



Force Policy

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***This Force policy is suitable for public disclosure under the
Freedom of Information Act 2000***

This document sets out principles to help guide decision making and in some parts may be quite prescriptive. However, it is vital that officers and staff have the freedom to innovate, exercise discretion and take risk based decisions centred on the needs of the victim and the merits of each case.

There may be occasions when a member of staff is considered to have acted outside of the content of this document but if they have done so with honesty, integrity and professionalism, to make the best decision for the community we serve, they will be trusted and supported. On the occasions when this is the case, the rationale for it must be properly recorded.

This document should be read in conjunction with the Force Policy Statement.

Introduction

Anti-social behaviour (ASB) has the potential to have a negative impact on all people and can adversely affect the quality of life for people in Derbyshire.

ASB has been defined formally under section 2 of the Anti-social Behaviour, Crime and Policing Act 2014 as: -

- (a) *“conduct that has caused, or is likely to cause, harassment, alarm or distress to any person;*
- (b) *conduct capable of causing nuisance or annoyance to a person in relation to that person’s occupation of residential premise; or*
- (c) *conduct capable of causing housing-related nuisance or annoyance to any person”.*

This definition applies to anti-social behaviour for the purpose of a civil injunction. The civil injunction replaces the stand alone anti-social behaviour order.

ASB can take many forms but some examples are: -

- noise nuisance
- criminal damage/vandalism
- drunken behaviour in the streets
- intimidation/harassment
- litter/rubbish, the fouling of public areas and fly tipping
- drug/substance misuse and drug dealing
- street prostitution

This is by no means an exhaustive list and Appendix A details the 3 current national classifications of ASB.

The purpose of this policy is to provide a consistent, corporate approach towards ASB throughout Derbyshire and to facilitate effective service delivery within local communities.

This policy will provide officers and the police extended family with procedure, guidance and tools in which to tackle anti-social behaviour.

Anti-social behaviour is not the sole responsibility of the police. To achieve success it should be tackled through a partnership problem solving approach that must involve other statutory agencies.

As a partnership we do not underestimate the impact anti-social behaviour can have on the lives of individuals and communities. The primary focus of our strategy is to put the needs of victims first; to provide effective support and ensure processes are in place to protect them from further harm. Key to this approach is the identification of repeat and vulnerable victims.

We also recognise the importance in effectively tackling perpetrators of anti-social behaviour and the benefits of early intervention methods to achieve long-term sustainable outcomes.

Procedures

Partnership working to tackle anti-social behaviour will take place at two levels: -

Strategic – ensuring that the structures and processes are in place for information sharing, consultation and problem solving.

Operational – ensuring joint working and that designated officers have the tools, training and competence to fulfil their role in tackling anti-social behaviour.

Partnership posts have been commissioned to co-ordinate local information sharing, consultation and to drive the strategy. There are neighbourhood community safety officers on each ward, whilst the County and the 8 local authorities, have anti-social behaviour co-ordinators.

The Derby City and 8 local authority ASB co-ordinators have meetings with partners to discuss individual ASB cases both at strategic and operational level. These meetings have local identities and for the purpose of the police will be referred to as Derby City Action Area (DCAA) whilst the rest of the county will be served by Community Safety Partnership (CSP/ASB) meetings.

Examples of agencies that may attend the Derby City (DCAA) and eight local authority CSP/ASB meeting are listed below: -

- Derbyshire Constabulary
- British Transport Police
- The relevant Local Authority
- Registered Social Landlords
- Youth Offending Service
- Youth Service
- Education
- Social Services
- Derbyshire Fire and Rescue Service
- Derbyshire PCT
- Connexions
- DAAT
- Victim Support

The police representatives who attend these groups should be able to commit resources at a divisional level and exchange relevant information at a section level.

Effective sharing of information between partner agencies is central to the success of anti-social behaviour interventions and is a crucial element of the consultation process.

There will be occasions when offences of anti-social behaviour are ongoing or have occurred and the police will be required to take positive action at the time without reference to partners. In such circumstances contact should be made with either the Derby City Neighbourhood manager, local authority ASB co-ordinators together with the Divisional CSP Sergeant, to appraise them of the situation.

Any action taken to tackle anti-social behaviour will be in proportion to the problem and its impact.

When investigating complaints about anti-social behaviour, the police and partner agencies will take into consideration whether the complaints are motivated by discrimination on the grounds of race, sex (gender), disability, mental health, culture, religion, lifestyle, age, sexual orientation, transgender, pregnancy and maternity and marriage and civil partnership.

National context

This policy has been developed in response to the government's White Paper: Putting Victims First: More Effective Responses to Anti-social behaviour (published in May 2012) and the subsequent Anti-social Behaviour, Crime and Policing Act 2014.

The White Paper highlighted the failure of systems to adequately deal with complaints of anti-social behaviour and emphasised the need to protect the most vulnerable in society. It proposed a series of reforms to improve how agencies tackle anti-social behaviour, focusing on the needs of victims and introducing new legislation to allow professionals to take swift, effective action against perpetrators.

Anti-Social Behaviour, Crime and Policing Act 2014

The Anti-Social Behaviour, Crime and Policing Act 2014 contains various measures to protect the public from anti-social behaviour, dangerous dogs, forced marriage, sexual harm and illegal firearms used by gangs and in organised crime. It also includes changes to improve the provision of services for victims and witnesses.

The key provisions to tackle anti-social behaviour include: -

- Simpler, more effective powers to tackle anti-social behaviour that provide better protection for victims and communities;
- Replace 19 powers to deal with anti-social behaviour with 6 broader powers, intended to streamline procedures to allow for a quicker response (see Appendix B);
- Introduced the community trigger and community remedy to give victims and communities a greater say in how agencies respond to their complaint and in the punishment of offenders out of court;
- Gives landlords power to swiftly evict anti-social tenants.

The 2019 Home Office guidance in relation to the legislation can be found via the Anti-social behaviour policy page on Connect.

You can also view the Police National Legal Database (PNLD) for full legislative requirements.

Derbyshire's ASB Victims First Project

The ASB Victims First project is aimed at providing help to particularly vulnerable victims of anti-social behaviour through a sharing of information with partners who can provide appropriate measures, such as housing, environmental health and adult care departments.

This information is collated in a partnership run ASB case management system, called E-CINS, which is populated with the information about those identified as being vulnerable victims within 24 hours of the incident occurring.

These vulnerable victims are identified using a new six point mnemonic, called VICTIM and once identified a risk assessment is conducted on the E-CINS system.

Once a risk assessment has been completed then where relevant, the management of the ASB case will take place on E-CINS until the resolution of such. Full details can be found on Connect via E-CINS ASB Collaboration Portal.

Community Trigger

The Anti-Social Behaviour, Crime and Policing Act 2014 includes a new right for victims of ASB to request a review of the response to their complaints of ASB, where they feel the problem has not been effectively addressed by agencies. This is known as the Community Trigger.

The aim of the Community Trigger is to encourage a more jointed up, problem solving and victim-centred approach to the resolution of the problems experienced by victims of ASB.

Following receipt of statutory guidance from the Home Office, local guidance has been produced to support practitioners in the delivery of the process developed for Derbyshire.

The full guidance and appeals process can be found on Connect under About Us>Guidance, Procedures and Policies.

Options for dealing with anti-social behaviour

When deciding on which approach to take, the police officer attending the incident of ASB should concentrate on the seriousness of the behaviour and not on the fact that the person may have only just come to notice.

It is not required to demonstrate that every other intervention has been exhausted but the action taken must be the most appropriate remedy.

Below is a list of tactical options that may be used to tackle all levels and incidents of ASB and includes reference to local and national guidance, procedures and practice. These include but are not exclusive: -

Verbal warning

A verbal warning is often used as an immediate response to an incident of anti-social behaviour when the perpetrator is found to have no previous involvement in such activity. In issuing a verbal warning it should be made clear to the individual what behaviour is causing the issue; what effect it is having on the victim or community and the consequences should the behaviour continue.

This face to face contact with the perpetrator also provided an early opportunity to identify any contributing factors, such as substance misuse, mental health problems or learning disability and provide the necessary intervention by means of a referral to the agency for additional support.

Each agency needs to ensure that it keeps a record of when a verbal warning is given and should share such information with relevant partners.

Nuisance letters – ASB Nuisance/Advice letters

If the ASB is committed by person(s) under 18 years of age then nuisance/advice letters should be considered as the first option. However, if the ASB committed is a crime then the community remedy (see below) or Youth Caution procedures (see Connect Operational Policing>Dealing with Cases>Out of Court Disposals) should be followed.

These letters are designed to tackle low-level nuisance by informing parents and carers as to what the young person has been observed doing and warned or advised by a named police officer/PCSO.

There are two types of nuisance/advice letters: -

Letter 1 – advises parents/carers of their young person's ASB and provides a contact number for further discussion, if they feel appropriate.

Letter 2 – advises parents/carers of their young person's ASB and requests them to attend a multi-agency meeting to discuss the behaviour.

The letters could provide evidence for other interventions, including Section 34 Dispersal Orders and other ASB orders.

Local procedures should be followed for the issue of such letters and recorded where applicable on ECINS.

ABCs – Acceptable Behaviour Contracts

An ABC is a written agreement between a person who has been involved in ASB and one or more agencies whose role it is to prevent such behaviour. ABCs are suitable for all ages.

Traditionally the police took the lead in issuing ABCs. It is now acknowledged that this intervention is

most effective through multi-agency working. The ASB co-ordinator will arrange a meeting with relevant partners and individual with parent/carer, if appropriate, to formulate an ABC.

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

ABCs are normally for a period of 6 months however as it is not a statutory document any reasonable period may be specified. The ABC can be renewed after further discussions have taken place if, breaches have occurred or other forms of anti-social behaviour are continuing. Second ABCs can be considered but where an ABC is not likely to tackle the problem behaviour, other measures, such as a Criminal Behaviour Order (CBO), should be pursued at the earliest opportunity.

The ABC specifies a list of anti-social acts in which the person has been involved and which they agree not to continue.

Support/intervention to address the underlying causes of the behaviour should be offered in parallel to the ABC.

Legal action in the form of a CBO, Civil Injunction or Possession Order (if the person is in social housing) should be stated on the ABC where this is the potential consequence of a breach. The threat of legal action provides an incentive to ensure that ABC is adhered to.

The ABCs could provide evidence for other interventions including a CBO.

Community remedy

In addition to the new powers, the Anti-social Behaviour, Crime and Policing Act 2014 introduced the community remedy alongside restorative justice, which gives police a menu of restorative options, agreed by Chief Constables and Police and Crime Commissioners, to deal with low-level ASB offending.

Community remedy and restorative justice are collectively known as 'restorative processes'.

Restorative processes bring those harmed by crime or ASB and those responsible for the harm, into communication, enabling everyone affected to play a part in repairing the harm and finding a positive way forward.

In criminal justice, restorative processes give victims the chance to tell offenders the real impact of their crime, to get answers to their questions and an apology. Restorative processes hold offenders to account and helps them understand the real impact of what they've done, take responsibility and make amends.

Restorative processes are increasingly being used in schools, care homes and the wider community to address conflict, build understanding and strengthen relationships with young people. In these contexts it is also known by the names 'restorative approaches' and 'restorative practices'.

Derbyshire Constabulary uses the community remedy for low-level crime and anti-social behaviour. There is a 13 point list of options available to resolve a case using community remedy: -

1. face to face apology
2. apology in writing
3. pay for damage/loss
4. repair damage/loss
5. written assignment
6. tenancy enforcement
7. ABC

8. Parenting contract
9. Structured activity
10. Alcohol treatment etc
11. Mediation
12. Shuttle conference
13. Counselling

Options 1 to 10 are administered by the police either as a single agency or in conjunction with partners such as the local authority, Youth offending Service etc.

Options 11 to 13 are administered by the office of the police and crime commissioner via an external RJ provider, Remedi.

If options 11 to 13 are chosen, they must be referred to Remedi.

Further information can be found on Connect via Operational policing>Dealing with Cases>Out of Court Disposals>Community and restorative resolutions.

Criminal Behaviour Order

Section 22 of the Anti-social Behaviour, Crime and Policing Act introduced the Criminal Behaviour Order (CBO) which replaced the ASBO and the Drink Banning Order on conviction.

Key points and important changes/differences are: -

- If the court is satisfied beyond reasonable doubt that the offender has engaged in behaviour that has caused or is likely to cause harassment, alarm or distress to any person; and
- The court considers that making the order will help prevent the offender from engaging in such behaviour.

Details: -

- No need to prove 'necessity' unlike anti-social behaviour orders;
- Issued by any criminal court for any criminal offence;
- The anti-social behaviour does not need to be part of the criminal offence;
- Order will include prohibitions to stop the anti-social behaviour but it can also include positive requirements to get the offender to address the underlying causes of the offender's behaviour;
- Agencies must find out the view of the youth offending team (YOT) for applications for under 18s.

Further details can be found on Connect via Operational Policing>Incidents and Crimes>Anti-social Behaviour>Applying for a Criminal Behaviour Order.

Civil Injunction for individuals aged 10 and over

Section 1 of the Anti-social Behaviour, Crime and Policing Act 2014 introduces a civil injunction and enables a number of bodies, including the police, to make an application where appropriate. The Act consolidates a number of pieces of legislation so that there is now one process to apply for a civil injunction. Applications in the case of an adult will be made to the County Court. In the case of an individual under the age of 18, the application will be brought before the local Youth Court.

Civil injunctions are intended to protect the public from anti-social behaviour. They are not criminal penalties and are not intended to punish the offender.

Orders can extend across any defined part of England and Wales.

Civil injunctions contain conditions which either prohibit the respondent from doing anything relevant to the ASB, or which require the respondent to do certain things in an effort to change the ASB. A

civil injunction may be made for an indefinite period but in the case of a person under the age of 18, must be for no longer than 12 months. Further, specific prohibitions or requirements may be for a shorter period than the length of the injunction.

If an injunction is to include a specific requirement, it must be identified which individual or organisation will supervise compliance with that requirement. It must also be identified how that requirement may be funded. Requirements must also be compatible with one another. The civil injunction may include an exclusion from the respondent's home address in the case of an adult respondent whose ASB includes the use of threats or violence, or there is a significant risk of harm to other persons from the respondent.

Before applying for a civil injunction, the police must consult with the YOT in the case of a respondent under the age of 18 and any other body or individual it considers appropriate in all cases.

In any event, it is expected that there will be a multi-agency approach to obtaining evidence and identifying suitable cases for a civil injunction. At an early stage it should be identified which agency will take the lead in preparing the application for a civil injunction. Where an application is police led, the case should be referred to legal services to advise on the merits of the application and proceed with it where appropriate.

An application for a civil injunction should not be made in place of pursuing a criminal case. Where there is sufficient evidence to prosecute, then an application for a CBO should be made. However, where there is to be no prosecution, then consideration may be given to making an application for a civil injunction.

To be effective, civil injunctions and CBOs need to be publicised in order that the local population are aware that an order has been made (together with any prohibitions) and to assist in policing its enforcement.

Careful consideration should be given to publishing details of civil injunctions and CBOs obtained in a proportionate and appropriate manner. Each case should be decided on its own facts, having regard to the individual's right to privacy and the necessity to provide reassurance and information to the community in general.

An application for a civil injunction may include a power of arrest to a prohibition or requirement of the injunction where the court thinks that the anti-social behaviour in question presents the threat or risk of violence, or there is a risk of significant harm to other persons from the respondent.

Breach of a requirement or prohibition of the civil injunction is not a criminal offence, but a civil contempt of court, being the breach of a court order. As such, where a power of arrest is attached to the order, then a constable may arrest the respondent where he or she has reasonable cause to suspect that the respondent is in breach of that provision. Although a civil contempt of court, the criminal standard of proof applies to proving a breach of the civil injunction, so the reasonable cause must be supported by evidence.

Once arrested, the respondent must be brought before a Judge of the County Court in the case of a respondent over the age of 18 years. In the case of a respondent under the age of 18, the respondent must be brought before the Magistrates Court. In either case, the respondent must be brought before the court within 24 hours of arrest, excluding Sundays, Christmas Day and Good Friday.

If no power of arrest is attached to the civil injunction, the agency which applied for the injunction must apply to the appropriate court for an arrest warrant. The appropriate court is the County Court where the respondent is over 18 and the Magistrates Court where the respondent is under 18 years.

The agency which applied for the injunction and respondent can make an application to vary or discharge the injunction. That may include applying for an additional requirement or to add a power of arrest.

Closure power

Sections 76 – 93 Anti-social behaviour, Crime and Policing Act 2014 contains powers to close premises associated with nuisance or disorder. The Act requires an application to be heard in a Magistrates Court sitting in its civil capacity.

An Inspector (or Superintendent for up to 48 hours) can authorise the issue of a closure notice for up to 24 hours, provided that: -

Reasonable efforts have been made to inform people who live on the premises and any other person who has control of or responsibility for or an interest in the premises that the notice is to be issued. Further, that officer must ensure that anybody or individual the officer thinks appropriate has been consulted.

The officer must be satisfied on reasonable grounds: -

- (a) That the use of particular premises has resulted, or if the notice is not issued) is likely soon to result, in nuisance to members of the public; or
- (b) That there has been, or (if the notice is not issued) is likely soon to be, disorder near those premises associated with the use of those premises.

and that the notice is necessary to prevent the nuisance or disorder from continuing, recurring or occurring.

Service of a closure notice temporarily closes the premises to all of the public, except the owner or those who habitually reside there, until a Magistrates Court decides whether to make a closure order. The Court must consider this within 48 hours of the service of the notice.

If the conditions are met, the closure order will close the premises altogether, including to owners and residents, for up to 3 months, with a possible extension up to a maximum of 6 months. Police can apply for this extension, authorised by an inspector, provided that there are reasonable grounds for believing the extension is needed to prevent the occurrence, recurrence or continuance of: -

- (a) Disorderly, offensive or criminal behaviour on the premises;
- (b) Serious nuisance to members of the public resulting from the use of the premises; or
- (c) Disorder near the premises associated with the use of the premises.

and the local authority has been consulted (section 82(3)).

The hearing can be adjourned for up to 14 days to allow the occupier or someone else with an interest in the property to show why an order should not be made e.g. because problems have ceased or the occupiers have been evicted. The court can order that the closure notice continues to have effect during this period.

It is necessary to implement a corporate system in which to effectively deal with the closure of such premises.

Both the notice and the order can cover any land or any other place, whether enclosed or not including residential, business, non-business and licensed premises.

Police dispersal power – Section 34 – 42 Anti-social Behaviour, Crime and Policing Act 2014

The Act contains powers to disperse anti-social individuals and provide immediate short term respite to a local community. A person under 16 can be taken home or to a place safety and a direction can be given to surrender items causing or likely to cause anti-social behaviour. Use of the power must be authorised by an officer at least the rank of inspector before use and the authorising officer can

sanction the use of the power in a specified locality for a period up to 48 hours.

The powers given under Section 34 must be exercised proportionately, reasonably and with discretion in order to comply with the requirements of the Human Rights Act in relation to freedom of assembly and expression.

These powers will only be available where an authorisation has been made by an officer of at least the rank of **inspector**. The inspector (or above) must record the authorisation of writing, specify the grounds on which it is given and sign the authorisation. The written authorisation may be admitted in evidence if the making of the authorisation is in dispute.

The officer must have reasonable grounds to suspect that the behaviour of the person has contributed, or is likely to contribute, to members of the public in the locality being harassed, alarmed or distressed or that crime and disorder is occurring in the locality and the officer considers that giving a direction to the person is necessary for the purpose of removing or reducing the likelihood of anti-social behaviour, crime and disorder.

Evidence to support these reasonable grounds must be obtained and recorded. Form 737 Authority to Exercise Police Dispersal Power.

A section 34 authorisation has to be in force (for a maximum of 48 hours) before a constable can give a direction under section 35. During the period of the authorisation and subject to satisfying the condition in section 35(2) and (3), a constable can give a dispersal direction for up to a further 48 hours.

The direction must be given in writing, unless not reasonably practicable. The notice will specify the locality to which the direction relates and the officer can also impose requirements as to the time by which the person must leave the locality and the route they must take.

A dispersal notice can be given to anyone who is, or appears to be, over the age of 10. If the officer reasonably believes the person given the direction to be under the age of 16, the officer can take them home or to another place of safety.

The Act does allow for orders to be pre-planned or dynamic and if an order is required to continue (if the test is met), a further authorisation can be given e.g. 48 hour + 48 hour.

Failure to comply with the direction is a summary only criminal offence, dealt with by magistrates or youth court. On conviction the maximum penalty is a level 4 fine and/or three months imprisonment (under 18s cannot be imprisoned). Failure to surrender items is also a criminal offence with a maximum penalty of a level 2 fine.

Community protection notice

The community protection notice (CPN) is intended to deal with particular ongoing problems that are negatively affecting the community (i.e. not a single incident).

The notice would be issued to stop persistent, unreasonable behaviour that is detrimental to the amenity of the locality, or is having a negative impact on the local community's quality of life. It could be used to tackle a range of ASB (e.g. graffiti, dog fouling, persistent begging and noise disturbance (however, noise complaints that meet the requirements of the statutory nuisance regime should be dealt with using that process)).

CPNs can be issued by local authorities and the police and registered providers of social housing (if approved by local authorities). The most appropriate agency can deal with the situation, or work together (preferred) and a written warning must be given in advance of issuing a CPN.

The CPN may impose requirements on the individual or body to stop doing specified things; to do

specified things; or take reasonable steps to achieve specified results. It may also specify periods within which or times by which requirements are to be complied with.

Penalty on breach is a criminal offence and could be dealt with by means of a Fixed Penalty Notice (FPN), remedial action by the council, or a remedial and/or forfeiture order by the court.

Any restrictions, requirements and timescales included in a CPN must be considered in the context of partnership problem solving/initiatives to resolve ongoing ASB.

Working with local authority partners is key to ensuring that any restriction or requirements are complementary. For example, a CPN may not even be necessary if the statutory nuisance regime is applied.

The Home Office impact assessments states that although the power to use CPN is available to the police and others designated by the local authority, the expectation is that the local authorities will take the lead. Local authorities and the CPS are the prosecuting authorities for CPN/FPN on breach depending on the issuing circumstances. See [Connect; Operational Policing>Incidents and Crimes>Anti-social Behaviour>Applying for a Criminal Behaviour Order](#).

Public spaces protection orders

The Public Spaces Protection Order (PSPO) came into force in October 2014 and is designed to stop individuals or groups committing ASB in a public place. The PSPO replaced Designated Public Protection Orders (DPPO), Gating Orders and Dog Control Orders.

It provides local authorities with a flexible power to put in place local restrictions to address a range of anti-social behaviour issues in public places and prevent future problems. This is different to the previous situation as one order would be able to cover a number of issues, rather than needing to follow separate processes for each. Examples of where a PSPO could be used include prohibiting the consumption of alcohol in public parks and ensuring that dogs are kept on a lead in children's play areas.

Local authorities will issue PSPOs after consultation with the police, police and crime commissioner and other relevant bodies.

Appendices

Appendix A – List of Police Anti-social Behaviour (ASB) Categories

Appendix B – Parts 1 – 6 Anti-social Behaviour, Crime and Policing Act 2014

Appendix C – Injunction Guidance and Procedure

Appendix D – Closure of Premises where associated with Nuisance or Disorder – Guidance, Procedures and Documentation.

Appendix E – Police Dispersal Power – Section 34-42 Anti-social Behaviour Crime and Policing Act 2014.

ASB can be **PERSONAL** (directed at an individual); **ENVIRONMENTAL** (not directed but affecting the community at large); or **NUISANCE** (not intentionally directed but still affecting an individual).

ASB: PERSONAL

'Personal' is designed to identify ASB incidents that the caller, call-handler or anyone else perceives as either deliberately targeted at an individual or group or having an impact on an individual or group rather than the community at large.

It includes incidents that cause concern, stress, disquiet and/or irritation through to incidents which have a serious adverse impact on people's quality of life.

At one extreme of the spectrum it includes minor annoyance; at the other end it could result in risk of harm, deterioration of health and disruption of mental or emotional wellbeing, resulting in an inability to carry out normal day to day activities through fear and intimidation.

ASB: ENVIRONMENTAL

'Environmental' deals with the interface between people and places. It includes incidents where individuals and groups have an impact on their surroundings including natural, built and social environments.

This category is about encouraging reasonable behaviour whilst managing and protecting the various environments so that people can enjoy their own private spaces as well as shared or public spaces.

People's physical settings and surroundings are known to impact positively or negatively on mood and sense of wellbeing and a perception that nobody cares about the quality of a particular environment can cause those affected by the environment to feel undervalued or ignored.

Public spaces change over time as a result of physical effects caused, for example, by building but the environment can also change as a result of the people using or misusing that space.

ASB: NUISANCE

'Nuisance' captures those incidents where an act, condition, thing or person causes trouble, annoyance, inconvenience, offence or suffering to the local community in general rather than to individual victims.

It includes incidents where behaviour goes beyond the conventional bounds of acceptability and interferes with public interests including health, safety and quality of life.

Just as individuals will have differing expectations and levels of tolerance so will communities have different ideas about what goes beyond tolerable and acceptable behaviour.

Parts 1 – 6 Anti-social Behaviour, Crime and Policing Act 2014

Parts 1 – 6 of the Anti-social Behaviour, Crime and Policing Act 2014 introduced new powers to deal with ASB.

The previous 19 measures were replaced with 6, as follows: -

Previous Powers for Dealing with People

- Anti-social Behaviour Order (ASBO)
- Drink Banning Order (DBO)
- Anti-social Behaviour Injunction (ASBI)
- Individual Support Order
- Intervention Order

Replaced by
Civil Injunction

- ASBO on conviction
- DBO on conviction

Criminal Behaviour Order (CBO)

Existing Powers for Dealing with Places

- Litter Clearing Notice
- Street Litter Clearing Notice
- Graffiti/Defacement Removal Notice
- Designated Public Place Order
- Gating Order
- Dog Control Order
- Premises Closure Order
- Crack House Closure Order
- Noisy Premises Closure Order
- S.161 Closure Order

Replaced by
Community Protection Notice

Public Spaces Protection Order (PSPO)

Closure Power

Police Powers

- S.30 Dispersal Order
- S.27 Direction to Leave

Replaced by
Dispersal Power

Injunction guidance and procedure

- Some orders carry powers of arrest. The powers of arrest however, will usually be time limited and may lapse whilst the injunction continues without a power of arrest. It is imperative that officers attending an incident involving a person allegedly subject to an injunction ascertain whether: -
 - a. The injunction is in force;
 - b. The terms of it;
 - c. Whether a power of arrest is attached and to which prohibition or requirement.
- In circumstances where there is a breach of a prohibition or requirement and the person is committing offences at the time the **OIC** is at the incident, then the officer should consider all the offences and take positive action. If there is a power of arrest attached to the provision witnessed by the OIC to be breached, then the person should be arrested for breach of that provision and be brought before the appropriate court within 24 hours of arrest.
- In circumstances where it is alleged that the person has breached a provision of the injunction prior to the time the **OIC** is at the incident, then the officer should consider all the offences including breach of the order, preserve evidence and take statements including those containing hearsay evidence.
- Further positive action towards the offender at this stage will be as a result of the evidence gained and the circumstances and seriousness of the incident attended. The OIC is reminded that any breach, though a civil contempt of court, must be proved to the criminal standard. Hearsay evidence is admissible in those proceedings.
- In circumstances where the injunction is in force but there is no power of arrest and the person is committing offences at the time the **OIC** is at the incident, then the officer should consider all offences and take positive action. That will include, in respect of the breach, applying to the appropriate court for an arrest warrant, supported by evidence.
- In circumstances where the injunction is in force but there is no power of arrest and it is alleged that the person has breached the order prior to the **OIC** attending the incident, then the officer should consider all the offences including breach of the order, preserve evidence and take statements including those containing hearsay evidence.
- After consideration has been made of all the circumstances the officer should consider all offences disclosed (if criminal offences have been alleged hearsay evidence alone is not sufficient) and take action, which is dependent on the evidence available. This may include, in these circumstances, a report together with statements to be sent to the appropriate local authority via their ASB co-ordinator.
- Where an arrest is affected the offender must be presented to the appropriate court within 24 hours (see above section on civil injunctions for the appropriate court). If the injunction was obtained by police, legal services should be contacted immediately by phone on 7568028 (internal), 0300 122 5550 (external). For breaches to go before the court outside normal office hours, 07710966581. In all cases, the evidence must be scanned and sent by email to legalservices@derbyshire.pnn.police.uk, marked as urgent and in the subject heading, include the reference to this being a breach of injunction and the date and time of hearing.
- The respondent should not be detained for interview or for other evidence to be obtained as they have not been arrested for a criminal offence – the power to arrest is solely to get the respondent before the court within 24 hours. Therefore, the respondent may only be detained until they can be brought before the court. Where the respondent is arrested for other offences, a decision

must be made whether the respondent should be released on police bail or continue to be detained in respect of those offences, having regard to the 24 hour limit.

Injunction procedure – section OIC/LIO/Connect submissions/i24

- Where an ASB injunction has been granted by the court and served on the respondent a copy of the order should be sent by the police section to the LIO and i24/PNC. i24 should make check ASB entry onto critical incident register on premises address.
- OIC/LIO to send details of the respondent including date and place of birth (not shown on order) a map, if appropriate, and photograph to i24.
- OIC/LIO to update details of the respondent on crime system.
- Consider placing ASB injunction map and photograph on to the ASB website.
- i24 to place entry onto PNC wanted missing pages.

Closure of premises

- The Force Legal Services Department will be required to be informed of all potential suggested closures and be regularly appraised of the ongoing situation in order that they can assist in the formation of the court file, arrange a suitable court date hearing and prosecute the case.
- Where drugs are involved then early liaison will be directed to Drug Support for consideration, Detective Superintendent, Specialist Crime and Intelligence and the Force Legal Services Department.
- The Project would assess the suggested closures on a case by case basis utilising their knowledge and determining factors of the drugs market and either then: -
 - Approve and assist in arranging the appropriate multi-agency consultation group, as set out in the Multi-agency Agreement and assist in co-ordinating a plan of action to collate the community intelligence and evidence regarding the disorder or serious nuisance for closure; or
 - Defer the suggestion; or
 - Reject the suggestion with the reasons for it.
- Where licensed premises are to be the subject of the closure consideration then early liaison with the relevant licensing team will take place.
- Intelligence items created on premises/individuals. Banner heading 'considering closure order'. All information to **OIC**.
- When the community intelligence has been collated the project would then notify the appropriate police officer who would then seek the relevant officer's authority (inspector/superintendent) for a closure notice.
- The appropriate police officer should supply a statement to state that they have spoken to the relevant officer including; what the relevant officer was told about the case, the factors taken into consideration by the relevant officer, including those mentioned in the checklist, and the relevant officer's subsequent authorisation. At this time the appropriate documentation, community impact statements, including hearsay evidence and intelligence items regarding the nuisance and disorder of the premises would be available for a court hearing within 48 hours of the notice being posted on the premises.
- Section 79(4) and 85 of the Anti-social Behaviour, Crime and Policing Act 2014 has given power of entry for enforcement of a closure notice/order. Where the closure consideration involves drugs it is suggested that at the same time as contacting court for a closure hearing, a drugs search warrant be sought from the Magistrates with the necessary evidence. This will allow entry into premises, to secure evidence of drug use, to search for evidence of supply, production and drug paraphernalia and to serve notice on the habitual residents of the closure hearing.
- The warrant will also allow officers to assess the house regarding its layout, protection devices and other hazards which may be a factor when the court orders a full closure and the habitual residents are evicted. It will also allow access to warn other non-habitual residents to leave the premises immediately and warn them that return could mean an arrest.
- The service of a closure notice (including an extension, variation or cancellation notice) will be by means of personal service and must if possible: -
 - a. Fix a copy of the notice to at least one prominent place on the premises.
 - b. Fix a copy of the notice to each normal means of access to the premises.
 - c. Fix a copy of the notice to any outbuildings that appear to the constable or representative to

be used with or as part of the premises.

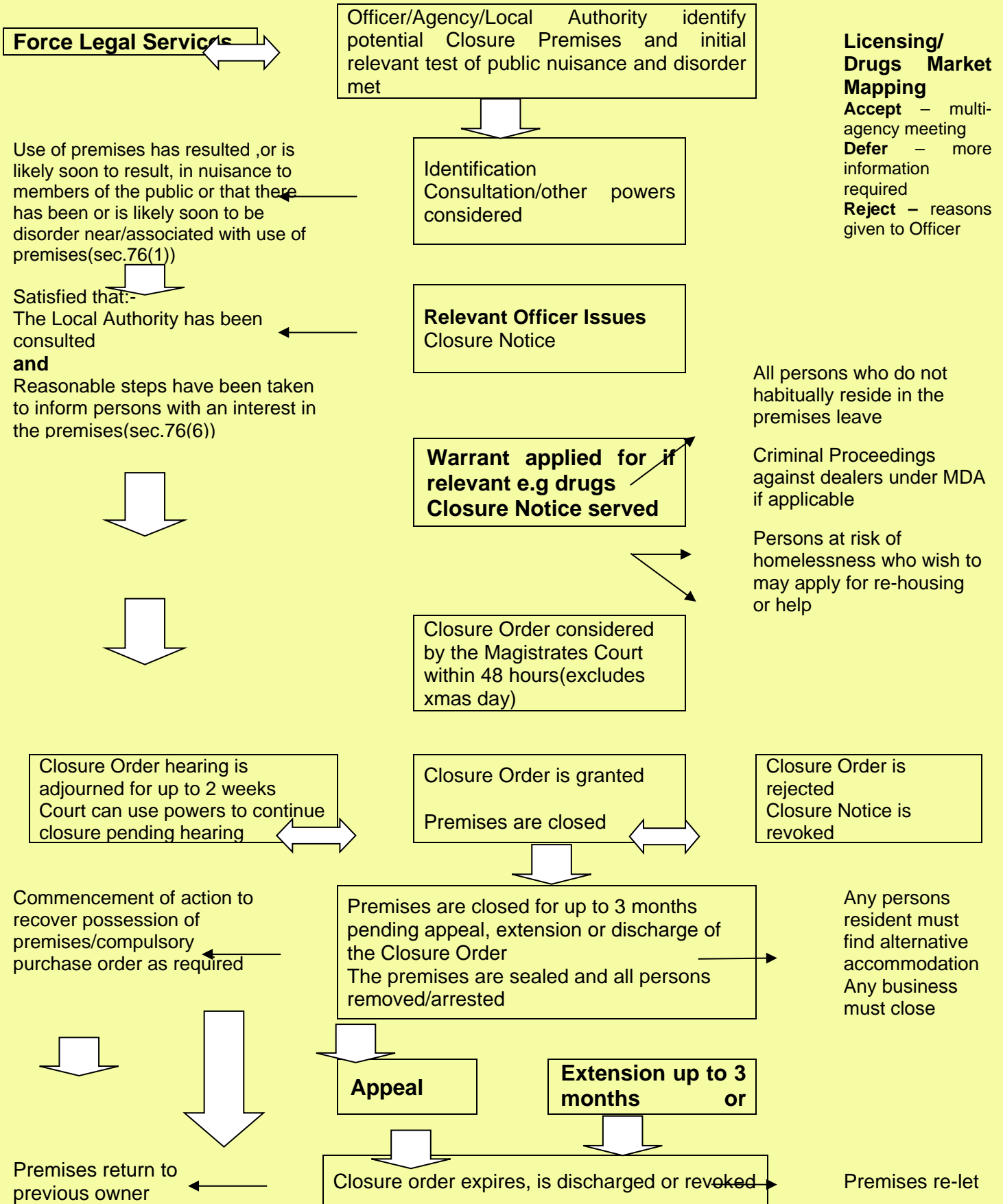
- d. Give a copy of the notice to at least one person who appears to the constable or representative to have control of or responsibility for the premises e.g. private landlord, and
- e. Give a copy of the notice to the people who live on the premises and to any person who does not live there but was informed (under section 76(6)) that the notice was going to be issued.

If the constable reasonably believes, at the time of serving the notice, that there are persons occupying another part of the building or other structure in which the premises are situated whose access to that part will be impeded if a closure order is made the constable or representative must also if possible serve the notice on those persons.

- Evidence of the service of the closure notices will be supplied by means of a witness statement by the appropriate officer and forwarded to legal services immediately for the forthcoming court case. If, for whatever reason it has not been possible for any of these people to be served despite best endeavours of the police, this should be stated in the statement together with the reason.
- In circumstances where re-housing the habitual residents of the premises is necessary, the Drug Market Mapping team are available to assist the housing departments in the type (e.g. flats), location (e.g. cul-de-sac) and design (e.g. outward opening doors) of accommodation to prevent as much as possible a re-occurrence.
- In cases where a warrant has been executed and class A drugs have been seized, arrests made and the local community have voiced their concerns about the premises causing serious nuisance and disorder, contact should immediately be made with the drugs market mapping team and force legal services for consideration of closure of the premises.

Post court procedures

- Legal services to supply a copy of the closure order to corporate communications for inclusion on ASB website.
- RTI to create an entry on critical register of premises.
- OIC to update crime information system create intelligence banner heading 'subject of closure order'.



Closure notice consideration check list for the relevant officer

- Is there nuisance or disorder from the premises and is it necessary to prevent?
- Has evidence been appropriately collated?
- Is this within 3 months of the authorisation of the closure notice (today)?
- Has the local authority been consulted?
- Has this involved an exchange of information and have their views been taken into account where desirable?
- Have those who live, control, own or have responsibility or an interest in the premises been identified? (excludes Christmas day).
- Have notices been prepared to be served upon them?
- Have other options been considered or tried where possible?
- Has a Magistrates Court hearing been secured within 48 hours of the intended date and time of service?
- Inform all persons that access to the premises by those other than the habitual resident or owner is prohibited.
- Explain that access by any other persons is considered an offence.
- Detail the affects of a closure order if issued by the court.
- Provide information on how to contact advice providers such as housing or legal advisors or organisations.
- Have CDRP/DAT/LSP partners been notified as appropriate?
- Has a risk assessment been made against the premises?
- Has appropriate back up therefore been provided and other policing tactics to be used alongside this action been considered?
- Has the nature of the premises and possible vulnerable persons or children been considered?
- Have appropriate services therefore been made aware of the potential demand upon them by these groups and drug users?
- Has the social good of closure been considered?
- Have arrangements been made for the secure sealing of the premises and the isolation of utilities?
- Have arrest referral services been informed?
- Has the Secretary of State granted any exemptions to types of premises?
- If so, do the premises fall within that exemption?
- Have appropriate structures been put in place to ensure witnesses can be contacted for the case and will be kept informed developments?
- Is there a plan to follow up the closure with renewed efforts to combat drugs and crime in the area?

Force Forms are available on connect; Home>Employment Support>Workplace Services>Force Forms.

Form 730 provides guidance notes for the completion of: -

Form 731 – Closure Notice

Form 732 – Cancel variation of closure notice

Form 733 – Authority to apply for extension of closure order

Form 734 – Police and Local Authority consultation document for extension of closure order.

Police Dispersal Power – Section 34 – 42 Anti-social Behaviour Crime and Policing Act 2014 – Guidance

- The dispersal power is a flexible power which the police can use in a range of situations to disperse anti-social individuals and provide immediate short-term respite to a local community. The power can be used by police officers in uniform.
- These powers will only be available where an authorisation has been made by an officer of at least the rank of inspector.
- The authorising officer must have reasonable grounds to believe that the use of these powers in the locality during the period may be necessary for the purpose of removing or reducing the likelihood of: -
 - ❖ Members of the public in the locality being harassed, alarmed or distressed, or
 - ❖ The occurrence in the locality of crime and disorder.

The authorising officer must record a brief and relevant summary of the grounds upon which an authorisation is given – sufficient to identify the nature of the problem and the mischief at which the authorisation is aimed. This should be on Form 737 or pocket note book.

Section 34 of the 2014 Act requires a person committing or likely to commit anti-social behaviour, crime and disorder to leave an area for up to 48 hours.

Test

- Contributing or likely to contribute to members of the public in the locality being harassed, alarmed or distressed (or the occurrence of crime and disorder); and
- Direction is necessary to remove or reduce the likelihood of the anti-social behaviour, crime and disorder.

Details

- A direction must be given in writing unless not reasonably practicable (form 930).
- Must specify the area to which it relates and can determine the time and the route to leave by.
- Can also require from a person given a direction the surrender of any item that could be used to commit anti-social behaviour, crime or disorder.
- Surrendered items will be held at the police station and can be collected after the period of direction. Under 16s must be accompanied by an adult (items will be destroyed or disposed of after 28 days).
- Use in a specified locality must be authorised by a police inspector and can last for 48 hours.
- A direction can be given to anyone who it, or appears to be, over the age of 10.
- A person who is under 16 and given a direction can be taken home or to a place of safety.

There is no requirement for consultation with local authority although consideration should be given for longer term solution to ASB issues. Consideration should be given to publicise the authorisation through local press or force website (form 738 – Notice of Authority).

Obtaining a Section 34 Dispersal Power

- Area identified where persons are causing members of the public harassment, alarm or distress or where there is the occurrence of crime.
- OIC contacts local inspector or reactive inspector to request dispersal.
- OIC gives grounds for request including information and evidence. Pre-planned authorities will be based on community intelligence, crime analysis or historical events. Force form 735 (checklist) will be utilised in this decision making process.
- Authorising inspector, if satisfied will complete form 737. Form 735 can be used as an aid to this

process. This will include the time the powers can be exercised within, locality, publicity details and the grounds. Any subsequent grounds to cancel or vary the authorisation can be added in part B of form 737.

- Consideration will be given to publicising the authority. If a decision is made to publicise the authority, form 738 will be used for this. GIS Mapping at force headquarters will produce an electronic map for his document and assist you in identifying the relevant area, highlighting and clearly marking the boundary of the dispersal area. Completed form 738 to be emailed to HQ media relations requesting it to be placed on the force website.

Force forms are available on Connect

- Force form 735 – Dispersal Authorisation and Notice checklist for relevant officer
- Force form 737 – Authority to Exercise Police Dispersal Power
- Force form 738 – Notice of Authority (poster) with Map of Area

Form 737 to be completed for all authorisations.

Form 738 Notice only to be completed for pre-planned authorities and if practicable.

The relevant authorising inspector will raise and 'sign' the form as normal from force forms. They will create an OEL and attach the dispersal form. There is no need to print the form or create an incident on Command and Control.

Dispersal Authorisation and Notice Checklist for the relevant officer

(Inspector or above) for Authorisation of Dispersal Powers under Section 34 – Anti-social Behaviour Crime and Policing Act 2014

Authorisation (form 737) – must be in writing

- Has any member of the public in the locality been harassed, alarmed or distressed or is there the likelihood of this?
- Is there the occurrence or likelihood of crime and disorder in the locality?
- Has evidence of this been appropriately collated?
- If pre-planned have you considered informing the Designated Anti-social Behaviour Co-ordinator?
- Has consideration been given to publicise the authorisation by either or both of the following methods?
 - Through local press or the force website?
 - By posting notices in conspicuous places within the relevant locality?
 - Have other options been tried where possible and have these been documented?
- Ensure that your period of the authorisation does not exceed 48 hours.
- Where applicable have you considered the benefits of using a public order decision log in addition to the dispersal power forms?
- Have you considered a risk assessment for the authorisation?
- Has a community impact assessment form 274 been considered?
- Although no requirement, have you considered informing neighbouring local authorities/county council/city council of the authorisation?
- If the group involves young people, has consultation included local schools and youth services?
- Are you considering regularly reviewing the need for the authorisation?
- Have policing resource requirements/tactics been considered for the duration of the authorisation?
- Have you considered how local officers/PCSOs will be informed of the existence and details of the authorisation?
- Are local police officers/PCSOs aware of how to give a direction under the authorisation?
- Have you considered a briefing/tasking for the collection of data in relation to the dispersal power?
- Have you considered diversity issues in relation to this authorisation?
- Have you considered making the authorisation an agenda item on the weekly tasking group meeting?
- Have articles 10 and 11 of European Convention on Human Rights been considered? i.e. freedom of expression and freedom of assembly e.g. peaceful picketing/public processions.

Dispersal Notice (Form 738)

- Does the Dispersal Notice contain the information required by the Act?
- Authorisation has been given?
- Specifies the relevant locality with map if practical? (contact GIS team at HQ to create map)
- Specifies the period during which the powers are exercisable?
- Does the notice include the name of the police station involved and the contact number for enquiries?

