



ANTI-SOCIAL BEHAVIOUR TOOLS AND POWERS

INFORMATION PACK FOR COUNCILLORS

Foreword

We are delighted to introduce this guidance for councillors on the tools and powers available to tackle anti-social behaviour (ASB). Councillors are at the heart of the communities they represent and can be the first point of contact when residents experience ASB or feel that an incident has not been dealt with appropriately. Your role in tackling ASB is therefore key.

Since the Government introduced Anti-Social Behaviour Orders (ASBOs) in 1998, there have been real improvements in how people feel about ASB. Some 15 per cent of people now feel that levels of ASB in their areas are high compared with 21 per cent in 2002/03. And the proportion of people who think that the police and local agencies are dealing with the things that matter to them locally has increased from 45 per cent in March 2008 to 50 per cent in September 2009.

A range of tools and powers has been given to the police, local authorities and other agencies, and there has been considerable success in using them. A study by the National Audit Office in 2006 found that 65 per cent of people desisted from ASB after the first intervention and 93 per cent after the third. Where individuals do persist in causing misery to local residents, agencies are taking robust action to deal with them. As of December 2007, 53 per cent of ASBO breaches resulted in a custodial sentence and 26 per cent resulted in a community sentence.

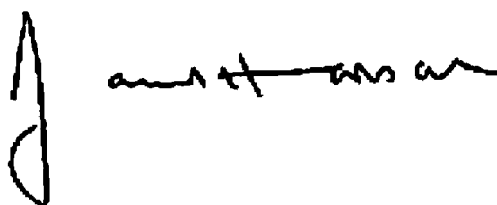
However, these statistics offer little comfort to those who suffer at the hands of the small minority intent on behaving anti-socially – we want to make sure that these people are tackled, not tolerated. Our goal is to build stronger communities across the country, empower local people and ensure that local authorities and police are working together to tackle ASB. No one should assume that these are problems they are expected to live with. And no one who reports ASB should be made to feel as if they are the ones causing the nuisance.

We are therefore continuing to provide significant support for practitioners and the public. Access to information on ASB services has been simplified.

A quick postcode search on Directgov gives the public easy access to information on who is responsible for dealing with local problems and how to contact them. And practitioners can call the ASB ActionLine for expert advice on tackling specific problems. This resource is also open to you as a local councillor. The number is 0870 220 2000.

Building on this, the Government announced a further package of measures on 13 October 2009, backed up by funding. This included extending Victim Support services to all victims and witnesses of ASB in magistrates' courts; stepping up action on ASBO breaches; ensuring that the public understand what they can expect from local services on ASB; and working closely with the 62 Crime and Disorder Reduction Partnerships facing the highest perceptions of ASB to support and challenge them in delivering solutions to local problems.

It is important in all of this that central and local government work together to deliver the improvements the public expect. We hope you find this guidance informative and useful in continuing to ensure that your communities are free from the blight of ASB.



David Hanson MP
Minister for Crime and Policing



Councillor Les Lawrence
Chair of the Local Government Association's
Safer Communities Board

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Introduction

This guide is a reference source informing councillors about available anti-social behaviour (ASB) tools and powers and enabling you to identify where responsibility lies for tackling different problems.

Practitioners are now equipped with the tools and powers they need to meet the public's expectations. These can be used in a stepped approach to match the level of nuisance.

This guide will help you to challenge the agencies involved in tackling ASB in your area if a local problem appears to be getting needlessly out of control. The following is a checklist of questions you might like to ask a constituent who contacts you about ASB they have experienced.

1. Who have they reported it to?
2. Have they been given a timescale for dealing with the problem and a contact name?
3. Have they been given a diary sheet and told what evidence they might have to give?
4. Will they need to give evidence?
5. Has the local authority, police or landlord publicised the outcome of actions taken?
6. If the person is a victim or witness, have they been offered support?

Most areas have multi-agency teams dedicated to reducing ASB, and we would suggest contacting them in the first instance. Contact details should be on your council website or can be found by visiting <http://localcrime.direct.gov.uk> and entering the postcode.

If you need further advice on specific problems you can contact the ASB ActionLine on 0870 220 2000. Please note that this is a dedicated resource for ASB practitioners and is not a public helpline.

Further information, including more detailed guidance on tools and powers, is also available on the ASB website at: www.asb.homeoffice.gov.uk.

Part 1: Noise nuisance and housing-related anti-social behaviour

NOISE NUISANCE

Domestic noise

What is domestic noise?

Any noise emitted from premises that is prejudicial to health or is a nuisance is defined as a statutory nuisance under the Environmental Protection Act 1990.

Who is responsible for dealing with domestic noise?

Local authorities have a duty to deal with any noise that they consider to be a statutory nuisance. Social and private landlords have powers to take action against tenants who breach their tenancy agreement.

What can local authorities do about domestic noise?

- Apply for Noise Abatement Notices.
- Draw up Acceptable Behaviour Contracts (ABCs) to set out standards of behaviour that an individual causing the nuisance should maintain.
- Apply for an ASBO or Anti-Social Behaviour Injunction (ASBI).
- Issue a Fixed Penalty Notice (FPN) if warnings are not heeded.
- Use the Clean Neighbourhoods and Environment Act 2005 to deal with annoyance caused by audible intruder alarms.

What can local authorities do about noisy licensed premises?

Local authorities may use the Noise Act 1996 (as amended by the Clean Neighbourhoods and Environment Act 2005) to initiate proceedings against licensed premises that exceed the permitted level for noise but where the problem is not severe enough to warrant serving a 24-hour Closure Order.

Part 6, section 40 of the Anti-social Behaviour Act 2003 gives the local authority's chief executive, or an authorised environmental health officer, powers to close noisy licensed premises if they cause noise nuisance for a period of 24 hours. These can be licensed premises or premises operating under a Temporary Event Notice.

What can be done if the noise is related to drug dealing and drug taking?

Sections 1 to 11 of the Anti-social Behaviour Act 2003 contain powers available to the police, in consultation with local authorities, to close properties taken over by drug dealers and users of Class A drugs who cause disorder or serious nuisance to the local community.

Home Office guidance is available at: www.asb.homeoffice.gov.uk/members/article.aspx?id=7884.

OTHER HOUSING-RELATED ANTI-SOCIAL BEHAVIOUR

Injunctions

Injunctions are civil orders obtained from the county court. An injunction prohibits the person concerned from engaging in the behaviour detailed in the injunction. Injunctions can be used to prevent a range of ASB relating to housing: for example using a property for drug dealing, playing loud music at night, barking dogs, verbal abuse and vandalism. Some injunctions can exclude the person from specified places or areas.

Breach of the provisions of an injunction can result in up to two years' imprisonment and/or an unlimited fine for contempt of court.

What are housing injunctions?

Section 13 of the Anti-social Behaviour Act 2003 allows social landlords to apply for injunctions to prohibit ASB that affects their management of their housing stock. It also allows Housing Action Trusts to apply for injunctions. There are also other injunctive powers that can be used to tackle ASB, for example injunctions under section 222 of the Local Government Act 1972.

Section 153A of the Housing Act 1996 – Anti-Social Behaviour Injunction

A social landlord (local housing authorities, Housing Action Trusts and registered social landlords) may apply to the county court for an injunction to prevent ASB under section 153A of the Housing Act 1996.

In considering whether to grant an injunction under section 153A of the Housing Act 1996, the court must first be satisfied that the alleged ASB meets the following ‘conduct test’.

The conduct must be:

- capable of causing nuisance or annoyance to any person; and/or
- directly or indirectly relating to or affecting the housing management functions of the landlord.

Further information can be found in a fact sheet on injunctions at:

www.communities.gov.uk/publications/housing/housinginjunctionsavailable.

Anti-Social Behaviour Orders

ASBOs can be used to prohibit the ASB of owner-occupiers or those in private rented accommodation, as well as social housing tenants. They are community-based orders that involve local people in both collecting evidence and helping to enforce breaches of the prohibitions in the ASBO. Any action taken in the county court for ASB can have an ASBO application attached to it. This can also include applying to have persons who are not party to the principal proceedings, but whose behaviour is relevant, to be joined to the proceedings in order to seek an ASBO against them.

In a housing context, the police, local authorities, registered social landlords and Housing Action Trusts can apply for ASBOs. There is comprehensive guidance on ASBOs on the crime reduction website at: www.crimereduction.gov.uk/antisocialbehaviour/antisocialbehaviour55.htm. At the time this guidance was being prepared, legislation to require mandatory assessments of parenting needs of 10- to 15-year-olds being considered for an ASBO was being drawn up.

Premises Closure Orders

In cases of serious and persistent nuisance or disorder, local authorities or the police (in partnership) may apply to the courts to close the premises. This applies to any property, including privately owned houses. This is an order of last resort, to be used only after all else has been tried and failed.

Measures specific to registered social landlords for tackling anti-social behaviour

The Tenant Services Authority (TSA) and the Homes and Communities Agency were launched on 1 December 2008. The establishment of these agencies marks a significant change within the sector and will benefit all those involved with housing and regeneration from the tenant through to the largest commercial developer.

The TSA is the new regulator for social housing, dedicated to raising the standard of housing services by putting tenants first. Taking over the Housing Corporation’s responsibility for regulating housing associations and social landlords, the TSA will set high standards of management across these areas and, later, local authority social homes.

The TSA will:

- champion tenants’ needs and aspirations relating to housing;
- promote choice for tenants and providers;
- challenge providers to meet or exceed standards;
- shape standards, utilising informal and formal consultations;
- adopt a co-regulatory and proportionate approach;
- be independent and cross-domain; and
- work to create more choice about the way housing is managed and the landlords who provide it.

Introductory and starter tenancies

These are probationary tenancies that allow local housing authorities and Housing Action Trusts to adopt an introductory tenancy scheme for new tenants. The landlord may evict them within this period if their behaviour is unacceptable.

Family intervention tenancies

Family intervention tenancies were introduced in the Housing and Regeneration Act 2008 to enable local housing authorities and registered social landlords to offer tenancies that are not secure or assured to certain tenants who have lost, or are potentially at risk of losing, their secure or assured tenancy. Family intervention tenancies will be offered as part of a behavioural support

package (known as a Family Intervention Project) for tenants against whom a Possession Order for ASB has been made, or for tenants who could face repossession proceedings on the grounds of ASB.

Family Intervention Projects are designed to help a small number of families who have been found to be among the most challenging to local housing authorities and registered social landlords. They are likely to be families with serious ASB problems, possible drug and alcohol misuse, and other interrelated problems. Further information can be found at:
www.asb.homeoffice.gov.uk/members/article.aspx?id=8678.

Demotion Orders

Local authorities, Housing Action Trusts and registered social landlords may apply to the county court to bring a tenancy to an end by a Demotion Order. On the granting of the Order, the tenancy is replaced with a less secure form of tenancy.

Eviction

Eviction is a serious sanction that should be used when necessary to protect the community, but only as a last resort.

Private sector landlords

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 ASB.

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 ASB website at: www.asb.homeoffice.gov.uk/members/article.aspx?id=8006.

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. *Over the garden hedge* is a leaflet produced by Communities and Local Government that advises members of the public on ways to negotiate with their neighbours to reach agreement over hedges. The leaflet is available at: www.communities.gov.uk/publications/planningandbuilding/overgardenhedge. A second leaflet called *High hedges: complaining to the Council* is also available at: www.communities.gov.uk/publications/planningandbuilding/highhedgescomplaining.

Part 2: Environmental anti-social behaviour

WHAT IS ENVIRONMENTAL ANTI-SOCIAL BEHAVIOUR AND WHO CAN TACKLE IT?

Environmental ASB includes unacceptable behaviour such as fly-tipping, abandoning cars, dog fouling, noise nuisance and graffiti.

Tackling environmental ASB requires commitment from many partners, each of whom has a responsibility in the local community:

- Housing officers have powers to tackle neighbourhoods where damage to the local environment is part of the problem.
- Social and private landlords can take action against tenants who breach their tenancy agreement by failing to control a dog's noisy and aggressive behaviour.
- City centre managers tackling begging and street drinking can organise partnership interventions such as community clean-ups.
- Environmental improvements by partners can help to 'design out' crime in an area (for example, by relocating a phone box or replanting trees).

CRIMINAL DAMAGE AND VANDALISM

What action can be taken?

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 Act creates two levels of offence: a summary offence and a more serious offence. Some authorities, including the British Transport Police, have found ASBOs useful to address the behaviour of people who repeatedly cause criminal damage.

In a magistrates' court, racially or religiously aggravated criminal damage is an offence carrying a maximum prison term of six months and/or a Level 5 fine. In the Crown Court, it carries a maximum prison term of 14 years and/or an unlimited fine.

Stop and search

The Criminal Justice Act 2003 gave 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 makes it illegal to sell aerosol paint to children under the age of 16.

GATING ORDERS

A Gating Order enables local authorities to restrict public access to any public highway by gating it, in order to prevent crime or ASB from occurring.

Further information about closing or diverting rights of way to prevent crime can be found at: www.defra.gov.uk or by contacting the Department for Environment, Food and Rural Affairs (Defra) on 0117 372 8379 or by email at: rights.ofway@defra.gsi.gov.uk. The Home Office guidance *A Step-by-Step Guide to Gating Problem Alleys* can be downloaded from: www.asb.homeoffice.gov.uk/members/article.aspx?id=7914.

VEHICLE OFFENCES

Nuisance parking

Sections 3 to 5 of the Clean Neighbourhoods and Environment Act 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 carried out within 72 hours of the incident; and
- allow directors or owners of a company to permit this to take place.

Abandoned vehicles

It is an offence to abandon any vehicle under section 2 of the Refuse Disposal (Amenity) Act 1978. A local authority can remove any abandoned vehicle immediately without the need to attach a notice first. Vehicles parked illegally, obstructively or dangerously and broken down vehicles can be removed immediately by the police if they are on a road.

Who is responsible for removing abandoned vehicles and illegally, obstructively or dangerously parked vehicles?

It is the responsibility of the relevant waste collection authority, usually the local authority, to remove abandoned and dangerously parked vehicles.

This is carried out in conjunction with the police and the Driver and Vehicle Licensing Agency. Police community support officers (PCSOs) also have the power to require the removal of abandoned vehicles.

What action can be taken?

Abandoning a vehicle is a criminal offence under section 2 of the Refuse Disposal (Amenity) Act 1978, punishable by a maximum fine of £2,500 and/or three months in prison. FPNs for abandonment of vehicles may be issued. An abandoned vehicle, once it has reached the end of its useful life, can also be classified as 'hazardous waste', causing an offence under section 33 of the Environmental Protection Act 1990. A defendant may be disqualified from holding a driving licence where they have committed a relevant offence.

Further information

Detailed guidance and information on the Clean Neighbourhoods and Environment Act 2005 issued by Defra can be downloaded from 'The Environment' section at: www.defra.gov.uk. This section also includes guidance on the FPN provisions of the Environmental Protection Act 1990, the Clean Neighbourhoods and Environment Act 2005 and other legislation.

LITTER AND REFUSE

What action can be taken?

Section 87 of the Environmental Protection Act 1990 makes it a criminal offence to drop, throw, deposit or leave litter. The offender can be prosecuted by the police or local authority. Private individuals may also prosecute.

Fixed Penalty Notices

Section 88 of the Act gives the power to issue an FPN for the offence of leaving litter. FPNs can be issued by:

- authorised officers of a litter authority, including persons not employed by the local authority (this includes parish councils, national park authorities and the Broads Authority);
- accredited persons, for example litter wardens; and
- PCSOs.

Where appropriate, FPNs may be issued to children aged 10 or over as well as to adults. See Defra guidance, *Issuing Fixed Penalty Notices to Juveniles*, at:

www.defra.gov.uk/environment/quality/local/legislation/cnea/documents/juveniles.pdf.

Litter Clearing Notices

Principal litter authorities, appropriate Crown authorities, designated statutory undertakers, governing bodies of designated educational institutions and the Secretary of State already have a legal obligation under section 89 of the Environmental Protection Act 1990 to keep relevant land and highways clear of litter and refuse. Local authorities can issue Litter Clearing Notices to require individuals and businesses to remove litter from other land in their area.

Who is responsible for clearing up litter and waste?

Section 89 of the Environmental Protection Act 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. Members of the public can apply to the magistrates' court under section 91 of the Environmental Protection Act 1990 for a Litter Abatement Order to ensure that an area under the control of a duty body is cleared of litter and refuse.

Local authorities can serve Litter Abatement Notices to bodies that have failed to keep their area free of litter or refuse.

Local authorities can issue Street Litter Control Notices requiring owners or occupiers of commercial premises to prevent or remove the accumulation of litter, where it is related to their activities (for example takeaway food premises).

Under the Environmental Protection Act 1990, it is an offence for anyone to distribute, or cause someone else to distribute, free literature, without consent, in an area designated a litter control area by a principal litter authority.

Litter on private land

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

Further information

Detailed guidance and information on the Clean Neighbourhoods and Environment Act 2005, issued by Defra, can be downloaded from 'The Environment' section of www.defra.gov.uk. This section includes guidance on the FPN provisions of the Environmental Protection Act 1990, the Clean Neighbourhoods and Environment Act 2005 and other legislation. Further information is available on the Keep Britain Tidy website at: www.keepbritaintidy.org/keyissues/default.aspx.

ILLEGAL ADVERTISEMENTS (FLY-POSTING)

What action can be taken?

Fly-posting is the posting of stickers, posters and other advertising without the consent of the owner of the property and is an offence under section 224(3) of the Town and Country Planning Act 1990 and the Highways Act 1980. Advertisers can be fined for this offence and the individual who physically affixes the poster may be issued with an FPN.

Removal of advertisements

Posters can be removed by the local authority without notice. Local authorities may serve a Defacement Removal Notice on bodies responsible for a surface defaced by fly-posting.

Who can issue penalties for fly-posting?

FPNs for fly-posting activity can be issued by:

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

FLY-TIPPING

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. Under section 33 of the Environmental Protection Act 1990, action can be taken against anyone who has committed a fly-tipping offence.

Any producer of waste has a duty of care to make sure that waste is disposed of properly. The Waste (Household Waste Duty of Care) (England and Wales) Regulations 2005 extend the duty of care to householders.

Registration as a waste carrier is compulsory

People who collect or transport waste for profit must be registered with the Environment Agency under the Control of Pollution (Amendment) Act 1989. Information on licensing is available at: www.environment-agency.gov.uk/epr/pubreg.asp.

What action can be taken?

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

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 Control of Pollution (Amendment) Act 1989 (c.14) as amended by section 55 of the Anti-social Behaviour Act 2003.

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.

Possible penalties include:

- FPNs for minor and less serious offences;
- for repeat fly-tipping offenders, an ASBO and/or vehicle confiscation;
- large fines in combination with prison sentences, for serious offences committed on a commercial and industrial scale;
- removal of driving licence under section 146 of the Powers of Criminal Courts (Sentencing) Act 2000;
- forfeiture of vehicle in order to interrupt or terminate the illegal business;
- fines of £5,000 for breaching the waste duty of care; and
- fines of up to £50,000 and/or 12 months' maximum imprisonment or unlimited fines and/or five years' imprisonment for illegal waste disposal.

Further information

Detailed guidance and information on the Clean Neighbourhoods and Environment Act 2005, issued by Defra, can be downloaded from 'The Environment' section of www.defra.gov.uk. Further information on fly-tipping is available from Defra at: www.defra.gov.uk/environment/quality/local/flytipping and Keep Britain Tidy at: www.keepbritaintidy.org/keyissues/default.aspx.

A toolkit for tackling environmental ASB is available from the Chartered Institute of Environmental Health website at: www.cieh.org/library/knowledge/Public_health/Anti-social_behaviour/AntiSocialBehaviourToolKitSeptember2006.pdf.

GRAFFITI

What action can be taken?

The Anti-social Behaviour Act 2003 enables local authority officers, PCSOs or any person accredited by the chief constable to issue an FPN for minor graffiti offences.

Under the Anti-social Behaviour Act 2003 it is an offence to sell aerosol paint to anyone under the age of 16. The Clean Neighbourhoods and Environment Act 2005 places a duty on local trading standards to review underage sales once every 12 months and to take enforcement action where necessary.

Defacement Removal Notices can be served by local authorities on the owners of street furniture, designated statutory undertakers such as Network Rail, and educational institutions whose property is defaced by graffiti.

FIREWORKS MISUSE

There are laws in place to protect communities from the misuse of fireworks. Breaking the law by committing any of the following offences carries a £5,000 fine, six months in prison, or both:

- 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;
- possession of adult fireworks by anyone under 18 in a public place;
- possession of public display fireworks by anyone other than a fireworks professional.

Curfew on fireworks use

The Fireworks Regulations 2004 make it an offence for any person to use adult fireworks between the hours of 11pm and 7am, except for '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).

Powers to tackle fireworks misuse

The police, including PCSOs, are able to use Penalty Notices for Disorder (PNDs) to tackle misuse of fireworks by those aged 16 and over. Other powers, for example ABCs, Dispersal Notices and ASBOs, can be put to use where fireworks misuse is part of a wider ASB problem.

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

Guidance and a new tools and powers fact sheet, as well as the Home Office report *Tackling Fireworks Misuse*, are available on the crime reduction website at: www.crimereduction.homeoffice.gov.uk/antisocialbehaviour/antisocialbehaviour061.htm.

ANIMAL NUISANCE

Irresponsible dog ownership is often a source of complaint, and pets can cause nuisance, intimidation and distress to others. Typical complaints are constant barking, fouling of footpaths and allowing dogs to intimidate individuals.

Barking dogs

What action can be taken?

- 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 Environmental Protection Act 1990.
- An environmental health officer can use FPNs and Noise Abatement Notices to stop a noise that is causing a statutory nuisance.
- Social and private landlords 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.
- An ASBO may be taken out on an individual causing noise nuisance, irrespective of their type of tenancy.
- Social landlords may take out an ASBI on a tenant for causing noise nuisance in breach of their tenancy. For more information see: *Anti-social behaviour factsheet 2: Housing injunctions* at: www.asb.homeoffice.gov.uk/members/article.aspx?id=8080.

Dog Control Orders

Local authorities and parish councils can use Dog Control Orders to cover the following five offences:

- 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; and
- taking more than a specified number of dogs onto land specified in the Order.

Fixed Penalty Notices

An FPN is available for contravening a Dog Control Order. Persons who can issue an FPN are:

- a local authority dog warden or other authorised local authority officer;
- a person authorised by a secondary authority, for example the parish council;
- any person (including their employees) authorised by a local authority or parish council; and
- PCSOs and other persons accredited by the chief constable.

Allowing dogs to intimidate individuals

The police, local authorities and housing organisations can take direct action against an individual who allows their dog to intimidate members of the public (this includes dogs used as status symbols to threaten, intimidate or attack other individuals or dogs). These agencies can use:

- an injunction under the Housing Act 1996 (as amended);
- a demoted tenancy under the Housing Act 1985 (as amended);
- an ASBO under the Crime and Disorder Act 1998 (as amended); and/or
- an injunction to prevent gang-related violence under the Police and Crime Act 2009 (due to commence in April 2010).

ENVIRONMENT-RELATED PENALTY NOTICES FOR DISORDER

PNDs are issued for more serious offences, such as throwing fireworks or being drunk and disorderly. PNDs can be issued by the police and, where designated, PCSOs, and are available as part of a community safety accreditation scheme. PNDs can be issued to anyone over 16 years old and are for either £50 or £80, depending on the severity of the offence.

Offences where a PND might be issued include:

- behaviour likely to cause harassment, alarm or distress to others;
- drunk and disorderly behaviour in a public place;
- destruction of, or damage to, property – up to the value of £500;
- retail theft up to the value of £200;
- selling alcohol to a person under 18 years of age;
- selling alcohol to someone who is obviously drunk;
- using threatening words or behaviour; and
- breaching a fireworks curfew.

Part 3: Anti-social behaviour related to alcohol, illegal drugs, prostitution and other public order offences

STREET DRINKING

What action can be taken?

- People who are drunk and carrying out ASB can be arrested as drunk and disorderly, drunk in a highway or causing harassment, alarm or distress under section 5 of the Public Order Act 1986.
- PNDs can be issued by the police.
- ASBOs 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 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 that or other specified licensed premises for between three months and two years.
- Designated Public Places Orders, under section 13 of the Criminal Justice and Police Act 2001, make it easier for local authorities to designate places where restrictions on public drinking will apply. They are available in areas that have experienced alcohol-related disorder or nuisance. The police have powers to enforce this restriction.
- Alcohol Disorder Zones give local authorities the power to designate, with the consent of the police, a locality where there is a problem with alcohol-related nuisance and disorder. Local authorities will have the power to impose charges on holders of premises licences allowing the sale of alcohol.
- Alcohol arrest referral schemes make provision, in suitable cases, for adults arrested for alcohol-related offences to be referred to brief advice sessions.
- Drinking Banning Orders can be applied on application by frontline enforcement agencies to an individual aged 16 years or over who engages in criminal activity under the influence of alcohol. The Order can impose any prohibitions on the individual that the court considers necessary.

- Directions to leave: a constable in uniform has the power to issue a direction to an individual to leave a locality if their presence is 'likely to cause or contribute to the occurrence, repetition or continuance of alcohol-related crime or disorder in a locality'. The police can now issue Directions to leave to persons aged between 10 and 15, as well as those aged 16 or over. The police can also take the young person home or to a place of safety if they are issued with Directions to leave and the police reasonably suspect that they are under the age of 16. For further information go to: www.crimereduction.homeoffice.gov.uk/crimereduction053a.pdf.
- The Policing and Crime Act 2009 also introduced the following legislation:
 - changing the offence of persistently selling alcohol to children from three strikes within three months, to two strikes within three months; and
 - a new offence of persistently possessing alcohol in a public place. Young people under the age of 18 can be prosecuted for this offence if they are caught with alcohol in a public place on three or more occasions within a 12-month period. The maximum punishment for this is a £500 fine.

DRUG/SUBSTANCE MISUSE

In most cases, a tenant using drugs in a way that causes serious nuisance will be breaching their tenancy agreement. Possession and supply of controlled drugs is illegal under the Misuse of Drugs Act 1971.

What action can be taken?

Civil measures such as ASBOs and ASBIs are available to protect the community from behaviour causing harassment, alarm or distress. An ASBO 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.

Intervention Orders

Intervention Orders are available through section 20 of the Drugs Act 2005. They require individuals who act anti-socially as a result of drugs misuse to comply with positive conditions that tackle their ASB.

Intervention Orders can only be applied for alongside ASBO applications that are made as 'stand alone' in the magistrates' court, or alongside proceedings in the county court. They can be given to individuals aged 18 or over and can last for six months or less. (Individual Support Orders are available for 10- to 17-year-olds.)

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

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

For a court to make an Intervention Order, the court must be satisfied that drugs misuse is responsible for the perpetrator's ASB.

Conditional Cautions

Conditional cautioning 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. A Conditional Caution is given by the police after receiving 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.

Compulsory drugs testing for trigger offences under the Drugs Act 2005

Under part 2, section 7 of the Drugs Act 2005, the 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 and handling stolen goods) or where an inspector or more senior officer believes that drug misuse has contributed to the offence.

Those who test positive for drugs will be obliged to attend a compulsory drug assessment by specialist drugs workers. Those who fail to provide a sample or comply with a required assessment face a fine and/or up to three months in prison. These provisions are only available in some areas.

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 two assessments and to remain for their duration.

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 website, www.drugs.gov.uk, gives further information about work to tackle illegal drugs.

What action can be taken?

Civil orders such as ASBOs and ASBIs 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. Housing-related measures such as Housing Act 2004 injunctions, demoted tenancies and possession 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 that are being used in connection with the unlawful use, production or supply of a Class A controlled drug, and where there is serious nuisance or disorder.

STREET PROSTITUTION

What action can be taken?

It is an offence for someone to solicit or loiter in a public place for the purposes of prostitution. The Sexual Offences Act 2003 (section 56) extends this offence to men as well as women.

Diversions towards drug treatment and other rehabilitative activities can also be provided through Conditional Cautions or arrest referral. The court may also make a Community Order if an individual has been convicted and fined at least three times.

KERB CRAWLING

Kerb crawling is an offence under section 1 of the Sexual Offences Act 1985. The Police and Crime Act 2009 removed the need for 'persistency' making kerb crawling punishable on the first offence.

What action can be taken?

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

ASBOs can be obtained from the magistrates' court or from the criminal court following a conviction for the offence of kerb crawling.

Re-education programmes can be effective for first-time offenders. Attendance can be reinforced by the use of police cautions.

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.

PUBLIC ORDER OFFENCES

When is anti-social behaviour a public order offence?

Section 5 of the Public Order Act 1986 makes it a criminal offence to use threatening, abusive, 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.

The types of behaviour covered by this 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; and
- an individual being picked on by a gang where the behaviour does not justify an assault charge.

PERPETRATORS WITH HEALTH NEEDS

Section 47 of the National Health Service and Community Care Act 1990 requires all perpetrators with health needs to be assessed. However, even if the ASB practitioner manages to get the agreement of social services to carry out 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 sectioning for 28 days.

Part 4: Youth-related anti-social behaviour

Tackling ASB committed by young people, as with other age groups, requires a tiered approach appropriate to the behaviour and the individual. The information below is specifically focused on the enforcement tools and powers available to practitioners. However, in identifying how to tackle such issues, thought must be given to the safeguarding and welfare of the young person (or any vulnerable individual) and whether broader prevention measures are appropriate – some examples are described below.

ANTI-SOCIAL BEHAVIOUR INTERVENTIONS **Acceptable Behaviour Contracts**

ABCs are a written agreement designed to engage an individual in acknowledging and addressing their behaviour. They are not set out in law and any agency is able to use them. ABCs work well when agreement on acceptable behaviour is combined with support delivered by the Youth Offending Team (YOT) or Children's Services. There is separate comprehensive guidance on ABCs on the ASB website at: www.asb.homeoffice.gov.uk.

Anti-Social Behaviour Orders and Individual Support Orders

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

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

Individual Support Orders (ISOs) should be considered alongside the use of all ASBOs on a young person aged 10–17. The ISO includes positive obligations to tackle the underlying behaviour and help them to meet the conditions of their ASBO.

Parenting Contracts

Sections 19 and 25 of the Anti-social Behaviour Act 2003 give certain agencies the power to enter into Parenting Contracts. Schools and local education authorities (LEAs) can enter into Parenting Contracts with the parent(s) of a child who has truanted or been excluded from school, and 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 ASB.

The 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 LEA agreeing to provide the necessary support to the parent(s) to comply with the requirements. There is comprehensive information on the issue of parenting on the Youth Justice Board website at: www.yjb.gov.uk/en-gb.

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 a Parenting Order where ASB 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'. A housing association can apply for a Parenting Order in similar situations, but must first consult with the local authority in the area.

At the time this guidance was being prepared, legislation was being drawn up to provide for mandatory parenting orders every time a 10 to 15 year-old breaches an ASBO.

Dispersal of groups

Senior police officers may designate an area where there is persistent ASB and a problem with groups causing intimidation. The local authority must also agree the designation. Within designated areas, the police, including 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 young people under the age of 16 to their homes or a place of safety if they are out on the streets and not under the control of an adult after 9pm, and if they are either at risk from, or vulnerable to, ASB or crime, or are causing, or are at risk of causing, ASB.

Dispersal orders work well when combined with the use of other measures and positive activities to divert young people.

Further guidance on the use of dispersal powers is at: www.asb.homeoffice.gov.uk/members/article.aspx?id=7904.

OTHER DISPOSALS

Restorative justice

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

- direct reparation to the victim, for example a verbal or written apology, or supervised activity to benefit the victim; and
- 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. This could be at the direction of the victim.

For comprehensive information on restorative justice, please refer to the Youth Justice Board website at www.yjb.gov.uk/en-gb, and *Best Practice Guidance for Restorative Practitioners* on the Home Office website at: www.crimereduction.homeoffice.gov.uk/workingoffenders/workingoffenders58.htm.

Reprimands

A reprimand is available for 10 to 17 year-olds admitting guilt for a minor first offence. It is a formal verbal warning given by a police officer to a young person who admits that they are guilty of a minor first offence.

Final warnings

Final warnings involve a warning and an assessment and intervention package for young people admitting guilt for their first or second offence. A final warning 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.

Fixed Penalty Notices or Penalty Notices for Disorder

FPNs can be issued to persons aged 10 and over. PNDs can be issued to persons aged 16 and over. These are the first stage of intervention for many low-level disorder offences. They are speedy and effective and ensure that unacceptable behaviour is challenged.

VEHICLE-RELATED NUISANCE

Joy riding and dangerous and illegal driving

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 is 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.

Environmental improvements such as bollards, gates and CCTV can stop the inappropriate use of vehicles within a residential area. All improvement schemes should be aligned with a clear message that the ASB must stop and will be subject to further enforcement action if it continues. ASBOs or ASBIs can be used to stop the behaviour and protect the community.

Tackling the inappropriate use of mini-motos

Measures to tackle nuisance caused by mini-moto misuse include the following:

- Section 59 of the Police Reform Act 2002 allows seizure of vehicles following further nuisance after an initial warning.
- The Environmental Protection Act 1990, using section 79 on statutory nuisance.
- The Noise Act 1996 for the removal of noise-making equipment.
- Arrest for causing public disturbance.
- PCSOs can issue a PND for behaviour likely to cause harassment, alarm or distress.
- Riders using mini-motos and other such vehicles illegally on public roads and footpaths can be prosecuted under road traffic legislation, fined and receive points on their licences.

A practitioner guide detailing the tools and powers for addressing this problem has been produced, and is available on the ASB website at: www.asb.homeoffice.gov.uk/uploadedFiles/Members_site/Document_Library/step-by-step_guides/MiniMoto_StepByStepGuide0010.pdf.

VANDALISM

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

- FPNs for minor graffiti and fly-posting to individuals aged 10 years and over;
- PNDs to those aged 16 years and over for the destruction of, or damage to, property which is valued at under £300;

- ABCs between a perpetrator and a relevant authority, in which the perpetrator agrees not to perform certain anti-social acts; and
- ASBOs and ASBIs prohibiting the perpetrator from undertaking specific anti-social acts.

PREVENTION OPTIONS

Youth Offending Teams

YOTs are key to the success of the youth justice system. There is a YOT in every principal local authority in England and Wales. They are made up of representatives from the police, the Probation Service, social services, health, education and drug and alcohol misuse and housing officers. The YOT identifies the needs of each young offender by carrying out an 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.

Youth Inclusion and Support Panels

Youth Inclusion and Support Panels (YISPs) provide targeted interventions to young people identified as being at risk of becoming involved in crime. Their aim is to prevent ASB and offending by those 8- to 13-year-olds (up to 17 in some areas) who are considered to be at high risk of offending and ASB.

Youth Inclusion Programmes

Youth Inclusion Programmes (YIPs) provide tailored programmes for 8- to 17-year-olds at high risk of involvement in crime and ASB, but are also open to other young people in the area. YIPs use information shared between local agencies, including the police, to identify a core group of young people and use the risk and protective factors associated with offending.

Targeted youth support

Targeted youth support arrangements are available in every local authority and bring the work of local agencies and voluntary and community services together, so that all professionals who work with young people, including youth workers, YOT officers, health workers and education staff, deliver a joined-up and systematic approach to early identification, prevention and support for vulnerable young people.

Positive activities

Local authorities have a statutory duty to provide young people with access to positive activities. Providing activities at times and in the places young people want and need can be an effective way of preventing ASB.

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. A parenting programme could be offered at the first sign of problems.

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.

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 ASB teams or their equivalent.

Further information on Family Intervention Projects can be viewed at: www.asb.homeoffice.gov.uk/members/article.aspx?id=8678.

Part 5: Transport-related anti-social behaviour

Many people and organisations are involved in helping to reduce ASB on public transport. This includes transport operators, local authorities, local police, British Transport Police, passenger transport executives, Transport for London, town centre managers, Crime and Disorder Reduction Partnerships and schools.

There are a significant number of tools and powers that can be used to tackle ASB on public transport. Many of these – such as ABCs, warning letters, ASBOs, FPNs, PNDs and Alcohol Disorder Zones – are not specific to public transport and are covered elsewhere in this guide.

Under the public service vehicles (PSV) conduct regulations, passengers deemed to be causing a nuisance to a reasonable passenger, playing music to the annoyance of other passengers, having no ticket or an incorrect ticket, etc., can be removed from a PSV by the driver, conductor, inspector or police.

There is also a range of offences for which criminal prosecutions can be brought:

- **Begging.** The Vagrancy Act 1824 makes it an offence to beg, sleep rough or be found in enclosed areas, which are punishable by five years' imprisonment.
- **Trespassing on the railway.** Under section 16 of the Railway Regulation Act 1840, it is an offence to wilfully trespass on any railway premises, punishable by one month's imprisonment. Section 55 of the British Transport Commission Act 1949 penalises trespass on railway lines or on property in dangerous proximity to lines. This is punishable by a Level 1 fine (currently £200).
- **Fare evasion.** Section 5 of the Regulation of Railways Act 1889 makes it an offence to travel or attempt to travel without having paid a fare and with intent to avoid payment.
- Prosecutions can be brought under the Criminal Damage Act 1971, which created an offence where a person intentionally or recklessly damages or destroys property belonging to another person.
- Cautions and reprimands can be given by police officers after a person has admitted an offence. This can be used as an alternative to a charge and possible prosecution.

