



A GUIDE TO ANTI-SOCIAL BEHAVIOUR TOOLS AND POWERS

Ministerial foreword

We have come a long way since the Crime and Disorder Act 1998 introduced the first of this Government's ground-breaking innovations in the fight against anti-social behaviour – the ASBO. Since then we have introduced a wide range of other tools and powers. To mention just a few, crack house closures and powers to seize and crush mini-motos are making our streets safer; and the greater powers we have given to landlords to deal with nuisance and anti-social tenants are making our neighbourhoods more pleasant places to live in.

But it is important not just to stop the anti-social behaviour but also to tackle its root causes: we have therefore also provided preventative interventions such as Individual Support Orders and Parenting Orders, which have proved successful in helping young people change their behaviour. Practitioners are also making more use of less formal interventions, such as Acceptable Behaviour Contracts.

The results are encouraging: the British Crime Survey shows that public perception of anti-social behaviour as a problem in the local area has fallen from 21 per cent in 2002/03 to 18 per cent in 2006/07; and an Audit Commission survey shows that perceptions of anti-social behaviour as a problem fell in 94 per cent of local authorities between 2003 and 2006. These are significant achievements, and I pay tribute to the hard work of front-line practitioners whose hard work has brought about this transformation. I have seen this in action myself, and it is inspirational.

We have done our part in supporting front-line anti-social behaviour practitioners: we have provided a website and an advice line as an easy-to-access source of definitive, practical advice on tackling anti-social behaviour; and we have run workshops, academies, training days and showcasing events around the country and trained thousands. We have learnt from this that practitioners want a single comprehensive guide to all the tools and powers available, for use in all contexts, with case studies to point the way to effective action. This guidance fulfils that need, and also provides a ready, at-a-glance table showing which legislation refers to

which type of anti-social behaviour problem, and the practical options available for tackling it.

Looking at the more strategic level, the advent of the new Local Area Agreements and of neighbourhood policing will give people more of a say in tackling the problems that are of greatest priority in their own area. This means anti-social behaviour – a priority for local people, local service providers and for the Government. Indeed, the Government's own Public Service Agreement prioritises the fight against anti-social behaviour. It is a common goal. More guidance is therefore in the pipeline to help practitioners deal with the newer challenges of effective community engagement and communication, and of managing perception.

Our role in government is to continue to support and listen to practitioners on the front line to help them do the best job they can. I am delighted, therefore, to present this invaluable guide.



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Section 1: Overview of anti-social behaviour enforcement and support tools

Since 1998, a wide range of measures has been introduced to curb anti-social behaviour. The Crime and Disorder Act 1998 introduced Anti-Social Behaviour Orders (ASBOs), Child Curfew Schemes, Child Safety Orders, Parenting Orders and Reparation Orders. The Criminal Justice and Police Act 2001 introduced Fixed Penalty Notices, restricting drinking in certain public places, closing disorderly licensed or unlicensed premises, making it a criminal offence to intimidate or harm witnesses in civil proceedings, and making kerb crawling an arrestable offence. The Anti-Social Behaviour Act 2003 clarified, streamlined and reinforced the powers available to practitioners. Changes included:

- crack house closure powers;
- ensuring that landlords take responsibility for tackling anti-social behaviour;
- making Parenting Orders more widely available; and
- dispersal of groups.

Not only is there a wide range of tools and powers available, but, to be at their most effective, it is essential that the right intervention, or combination of interventions, is used at the right time. Enforcement should be matched with support for the perpetrator, where necessary, to tackle the cause of their anti-social behaviour. Where applicable, these interventions should be used incrementally as independent reports have shown that this is what works.

It is absolutely crucial that the needs of victims and witnesses are at the forefront of that approach because if the public are unwilling to come forward or to trust the local practitioners it is unlikely to succeed.

To support front-line practitioners directly in this challenging task and to help resolve any local difficulties, there is the Respect ActionLine on 0870 220 2000 and the Respect website at www.respect.gov.uk. This guidance supplements this by putting the information on anti-social behaviour tools and powers together in one volume.

The table below provides a summary of available interventions, the legislation and the supportive measures that can be implemented alongside enforcement tools. This is followed by detailed descriptions of the measures available for tackling anti-social behaviour.

1.1 TABLE OF TOOLS AND POWERS

NOISY NEIGHBOURS			
Behaviour	Relevant legislation	Enforcement	Support
Domestic noise		Acceptable Behaviour Contract and Agreements	Mediation
	s2 and s8(1), Noise Act 1996 (updated by s42 of the Anti-Social Behaviour Act 2003)	Fixed Penalty Notice for night noise	Warnings and agreements
	s10, Noise Act 1996	Confiscation of equipment	
	s79–80, Environmental Protection Act 1990	Noise Abatement Notice, prosecution for breach	
	Housing Act 1996 (as amended by part 2 of the Anti-Social Behaviour Act 2003 and Police and Justice Act 2005)	Injunction, demoted tenancy, possession and eviction	
	s222, Local Government Act 1972 (as amended by the Police and Justice Act 2006)	Injunction for public nuisance	
	s1, Crime and Disorder Act 1998 (updated by the Police Reform Act 2002)	Anti-Social Behaviour Order (ASBO), freestanding or on conviction	
Commercial noise	s80–81, Environmental Protection Act 1990 (updated by s79 of the Noise and Statutory Nuisance Act 1993)	Noise Abatement Notice, prosecution for breach	
	s40–41, Anti-Social Behaviour Act 2003	Local authority closure of noisy pub premises	
	s4, Noise Act 1996 (as amended by s84, Schedule 1 of the Clean Neighbourhoods and Environment Act 2005)	Fixed Penalty Notice for noise from licensed premises	
	s10, Noise Act 1996	Seizure of equipment	
	s161–170, Licensing Act 2003	Police closure of pub premises for disorder and/or noise	

ROWDY AND NUISANCE BEHAVIOUR			
Behaviour	Relevant legislation	Enforcement	Support
Rowdy and nuisance behaviour		Acceptable Behaviour Agreement/Acceptable Behaviour Contracts	Family group counselling Youth diversion
	s5, Public Order Act 1986	Penalty Notice for Disorder	Parenting Contracts
	s30–36, Anti-Social Behaviour Act 2003	Dispersal of groups	Warnings and agreements
	s222, Local Government Act 1972 (as amended by the Police and Justice Act 2006)	Injunction for public nuisance	Restorative justice Alcohol treatment
	s8, Crime and Disorder Act 1998 (as amended by the Anti-Social Behaviour Act 2003 and Police and Justice Act 2005)	Parenting Order (also provides support)	
	s11, Crime and Disorder Act 1998	Child Safety Order (children under 10; also provides support)	
	s14, Crime and Disorder Act 1998	Local Child Curfew Scheme (children under 16)	
	s1, Crime and Disorder Act 1998 (updated by the Police Reform Act 2002)	ASBO	ISO if freestanding and aged 10 to 17
HOAX CALLS AND OBSTRUCTING THE EMERGENCY SERVICES			
Hoax calls	s127(2), Communications Act 2003	Penalty Notice for Disorder	Education scheme Youth scheme run by local emergency services involving education and reparation work
	s1–11, Criminal Justice and Police Act 2001	Penalty Notice for Disorder	Youth diversion
	s31, Fire Services Act 1947 (Wales only)	Penalty Notice for Disorder	Acceptable Behaviour Contracts/Acceptable Behaviour Agreements
	s49, Fire and Rescue Services Act 2004 (England only)	Penalty Notice for Disorder	
	s1, Crime and Disorder Act 1998 (updated by the Police Reform Act 2002)	ASBO for persistent hoax callers	ISO if freestanding and aged 10 to 17

HOAX CALLS AND OBSTRUCTING THE EMERGENCY SERVICES <i>(continued)</i>			
Behaviour	Relevant legislation	Enforcement	Support
Obstruction of the emergency services	s4, Emergency Workers (Obstruction Act 2005)	Level 5 fine	
ANIMAL-RELATED NUISANCE			
Irresponsible dog ownership Consistent barking Allowing dogs to intimidate individuals		Acceptable Behaviour Agreement/Acceptable Behaviour Contracts	Warnings and agreements Mediation
	s80, Environmental Protection Act 1990	Noise Abatement Notice, prosecution for failure to comply	Education
	s2 and s8(1), Noise Act 1996	Penalty Notice for night noise	
	Housing Act 1996 (as amended by part 2 of the Anti-Social Behaviour Act 2003 and Police and Justice Act 2005)	Injunction or demoted tenancy	
	s1, Crime and Disorder Act 1998 (updated by the Police Reform Act 2002)	ASBO, freestanding or on conviction (on animal owner)	ISO if freestanding and aged 10 to 17

VEHICLE-RELATED NUISANCE			
Behaviour	Relevant legislation	Enforcement	Support
Joyriding Dangerous and illegal driving Causing harassment, alarm and distress by driving		Acceptable Behaviour Agreements/Acceptable Behaviour Contract	Warnings and agreements
	s5, Public Order Act 1986	Penalty Notice for Disorder	Youth diversion (vehicle maintenance, dedicated riding tracks)
	s59–60, Police Reform Act 2002	Seizure of vehicle for driving in a manner likely to cause harassment, alarm and distress	Parenting Contracts
	s34, Road Traffic Act 1998	Prosecution for driving a vehicle off-road without authority	Restorative justice
	s146(1), Powers of Criminal Courts (Sentencing) Act 2000	Removal of driving licence on conviction, disqualification from driving	
	s30–36, Anti-Social Behaviour Act 2003	Dispersal of groups (prevents gangs meeting to engage in anti-social driving)	
	Housing Act 1996 (as amended by part 2 of the Anti-Social Behaviour Act 2003 and Police and Justice Act 2005)	Injunction or demoted tenancy	
	s8, Crime and Disorder Act 1998 (as amended by the Anti-Social Behaviour Act 2003 and Police and Justice Act 2005)	Parenting Order (also provides support)	
	s222, Local Government Act 1972 (as amended by the Police and Justice Act 2006)	Injunction for public nuisance	
		Environmental improvements (bollards, gates, CCTV)	
	s1, Crime and Disorder Act 1998 (updated by the Police Reform Act 2002)	ASBO, freestanding or on conviction	ISO if freestanding and aged 10 to 17

INTIMIDATION, HARASSMENT AND HATE CRIME			
Behaviour	Relevant legislation	Enforcement	Support
Verbal and physical abuse Criminal damage Violence and threat of violence		Acceptable Behaviour Agreement/Acceptable Behaviour Contract	Warnings and agreements Mediation
	s8, Crime and Disorder Act 1998 (as amended by the Anti-Social Behaviour Act 2003 and Police and Justice Act 2005)	Parenting Order (also provides support)	Parenting Contracts Restorative justice
	s5, Public Order Act	Penalty Notice for Disorder	
	s2, Protection from Harassment Act 1997	Prosecution (and Restraining Order or ASBO on conviction)	
		Arrest and bail conditions	
	Housing Act 1996 (as amended by part 2 of the Anti-Social Behaviour Act 2003 and Police and Justice Act 2005)	Injunction (without notice), demoted tenancy, possession and eviction	
	s222, Local Government Act 1972 (as amended by the Police and Justice Act 2006)	Injunctions for public nuisance	
	s1, Crime and Disorder Act 1998 (updated by the Police Reform Act 2002)	ASBO, freestanding interim without notice; ASBO on conviction	ISO if freestanding and aged 10 to 17
Hate crime	s28, Crime and Disorder Act 1998	Prosecution	
	s1, Crime and Disorder Act 1998 (updated by the Police Reform Act 2002)	ASBO, freestanding interim without notice; ASBO on conviction	ISO if freestanding and aged 10 to 17

NEIGHBOUR DISPUTES – HIGH HEDGES			
Behaviour	Relevant legislation	Enforcement	Support
High hedges	Part 8, Anti-Social Behaviour Act 2003		Mediation
STREET SCENE – DRUGS			
Drugs/substance misuse		Acceptable Behaviour Agreement/Acceptable Behaviour Contract	Physical and mental health services
	Misuse of Drugs Act 1971	Prosecution for drugs offences	Drug treatment Counselling
	Housing Act 1996 (as amended by part 2 of the Anti-Social Behaviour Act 2003 and Police and Justice Act 2005)	Injunction, demoted tenancy, possession and eviction (breach of tenancy)	Compulsory drugs testing for trigger offences (s2, Drugs Act 2005)
	s222, Local Government Act 1972 (as amended by the Police and Justice Act 2006)	Injunction for public nuisance	Assessment by drugs specialist Restriction on bail to assess defendant's drug use
	s1–11, Anti-Social Behaviour Act 2003	Closure powers for Class A drugs	
	s1, Crime and Disorder Act 1998 (updated by the Police Reform Act 2002)	ASBO, freestanding or on conviction	ISO if freestanding and aged 10 to 17 Drug Intervention Order if 18 or over
Drug dealing	s1–11, Anti-Social Behaviour Act 2003	Closure powers for Class A drugs	Physical and mental health services
	Misuse of Drugs Act 1971	Prosecution for drugs offences and ASBO on conviction	Drug treatment
	s153b, Housing Act 1996 (as amended by part 2 of the Anti-Social Behaviour Act 2003)	Anti-social behaviour injunction and eviction (breach of tenancy, illegal activity)	
	s1, Crime and Disorder Act 1998 (updated by the Police Reform Act 2002)	ASBO, freestanding or on conviction	ISO if freestanding and aged 10 to 17 Drug Intervention Order if 18 or over

STREET SCENE – ALCOHOL			
Behaviour	Relevant legislation	Enforcement	Support
Street drinking and alcohol-related anti-social behaviour		Arrest for being drunk and disorderly, and Conditional Caution	Alcohol treatment Housing support Youth diversion Physical and mental health interventions Acceptable Behaviour Agreement/Acceptable Behaviour Contract Parenting Contract/ Parenting Order Environmental improvements in parks and public places to discourage groups of drinkers

Section 2: Early intervention methods

It is important for communities to understand the standards of behaviour that people are expected to live by. The standards need to be clear and credible, and backed by timely and effective action when breached. There are various stages at which different levels of intervention or enforcement are appropriate.

2.1 WHAT ARE EARLY INTERVENTION METHODS?

Early interventions, for example mediation, early warnings, visits, letters, contracts and agreements, are very important in preventing an escalation of problems. Early intervention works and can achieve long-term change and prevent more serious levels of anti-social behaviour, and should be an integral part of any strategy.

2.2 MEDIATION

Mediation is a process in which an impartial third party – the mediator – helps people in dispute work out an agreement. The people in dispute work out the agreement, **not** the mediator.

Generally, trained volunteers act as mediators in neighbour and family conflicts. They aim to get the people in dispute to meet face to face in a neutral setting. The mediators run the meeting with ground rules. They listen to what the people involved have to say but do not take sides – the aim is for the people in dispute to reach an agreement that all will accept and keep to. Mediation can only work if everyone wants it to. The mediators cannot force people to resolve their conflicts. It is an entirely voluntary process.

Mediation can help people resolve various types of issues:

- **Neighbour disputes** – car parking, young people playing in the street, boundary disputes, dogs barking and noise nuisance. It works best if used before the issue becomes entrenched.
- **Family conflict** – between young people and their parents or carers on issues of communication. It can help prevent youth homelessness and family estrangement.

- **Group conflict** – if a member of a group has a conflict with other group member(s).
- **Victim/offender** – it can help by bringing the two parties together so that there is an understanding of what happened and the effect the crime or anti-social behaviour had upon the victim, and an opportunity to apologise or make up for the harm caused. Offenders and their victims do not have to meet face to face – information can be passed between them via the mediators.

The local anti-social behaviour co-ordinator will know of available mediation schemes. Many local authorities provide a mediation service. If an area does not have such a scheme, it is sometimes possible to buy in the service.

Mediation services will help callers with enquiries about using their services and whether it is appropriate for a particular situation. The type of cases they will take will depend on how the service is set up in an area. In some cases self-referral will be accepted. In others, referral will be via:

- an organisation, with the consent of the disputant;
- the local authority neighbourhood office; or
- the local authority anti-social behaviour unit.

UNITE is a well-known mediation service in the north of England – the website can be seen at:

www.unite-mediation.org

2.3 WARNINGS AND AGREEMENTS

Some of the most successful interventions are those that engage the individual in changing their own behaviour. By ensuring that individuals understand the impact of their behaviour on the community, while offering the necessary support for them to stop, it is possible to achieve long-term change.

2.3.1 Warnings

Written or verbal warnings can be very effective in stopping people behaving anti-socially. By challenging all unacceptable behaviour immediately, they establish clear standards of behaviour and reinforce the message that anti-social behaviour will not be tolerated. Warnings generally describe the behaviour observed, inform the individual that the behaviour is anti-social and unacceptable, advise them that their behaviour is being monitored and warn them that there will be further enforcement action if the behaviour does not cease. A note or record should be kept. It is good practice to explain to individuals, children or their parents what the problem is and the consequences of this behaviour. In many cases, awareness of the impact of the behaviour on their neighbours and the threat of further enforcement can be a sufficient deterrent for an individual to change their behaviour.

2.3.2 Acceptable Behaviour Contracts/Agreements

An Acceptable Behaviour Contract (ABC, also known as an Acceptable Behaviour Agreement) is an intervention designed to engage an individual in acknowledging his or her anti-social behaviour and its effect on others, with the aim of stopping that behaviour.

An ABC is a written agreement made between a person who has been involved in anti-social behaviour and their local authority, Youth Inclusion Support Panel, landlord or the police. ABCs are not set out in law, which is why they are usually called agreements. Any agency is able to use and adapt the model.

Although ABCs have often been made with young people, they are a tool that can be used for a person of any age. The informal, flexible nature of ABCs means they can be used for various types of anti-social behaviour.

An ABC or agreement is completely flexible and can be adapted for the particular local need. It can include conditions that the parties agree to keep. It may also contain the agreed consequences of a breach of the agreement.

The individual may agree to:

- stop specific behaviour that has been causing disruption to the community; or
- positive requirements such as engaging in a community group, attending school regularly or attending a local youth diversion scheme.

The agency may also agree to provide support that will help the individual to keep to the terms of the ABC. It may also refer the person to agencies that are able to provide further intervention or support. Involving the individual in drawing up the contract may help them to recognise the impact of their behaviour and take responsibility for their actions.

It is important that both parties sign and receive a copy of the ABC so that there is no doubt about what has been agreed. In the case of a child or young person, parents or guardians should be encouraged to attend the interview to agree the contract. ABCs and agreements usually last for about six months but can be renewed by agreement between both parties.

Successful intervention through voluntary routes depends on the agencies involved giving very clear messages about the consequences of continuing with the anti-social behaviour. The threat of legal action provides an incentive to ensure adherence to the ABC. The consequences of non-compliance should be outlined in the contract.

In order for any ABC or agreement to be taken seriously, it is essential that any breach is followed up with further action. This will normally begin with a meeting to discuss the breach and further steps, including more formal enforcement action. Actions following a breach should reflect those consequences spelt out when the contract was signed. If these consequences are not acted on when socially unacceptable behaviour continues, trust and respect between the perpetrator and the agency creating the contract will break down.

Where an ABC has been unsuccessful, it may be necessary to obtain an Anti-Social Behaviour Order (ASBO) or other court action to ensure that the behaviour stops. ABCs are not legally binding but can be cited in court as evidence in ASBO applications or in eviction or possession proceedings. There does not have to have been an ABC in place before an ASBO application is made.

There will be cases where an immediate ASBO application is the more appropriate intervention. Comprehensive guidance on the use of ABCs can be downloaded from the crime reduction website at: www.crimereduction.homeoffice.gov.uk/antisocialbehaviour/antisocialbehaviour058.htm

Section 3: Supporting victims and witnesses

Witnesses are crucial to tackling anti-social behaviour, whether they are the direct victims of anti-social behaviour or residents who witness anti-social behaviour directed against the community. We need witnesses to report incidents, to provide evidence and to help police enforcement action taken against perpetrators. This entails ensuring that victims and witnesses have confidence in the practitioners to whom they report the information, that it will be treated confidentially, and that their safety will not be compromised by coming forward. These concerns may be more intense where the victim and perpetrator of anti-social behaviour live in close proximity to each other.

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.

Good support will include some of the following:

- simple reporting channels;
- taking the complaint seriously and advising how it will be dealt with;
- engaging each key witness in a face-to-face meeting with the agencies, including those who do not wish to give a statement or attend court;
- a home environment assessment to understand what witness protection measures are required (such as installing new locks on windows and doors or a panic button);
- emergency out-of-hours contact;
- putting the witness in touch with other residents who might be available to offer support; and
- when people are too scared to come forward, considering the use of hearsay evidence containing anonymised witness statements and professional witnesses.

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 prearranged times (sometimes daily); and
- telephone calls from the local authority at prearranged times.

Section 4: Intimidation or harassment

Intimidation or harassment is a personalised form of anti-social behaviour, specifically aimed at particular individuals. The nature of this anti-social behaviour means that victims of intimidation and harassment are often living or working in close proximity to their tormentors. Support is essential to turn these victims into witnesses. Intimidation and harassment may also be triggered by an individual taking a stand and giving evidence; agencies must provide adequate and appropriate protection and support for all witnesses.

Enforcement action must be immediate to protect those who are being harassed or intimidated. This may be through an injunction or an interim Anti-Social Behaviour Order (ASBO) (which may be obtained without notice to the defendant) and can provide immediate relief and raise confidence in the ability of local agencies to tackle this sort of anti-social behaviour.

ASBOs and Anti-Social Behaviour Injunctions (ASBIs) are available to protect people from behaviour causing harassment, alarm or distress. An order on conviction may be appropriate where someone has been convicted in court for an offence related to their intimidation or harassment of another person. Where action is taken in the county court, an ASBO can be made against a party to the main proceedings or another adult whose conduct is material to the proceedings.

ASBI immediately protects family from violent male and threats to kill

The perpetrator was a very violent adult male and former armed robber who terrorised the Derbyshire housing estate in which he lived. Numerous reports were made by local residents to their housing officer and the local police about his behaviour as they were afraid to give formal evidence against this man.

Complaints included:

- aggressive conduct and nuisance over several years;
- threats to kill neighbours, their children and pets or to have them killed;
- assault of a 12-year-old and threats to kill him and his family;

Conditions of the order may include a ban from the area where the victims live or a specific ban on approaching or communicating with the victims. Because these court orders are made in civil proceedings, hearsay evidence can be used to protect victims who are too scared to come to court.

Injunctions may be made under Housing Act provisions where the harassment or intimidation is housing-related or under Section 222 of the Local Government Act 1972, which enables local authorities to take court action to promote or protect the interests of the inhabitants of their area.

Intimidation or harassment may also constitute a criminal offence under the Protection from Harassment Act 1997. A restraining order may be made in addition to the conviction, or an injunction obtained.

Eviction of the perpetrator is another option to move the individual away from those they are intimidating or harassing. However, it is important that this is accompanied by other action, such as an injunction, to ensure that the behaviour does not recur in a new area, or that the perpetrator does not return to the area to intimidate those who assisted the eviction action.

- intimidation and harassment of young single females by entering their homes uninvited and making unwelcome and inappropriate overtures to them; and
- loud drunken parties and the alleged use of drugs.

Which tools/powers were used and why?

An emergency ex parte injunction with power of arrest under Sections 153A and 153C of the Housing Act 1996 was obtained **within 24 hours** of the violent assault on the 12-year-old being reported. An ex parte injunction was applied for as there was **continuing, significant risk of harm to witnesses** and the injunction immediately prohibited the perpetrator from having any contact with them.

How were the intervention methods used?

The **ex parte injunction** was obtained using:

- **hearsay** – taken from residents too fearful of reprisals to give direct evidence; and
- **direct evidence** – statements provided by the main victim and her family, the anti-social behaviour co-ordinator, the housing officer and the local beat officer.

The perpetrator breached the interim injunction after two weeks by threatening a local family and was immediately arrested. He spent five days in prison and was only released when he gave an undertaking that he would not return to his home address, pending the return date hearing for the full injunction.

To protect vulnerable witnesses, **witness protection measures** were put in place so that should any threats of violence arise, witnesses could report them using mobile numbers provided to them and obtain immediate support. Both the local authority and the police contact centre were alerted to give calls from these witnesses a high priority. Visible police presence was increased in the area where the witnesses lived and local beat officers and response officers were also briefed to attend any incidents reported.

What were the outcomes for the perpetrator, the victims and the community?

A **full injunction** was obtained, which included power of arrest, following the granting of the interim injunction. Application for committal was waived in view of the undertaking given by the perpetrator that he would immediately give up his tenancy of his council home and would only return to collect his possessions under police escort.

The perpetrator was excluded from the housing estate and prohibited from contacting witnesses. He was warned by the judge that any breach would result in ‘a lengthy term of imprisonment being visited upon you’.

Victims were delighted and were able to resume their lives without living in constant fear. Their quality of life had been extremely poor and now that the source of the intimidation and distress had been removed they were overjoyed. One resident said: ‘It’s like a black cloud has been lifted from the estate.’ The case has built community confidence in the local authority’s ability to tackle and resolve anti-social behaviour. Witnesses were left feeling empowered and more positive about reporting incidents.

The local paper provided very positive publicity on this case, citing that new legislation enabled this type of intervention to take place and emphasising the message that communities need not tolerate anti-social behaviour.

The defendant has not offended since and his ability to engender fear in the community has been greatly diminished. The community has renewed confidence to report anti-social behaviour and now has an expectation that their concerns will be dealt with effectively.

Following successful interventions, North East Derbyshire District Council has made tackling anti-social behaviour a corporate priority and has created two anti-social behaviour investigator posts, which will increase the council’s capacity to tackle anti-social behaviour.

Section 5: Nuisance neighbours and housing-related anti-social behaviour

A number of the tools for tackling anti-social behaviour by nuisance neighbours are tenure-neutral and can be used to curb the anti-social behaviour of those in private accommodation. These tools may be specific to the type of behaviour exhibited, for example:

- noise abatement action; and
- closing crack houses.

Or there are more generic means of tackling anti-social behaviour, such as:

- Penalty Notices for Disorder;
- mediation for a neighbour dispute;
- local authorities may initiate civil proceedings under Section 222 of the Local Government Act 1972 to seek injunctions against private tenants or owner-occupiers in order to promote or protect the interests of inhabitants in their area;
- Anti-Social Behaviour Injunctions (ASBIs); and
- Anti-Social Behaviour Orders (ASBOs).

5.1 NOISE NUISANCE

The first resort in every neighbour dispute should be mediation. In certain circumstances the law allows property that is being used to cause noise, nuisance, alarm or distress to be seized from the user or the owner. Seizing the source of the noise or the nuisance behaviour is an effective and immediate solution to the distress caused to the community by such behaviour as well as a deterrent to owners who can face permanently losing their vehicles or sound equipment.

Environmental Health Officers (EHOs) have powers to enter residential premises to seize noise-making equipment under the Noise Act 1996. The local authority can then apply to the magistrates' court to have the noise-making equipment forfeited.

The police or police community support officers (PCSOs) can seize cars or motorbikes that are being used in a manner that causes alarm and distress, either on or off-road. The Environment Agency can seize vehicles that are used to fly-tip under the Control of Pollution (Amendment) Act 1989.

Alcohol can be seized from people who continue to drink on the street or in other public areas within a controlled drinking zone, in defiance of an order to stop made by the police or a PCSO.

5.1.1 Domestic noise

Individuals concerned about noise or other nuisance should at first be encouraged to talk to the person responsible and explain the problem. If the direct approach does not succeed, mediation can be effective. Environmental improvements such as carpets or slow-closing doors can also be useful to resolve a dispute.

When informal action is not possible or fails, formal action should be taken to end the disruption caused to the individual and their family. There is a package of measures that local authorities, both in their strategic role as crime and disorder partners and in their role as landlords, can use to tackle neighbour nuisance problems, including noise nuisance.

Local authorities have a duty to deal with any noise that they consider to be a 'statutory nuisance'. 'Statutory nuisance' is defined by the Environmental Protection Act 1990 (Chapter 43, Part III, Section 79).

Noise Abatement Notices (see page 16) can be used to stop a noise that is causing a statutory nuisance. Where the noise does not stop, the local authority may itself put a stop to the nuisance and recover the costs. This includes the power to seize and remove any equipment that is being or has been used in the emission of the noise in question.

All landlords, whether social or private, have powers to take action against tenants who are breaching their tenancy agreements, including taking out injunctions or possession proceedings. Acceptable Behaviour Agreements or Contracts can also be effective in setting out the standards of behaviour that an individual causing nuisance should maintain.

While ASBOs or ASBIs would not normally be the first recourse in cases where noise nuisance is the main problem, they are an effective way of tackling more serious anti-social behaviour that may include noise nuisance. Circumstances where their use may be appropriate would include dealing with, for example, families whose anti-social behaviour, when challenged, leads to verbal abuse, threats or graffiti, or where noise nuisance is part of a pattern of unruly behaviour by tenants or owner-occupiers which intimidates others.

5.1.2 Noise-related interventions

Penalty Notices

Local authorities have the power to investigate complaints of excessive noise at night, give warning notices in respect of such noise and – where the noise remains excessive after the service of a warning notice – either prosecute or issue a Fixed Penalty Notice for £100 in respect of it. They also have the power to enter a dwelling from which noise exceeding the permitted level specified in a warning is emitting and to remove any equipment used in the emission of the noise.

Noise Abatement Notices

Upon receipt of a complaint, if the local authority officer is satisfied that the noise may constitute a statutory nuisance, they will try to resolve the matter informally. If this does not work, a Noise Abatement Notice will be served on the person responsible, or in certain circumstances on the owner or occupier of the property. The notice may require that the noise or nuisance must be stopped or limited to certain times of the day.

Failure to comply with a Noise Abatement Notice without reasonable excuse is an offence. A person who commits such an offence in residential premises is liable to a Level 5 fine (£5,000), and with a further fine of up to £500 for each day on which the offence continues after the conviction.

Where a Noise Abatement Notice is not complied with, the local authority may itself abate the nuisance and recover the costs. This includes the power to seize and remove any equipment that is being or has been used in the emission of the noise in question.

General information on neighbourhood noise and what can be done about it can be found in ENCAMS' MPs' pack on environmental campaigns. There is also information on ENCAMS' website at: www.encams.org. A summary of noise-related interventions from the step-by-step guide *Tackling nuisance neighbours* can be viewed at the Respect website: www.respect.gov.uk/members/article.aspx?id=8338

Information on all types of noise nuisance can be viewed at: www.defra.gov.uk

5.1.3 Noise from intruder alarms

The Clean Neighbourhoods and Environment Act 2005 (CNEA) provides local authorities with the powers to deal with annoyance caused by audible intruder alarms in their areas.

What are alarm notification areas?

A local authority may now designate its area (or part of it) as an alarm notification area. The occupier or owner of any premises (residential or non-residential) that are fitted with an audible intruder alarm in the designated area must nominate a key holder for those premises and notify the local authority of the details of that key holder. The key holder can be an individual or a key-holding company. The authority can then turn to that key holder for assistance in silencing an alarm, where necessary. It is an offence to fail to nominate, or to notify the local authority of the details of, a key holder.

In setting up an alarm notification area, local authorities must:

- advertise their intention of designating an area in the local press and write to householders affected, allowing at least 28 days for representations to be made; and

- advertise the date on which a designation will have effect, giving at least a further 28 days' notice.

Penalties for non-compliance by key holders

The penalty for failing to register key holder details is a maximum Level 3 fine upon summary conviction of £1,000 or payment of a Fixed Penalty Notice of £75, or a level set by the local authority.

Powers of entry to property where an intruder alarm is misfiring

These powers are described in Sections 77 to 79 of the CNEA and can be used by the local authority to deal with a misfiring alarm anywhere in the authority's area if an alarm has been misfiring for:

- 20 minutes continuously; or
- one hour intermittently.

An EHO must first take reasonable steps to get the nominated key holder to silence the alarm. An EHO may enter the property without force (i.e. to disconnect an externally mounted alarm) if:

- the alarm is giving 'reasonable cause for annoyance' to those in the vicinity; and
- reasonable steps have been taken to contact the key holder, who then cannot be found.

An EHO may enter the premises with force if a warrant for entering the property has been obtained. Any expenses reasonably incurred by the local authority in connection with entering the premises, silencing the alarm, leaving a notice and securing the premises may be recovered by the authority from the occupier, or if there is no occupier, the owner.

5.1.4 Noisy licensed premises

Noise Act 1996 (as amended by the CNEA)

Local authorities may use the Noise Act 1996 (as amended by the CNEA) to take proceedings against licensed premises which exceed the permitted level for noise. Section 84 and Schedule 1 of the CNEA provide local authorities with powers to take action when the noise from licensed premises at night is causing annoyance to

those in the vicinity but the problem is not severe enough to warrant serving a 24-hour Closure Order under the Anti-Social Behaviour Act 2003. Local authorities may offer an offender the chance to discharge liability to conviction with the payment of a Fixed Penalty Notice of £500 within 14 days. The maximum fine for non-payment is up to £5,000 upon summary conviction.

Closure Notices for noisy licensed premises

Closure Notices are designed to be a swift and effective form of enforcement, encouraging residents, licensee landlords and club owners to take responsibility for the effect the activity surrounding the premises is having on the community.

In certain circumstances, premises that are associated with anti-social behaviour such as noise nuisance, drug dealing or disorder can be closed temporarily. These Closure Notices are backed by criminal penalties if they are breached by the owner, tenant or licensee landlord of the premises.

Part 6, Section 40 of the Anti-Social Behaviour Act 2003 gives the local authority's chief executive, or an authorised EHO, the power to close noisy licensed premises where they cause a public noise nuisance for a period of 24 hours. These can be licensed premises or premises operating under a temporary event notice.

Sections 161 to 170 of the Licensing Act 2003 extend the existing powers of the police to instantly close, for up to 24 hours, licensed premises that are associated with disorder or causing noise nuisance, or to apply to the magistrates' court to close all licensed premises within a geographical area in anticipation of disorder.

Part 1, Section 2 of the Anti-Social Behaviour Act 2003 gives powers to the police and to the magistrates' court to close down premises for up to three months where Class A drugs are being used or dealt and there is serious nuisance or disorder associated with the premises.

A Closure Order requires the premises to be kept closed for a specified period not exceeding 24 hours, starting

from when the manager of the premises receives written notice of the order. It is a criminal offence to allow the premises to open when a Closure Order is in place. The offence is punishable on summary conviction by a maximum fine of £20,000 and/or a maximum prison sentence of three months.

For guidance on the use of local authority powers under Section 40 of the Anti-Social Behaviour Act 2003, see *Noisy Disorderly Premises Closure Guidance* for Part 6 of the Anti-Social Behaviour Act, Sections 40 to 41.

Closure Orders associated with drug dealing and drug taking

Sections 1 to 11 of the Anti-Social Behaviour Act 2003 contain powers that are available to the police in consultation with local authorities, to enable the swift closure of properties taken over by drug dealers and users of Class A drugs and which cause disorder or serious nuisance to the local community. These Closure Orders are backed by criminal penalties if they are breached by the owner, tenant or licensee landlord of the premises.

The Closure Notice alerts those using the property, those residents, the owner and any others with an interest who can be identified, of the intention to apply to the court for a Closure Order.

To serve a Closure Notice:

- A senior police officer can issue a Closure Notice on premises that they have reason to believe are being used for the production, supply or use of Class A drugs and are causing a serious nuisance or disorder.
- The police can fix the Closure Notice to a prominent place on the building and may enter the premises in question, using reasonable force if necessary, for the purpose of serving the notice.
- The police must then apply to the magistrates' court within 48 hours for a Closure Order.

To issue a Closure Order, the court must be satisfied that:

- the premises have been used in connection with the production, supply or use of Class A drugs;
- the activity associated with Class A drugs has been evident during the three months preceding the Closure Notice;
- the premises are associated with disorder or serious nuisance; and
- an order is necessary to prevent further disorder or serious nuisance.

The Closure Order can last for up to three months and can be extended to six months. During the period of closure it will be an offence to enter or remain in the property and the premises will be sealed.

For Home Office guidance on the closure of premises used in connection with the production, supply or use of Class A drugs and associated with the occurrence of disorder or serious nuisance, visit:
www.respect.gov.uk/members/article.aspx?id=7884

Camden Council has developed a *Crack House Closure of Premises Protocol*. For further information on the protocol, please contact Dylan.Belt@met.pnn.police.uk

Club closure for drug dealing and disorder

For several years the club in Harwood, near Blackburn, Lancashire, attracted complaints from local residents for excessive noise. A series of police operations over the years (roadside check points and stop and search of vehicles and club members) led the police to close the premises for six months using the Anti-Social Behaviour Act.

The dance club was unlicensed and open for business until 6am. The police operation to close it took place after many smaller operations had been carried out in response to numerous complaints from local residents regarding excessive noise and late-night activity. Police consultation with the owner failed to get results.

Stop and search operations were run over 10 weekends around the club. Eighty-five people were arrested for a variety of offences and almost 1,600 were searched. Sixty per cent of these had criminal records and 50 per cent had warning markers relating to violence, drugs, firearms and use of weapons.

During these operations, the police seized drugs and weapons including hammers, eight baseball bats, long-bladed knives, a taser gun, pickaxe handles, small knives and a police baton. Intelligence checks showed that people travelled to the club from far outside the area.

Which partners were involved?

The partners were:

- solicitor and staff from the licensing section of Hyndburn Borough Council; and
- Lancashire Constabulary (Eastern Division), including specialist search teams, support units, dog patrols, road policing units, police officers and detectives.

Which tools/powers were used and why?

- Stop and search operations in the vicinity of the club using powers under the Criminal Justice and Public Order Act 1994 (Chapter 33, Part IV, Section 60) and the Police and Criminal Evidence Act 1984 (Chapter 60, Part 1, Section 1).
- Roadside checkpoints to stop and search vehicles and people, using the Road Traffic Act 1988 (Chapter 52, Section 163) and the Police and Criminal Evidence Act 1984 (Part 1, Section 4).
- Searches of club members and premises using the Misuse of Drugs Act 1971 (Chapter 38, Section 23).
- Closure of Premises Notice using the Anti-Social Behaviour Act 2003 (Chapter 38, Part 1).

How were the intervention methods used?

Officers from across the whole force area – including specialist search teams, support units, dog patrols and road policing units – entered the club and executed a warrant under the Misuse of Drugs Act 1971. They then conducted searches of people and the premises.

A Closure of Premises Notice can be used in connection with premises that are concerned in the production, supply or use of Class A drugs and where the premises are also associated with the occurrence of disorder or serious nuisance.

What were the outcomes for the perpetrators, the victims and the community?

The Closure of Premises Notice was effective in closing the club for a period of up to six months, when the order was reviewed. The closure has removed the disturbances that caused the residents to complain.

5.1.5 Other measures

Injunctions

There are two types of injunction – common law or civil injunctions and injunctions that relate specifically to housing management functions, also called ASBIs.

The common law or civil injunctions are orders obtained from the county court, which require a person to either do or refrain from doing a particular act. The court will not automatically grant an injunction against an individual whose actions have been complained about. Rather, the landlord must present evidence to persuade the court that the benefit obtained by restricting the person complained about outweighs the right of this person to remain free. Breach of an injunction order is a contempt of court and punishable by up to two years' imprisonment and/or a fine. An injunction can be used to:

- restrain perpetrators from repeating acts of harassment;
- temporarily prohibit harassment until a Possession Order is obtained;
- restrain a tenant from breaching their tenancy agreement;
- prevent a threatened unlawful act by preserving the status quo; or
- exclude a person from a designated area.

Any landlord – public or private – can apply to the High Court or county court for an injunction to enforce nuisance clauses in a tenancy agreement. It is important for nuisance clauses to be strong and clearly worded, making it crystal clear to tenants that nuisance or anti-social behaviour, whether by them, their visitors, lodgers or children, is not acceptable and may lead to them losing their home.

Injunctions can be used with or without an action by the landlord to evict the tenant from the property. An injunction, restraining the tenant and their visitors to the property from acting in an anti-social manner, used with possession proceedings, may succeed in stopping the nuisance behaviour. Where this occurs, the court may

decide to make a postponed order for possession. If this combination is unsuccessful, enforcement of the order for possession against the tenant will result in the termination of their tenancy and eviction from the property.

Injunctions offer immediate protection and set a clear standard of behaviour. They prohibit the person from engaging in conduct capable of causing nuisance or annoyance. They can also prevent perpetrators from entering specific premises and/or areas, at all times or at specified times during the day or night. As such, these injunctions can be tailored to the individual problem faced by the landlord, unlike the broader, inflexible ASBIs, which cannot specify exclusion times.

Any landlord can apply for an injunction where it is anticipated that the tenant will breach their tenancy agreement. Therefore, all tenancy agreements should include clauses that require the tenant not to cause a nuisance or annoyance to neighbours.

Where the nuisance clause is breached, it is possible to obtain an injunction which enforces the terms of the tenancy agreement between the landlord and the tenant. In essence, the injunction places an obligation on the tenant to observe the nuisance clause within the agreement.

As a consequence, it is good practice to ensure that the nuisance clause of a tenancy agreement is clear and specific so that it can be enforced easily.

Anti-Social Behaviour Injunctions – under the Housing Act 1996

Local authorities and registered social landlords can apply for ASBIs. The Housing Act 1996 sets out the basis on which these injunctions can be granted by the court. The Anti-Social Behaviour Act 2003 and Section 26 of the Police and Justice Act 2006 made significant changes to these powers.

Under the Anti-Social Behaviour Act 2003 (as amended by the Police and Justice Act 2006), injunctions are available where conduct is capable of causing nuisance or annoyance to some person (who need not be a particular identified person), and directly or indirectly relates to or affects housing management functions. The power of arrest or an Exclusion Order extends to circumstances where there has been anti-social behaviour, which includes the use or threatened use of violence, and/or there is a significant risk of harm to a person mentioned in the ASBI.

It is important to note that ASBIs are very popular among social landlords, who consider them to be a quick and flexible tool that can be deployed with relative ease and efficiency against perpetrators of anti-social behaviour. Further, ASBIs are tenure-neutral and can therefore be deployed against perpetrators who are not even tenants of the social landlord leading the court action, provided, of course, that the anti-social behaviour being complained about impacts on the housing management functions of the social landlord.

Local government injunctions

Using their powers under the Local Government Act 1972, local authorities can apply to the civil courts for injunctions to restrain anti-social behaviour that constitutes a public nuisance.

Section 222 of the Local Government Act 1972 provides:

- (1) Where a local authority considers it expedient for the promotion or protection of the interests of the inhabitants of their area –
 - (a) they may prosecute or defend or appear in any legal proceedings and, in the case of civil proceedings, may institute them in their own name.

In cases of anti-social behaviour, local authorities can use Section 222 to apply for injunctions to stop behaviour that can be shown to be a public nuisance.

To prove a public nuisance, the local authority must show that:

- the behaviour materially affects the reasonable comfort and convenience of life of a class of Her Majesty's subjects;
- the area affected by the nuisance behaviour can be described as the neighbourhood;
- there are sufficient numbers of people within the local community affected by the nuisance behaviour to constitute a class of the public. It is not necessary to prove that every member of the class has been affected – a representative cross-section will be enough; and
- it is within the proper action of a local authority to put an end to all public nuisances to protect and promote the interests of their inhabitants.

How to use injunctions for public nuisance under the Local Government Act 1972

Injunctions can prohibit the individual, either absolutely or at specific times of the day or night, from entering the area where the nuisance has been committed and may also contain other prohibitions designed to restrain the type of anti-social behaviour that has caused the public nuisance. They can be an effective remedy because the court can order an adult to be sent to prison for breaching the terms of the injunction. Although juveniles cannot be sent to prison for contempt of court, they can be fined and have their assets seized.

Civil injunctions have successfully been used by local authorities to prohibit prostitution, begging and drug dealing. These injunctions are based on the law of public nuisance and Section 222 of the Local Government Act 1972, which gives local authorities the power to take legal action to stop or prevent a public nuisance.

In such cases, although many of the behaviours are criminal offences, the circumstances of these offences can make it difficult to secure criminal convictions or effective criminal sanctions to stop the behaviour. Some local authorities have successfully used civil injunctions to stop the behaviour and to protect the communities affected.

There are a number of advantages in using injunctions to tackle serious and persistent criminal behaviour by adults, such as prostitution, begging and drug dealing:

- Injunctions can be quicker to obtain than undertaking long drawn-out criminal proceedings. They became even more effective when, under Section 91 of the Anti-Social Behaviour Act 2003, courts were enabled to attach the power of arrest to Section 222 injunctions from 30 June 2004. As from 6 March 2007, there is now a compulsion on the police to ensure that anyone arrested under a power of arrest for breach of a Section 222 local authority proceedings injunction must be brought before the courts within 24 hours of their arrest (as is the case with those arrested for breaching an ASBI). The power of arrest can only be attached to an injunction where there is violence or the threat of violence or significant risk of harm, whether physical or otherwise.
- The civil rules of evidence apply to injunction hearings so witnesses are more likely to be willing to attend to give evidence. Hearsay evidence may be admissible.
- A final injunction, if granted, may continue in force for the duration of the anti-social behaviour, whereas a criminal punishment is finite.
- Breach of injunctions can result in prison sentences for adults, provided that appropriate warnings have been issued.
- Local authorities can use their powers under Section 222 of the Local Government Act 1972 in partnership with the police, who can assist in identifying perpetrators and gathering evidence that may not be available to the local authority.

What are the penalties for breach of an injunction?

When an adult over 21 years old breaches the terms of an injunction, the court may decide to give a prison sentence. The imprisonment is for contempt of court, not for the public nuisance caused. The maximum period of imprisonment for contempt of court is two years.

The subject of the injunction who is committed to prison can write to the court and purge the contempt of court. If successful, they will be released from prison.

Purging contempt must be made by way of a handwritten letter. The prisoner must apologise to the court for the contempt, acknowledge that the contempt needed to be punished, demonstrate remorse and contrition, and undertake to obey the order in future. The court will then decide whether the contempt has been purged. If so, the prisoner can be released before the end of their sentence.

For adults below 21 years old, different rules apply regarding committal to prison after breach of an injunction and it is highly unlikely that a court would order this.

Anti-Social Behaviour Orders

ASBOs are tenure-neutral and can be used to prohibit the anti-social behaviour of owner-occupiers or those in private rented accommodation, as well as social housing tenants.

ASBOs are community-based orders that involve local people in collecting evidence and in helping to enforce breaches of the prohibitions in the order. They are designed to encourage local communities to become actively involved in reporting crime and anti-social behaviour, thus building and protecting the community.

Any action taken in the county court for anti-social behaviour can have an ASBO application attached to it. This can also include joining persons other than a party to the principal proceedings whose behaviour is material in order to seek an ASBO against them.

Private landlords should engage with other responsible local agencies such as the police and local authority to work together to manage anti-social behaviour in the community.

There is separate comprehensive guidance on ASBOs on the crime reduction website:

www.crimereduction.gov.uk/antisocialbehaviour/antisocialbehaviour55.htm

5.2 HIGH HEDGES

Part 8 of the Anti-Social Behaviour Act 2003 gives local authorities powers to deal with complaints about high hedges that are having an adverse effect on a neighbour's enjoyment of their property.

Complaining to the local authority should always be a last resort and neighbours are expected to have made every effort to resolve the issue amicably. *Over the Garden Hedge* is a leaflet produced by Communities and Local Government advising members of the public on ways to negotiate with their neighbours to reach agreement over hedges. A second leaflet called *Complaining to the Council* is also available. The local authority is able to charge a fee for dealing with complaints and their task will be to decide whether 'reasonable enjoyment of a property is being adversely affected by the height of a high hedge situated on land owned or occupied by another person'.

If the local authority considers that the circumstances justify it, they will issue a formal notice outlining what action should be taken to remedy the problem and to prevent it recurring. Failure to comply with the notice would be an offence. The local authority also has powers to go in and do the work themselves, recovering the costs from the hedge owner.

5.3 MEASURES FOR SOCIAL LANDLORDS TO TACKLE ANTI-SOCIAL BEHAVIOUR

Part 2 of the Anti-Social Behaviour Act 2003 introduced a raft of powers for social landlords to tackle anti-social behaviour. These measures included demoted tenancies and ASBIs.

The Housing Act 2004 built on these measures, allowing social landlords to extend introductory tenancies, refuse mutual exchanges or suspend the right to buy for anti-social behaviour.

The Housing Act 2004 also introduced powers for local housing authorities to introduce licensing of private rented accommodation in order to address a number of issues including anti-social behaviour.

Introductory tenancies

Chapter 1, Part 5 of the Housing Act 1996 (amended by the Housing Act 2004) allows local housing authorities and housing action trusts to adopt an introductory tenancy scheme for all new tenants. Introductory tenants are essentially on probation and the landlord can evict them fairly easily during the probationary period. They do not have as many rights as secure tenants. Otherwise the introductory tenancy will automatically become a secure tenancy.

Part 6 of the Housing Act 2004 gives local authority landlords the flexibility to extend introductory tenancies by a further six months where there are continuing doubts about the conduct of the tenant. This enables landlords to further assess the suitability of an introductory tenant, including in cases of anti-social behaviour, for an additional period. This provision only applies to new introductory tenancies granted after 6 June 2005.

Starter tenancies

The Housing Corporation Regulatory Code (3.5.2) states that housing associations must provide good-quality housing services for residents and prospective residents by offering the most secure form of tenure compatible with the purpose of the housing and sustainability of the community. This allows registered social landlords to adopt a probationary scheme for new assured tenants as a tool to tackle anti-social behaviour, either in a defined geographical area or across their whole stock. In doing so, landlords must consult their tenants and the local authority and review their use of the scheme. These probationary tenancies are called starter tenancies.

A tenant with a starter tenancy can be evicted by way of the standard assured shorthold tenancy grounds. This means that the landlord must give the tenant two months' written notice under Section 21 of the Housing Act 1988. Where the tenant fails to leave the property, the landlord may then pursue possession under the accelerated possession procedure.

Demotion Orders

Many landlords have found introductory or starter tenancies a very effective way of controlling anti-social behaviour in new tenants. The introduction of demoted tenancies allows landlords to apply to the court to reduce the security of tenure for an existing tenancy in a similar way. Sections 14 and 15 of the Anti-Social Behaviour Act 2003 give social landlords the right to apply for a Demotion Order to end a secure tenancy and replace it with a demoted form of tenancy.

Local authorities, housing action trusts and registered social landlords may apply to the county court to allow a tenancy to be brought to an end by a Demotion Order. Upon granting of the order, the tenancy is replaced with a less secure form of tenancy.

The court may only make the order if the tenant, another resident of or a visitor to the tenant's home has behaved in a way that is capable of causing nuisance or annoyance. In addition, the court must be satisfied that it is reasonable to make the order.

The Demotion Order gives a serious warning to the tenant, since, if they continue to misbehave, swift action can be taken to end their tenancy. It also removes a number of their tenancy rights, thereby acting as a positive incentive to the tenant to change their behaviour. If the tenants stop causing problems, they can regain their higher level of security. The scheme provides a clear link between the enjoyment of the benefits and rights of security, and responsible behaviour.

The period of demotion will initially be for 12 months but may be extended if the landlord serves notice to seek possession of the property during the period of demotion.

Effect of demotion on a secure tenancy

If the tenant of a local authority or housing action trust subject to the order holds a secure tenancy and the court decides to grant a Demotion Order, this will end the secure tenancy and replace it with a 'demoted tenancy'. The tenant will lose a number of the rights enjoyed under secure tenancy. This will include removing their right to buy their home and the right to exchange their home with another tenant.

The Housing Act also includes measures to prevent a tenant from being able to compel completion of a Right to Buy sale if an application is pending for a Demotion Order, Suspension Order or Possession Order sought on the grounds of anti-social behaviour. This prevention will remain in place until those proceedings have ended and no demotion order or outright possession order was made. If a Demotion Order or outright Possession Order is made, the tenant will lose their secure tenancy and consequently the right to buy.

The Housing Act also includes measures to enable landlords of secure tenants to seek an order suspending the right to buy for a specified period on the grounds of anti-social behaviour. The court may only grant such an order if it is satisfied that the tenant or a person residing in or visiting the property has engaged or threatened to engage in anti-social behaviour (which includes using the premises for unlawful purposes) and that it is reasonable to make the order.

If the tenant of a registered social landlord subject to the order holds a secure tenancy and the court decides to grant a Demotion Order, this will end the secure tenancy and replace it with a demoted assured shorthold tenancy. The former secure tenant who has been demoted will not regain their secure tenancy status after the demotion period has ended but will become an assured tenant.

These measures will stop anti-social tenants escaping the consequences of their actions by completing the purchase of their home before the landlord can take effective action against them.

Landlords are required to serve notice on secure tenants before issuing demotion proceedings. This means that the landlord must provide notification to the tenant that they intend to approach the court with an application for a Demotion Order.

Effect of demotion on an assured tenancy

If the tenant subject to the order holds an assured tenancy and the court decides to grant a Demotion Order, this will end the assured tenancy and replace it with a demoted assured shorthold tenancy. This is an ordinary assured shorthold tenancy except that there is no restriction on the landlord obtaining a Possession Order during the first six months of the tenancy on the basis that they have given notice in accordance with Section 21 of the Housing Act 1988. The tenant will lose a number of the rights enjoyed under an assured tenancy.

Other forms of tenancy

Demotion cannot be sought for other forms of tenancy. For example, tenants of local authorities and housing action trusts may also hold introductory tenancies. A similar 'probationary' tenancy is also available to housing associations; these are called starter tenancies. Demotion Orders cannot be sought to replace these already 'less secure' forms of tenancy.

Tenants of a registered social landlord whose tenancy began after 15 January 1989 usually hold an assured tenancy. However, not all registered social landlords issue assured tenancies. These often include smaller landlords, such as housing co-operatives, almshouses and Abbeyfield Societies, who issue other forms of tenancy for which demotion cannot be sought.

Demotion provides a powerful tool, but in some instances landlords may wish to apply for civil orders (e.g. an ASBO) and injunctions alongside demotion. This may be the case where the landlord wishes to institute an immediate effect in curtailing or preventing anti-social behaviour for the protection of individuals or the wider community.

Possession

Eviction is a serious sanction that should be used when necessary to protect the community, but only as a last resort. It is important that the perpetrators of anti-social behaviour are aware of the consequences of their behaviour. When they do not stop behaving anti-socially, then possession proceedings should be sought.

Social landlords cannot seek possession for anti-social behaviour on mandatory grounds. The nuisance grounds for possession are discretionary, and the court will only award possession if it is reasonable to do so.

Section 16 of the Anti-Social Behaviour Act 2003 enjoins judges to use their discretion when dealing with social landlords' claims for possession. Judges are required to give particular consideration to the effect of anti-social behaviour on victims and the wider community when making their decision about whether to grant possession.

Discretionary grounds for possession in instances of nuisance behaviour depend on the type of tenancy held.

Secure tenancies

Schedule 2 of the Housing Act 1985 includes the following discretionary grounds for possession (Ground 2):

- The tenant or a person residing in or visiting the dwelling-house—
- (a) has been guilty of conduct causing or likely to cause a nuisance or annoyance to a person residing, visiting or otherwise engaging in a lawful activity in the locality, or
 - (b) has been convicted of—
 - (i) using the dwelling-house or allowing it to be used for immoral or illegal purposes, or
 - (ii) an arrestable offence committed in, or in the locality of, the dwelling-houses.

Other discretionary grounds that might be used to tackle anti-social behaviour include **Ground 3** relating to tenant neglect of the property.

Assured tenancies

Schedule 2 of the Housing Act 1988 includes the following discretionary grounds for possession relating to assured tenancies (Ground 14):

The tenant or any other person residing in the dwelling-house has been guilty of conduct which is a nuisance or annoyance to adjoining occupiers, or convicted of using the dwelling-house or allowing the dwelling-house to be used for immoral or illegal purposes.

Other discretionary grounds that might be used to tackle anti-social behaviour include **Ground 13** relating to tenant neglect of the property.

Private sector accommodation (assured shorthold)

Private sector tenants are usually assured tenants, as set out in the Housing Act 1988. Therefore Ground 14, as described above, provides discretionary grounds for possession in instances of nuisance behaviour.

In addition to these grounds, Section 21 of the Housing Act 1988 also provides for a 'no fault' ground for possession whereby the landlord does not have to provide a reason why they require possession of the property.

5.4 MEASURES FOR PRIVATE SECTOR LANDLORDS TO TACKLE ANTI-SOCIAL BEHAVIOUR

In instances of anti-social behaviour in private rented accommodation, it is important for the local agencies to establish a working relationship with private landlords and provide advice and assistance on how they can curb the anti-social behaviour of their tenants. Some local authorities have developed good practice in working with the private rented sector to tackle the anti-social behaviour caused by these tenants. Newcastle City Council, Gateshead Council and Manchester City Council all have initiatives that offer the following to tackle anti-social behaviour in the private rented sector:

- vetting of prospective tenants;
- training for landlords on legal eviction, drug awareness and personal safety;

- investigation of complaints about anti-social behaviour, and supporting victims and witnesses;
- supporting landlords through the legal process to end a tenancy;
- seeking ASBOs; and
- helping establish a landlords' association for the area and accreditation schemes on agreed standards of property condition and management.

It is essential in determining an anti-social behaviour strategy that consideration is given to:

- how best to engage with private landlords;
- the identification of resources to tackle the problem; and
- a clear procedure for dealing with the issue of private tenants and owner-occupiers.

5.4.1 Licensing of private sector landlords and Interim Management Orders

Part 3 of the Housing Act 2004 provides for the licensing of the private rented sector in areas that are experiencing problems caused by anti-social behaviour. Under the Housing Act, the local authority can take over the management of the property to protect the health, safety and welfare of persons occupying the premises or persons living in the vicinity. Further information is available on the Respect website at: www.respect.gov.uk/members/article.aspx?id=8006

Section 6: Environmental anti-social behaviour

Environmental anti-social behaviour includes a wide range of unacceptable behaviour that results in environmental damage such as fly-tipping, the abandonment of cars, dog fouling, noise nuisance and graffiti.

Tackling environmental anti-social behaviour effectively requires commitment from many partners who each have a responsibility in the local community. For example:

- housing officers have powers to tackle neighbourhoods where damage to the local environment is part of the problem;
- landlords, whether social or private, can take action against tenants who breach their tenancy agreement by keeping a dog and failing to control its noisy, aggressive behaviour;
- city centre managers tackling begging and street drinking can include partnership interventions such as community clean-ups as part of the solution; and
- environmental improvements by partners can help design out crime in an area and help to resolve anti-social behaviour, e.g. by relocating a phone box or replanting.

Efforts to tackle environmental crime send a message to a community that things can change for the better. They encourage the feeling that the local area is a place worth living in. Nuisance behaviour becomes more conspicuous and therefore more unacceptable. As a result, victims and witnesses are more likely to take a stand against anti-social behaviour. Tackling environmental crime therefore goes beyond keeping streets and estates clean; it is a vital part of building community confidence.

6.1 CRIMINAL DAMAGE/VANDALISM

Any damage to, or destruction of, property by vandalism, graffiti or arson is likely to be a criminal offence under the Criminal Damage Act 1971. The damage does not have to be permanent – for example, it can be caused by graffiti with a washable paint. When deciding on the sentence for an offence of causing criminal damage, the court will take account of the value of the damaged

property and the trouble and expense of restoring the property or removing the graffiti.

The Criminal Damage Act 1971 creates two levels of offence: a summary offence and a more serious offence that can be tried either in a magistrates' court or in the Crown Court.

The summary offence triable only by magistrates is limited to damage to property worth less than £5,000. The offender can receive a maximum three-month prison sentence and/or a Level 4 fine. More details about fine levels can be found in the 'Other useful articles' links below.

Higher value criminal damage cases are heard either in a magistrates' court or in the Crown Court. More serious cases in a magistrates' court attract a maximum prison sentence of six months and a Level 5 fine. In the Crown Court, the maximum penalty for criminal damage is 10 years' imprisonment.

Some authorities, including the British Transport Police, have found Anti-Social Behaviour Orders (ASBOs) useful to address those that repeatedly cause criminal damage. These are especially relevant to those that cause criminal damage in order to intimidate, such as putting bricks through windows or damaging the house of a victim who has had the courage to take a stand.

6.1.1 Racially or religiously motivated criminal damage

The Crime and Disorder Act 1998 created a new offence of racially or religiously aggravated criminal damage. This offence carries a maximum prison term of six months in a magistrates' court and/or a Level 5 fine. In the Crown Court, the offence carries a maximum prison term of 14 years and/or an unlimited fine.

Racially or religiously aggravated criminal damage is defined as criminal damage where the offender demonstrates actual hostility towards the victim based on the victim's membership of a racial/religious group or presumed racial/religious group, or the offence is motivated by racial/religious hatred.

6.1.2 Items used to cause criminal damage

The Criminal Justice Act 2003 gives the police power to stop and search people whom they suspect of having items intended to be used to cause criminal damage, for example aerosol cans of paint.

Section 54 of the Anti-Social Behaviour Act 2003 introduced a new offence on 31 March 2004, of selling aerosol paint to children under the age of 16. The penalty for this offence is a Level 4 fine.

6.2 ALLEYWAYS

Gating schemes were introduced by Section 2 of the Clean Neighbourhoods and Environment Act (CNEA) 2005 to give local authorities more effective powers to deal with problem alleyways that were the scenes of anti-social behaviour and crime.

A Gating Order enables local authorities to restrict public access to any public highway by gating it in order to prevent crime or anti-social behaviour from occurring. These powers have been in force since 1 April 2006 by Section 2 of the CNEA 2005.

Powers to close alleyways were first introduced by the Countryside and Rights of Way Act (CROW) 2000; these enable alleyways, which are also rights of way, to be closed and gated for crime prevention reasons. But they do not enable alleyways to be gated expressly to prevent anti-social behaviour and they exclude many alleyways that are public highways but not recorded as rights of way. Also, under these provisions, the removal of rights of passage is irrevocable.

Section 2 of the CNEA 2005 enables a local authority to gate a highway in a similar manner to the CROW Act 2000 power but it:

- doesn't first require the highway to be designated by the Secretary of State for the Environment, Food and Rural Affairs;
- enables gating to take place if a highway suffers from crime and/or anti-social behaviour; and
- enables the local authority to continue with a Gating Order, even if objections are made.

6.2.1 Impact on through routes

Legislation requires the local authority to consider the availability and convenience of alternative routes when gating highways. Additionally, where an alleyway is the only or principle means of access to any premises used for business or recreational purposes, a Gating Order may not be made which restricts the public right of way during periods when these premises are normally used.

6.2.2 Using the provision to block rural lanes

The intention is to enable gating of back (or side) alleys which are the source of crime in built-up areas, particularly housing estates. However, even if the anti-social behaviour or crime is occurring on a rural highway, a Gating Order can still be considered. Before making a Gating Order, the local authority must be satisfied that 'the existence of the highway is facilitating the persistent commission of criminal offences or anti-social behaviour' (Section 129A of the CNEA 2005).

6.2.3 Preventing littering and dog fouling in gated alleyways

Where a highway has been gated in accordance with powers set out under Section 2 of the CNEA 2005, the provisions set out under Dog Control Orders (DCOs) will not be affected. What is affected is a person's ability to adhere to the requirements set out by the DCO.

When gated under Section 2, the status of the highway is only temporarily suspended at the times at which the gates are shut. Therefore, when the gates are open, any DCO that applies does so as it would anywhere else.

However, when the gates are closed, whether or not the DCO applies to a person will depend on the individual's right to pass through the gates as these orders apply to any which is open to the air and to which the public are entitled or permitted to have access. In other words, by virtue of the operation of a Gating Order, there will be some people, at some times, who are physically prevented from behaving in the way a DCO may require.

Using the example of failing to remove dog faeces, if a dog defecates at any time on the land to which the order applies and a person who is in charge of the dog at that time fails to remove the faeces from the land forthwith, the person shall be guilty of an offence. However, it is not an offence if they have a reasonable excuse for failing to do so.

6.2.4 Member of the public without permission to pass through a locked gate (i.e. a non-resident)

In circumstances where the Gating Order is made and during the prescribed hours the physical barrier of the gate is in place, a dog may manage to slip through and defecate on the highway. Clearly, the person in charge of the dog is unable to pass through the locked gates to remove the faeces and therefore has a reasonable excuse for not doing so.

6.2.5 Member of the public with permission to pass through a locked gate

Some people will still be capable of being subject to requirements of a DCO regardless of the Gating Order, as they have permission to pass. These individuals will likely be residents living inside a gated area, or members of the public visiting residents inside the gated area.

So, if the public pavement outside such a dwelling is the subject of a DCO, then anyone exercising their right of way to reach that dwelling is still capable of committing an offence if they fail to clean up after their dog.

Littering is an offence everywhere and, regardless of the presence of gates, a person dropping litter commits an offence.

6.3 VEHICLE-RELATED NUISANCE

6.3.1 Nuisance parking of vehicles which are being repaired or sold on the street

Using the street as a car workshop and showroom makes it difficult for local residents to find space to park their own vehicles and go about their daily lives. The nuisance can last for months, looks unsightly and can directly damage the local environment through spilled oil.

Sections 3–5 of the CNEA 2005 make it an offence to:

- sell two or more vehicles on a road within 500 metres of each other;
- carry out ‘restricted works’ on a vehicle on the road except for repairs from an accident or breakdown that are carried out within 72 hours of the incident. Restricted works include maintenance, servicing, improvement or dismantling; and
- allow any of the above to take place, if you are a director or owner of a company.

If an individual can prove they are not repairing the vehicle as a business and are not giving ‘reasonable cause for annoyance’ to persons in the vicinity, they are not committing an offence.

A person guilty of an offence under this section is liable, on summary conviction, to a fine not exceeding Level 4 (£2,500) or a Fixed Penalty Notice (FPN) of £100 which can be collected on behalf of the local authority by an authorised officer.

Agreements and warnings can also be used to ensure that those engaged in vehicle-related nuisance appreciate the impact on local residents. ASBOs or injunctions can be used to stop the anti-social behaviour and protect the community.

6.3.2 Abandoned vehicles

Abandoned vehicles have a negative effect on the quality of the local environment as they:

- attract vandalism and rubbish;
- can be the result of crime;
- can be the means to commit a crime; and
- can produce a risk of explosion and injury.

Under Section 2 of the Refuse Disposal (Amenity) Act (RDAA) 1978, it is an offence to abandon any vehicle on any land in the open air.

How to tell whether the vehicle is abandoned

A vehicle is only abandoned when the authorised local authority officer decides that it has been left without lawful authority, and is, in their opinion, in a condition such that it should be destroyed. The following questions may help inform a decision of abandonment:

1. Does the vehicle have a number plate?
2. Is the vehicle untaxed?
3. Is there a record of the current vehicle keeper on the Driver and Vehicle Licensing Agency (DVLA) record?
4. Are the tyres flat?
5. Is there litter piling up or weeds growing around the car, indicating that it has not been moved for some time?
6. Is there waste in the car, e.g. tyres?
7. Are the brake discs rusty?
8. Is the windscreen or any windows broken?
9. Is there mould inside or on the outside of the vehicle?
10. Do local residents, businesses, etc. know how long the vehicle has been there?

Nuisance vehicles, e.g. those that are poorly parked, broken down or causing an obstruction, are not necessarily abandoned; however, significant steps can be taken to address this situation.

6.3.3 Removal and disposal of abandoned vehicles

Under Sections 11–13 and 15–17 of the CNEA 2005, a local authority can now remove any abandoned vehicle immediately from any road (or pavement) without the need to attach a notice first. However, where these vehicles are on land other than roads, a notice period must still be used. If the authority now believes the vehicle is in a condition that warrants its destruction or the vehicle is missing both a licence and registration details (number plates), it can be disposed of immediately.

Vehicles parked illegally, obstructively or dangerously and broken-down vehicles can already be removed immediately by the police if they are on a road. Where a vehicle is on private land (to which the public has no access), 15 days' notice must still be given to the occupier of the land prior to removal. The local authority can then remove and dispose of the vehicle.

It is the responsibility of the relevant waste collection authority, usually the local authority, to remove abandoned and nuisance vehicles on public land. It is the duty of the relevant waste collection authority, usually the local authority, to remove abandoned and nuisance vehicles on land in the open air or on any land forming part of a highway. This is done in conjunction with the police and the DVLA.

Police Community Support Officers (PCSOs) also have the power to require the removal of abandoned vehicles.

If the vehicle is not to be destroyed, it can be put in storage to prevent it being vandalised, while efforts are made to trace the owner. An owner who can be traced is liable for removal and disposal costs.

If the vehicle is considered to be of some value, then the owner must be given seven days' notice of the local authority's intention to dispose of a vehicle.

In the case of a vehicle only fit for destruction, the authority is no longer obliged to wait until a valid licence expires before destroying the vehicle. Where a vehicle does not have a registration plate or a current licence, the vehicle can be destroyed immediately as tracing the owner will be extremely difficult (Section 4 of the RDAA 1978, as amended by Section 12 of the CNEA 2005).

Further information

Detailed guidance and information on the CNEA 2005 issued by Defra can be downloaded from the environmental protection section at: www.defra.gov.uk. This section also includes guidance on the FPN provisions of the Environmental Protection Act (EPA) 1990, the CNEA 2005 and other legislation.

Additional information is available on the ENCAMS website at: www.encams.org

See the toolkit for tackling environmental anti-social behaviour from the Chartered Institute of Environmental Health (CIEH) at: www.cieh.org

Removing abandoned cars in Liverpool

Organisations involved: Community Safety, Liverpool City Councils.

Nature of the anti-social behaviour

Abandoned cars in Liverpool contribute to general decline of the local area, which can encourage further crime such as arson and criminal damage.

Which partners were involved?

Close liaison with the police and rapid removal of dumped vehicles make the fast-track removal scheme work. The council believes the scheme could be expanded, allowing Liverpool Direct (Liverpool City Council's call centre) to offer its service to neighbouring authorities, creating a pan-Merseyside contract, and preventing the problem being shunted into surrounding areas.

Which tools/powers were used and why?

The process for dealing with abandoned vehicles has been simplified through close working between the council and Merseyside Police. After a successful pilot project in spring 2002, the council provided initial funding from Neighbourhood Renewal money to introduce the scheme city-wide, and went out to tender for a 12-month pilot programme, ahead of the formal tendering process through the *Official Journal of the European Union*. The successful bidder, Nortons, is a local company which has developed advanced logistics to support the project and has available a compound sufficient for the storage, depollution (removal of tyres, fuels and oils) and scrapping of the vehicles.

Removing abandoned cars in Liverpool (cont.)

How were the intervention methods used?

A scheme known as fast-track removal has been put in place by Liverpool City Council to ensure that dumped vehicles are removed from the streets within two days of notification. When a vehicle is reported to Liverpool Direct, they obtain detailed information using a prepared script. Vehicle details are checked against the Easy Link Vehicle Information System (ELVIS) which gives the council access to any previous report of abandonment and shows if there is any police interest. Police access to the system allows a full vehicle history and shows any criminal involvement.

Nortons are asked to recover the vehicle within two days, unless there is police interest, in which case the police deal with it. Nortons store vehicles for seven days and a letter is sent to the last owner. If the owner comes forward, they are charged a statutory removal fee plus storage. If the vehicle is unclaimed after seven days it is depolluted and destroyed.

What were the outcomes for the perpetrator, the victims and the community?

Cost: Approximately £154 per vehicle, including depollution.

Benefits: Faster removal of abandoned vehicles from the streets. Areas look less neglected and are less likely to attract other anti-social behaviour.

6.3.4 What action can be taken against someone who abandons a vehicle?

A delegated officer of a local authority determines whether a vehicle is abandoned under the RDAA 1978.

Abandoning a vehicle on any land in the open air or any other land forming part of a highway is a criminal offence under Section 2 of the RDAA 1978. It is punishable by a maximum fine of £2,500 and/or three months in prison.

FPNs for abandonment of vehicles have been available since April 2006. An abandoned vehicle, once it has reached the end of its useful life, can also be classified as 'hazardous waste', thus also making the action of abandoning such a vehicle an offence under Section 33 of the EPA 1990.

Under Section 146 of the Powers of Criminal Courts (Sentencing) Act 2000, the courts have the power to disqualify a defendant from holding a driving licence where they have committed a relevant offence (meaning any offence committed after 31 December 1997). Disqualification can be instead of, or as well as, dealing with the defendant in another way.

Home Office Circular HOC 59/2003 suggests that courts might consider using this power to disqualify owners of abandoned vehicles as an appropriate sanction for such criminal activity. The owner of an abandoned vehicle that is removed, stored and/or destroyed by the local authority is liable for the storage or disposal costs.

Further information

CIEH anti-social behaviour toolkit/nuisance vehicles:
www.cieh.org

ENCAMS *Abandoned Vehicles Guide*:

www.encams.org/publications/main.asp?cat=5

www.encams.org/uploads/publications/abandoned_vehicles.pdf

www.encams.org/uploads/publications/scp_handbook.pdf

6.4 LITTER AND REFUSE

6.4.1 What is litter and how does it impact on our environment?

Litter is anything dropped in a public place, from sweet wrappers to bags full of household rubbish. It also includes smoking-related litter and discarded chewing gum, and is defined under Section 98 of the EPA 1990 as amended by Section 27 of the CNEA.

To throw down, drop or otherwise deposit and leave litter in any place open to the air is an offence (Section 87, EPA 1990). This offence now also includes litter dropped on private land and on water (Section 87, EPA, 1990 as amended by Section 18, CNEA 2005).

Detailed guidance and information on the CNEA 2005 by Defra can be downloaded from the environmental protection section of www.defra.gov.uk and the Respect website at: www.respect.gov.uk/members/article.aspx?id=7614

6.4.2 What action can be taken against people who drop litter?

Section 87 of the EPA 1990 makes it a criminal offence to drop, throw, deposit and leave litter. The offender can be prosecuted by the police or local authority. It is also possible for private individuals to prosecute. The offence is dealt with by a magistrates' court, with a maximum fine of £2,500.

Section 88 of the EPA 1990 gives the power to issue an FPN for the offence of leaving litter. Principal litter authorities (unitary and district councils) have the power to specify the level of fine that will apply in their area (between £50 and £80), with a standard default amount of £75 if they choose not to do so. The offender has 14 days within which to pay. Failure to pay can result in a prosecution under Section 87 of the EPA 1990.

FPNs can be issued by:

- litter authority-authorized officers including persons not employed by the local authority (includes parish councils, National Park authorities and the Broads Authority);
- accredited persons – litter wardens; and
- PCSOs.

Where appropriate, FPNs may be issued to children aged 10 or over as well as to adults, with regard to Defra guidance published in April 2006 – *Issuing Fixed Penalty Notices to Juveniles* (www.defra.gov.uk/environment/localenv/legislation/cnea/juveniles.pdf). Section 61 of the CNEA 2005 makes it an offence for anyone to withhold or falsify their details when they are given an FPN.

Powers to photograph persons given an FPN

Paragraph 12, Schedule 8 of the Serious Organised Crime and Police Act (SOCPA) 2005 gives police officers, PCSOs (where designated) and accredited persons the power to photograph persons away from the police station who have been issued with an FPN, thereby greatly reducing the ability of suspects to deny that they were the person in question.

Under Section 119 of the Local Government Act 2003, local authorities may keep the money they receive from FPN fines (see Defra guidance on Section 119 of the Local Government Act 2003 on using the receipts from FPNs for litter and dog fouling at: www.defra.gov.uk/environment/localenv/legislation/fpn/pdf/guidance-s119.pdf).

6.4.3 What are Litter Clearing Notices?

Since 6 April 2006, local authorities have been able to issue Litter Clearing Notices to require individuals and businesses to remove litter from other land in their area.

Section 20 of the CNEA 2005 introduces Litter Clearing Notices by adding Sections 92A, 92B, 92C and 94A into the EPA 1990. Section 92A enables principal litter authorities (in practice, unitary and district councils) to serve a Litter Clearing Notice in relation to land in their area which is open to the air and defaced by litter or refuse.

The Litter Clearing Notice must be served on the occupier (or, if there is no occupier, the owner of the land) and requires the clearance of litter/refuse and specific steps to prevent its recurrence.

Non-compliance with a Litter Clearing Notice may result in summary proceedings in a magistrates' court against any person who fails to comply with the notice; or an FPN may be offered under Section 94A, EPA 1990. The principal litter authority may also enter the land to which the notice relates and clear it of litter and refuse itself.

Further information

Detailed guidance and information on the CNEA 2005 issued by Defra can be downloaded from the local environmental quality section of www.defra.gov.uk. This section also includes guidance on the FPN provisions of the EPA 1990, the CNEA 2005 and other legislation.

Further information is available on the ENCAMS website: www.encams.org. A Home Office fact sheet on litter is available at: www.respect.gov.uk/members/article.aspx?id=7630

6.4.4 Who is responsible for clearing up litter and waste?

Section 89 of the EPA 1990 ensures that certain bodies are responsible for keeping public places clear of litter and refuse. These include local authorities, Network Rail, schools, colleges and universities.

Principal litter authorities, appropriate Crown authorities, designated statutory undertakers and governing bodies of designated educational institutions already have a legal obligation under Section 89 of the EPA 1990 to keep relevant land and highways clear of litter and refuse.

The local authority as a principal litter authority has a legal duty to clear refuse and litter from land for which it has responsibility, such as streets, parks, playgrounds, tourist beaches and pedestrian areas.

Members of the public can apply to a magistrates' court under Section 91 of the EPA 1990 for a Litter Abatement Order to ensure that an area under the control of a duty body is cleared of litter and refuse. Non-compliance is punishable by a maximum fine of £2,500.

Local authorities can serve Litter Abatement Notices under Section 92 of the EPA 1990 on bodies who have failed to keep their area free of litter or refuse. The notice requires the responsible body to clean the area within a specified timescale.

Section 56 of the Anti-Social Behaviour Act 2003 allows a local authority in England to enter land owned by the Crown or by a statutory undertaker (a body with a legal responsibility for keeping the area clean and litter free), in order to clean the area. The LA can then recover its costs through the courts. This power came into force in March 2004.

Local authorities can issue Street Litter Control Notices under Sections 93 and 94, EPA 1990, requiring owners or occupiers of certain types of commercial premises that have frontage on a street to prevent or remove the accumulation of litter or refuse in streets and adjacent open land, where the litter is related to their activities (for example, takeaway food premises). This will include any vehicle, stall or other moveable structure while parked at a set place on or verging a street. Failure to comply with a Street Litter Control Notice will result in an FPN of £100 (default level) under Section 94A of the EPA 1990 (as amended by Section 20, CNEA, 2005) or a penalty set at a local level of between £75 and £110.

Controls on the distribution of free literature to prevent flyers, handouts and pamphlets from becoming litter is provided under Section 94B and Schedule 3A, paragraph 7.2 of the EPA 1990 (inserted by Section 23, CNEA 2005). From 6 April 2006, it is an offence for anyone to distribute, or cause someone else to distribute, free literature, without consent, in an area designated by a principal litter authority. The offence incurs an FPN of £75 (default level), or between £50 and £80 if set at a local level. Non-payment can result in prosecution in a magistrates' court.

6.4.5 Litter on private land

If a piece of private land is littered, the owner is responsible for clearing the litter; however, the local authority can take legal action to get areas cleaned up.

If any court, yard or passage used by the occupants of two or more buildings is not regularly swept and kept clean and free from rubbish to the local authority's satisfaction, the authority may sweep and clean the area and recover any expenses incurred from the occupiers of the buildings (Section 78, Public Health Act 1936).

Local authorities may require that the owner or occupier of land destroy rats or mice on the land or otherwise keep the land free from them under Section 4 of the Prevention of Damage by Pests Act 1949.

The power to serve a Litter Clearing Notice on the occupier (or, if unoccupied, the owner) of land that is defaced by litter and refuse is available under Sections 92A, 92B, 92C and 94A of the EPA 1990. This replaces the previous system of litter control areas which is repealed by the CNEA 2005.

Further information

Detailed guidance and information on the CNEA 2005 issued by Defra can be downloaded from the environmental protection section of www.defra.gov.uk. This section also includes guidance on the FPN provisions of the EPA 1990, the CNEA 2005 and other legislation. Further information is available on the ENCAMS website at: www.encams.org

6.5 ILLEGAL ADVERTISEMENTS (FLY-POSTING)

6.5.1 What action can be taken against fly-posting?

Fly-posting is the posting of stickers, posters and other advertising without the consent of the owner of the property. Street furniture in particular is afflicted. Fly-posting is an offence under Section 224(3) of the Town and Country Planning Act (TCPA) 1990 and the Highways Act 1980, making it a criminal offence to display an advertisement in contravention of regulations.

Advertisers can be fined up to £2,500 on conviction for this offence under the TCPA 1990, and, in the case of a continuing offence, £100 per day after a conviction (TCPA (Control of Advertisements) Regulations 1992).

The current defence contained in the TCPA 1990 (as amended by Section 33, CNEA) requires individuals who authorise fly-posting to prove that:

- the advertisement was displayed without their knowledge;
- they took all reasonable steps to prevent the display; or
- they took all reasonable steps to secure the advertisement's removal once it had been displayed.

The individual who physically affixes the poster (rather than the advertised business) may be issued with an FPN under Sections 43–44 of the Anti-social Behaviour Act 2003.

Removal of advertisements

Posters can be removed from highways by the local authority without notice (Section 132, Highways Act 1980).

Defacement Removal Notices are available under Sections 48–52 of the Anti-Social Behaviour Act 2003, as amended by Section 31 of the CNEA 2005.

Defacement Removal Notices should only be used as a last resort when all other measures have failed. Local authorities will be able to serve a Defacement Removal Notice on bodies who are responsible for a surface defaced by fly-posting, which can include:

- the owner of street furniture (bus shelters, street signs, phone boxes etc.); and
- property belonging to statutory undertakers,

where this is on land to which the public has access or which is visible to the public.

The notice gives a minimum of 28 days for the removal of the advertisement. If after that time it has not been removed, the local authority can remove it and recover its costs.

London-specific powers

A similar provision exists for London boroughs, but some elements are different. Further details are available by viewing the statutory guidance or by visiting the London Councils website at: www.londoncouncils.gov.uk

Penalty notices for fly-posting

FPNs are available for the following criminal offences relating to fly-posting:

- affixing posters upon buildings etc., within the Metropolitan Police Area, without the consent of the owner or occupier (Metropolitan Police Act 1839);
- defacing streets in London with slogans (London County Council (General Powers) Act 1954);
- criminal damage to property, involving painting, writing, soiling, defacing or marking property by whatever means (Section 1(1), Criminal Damage Act 1971);
- obliterating traffic signs and painting or affixing things on or beside the highway (Section 131(1) and Section 131(2), Highways Act 1980); and
- displaying an advertisement in contravention of regulations (Section 224(3), TCPA 1990).

Section 33 of the CNEA 2005 changed the defence that can be used by the owner/occupier of the land on which the advertisement is displayed or the person whose business or concerns are advertised. Under Section 224(3) of the TCPA 1990, a defendant now has to prove that 'the advertisement was displayed without his knowledge; or he took all reasonable steps to prevent the display or, after the advertisement had been displayed, to secure its removal'.

The FPN amount is set at £75, and regulations introduced in April 2006 allow the level to be set within a prescribed range (£50–£80) under the CNEA 2005.

Section 61 of the CNEA 2005 makes it an offence for anyone to withhold or falsify their details when they are given an FPN.

Further information

For guidance on using FPNs for fly-posting and graffiti under Sections 43–47 of the Anti-Social Behaviour Act 2003 (which created the ability to issue FPNs for graffiti or fly-posting from March 2004), see Defra guidance on Part 6 of the Anti-Social Behaviour Act 2003 at: www.defra.gov.uk/environment/localenv/legislation/asb-act/index.htm

Detailed guidance and information on the CNEA 2005 issued by Defra in April 2006, including model forms for FPNs and other notices, consultation documents, training information and separate guidance on aspects of the CNEA legislation, can be viewed at: www.defra.gov.uk/environment/localenv/legislation/fpn

A toolkit for tackling environmental anti-social behaviour from the CIEH can be viewed at www.cieh.org

Powers to photograph persons given a penalty notice

Paragraph 21, Schedule 8 of the SOCPA 2005 gives police officers, PCSOs (where designated) and accredited persons the power to photograph persons away from the police station who have been issued with an FPN, thereby greatly reducing the ability of suspects to deny that they were the person in question.

6.5.2 Who can issue penalties for graffiti or fly-posting?

Under Section 43(1) of the Anti-Social Behaviour Act 2003, the following people can issue FPNs of £75 for graffiti or fly-posting activity:

- an authorised officer of the local authority in whose area the offence has been committed;
- a PCSO; or
- someone trained and accredited as part of a community safety scheme.

For guidance on the use of FPNs for fly-posting and graffiti, see Defra guidance on Part 6 of the Anti-Social Behaviour Act 2003. This should be read in conjunction with guidance on the FPN provisions of the EPA 1990, the CNEA 2005 and other legislation, issued in April 2006.

6.6 WASTE (FLY-TIPPING)

6.6.1 What is fly-tipping and what is the duty of care to dispose of waste legally?

Fly-tipping is the illegal disposal of waste without a waste management licence and is a wide-ranging offence.

Fly-tipping can range from a single black bin bag up to thousands of tonnes of waste. This offence is defined under Section 33 (Part II) of the EPA 1990. Under Section 33, action can be taken against anyone who has committed a fly-tipping offence, whether knowingly or unknowingly. A fly-tipping offence has been committed if a person has:

- deposited, caused or permitted waste to be deposited on land that does not have a waste management licence;
- treated, kept or disposed of waste on land that does not have a waste management licence; or
- treated, kept or disposed of waste in a manner likely to cause pollution or harm to human health.

Incorrect disposal of ‘controlled waste’ is an offence under Section 33 of the EPA 1990. Controlled waste includes:

- general household waste;
- larger domestic items such as fridges and mattresses;
- garden refuse; and
- commercial waste such as builders’ rubble, clinical waste and tyres.

Other illegal waste activity includes the deliberate mis-description of waste and the abuse of the exemptions regime.

Any producer of waste has a duty of care to make sure that waste is disposed of properly under Section 34 of the EPA 1990. Reasonable measures must be taken to:

- ensure that waste is being passed on to an authorised carrier (a local authority or person registered with the Environment Agency);
- prevent any waste escaping due to negligence; and
- prevent another person from depositing waste illegally.

The Waste (Household Waste) Duty of Care (England and Wales) Regulations 2005 (effective from 21 November 2005) extend the duty of care to householders. Householders must take reasonable measures to make sure that waste is only passed on to authorised persons.

6.6.2 Publicising householders' responsibilities and facilities for legitimate waste disposal

It is essential that every household gets the message that it is also up to them to prevent fly-tipping, and that they could face prosecution and a fine of up to £5,000 if it is proven that they did not take reasonable measures to make sure that their waste was passed on to an authorised person.

Local authorities should make all information about legitimate services to dispose of and recycle waste accessible to all sections of the community, through the local media, council communications, local campaigns, and adverts on refuse bags and lorries.

Householders should be encouraged to ask for a contractor's waste carrier number, which can be checked on the Environment Agency Public Register website for licensed contractors at: www2.environment-agency.gov.uk/epr/search.asp?type=register

6.6.3 What regulations are imposed on small businesses that dispose of waste for profit?

Small businesses can make huge sums of money by dumping other people's waste, often multiple lorry loads, knowing that the local authority will have to clear it up and that the cost will be met by taxpayers. Such waste includes household, industrial and commercial.

Some builders or van owners who hire drivers may remove household rubbish for a fee only to dump it in the nearest lay-by, field or beauty spot. These businesses rely on householders not asking questions.

These small carriers have the same duty of care under Section 34 (Part II) of the EPA 1990 as others. Further

information can be found on the Respect website at: www.respect.gov.uk/members/article.aspx?id=7618; and on the Defra website at: www.defra.gov.uk/environment/waste/legislation/duty.htm#2

Registration as a waste carrier is compulsory

People who collect or transport waste for profit must be registered with the Environment Agency under Section 3 of the Control of Pollution (Amendment) Act (CPAA) 1989. A list of carriers registered with the Environment Agency is available at: www.environment-agency.gov.uk/subjects/waste/?lang=_e

It is an offence to transport controlled waste without being registered under Section 1 of the CPAA 1989. The penalties for not registering are a fine not exceeding £5,000 (Level 5 on the standard scale). From April 2006, there is also an FPN of up to £300 for failure to produce registration documents on request.

Removal of defence of acting under an employer's instructions

If they are found to be transporting or handling controlled waste for profit in a vehicle without being a registered carrier of controlled waste, employees are no longer able to use the defence that they were acting under their employer's instructions, as this was not considered a valid defence (Section 1, CPAA 1989, as amended by Section 35(1), CNEA 2005).

In relation to fly-tipping offences under Section 33 of the EPA 1990, Section 40 of the CNEA 2005 has also removed the defence of acting under employers' instructions.

Waste transfer note

Businesses that transfer waste must keep a waste transfer note and written description of the waste for two years.

Failure to produce this documentation relating to waste or a certificate of registration can result in an FPN of £300 from April 2006 under Section 34A of the EPA 1990, as inserted by Section 45 of the CNEA 2005.

6.6.4 What powers can authorities use to detect and investigate fly-tipping?

Powers to stop, search and seize a vehicle and its contents

The current power to stop, search and seize a vehicle is only available on suspicion of an offence under Section 1(1) of the CPAA 1989, and is only possible after obtaining a warrant from a magistrate.

Section 46 of the CNEA 2005 introduced new powers to stop, search and seize vehicles involved in fly-tipping and duty of care offences (Sections 33 and 34, EPA 1990), and removed the requirement for a warrant and will allow instant seizure. In England and Wales, a consultation on the proposed power will be carried out in May 2008 and commencement is expected in April 2009.

From April 2009, if there are reasonable grounds for believing that an offence under Sections 33 and 34 of the EPA 1990 has been committed, and that the vehicle was used in the commission of the offence, waste collection authorities can:

- investigate fly-tipping incidents;
- stop and search a vehicle suspected of being used to deposit unlawful waste if a police constable is present; and
- seize a vehicle used to deposit unlawful waste, after the issue of a warrant.

These powers are also available under the CPAA 1989 (c.14) as amended by Section 55 of the Anti-Social Behaviour Act 2003.

Further powers of investigation

These are available under Section 53 of the CNEA 2005. From 18 October 2005 in England and from 16 March 2006 in Wales, waste collection authorities can use investigation powers available under Section 108 of the Environment Act 1995 in relation to any function under Part II of the EPA 1990. Authorised waste collection officers can:

- enter premises;
- bring an authorised officer, a constable and equipment;
- take samples;
- direct that premises are undisturbed;
- take measurements and photographs as necessary;
- require a person to give information;
- require production of relevant information and records; and
- require any person to assist the investigation.

A maximum penalty of £5,000 or six months in prison can be imposed for failure to comply with an investigation

6.6.5 What are the penalties for fly-tipping?

Penalties for fly-tipping reflect the seriousness of the offence, its impact on the environment and the cost of cleaning up and dealing with the resulting pollution.

1. FPNs of £100 are available for minor offences or £300 for less serious offences committed by small businesses. For repeated fly-tipping offenders, an ASBO and/or vehicle confiscation may be appropriate. Serious offences committed on a commercial and industrial scale can attract fines ranging from £5,000–£50,000 or unlimited fines in combination with prison sentences.
2. An FPN of £100 for not complying with a notice relating to waste receptacles and waste collection.
3. From April 2006, Section 47ZA of the EPA 1990 (as inserted by Section 48 CNEA 2005) allowed authorised officers to issue a £100 FPN to any householder not complying with a notice issued under Sections 46–47 of the EPA 1990. This can help to ensure that publicised collection arrangements are followed and waste is not left out on the wrong day, at the wrong time or in the wrong receptacle. The local authority will need to ensure that collection arrangements have been well publicised and are reasonable.

4. An FPN of up to £300 for failure to supply required documentation for importing, producing, carrying, keeping, treating or disposing of controlled waste.
5. From April 2006, Section 45 of the CNEA 2005 allows authorised officers to issue an FPN for failure to produce documents under any regulations set by an authority under Section 34(5) of the EPA 1990. This can include:
 - failure to produce a written description of waste (waste transfer note) whenever it is transferred;
 - failure to retain waste transfer notes for two years; and
 - an FPN of £300 for failure to register as a waste carrier and failure to produce waste carrier registration details as required under Section 3 of the CPAA 1989.

Other measures

- ASBOs for fly-tipping offences have been issued to prolific and repeat offenders under the Anti-Social Behaviour Act 2003. The Environment Agency can take out an ASBO on corporate individuals responsible for authorising the illegal deposit of waste.
- Removal of driving licence under Section 146 of the Powers of the Criminal Courts (Sentencing) Act 2000.
- Forfeiture of vehicle under Section 33 of the EPA 1990 (as amended by Section 44, CNEA 2005) in order to interrupt or terminate the illegal business. Forfeiture should not affect the perpetrator's legitimate activities or deprive them of their right to a private and family life (Human Rights Act 1998).
- Fine of £5,000 for breaching the waste duty of care under Section 34 of the EPA 1990.
- Fine of up to £50,000 and/or 12 months' maximum imprisonment (magistrates' court) or unlimited fine and/or five years' imprisonment (Crown Court) for illegal waste disposal under Section 33 of the EPA 1990 (as amended by Section 41, CNEA 2005).
- Contravention of permits and failure to comply with an enforcement or suspension notice (paragraph 25, Schedule 1, Pollution Prevention and Control Act 1999).

6.6.6 What costs can an authority recover for investigating, prosecuting and cleaning up after fly-tippers?

Payment of enforcement authority's costs as a penalty

The courts may order an offender convicted of fly-tipping offences to pay costs in relation to the enforcement authority's costs. The costs can include:

- investigation/enforcement costs incurred by the enforcing authority and any costs associated with the seizure of vehicles involved in the offence (Section 42, CNEA 2005);
- clean-up/correct disposal of waste costs incurred by the Environment Agency, the local authority or the land owner/occupier affected (Section 43, CNEA 2005);
- seizure and forfeiture of a vehicle used in the offence; and
- an order to seize a vehicle used in a fly-tipping offence and give possession of it and the rights to its contents to the relevant enforcement authority (Section 44, CNEA 2005). Previously orders gave possession to the police.

An order under Section 44 can be used in conjunction with the courts' power to make an order enforcing clean-up costs. If the forfeiture would affect the perpetrator's legitimate activities or deprive them of their right to a private and family life under the Human Rights Act 1998, forfeiture should not be considered.

Further information

Detailed guidance and information on the CNEA 2005 issued by Defra can be downloaded from the environmental protection section of www.defra.gov.uk

Further information on fly-tipping is available from Defra at: www.defra.gov.uk/environment/localenv/flytipping/index.htm; from the Environment Agency www.environment-agency.gov.uk/subjects/waste/1029679/1032559/?lang=_e; and from ENCAMS at: www.encams.org/knowledge/flytipping

A toolkit for tackling environmental anti-social behaviour is available from the CIEH at: www.cieh.org

6.7 GRAFFITI

The Anti-Social Behaviour Act 2003 gives local authorities further powers to tackle graffiti and fly-posting. Local authority officers, PCSOs or any person accredited by the chief constable has the power to issue an FPN to the sum of £75 in relation to minor graffiti and fly-posting offences.

6.7.1 What can be done to prevent sales of spray paint to under-16s?

Under the Anti-Social Behaviour Act 2003, it is an offence for anyone to sell aerosol paint to anyone under the age of 16. A person guilty of an offence can be fined up to £2,500.

The CNEA 2005 places a duty on local trading standards to carry out a review of under-age sales once every 12 months and take enforcement action where necessary.

6.7.2 Using Defacement Removal Notices to remove graffiti

Defacement Removal Notices are notices that local authorities can serve on the owners of street furniture, statutory undertakers such as Network Rail, and educational institutions whose property is defaced with graffiti. These notices oblige the recipients of the notice to remove the specified graffiti within 28 days or the local authority can remove it and recover the costs.

The power was introduced by Sections 48–52 of the Anti-Social Behaviour Act 2003, when it was piloted across 12 local authority areas. Following the pilot, the Home Office produced interim Defacement Removal Notice guidance ahead of the commencement of the power in April 2006. This was to provide the correct information to set up the pilots that local authorities wanted to be ready to use the provisions on introduction. Further information on the pilot scheme is available on the Home Office website graffiti removal pilot pages at: www.homeoffice.gov.uk/documents/2004-cons-graffiti/?version=1

6.7.3 Guidance

Statutory guidance has been developed by the Home Office, Defra, the Department for Transport, the former Department of Trade and Industry and the Office of the Deputy Prime Minister, and the Department of Health, and is available at: www.respect.gov.uk. It sets out a number of principles that should be followed to ensure that this provision is used in the correct manner. In particular, the pilot scheme found that the most successful graffiti removal was through co-operative partnerships where all parties had a clear understanding of their responsibilities and times to remove graffiti. This ensures that these notices are only used as a last resort.

Local authorities should also have regard and be sympathetic to the demands which are likely to be placed on national companies owning significant amounts of property vulnerable to graffiti.

There is no standard form for Defacement Removal Notices. In most instances, this will be a formal letter from the local authority to the owner setting out the particulars of the property affected and the length of time it has been in that state. The particulars of such a notice should be agreed through the partnership.

These powers do not extend to private households or other private property, such as shop frontages, fences and walls. Graffiti is criminal damage under Section 1 of the Criminal Damage Act 1971.

6.7.4 Penalties

If the value of criminal damage exceeds £5,000:

- the maximum custodial penalty for those aged 18 or over is 10 years' imprisonment; and
- the maximum custodial penalty for those aged 12–17 is a Detention and Training Order of up to 24 months.

If the value of the damage is less than £5,000:

- the maximum sentence for those aged 18 or over is three months' imprisonment or a fine of £2,500; and

- for those aged 12–17, there is no custodial provision. A range of community sentences are available to the court such as Reparation Orders and the Final Warning Scheme.

If the graffiti offence is minor, an FPN of £75 may be issued. From 31 March 2004, the Anti-Social Behaviour Act 2003 allows FPNs of £50 to be issued by local authority community support officers, whether accredited or not, PCSOs and those persons accredited by the police under a community safety accreditation scheme.

6.7.5 British Transport Police database of taggers

The British Transport Police operate an information-sharing database of taggers. This database can be accessed free of charge by practitioners working on graffiti reduction. This database enables the full extent of the damage caused by graffiti to be collated and taken into account by the court in sentencing. For further details of the scheme, contact Hannah Ward (020 7918 0064 or Hannah.Ward@btp.pnn.police.uk).

6.7.6 Rapid and persistent removal works

Evidence suggests that removing graffiti rapidly and persistently is likely to deter further acts of graffiti. Many street cleansing teams now cover graffiti and are capable of providing a rapid response.

Anti-graffiti paint (protective coatings) can also be useful. However, this needs to be backed up with enforcement.

Resident works with the local authority to get graffiti removed

Stephen Allot, a local resident in Wandsworth, received the taking a stand award by setting up his own system of providing weekly reports to the council's graffiti removal service. The local authority provides a 24-hour hotline and a three-day response. It engages a contractor to remove the graffiti and take 'before' and 'after' photographs for input into a graffiti tag database as evidence.

Which partners were involved?

- Friends of Clapham Common
- The Clapham Society
- Wandsworth Council graffiti removal service.

How were the intervention methods used?

In total, the council estimates that Stephen has reported over 600 separate instances of graffiti, all of which the council has removed. The area between Wandsworth and Clapham Common is largely kept graffiti-free through his efforts. The council's targets for removal are 24 hours for racist/abusive graffiti and three days for other forms. The contractors take 'before' and 'after' digital photographs to show that they have satisfactorily completed the work and the council maintains a database of the graffiti tags to provide evidence against offenders. The council's budget for this free service £500,000.

What were the outcomes for the perpetrator, the victims and the community?

Stephen Allot is the council's most active user of the graffiti removal service and has attended the council's Charter Mark assessment day as a residents' representative, and the council has since been granted the award.

6.8 FIREWORKS MISUSE

While most people enjoy fireworks responsibly, in the wrong hands they can cause real misery. Too many people let off noisy fireworks, late at night, with no regard for the nuisance this causes their neighbours. A dangerous minority deliberately uses them to harass, intimidate and sometimes seriously harm those around them.

There are laws in place to protect communities from the misuse of fireworks. These are powers for the police to help tackle problems in their communities. Breaking the law by committing any of the offences in this section carries a £5,000 fine or six months in prison, or both.

Tackling fireworks misuse in Oldham

The irresponsible sale and use of fireworks caused many nuisance incidents and child injuries in Oldham. A multi-agency team developed preventative educational and media campaigns. Trading standards tackled shops and unregistered mobile vendors. Fireworks nuisance was reduced by 36 per cent and calls to emergency services were down from 30 to two.

The nature of the anti-social behaviour

In previous years, Oldham had significant problems with child-related fireworks injuries. These stemmed from irresponsible use and a lack of knowledge of the dangers.

Which partners were involved?

This was a multi-agency approach involving:

- the community safety team;
- the anti-social behaviour team;
- trading standards;
- the police;
- park services; and
- the fire service.

Which tools/powers were used?

- Section 6 of the Fireworks (Safety) Regulations 1997 (under-age sale of fireworks).
- Section 4 of the Fireworks Regulations 2004 (possession of fireworks by someone under 18).
- Penalty Notices for Disorder (PNDs) for fireworks (under the Criminal Justice and Police Act 2001/ Section 80 of the Explosives Act 1875).

How were the intervention methods used?

During the fireworks period, partners sent out press releases to maintain campaign momentum, and gained very good coverage in local and regional media, as well as spots on *BBC Breakfast* and *Newsround*. The messages were disseminated through schools, and trading standards carried out test purchasing of fireworks in local shops.

There was an active presence in communities and the education and prevention approach enabled the partners (PCSOs, police, trading standards, etc.) to further spread the message, thereby avoiding the need to immediately use enforcement powers. However, there were some minor incidents which required enforcement action. Two PNDs were issued for throwing fireworks, after which the group responsible disbanded and the problem was alleviated. Local trading standards also confiscated a significant number of fireworks from unregistered mobile vendors. These incidents were followed up with prosecutions.

What were the outcomes for the perpetrator, the victims and the community?

All of the suppliers of fireworks were visited and registered to supply. Therefore, the database of registered suppliers was able to be comprehensively updated. Over 5,000 fireworks were confiscated from traders.

There was a 36 per cent recorded reduction in fireworks nuisance caused by youths, while the ambulance service dealt with two fireworks-related calls – down from 30 in the previous year.

6.8.1 Fireworks offences

Throwing fireworks or setting off fireworks in public places

Section 80 of the Explosives Act 1875 prohibits throwing or setting off fireworks on any highway, street, thoroughfare or public place. A public place is anywhere other than someone's own back garden – the local park, streets, schoolyard and bus station are all public places.

Possession of adult fireworks by anyone under the age of 18 in a public place

'Adult fireworks' are defined as any fireworks except for a cap, cracker snap, novelty matches, party poppers, serpents and throw downs. This offence was first introduced in emergency legislation in 2003 and made permanent in the Fireworks Regulations 2004. Remember – even some sparklers are adult fireworks.

Possession of Category 4 fireworks (public display fireworks) by anyone other than a fireworks professional

This offence was first introduced in emergency legislation in 2003 and made permanent in the Fireworks Regulations 2004.

6.8.2 Curfew on fireworks use

The Fireworks Regulations 2004 also made it an offence for any person to use adult fireworks between the hours of 11pm and 7am – except for on 'permitted' fireworks nights. These exceptions, where the curfew start time is later, are as follows:

- 5 November: 12 midnight;
- Diwali: 1am;
- New Year's Eve: 1am; and
- Chinese New Year : 1am.

6.8.3 Powers to tackle fireworks misuse:

From October 2004, the police have been able to use PNDs to tackle misuse of fireworks by those aged 16 and over, as part of a wider drive to give the police powers and tools to crackdown on anti-social behaviour involving fireworks.

These laws allow police to punish offenders immediately with on-the-spot fines of £80 (PNDs). The police are now able to issue PNDs for curfew offences and possession offences (note: throwing a firework in a public place is already punishable by a PND since the introduction of PNDs on 31 March 2004). In addition, seven police force areas are currently piloting the issuing of PNDs to 10 to 15-year-olds, and these have already been used to good effect.

These sanctions offer the police an alternative means of dealing with more minor firework offences. PCSOs can also be given these powers. Other powers can be put to use where fireworks misuse is part of a wider anti-social behaviour problem. This could include Acceptable Behaviour Contracts (ABCs), Dispersal Notices and ASBOs.

Stop and search powers

Section 115 of the SOCPA 2005 introduced a further power for the police to stop and search an individual or vehicle suspected of being in possession of prohibited fireworks.

The penalties for fireworks offences are:

- a maximum fine of £5,000 or six months in prison, or both;
- an £80 PND for persons aged 16 and over; or
- where fireworks misuse is part of a wider anti-social behaviour problem, ABCs, Dispersal Notices and ASBOs may be used.

An updated fireworks guide and a new pocket-sized tools and powers crib sheet are available on the Crime Reduction website at:

www.crimereduction.homeoffice.gov.uk/antisocialbehaviour/antisocialbehaviour061.htm

6.9 ANIMAL NUISANCE

6.9.1 Barking dogs

Where the barking is deemed to be a statutory nuisance by the local authority, an Abatement Notice must be served under Section 80 of the EPA 1990. Under Section 79 of the EPA 1990, local authorities have a duty to take reasonable steps, where practicable, to investigate complaints of noise nuisance. If satisfied that a statutory nuisance exists, or is likely to occur or recur, an environmental health officer from the local authority must serve an Abatement Notice requiring the abatement or restriction of the nuisance. Failure to comply with the terms of the Abatement Notice can result in a maximum fine upon summary conviction of £5,000 for domestic premises. Local authorities can also take steps themselves to abate the nuisance where an Abatement Notice is not being complied with.

All landlords, whether social or private, have powers to take action against tenants who are breaching their tenancy agreement by causing nuisance to neighbours. This can include noise nuisance caused by barking dogs that are not kept under proper control.

Social landlords may take out an Anti-Social Behaviour Injunction (ASBI) on a tenant for causing noise nuisance in breach of their tenancy. For more information, see the 'Housing injunctions under the 1996 Housing Act: Housing and Anti-social Behaviour' fact sheet No. 2 (October 2004) at: www.respect.gov.uk/members/article.aspx?id=8080

An ASBO may be taken out on individuals causing noise nuisance irrespective of their type of tenancy.

6.9.2 Dog Control Orders

On 6 April 2006, Sections 55–67 of the CNEA 2005 introduced DCOs and repealed the Dog (Fouling of Land) Act 1996 and byelaws made by local authorities, parish councils, town and community councils to introduce controls on dogs in certain areas. However, designations remain in place until they are extinguished by a DCO or they are otherwise revoked.

Local authorities and parish councils can use DCOs to cover the five offences below:

- failing to remove dog faeces;
- not keeping a dog on a lead;
- not putting, and keeping, a dog on a lead when directed to do so by an authorised officer;
- permitting a dog to enter land from which dogs are excluded; or
- taking more than a specified number of dogs onto land.

Local authorities can still make byelaws for offences that fall outside these categories.

6.9.3 Land that can be subject to a Dog Control Order

Any land that is open to the air or to which the public are entitled or permitted to have access (with or without payment) can be subject to a DCO (Section 57, CNEA 2005).

Land is treated as land 'open to the air' if it is open to the air on at least one side, e.g. a railway platform or garage forecourt that remains open to the air at all times. The Secretary of State for Environment, Food and Rural Affairs has the power to designate types of land to be excluded, such as Forestry Commission land. DCOs can still apply within areas subject to a Gating Order under Section 2 of the CNEA 2005 (see page 28).

Exempted persons

- No offence is committed if a person in charge of a dog acts with the consent of the person who owns or is otherwise in control of the land (e.g. working dogs on farms).
- People with disabilities who make use of trained assistance dogs are not subject to a DCO excluding dogs from specified land.
- Any registered disabled persons (with the exception of a deaf person) are exempt from removing faeces in a dog control area.
- Any person with reasonable excuse for failing to comply with the order.

On making a DCO, an authority must:

- consult its primary or secondary authorities to avoid potential conflicts;
- demonstrate that the order is a necessary and proportionate response to problems caused by the activities of dogs and their owners and those in charge of dogs;
- balance the interests of dog owners and those in charge of dogs against the interests of those affected by the activities of dogs;
- consider how easy a DCO will be to enforce;
- advertise revocation of an order in a local paper; and
- erect signage in the location of the designated dog control area summarising the order.

An FPN is available for contravening a DCO. The default amount is £75 but a local authority can set the amount within a specified range (£50–£80). If prosecuted for the offence, a person is liable to a maximum Level 3 fine of £1,000.

Persons who can issue an FCN are:

- local authority dog wardens or other authorised local authority officer;
- a person authorised by a secondary authority, e.g. parish council;
- any person (including their employees) if authorised by the local authority or parish council; and
- PCSOs and other persons accredited by chief police officers.

Section 61 of the CNEA 2005 makes it an offence for anyone to withhold or falsify their details when they are given an FPN. Paragraph 21, Schedule 8 of the SOCPA 2005 gives police officers, PCSOs (where designated) and accredited persons the power to photograph persons away from the police station who have been issued with an FPN, thereby greatly reducing the ability of suspects to deny that they were the person in question.

Local authorities can retain the receipts from these FPNs and use them only to help meet the cost of certain specified functions. However, certain local authorities can spend the penalty receipts on any of its functions.

In the case of dog controls, specified functions are litter, dog, graffiti and fly-posting functions – these will be functions such as issuing more notices, provision of bins, advertising, cleaning, etc. Further details on the use of penalty notice receipts can be found on page 18 of guidance on the FPN provisions of the EPA 1990, the CNEA 2005 and other legislation, which is available at: www.defra.gov.uk

Enforcement can be complemented by awareness campaigns. ENCAMS ran a campaign in 2002 which was very successful in reducing dog fouling and promoting more responsible behaviour among dog owners. For further information see the campaign section of www.encams.gov.uk

Further information

Detailed guidance and information on the CNEA 2005 issued by Defra can be downloaded from the environmental protection section of www.defra.gov.uk. Additional information is available from the ENCAMS website at: www.encams.org/publications/index.asp

6.10 ENVIRONMENT-RELATED FIXED PENALTY NOTICES

FPNs can be used for a range of environmental offences as an alternative to prosecution. The principal legislation setting out the offences for which FPNs can be applied includes the EPA 1990 and the Anti-Social Behaviour Act 2003, as amended by the CNEA 2005.

Examples of offences where an FPN may be issued include:

- dropping litter;
- minor graffiti offences or fly-posting;
- not clearing up dog fouling;
- where noise is causing a statutory nuisance;

- where excessive noise is coming from a private residence during the night;
- nuisance parking; and
- abandoning a vehicle.

FPNs can be issued by local authority officers and in a limited capacity by PCSOs and other accredited persons, and offer speedy and effective action that frees up police, local authority and court time. They can be issued to anyone over 10 years old and are penalties of £50 for most offences, but £100 for noise-related offences. FPNs ensure that all unacceptable behaviour is challenged. The offender receives an immediate punishment which, if paid, will not result in a criminal record. If the penalty is not paid, the local authority can prosecute the perpetrator for the original offence.

The CNEA 2005 increased the FPN level to £75 for littering, dog fouling, graffiti and fly-posting. The Act extended the FPN scheme to other environmental offences.

These include:

- Litter Clearing Notices – £100;
- Street Litter Control Notices – £100;
- free literature distribution – £75;
- nuisance parking – £100;
- abandoned vehicles – £200;
- DCOs – £75;
- waste left out at the wrong time – £100;
- noise from licensed premises – £500;
- failure to produce authority (waste transfer note) – £300;
- failure to produce documentation (waste carrier license) – £300; and
- allowing local authorities to set the level of FPN (commenced 6 April 2006).

A framework under the Act also sets out a range under which local authorities can set the level of fine. The ranges are from £50–£80 for those offences with a

default rate of £75 and from £75–£110 for those offences with a default rate of £100.

Detailed guidance and information on the CNEA 2005 issued by Defra can be downloaded from the environmental protection section of www.defra.gov.uk. Guidance is available on all measures and includes guidance aimed specifically at parish councils or other authorities that are new to issuing FPNs.

6.11 PENALTY NOTICES FOR DISORDER

PNDs are issued for more serious offences, like throwing fireworks or being drunk and disorderly. The notices can be issued by the police and, where designated, PCSOs, are available as part of a community safety accreditation scheme. PNDs were introduced under the Criminal Justice and Police Act 2001 specifically to tackle low-level anti-social behaviour and to reduce police bureaucracy in dealing with these types of crimes.

PNDs can be issued to anyone over 16 years old and are for either £50 or £80 depending on the severity of the behaviour. If the penalty is not paid, it is automatically registered as a fine at one and a half times the level of the penalty. Unpaid fines are enforced through the courts in the normal way.

6.11.1 Offences where a PND might be issued

Examples of offences where a PND may be issued include:

- behaviour likely to cause harassment, alarm or distress to others;
- drunk and disorderly behaviour in a public place;
- destroying or damaging property up to the value of £500;
- retail theft under £200;
- sale of alcohol to a person under 18 years of age;
- selling alcohol to a drunken person;
- using threatening words or behaviour; and
- breach of a fireworks curfew.

Section 7: Anti-social behaviour related to drug taking, alcohol, prostitution and other area-based problems

7.1 STREET DRINKING

People who are drunk and causing anti-social behaviour can also be arrested as drunk and disorderly, drunk on a highway or causing harassment, alarm or distress under Section 5 of the Public Order Act 1986. Some police authorities refer those arrested, and on bail, to alcohol treatment. Penalty Notices for Disorder can also be an effective way to deal with these offences.

Where someone is causing alarm and distress through their drunken behaviour, it may be necessary to protect the community using an Anti-Social Behaviour Order (ASBO) or an injunction. These can be used to exclude the perpetrator from the area in which they have been

causing a problem and also from areas where they can obtain alcohol. This can also be an effective way to ban an individual from licensed premises where they have been causing disruption and disorder.

Under the provisions of the Licensed Premises (Exclusion of Certain Persons) Act 1980, following conviction for an offence committed on licensed premises involving violence or threats of violence, a court can make an order prohibiting the person from entering those premises and any other specified licensed premises. The order may remain in force for between three months and two years.

Tackling teenagers' alcohol-fuelled anti-social behaviour in Valley Park, Hampshire

Complaints were being made about a large number of juveniles congregating, and often drinking, outside the local convenience store. Some were perpetrators from less affluent surrounding areas. Conflicts between the local and non-local youths over the girls in the area often fuelled the anti-social behaviour.

Boredom through inadequate local leisure facilities was also cited as a common problem behind the anti-social behaviour. There was a leisure centre and there were plenty of play areas for younger children, but no recreational facilities for older youths.

Most incidents were not reported to the police, even though residents feared that crime in the area was spiralling out of control. The local community were concerned for their safety and quality of life, as the area around the convenience store was becoming a no-go area. It emerged later at a public meeting that a local parish councillor had been inundated with people knocking on his door with demands for action, but had no channel of recourse.

Which partners were involved?

The partners were:

- the police;
- the borough council;
- Valley Leisure Ltd; and
- Hampshire Youth Service.

The partnership steering group consisted of:

- the local residents' association;
- the youth service;
- local community representatives;
- local retailers;
- the parish council; and
- local media.

Community mobilisation was achieved through coverage of progress of the project in the residents' association newsletters and local newspapers. Publicity was used to reassure the public that action was being taken to encourage reporting of incidents/crimes.

Tackling teenagers' alcohol-fuelled anti-social behaviour in Valley Park, Hampshire (*continued*)

Which tools/powers were used and why?

- Prosecutions for criminal damage and shoplifting.
- Prosecutions under Section 5 of the Public Order Act 1986.
- Acceptable Behaviour Contracts (ABCs) for eight young people identified as being involved in the large group.

How were the intervention methods used?

A crime reduction officer and a police beat constable from Hampshire Police Force formed the core project co-ordinating team. They:

- identified and monitored changes in anti-social behaviour offences and crime and disorder incidents (juvenile nuisance, minor public disorder and noise nuisance);
- offered advice on crime prevention measures to the other key partners;
- chaired the steering group/committee meetings;
- located sources of funding for the project;
- charged a number of young people who could be identified with shoplifting, criminal damage and Section 5 public order offences; and
- worked with Test Valley and Eastleigh Borough Council and parents to negotiate ABCs on some of the young people identified as being part of the large group.

The local Basic Command Unit carried out targeted police patrols involving a mixture of covert and overt observations of the crime/anti-social behaviour problems.

Test Valley Borough Council/Eastleigh Borough Council:

- sent a community safety officer and representatives from relevant services to attend committee meetings;
- funded alterations to the local community centre;
- offered to support additional services for youths offered at the leisure centre;

- provided the supporting use of neighbourhood wardens;
- represented the local council's views at the committee meetings;
- consulted on issues concerning development of council-owned land;
- were also willing to support ABCs and ASBOs; and
- sent anti-social behaviour officers to visit parents of offenders and those at risk of offending and present video footage to the parents of the type of offending occurring.

Neighbourhood wardens:

- established credibility in the community through direct interaction, by knocking on doors of local residents and discussing their role and projects being carried out by the police to confront anti-social behaviour;
- carried out high-visibility policing;
- cleaned and tidied the local environment;
- engaged with youths to get them involved in local activities;
- liaised with the police and fed back observations and public concerns; and
- helped to seize alcohol from youths – although this was initially detrimental to their relationship with the youths.

A representative from a local shop:

- implemented measures to prevent thieves from entering and stealing goods; and
- improved staff training, and increased awareness of licensing legislation to staff.

The residents' association:

- was involved in representing the local community's views at committee meetings; and
- distributed newsletters containing quarterly updates on progress of the project.

Tackling teenagers' alcohol-fuelled anti-social behaviour in Valley Park, Hampshire (*continued*)

The owners of the parade of shops:

- were consulted about environmental redesign (a flowerbed); and
- asked shop tenants for views on changing the adjacent environmental design.

The youth service:

- worked with the young people to identify what they required to modify their anti-social behaviour; and
- offered educational and social services to the young people.

The parish council:

- represented the parishioners' views at the committee meetings.

What were the outcomes for the perpetrator, the victims and the community?

- Net reductions in anti-social behaviour incidents within the whole of Valley Park attributable to the project action were estimated at 44 per cent.

- One resident stated: 'Thank-you for restoring our quality of life – my neighbours and I do not wish to move anymore.'
- Partnership agencies tackling anti-social behaviour established good links for future action and improved confidence in each agency's ability to contribute and deliver.
- Improved community confidence with the police means more people are willing to report incidents to the local police straight away, if a problem arises.
- The police continue to use the residents' association newsletter for information sharing.
- The youth shelter and skateboarding ramps at the leisure centre are still well used.
- The problem of gathering around the shop has not returned. The young people are now older, and the store has undergone a refit and change of management, which has contributed to an improved ambience. A couple of the original persistent offenders continue to perpetrate the odd incident of anti-social behaviour; enforcement work to deal with their behaviour is ongoing.

7.1.1 Alcohol Treatment Requirements for offenders

The Criminal Justice Act 2003 makes available to the courts an Alcohol Treatment Requirement (ATR) as one of the possible requirements of a Community or Suspended Sentence Order. To impose the ATR, the court does not have to be satisfied that the offender's dependency on alcohol caused or contributed to the offence for which they have been convicted. However, the court must be satisfied that:

- the offender is dependent on alcohol;
- the dependency on alcohol requires, and may be susceptible to, treatment; and
- arrangements have been made, or can be made, for the treatment intended to be specified in the order.

The court may not impose an ATR unless the offender expresses their willingness to comply with its requirements.

7.1.2 Area-based orders

Designated Public Place Orders (DPPOs)

DPPOs are orders made by local authorities under powers given to them under Section 13 of the Criminal Justice and Police Act 2001. These powers make it easier for local authorities to designate places where restrictions on public drinking will apply, and are available in areas that have experienced alcohol-related disorder or nuisance. Once a DPPO is in place, the police can use their confiscation powers to enforce these restrictions.

Alcohol Disorder Zones

The Violent Crime Reduction Act 2006 introduced new Alcohol Disorder Zones. These build on the existing powers that allow police and local authorities to use a DPPO to confiscate alcohol containers within a certain area.

The new Alcohol Disorder Zones cover licensed premises in areas that experience alcohol-related disorder. Before such a zone was designated, licensed premises would be warned to take their own steps to reduce alcohol disorder, otherwise a designation would be imminent. They would also be required to contribute towards the policing and other local costs of dealing with the disorder in this area.

Directions to leave a locality

Section 27 of the Violent Crime Reduction Act 2006 provides a constable in uniform with a power to issue a direction to an individual aged 16 years or over to leave a locality. The constable can apply the direction if they are satisfied that the individual's presence is likely to contribute to the occurrence, repetition or continuance of alcohol-related crime and disorder. The direction can prohibit their return for up to 48 hours. For further information on use of this power, please consult the guidance at: <http://police.homeoffice.gov.uk/news-and-publications/publication/operational-policing/directions-to-leave-locality?version=1>

7.2 DRUG/SUBSTANCE MISUSE

Drug use can cause serious nuisance or disorder when it occurs within a domestic dwelling. In most cases, a tenant using drugs in a way that causes serious nuisance will be breaching their tenancy agreement. Possession of, and supply of, controlled drugs is illegal under the Misuse of Drugs Act 1971. It is essential to deal with these offences with the appropriate combination of criminal law enforcement and drug treatment support. Treatment should be available to those who misuse drugs or solvents before they become engaged in further anti-social or criminal behaviour. There is a range of programmes available led by the Drug Action Team in each area.

Civil measures such as ASBOs and injunctions are available to protect the community from behaviour causing harassment, alarm or distress. An order on conviction may also be appropriate, where someone is in court for drugs offences. Conditions of the order may include a ban from the area where drugs are being bought and used, or a specific ban on using drugs in public.

7.2.1 Intervention Orders

Intervention Orders (IOs) are now available through Section 20 of the Drugs Act 2005, which commenced on 1 October 2006. They can be attached to ASBOs in the same way as Individual Support Orders (ISOs), but are designed to tackle anti-social behaviour as a result of drug misuse.

IOs require individuals who act anti-socially as a result of drug misuse to comply with positive conditions that tackle their anti-social behaviour. Ideally this should be done by tackling the root causes of this behaviour, and an IO should be structured to reflect this objective. Any measures taken under the order should prioritise the prevention of further drug-related anti-social behaviour.

IOs can only be applied for alongside ASBO applications that are made as 'stand-alone' applications in the magistrates' court or alongside proceedings in the county court. They can only be given to individuals aged 18 or over and can last up to a maximum of six months. (ISOs are only available for 10 to 17-year-olds.)

Technically, the following agencies can apply for an IO, but police and local authorities are most likely to take the application forward on behalf of the other agencies:

- the police;
- local authorities;
- housing associations;
- registered social landlords;
- Transport for London; and
- the Environment Agency.

For a court to make an IO, the court must be satisfied that drug misuse is responsible for the perpetrator’s anti-social behaviour. This decision should be based upon a report from an appropriately qualified individual. The court must also be satisfied that appropriate treatment is available.

7.2.2 Conditional Cautioning

Conditional Cautioning was introduced by the Criminal Justice Act 2003. This provision allows for conditions to be attached to the Caution that have a restorative or rehabilitative purpose. Provided that the conditions have a rehabilitative or restorative purpose, restrictive conditions can be imposed. Examples of the type of conditions that can be imposed are:

REPARATIVE	REHABILITATIVE
<p>To make good the loss sustained by the victim or community and to repair relationships, e.g.:</p> <ul style="list-style-type: none"> • to pay compensation; • to personally repair or make good the damage; • to undertake unpaid work on community property directly related to the harm caused; • to write a letter of apology; or • to participate in restorative justice mediation. 	<p>To stop or modify offending behaviour or reduce the risk of offending behaviour, e.g.:</p> <ul style="list-style-type: none"> • not to commit further offences for a defined period of time; • to attend at a referral programme specifically related to the nature or cause of the offending behaviour; or • not to contact a named person or go to a specified location.

A Conditional Caution is given by the police after the police receive a Pre-Charge Decision from the Crown Prosecution Service. There is no power for local authorities to give Conditional Cautions. If the offender does not comply with the conditions, then they are liable to prosecution for the original offence.

7.2.3 Compulsory drugs testing for trigger offences under the Drugs Act 2005

Under Part 2 Section 7 of the Drugs Act 2005, police can drug test those arrested for a variety of trigger offences (theft, robbery, burglary, aggravated burglary, taking a motor vehicle or other conveyance, aggravated vehicle-taking, obtaining property by deception, handling stolen goods) or where a police inspector or a more senior officer believes that drug misuse has contributed to the offence. The offender is tested for heroin and/or crack/cocaine as soon as possible after they have been booked in by the police.

Those who test positive for drugs will be obliged to attend a compulsory drug assessment by specialist drugs workers, to determine the extent of their drug problem and help them into treatment and other support, even if they are not charged. Expectation is that all those who test positive will have a Required Assessment, wherever possible before leaving the police station. Those who fail to provide a sample or comply with a Required Assessment face a fine of up to £2,500 and/or up to three months in prison. These provisions are only available in some areas.

7.2.4 Initial and follow-up assessments

Sections 9 and 10 of the Drugs Act 2005 allow the police to impose on any individual testing positive for specific class A drugs the requirement to attend and remain at two assessments.

An initial assessment allows drug-misusing offenders the opportunity to be assessed by the local Criminal Justice Integrated Team. Under the Drugs Act 2005, any adult who is 18 or over, who has been arrested for a trigger offence (committed acquisitive crime) and who is using Class A drugs (i.e. has tested positive) is required to attend and remain at the initial assessment. At this stage, an initial care plan will be drawn up.

The follow-up assessment allows drug-misusing offenders further opportunity to engage with treatment or other support after being arrested. At this stage of the assessment, drug-misusing offenders are eligible to have

a joint comprehensive care plan with the Criminal Justice Integrated Team and a Tier 3/4 treatment provider, in order to help with their substance misuse.

Failure to attend or remain for the duration of the assessment, without good cause, is a criminal offence. The Required Assessment aims to get more people into appropriate treatment and support, not to criminalise them, by directing individuals into drug treatment organisations and assessing and working on their immediate and long-term needs.

7.2.5 Restriction on Bail

The Restriction on Bail condition was introduced under the Criminal Justice Act 2003 and has been available to all local justice areas across England since March 2006. This provision gives courts the power to order assessment of the defendant's drug misuse and/or to propose follow-up treatment as a condition of court bail. Restriction on Bail acts as an incentive for defendants who have tested positive for a specified Class A drug to address their drug misuse and engage in any proposed treatment and/or other support, or face an increased risk of being refused bail. It also targets those defendants whose offending is related to their use of specified Class A drugs (heroin, crack/cocaine)

Failure to comply with this condition is treated in exactly the same way as other breaches of bail – there is a power of arrest and charges can be laid for breach of bail.

7.3 DRUG DEALING

Dealing in controlled drugs is illegal under the Misuse of Drugs Act 1971. This is a very serious offence that should be dealt with accordingly. The Government's drugs website, <http://drugs.homeoffice.gov.uk>, gives further information about work to tackle illegal drugs.

However, there may be situations, even where a criminal conviction cannot be achieved, where it is necessary to protect the community from the anti-social activity surrounding drug dealing. There may also be situations where intimidation and fear prevent local people from giving evidence to secure a conviction.

Civil orders such as ASBOs and injunctions can be sought, using hearsay evidence and professional witnesses, and may, therefore, be available to deal with behaviour even where a criminal conviction cannot be achieved.

In addition, the prohibitions contained in an ASBO on conviction can be suspended for the period of a prison sentence and can be used to ensure that the community continues to be protected after the release of the offender.

Housing-related measures, such as Housing Act injunctions, demoted tenancies and repossession, are all available in situations where a tenant is engaged in illegal behaviour. Illegal activity such as drug dealing will also usually be a breach of a tenancy agreement.

The Anti-Social Behaviour Act 2003 also introduced powers to close premises which are being used in connection with the unlawful use, production or supply of a Class A controlled drug, and there is serious nuisance or disorder.

The debris associated with drug use, such as used needles and syringes, make an area look unsafe and dirty. It is important that local authorities have a clear strategy for cleaning up.

7.4 STREET PROSTITUTION

Street-based prostitution often takes place in areas that are already deprived. Those involved in street prostitution, and their families, often experience difficulties in these areas, as well through crime, drugs, environmental decline and anti-social behaviour. By addressing the range of problems that exist in these areas, the conditions that lead to many people getting into, and staying involved in, street prostitution will diminish.

Agencies need to ensure that enforcement action is taken to protect communities from the nuisance associated with a street sex market. This means using the law to stop unacceptable behaviour and criminality on the street, at

the same time as providing effective intervention and support to those families and individuals who need to change their behaviour. There have been some successful, innovative schemes to bring women involved in street prostitution together with local residents to foster some common understanding and broker solutions. Action to tackle prostitution should always be accompanied by vigorous action against the kerb-crawlers who are maintaining the activity by providing a demand for services.

It is an offence for someone who is a common prostitute to solicit or loiter in a public place for the purposes of prostitution. The penalty is a £500 fine for the first offence, and £1,000 for further offences (Street Offences Act 1959, Section 1). The Sexual Offences Act 2003 (Section 56) extends this offence to men as well as women.

Before this offence applies, it is necessary to prove that the individual is a common prostitute, that is, regularly operates as a prostitute. This is done by administering two or more cautions for prostitution. This brief administrative process provides an opportunity to give details of available appropriate support to the individual.

Diversion towards drug treatment and other rehabilitative activities can also be provided through Conditional Cautions or arrest referral. New provisions in the Criminal Justice Act 2003 will also allow the court to make a Community Order if an individual has been convicted and fined on at least three occasions.

ASBOs and civil injunctions have been used in a number of areas to protect communities from the harassment, alarm and distress caused both by those soliciting and those kerb crawling.

7.4.1 Further information

The full Prostitution Strategy published by the Government in January 2006 can be viewed at: www.homeoffice.gov.uk/documents/cons-paying-the-price/

7.5 KERB CRAWLING

Kerb crawling is an offence under Section 1 of the Sexual Offences Act 1985.

Persistent kerb-crawlers should be prosecuted rigorously, to protect local communities and to remove demand for a street-based sex market. The penalty for the offence is a maximum fine of £1,000 and since 1 January 2004 the courts have also had the option to order disqualification from driving.

Civil injunctions obtained by local authorities using their powers under Section 222 of the Local Government Act 1972 can also be a speedy and effective way of prohibiting kerb-crawlers from continuing that behaviour and excluding them from a specified location.

ASBOs can also be obtained from the magistrates' court or from the criminal court following a conviction for the offence of kerb crawling. Again, these orders can prohibit the offender from continuing kerb-crawling activities and can exclude that person from a specific location.

Re-education programmes can be effective for first-time offenders. Typically, a kerb-crawler is offered a course, at which the reality of street-based prostitution is explained, including the drug use of many of those involved, the health risks and the risks of prosecution. Attendance can be reinforced by the use of police cautions.

Kerb-crawlers can also be deterred by using CCTV monitoring and warning signs, and by sending warning letters to those whose cars have been seen in a red-light area. ABCs or Acceptable Behaviour Agreements can be used where a kerb-crawler is willing to agree a change in their behaviour. Environmental changes can be considered, such as constructing barriers, and gating off alleyways to deny access to areas for sexual activity.

It is also an offence for someone to advertise the services of a prostitute with cards in, or in the vicinity of, a public telephone box (or other selected public structures) under Sections 46 and 47 of the Criminal Justice and Police Act 2001.

7.6 WHEN IS ANTI-SOCIAL BEHAVIOUR A PUBLIC ORDER OFFENCE?

The Public Order Act 1986 provides the police with powers to arrest people who engage in disorderly behaviour. The Act covers behaviour from causing harassment, alarm and distress by words and behaviour to the more serious conduct that constitutes affray and riot.

Many of the anti-social behaviour concerns of anti-social behaviour practitioners will come within the ambit of Section 5 of the Public Order Act 1986. Section 5 makes it a criminal offence to use threatening, abusive or insulting words or behaviour, or disorderly behaviour, within the hearing or sight of a person likely to be caused harassment, alarm or distress by that behaviour. There must be a victim present at the scene for this offence to be made out. Section 4 covers behaviour where there is intent to cause a person to believe that immediate unlawful violence will be used.

The types of behaviour covered by these sections may include:

- causing a disturbance in a residential area;
- persistently shouting abuse or obscenities at passers-by;
- rowdy behaviour in a street late at night;
- using slogans or language that cause distress;
- threats or abuse directed at individuals carrying out public service duties;
- throwing missiles;
- minor violence or threats of violence;
- incidents between neighbours that may fall short of a charge of assault; or
- an individual being picked on by a gang where the behaviour does not justify an assault charge.

Section 8: Youth-related anti-social behaviour

Early intervention is essential to prevent young people from getting into trouble in the first place. This section begins by setting out what these interventions are and then deals incrementally with potential action by practitioners when young people fail to engage with authority and get into trouble. It also suggests options for dealing with anti-social behaviour normally associated with young people.

8.1 PARENTING INTERVENTIONS

Preventing anti-social behaviour from a young age starts in the home. Parenting interventions are designed to help parents improve their parenting skills, including skills needed to deal with problems early on and to address the behaviour that puts their child at risk of offending. The intervention may involve a series of tailored sessions with a trained practitioner or a group-based programme.

8.1.1 Parenting programmes

Parenting programmes provide parents with an opportunity to improve their skills in dealing with the behaviour that puts their child at risk of offending. They provide parents/carers with one-to-one advice as well as practical support in handling the behaviour of their child, setting appropriate boundaries and improving communication. A parenting programme could be offered at the first sign of problems – perhaps when a warning about a child's behaviour is first given. Most parents will take up help voluntarily, but where they do not want help, a Parenting Order should be used to secure their engagement. By improving the parenting skills of parents/carers, these programmes are addressing one of the major risk factors associated with young people at risk of offending. Parenting programmes have proved successful in turning children and young people away from crime and anti-social behaviour.

Parenting programmes may also be important for young offenders who are parents. Young parents who are constructively engaged in parenting may be less likely to reoffend. When this outlook is combined with new parenting skills they have acquired, these young parents are likely to exercise a positive impact on their children, which may prevent them from becoming offenders or committing anti-social behaviour.

8.1.2 Family intervention projects

Family intervention projects work with persistently anti-social families to change their behaviour. They take a whole-family approach, which considers the needs of the whole household and assesses the underlying problems driving the family's behaviour, in order to identify which services need to be involved. Projects use a twin-track approach, which includes help for families to address the causes of their behaviour, alongside supervision and enforcement tools to provide them with the incentives to change.

Agencies should think about referring when there are numerous complaints about the behaviour of a family and the impact they are having on their local community. Referrals might be made by statutory agencies, housing associations, voluntary sector organisations or even by families themselves. Referrals must be accepted into the projects from anti-social behaviour teams or their equivalent.

Further information on family intervention projects can be viewed at:

www.respect.gov.uk/members/article.aspx?id=8678

8.1.3 Parenting Contracts

Sections 19 and 25 of the Anti-Social Behaviour Act 2003 give certain agencies the power to enter into Parenting Contracts offering a structured and balanced way for these agencies to work with parents on a voluntary basis. They are a two-sided arrangement, whereby both the parents and the agency will play a part in improving the young person's behaviour.

The Anti-Social Behaviour Act set out Parenting Contracts in legislation to make it clear that:

- schools and local education authorities (now local authorities) can enter into Parenting Contracts with the parent(s) of a child who has truanted or been excluded from school; and
- Youth Offending Teams (YOTs) can enter into Parenting Contracts with the parent(s) of a child who has engaged in, or is likely to engage in, criminal conduct or anti-social behaviour.

The Parenting Contract contains a statement by the parent(s) agreeing to comply with the requirements for the period specified and a statement by the YOT or the local authority agreeing to provide the necessary support to the parent(s) to comply with the requirements. As with Acceptable Behaviour Agreements/Contracts, it is important that there is a clear agreement about the consequences if the Parenting Contract is not adhered to. If the Parenting Contract is broken, then the agency may apply to the court for a Parenting Order, which makes the requirements compulsory.

There is comprehensive information on the issue of parenting on the Youth Justice Board website at: www.youth-justice-board.gov.uk

8.1.4 Parenting Contracts and Parenting Orders with an anti-social behaviour trigger

Local authorities and registered social landlords have the power to enter into Parenting Contracts and apply for Parenting Orders where anti-social behaviour is the trigger under amendments to the Anti-Social Behaviour Act 2003 in the Police and Justice Act 2006. This follows up on the Respect Action Plan commitment 'to widen the range of agencies which can apply for a parenting order where a child's behaviour requires it'.

8.1.5 Applying for Parenting Contracts

Section 23 of the Police and Justice Act 2006, amending Section 25 of the Anti-Social Behaviour Act 2003, inserts two new sections (25A and 25B) into Part 3 of the Anti-Social Behaviour Act 2003, which allow local authorities and registered social landlords to enter into Parenting Contracts with a parent of a child to prevent that child engaging in anti-social behaviour.

A local authority can apply for a Parenting Order if it has reason to believe that:

- the child is engaged in anti-social behaviour; and
- the child resides in their area.

A registered social landlord can apply for a Parenting Order where that child's behaviour affects housing management functions of the housing association.

8.1.6 Applying for Parenting Orders

Section 24 of the Police and Justice Act 2006, amending Section 26 of the Anti-Social Behaviour Act 2003, inserts new Sections 26A, 26B and 26C into Part 3 of the Anti-Social Behaviour Act 2003, which allows local authorities and registered social landlords to apply for Parenting Orders where anti-social behaviour is the trigger. Local authorities can apply to the court for a Parenting Order on the same grounds as they can enter into a Parenting Contract.

Generally, a Parenting Contract should be agreed before resorting to court for a Parenting Order. Any failure to adhere to the terms of the contract may be used in support of an application for a Parenting Order.

A housing association can apply for Parenting Orders in similar situations but must first consult with the local authority in the area (to ensure that a Parenting Order is not already in place or that other action is not planned). Section 26C covers procedures for applications in county court proceedings under 26A and 26B.

8.2 INTERVENTIONS FOR CHILDREN AT RISK OF COMMITTING ANTI-SOCIAL BEHAVIOUR

8.2.1 Youth Offending Teams

The YOTs are key to the success of the youth justice system. Research has shown that children and young people who offend have multiple needs that must be identified and addressed in order to reduce their risk of offending or reoffending. YOTs use a range of assessments to identify the needs of young people, the risk they present to themselves and others, and the likelihood of them offending or reoffending.

There is a YOT in every local authority in England and Wales. They are made up of representatives from the police, the Probation Service, social services, health, education, drugs and alcohol misuse services and housing officers. Each YOT is organised by a manager, who is responsible for co-ordinating the work of the youth justice services.

Because the YOT incorporates representatives from a wide range of services, it can respond to the needs of young offenders in a comprehensive way. The YOT identifies the needs of each young offender, by assessing them with a national assessment. It identifies the specific problems that make the young person offend, as well as measuring the risk they pose to others. This enables the YOT to identify suitable programmes to address the needs of the young person with the intention of preventing further offending.

8.2.2 Intervention programmes

The following programmes aim to deal with risk factors, engage young people's interests and increase their knowledge:

- Youth Inclusion Programmes;
- Youth Inclusion and Support Panels;
- parenting interventions (which are covered in other sections);
- Safer School Partnerships;
- mentoring;
- Splash Cymru;
- Positive Activities for Young People;
- Positive Futures;
- Sure Start; and
- education initiatives.

Youth Inclusion Programmes

Youth Inclusion Programmes (YIPs), established in 2000, are tailor-made programmes for 8 to 17-year-olds who are identified as being at high risk of involvement in offending or anti-social behaviour.

YIPs are also open to other young people in the local area. The programme operates in 110 of the most deprived/high-crime estates in England and Wales. YIPs aim to reduce youth crime and anti-social behaviour in neighbourhoods where they work. Young people on the YIP are identified through a number of different agencies, including YOTs, the police, social services, local authorities or schools, and other local agencies.

The programme gives young people somewhere safe to go where they can learn new skills, take part in activities with others and get help with their education and careers guidance. Positive role models – the workers and volunteer mentors – help to change young people's attitudes to education and crime.

Youth Inclusion and Support Panels

Youth Inclusion and Support Panels (YISPs) aim to prevent anti-social behaviour and offending by 8 to 13-year-olds who are considered to be at high risk of offending.

They have been designed to help the Youth Justice Board meet its target of putting in place, in each YOT in England and Wales, programmes that will identify and reduce the likelihood of young people committing offences.

Panels are made up of a number of representatives of different agencies (e.g. the police, schools, health and social services). The main emphasis of a panel's work is on ensuring that children and their families, at the earliest possible opportunity, can access mainstream public services.

Following a successful pilot scheme that began in April 2003, the Youth Justice Board and the Children's Fund now fund 122 YISPs. Of these, 13 pilot areas have received additional support to develop procedures and innovative practice, which will then provide a framework of best practice for all other YISPs.

Safer School Partnerships

The Safer Schools Partnerships programme enables local agencies to address significant behavioural and crime-related issues in and around a school. A result of the Youth Justice Board's proposal to develop a new policing model for schools, the Safer Schools Partnerships programme was launched as a pilot in September 2002, and brought into mainstream policy in March 2006. All schools involved in the Safer School Partnerships initiative have a police officer based in their school.

The school-based officer works with school staff and other local agencies to:

- reduce victimisation, criminality and anti-social behaviour within the school and its community;
- encourage whole-school approaches to behaviour and discipline;
- identify and work with children and young people at risk of becoming victims or offenders;
- ensure the full-time education of young offenders (a proven preventative factor in keeping young people away from crime);
- support vulnerable children and young people through periods of transition, such as the move from primary to secondary school; and
- create a safer environment for children to learn in.

Close working between police and schools is crucial to keeping children in education, off the streets and away from a life of crime.

Mentoring

Mentoring pairs a volunteer with a young person at risk of offending. The volunteer's role is to motivate and support the young person on the scheme through a sustained relationship, over an extended period of time. The relationship is built upon trust and a commitment to confidentiality and equality between the mentor and the young person.

The relationship must be structured and must have clearly identified objectives. These objectives should be to help the young person identify and achieve educational, vocational or social goals which address the factors in the young person's life that put them at risk of offending.

Splash Cymru

Splash Cymru is a programme of positive and constructive activities for 13 to 17-year-olds that runs in the school holidays in Wales. It was launched in 2002 (originally for ages 9 to 17), following the success of the Splash and Splash Extra programmes in England.

Funded and managed by the Youth Justice Board, the programme consists of locally run schemes based in areas experiencing high levels of crime and deprivation.

Young people at high risk in Splash neighbourhoods are engaged in a range of appropriate activities and interventions aimed at preventing their involvement in anti-social behaviour and offending.

Other Youth Justice Board Initiatives

The Youth Justice Board also supports the following initiatives (see below):

- Positive Activities for Young People; and
- Positive Futures.

Positive Activities for Young People

The Positive Activities for Young People (PAYP) programme is targeted specifically at young people not fully engaged in education, those with a low level of school achievement, and those at risk of becoming involved in crime and anti-social behaviour. Referral agencies include YOTs, Connexions and Behaviour Improvement Programmes in schools. Key workers support young people with the greatest needs, encouraging them to participate.

PAYP is a targeted programme that has provided diversionary activities since April 2003. Young people across the country aged 8–19, who are at risk of social exclusion and community crime, are able to participate in positive activities during the school holidays and to access out-of-school activities throughout the year. Those young people who are most at risk are encouraged to engage in learning and/or employment with key worker support.

PAYP aims to give young people opportunities for personal development, including the development of self-discipline, self-respect and self-confidence, enabling them to communicate more effectively with a range of people and work effectively in a team. PAYP will be targeted to reach those young people most at risk.

Positive Futures

Positive Futures is a national social inclusion programme using sport and leisure activities to engage with disadvantaged and socially marginalised young adults.

Sure Start

Sure Start provides targeted services for babies to 4-year-olds and their families in areas of high deprivation, to ensure that they have the best start in life. Sure Start programmes may provide a useful support mechanism for families who are struggling and behaving anti-socially – especially when there are young children in the household. Intervening early and providing support will prevent young children from behaving anti-socially in the future, as well as support their parents. To find out more about the Sure Start initiative, see the website at: www.surestart.gov.uk

Education initiatives

Examples of education initiatives include the Behaviour Improvement Programme, aimed at improving poor behaviour and attendance and supporting children most at risk of exclusion, truancy, criminality and anti-social behaviour.

It is essential that supportive work with young people helps them to learn about the boundaries of behaviour that are expected by society, and the impact that their anti-social behaviour can have on others.

Engaging youth services in outreach work early in the problem-solving stage can lead to effective solutions, such as improved diversionary activities and facilities for young people.

8.3 OTHER INTERVENTIONS TO DEAL WITH ANTI-SOCIAL BEHAVIOUR

When young people first get into trouble, behave anti-socially or commit minor offences, they can usually be dealt with by the police and local authority outside the court system, using a variety of orders and agreements.

8.3.1 Acceptable Behaviour Contracts

There is separate comprehensive guidance on Acceptable Behaviour Contracts on the Respect website at: www.respect.gov.uk. See also paragraph 2.3.2 of this guidance.

8.3.2 Restorative justice

Restorative justice can be an effective means of helping young people who have committed anti-social behaviour to better understand and appreciate the concerns of the victim, and the impact on society of their actions. This can include:

- direct reparation to the victim, for example an oral or written apology, or supervised activity to benefit the victim; or
- community reparation, for example young people painting over graffiti, repairing vandalism done to a local play area, or helping to arrange and deliver local youth activities.

For comprehensive information on restorative justice, please refer to the Youth Justice Board website (www.yjb.gov.uk) and *Best Practice Guidance for Restorative Practitioners* (2004) on the Home Office website (www.homeoffice.gov.uk/documents/rj_bestpractice.pdf).

8.3.3 Reprimands and warnings

Reprimands and warnings replaced cautions for young offenders nationwide in 2000, and are designed to end the practice of repeat cautioning and to provide a more meaningful early intervention. Working in partnership, the police and YOTs ensure that there is early intervention when a young person starts to offend.

Reprimands are available for 10 to 17-year-olds admitting guilt for a minor first offence. A reprimand is a formal verbal warning given by a police officer to a young person who admits they are guilty of a minor first offence. Sometimes the young person can be referred to the YOT, to take part in a voluntary programme to help them address their offending behaviour.

Warnings involve an assessment and intervention package for young people admitting guilt for their first or second offence. A warning in this context is a formal verbal warning given by a police officer to a young person who admits their guilt for a first or second offence. Unlike a reprimand, however, the young person is also assessed to determine the causes of their offending behaviour, and a programme of activities is identified to address them.

8.3.4 Fixed Penalty Notices or Penalty Notices for Disorder

Fixed Penalty Notices and Penalty Notices for Disorder are the first stage of intervention for many low-level disorder offences. They are speedy and effective and ensure that unacceptable behaviour is challenged.

8.3.5 Dispersal of groups

Part 4 (Sections 30–36) of the Anti-Social Behaviour Act 2003 gives the police, working with local authorities, powers to target action in problem areas to help communities remove intimidation and anti-social behaviour from their streets.

The powers enable a senior police officer to designate an area where there is persistent anti-social behaviour and a problem with groups causing intimidation. This area could be as small as a cashpoint or shopping arcade where groups often gather, or it could be as wide as a whole local authority area, as long as there is evidence of anti-social behaviour. The local authority must also agree the designation; usually this decision will be made as part of the strategic work of a Crime and Disorder Partnership.

The decision to designate an area must be published in a local newspaper or by notices in the local area. The designation can then last for up to six months and can be renewed if necessary. The designated area must be clearly defined, usually by a description of the streets or roads bordering the area.

Within designated areas, the police and police community support officers (PCSOs) have the power to:

- disperse groups, where the relevant officer has reasonable grounds for believing that their presence or behaviour has resulted, or is likely to result, in a member of the public being harassed, intimidated, alarmed or distressed. Individuals can be directed to leave the locality and may be excluded from the area for up to 24 hours; and
- return to their home young people under 16, who were out on the streets after 9pm and not under the control of an adult, if they are either:
 - at risk or vulnerable from anti-social behaviour, crime, etc.; or
 - causing, or at risk of causing, anti-social behaviour.

The Court of Appeal has ruled (*R (on the application of W) v Commissioner of Police of the Metropolis (CA (Civ Div)) Court of Appeal (Civil Division), 11 May 2006*) that the power to remove young people to their homes is legal in the above circumstances, overruling the July 2005 High Court decision which did not allow the use of reasonable force.

A refusal to follow the officer's directions to disperse is a summary offence. The penalty on conviction for this offence is a fine not exceeding Level 4 or a maximum of three months' imprisonment (for adults).

The Association of Chief Police Officers published guidance on Dispersal Orders in March 2005. (NB: this guidance has not been updated with either the July 2005 High Court ruling or the May 2006 Court of Appeal ruling, which states that officers only have power to use reasonable force when removing an under-16-year-old to his/her place of residence when they are at risk/vulnerable or are causing, or at risk of causing, anti-social behaviour.)

8.3.6 Anti-Social Behaviour Orders and Individual Support Orders

Anti-Social Behaviour Orders (ASBOs) are an effective way of stopping the actions that make people's lives a misery, when other attempts to modify disruptive behaviour have failed. They are flexible tools, which can be used in a variety of circumstances and which cover a range of anti-social acts.

ASBOs are civil orders, made by a court, which prohibit the perpetrator from specific anti-social acts and from entering defined geographical areas (exclusion zones). An ASBO can be made against anyone aged 10 years or over who has acted in an anti-social manner (i.e. behaviour that caused, or is likely to cause, harassment, alarm or distress to others) and where an order is needed to protect person(s) from further anti-social acts. ASBOs can be used in conjunction with other measures as part of a tiered approach to tackling anti-social behaviour. The ASBO lasts for a minimum of two years.

The purpose of an ASBO is to protect the public from behaviour that causes, or is likely to cause, harassment or alarm or distress, not to punish the perpetrator.

Prohibitions should be:

- precise;
- targeted at the specific behaviour complained of; and
- proportionate to the legitimate aim of protecting the community from further abuse.

Comprehensive guidance on how to use ASBOs is available on the Home Office's crime reduction website: www.crimereduction.gov.uk/antisocialbehaviour/antisocialbehaviour55.htm

Individual Support Orders (ISOs) can be attached to a stand-alone ASBO on a young person. The ISO includes positive obligations to tackle the underlying behaviour and help them meet the conditions of their ASBO. Where other support interventions are being provided by the YOT, an ISO may then not be necessary and so will not be used in the case of every young person's ASBO.

8.4 TACKLING SPECIFIC YOUTH-RELATED PROBLEMS

8.4.1 Under-age drinking

Alcohol misuse can cause and exacerbate many differing forms of anti-social behaviour. Consequently, tackling the problems of alcohol misuse can help to reduce the risk of vandalism. Local agencies need to provide a joined-up, integrated response to alcohol misuse, and make it clear to individuals that the associated misbehaviour will not be tolerated. A wide range of tools is available, including:

- alcohol test purchasing operations, which can be undertaken on licensed premises by the police and Trading Standards officers;
- Penalty Notices for Disorder of £80 for buying or attempting to buy alcohol on behalf of a person under 18, and the sale of alcohol to a person under 18;
- Dispersal Orders to target action at problem areas;
- alcohol containers – even unopened – can be confiscated from under-age drinkers; and
- the Licensing Act 2003, which introduced a mechanism for reviewing licences with regard to any problems that arise relating to the four statutory licensing objectives:
 - the prevention of crime and disorder;
 - public safety;
 - the prevention of public nuisance; and
 - the protection of children from harm.

At any stage, a responsible authority may ask the licensing authority to review the premises licence because of a matter arising at the premises in connection with any of the four licensing objectives.

A police officer may give a Closure Notice of up to 48 hours to premises where there have been persistent sales of alcohol to children. In addition, if three or more sales are made within three months, a premises licence-holder can be prosecuted for persistently selling alcohol to children. If found guilty, they may be liable for a £10,000 fine and have their licence suspended for up to three months.

8.4.2 Vehicle-related nuisance caused by joyriding or dangerous and illegal driving

Inappropriate use of vehicles can be intimidating and dangerous. It is important that the local community is protected from such activity.

Driving a vehicle off-road without authority is an offence under Section 34 of the Road Traffic Act 1988 (as amended by Schedule 7 of the Countryside and Rights of Way Act 2000).

There are a range of penalties available, including the power to confiscate vehicles and bikes used off-road in a manner which causes 'alarm, distress and annoyance' in Sections 59 and 60 of the Police Reform Act 2002.

Agreements and warnings can be used to ensure that those engaged in vehicle-related nuisance appreciate the impact on local residents. Where the perpetrators are young people, it may be possible to construct appropriate diversionary or training activities, such as vehicle maintenance.

Environmental improvements, such as bollards, gates and CCTV, can stop inappropriate use of vehicles within a residential area. All such schemes should be aligned with a clear message that the anti-social behaviour must be stopped and will be subject to further enforcement action if it continues.

ASBOs or injunctions can be used to stop the behaviour and protect the community. These have been successfully used against perpetrators engaged in joyriding, alongside criminal prosecution, and to prohibit persistent car thieves from entering car parks. In addition, the power to disperse groups can be used in an area where there has been persistent anti-social behaviour, to prevent gangs from meeting to engage in anti-social driving.

Theft of any vehicle is a criminal offence and should be prosecuted. The courts have the power to disqualify from driving anyone convicted of any offence. This is a very appropriate penalty in cases of vehicle-related nuisance. The police, the Crown Prosecution Service

(CPS) and other agencies have a role in recommending this penalty to the court. Home Office Circular HOC 59/2003 suggests that courts might consider using this power to disqualify owners of abandoned vehicles as an appropriate sanction for such criminal activity.

8.4.3 Tackling the inappropriate use of mini-motos

Over the last few years, miniature motorbikes, commonly known as 'mini-motos', have grown in popularity. The majority of users ride these vehicles legally and responsibly. However, as with other activities, a minority misuse these vehicles, creating serious nuisance to communities and members of the public.

Capable of travelling at high speeds – with loud, potentially disruptive engines – mini-motos are anti-social, and dangerous to both the rider and members of the community if not used responsibly and legally. When they are ridden on roads, pavements and in other public places such as parks, it will almost always be illegal, and the nuisance it causes contributes to fear of crime.

Current legislation to tackle the problem of nuisance caused by mini-moto misuse includes:

- Section 59 of the Police Reform Act to seize vehicles following further nuisance after an initial warning;
- the Environmental Protection Act 1990 using Section 79, statutory nuisance;
- the Noise Act 1996 – removal of noise-making equipment; and
- arrest for causing a public disturbance.

PCSOs can also issue £100 Penalty Notices for Disorder for behaviour likely to cause harassment, alarm or distress.

Riders using mini-motos and other such vehicles illegally on public roads and footpaths can also be prosecuted under road traffic legislation, can be fined and can receive points on their licence.

A practitioner guide detailing the tools and powers on how to address this problem has been produced and is available on the Respect website at:

www.respect.gov.uk/uploadedFiles/Members_site/Document_Library/step-by-step_guides/MiniMoto_StepByStepGuide0010.pdf

8.4.4 Vandalism

Youth vandalism can be addressed by a range of measures, including:

- Fixed Penalty Notices of £75 for minor graffiti and fly-posting to individuals aged 10 years and over;
- Penalty Notices for Disorder of £80 to those aged 16 years and over for destroying or damaging property that is valued at under £500;
- Acceptable Behaviour Contracts – non-legal contracts between a perpetrator and a relevant authority, in which the perpetrator agrees not to perform certain anti-social acts; and
- ASBOs and injunctions, prohibiting the perpetrator from undertaking specific anti-social acts. Breach of an ASBO or injunction can lead to a custodial sentence.

8.5 PERPETRATORS WITH HEALTH NEEDS

Some perpetrators of anti-social behaviour have been found to have an undiagnosed and untreated mental health issue. It is essential for anti-social behaviour practitioners to refer people for assistance in such circumstances which can then resolve the problem for all concerned.

It is important that when health needs have been identified, partnership working commences, to ensure that adequate support is provided. At a local level, general practitioners, community psychiatric nurses, drug and alcohol workers and health visitors all have a role to play. It is essential that at a strategic level the health authority and primary care trust are committed to tackling anti-social behaviour through partnership working and will ensure the sharing of information via information exchange protocols.

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 in parallel with the collection of evidence and application for an order, where an application for an order is deemed necessary.

Where the perpetrator is a child, an assessment should be made of their circumstances and 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 courts to have necessary information about him or her. The assessment of the child's needs should run in parallel with evidence gathering and the application process.

See the article *Is a needs assessment required for an ASBO application under the Childrens Act 1989?* at:

www.respect.gov.uk/members/article.aspx?id=7866

Partners tackle neighbour abuse by resident with mental health problems

Nature of the anti-social behaviour

For five years, Mr X put his neighbours in a council block through severe harassment until he was evicted. Mr X, who had mental health problems and had been sectioned on two occasions:

- played very loud music and had disco equipment in the property;
- shouted threats to his neighbours through a microphone;
- assaulted one of his neighbour's visitors;
- threw urine on neighbours;
- exposed himself on numerous occasions, including to local school children; and
- assaulted council contractors and the local ward councillor.

Which partners were involved?

- A **community housing officer** took the lead in this case.
- The **police** attended all complaints, arrested the perpetrator twice for assault and obtained an order on conviction.
- A **community mental health team** was engaged by Colchester Homes to ensure that all possible remedies had been considered before possession action was applied for.
- **Social services** carried out an assessment of Mr X.
- Mr X involved **Mind** (the National Association for Mental Health) as his representative.
- **Environmental health** also became involved and issued a Noise Abatement Notice.
- **Neighbours** kept diary sheets and appeared at court.

Which tools/powers were used?

March 1999: Mr X gave a verbal undertaking not to assault, molest or harass any employee or person contracted to manage housing.

February 2002: a formal written undertaking was given by Mr X not to assault, molest or harass neighbours, negotiated via the county court judge and counsel.

March 2002: possession proceedings started.

September 2002: Mr X was convicted of assault and imprisoned for six weeks.

September 2002: Mr X was convicted of harassment and imprisoned for 11 months. A 12-month Restraining Order was obtained on conviction.

November 2003: Mr X was convicted of assault, threatening behaviour and harassment and imprisoned for six months. A three-year ASBO was obtained on conviction to commence at the time of his release from prison.

December 2003: Mr X was released from prison. The ASBO commenced but was breached very quickly by death and arson threats. Environmental health served Mr X with a Noise Abatement Notice but this was broken almost immediately.

June 2004: Mr X was evicted on the grounds of breach of tenancy.

The eviction prevented Mr X causing a nuisance to his neighbours any more. He made a homeless application and was found intentionally homeless. There have been no further reports of anti-social behaviour at his new residence.

Partners tackle neighbour abuse by resident with mental health problems (*continued*)

How were the intervention methods used?

Initial undertakings obtained in March 1999 ‘not in any way to assault, molest or harass any employee whether directly employed by Colchester Borough Council or pursuant to a contract for service’ were successful.

What were the outcomes for the perpetrator, the victims and the community?

In 2004 the tenants won a Taking a Stand Award for their efforts and spent the money on a bench and rose bushes for a new communal garden.

The eviction and ASBO have helped the perpetrator to move away from his neighbours and start afresh. He is now working with Mind and seems to be changing his behaviour. This is a positive result for everyone involved.

This case was instrumental in building good working relationships with partners tackling anti-social behaviour. Monthly liaison meetings helped forge these relationships. The police attended almost every complaint.

Future actions

Civil proceedings against Mr X were often held up as he frequently faced criminal charges and the judge felt that Mr X might put himself at risk by giving evidence concurrently in a civil case. With hindsight, employing specialist legal representation earlier may have resolved the case sooner.

8.6 SUPPORTIVE INTERVENTIONS

Enforcement should be followed by intervention to help individuals change their behaviour. For 10–17-year-olds, this could include an ISO attached to an ASBO to tackle the underlying causes of the behaviour and offer support for behaviour change. Where rowdy behaviour is related to drinking, support to tackle the problem and work with parents to improve their parenting skills can be effective.

There are also a number of national initiatives that aim to support young people according to their age, specific needs and level of involvement in anti-social behaviour.

8.6.1 Individual Support Orders

ISOs were introduced under Section 322 of the Criminal Justice Act 2003 and have been available since May 2004. They are civil orders and can be attached to ASBOs made against young people aged between 10 and 17 years old. They can last up to six months and impose positive conditions on the young person. ISOs are designed to tackle the underlying causes of their anti-social behaviour.

ISOs contain positive requirements that are tailored to suit the individual needs of each young person. These requirements are based on a needs assessment of the young person in question. Examples of requirements include treatment for alcohol and substance misuse, attendance at counselling sessions for anger management and extra support in school.

ISOs are available for stand-alone ASBOs made in the magistrates’ courts only. There is no need for a specific application for an ISO. Legislation sets out that, where a magistrates’ court makes an ASBO against a young person, it must also make an ISO if it considers that an ISO would help to prevent further anti-social behaviour and if the young person is not already subject to an ISO. ISOs are not available for orders on conviction where it is expected that sentencing will address the underlying causes of the criminal offence. If a court declines to make an ISO, it must give reasons why it considers it not appropriate to do so.

The ISO contains positive obligations, which are overseen by the responsible officer. The responsible officer is usually a member of the YOT or from the social services department. The responsible officer advises the magistrates' court on the need for the ISO.

Before making an ISO, the court may consider information from a social worker or YOT member on the appropriateness of the order and the terms of the order.

The requirements of the order and consequences for failing to comply with it should be explained to the defendant by the court. If an ISO is not made, the court must state why it considers that the conditions for making the order are not met.

Breach of an ISO requirement is a criminal offence. For the ISO to be credible, breaches must be dealt with. It will usually be appropriate for the responsible officer to encourage compliance using warnings before instigating proceedings for a prosecution. The breach would be taken forward by the CPS with the responsible officer contacting the CPS to advise of the breach. Breach is not an arrestable offence.

The breach hearing will be heard in the youth court. If a court finds that the subject of the order has failed, without reasonable excuse, to comply with any requirement of the order, the defendant is guilty of an offence. Breach is a summary offence and the court can impose a fine of:

- £1,000 if the defendant is aged 14 or over on the date of conviction; or
- £250 if the defendant is aged under 14.

With regard to payment of fines, where the defendant is under 16 the parent will be responsible for payment unless there is a good reason why they should not be. The court also has the discretion to order the parent to pay if the defendant is aged between 16 and 18 (as set out in Section 137 of the Powers of Criminal Court (Sentencing) Act 2000). A Referral Order is not available for breach of an ISO.

Either the young person subject to the ISO or the responsible officer may apply to the court that made the ISO for it to be varied or discharged. The ISO may need to be varied if the support proves to be inappropriate or the individual moves out of the area. If the ASBO linked to the ISO is varied by a court, the court may vary or discharge the ISO at the same time. When the ASBO comes to an end or is discharged, the ISO also ceases to have effect (if it has not previously done so).

For more information on ISOs, see pages 27–29 of *A Guide to the Role of Youth Offending Teams in Dealing with Anti-Social Behaviour*, produced by the Youth Justice Board, the Association of Chief Police Officers and the Home Office.

Manchester YOT has produced very clear and helpful guidance for magistrates, judges, court staff and other practitioners on ISOs and Parenting Orders and on how they manage the application process. Importantly, it emphasises the positive requirements of the ISOs, dispelling the myth that they are a punishment. The leaflet is a helpful model for other areas producing similar guidance.

Section 9: Tackling offending and anti-social behaviour by the under-10s

Children below the age of criminal responsibility also commit anti-social behaviour. There is a range of interventions designed to deal with offending-type behaviour by children under 10 years old which should involve working with both the child and their family, particularly the parents or carers and including the father where possible.

9.1 AVAILABLE INTERVENTIONS

9.1.1 Parental Control Agreements/Acceptable Behaviour Contracts

Parental Control Agreements are similar to Acceptable Behaviour Contracts (ABCs), which are informal measures used to address anti-social behaviour in young people aged 10 and over. Parental Control Agreements have been developed in Islington in London to tackle the behaviour of children under the age of 10. The aim is to stop the bad behaviour rather than punishing the child involved. The agreement is drawn up at a meeting attended by the parent or guardian, the child and the lead agencies, usually the police and local housing department. It is signed by the parent or guardian, who agrees to take responsibility for their child's behaviour. The agreement lists behaviour that the child will stop, for example intimidating residents, graffiti or noise disturbance.

The meeting is an opportunity for police and housing officers to make the family aware of its responsibilities and identify support that the family may need, for example with health or housing difficulties.

Parental Control Agreements can be used as part of an incremental approach leading eventually to legal action – such as Possession Order or Child Safety Order proceedings – if the behaviour is not addressed. However, the involvement of a range of agencies means that other diversionary measures can be tried first. There is separate comprehensive guidance on ABCs on the crime reduction and Home Office websites.

9.1.2 Parenting Contracts

Sections 19 and 25 of the Anti-Social Behaviour Act 2003 give schools, local education authorities and Youth Offending Teams (YOTs) the power to enter into Parenting Contracts, offering a structured and balanced way for these agencies to work with parents or guardians on a voluntary basis. They are a two-sided arrangement where both the parents/guardians and the agency play a part in improving the young person's behaviour. The contract contains a statement by the parent(s)/guardian(s) agreeing to comply with the requirements for the period specified and a statement by the YOT or the local education authority agreeing to provide the necessary support to the parent(s)/guardian(s) to comply with the requirements. It is important for there to be a clear agreement about the consequences if the terms of the Parenting Contract are not adhered to. If the contract is broken, the agency may apply to the court for a **Parenting Order**, which makes the requirements compulsory.

9.1.3 Child Safety Orders

(See Sections 11 to 13 of the Crime and Disorder Act 1998 as amended by Section 60 of the Children's Act 2004.) A Child Safety Order allows compulsory intervention with a child under 10 years of age who has engaged in anti-social behaviour or has committed an act that would have constituted an offence if committed by a child aged 10 or over. It is designed to prevent further anti-social behaviour when it is not possible to engage on a voluntary basis with a child under 10. A Child Safety Order is made in family proceedings in the magistrates' court on application from a local authority. The order places the child under the supervision of a social worker or YOT member and includes requirements designed to address behaviour such as being out late or truanting. It can also require the child to take part in programmes. If the order is not complied with, the parent or guardian can be made the subject of a **Parenting Order** if that would be in the interests of preventing repetition of the behaviour that led to the Child Safety Order being made.

9.1.4 Parenting Orders

(See Section 8 of the Crime and Disorder Act 1998 as amended by the Anti-Social Behaviour Act 2003, the Criminal Justice Act 2003 and the Serious Organised Crime and Police Act 2005.) Parenting Orders can be imposed on a parent or guardian of a child aged under 10 who has failed to attend school or is subject to a Child Safety Order, or they can be applied for earlier where a child or young person has engaged in anti-social behaviour or offending-type behaviour. The order involves attendance at counselling or guidance sessions plus other requirements, for example ensuring that the child is properly supervised, home during specified hours or attending school. Failure to fulfil the requirements without reasonable excuse can be treated as a criminal offence and the parents or guardians can be prosecuted and fined.

9.1.5 Parental Compensation Orders

The Serious Organised Crime and Police Act 2005 introduced a new civil order to reinforce the responsibilities of parents or guardians of younger children. The Parental Compensation Order (which has commenced in 10 local authority areas in England) requires parents (or guardians) to pay compensation to a person affected by the taking of property or its loss or damage by a child under 10 in the course of an act that, if the child were 10 or over, would have constituted an offence, or in the course of anti-social behaviour.

9.1.6 Removal of truants to designated premises

Section 16 of the Crime and Disorder Act 1998 as amended by Section 75 of the Police Reform Act 2002 gave powers for the police to remove truants to designated premises to allow the police, working with local authorities and schools, to tackle truancy, one of the factors that put young people at risk of offending. These powers came into force on 1 December 1998.

Section 10: Partnership working

Anti-social behaviour has to be tackled in partnership because no single agency can tackle such a complex issue in isolation. It is essential that such partnerships demonstrate strong leadership and the firm message that anti-social behaviour will be tackled and not tolerated. Successful partnerships develop sustainable solutions to tackle anti-social behaviour, adopting a problem-solving approach and sharing information, and have a 'can do' approach that is communicated to the community.

The Crime and Disorder Act 1998 (as amended by the Police and Justice Act 2006) enshrined in statute the concept of partnership working to prevent and reduce crime, disorder and anti-social behaviour: local authorities, the police, police authorities, the National Probation Service, fire and rescue services and health services must work together.

There are also a number of other partnerships that have a role to play in tackling anti-social behaviour. Some of these are focused on young people, such as the Children's Fund, Sure Start and Connexions.

The Audit Commission has produced a report which considers how local agencies responsible for community safety can work better together and with local people to make neighbourhoods safer and improve the perception of public safety. This can be viewed at:
www.audit-commission.gov.uk/neighbourhoodcrime/index.asp

Section 11: Getting the right outcome in court

11.1 GETTING TO KNOW THE COURTS AND THE CROWN PROSECUTION SERVICE

While agencies do not always have to go to court to stop anti-social behaviour, it is best to be prepared if court action is needed, now or in the future.

Whether you are just starting out with your first case or you are an old hand, the principle is the same; to achieve the best outcome in court. Cases should be used as a way of developing a multi-agency agenda on witnesses' needs, rights and requirements.

Establishing good communication with the courts is an important part of agencies working together to tackle anti-social behaviour. Issues to be discussed with court officials include:

- the training of the local judiciary on the impact of anti-social behaviour on the community and the benefits of the enforcement tools available to protect the community; and
- standard procedures to deal with anti-social behaviour enforcement tools. These procedures cover issues such as:
 - agreed standards for agencies to present evidence of consultation to the court;
 - standards for serving documents on the defence;
 - agreed timescales for listing cases for hearings (some courts reserve a particular day each week to hear applications for Anti-Social Behaviour Orders);
 - documents to be prepared by the applicant agency in support of the application;
 - the order and format of evidence; and
 - how to deal with adjournments.

In many areas these agreed standards are expressed in the form of a service level agreement formally drawn up between the courts and the agencies responsible for taking enforcement action against perpetrators of anti-social behaviour.

11.2 IF PRACTITIONERS ARE UNHAPPY WITH THE DECISION OF THE COURT

There will inevitably be some cases when practitioners are unhappy with the decision of a court in a particular case. In exercising their judicial discretion, the courts sometimes have to make difficult decisions that are disappointing, unpopular or unwelcome. That may mean that the courts do not grant every single application and may impose a sentence that is **perceived** as lenient. It is important to consider why the court made the decision it did.

- Was the case as strong as it could have been?
- Are there lessons to be learnt from the case?

This may assist practitioners in bringing cases forward in the future.

In many cases it is possible to resolve concerns by informal constructive discussion locally with a contact at the court (e.g. the clerk or legal adviser).

More general concerns about the way the courts are operating in a particular area should **always** be raised at a senior level, to the area Justices' Clerk or Justices' Chief Executive (or local Area Director). In some cases it may be appropriate to raise matters with the senior judge in the local area (either the Resident Judge or Chair of the Area Judicial Forum).

Such discussions should focus on lessons to be learnt from particular cases or trends – they will not re-open discussion of the detail and reasoning behind a decision in an individual case.

11.3 APPEALS

In some cases there may be grounds to appeal against, or seek judicial review of, a decision made by the courts in an individual case. It is essential to seek legal advice if considering that option to ensure that there is a realistic chance of success.

11.4 WHO DOES WHAT IN THE COURTS

Court clerks ensure that proceedings are conducted within the proper legal framework. They also have a duty to assist anyone who appears before the court unrepresented. The Justices' Clerk is the most senior court clerk in an area. They will also hear applications for 'without notice' hearings to decide if the case should be heard by the magistrate.

Magistrates are unpaid volunteers who adjudicate cases and determine what sentences or orders should be imposed.

The Crown Prosecution Service (CPS) established a team of **specialist anti-social behaviour prosecutors** in March 2004. The specialist prosecutors are located in 14 CPS areas, and have led the CPS's contribution to the multi-agency drive to reduce anti-social behaviour. The specialist prosecutors are based in Avon and Somerset, Greater Manchester, Kent, Lancashire, London, Merseyside, Northumbria, South Wales, Sussex, West Mercia, West Midlands, West Yorkshire, South Yorkshire and Essex.

In addition to the specialist prosecutors, **anti-social behaviour co-ordinators** have now been appointed CPS-wide to ensure that there is a focus on anti-social behaviour issues in every CPS area. The role covers:

- providing advice and support to other prosecutors within the area on anti-social behaviour matters;
- liaising with other agencies regarding the CPS response to anti-social behaviour in the area; and
- acting as a contact point both internally and for relevant agencies within the area.

11.5 ANTI-SOCIAL BEHAVIOUR RESPONSE COURTS

There is now a strong network of anti-social behaviour response courts across the country. These ensure that magistrates and court staff are properly trained and follow a framework – including specialist sessions, witness care, local engagement and a media strategy. This ensures that courts are able to respond properly to anti-social behaviour cases in a visible and consistent way.

Section 12: Frequently asked questions (FAQs)

CAN I USE A PROHIBITION THAT IS ALSO A CRIMINAL OFFENCE IN AN ANTI-SOCIAL BEHAVIOUR ORDER?

Ultimately you need to demonstrate how the behaviour is causing harassment, alarm or distress in order to include the behaviour as a prohibition. You should not assume that the court will automatically link the criminal behaviour with an act that has caused harassment, alarm or distress – this should be supported by evidence that the act has had a negative effect on the community (witness statements, etc.). Therefore, in a case where theft is being used as a prohibition, you need to link that with the distress caused to the individual(s) who had their property stolen.

It is therefore vital to demonstrate the impact on the community that the defendant's actions have been causing, as just having criminal prohibitions has led to a lot of case law. It may be beneficial to read the case law listed below.

In the case of *R v Parkinson*, the defendant was convicted of street robbery and had an extensive criminal record; the court heard of a background of events including eviction for anti-social behaviour. An appeal was dismissed with the court finding that an order was necessary in the circumstance as every means of sentencing had been tried with a lack of success. As with all cases, the order must be deemed to be both necessary and proportionate. Details of the case can be found at the following website:

www.bailii.org/cgi-bin/markup.cgi?doc=/ew/cases/EWCA/Crim/2004/2757.html&query=scott+parkinson&method=all

The *R v Parkinson* case clarified the use of criminal prohibitions within orders on conviction. The case stated that criminal prohibitions can be used, but also stated that the prohibitions:

- must be precise and target the specific behaviour that has been committed by the defendant;
- must be necessary and proportionate to the legitimate aim pursued; and
- can prohibit behaviour which is in any event unlawful.

The *R v Parkinson* case also states that there is nothing wrong in reminding the defendant of what they must not do, and setting boundaries in relation to their behaviour, even if this is unlawful.

It has been suggested by some that the case of *R v Williams* stops a court imposing prohibitions that already constitute criminal offences. Quite apart from not being what the judgment says, this is at odds with the leading case on the subject, *R v Parkin*, which specifically approves the use of existing minor offences as Anti-Social Behaviour Order (ASBO) prohibitions. It is of course possible for the court to be dealing with the breach of an order and an offence arising out of the same facts. In the case of *R v Williams*, there was no evidence of alarm, harassment or distress that provided the threshold test for the purposes of granting an order.

Full details of these cases are available at the following website:

www.bailii.org/cgi-bin/markup.cgi?doc=/ew/cases/EWCA/Crim/2005/1796.html&query=yestin&method=all

Prohibitions can be of a criminal nature if there is evidence that the perpetrator has previously acted in this way and, most importantly, that the behaviour has caused harassment, alarm or distress. The types of behaviour that can be considered anti-social are not defined within the Crime and Disorder Act 1998, but this omission gives the courts maximum flexibility in determining what actions can be considered anti-social. It therefore follows that the courts can be faced with a range of possible behaviour that may or may not constitute criminal activity.

The case of *R v Kirby* relates to the length of sentence given for breach of an ASBO and the length of the ASBO itself. The judgment set out that ASBOs should not be used to attract a higher penalty for a given offence, rather than recommending that certain criminal offences should not be included as prohibitions.

Kirby must now be read alongside the more recent cases of *R v Boness* and *R v Morrison*. The case of *Boness*, which was an appeal against an order on conviction, stipulated that orders on conviction that prohibit specified criminal acts should not be imposed if the sentence given for the convicted offence is likely to act as a sufficient deterrent. Both *Boness* and *Morrison* endorsed the approach taken in *Kirby* by setting out that ASBOs should not be used to increase the statutory maximum penalty for any given criminal offence.

Further details of the *Morrison* and *Boness* cases are available at:

www.bailii.org/cgi-bin/markup.cgi?doc=/ew/cases/EWCA/Crim/2005/2237.html&query=morrison&method=all

www.bailii.org/cgi-bin/markup.cgi?doc=/ew/cases/EWCA/Crim/2005/2395.html&query=boness&method=all

Therefore, the Home Office's initial view on this issue is in line with the judgments handed down in the above cases. As set out in our guidance, we still advise that prohibitions should be aimed at those acts preparatory to committing anti-social behaviour and should prevent offending behaviour taking place. This approach was supported in the *Boness* judgment. However, we agree that certain minor criminal offences can be included as ASBO prohibitions, as set out in case law, but that these prohibitions should be reasonable and proportionate to the case in question. It is also our view that every case should be considered on a case-by-case basis and that ASBOs containing criminal prohibitions should not simply be used as a means of attracting a higher criminal penalty than the penalties for the criminal offences they prohibit.

CAN I PUBLICISE AN INTERIM ASBO?

Each case needs to be assessed on a case-by-case basis, looking at what is proportionate and necessary. However, this is not a process that we would encourage because, in the case of an interim ASBO, not all facts have yet been heard. Therefore, it may only be proportionate and necessary at this stage to inform the victims and

witnesses of the action taken rather than to issue a press release or leaflet an area. There would only be a short period of time for the full order to be granted (perhaps a week) and then the full order could be publicised in its entirety.

Factors that could be considered include the following:

- The court has not made any findings of fact as yet and may decide at the return hearing not to make a final ASBO. Any publicity about the interim ASBO would have to be very clear that certain matters have only been alleged and not yet proved. If the matter is to be publicised, it might be advisable to consider withholding details of the allegations at this early stage. You could release the information about the interim ASBO but keep the identification of the individual out of the report, therefore making good use of publicity to highlight the action taken and following up the report with full details when the full order is granted.
- Are there risks to the witnesses in publicising the interim ASBO?
- Would early publicity have the effect of dissuading future witnesses from coming forward (either in this case or in others)?
- Could publicity adversely affect the case?

CAN A COMMUNAL STAIRWELL BE CLASSED AS A 'PUBLIC PLACE' FOR THE PURPOSES OF SECTION 30(1) OF THE ANTI-SOCIAL BEHAVIOUR ACT 2003?

We can confirm that such areas should not be considered a public place for the purposes of the Act.

Section 30 reads as follows:

Dispersal of groups and removal of persons under 16 to their place of residence

(1) This section applies where a relevant officer has reasonable grounds for believing—

- (a) that any members of the public have been intimidated, harassed, alarmed or distressed as a

result of the presence or behaviour of groups of two or more persons in **public places** in any locality in his police area (the ‘relevant locality’), and

(b) that anti-social behaviour is a significant and persistent problem in the relevant locality.

[...]

‘Public place’ means–

(a) any highway, and

(b) any place to which at the material time the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission.

Classing a stairwell as a public place essentially goes against the purpose for which the Act was originally created. The legislation was intended to prevent the public from feeling afraid to use spaces that should be accessible to everyone, such as cashpoints, shops or parks, because they feel threatened by groups of people hanging around.

In cases where individuals congregate in areas such as stairwells, the responsibility rests with the owner of the building to ensure that communal areas are secure.

HOW DO I EXTEND THE LIFE OF AN ASBO?

You can vary an ASBO to extend its life; the procedure is contained within the Magistrates’ Courts (Anti-Social Behaviour Orders) Rules 2002, Rule 6. Variation enables you to vary all aspects of the order, i.e. prohibitions and date. The information required to vary an order would be evidence to support the need for that specific variation request. The Rules can be found at:

www.opsi.gov.uk/si/si2002/20022784.htm

Application is also set out within the legislation at: www.opsi.gov.uk/acts/acts2005

The judgment in the case of Leeds City Council v RG confirms that magistrates can extend orders through the variation procedure. However, it adds that if the proposed extension is for more than two years (the minimum duration of a new order), then applicants will need to justify why they have applied for an extension and not a new order, as there is no right of appeal against a variation.

The case law for Leeds City Council v RG can be found at: [www.bailii.org/cgi-bin/markup.cgi?doc=/ew/cases/EWHC/Admin/2007/1612.html&query=title+\(+Leeds+\)+and+title+\(+City+\)+and+title+\(+Council+\)+and+title+\(+v+\)+and+title+\(+RG+\)&method=boolean](http://www.bailii.org/cgi-bin/markup.cgi?doc=/ew/cases/EWHC/Admin/2007/1612.html&query=title+(+Leeds+)+and+title+(+City+)+and+title+(+Council+)+and+title+(+v+)+and+title+(+RG+)&method=boolean)

IS IT APPROPRIATE TO USE ACCEPTABLE BEHAVIOUR CONTRACTS ON TWO PRIVATE OWNER-OCCUPIERS WHO ARE EMBROILED IN A LONG-RUNNING BOUNDARY DISPUTE?

We would advise against using an Acceptable Behaviour Contract (ABC) in the circumstances of the case. This is because, unless there is a very serious development of threatening behaviour or sustained and unacceptable harassment, you would struggle to secure legal action such as an ASBO against either of the two parties in the event of a breach of the ABC.

It is appropriate to manage the expectations of both parties and explain that the case is not suitable for the interventions available to you as an anti-social behaviour officer. If it is clearly a boundary dispute of a very low level and you have followed your procedures for investigating and making an assessment as far as you possibly can, you can close the case by advising both parties to seek their own civil remedy.

However, if you feel that you have to offer some remedy, we would advise you to offer mediation in cases such as this because the process of mediation can offer a clear way forward for both parties. If mediation is refused, then it is appropriate to close the case and advise them to seek their own legal advice.

CAN NEIGHBOURS ON OPPOSING SIDES OF A DISPUTE HAVE THEIR OWN CCTV POINTING AT EACH OTHER'S HOUSES?

There is no legislation regulating the use of privately owned CCTV, and its use is exempt from the Data Protection Act 1998.

Section 36 of the Data Protection Act 1998 states that:

Personal data processed by an individual only for the purposes of that individual's personal, family or household affairs (including recreational purposes) are exempt from the data protection principles and the provisions of Parts II and III.

It is good practice to explain to individuals that they should be mindful of the privacy of others, and treat their neighbours with the due respect that they deserve and with which they would wish to be treated. It is important that people feel safe and secure in their own homes, and domestic CCTV can provide a feeling of security.

However, if the positioning of the camera is intrusive to others, they could be inadvertently placing themselves in a vulnerable position with respect to accusations of invasion of privacy and possibly harassment. The boundary of the garden is a very good guideline to use, as anything beyond that could be considered intrusive and the security of their home is only breached if the boundary is crossed by a person intent on causing damage and/or committing a criminal act.

WHAT POWERS EXIST TO TACKLE ANTI-SOCIAL BEHAVIOUR IN THE PRIVATE RENTED SECTOR WHEN PRIVATE LANDLORDS WILL NOT ENGAGE?

You could consider the use of a Section 222 Local Government Act 1972 injunction for public nuisance if you felt it was appropriate.

A local authority can use the powers under Section 222 of the Local Government Act 1972 to bring injunction proceedings in the county court to prohibit a person from continuing to cause a public nuisance.

Section 222 of the Local Government Act 1972 provides that:

- (1) Where a local authority considers it expedient for the promotion or protection of the interests of the inhabitants of their area
 - (a) they may prosecute or defend or appear in any legal proceedings and, in the case of civil proceedings, may institute them in their own name.

In cases of anti-social behaviour, local authorities can use Section 222 to apply for injunctions to stop behaviour that can be shown to be a public nuisance.

To prove a public nuisance, the local authority must show that:

- the behaviour materially affects the reasonable comfort and convenience of life of a class of Her Majesty's subjects;
- the area affected by the nuisance behaviour can be described as the neighbourhood; and
- there are sufficient numbers of people within the local community affected by the nuisance behaviour to constitute a class of the public. It is not necessary to prove that every member of the class has been affected – a representative cross-section will be enough.

It is within the proper action of a local authority to put an end to all public nuisances in order to protect and promote the interests of their inhabitants.

You should also consider taking action against the private tenants. The Respect website includes more information: www.respect.gov.uk/members/article.aspx?id=8002 (How do we tackle individuals who act in an anti-social manner who live in private?), www.respect.gov.uk/members/article.aspx?id=8000 (Private housing) and www.respect.gov.uk/members/article.aspx?id=8006&terms=management+orders&searchtype=2&fragment=False (Selective licensing and how it can tackle anti-social behaviour in the private rented sector).

WHAT IS PUBLIC NUISANCE?

The concept of ‘public nuisance’ is used in both criminal and civil law and has been criticised. It is generally accepted by the courts that the following passage from the judgment of Romer LJ in a 1957 case (*Attorney General v PYA Quarries Ltd [1957] QB 169*) is the authority:

I do not propose to attempt a more precise definition of a public nuisance than those which emerge from the textbooks and authorities to which I have referred. It is, however, clear, in my opinion, that any nuisance is ‘public’ which materially affects the reasonable comfort and convenience of life of a class of Her Majesty’s subjects. The sphere of the nuisance may be described generally as ‘the neighbourhood’; but the question whether the local community within that sphere comprises a sufficient number of persons to constitute a class of the public is a question of fact in every case. It is not necessary, in my judgment, to prove that every member of the class has been injuriously affected; it is sufficient to show that a representative cross-section of the class has been so affected for an injunction to issue.

CAN I USE AN ASBO FOR A CASE OF DOMESTIC VIOLENCE?

In instances of domestic violence, measures tailored to domestic violence (i.e. Restraining Orders and Non-Molestation Orders) should be tried first and enforced if breached.

However, it is not altogether unfeasible that neighbours who are constantly subjected to the sounds and sights of someone being verbally and/or physically abused in their own home may well be distressed by that, especially in the case where there are children living next door.

ASBOs could therefore be used where:

- there were no other options to provide protection; and
- there was an impact on the wider community.

However, there are problems with using ASBOs for domestic violence (and for race crime and child protection issues) in that it gives a misleading label to the behaviour. There is a danger that perpetrators are not placed on the register of domestic violence, violent and sex offenders, and are not directed into domestic violence-related interventions, treatment, etc.

A safeguard against this is liaison with the police domestic violence unit in all instances.

Section 13 of the Anti-Social Behaviour Act 2003 introduced a new section (153A) to the Housing Act and defines anti-social behaviour as:

conduct capable of causing nuisance or annoyance to any person, and which directly or indirectly relates to or affects the housing management functions of a relevant landlord.

It does not exclude the use of an injunction in domestic violence situations.

WHAT ACTION CAN BE TAKEN AGAINST A PERPETRATOR WITH MENTAL HEALTH ISSUES?

When advising on this issue, the ActionLine always refers to Section 47 of the NHS and Community Care Act 1990, as this is the first step in getting the perpetrator assessed. However, this often leads to a dead end, and even if the anti-social behaviour practitioner manages to get the agreement of social services to do the assessment, the perpetrator does not have to comply. Where non-compliance is an issue and if the behaviour displayed is of a very serious and harmful nature, the case should be referred on to mental health services and,

if appropriate, Section 2 of the Mental Health Act 1983 can be applied, which may result in a mental health section for 28 days.

There is nothing to stop practitioners taking action against perpetrators of anti-social behaviour who may have mental health issues, whether this is in the form of an injunction, an ASBO, a Possession Order, etc. The practitioner should consider whether it is appropriate, practical, moral or lawful to take legal action to prevent anti-social behaviour.

It is routinely asserted by or on behalf of defendants that:

- the legal action is a form of disability discrimination by the landlord; and/or
- they cannot be subject to a Court Order because they do not have mental capacity.

The Disability Discrimination Act 1995 should be taken into account and the following points should be considered:

- Is the person disabled as defined by the Disability Discrimination Act 1995?
- Has the person been discriminated against?
- Is the discrimination **justified**?

Justification is based on Section 24(2)–(5) of the Disability Discrimination Act 1995:

24 Meaning of ‘discrimination’

- (1) For the purposes of Section 22, a person (‘A’) discriminates against a disabled person if—
 - (a) for a reason which relates to the disabled person’s disability, he treats him less favourably than he treats or would treat others to whom that reason does not or would not apply; and
 - (b) he cannot show that the treatment in question is justified.

- (2) For the purposes of this section, treatment is justified only if—
 - (a) in A’s opinion, one or more of the conditions mentioned in Subsection (3) are satisfied; and
 - (b) it is reasonable, in all the circumstances of the case, for him to hold that opinion.
- (3) The conditions are that—
 - (a) in any case, the treatment is necessary in order not to endanger the health or safety of any person (which may include that of the disabled person);
 - (b) in any case, the disabled person is incapable of entering into an enforceable agreement, or of giving an informed consent, and for that reason the treatment is reasonable in that case;
 - (c) in a case falling within Section 22(3)(a), the treatment is necessary in order for the disabled person or the occupiers of other premises forming part of the building to make use of the benefit or facility;
 - (d) in a case falling within Section 22(3)(b), the treatment is necessary in order for the occupiers of other premises forming part of the building to make use of the benefit or facility.
- (4) Regulations may make provision, for purposes of this section, as to circumstances in which—
 - (a) it is reasonable for a person to hold the opinion mentioned in Subsection 2(a);
 - (b) it is not reasonable for a person to hold that opinion.
- (5) Regulations may make provision, for purposes of this section, as to circumstances (other than those mentioned in Subsection (3)) in which treatment is to be taken to be justified.

The World Health Organization defines health or safety ((3)(a) above) as ‘a state of complete physical, mental and social well-being and not merely the absence of disease and infirmity’.

The practitioner should consider the justification exercise at the earliest opportunity and a memorandum should be prepared as soon as possible. This can be referred to in a statement filed in support of legal proceedings or retained on file and disclosed at a later stage.

Mental capacity

The court will not grant an injunction against any ‘patient’ who is incapable of understanding its terms and/or the breaching of those terms. However, case law states appropriate points to take into account.

Judging mental capacity (Masterman-Lister v Jewell and Brutton and Co. 2002)

- All adults must be presumed to be competent to manage their property and affairs until the contrary is proved.
- Burden of proof rests on those asserting mental incapacity.
- Whether a person can manage their affairs is issue-specific.
- Any medical witness asked to advise on capacity needs to know the area in relation to which the advice is sought.
- Final decision rests with the court but the court will need medical evidence to guide it.

WHAT POWERS ARE AVAILABLE TO TACKLE ALCOHOL-RELATED DISORDER?

In areas experiencing high levels of alcohol-related nuisance and disorder, the police can restrict public drinking by using Designated Public Place Orders (DPPOs). A DPPO is an order made by local authorities under powers given to them under Section 13 of the Criminal Justice and Police Act 2001. These powers make it easier for local authorities to designate places where restrictions on public drinking will apply and are available in areas that have experienced alcohol-related disorder or nuisance. Over 90 areas across the country

have now introduced controlled drinking zones, ranging from small areas to city-wide. Further information on alcohol consumption in public places and areas that have used the orders is available on the crime reduction website:

www.crimereduction.gov.uk/alcoholorders01.htm

While it is not an offence to consume alcohol within a ‘designated’ area, the police, police community support officers and people accredited through a community safety accreditation scheme have powers to control the consumption of alcohol within that place. If they believe that someone is consuming alcohol or intends to consume alcohol, they can:

- require them to stop; and
- confiscate the alcohol from people whether the drinking vessel is opened or not.

If someone, without a reasonable excuse, fails to comply with the officer’s request, they are committing an offence and further action can be taken:

- a Penalty Notice for Disorder of £50;
- arrest and prosecution for a Level 2 fine (maximum £500); or
- bail conditions can be used to stop the individual from drinking in public.

A DPPO does not constitute a ‘blanket ban’ on drinking in public spaces; rather, it enables the police to tackle anti-social drinking. Further details about DPPOs can be found on the Respect website at:

www.respect.gov.uk/members/article.aspx?id=8016

Directions to Leave

Section 27 of the Violent Crime Reduction Act 2006 provides the police with a power to issue a direction to an individual aged 16 years or over who is in a public place to leave a locality. The direction will prohibit their return to that locality for a specified period not exceeding 48 hours. The officer can apply the direction if they are satisfied that the individual’s presence is likely to contribute to the occurrence, repetition or continuance of alcohol-related crime and disorder. The direction can prohibit their return for up to 48 hours.

Using the Direction to Leave power, the police will be able to reduce the likelihood of alcohol-related crime or disorder taking place by dealing immediately with a situation rather than having to apply to the court to sanction the giving of a direction.

The power should be used proportionately, reasonably and with discretion in circumstances where it is considered necessary to prevent the likelihood of alcohol-related crime or disorder. The aim of the new power is therefore to minimise the likelihood of alcohol-related crime or disorder taking place. Additional information can be found on the Respect website: www.respect.gov.uk/members/article.aspx?id=11732

Licence Reviews

The Violent Crime Reduction Act 2006 also introduced Licence Reviews under Section 21 of the Act. Guidance on Licence Reviews and the relevant forms can be found on the Department for Culture, Media and Sport website: www.culture.gov.uk/what_we_do/Alcohol_entertainment/licensing_act_2003_explained/eslr_guidance.htm

The Licensing Act 2003 (Summary Review of Premises Licences) Regulations 2007 can be found at: www.opsi.gov.uk/si/si2007/20072502.htm

Persistently selling alcohol to children

The Violent Crime Reduction Act 2006 (Commencement No. 2) Order 2007 introduced Section 23 of the Act, 'Persistently selling alcohol to children'. This came into force on 6 April 2007. The guidance, example notices and in-depth questions and answers can be found on the Department for Culture, Media and Sport website: www.culture.gov.uk/what_we_do/Alcohol_entertainment/licensing_act_2003_explained/offences.htm

The section on the Respect website about tackling alcohol-fuelled disorder in city centres may also be helpful: www.respect.gov.uk/members/article.aspx?id=7582

CAN I ADD ANTI-SOCIAL BEHAVIOUR TO A SUSPENDED POSSESSION ORDER FOR RENT ARREARS?

You have the option to make an application to vary the existing Suspended Possession Order (SPO). In theory, it is possible to vary an SPO that has not been breached. This is established by the case of Manchester City Council v Finn. You would have to apply back to the court within the ongoing proceedings on an Application Notice. You will in effect be asking the court to make a new Possession Order and so will need to establish the appropriate grounds and reasonableness. However, no new notice needs to be served, or new proceedings commenced.

If the SPO has been breached, you can seek to enforce it by a request for a warrant, and if the defendant then exercises their right to seek to stay or suspend execution of the warrant, you could consider making an application to include the anti-social behaviour in accordance with Sheffield City Council v Hopkins. There is no requirement to serve a Notice of Seeking Possession, or even forewarn the defendant of the intention to introduce the anti-social behaviour, but at the time the application is made it would be prudent to compile a Schedule of Alleged Anti-Social Behaviour so that the defendant and the court are made aware of the 'new' allegations.

Glossary

ABC: Acceptable Behaviour Contract

ASBI: Anti-Social Behaviour Injunction

ASBO: Anti-Social Behaviour Order

CCTV: Closed Circuit Television

CNEA: Clean Neighbourhoods and Environment Act 2005

CPAA: Control of Pollution (Amendment) Act 1989

CPS: Crown Prosecution Service

CROW: Countryside and Rights of Way Act 2000

DCO: Dog Control Order

Defra: Department for Environment, Food and Rural Affairs

DPPO: Designated Public Place Order

DVLA: Driver and Vehicle Licensing Agency

EHO: Environmental Health Officer

EPA: Environmental Protection Act 1990

FPN: Fixed Penalty Notice

ISO: Individual Support Order

PAYP: Positive Activities for Young People

PCSO: Police Community Support Officer

PND: Penalty Notice for Disorder

RDAA: Refuse Disposal (Amenity) Act 1978

SOCPA: Serious Organised Crime and Police Act 2005

SPO: Suspended Possession Order

TCPA: Town and Country Planning Act 1990

YIP: Youth Inclusion Programme

YIPs operate in local neighbourhoods and are aimed predominantly at young people identified as being at risk of offending, but who have not yet entered the criminal justice system.

YISP: Youth Inclusion and Support Panel

YOT: Youth Offending Team

These teams are made up of representatives from the police, probation service, social services, health, education, drugs and alcohol misuse agencies and housing officers. Their work is overseen by a local steering group, made up of key stakeholders. There is a YOT in every local authority in England and Wales.



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