could be held by the orders group where established, but is perhaps more likely to involve staff from agencies who are directly concerned with the case in question. It should be attended by the person with lead responsibility for the case.
- The role of the lead officer is to manage the case. This will include instructing solicitors, witness liaison and support, co-ordinating service of summonses, communicating developments to partners and ensuring that appropriate monitoring arrangements are in place to facilitate enforcement of orders granted.
- Case management meetings should be action oriented and outcome focused, the primary objective being to identify and implement appropriate measures to protect communities from anti-social acts. This may be an ASBO or another form of intervention as appropriate.

⁷ The protocol is available on the Crime Reduction Website

- Any agency should be able to request a case management meeting.
- Case management meetings should be held within two weeks of the identification of a case.
- In the majority of instances a single meeting should be sufficient to establish the action plan, inclusive of monitoring and review arrangements and a publicity strategy, where relevant.
- The action points of each case management meeting should be recorded by the lead officer.
- Where the case involves a young person, case management meetings should routinely include representatives from education, social services and the youth offending team. An assessment of the young person should be undertaken as soon as it is deemed appropriate. This may happen in parallel with the application.

The arrangements established by the CDRP should seek to combine robust procedures that comply with relevant legislative requirements (for example, for information sharing) with flexible operation – a pragmatic approach that avoids prescription and enables the agency most suitable in an individual case to fulfil the lead officer role.

The protocol and operational arrangements should be subject to review and change by the orders group, or where no orders group exists by the main CDRP, to promote effectiveness.

Other considerations

Local authorities have a duty under the NHS and Community Care Act 1990 to assess any person who may be in need of community care services. If there is any evidence to suggest that the person against whom the order is being sought may be suffering from drug, alcohol, or mental health problems, the necessary support should be provided by social services or other support agencies. Such support should run parallel with the collection of evidence and application for an order, where an application for an order is deemed necessary.

Partnership working – Thames Valley Police and Oxford City Council

Issue A lack of information amongst agencies about ASBOs and the working practices of different partners

Approach Oxford City Council police liaison officer and the Crime and Nuisance Action Team (CANAcT) provide training to other agencies and local authority teams. The objective is to bring all teams to a level where they are able to identify cases of anti-social behaviour in their day-to-day work and understand how to tackle it. Each team is taught how to initiate an investigation and make a referral to CANAcT. Agencies and witnesses use incident diaries produced by CANAcT to gather evidence. CANAcT then take over the investigation and deal with the case. CANAcT also have a service level agreement with registered social landlords in the Oxford City Council area to deal with their anti-social behaviour problems. Each case is studied either by the legal department of the police or the local authority, depending on which agency is leading the investigation.

Outcome Improved partnership working amongst agencies working to reduce anti-social behaviour. A variety of tools are considered in resolving problems and a mixture of criminal and civil remedies have been used. CANAcT is dealing with cases on a daily basis on behalf of registered social landlords.

Contact PC Jim Abram, police liaison officer, 01865 252502

Statutory consultation requirements

Section 1E of the Crime and Disorder Act 1998 (as amended by section 66 of the Police Reform Act 2002) sets out the consultation requirements for agencies applying for orders. These are that:

- The police and local authorities must consult each other
- Registered social landlords and the British Transport Police must consult both the local authority and police force for the area.

Consultation takes place with the agency whose area includes the address where the subject of the order resides or appears to reside. Each district or borough council and police division/basic command unit should have a nominated contact.

Consultation is required to inform the appropriate agency or agencies of the intended application for the order and to check whether they have any relevant information. Where the partnership working arrangements recommended in earlier paragraphs are in force, they will normally satisfy (and exceed) the statutory requirement for consultation.

The statutory requirement for consultation does not mean that the agencies must agree to an application being made but rather they are told of the intended application and given the opportunity to comment. This should ensure at the very minimum that actions taken by each agency regarding the same individual do not conflict.

While no agency has a veto over another agency's application for an ASBO, the expectation is that any reservations or alternative proposals should be discussed carefully, against the background of the overriding need to bring the anti-social behaviour to a speedy end. Again, the case conference procedure is designed to ensure that this happens.

A signed document of consultation is all that is required by the court. This should **not** indicate whether the party consulted was or was not in agreement. This is not required by the legislation. Supporting statements or reports from partner agencies should be provided separately.

The changes introduced by the 2002 Act reduce bureaucracy by removing the need for applying agencies to consult with every local authority and police service whose areas are included in the order.

In addition to the consultation requirements set out above, it may be helpful for police forces to contact the British Transport Police as they may hold information on the anti-social behaviour of the subject. The availability of this information may assist the evidence gathering process for an ASBO. The British Transport Police hold a national database of offenders committing summary offences (these include railway specific summary offences as well as those included in Home Office counting rules). Home Office police forces can request a search on a particular offender, in writing, from the Force Crime Registrar, British Transport Police, Force Headquarters, 15 Tavistock Place, London WC1H 9SJ.

Collection of evidence

When applying for an order the lead agency will be required to gather evidence to prove its case beyond reasonable doubt. This evidence can include hearsay evidence.

The evidence in support of an ASBO application should prove:

- 1) That the defendant acted in a specific way on specific dates and at specific places **and**
- 2) That these acts caused or were likely to cause harassment, alarm or distress to one or more persons not in the same household as the defendant.

The court then needs to evaluate whether an order is necessary to protect persons from further anti-social acts by the defendant. This is not a test to which a standard of proof will be applied. Instead it is an assessment of future risk. The applicant can present evidence or argument to assist the court in making this evaluation.

Witness evidence need not prove that they were alarmed or distressed themselves, but only that the behaviour they witnessed was likely to produce such an effect on others. As hearsay evidence is allowed it may be given by 'professional witnesses' – officers of public agencies whose job it is to prevent anti-social behaviour.

Experience has shown that elaborate court files are not normally required or advantageous. Where the anti-social behaviour has been persistent, agencies should focus on a few well-documented cases. A large volume of evidence and/or a large number of witnesses creates its own problems. There is more material for the defence to contest and timetabling issues may increase delays in the process. Agencies applying for orders should strike a balance and focus on what is most relevant and necessary to provide sufficient evidence for the court to arrive at a clear understanding of the matter.

Evidence may include:

- Breach of an acceptable behaviour contract
- Witness statements of officers who attended incidents
- Witness statements of people affected by the behaviour
- Evidence of complaints recorded by police, housing providers or other agencies
- Statements from professional witnesses, for example council officials, health visitors or truancy officers
- Video or CCTV evidence (effective where resolution is high and high quality still images can be used)

- Supporting statements or reports from other agencies, for example probation reports
- Previous successful civil proceedings which are relevant, such as an eviction order for similar behaviour
- Previous relevant convictions
- Copies of custody records of previous arrests relevant to the application
- Information from witness diaries.

Time Limits

Magistrates' courts (acting in their civil capacity)

Under Section 127 of the Magistrates' Court Act 1980 a complaint must be made within six months from the time when the matter of the complaint (the behaviour) arose. One incidence of serious anti-social behaviour may be sufficient for an order to be made. Earlier incidents may be used as background information to support a case and show a pattern of behaviour.

As long as the complaint is made within the six-month timeframe, a summons may be served outside this time period; although delay is not encouraged.

Use of hearsay and professional witness evidence

Hearsay and professional witness evidence allows for the identities of those too fearful to give evidence to be protected. This is especially vital as cases often involve anti-social behaviour in residential areas by local people where those targeted by the behaviour feel unable to come forward for fear of reprisals.

Hearsay evidence cannot be excluded (at the request of defence lawyers) simply on the grounds that it is hearsay.

Order on conviction in criminal proceedings

Evidence of anti-social behaviour which occurs at any time after the commencement of section 1⁸ may be taken into account when the court considers whether or not to grant an order on conviction under section 1C.

⁸ Section 1 of the Crime and Disorder Act 1998 commenced on 1 April 1999.

The House of Lords judgement in the McCann case confirmed that hearsay evidence is admissible. Lord Steyn stated that⁹:

“Having concluded that the proceedings in question are civil under domestic law and article 6, it follows that the machinery of the Civil Evidence Act 1995 and the Magistrates’ Courts (Hearsay Evidence in Civil Proceedings) Rules 1999 allow the introduction of such evidence under the first part of section 1.

“... use of the Civil Evidence Act 1995 and the Rules in cases under the first part of section 1 are not in any way incompatible with the Human Rights Act 1998

“... hearsay evidence will often be of crucial importance. For my part, hearsay evidence depending on its logical probativeness is quite capable of satisfying the requirements of section 1(1).”

It is a matter for the judge or magistrate to decide what weight they attach to hearsay evidence.

Hearsay allows a police officer to provide a statement on behalf of a witness or witnesses who remain anonymous. Hearsay evidence must be relevant to the matters to be proved. It could include details such as dates, places, times, specific descriptions of actions, who was present and who said what.

Hearsay can include evidence from the person taking the statement. The person giving the hearsay evidence may attest to the observable conditions of the witness, for example that the witness appeared upset, and may give evidence based on their own judgement of the situation.

Where an applicant intends to rely on hearsay evidence in the county court, they must act in accordance with Part 33 of the Civil Procedure Rules.

Professional witnesses

Professional witnesses can be called to give their opinions as to matters within their expertise and can give evidence on their assessments of the respondent or his/her behaviour. Examples of witnesses who may be called as professional witnesses include council officials, health visitors, station staff, teachers, doctors and police officers.

Care should be taken to ensure that a professional witness does not inadvertently enable the vulnerable or intimidated witnesses to be identified, for example from their home address.

⁹ Taken from paragraphs 35, 36 and 37 of *Clingham (formerly C (a minor)) v Royal Borough of Kensington and Chelsea (on Appeal from a Divisional Court of the Queen’s Bench Division); Regina v Crown Court at Manchester Ex p McCann (FC) and Others (FC)*

Witness Development and Support

The principal purpose of the ASBO is to protect those who directly experience anti-social behaviour. The protection provided should where necessary include those who are personally targeted by perpetrators, other witnesses who see this happen and the wider local community. It follows that engaging, developing and supporting these individuals and groups of people must be a primary concern of any agency managing a case and seeking to use ASBOs. Without the initial complaint of the witness the agency will have no detailed knowledge of the problem. Without their continuing development and engagement there will be no evidence on which to build a case.

Local strategies to promote the use of orders should have the interests of the witnesses and the community at their centre.

The welfare and safety of residents whose complaints form the basis of any action must at every stage of the process be the first consideration. The use of hearsay evidence and professional witnesses is one way of achieving this (see above).

While professional witnesses have a duty to engage, lay witnesses can only be expected to do so if they can see a point in doing it; if the agency is credible and authoritative; if the case work is visibly focused on the interests of the witnesses; if the order protects them and stops the anti-social behaviour quickly and effectively; if the case manager offers them well informed, practical personal support throughout the period of evidence collection, court proceedings and afterwards, as necessary.

The experience of the witnesses must be given value and significance by case managers. The witnesses' status and importance in case development must be made clear. They should be provided, as appropriate, with:

- a simple method of capturing information – diaries, video/audio recording facilities, translation services
- information on services and procedures – about the way witness support services will work, service access points, telephone numbers, name of the case manager working on their case
- an active and respected role in developing the case – the case strategy should reflect their needs, particularly for reassurance about their safety, and they should have control over any information they provide, including agreeing the form in which it will be provided to the defence

- protection for themselves and their family – security for door and window access, emergency contact equipment, panic alarms and mobile phones may all be appropriate in particularly serious cases
- regular contact from the case manager including telephone contact as agreed with the witness (daily, weekly etc.)
- support for any court appearance – a briefing on court procedures and what they should expect, the presence with them in court of the case-manager, transport to and from court (if necessary) and a secure space separate from perpetrators in which they can wait to be called
- support after a court appearance – speedy delivery of information, copies of any orders which have been made and an explanation of the implications of the court decision.

Each key witness should also be engaged in a face-to-face meeting including those who do not wish to give a statement or attend court.

Agencies should publicise positive results – one way this can be done is through leaflet drops (these can be cost-effective when targeted appropriately).

Improving protection of witnesses in court – Manchester City Council Nuisance Strategy Group

Issue Witnesses felt anxious about giving evidence. Their concerns included the prospect of appearing in court, coming face to face with defendants and being threatened by defendants at the court building as well as uncertainties about waiting room and refreshment facilities available.

Approach Manchester City Council negotiated the following arrangements with local courts for anti-social behaviour cases:

- Access to a quiet room for witnesses
- A video link for juvenile witnesses
- A video link for perpetrators in prison where it would be expensive to bring them back for an ASBO or injunction hearing (this also has the benefit of being less stressful for the witnesses)
- Police presence where appropriate.

In addition, the council provides practical information and support to witnesses. They are made aware of what to expect, including court layout, where they and the defendant(s) will be sitting and how people will be dressed. Practical support includes transport to and from the court, being met by a council officer when they arrive and information about refreshment and bathroom facilities.

Outcome The result has been reassurance and physical security for witness. This has led to a reduction in the anxiety about the prospect of appearing in court or accidentally meeting a defendant. Witnesses are better able to focus on the case. The case manager is also able to keep witnesses informed of progress and to manage the case more effectively.

Contact Bill Pitt, Nuisance Strategy Group, b.pitt@notes.manchester.gov.uk,
0161 234 4611

Witness support is an area where the benefits of partnership working can be clearly seen: local authorities and the police have different skills and resources and can combine them to give well-rounded support.

Methods of supporting witnesses currently being used by agencies also include:

- enclosing a letter with the summons advising the respondent to stay away from witnesses
- a higher police presence in the vicinity

- giving witnesses the personal mobile telephone number of a named police officer who can be called if they are threatened
- visits from neighbourhood wardens at pre-arranged times (sometimes daily)
- phone calls from the local authority at pre-arranged times.

The interim order enables witnesses to be protected from the outset of the court process.

Sections 48 and 49 of the Criminal Justice and Police Act 2001 make it an offence to intimidate witnesses in civil proceedings such as those for ASBOs.

Information sharing

Section 115 of the Crime and Disorder Act 1998 empowers any person to disclose information, where necessary or expedient for the purposes of the Act, to a chief officer of police, a police force, local authorities, probation service or health authority, or to a person acting on their behalf. Where the agency requesting the information clearly needs it for the purposes of reducing anti-social behaviour, the presumption should normally be that it will be supplied.

Information sharing and registered social landlords

A 'relevant authority' (as defined by section 115 of the Crime and Disorder Act 1998) may disclose information to a registered social landlord where the RSL is acting on behalf of the relevant authority for the purposes of the provisions of the Act.

In order to be 'acting on behalf of' the relevant authority the person or body so acting must have authority and must have consented to do so. Such authority may be derived in writing or orally. Authority may also be implied from the conduct of the parties or from the nature of employment. Authority may be confined to a particular act or be general in its character. If authority is general then it will still be confined to acts which the relevant authority itself has power to do.

It may be useful for partners to negotiate information-sharing protocols, examples of which can be obtained from the Home Office Information Sharing Team at:

Email: informationsharing@homeoffice.gsi.gov.uk

Website: www.crimereduction.gov.uk/informationsharing

The model protocol can be accessed at:
www.crimereduction.co.uk/infosharing21.htm

Information sharing issues can also be discussed with the Office of the Data Protection Registrar. If possible the protocol should be published, so that the public can see that information is being shared in an appropriate way.

The terms of the order (the prohibitions)

Although it is for the court to decide what prohibitions are to be imposed by the order, the applicant agency should propose conditions (including duration) to the court. A full order should be drawn up using the form in the court rules.

In the county court the proposed order should accompany the application. The process for the county court will be set out in the relevant Practice Direction.

Where the order is made on conviction in criminal proceedings an agency concerned in the case such as the police may propose prohibitions or the court may draw them up of its own volition. It should be noted that the order may not impose positive requirements, only prohibitions.

Careful thought needs to be given to the formulation of the conditions so they cannot be easily circumvented.

The prohibitions:

- Should cover the range of anti-social acts committed by the defendant
- Should be necessary for protecting person(s) within a defined area from the anti-social acts of the defendant (but as a result of the recent changes that defined area may be as wide as necessary and could in appropriate cases include the whole of England and Wales)
- Should be reasonable and proportionate
- Should be realistic and practical
- Should be clear, concise and easy to understand
- Should be specific when referring to matters of time if, for example, prohibiting the offender from being outside or in particular areas at certain times
- Should be specific when referring to exclusion from an area, include street names and clear boundaries such as the side of the street included in the order (a map with identifiable street names should also be provided)
- Should be in terms which make it easy to determine and prosecute a breach
- Should contain a prohibition on inciting/encouraging others to engage in anti-social behaviour
- Should protect all people who are in the area covered by the order from the behaviour (as well as specific individuals)
- May cover acts that are anti-social in themselves and those that are precursors to a criminal act, for example a prohibition on entering a shopping centre rather than on shoplifting

- May include a general condition prohibiting behaviour which is likely to cause harassment, alarm and distress
- May include a prohibition from approaching or harassing any witnesses named in the court proceedings.

Examples of ASBO prohibitions can be found on the Crime Reduction Website at www.crimereduction.gov.uk

Duration of an order

The minimum duration for an order is two years. There is no maximum period and an order may be made for an indefinite period. It is for the court to decide the duration of an order, but the applying agency should propose a time period as part of its application.

The duration applied for should take into account the age of the recipient, the severity of his or her anti-social behaviour, the length of time it has gone on and the recipient's response to any previous measures to deal with the behaviour. A longer order will generally be appropriate in the case of more serious or persistent anti-social behaviour.

Summons procedure

Magistrates' court (acting in its civil capacity)

The lead individual in charge of the case should arrange for a summons form to be completed, with a copy retained on the application file, and for the defendant to be served with the following:

- The summons
- A copy of the completed ASBO application
- Documentary evidence of statutory consultation
- Guidance on how the defendant may obtain legal advice and representation
- Any notice of hearsay evidence
- Details of evidence in support of the application as agreed with the applicant agency's solicitor
- A warning to the defendant that it is an offence to pervert the course of justice, and that witness intimidation is liable to lead to prosecution.

Wherever possible the lead officer in charge will ensure that service of the summons is made on the defendant in person. If personal service is not possible, the summons should be served by post as soon as possible to the last known address.

Where a child or a young person is concerned, a person with parental responsibility must also receive a copy of the summons. This could be a local authority social worker in the case of a looked-after child as well as, or instead of, the parent. ('Parent' has the same meaning as under section 1 of the Family Law Reform Act 1987 and 'guardian' is defined in section 107 of the Children and Young Persons Act 1933.)

The summons forms will be set out within The Magistrates' Courts (Anti-Social Behaviour Orders) Rules 2002.

County court

The process for the county court will be set out in the Practice Direction of the updated Civil Procedure Rules published in January 2003.

Disclosure

Before evidence is disclosed the applicant should consult the police and other agencies to ensure that all reasonable steps have been taken to support witnesses and minimise any potential for witness intimidation. Evidence should not be disclosed without the express permission of the witness. However, evidence that is not disclosed cannot be relied on.

The applicant should seek to maintain witness anonymity and ensure that it does not identify them by default (for example through details of location, race, personal characteristics or age).

Court procedures

It is important that those hearing the case are fully briefed on the purpose of an ASBO. There should be no confusion as to the purpose of the order, which is to protect the community. The welfare of a child is of course to be considered and indeed the making of the order should contribute to this by setting standards of expected behaviour. But the welfare of the child is not the principal purpose of the order hearing.

Whether or not the subject of the application is present the court should be asked to make the order. Adjournments should be avoided unless absolutely necessary.

Magistrates' court (acting in its civil capacity)

An application for an ASBO in the magistrates' court is made by complaint. This means that the court will act in its civil capacity. The provisions governing applications for orders in the magistrates' courts are set out in the Magistrates' Courts Act 1980.

Under section 1(3) of the Crime and Disorder Act 1998 the application should be made to the magistrates' court whose area includes the local government area or police area where persons need to be protected from the anti-social behaviour.

The lead officer in charge of the case should ensure that all the evidence and witnesses are available at the hearing, including any evidence in support of the need for the court to make an immediate order.

Under section 98 of the Magistrates' Courts Act 1980 evidence will be given on oath. Any magistrate or judge may hear the case.

A power of arrest is attached to non-attendance at court in civil procedures under section 55 of the Magistrates' Court Act 1980. Various provisions for adjournment, non-attendance at court and the issue of a warrant for arrest are contained in sections 54 to 57 of the Magistrates' Courts Act 1980.

How to prepare a court file for an ASBO application – Lancashire Constabulary

A file to support the application for an ASBO should be prepared by the lead agency or the solicitor acting on their behalf.

A minimum of eight identical court bundles will be required as follows:

- 3 Magistrates
- 1 Clerk to the Court
- 1 Applicant Solicitor
- 1 Defence Solicitor
- 1 Defendant
- 1 Witness Box

The files are in loose leaf format, (A4 ring binder)

The files should be indexed and paginated

The index and contents to include as appropriate:

- Summons for anti-social behaviour order together with proof of service
- Application for anti-social behaviour order (in format provided by the Magistrates' Court (Anti-Social Behaviour Orders) Rules 2002)
- Defendant's details
- Defendant's previous convictions
- Defendant's ABC agreements
- Summary of incidents being relied upon by applicant
- Map and description of exclusion area
- Association chart (showing relationships and connections where the alleged anti-social behaviour is by a group of people)
- Documentation of statutory consultations
- Supporting statements from multi-agency consultation
- Statement from the officer in the case

- Any other statements obtained
- Hearsay notices
- Draft order for endorsement by court
- Home circumstances report where the subject of the order is a juvenile (if necessary and completed).

The bundle should be prepared and served on the solicitor for the defendant as soon as the summons is served.

The applicant's solicitor should attempt to have the contents of the bundle agreed prior to any pre-trial review.

Disclosure should be transparent and complete.

Contact Niamh Noone, Lancashire Constabulary niamh.noone@lancashire.police.uk
01772 412919

County court

An application for an order in the county court must be made in accordance with the procedure set out in the appropriate Practice Direction of the Civil Procedure Rules. Where the relevant authority is the claimant in the principal proceedings, the application for the order should be included in the claim form. Where the relevant authority is the defendant in the principal proceedings, the application for an ASBO should be made by way of an application notice which should accompany the defence. If the relevant authority is not a party to the principal proceedings, an application to be made a party and for the order must be made to the court in the same application notice.

Orders made on conviction in criminal proceedings

After a defendant has been convicted of a criminal offence any agency which is concerned in the case, and would be entitled to apply for an ASBO, may make a request to the court that an order be imposed in addition to the sentence. Alternatively, the court may make an order of its own volition.

Court procedures for juveniles

Applications to the magistrates' court acting in its civil capacity

Since the youth court has no civil jurisdiction, applications for orders against under 18s will be heard by the magistrates' court (except where the youth court is asked to impose an order on conviction).

The officer in charge of the application should contact the justices' clerk in advance of the hearing to ensure that it will be conducted in a way that is suitable for the child or young person.

- Unlike a youth court, which is closed to the general public, the magistrates' court is open to the general public and has no automatic restrictions to prevent public and press access or to prevent reporting of the proceedings or to protect the identity of a juvenile (or adult) who is the subject of an application.
- The court should have to have a good reason, aside from age alone, to impose a discretionary order under section 39 of the Children and Young Persons Act 1933 to prevent the identification of a child or young person concerned in the proceedings.
- The applicant may resist a call from the defendant's representatives for such restrictions if the effectiveness of the ASBO will largely depend on the wider community knowing the details.

The applying agency should note that:

- Under Section 98 of the Magistrates' Courts Act 1980 evidence will be given on oath, except the evidence of a child under 14 years which is given unsworn;
- Section 34 of the Children and Young Persons Act 1933 requires the attendance of a parent or legal guardian at court for any person under 16 years of age. Every effort should be made before a hearing to ensure that this takes place to avoid unnecessary adjournments;
- The court will require information about his or her background, home surroundings and family circumstances. Such information should be available to avoid the need for an adjournment.

Assessment of needs

When applying for an order against a young person aged between 10 and 17, an assessment should be made of their circumstances and needs. This will enable the local authority to ensure that the appropriate services are provided for the young person concerned and for the court to have the necessary information about him or her.

It is vital that any assessment made does not cause delay to the application for an order. The lead agency should therefore liaise closely with the local social services department or youth offending team from the **start** of the process so that where a new assessment is required it can be begun quickly. In some cases an up-to-date assessment may already be available.

Councils with social services responsibilities have a duty, arising from section 17 of the Children Act 1989, to safeguard and promote the welfare of children within their areas who may be in need. The assessment of the needs of such children is expected to be carried out in accordance with the Framework for the Assessment of Children in Need and Their Families. The guidance sets out the content and timescales of the initial assessment (seven working days) and the core assessment (35 working days). A core assessment is required when an initial assessment has determined that the child is in need. The assessment will cover the child's needs, the capacities of his/her parents and wider family, and environmental factors. This enables councils to determine whether the child is a 'child in need' and what services may be necessary in order to address the assessed needs.

The assessment of the child's needs should run in parallel with evidence gathering and the application process.

Statutory agencies, such as social services, the local education authority or the health authority, have a statutory obligation to provide services to under 18s. They should do so irrespective of whether an ASBO application is to be made and the timing of that application. The ASBO application does not prevent such support and can proceed in parallel, or indeed prior to, that support.

Parenting orders

It is essential that parents and guardians take responsibility for the behaviour of their children. If an ASBO or an order on conviction is made against a juvenile the court should also consider making a parenting order in respect of the parents or guardians of the child or young person¹⁰.

Parenting orders are civil orders that help to engage parents¹¹ to address their child's offending or anti-social behaviour, and to establish discipline and a relationship with

¹⁰ Provision for parenting orders is set out in sections 8, 9 and 10 of the Crime and Disorder Act 1998. The orders can be made in proceedings where a child safety order, an anti-social behaviour order or sex offender order has been made; a child or young person is convicted of an offence; or a person is convicted of an offence under Sections 443 or 444 of the Education Act 1996

¹¹ For the purposes of the 1998 Act the term 'parent' has the same meaning as that contained within section 1 of the Family Law Reform Act 1987, that is either of the child or young person's natural parents whether or not married to each other at the time of their birth. 'Guardian' is defined in section 117 of the 1998 Act with reference to section 107 of the Children and Young Persons Act 1933, and includes any person who, in the opinion of the court, has for the time being the care of the child or young person. This may include people who may not have parental responsibility for the child or young person as defined in the Children Act 1989, such as step parents

their child. This may help the conditions of the ASBO to be met and thereby reduce the chances of the young person breaching the order.

The parenting order consists of two elements:

- A requirement on the parent or guardian to attend counselling or guidance sessions for up to three months. This element is compulsory and must be imposed in all cases when an order is made (except where the parent or guardian has previously received a parenting order – section 8(5)). Sessions can cover setting and enforcing consistent standards of behaviour and responding more effectively to unreasonable adolescent demands.
- The second element, which is discretionary, requires the parent or guardian to exercise control over the child and can last for up to 12 months. It could include ensuring that the child attends school regularly, avoids certain places or is home by a certain time at night.

The court needs to consider an oral or written report before making a parenting order, unless the child or young person has reached the age of 16. To avoid unnecessary adjournments such a report should be available early in the court process.

A 'responsible officer', who will generally be an officer from the local youth offending team, social services, probation service or the local education authority, supervises delivery of the parenting order. The officer will have responsibility for, among other things, arranging the provision of counselling or guidance sessions and ensuring that the parent complies with any other requirements which the court may impose.

If the parent does not comply with the order, the responsible officer can refer the matter to the police for investigation. Such action is generally expected only where non-compliance is sufficiently serious to warrant possible prosecution – the responsible officer is expected to work with the parent to improve compliance. But if prosecuted and convicted for non-compliance, the parent can be fined up to £1,000 (level 3 on the standard scale).

Good practice – managing procedures and timescales

Practitioners using ASBOs have taken a range of measures to minimise paperwork and delays, including¹²:

- Breaking down the process into clear, manageable stages that are easy to follow for those unfamiliar with the process.
- Setting timeframes for each stage of the application to keep the process focused, including a commitment to arrange problem-solving meetings within a short time.
- Releasing key staff so that they can concentrate on the ASBO application process – this should result in evidence gathering being conducted quickly and efficiently.
- Using other agencies, such as neighbourhood wardens and station staff, to collect evidence where additional evidence collection is required. (Evidence gathering and attending incidents are tasks that local authorities, RSLs and the police are already involved in and therefore not an additional cost).
- Adopting strategies to overcome challenges to witness evidence such as ensuring that witness statements corroborate.
- Minimising court delays by forewarning the courts of the application and using pre-trial reviews.
- Sharing costs between partner agencies and utilising the expertise from each agency.
- Not engaging in non-essential problem solving meetings in more serious cases in order to get to court more quickly.

Immediate post-order procedure

Where an ASBO is granted it is preferable for a copy of the order to be served on the defendant in person prior to his or her departure from court.

¹² Taken from Home Office Findings 160, "Implementing Anti-social Behaviour Orders: messages for practitioners", Dr Siobhan Campbell, 2002

Where an individual has not been personally served with the order at the court, the court should be asked to arrange for personal service as soon as possible thereafter. Proof of service of an ASBO is important, since any criminal proceedings for breach may fail if service is challenged by the defence, and cannot be proved by the prosecution. In the case of a child or young person the order should also be served and recorded as such on the parent, guardian or an appropriate adult.

An order comes into effect on the day it is made. But the two-year period during which no order shall be discharged except with the consent of both parties, starts from the date of service¹³.

The lead agency, if not the police, should ensure that a copy of the ASBO is forwarded immediately to the police. The agency should also give copies of the order to the ASB co-ordinator of the local crime and disorder reduction partnership, the other partner agencies, and to the main targets and witnesses of the anti-social behaviour, so that breaches can be reported and acted upon.

The police should notify the appropriate police area command on the same working day so that details of the defendant and the conditions of the order can be recorded.

A copy of the order should be provided to the lead agency's legal representative on the same day as the court hearing, and in the case of a juvenile the court will provide a further copy for the youth offending team (YOT).

The YOT should arrange for action to be taken by an appropriate agency (for example, social services) to ensure that the young person understands the seriousness of the ASBO. It should also consider the provision of appropriate support programmes to help avoid a breach of the ASBO by diverting the offender from the behaviour that led to it, although such programmes cannot as the law currently stands (November 2002) be a condition of the order.

¹³ Sections 1(9), 1B(6) and 1C(8) of the Crime and Disorder Act 1998, as amended

3. After the order is made

The obtaining of the order is not the end of the process. The order must be monitored and enforced.

Partnership-working after the order is made should include information exchange to ensure early warning of problems and clarification of who should do what to safeguard witnesses and what other action should be taken to challenge the perpetrator in such cases.

It is essential that breaches of an order, appeals against the sentence and any other actions relating to the management of the case are reported to the agency which is responsible for the management of the case.

Police National Computer (PNC)

Recording of orders on the PNC will enable police forces to effectively enforce breaches. Arrangements are being made for orders to be placed on the PNC so that police officers are able to identify those with an order and are aware of the conditions of the order so that the necessary action can be taken in case of a breach (which is an arrestable offence).

Appeals

Magistrates' court (acting in its civil capacity) and orders on conviction in criminal proceedings

Section 4 of the Crime and Disorder Act 1998 provides the offender with the right of appeal against the making of an order. Appeal is to the Crown Court. Rules 74 and 75 of the Magistrates' Courts' Rules 1981 and 6 to 11 of the Crown Court Rules 1982 apply to appeals against orders. Both parties may provide additional evidence.

By virtue of section 79(3) of the Supreme Court Act 1981, an appeal is by way of a re-hearing of the case. In determining an appeal, the Crown Court should have before it a copy of the original application for an order (if applicable), the full order and the notice of appeal. The lead agency should ensure that copies are sent to the court.

Notice of appeal must be given in writing to the clerk of the court and the applicant body within 21 days of the order (Crown Court Rules, rule 7). But the Crown Court has the discretion to give leave to appeal out of time (rule 7(5)).

The agency which brought the initial application should take charge of defending any appeal against the order. It should also lead in action to guard against witness intimidation.

The Crown Court may vary the order or make a new order. Any order made by the Crown Court on appeal shall be treated for the purpose of any later application for variation or discharge as if it were the original magistrates' court order, unless it is an order directing that the application be re-heard by the magistrates' court.

Although on hearing an appeal it is open to the Crown Court to make any incidental order, for example, to suspend the operation of a prohibition pending the outcome of the appeal where this appears to the Crown Court to be just, there is no provision for automatic stay of an order pending appeal. The order remains in force pending the outcome of the appeal and breach is a criminal offence even if the appeal subsequently succeeds.

An appeal against the ruling of the Crown Court is to the High Court by way of case stated under section 28 of the Supreme Court Act 1981, or by application for judicial review by virtue of section 29(3) of that Act.

It is also open to the applying authority to seek to challenge a magistrates' decision to refuse to grant an order by way of case stated (judicial review of the decision to the Divisional Court) by virtue of Section 111 of the Magistrates' Courts Act 1980.

County Court

Any appeal against an ASBO made in the county court must be made in accordance with Part 52 of the Civil Procedure Rules. Appeals against orders made by district judges will be to a circuit judge and against orders made by circuit judges to the High Court.

Breaches

Breach of an order is a criminal offence, which is arrestable and recordable. Responsibility for prosecuting a breach of an ASBO lies with the Crown Prosecution Service (CPS). Such prosecutions must therefore pass both the evidential and public interest test¹⁴.

¹⁴ see www.cps.gov.uk

The lead officer managing the case should keep the other partner agencies informed of the progress and outcome of the breach investigation. A particular consideration will be the need to protect witnesses.

The standard of proof for prosecution of a breach of an order is the criminal standard 'beyond reasonable doubt'. Provision is made in section 1(10) of the Crime and Disorder Act 1998 for a defence of reasonable excuse.

In the case of an adult (see below for juveniles), the maximum penalty on conviction in the magistrates' court is six months in prison or a fine not exceeding £5,000 or both; at the Crown Court the maximum penalty is five years in prison or a fine or both. Community penalties are available but a conditional discharge is not.

Agencies and courts should not treat the breach of an anti-social behaviour order as just another minor offence. (It should be remembered that the order itself would normally have been the culmination of a course of persistent anti-social behaviour.) An anti-social behaviour order will only be seen to be effective if breaches of it are taken seriously.

Persistent anti-social behaviour at train stations – British Transport Police

Issue Ticket touting is a serious problem at London Underground stations. A particular case involved an individual causing a severe nuisance by touting for tickets and abusing and threatening staff. This happened on an almost daily basis over a period of many years. The individual was the subject of continuous calls for police assistance. He was reported and arrested on numerous occasions but received only fines for individual minor offences, which had no deterrent effect.

Approach The British Transport Police (BTP) worked with the local authority to apply for an ASBO. Staff and the community were used to gather evidence of behaviour for the application. An ASBO was considered to be effective because proceedings for breach are criminal and previous convictions for breach of the ASBO can be cited prior to sentencing. This allows sentences for breach to reflect the impact of the behaviour on the community.

Outcome The individual has been sentenced twice for breach (custodial sentences were given both times). The ASBO has without doubt improved the quality of life for the community by protecting customers and staff from abuse.

Contact Chief Inspector David Dickason, British Transport Police, 020 7222 5600, daviddickason@gtnet.gov.uk

Information on breaches can be received from any source including the local authority housing department and other local authority officers, neighbours and other members of the public. Any information received by a partner agency should be passed immediately to the police and lead officer, who should inform the other agencies involved.

Breach penalties are the same for all orders, including the interim order. Court proceedings should be swift and not fractured by unnecessary adjournments either during the proceedings or before sentencing.

Where the offender is found guilty of the breach, the court may take reports from the local authority or police and any applicant agency before sentencing. The court should also consider the original reasons for the making of the order. The sentence given should be proportionate and reflect the **impact** of the behaviour complained of.

Breaches by juveniles

Breach proceedings for children and young people will be dealt with in the youth court. Breach proceedings in the youth court are subject to automatic reporting prohibitions (Section 49 Children and Young Persons Act 1933) unless lifted. The court has a wide discretion to lift the reporting restrictions. Section 49 (5)-(8) sets out the circumstances in which it may do so, prior to and irrespective of, any conviction. Section 49 (4) sets out the circumstances after conviction.

Under Section 98 of the Magistrates' Courts Act 1980 evidence will be given on oath, except the evidence of a child under 14 which is given unsworn.

Section 34 of the Children and Young Persons Act 1933 requires the attendance of a parent or legal guardian at court for any person under 16 years of age.

The court will require information about the young person's background, home surroundings and family circumstances prior to sentence. This should be provided by the youth offending team or social services.

The maximum sentence for breach by a juvenile is a detention and training order (DTO), which has a maximum term of 24 months – 12 months of which is custodial and 12 months is in the community. The DTO is available for 12 to 17 year olds (although a juvenile aged between 12 and 14 years must be a persistent (criminal) offender to be given a DTO). Those aged 10 and 11 years old can be given a community order for breach of ASBO. As with adults, community penalties are available but a conditional discharge is not.

In addition the youth court should consider whether to make a parenting order.

Variation and Discharge of an Order

Variation or discharge of an order, including an interim order, may be made on application to the court that originally made it.

An application to vary or discharge an order made on conviction in criminal proceedings may be made to any magistrates' court within the same petty sessions areas as the court that made the order.

The application can be made either by the original applicant in the case or the defendant. An order cannot be discharged within two years of its service without the agreement of both parties. An order made on conviction cannot be discharged before the end of two years.

The procedure for variation or discharge will be set out in The Magistrates' Courts (Anti-Social Behaviour Orders) Rules 2002, The Crown Court (Amendment) Rules 2002 and the Civil Procedure Rules. These are published separately to this guidance and available on introduction on the Crime Reduction Website at www.crimereduction.gov.uk

If the individual asks for a variation or discharge of an order, the agency that obtained the order needs to ensure that a considered response is given to the court.

If it is decided that the lead agency should contest the application for variation or discharge, it should give the court its reasons, supported as appropriate by evidence gathered in the course of monitoring the effectiveness of the order.

The magistrates' court clerk will send details of the variation or discharge of any ASBO to the local police force and local authority. The police should record any discharge or variation of the ASBO on their computer system and arrange for any changes to be reflected in the Police National Computer record.

Monitoring and Recording

Local agencies should agree common procedures for recording and monitoring both their successful and unsuccessful applications. Details of orders granted should be sent to the local crime and disorder reduction partnership ASB co-ordinator and the local authority or police as appropriate as well as other agencies involved with the offender (including the local youth offending team if the offender is under 18 years old).

As a minimum there should be a record of:

- The original application (or details of the prosecution and hearing for the order in the case of an order on conviction) including the name, address, date of birth, gender and ethnicity of defendant
- The order itself including, where applicable, the map showing the exclusion area
- Date and details of any variation or discharge of the order
- Action taken for any breach.

The following information could also be recorded:

- Name, address, age, gender and ethnicity of the victim – or a statement that the case involved no identified victim
- Details of the person or persons who complained of the behaviour
- Details of any contributory issues, for example, drugs, alcohol and substance misuse and/or mental health problems
- Details of any aggravating factors, for example, racial motivation
- Assessment of outcome in terms of whether or not the anti-social behaviour ceased.

Consistency of information will help to assess the effectiveness of orders and inform future local audits and crime reduction strategies.

Promoting awareness of orders

The purpose of ASBOs is to protect local communities from the harassment, alarm or distress that can be caused by anti-social behaviour. An effective media strategy by the crime and disorder reduction partnership (CDRP) is therefore essential if local residents and businesses are to be aware of orders and their implications. Using the local press to ensure the community knows the subject and conditions of the order is often a cost-effective strategy.

At the same time, the staff of the partner agencies need to understand how and when ASBOs can be used, and how they relate to the other tools to combat anti-social behaviour available to the partnership.

Local agencies and CDRPs should, within the context of their overall strategies for combating anti-social behaviour, devise a strategy for promoting awareness of orders. A designated officer should have responsibility for its delivery. This might most naturally be the CDRP ASB co-ordinator. Disclosure of information should be necessary and proportionate to the aim it seeks to achieve.

Suggested aims of the strategy:

- To increase community confidence in reporting anti-social behaviour and expectations that it can be reduced
- To deter potential offenders from anti-social behaviour
- To ensure that the **local population is aware** of ASBOs, the powers of the local authority, registered social landlords and the police (including the British Transport Police) to apply for them and who to approach if they believe that an ASBO may be appropriate
- To ensure that agency staff have confidence in using ASBOs
- To ensure that potential witnesses are aware of the support available to them.

ACCEPTABLE BEHAVIOUR CONTRACTS

What are Acceptable Behaviour Contracts?

An ABC is a written agreement between a person who has been involved in anti-social behaviour and one or more local agencies whose role it is to prevent such behaviour. ABCs are most commonly used for young people but may also be used for adults.

The contract is agreed and signed at a meeting with the individual and the lead agencies. Where the person whose behaviour is at issue is a child or young person, parents or guardians should be encouraged to attend.

The contract specifies a list of anti-social acts in which the person has been involved and which they agree not to continue. Where possible the individual should be involved in drawing up the contract. This may encourage them to recognise the impact of their behaviour and take responsibility for their actions.

Support to address the underlying causes of the behaviour should be offered in parallel to the contract. This may include diversionary activities (such as attendance at a youth project), counselling or support for the family. It is vital to ascertain which agencies are already involved, especially where the individual is aged between 10 and 17 years.

Legal action in the form of an anti-social behaviour order or possession order (if the young person is in social housing) should be stated on the contract where this is the potential consequence of breach. The threat of legal action provides an incentive to ensure that the contract is adhered to.

Types of behaviour ABCs have been used for

ABCs have been used to address a wide range of anti-social behaviour including:

- Harassment of residents or passersby
- Verbal abuse
- Criminal damage
- Vandalism

- Noise nuisance
- Writing graffiti
- Engaging in threatening behaviour in large groups
- Racial abuse
- Smoking or drinking alcohol while under age
- Substance misuse
- Joy riding
- Begging
- Prostitution
- Kerb-crawling.

Acceptable behaviour contracts for kerb crawlers – Lancashire Constabulary

Approach In February 2002 Preston police launched ‘Operation Kerb’ to tackle the problem of street prostitution in an area of the city. This involved targeting kerb crawlers, as well as prostitutes, all of whom were asked to sign a generic ABC on arrest. All of the 15 kerb crawlers arrested at the time signed contracts.

Outcome The ABCs were extremely successful with the kerb crawlers – none of these contracts were breached. The scheme was less successful with the prostitutes and applications for ASBOs have been made against them.

Lessons learned In future the contracts used will be tailored to the individual concerned rather than generic.

Contact Steve Little, Lancashire Constabulary, 01772 614444

Multi-agency working

The flexible nature of ABCs allows for various agencies to take the lead according to the circumstances in each case, local practice and which agencies can have greatest impact on reducing unacceptable behaviour.

In Islington, for example, the Anti-Social Behaviour Team running the ABC scheme is led by representatives from the local authority housing department and the local police. In other areas the lead agency is the youth offending team working closely with the local police.

Other agencies involved with ABCs – either as signatories on the contract or in providing support to the individual and family – are registered social landlords, social services, schools, environmental health and health services. This is not a prescriptive list.

Providing training for staff in partner agencies involved in ABCs will enable schemes to work more effectively. In particular, training should cover the practical implications of contracts (such as the paperwork required) and how to deal with breaches.

Multi-agency working has a number of benefits. It can:

- Increase the speed of evidence gathering
- Improve background information on the individual's circumstances
- Help to ensure that interventions are tailored to the individual
- Improve monitoring of contracts
- Reduce breaches by the provision of other support
- Enhance the effectiveness of the scheme through joint training and planning
- Utilise a variety of expertise to intervene early in anti-social behaviour.

Tackling youth anti-social behaviour – Stockport Youth ASB Action Team

Approach The team make good use of acceptable behaviour contracts as an intervention with persistent young offenders, usually as a precursor to an ASBO. ABCs have been useful in preparing ASBO applications as they indicate to the court that an offender is unwilling to change their pattern of behaviour voluntarily and this negates any attempt by defence counsel to argue that the ASBO is unnecessary. The team has also had success in using records of previous criminal convictions together with a statement from the area police officer and the local anti-social behaviour officer as the main evidence in an ASBO application.

With younger offenders or those who are on the cusp of offending behaviour, the team offers intervention work tailored to the individual's needs and often use ABCs as a part of this intervention work to set boundaries and enable parents to regain some authority. On such occasions the team tend to work closely with specialist education staff and sports development officers.

The team has surveillance staff who use surveillance equipment to gather evidence for the team and other agencies such as the local authority housing department. Community beat officers also draw on this information to extend their operational capabilities.

Outcome By November 2002 over 30 ABCs have been issued with only five being breached; four ASBOs have been granted and a further five are at an advanced stage of preparation. Three breached ASBOs have resulted in detention and training orders. The team found that the use of the record of previous criminal convictions speeded up the process of getting the ASBO granted as it showed a pattern of anti-social behaviour.

Contact Keith Swindell, Youth Anti-Social Behaviour Action Team, Stockport YOT, 0161 476 2876, keith.swindell@stockport.gov.uk

Publicity

It is important that agencies and the community are aware of the full range of services available to tackle anti-social behaviour. This will encourage reporting of complaints and let those involved in anti-social behaviour see that effective action can be taken against them.

The ABC scheme should be well publicised amongst young people. In particular it could be publicised within local schools and amongst other agencies working with young people.

Identifying individuals for ABCs

People for whom a contract may be beneficial can be identified using a wide variety of evidence sources:

- Complaints to housing staff or police officers
- Housing staff observations
- Police stops or arrests
- Other police intelligence
- Photographic evidence
- Self admission
- Video evidence
- Discussions with residents
- Information from the education service, especially relating to truancy and exclusions
- Information from and about the victims of antisocial behaviour
- Social services data
- Referrals from other schemes and agencies, for example youth services.

Once agencies identify a suitable candidate for a contract, checks should be made into whether the individual or family is subject to any other investigations or support. In the case of a young person the local youth offending team should be informed and if appropriate the social services or education welfare.

It is vital that consideration is given to whether an individual is really suitable for the scheme. Where there is offending behaviour which is serious and persistent an ASBO or other legal action is likely to be more effective.

Targeting individuals for ABCs – Islington Anti-Social Behaviour Team

An area or housing estate with increased disorder levels is identified.

A letter is sent to all residents on the estate outlining the aims and objectives of the ABC scheme. The letter discusses the problems caused by anti-social youths on the estate, and includes a general description of the unacceptable behaviour occurring. It invites residents to record the details of all problem behaviour experienced or witnessed and to complete incident record books that can be used for evidential purposes. The local authority housing department, police and other agencies are also encouraged to monitor activity and gather evidence to identify the people involved.

A second letter is sent specifically to the parents or legal guardian of any young person who has come to the attention of the police or the local authority housing department informing them of their child's unacceptable behaviour. This second letter invites both the young person and their legal guardian to attend an interview with police and housing officers at their local housing office to discuss the behaviour of the young person. The letter informs the family that on completion of this interview the child will be expected to sign an acceptable behaviour contract and adhere to its terms and conditions for a period of 6 months.

Contact Paul Dunn or Alison Blackburn, Islington Anti-Social Behaviour Team, 020 7421 0111, paul.e.dunn@met.police.uk, alison.blackburn@islington.gov.uk

The ABC meeting

Once the appropriate agencies have been consulted the individual involved should be formally invited to take part in a meeting with the all the relevant parties.

The ABC meeting should be used as an opportunity for the individual involved in the anti-social behaviour and his or her family, where appropriate, to discuss the meaning of the term 'anti-social behaviour' and the impact it has on others.

The meeting can be used as an early intervention process to stop the inappropriate behaviour becoming worse and to outline possible repercussions should the behaviour be repeated. It can also be used as an opportunity to provide support to address underlying causes such as family problems. Further action may then be taken by the lead agencies after the meeting to ensure that other agencies become involved as necessary.

It is worth thinking about where the meeting should take place. While the use of police premises may reinforce the importance attached to an ABC it is important that care is taken to ensure that the interview is not misinterpreted as being part of a criminal investigation.

Parents or guardians, housing or local police officers and any other interested party such as a social worker or family friend may be present if it is considered appropriate.

If the individual who is to become subject to an ABC does not attend without notification or good reason further attempts, by letter or a visit, should be made to contact them. If this fails their non-appearance can be documented and used at any future proceedings if the inappropriate behaviour is repeated. Written warning of this should be sent to the person concerned.

The meeting where the contract is signed does not constitute legal proceedings.

Key points when arranging and conducting the ABC meeting:

- Publicise the scheme prior to holding the meeting so that those concerned are aware of the scheme and its aims
- Make the interview less formal to avoid intimidating the family
- Choose a spacious room and only invite key stakeholders
- Involve other agencies prior to this meeting, for example youth services and schools
- Hold a pre-meeting with key stakeholders to share relevant information. This will help to keep attendance at the actual interview to a minimum
- Allow adequate preparation time.

Also see Appendix G for suggested Do's and Don'ts of the ABC meeting.

Addressing the underlying causes of anti-social behaviour – Islington Anti-Social Behaviour Team

Issue A young person was entering a housing association estate and continually damaging property, smoking and drinking until the early hours and abusing a number of the vulnerable residents.

Approach Police and housing staff held an ABC meeting with the young person and his mother. It became apparent that he was not aware of the effect of his behaviour on others and his mother was unaware of his actions. Through discussions at the meeting the underlying cause of the problem was identified: due to the lack of space in their accommodation the mother was asking her son to leave the property at night. An ABC was signed by the young person and the lead agencies. In addition, the housing officer placed the family on the priority housing list for more suitable accommodation on the condition that the son kept to the terms of the contract.

Outcome The family were moved during the six month period of the ABC. Since signing the contract the young man has not come to the attention of police or housing staff.

Contact Paul Dunn or Alison Blackburn, Islington Anti-Social Behaviour Team, 020 7421 0111, paul.e.dunn@met.police.uk, alison.blackburn@islington.gov.uk

Drawing up the contract

An ABC normally lasts for six months, though since it is not a statutory document any reasonable period may be specified.

While the terms of the contract should reflect the behaviour to be addressed they should not be so numerous that the individual is overwhelmed. About half a dozen might be the norm. In addition there needs to be a balance between general and specific conditions. If they are too general it may be unclear precisely what acts are covered, but if they are too specific it may be possible to evade them too easily.

The contract should be written in language that the individual can easily understand.

Examples of terms agreed in ABCs:

I will not:

- damage property
- verbally abuse passersby
- write graffiti
- throw stones or other objects
- congregate in groups
- climb on public or private property
- spit
- smoke in public
- set fire to things
- physically harass people
- damage the environment
- smash glass
- damage cars

Some schemes define all criminal offences committed by the individual as breaches irrespective of whether the behaviour is prohibited by the contract.

The contract can be renewed after further discussions have been held if breaches have occurred or other forms of anti-social behaviour are continuing. Second contracts should be considered if the behaviour does not improve during the first contract or resumes soon after. However, where an ABC is not likely to tackle the problem behaviour other measures, such as an anti-social behaviour order, should be pursued quickly.

A copy of the original contract should be made available to all those involved in monitoring the behaviour of the individual. Other interested parties should be informed of the agreed conditions of the contract where appropriate, which may include the youth offending team and other agencies.

Monitoring

Continued monitoring is vital for the contract to be effective. Information on breaches can be collected from the same sources as those from which the original anti-social behaviour was identified (see above). Accurate and systematic data collection techniques – such as standard forms and reporting systems – will assist with the monitoring and evaluation of contracts.

If the contract is breached there must always be a response. Agencies and organisations involved will need to consider the circumstances and decide upon the best course of action.

Key points for ensuring effective monitoring:

- Ensure enough staff and resources are available for monitoring.
- Keep the number of contracts in each geographical area of responsibility relatively low.
- Ensure that there is good communication between the agencies involved, especially in relation to sharing information. If one agency is primarily responsible they need to inform others of their findings and also make sure evidence is collected from other agencies. Breaches can be overlooked if data is not shared.
- Make sure that there are an adequate number of home visits (at least two) during the contract.
- Ensure that there are regular meetings of those involved in monitoring and implementing the scheme.
- Ensure that there is good information for residents who may act as witnesses to anti-social behaviour.
- Ensure parents of children who have entered into contracts receive regular feedback about their behaviour.

Dealing with breaches

The action taken should be determined by the nature of the breach. A structured approach can be taken to breaches, leading to legal action if the behaviour does not cease. Such a structured approach may involve:

- Verbal warnings
- Written warnings (however this assumes a good level of literacy and visits may be more appropriate)
- An interview to discuss and reiterate the contract terms. This will also help to identify why the breach has occurred and enable agencies to provide additional support that may be required to prevent further breaches
- Proceedings for an anti-social behaviour order
- Proceedings for a possession order.

Agencies such as the youth offending team (in the case of a young person) should be involved to identify appropriate measures to address the continued unacceptable behaviour. However, where the community is facing on-going anti-social behaviour, legal action should be considered.

ABCs are not a substitute for anti-social behaviour orders (ASBOs) and should not be seen as a necessary precursor to an application for an order.

Evidence collected for an ABC and breach of the contract may be cited in court for an application in support of a possession order or an anti-social behaviour order.

APPENDICES

A. Summary of legislation governing ASBOs

Adapted from material produced by the Judicial Studies Board¹⁵.

When were they introduced

The power to impose anti-social behaviour orders came into force in April 1999 under the terms of the Crime and Disorder Act 1998. The legislation was amended by the Police Reform Act 2002.

The Police Reform Act:

- Introduced an interim order
- Extended the geographical area over which an order can be made to any defined area of England and Wales, or the whole of England and Wales
- Introduced orders on conviction in criminal proceedings
- Enabled the British Transport Police and registered social landlords to apply for orders
- Introduced orders in county court proceedings (alongside related proceedings).

Purpose of the order

To prevent anti-social behaviour by named individuals.

Who can apply for an order

The police or local authority in consultation with each other can apply for the order.

¹⁵ Judicial Studies Board "Anti-Social Behaviour Orders: Revised Training Material for Section 1 & 4 of the Crime and Disorder Act 1998," November 2002

Under the Police Reform Act 2002 the British Transport Police and registered social landlords (RSLs) are also able to apply after consultation with both the local police and local authority.

Consultation is required, agreement of the other agency is not.

Grounds for an order

The individual's behaviour is anti-social i.e. it causes alarm, distress or harassment to one or more persons not in the same household as him/herself

and

the order is necessary to protect persons from further anti-social acts.

When an order can be made

- When an application has been specifically made for an order
- In addition to the sentence for an offence of which the person has been convicted

Interim orders

The court can make an interim order pending the determination of the case.

Geographical validity of an order

Under the Police Reform Act 2002 an order can now extend across any defined area within, or the whole of, England and Wales.

Civil proceedings

Applications are made to the magistrates' court acting in its civil capacity. This will affect how the courts deal with applications in the following way:

- The civil rules of evidence apply which permit the use of hearsay evidence provided certain procedural points relating to notice requirements have been complied with

- In the case of applications for ASBOs, the criminal standard of proof applies to past acts of anti-social behaviour alleged against the defendant.

Adjournments should only be allowed in exceptional circumstances.

Vulnerable and intimidated witnesses

If those subject to the anti-social behaviour feel unable to come forward, for example, for fear of reprisals or intimidation, provision has been made for the use of professional witnesses.

In addition special measures directions can be made by the court before a trial to protect distressed witnesses by the use of screens in court and video link evidence.

Duration of the order

The minimum duration for an order is two years. There is no specified maximum but the court should make the order only for so long as it considers that it is necessary for the protection of the community from the individual in question.

What should the order contain?

The prohibitions in the order must be such as are necessary to protect person(s) from further anti-social acts by the defendant in the locality. The prohibitions must be specific in time and place so it is readily apparent both to the defendant and to those enforcing the order what does or does not constitute a breach.

The terms of the order must be negative i.e. not to take particular actions. There is no power to compel an individual to do anything.

Juveniles

Children aged 10 and upwards can be made the subject of an order and their cases will similarly be dealt with in the magistrates' court acting in its civil capacity. Because these are civil proceedings, they are not dealt with in the youth court. Courts may need to consider special arrangements in the conduct of these proceedings in view of the European Court of Human Rights decision in the Thompson and Venables case and the subsequent Practice Direction issued by the Lord Chief Justice.

Reports of proceedings

Since the magistrates' court is acting in its civil capacity, there is no presumption in favour of reporting restrictions, including a prohibition on publishing photographs, in cases involving juveniles. There will be no such restrictions unless the court decides to impose them under Section 39 of the Children and Young Persons Act 1933 to protect the identity of the person under 18.

Against the need to protect a young person, and a consideration of his or her rights under the Human Rights Act, the court will need to bear the following points in mind:

- Unless the nuisance is extremely localised, enforcement of the order will normally depend on the general public being aware of the order and of the identity of the person against whom it is made.
- Effective enforcement may require the publication of photographs of the offenders as well as their names and addresses.
- The need to keep the local community informed and make the subject of the order face up to the fact that he or she will be expected by the community to abide by its terms.

Breach of an order

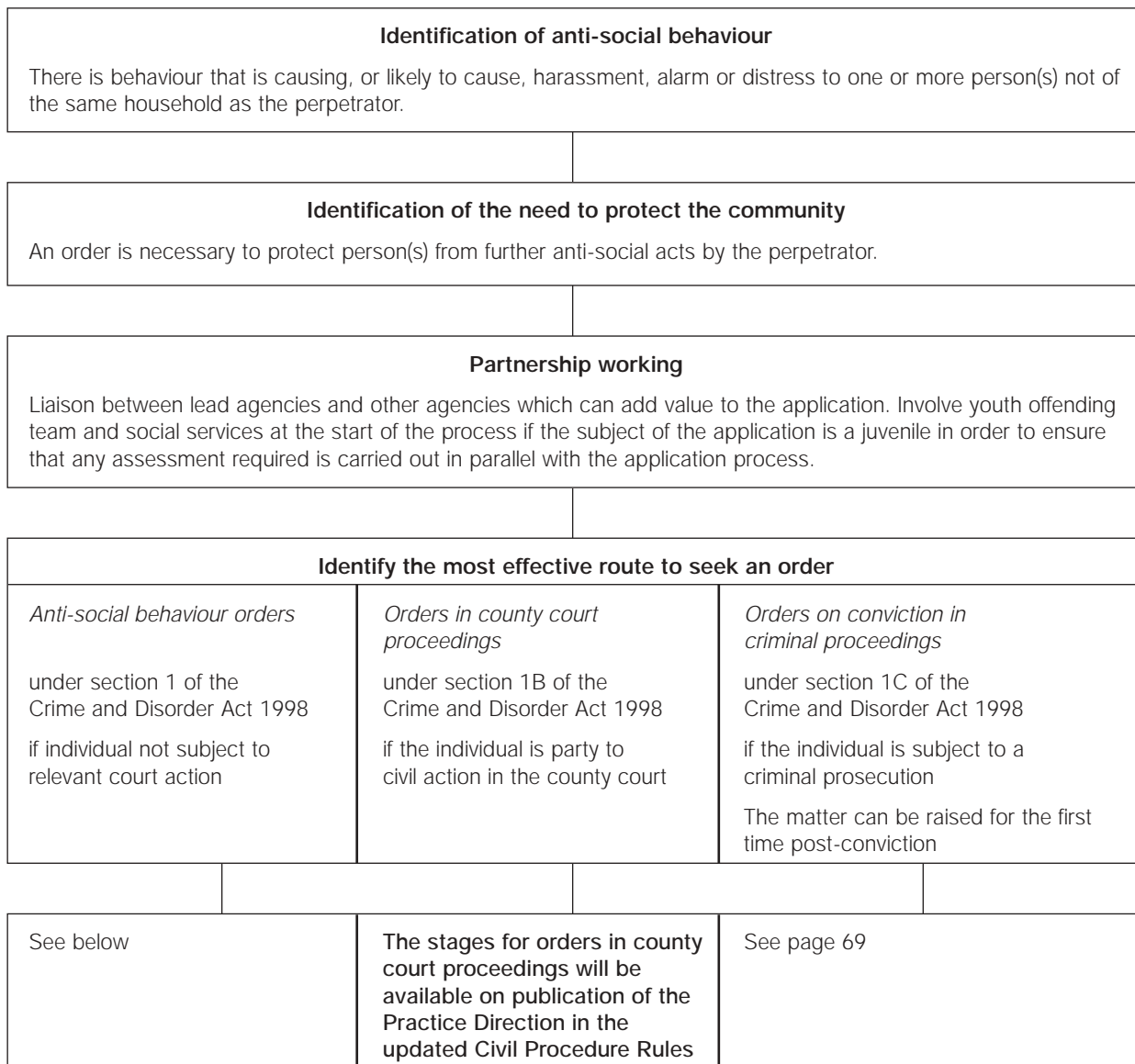
A breach of an order is a serious criminal offence and should be tackled quickly and effectively. The Crown Prosecution Service will conduct prosecutions.

The standard of proof is the criminal standard 'beyond reasonable doubt'.

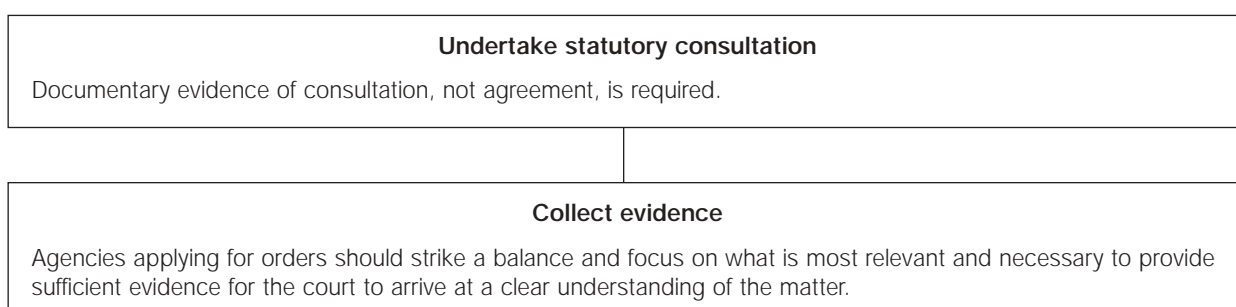
- The maximum penalty on conviction in the magistrate's court is six months in prison or a fine not exceeding £5,000 or both
- At the Crown Court the maximum penalty is five years in prison or a fine or both

A conditional discharge is not available to the court.

B. Anti-social behaviour orders and orders on conviction – step by step



Process for anti-social behaviour orders



Draw up prohibitions

The order should be drafted in full including its duration and a court file prepared.

Make an application to the magistrates' court

An application for an ASBO is by complaint to the magistrates' court using the appropriate form in the Magistrates' Courts (Anti-Social Behaviour Orders) Rules 2002.

The complaint must be made within six months from the time when the matter of the complaint (the behaviour) arose. A complaint may be made on the basis of one incident if sufficiently serious. Earlier incidents may be used as background information to support the case and show a pattern of behaviour.

The application is made to the magistrate's court whose area includes the local government or police area in which the 'relevant persons' (i.e. those subjected to the ASB) reside

A summons together with the application, as set out in the Rules, should be either given to the defendant in person or sent by post to the last known address.

Applying for an interim order

Where there is an urgent need to protect the community an application for an interim order may be made with the application for the main order. The appropriate form in the Magistrates' Courts (Anti-Social Behaviour Orders) Rules 2002 should be used.

An application for an *ex parte* interim order (i.e. without notice being given to the defendant) may be made subject to agreement of the justices' clerk or other court clerk with delegated authority. The clerk shall grant leave for an application for an interim order to be made where he or she is satisfied that it is necessary.

The hearing for an *ex parte* interim order will take place without the presence of defendant. Where the hearing is made on notice the defendant should be summoned to attend the hearing.

If an interim order is granted the application for the main order (together with a summons giving a date for the defendant to attend court) should be served on the defendant in person as soon as practicable after the making of the interim order.

The interim order will not take effect until it has been served on the defendant. If the interim order is not served on the defendant within seven days of being made then it shall be set aside. The interim order shall cease to have effect if the application for an anti-social behaviour order is withdrawn or refused.

The hearing

The lead officer in charge of the case should ensure that all the evidence and witnesses are available at the hearing, including any evidence in support of the need for the court to make an immediate order

The defendant(s) should attend but an order can be made in his or her absence



Immediate post order procedure

Where an ASBO is granted it is preferable for a copy of the order to be served on the defendant in person prior to his or her departure from Court. If this is not possible, personal service should be arranged as soon as possible thereafter. In the case of a juvenile the order should also be served on the parent, guardian or an appropriate adult. In all cases service should be recorded.

The lead agency, if not the police, should ensure that a copy of the order is forwarded immediately to the police. Copies should also be given to the ASB co-ordinator of the local crime and disorder reduction partnership, the other partner agencies, and to the main targets and witnesses of the anti-social behaviour.

An order comes into effect on the day it is made. But the two-year period during which no order shall be discharged¹⁶ starts from the date of service.

Other matters

Application for variation or discharge by either the applicant or the defendant is to the same magistrates' court that made the order. Appeal is to the Crown Court. Breach of the order will go to the magistrates' court, which may refer it to the Crown Court in the more serious cases.

**Process for an order made on conviction in criminal proceedings
(in the magistrates' court or the Crown Court)**

Collect evidence

Evidence may be collected for presentation to the court post-conviction. This is **not** a requirement as the court may make an order on conviction on its own initiative.

Draw up prohibitions

The police or other agency involved in the case may draw up the prohibitions necessary to protect the community from the subject's anti-social behaviour for consideration by the court post conviction. This is **not** a requirement.

Signal intention to seek an order

Prior to, or at the start of, the criminal stage or hearing the police, CPS or local authority involved in the case may advise the subject and court that an order will be sought on conviction.

This is **not** a requirement, the issue can be raised for the first time post-conviction.

Criminal hearing

This is to establish guilt of criminal charge **only**.

Verdict

If found guilty the offender is convicted or given a conditional discharge.



¹⁶ Except with the consent of both parties (this does not apply to the order on conviction which cannot be discharged during the two-year period)

Post verdict – hearing for order on conviction

The hearing for the order post-conviction is civil.

The issue of an order may be raised by the magistrates or judge without any request from the prosecution or the police or local authority; the Crown Prosecution Service (CPS) may remind the court of the general powers available to it as appropriate.

The police and/or other agencies may be asked to or may offer to submit additional evidence relating to the request for the order and need for the prohibitions.

Immediate post order procedure

If the offender is given a custodial sentence the court may make provision for the requirements of the order to come into effect when he or she is released from custody.

See details for immediate post-order procedure for ASBOs.

Other matters

Where the order is made on conviction in the magistrates’ court, application for variation or discharge by either the applicant or the defendant may be made to any magistrates’ court within the same petty sessions area as the court that made the order. Appeal is to the Crown Court. Breach of the order will go to the magistrates’ court, which may refer it to the Crown Court in the more serious cases.

Where the order is made on conviction in the Crown Court, application for variation or discharge by either the applicant or the defendant is made to the same Crown Court which made the order. Appeal is to the Court of Appeal. Breach of the order will go to the magistrates’ court, which may refer it to the Crown Court in the more serious cases.

C. Relevant Court judgements

1. House of Lords – Clingham (formerly C (a minor)) v Royal Borough of Kensington and Chelsea (on Appeal from a Divisional Court of the Queen's Bench Division); Regina v Crown Court at Manchester Ex p McCann (FC) and Others (FC), October 2002
2. R. on application of the Chief Constable of West Midlands Police v Birmingham Justices; citation number: [2002] EWHC 1087 (Admin)

This judgement determined a chief constable's right to delegate authority to apply for ASBOs to any suitable officer notwithstanding their rank.

D. Public funding for defendants

Criminal public funding is available for any proceedings under sections 1 and 4 of the Crime and Disorder Act 1998 relating to anti-social behaviour orders, including interim orders, where they are made in the magistrates' court or where an appeal is made in the Crown Court.

Advocacy Assistance is available for an anti-social behaviour order (ASBO), an interim order under Section 1D of the CDA, variation or discharge of an ASBO, or an appeal against the making of an ASBO under Section 4 of the CDA, in accordance with the Criminal Defence Service General Criminal Contract. Solicitors can self grant advocacy assistance for these matters. There are no financial criteria for the grant of Advocacy Assistance. Advocacy Assistance may not be provided where it appears unreasonable that approval should be granted in the particular circumstances of the case, or where the interests of justice test, set out in Schedule 3 of the Access to Justice Act 1999, is not met. In applying this test, there is an additional factor of whether there is a real risk of imprisonment if an anti social behaviour order is made and subsequently breached.

A representation order may be sought on application to the Legal Services Commission in respect of these proceedings. Provision for representation is made under Regulation 3(2)(criminal proceedings for the purposes of Section 12(2)(g) of the Access to Justice Act 1999) of the Criminal Defence Service (General)(No.2) Regulations 2001, and Regulation 6(3) of the same regulations. An application to the Commission must be made on form CDS3. An application will be determined in accordance with the Interests of Justice Criteria. The availability of Advocacy Assistance will be a relevant factor which the Legal Services Commission will take into account when considering the grant of representation.

Where an application for a representation order is refused, the Legal Services Commission shall provide written reasons for the refusal and details of the appeal process. The applicant may make a renewed application in writing to the Funding Review Committee, which may grant or refuse the application.

Advocacy Assistance is available for proceedings in the Crown Court, where an appeal is made under section 4 of the Crime and Disorder Act 1988. The merits test is slightly different from that on application for an interim or a full ASBO. It is based only on the general reasonableness test. Advocacy Assistance may not be granted if it appears unreasonable that approval should be granted in the particular circumstances of the case. The prospects and merits of an appeal should be taken into account as well as whether the individual has reasonable grounds for taking the

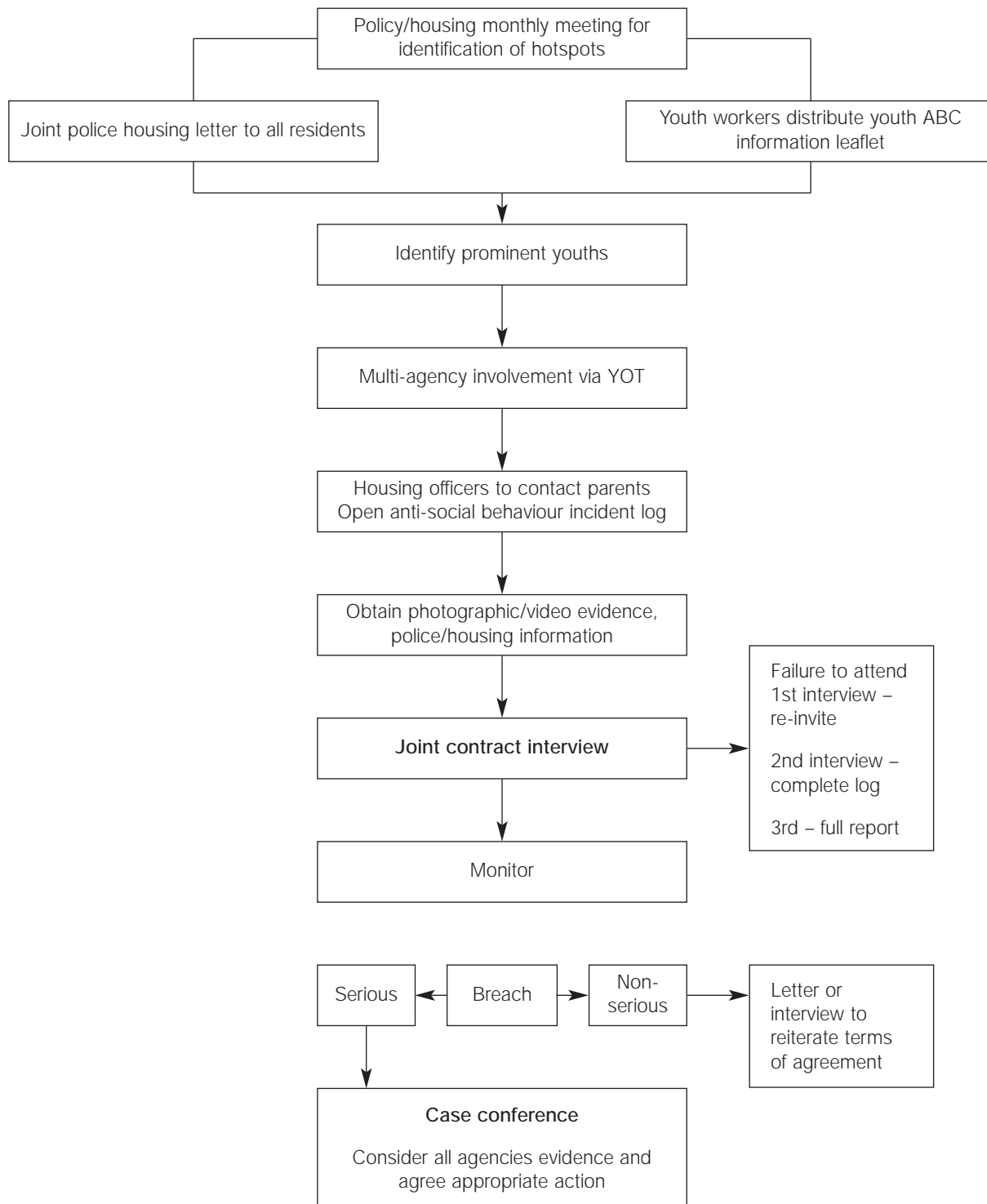
proceedings. Representation is also available for an appeal against an order under section 4 of the CDA. An application should be made to the Legal Services Commission who will consider grant against the availability of advocacy assistance.

Any challenge against the ruling of the Crown Court to the High Court by way of case stated or by application for judicial review, falls outside the scope of criminal funding. Legal representation would have to be applied for in accordance with the Funding Code procedures to the Legal Services Commission. This work is funded through the Community Legal Service although it falls within the scope of the General Criminal Contract.

Advocacy Assistance is available for a breach of an interim or full anti-social behaviour order. Representation is also available for breach proceedings on application to the Commission as above.

Guidance on public funding for proceedings in the county court will be available on introduction.

E. The process of obtaining and monitoring an ABC – Islington Anti-Social Behaviour Team



F. An example of an Acceptable Behaviour Contract

ACCEPTABLE BEHAVIOUR CONTRACT

THIS CONTRACT is made on the [date]

BETWEEN [name and address of lead agency/agencies]

AND [name of individual]

[name of individual] AGREES the following in respect of future conduct –

1. I will not write graffiti or damage any property in and around the [specify area].
2. I will not congregate in groups in communal areas of [specify the area], i.e. stairways and walkways.
3. I will not climb on any rooftops, lift shafts or any other prohibited areas.
4. I will not throw anything at residents or passersby in or around the estate.
5. I will not threaten or abuse residents or passersby. This includes swearing.

FURTHER [name of individual] enters into a commitment with the [name of agency/agencies] not to act in a manner that causes or is likely to cause harassment, alarm or distress to one or more persons not in the same household.

Breach

If [name of individual] does anything which he/she has agreed not to do under this contract which the [agency/agencies] considers to amount to anti-social behaviour, an application may be made to the magistrates' court for an ANTI-SOCIAL BEHAVIOUR ORDER to prohibit [name of individual] from acting in a manner likely to cause harassment, alarm or distress to one or more persons not of the same household.

DECLARATION

I confirm that I understand the meaning of this contract and that the consequences of breach of the contract have been explained to me.

SIGNED _____ Youth
[signature of individual]

DATE.....

SIGNED _____ Parent
[signature of parent or guardian]

DATE.....

WITNESSED

SIGNED _____ Police Officer
[name of police officer, for example]

DATE.....

SIGNED _____ Housing Manager
[name of housing officer, for example]

DATE.....

G. Conducting an ABC meeting – Islington Anti-Social Behaviour Team

This draws on the experience of housing and police officers but can be adapted for other agencies, such as youth offending teams.

Before the meeting

Do

- Consider other measures for tackling anti-social behaviour alongside this action. A notice seeking possession may still be appropriate.
- Identify individuals likely to benefit from the ABC scheme at regular meetings involving police and housing officers. Once a person is being considered, start an Incident Record Book.
- Give reasonable notice of the meeting and hand-deliver the letter where possible.
- Seek to involve both parents or guardians if there is a joint parenting role, even if they do not live at the same address.
- Where the family are known to social services, advise them of the interview, the purpose, and if appropriate ask if they would like to be present. Where the local authority is looking after a young person (i.e. 'in care'), a representative from social services must be invited to attend.
- If the young person is known to attend a local school, encourage their involvement. The young person could be on a school sponsored scheme that could assist with tackling the unacceptable behaviour.
- Try to find out if the young person is involved in activities organised by the play and youth service. They may be able to assist with diversion activities.
- Contact the youth offending team (YOT) to establish whether they know the young person and to ensure that the action proposed does not conflict with action being pursued by them.
- Contact the police to check whether there are currently any related criminal charges being considered by the Crown Prosecution Service in relation to the young person. If there are, an interview can still go ahead but without the police and without the use of an ABC. The interview would be used simply to clarify to the young person and his parents the terms and conditions of their tenancy agreement. If the CPS find insufficient evidence to make a criminal charge then the ABC interview may be considered again.

- Pre-meet with professionals, such as social services, to clarify the procedure and purpose of the meeting/ABC. Ideally this meeting should **not** take place immediately before the interview in case there are concerns that need to be resolved. Ensure that if officers from other departments are to be present at the meeting they are clear on who is taking the lead.
- Pre-meet to agree who will take the lead and clarify the latest position on reported incidents and action against the youth or the tenancy.
- Try to establish in advance which other agencies/individuals may attend, if any.
- Consider involving other siblings within the same family in the same meeting if you think they could be vulnerable to becoming involved in anti-social behaviour, even if an ABC is not thought to be appropriate at this stage.
- Be clear in your own mind what the purpose of the meeting is. Remember the aim is not simply to come away with a signed contract, but **to stop the anti-social behaviour**. The idea of the interview is to talk with the young person and his/her parents so that they both have an understanding of what we mean by anti-social behaviour and what the implications are should further incidents take place.
- Be prepared for the fact that both young people and parents may deny all involvement and that feelings could run high.
- Give consideration to a suitable venue and seating plan so that the meeting can take place in relative comfort with enough chairs and space for everyone. Avoid setting up barriers or creating an 'us-and-them' situation.
- Give consideration to the type of activities the young person has been involved in **and** those that are particularly relevant on the estate, which you may wish to include in the contract. These should not be used to prepare the contract in advance but to include in the discussion about which activities should be included in the contract.
- Nominate a suitable officer to take notes during the interview. Although you should aim to keep the number of officers to a minimum it is recommended to have a note-taker that will not be involved in the discussion. Detailed notes are not required but the main points do need to be jotted down.
- Try to ensure that the same people are involved for the duration of the contract and monitoring period. The ABC creates an opportunity to establish rapport with young people on contracts.

DON'T

- Hold the meeting at the police station (unless necessary).
- Expect to be able to follow a script and for all interviews to be the same. They are all different. Of the interviews carried out so far a significant number of parents have been extremely positive about the meetings once they overcome their initial suspicion and concern. The attitude of the young people has ranged in extremes from total silence to hostility and abuse, but the latter is not usual and in most cases it has been possible to have a discussion about anti-social behaviour and what it means.
- Underestimate the importance of the preparation in advance of the meeting. You cannot expect to be able to turn up on the day and carry out an effective interview without being clear on the background to the case. Also, if you fail to involve other relevant departments or organisations you are potentially compromising the council's position in being able to pursue further action.
- Prepare the final version of the contract in advance of the meeting. This is defeating one of the key points of the meeting, which is to encourage the young person to list the activities he/she has been involved in or could become involved in future. A draft list of activities that you may wish to include is, however, a good idea.

During the meeting

Do

- Arrive promptly to allow for a pre-meeting, and allow enough time for the meeting so you are not rushed. Some meetings have been known to last two hours, others have been more straightforward. N.B. The attention span of a young person is about twenty minutes.
- If the young person and his or her parent/guardian fail to attend write once more with a further date for a meeting. If they fail to attend the second meeting, consider moving straight to legal action, write setting out the seriousness of the issue including details of action proposed. Monitor the case as you would had a contract been signed.
- Wear name badges.
- Use simple language that is free from council/police jargon.

- Aim to get the message across that anti-social behaviour and the signing of the contract is an extremely serious issue, however at the same time you should aim to keep the meeting informal and relaxed to encourage full participation of the young person and their parents.
- Make the young person and their parents aware of the consequences of breach.
- Support each other and be mindful of the issues relevant to both the police and the housing department e.g. possible criminal or civil action.
- Talk to the young person. Find out how they spend their time, what their understanding is of anti-social behaviour and how it may impact upon residents, the council, his/her parents, him or herself.
- Listen to what is being said about home circumstances and any other pressures or difficulties the family is experiencing. This will help to put together information for dealing with the case and involving any other relevant agencies.
- Explain the purpose of the contract, how it will be monitored and the implications of any further incidents, both in terms of civil action such as possession orders and anti-social behaviour orders or criminal action such as criminal damage, **before** the contract is signed.
- Take any concerns raised by the young person and his/her parents seriously and attempt to address them.
- Produce the final typed version of the contract as quickly as possible once those present have agreed the activities to be included. Ideally arrange for someone outside the meeting to do this for you so that you do not leave your colleague on his/her own. Remember that any delay could be a source of irritation to those present and may result in a contract not being signed.
- Remember to get everyone present to sign the contract and to provide a copy for the young person and their parents to take away with them.
- Allow 'time out' if the meeting becomes heated. Consider the provision of tea/coffee if appropriate but remember that a hot drink could be used as a missile.
- Take notes of the meeting and any issues that are raised.
- Sum up the main points at the end of the meeting.
- Provide contact details of lead officers to parents.
- End on a positive note. If there are no further incidents there'll be no further action.
- Thank everyone for his/her attendance.

Don't

- Behave in a confrontational manner but state any allegations calmly. Remember that the aim is not to accuse but to stop bad behaviour.
- Single out the families for all the problems in the area, if they are told that their children are one of a number of young people and others will also be interviewed, you will find that the parents more readily accept this and be prepared to work with you.
- Attempt to force the young person to sign the contract but **DO** explain why it is important and persuade them as far as possible.
- Worry if you have been unable to get a signature. This does not mean that the meeting has been a waste of time. Try to establish why there is a reluctance to sign, attempt to address their concerns and keep a record of their responses. It may be that they need time to think it over and you can suggest meeting again in a few days time. You do need to advise that we would like a signed contract as this demonstrates a commitment on their part to taking the issue seriously, and that if they still refuse to sign we can still pursue further action should the bad behaviour continue. This must be followed up in writing.
- Disclose details of complainants.

After the meeting

Do

- Complete the **Incident Record Book** straight after the interview. This is a very important document which will be used as evidence should further action be pursued.
- Copy the contract to social services, children and families team, where they know the young person. The police are responsible for sending a copy to the youth offending team.
- Notify patrolling police officers.
- Notify the estate services officers, other housing officers, housing assistants, senior caretaker and relevant caretakers that a contract has been drawn up and request assistance in monitoring further activities.
- Write to thank those present for their attendance and to confirm the outcome, attaching a further copy of the agreement. Advise who has been given copies of the contract. This will help to serve as a reminder of what the implications are should the young person carry out further anti-social acts.

- Monitor the contract for 6 months. If there is a further incident, regardless of how minor it may seem, you must bring this to the attention of the lead officer so that consideration can be given to any further action. This could range from sending a letter to re-iterate the terms of the contract, to applying for a possession order or an anti-social behaviour order. **It is most important not to let a further incident pass by seemingly unnoticed.**
- Liaise with partner agencies if there is a report of a further incident or trouble on the estate. At very least monthly updates must be provided at meetings between police and housing officers. Officers should visit the young person with the contract, as part of the monitoring process, on at least two occasions within the six-month monitoring period. A written record of the outcome must be kept on file.
- Ensure that any further incidents are documented in the incident record book promptly.
- Write to the young person at the end of the 6 month period. In the letter acknowledge that the contract period has come to an end, thank them for keeping to the terms of the agreement and remind them of the implications should there be a repeat of the unacceptable behaviour in future.

Don't

- Generally provide complainants (or others) with details of the young people with a contract, but **DO** publicise the fact that a number of young people within the area have signed a contract. This could act as a deterrent to others as well as encourage the reporting of incidents.

H. ABC Good Practice Tips – Circle 33 Housing Group

1. Provide support packs for targets of anti-social behaviour when this is thought appropriate.
2. Provide advice and support packages for the perpetrator and family members when specific concerns are identified, for example drug and alcohol misuse.
3. At the end of the contract where no breach has been identified look for ways of recognising this and reinforcing improved behaviour.
4. Recognise and encourage the contribution of family members to the successful outcome of the contract, particularly where there is a breakdown in the family home.
5. Encourage other agencies to contribute to addressing the underlying causes of a young person's anti-social behaviour.

Further copies of this publication can be obtained by telephoning 0870 241 4680

