



A GUIDE TO REVIEWING ANTI-SOCIAL BEHAVIOUR ORDERS GIVEN TO YOUNG PEOPLE AND INDIVIDUAL SUPPORT ORDERS

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Introduction

Anti-Social Behaviour Orders (ASBOs) were introduced by the Crime and Disorder Act 1998 in England and Wales and have been available since April 1999. The Orders last a minimum of two years and can be made against anyone aged 10 or over who has acted in an anti-social manner (i.e. behaving in a way that caused, or is likely to cause, harassment, alarm or distress to others not of the same household), and where an Order is needed to protect person(s) from further anti-social acts.

This guidance brings together two measures in the Criminal Justice and Immigration Act 2008 which are to be implemented on 1 February 2009. The one-year review for young people on ASBOs has been long-standing good practice by practitioners and is now being put on a legal footing. The extension of the Individual Support Order (ISO) legislation is in response to practitioners' requests to make ISOs more widely available.

Section 123 of the Criminal Justice and Immigration Act 2008 inserts two new sections, 1J and 1K, into Part 1 of the Crime and Disorder Act 1998 requiring agencies to carry out a one-year review of ASBOs issued to persons under 17 years of age and sets out how the review should be carried out. Section 1K sets out which agencies are responsible for carrying out and participating in the review.

Legislation sets out that, where a magistrates' court makes an ASBO against a young person under 18 years of age, it must also make an ISO if it considers that an ISO would help to prevent further anti-social behaviour.

Section 124 of the 2008 Act inserts new subsections into section 1AA of the Crime and Disorder Act 1998, which deals with ISOs. The new subsections allow ISOs to be made more than once within the lifetime of an ASBO, and to be made subsequent to the making of the original ASBO.

ISOs require the perpetrator to comply with positive conditions that tackle the root cause of their anti-social behaviour. For example, the perpetrator may be ordered to attend an anger management course.

The amendments made by section 124 do not apply in relation to an ASBO made more than nine months before 1 February 2009, but would apply if the ASBO has been varied by a further Order made no more than nine months before 1 February 2009.

This guidance is statutory. Practitioners carrying out or participating in a review shall have regard to the principles set out in this guidance.

This guidance relates to the provisions contained in Part 1 of the Crime and Disorder Act 1998 (as amended by Part 8, sections 123 and 124 of the Criminal Justice and Immigration Act 2008).

The 2008 Act received Royal Assent on 8 May 2008 and can be accessed at: www.opsi.gov.uk/acts/acts2008/ukpga_20080004_en_1. See Annex A for sections 123 and 124 of the Criminal Justice and Immigration Act 2008.

This guidance is designed principally for:

- the courts;
- the police;
- local authorities; and
- Youth Offending Teams (YOTs).

This guidance is issued by the Home Office to assist with the use of ASBOs and has been written by the Anti-Social Behaviour and Crime Prevention Unit in collaboration with the Youth Justice Board for England and Wales (YJB) and Ministry of Justice. We are also grateful for the contribution to the guidance from colleagues across the Home Office, other government departments, police forces and the numerous practitioners who have provided advice and allowed us to use examples of their work.

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Definition of terms

Supplemental Order

Supplemental Order means:

- a further Order varying the Order in question; or
- an ISO made in relation to the Order in question.

The appropriate chief officer of police

The appropriate chief officer of police means the chief officer of police of the police force maintained for the police area in which the person subject to the Order resides or appears to reside.

The appropriate local authority

The appropriate local authority means the council for the local government area in which the person subject to the Order resides or appears to reside.

Local government area

Local government area means:

- in relation to England, a district or London borough, the City of London, the Isle of Wight and the Isles of Scilly; or
- in relation to Wales, a county or county borough.

Relevant authority

Relevant authority means:

- the council for the local government area, or, in relation to England, a county council;
- the chief officer of police of any police force maintained for a police area;
- the chief constable of the British Transport Police;
- any registered social landlord;
- a housing action trust; and/or
- the Environment Agency.

Anti-Social Behaviour Orders (ASBOs)

ASBOs are civil Orders made by a court which prohibit the perpetrator from specific anti-social acts and from entering defined areas on a map, usually referred to as exclusion zones. An Order can be made against anyone aged 10 years or over who has acted in an anti-social manner (i.e. behaving in a way that caused, or is likely to cause, harassment, alarm or distress to others not of the same household), and where an Order is needed to protect persons from further anti-social acts. ASBOs should be used in conjunction with other measures of intervention and support as part of a tiered approach to tackling anti-social behaviour. The approach to ASBOs made against a young person is generally the same as for adults.

When used as part of a tiered approach with other measures, ASBOs are an effective measure, when other attempts to modify disruptive behaviour have failed. They are flexible tools which can be used in a variety of circumstances and to tackle a range of anti-social acts.

ASBOs are issued for a minimum period of two years to reflect the need for them to bring respite to communities and for behaviour to be changed. However, a year is a long time in the life of a young person and their needs and behaviour are more prone to change than those of adults. While ASBOs must be issued for a minimum of two years, prohibitions may last for less than this – see, for example, *R (Lonerghan) v Lewes Crown Court* [2005] England and Wales High Court 457.

ASBOs issued to young people must be reviewed each year to check progress with compliance with the terms of the Order. This review is an important safeguard to ensure that young people are receiving the support they need to prevent them breaching their ASBO and causing further harm to the community. The victims are often also young people and they, and the wider community, have a right to be protected. The one-year review may lead to an application to the court to modify or strengthen the ASBO by adding or removing prohibitions.

Comprehensive guidance on how to use ASBOs is available on the crime reduction website, which also has a separate section on children and young people (www.crimereduction.gov.uk/antisocialbehaviour/antisocialbehaviour55.htm).

The YJB has also produced guidance which focuses on the role that YOTs can play in preventing and reducing anti-social behaviour. This guidance is available on the YJB website (www.yjb.gov.uk/Publications/Scripts/prodView.asp?idproduct=212&eP=YJB).

Individual Support Orders (ISOs)

ISOs were introduced in the Criminal Justice Act 2003 (sections 322 and 323) to be made in conjunction with an ASBO on a young person. They may last for up to six months and impose positive obligations on a young person with the aim of tackling the underlying causes that led to the ASBO being made. Breach of an ISO is a criminal offence punishable by a financial penalty.

It is essential that all young people who are given ASBOs receive as much support as possible. There will be occasions when an ASBO is sought on a young person who is already subject to a court Order, which enables the delivery of support to the young person by the YOT. In this case, a decision must be made whether an ISO is needed to complement the support that is already being delivered to the young person. An ISO can provide a statutory Order through which additional support is provided on top of what is already delivered through an existing YOT Order. YOTs are well placed to supervise such Orders because they offer a wealth of skill, experience and success in improving outcomes for both young people and the communities in which they live.

The engagement of the parents of perpetrators in tackling anti-social behaviour is crucial to encouraging young people's compliance with ASBOs and ISOs. Annex C of this guidance sets out a range of interventions available to help parents and families in addressing a young person's anti-social behaviour.

Part 1: One-year review of Anti-Social Behaviour Orders

The applicant authority that made the ASBO against a young person is required to carry out a review one year into its operation. The purpose of this review is to assess the young person's progress in abiding by the prohibitions, to review the adequacy of the support provided, and to decide whether the Order should be varied. The one-year review also reflects the fact that young people's lives and circumstances can change rapidly as they develop. Applicant authorities should also look at what additional support might need to be offered to the young person or their family.

Section 1J(1) of the Criminal Justice and Immigration Act 2008 requires ASBOs issued to young people to be reviewed regardless of how they were obtained (on complaint, or on conviction), provided that:

- the perpetrator was aged under 17 on the day that the Order was made; and
- they will be under the age of 18 at the end of the review period.

The review should be administrative rather than judicial, and should be undertaken by the team that decided upon the initial application. Where practicable, the YOT should provide the group with an assessment of the young person.

The obligation to carry out this review applies to any ASBO whose first anniversary falls after the commencement of the new requirement (i.e. 1 February 2009). It will not apply to ASBOs whose first anniversary falls before 1 February 2009. To qualify for a review, an ASBO must be less than nine months old when these provisions come into force, or have been varied nine months (or less) before the requirement comes into force.

There is no appeal mechanism built into the review process. Applicant authorities are subject to the normal review mechanisms for their decisions.

Case management

ASBOs on young people require active case management through a multi-agency case conference. It is vital that a specified individual within the lead agency takes on

responsibility for the ownership and management of the case. This will help ensure that there is no confusion about who is expected to ensure that the necessary actions are taken and within the right timescale.

The Crime and Disorder Act 1998 (as amended by the Police and Justice Act 2006) enshrined in statute the concept of partnership working to prevent and reduce crime, disorder and anti-social behaviour. The lead individual should manage and co-ordinate the involvement of other agencies so that they add value by contributing their own specialist knowledge and expertise. A multi-agency approach should be adopted so that all agencies that could hold information on the young person in question are involved in the process at an early stage. Such agencies include the probation service, social services, police, health services, the YOT and voluntary organisations. There are also a number of other partnerships that have a role to play in tackling anti-social behaviour. Some of these are focused on young people, such as the Children's Fund, Sure Start and Connexions, Targeted Youth Support, Youth Inclusion and Support Panels (YISPs) and Youth Inclusion Programme (YIP). This co-ordinated approach allows for ASBO prohibitions to be discussed and varied in some cases (see Annex B).

Dealing with anti-social behaviour in a structured and coherent way will provide long-term gains for the community and for young people. It can prevent young people entering the criminal justice system, and benefit all agencies and the communities they work for.

Where an ASBO is breached, the YOT has a responsibility to contribute to the pre-sentence report to ensure that the sentence handed down is proportionate and reflects the seriousness of the breach.

This should ensure that, at every stage, local services are working together to assess young people's needs and to offer appropriate support to young people involved in or at risk of anti-social behaviour to help them change their behaviour.

In England, local authorities with social services responsibilities have a duty, arising from section 17 of the Children Act 1989, to safeguard and promote the welfare of children within their areas who may be in need. The assessment of needs of such children is expected to be carried out in accordance with the *Framework for the Assessment of Children in Need and their Families*.¹ Parallel guidance exists in Wales² in pursuit of the Children First programme aims. Both sets of guidance, for England and Wales, set out the content and timescales of the initial assessment and the core assessment. The assessment will cover the child's needs, the capacities of their parents/carer and wider family, and environmental factors. This enables the local authorities to determine whether the child is a child in need and what services may be necessary to address the assessed needs.

Section 44 of the Children and Young Persons Act 1933 requires the courts to have regard to the welfare of a young person.

Responsibility for, and participating in, reviews

A review of a stand-alone ASBO or an Order made by a county court should be carried out by the relevant authority that applied for the order.

Where the ASBO was obtained on conviction (where the applicant may be the Crown Prosecution Service (CPS), or the Order was made by the court itself), the review should be carried out by the appropriate chief officer of police, unless a relevant authority is specified by the court as being responsible for carrying out the review. This also applies to the task of making any further applications to the court (e.g. for an ISO, or to vary the Order).

A local authority is required to co-operate with the appropriate chief police officer for the area, when carrying out a review of an ASBO; and the chief officer has a duty to co-operate with the local authority. Likewise, the chief officer of a police force, in carrying out a review,

is required to co-operate with the appropriate local authority for the area; and the local authority has a duty to co-operate with the chief police officer.

A relevant authority other than a local authority or chief police officer is obliged to co-operate with the appropriate local authority and the appropriate police chief officer when carrying out a review of an ASBO, and similarly both the police and the local authority are duty bound to co-operate with the relevant authority, for example a registered social landlord.

A chief officer of police or other relevant authority carrying out a review may invite a person or body other than a local authority or relevant authority to participate or co-operate in the review.

Conducting a review

When conducting a review, the case review team must consider:

- the extent to which the person subject to an ASBO has complied with the Order;
- the adequacy of any support available to the person to help them comply with the Order; and
- any matters relevant to the question of whether an application should be made for the Order to be varied or discharged.

Review periods

For persons under the age of 18, an ASBO should be reviewed before the end of each 'review period'. The review periods are as follows:

- The period of 12 months beginning with:
 - the day on which the Order was made; or
 - if during that period there is a supplemental Order (or more than one), the date of the supplemental Order (or the last of them).

¹ Department of Health (2000) *Framework for the Assessment of Children in Need and their Families*. London: The Stationery Office.

² National Assembly for Wales (2001) *Framework for the Assessment of Children in Need and their Families*. London: The Stationery Office.

- A period of 12 months beginning with:
 - the day after the end of the previous review period; or
 - if during that period there is a supplemental Order (or more than one), the date of the supplemental Order (or the last of them).

the young person may have made in addressing their behaviour and how any support they and their parents/ carers may have received has helped in this respect.

The first review is to be carried out for the period covering the first year of the ASBO. However, if during that period there is a further Order varying the ASBO, or an ISO is made in relation to the ASBO in question, the review period would be the date of the supplemental Order.

The second and subsequent reviews are to be carried out on a one-yearly cycle starting from the day after the first review period ended. However, again, the clock can be re-set if a supplemental Order is made within that second (or subsequent) review period. This will avoid a review having to be carried out when a similar process has already achieved the same end.

Twelve months represents the period within which a formal review must take place. However, it is open to the agencies to reconsider the ASBO at any time at the young person's request.

Discharging/varying an ASBO

Depending on the progress towards improved behaviour, possible outcomes will include an application to discharge the Order or a strengthening of the prohibitions.

Applications to vary or discharge the Order will have to be made to the court in the usual way. The procedures set out in Part 50 of the Criminal Procedure Rules 1995 must be followed in respect of section 1C orders. The overriding considerations remain the safety and needs of the community and the review would have to incorporate the community's views on the Order's effectiveness. It is also important to take into account how much progress

Part 2: Individual Support Orders (ISOs)

Section 1AA of the Crime and Disorder Act 1998 (as amended by the Criminal Justice and Immigration Act 2008) provides for the making of ISOs. The Orders have been available since May 2004. They are civil Orders and can be attached to ASBOs made against young people aged between 10 and 17 years. ISOs impose positive conditions on the young person and are designed to tackle the underlying causes of their anti-social behaviour.

The above legislation sets out that, where a magistrates' court makes an ASBO against a young person aged under 18, it must also make an ISO if it considers that it would help to prevent further anti-social behaviour. ISOs are designed to underpin an ASBO with a package of support to help the young person adhere to the terms of the Order while at the same time providing positive requirements to improve the outcomes for both the young person and the community in which they live.

Section 124 of the Criminal Justice and Immigration Act 2008 inserts new subsections into section 1AA of the Crime and Disorder Act 1998. This enables ISOs to be made more than once, and to be made subsequent to the hearing at which the original ASBO was made.

Under section 1AA, subsection 1A of the Crime and Disorder Act 1998 as amended by the Criminal Justice and Immigration Act 2008, a relevant authority can make an application on complaint to the court for an ISO provided that:

- an ASBO has previously been made in respect of such defendant;
- it is on application from the original applicant agency (or, in respect of section 1C orders, the chief officer of police or other relevant authority, responsible under section 1K(2)(a) or (b) for carrying out a review of the Order);
- at the time of the hearing of the application the defendant is still a child or young person; and
- the ASBO is still in force.

The court must consider whether these conditions are fulfilled and, if satisfied that they are, must make an ISO.

ISOs last up to six months and require a young person to attend a maximum of two support sessions per week. These support sessions are tailored to the individual's needs and are designed to address the causes of the behaviour that led to the ASBO being made. For example, the Order can require an individual to attend counselling for substance misuse or attend an anger management programme. The ISO may name specific activities the individual must participate in and can also specify dates and places where attendance is required.

Applying for an ISO

Where a court makes an ASBO in respect of a child or a young person, it must also make an ISO if it considers that an ISO would help to prevent further anti-social behaviour.

In cases where an ASBO has previously been made in respect of a child or young person, the relevant authority which applied for the ASBO can apply to the court which made the ASBO for an ISO to be made.

Conditions for making an ISO

The conditions for making an ISO are that:

- it would be desirable in the interests of preventing any repetition of the kind of behaviour which led to the ASBO; or an Order varying the ASBO (in a case where the variation is made as a result of further anti-social behaviour by the defendant);
- the defendant is not already subject to an ISO; and
- the court has been notified by the Home Secretary that arrangements for implementing ISOs are available in the area in which it appears to the court that the defendant resides or will reside and the notice has not been withdrawn.

Requirements included in an ISO

The requirements that may be specified in the ISO are those that the court considers desirable in the interests of preventing any repetition of the kind of behaviour which led to the ASBO or an Order varying that ASBO (where the variation is made as a result of further anti-social behaviour).

The Order may require that the young person:

- participate in specified activities at specified times;
- present himself/herself to a specified person or persons at a specified place and time; and
- comply with specified arrangements for his/her education.

The support must be individually tailored to the causes of the person's anti-social behaviour in order to prevent its repetition.

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

Courts

Magistrates' court

Since May 2004, a magistrates' court making an ASBO on a young person aged between 10 and 17 years has been obliged to make an ISO, if it is satisfied that an ISO would be desirable in the interests of preventing any repetition of the kind of behaviour which led to the making of the ASBO; that the defendant is not already subject to an ISO; and that the court has been notified by the Home Secretary that arrangements for implementing ISOs are available in the area in which it appears to the court that the defendant resides or will reside (and the notice has not been withdrawn).

County court

The Criminal Justice and Immigration Act 2008 inserts new subsection 8 under section 1B of the Crime and Disorder Act 1998 to allow ISOs to be made and varied in the county court, where an ASBO is made as a result of proceedings there, either at the time or subsequently.

Youth court

When a young person is before the youth court charged with a criminal offence, the YOT has a duty to recommend suitable penalties and interventions in their pre-sentence report (PSR). Where the YOT is aware of an application for an Order on conviction, it should always consider the implications and possible conditions to be included when compiling a PSR. This will help the young person set clear boundaries to their behaviour, and will provide the necessary protection to the community.

The court may make an Order on conviction at the request of the prosecutor or of its own volition. There is no formal application process for such an Order. The CPS will usually request that the court makes the Order and leads the evidence in support of the request. Alternatively, the Order can be requested by the police or local authority which may make representations to the court in support of the request. The procedure set out in Part 50 of the Criminal Procedure Rules 2005 must be followed when an application is made.

Section 124, subsection 7 of the Criminal Justice and Immigration Act 2008 allows ISOs to be made for ASBOs obtained on conviction, provided that the criteria for doing so are met. The Act also allows whoever is carrying out the annual review of an ASBO to make an application for an ISO.

Duration of an ISO

ISOs last for up to six months and impose positive conditions designed to tackle the underlying causes of a young person's anti-social behaviour. However, an ISO cannot be made to last beyond the lifetime of the corresponding ASBO. The period specified as the term of an ISO made on application must not be longer than the remaining part of the term of the ASBO.

Section 1AA, subsection 5A of the Crime and Disorder Act 1998 (as amended by the Criminal Justice and Immigration Act 2008) sets a time limit on any ISO subsequent to the original hearing.

Variation and discharge of an ISO

An ISO can be varied or discharged on application by the young person or the responsible officer. Variation or discharge of the ISO may also occur if the ASBO to which it relates is varied.

An application to vary or discharge the ISO may be made by either the young person subject to the ISO or the responsible officer. The need to vary an ISO may arise where support proves to be inappropriate or the individual moves out of the area. Equally, if the ASBO linked to the ISO is varied by a court, the court may also vary the ISO at the same time. An Order can also be made if it is desirable in the interests of preventing repetition of the anti-social behaviour which led to a variation.

An ISO ceases to have effect if the corresponding ASBO comes to an end or is discharged.

Breach of an ISO

Breach of an ISO is a criminal offence and criminal penalties apply. The responsible officer is responsible for ensuring compliance with the ISO. It will usually be appropriate for the responsible officer to encourage compliance using warning letters before instigating proceedings for a criminal prosecution.

The breach is taken forward by the CPS and breach proceedings are heard in the youth court. If a court finds that the subject of the Order has failed to comply with any requirement of the Order then the defendant is guilty of a criminal offence. The breach hearing will be heard in the youth court.

Penalty for breach

The penalty on summary conviction for breach of an ISO is a fine of a maximum of £1,000 for a young person aged 14 years or over and a maximum of £250 for a young person aged between 10 and 13 years. If the young person is aged under 16 years, the court has a duty

to order the parent or guardian to pay the fine imposed unless it is unreasonable to do so. If the young person is aged 16 or 17, the court can exercise its discretion as to whether to order the parent/guardian to pay the fine.

A Referral Order is not available for breach of an ISO.

The role of the YOT

YOTs play a central role in preventing and reducing anti-social behaviour by children and young people.

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

Because the YOT incorporates representatives from a wide range of services, it can respond to the needs of young offenders in a comprehensive way.

The YOT advises the magistrates' court on whether an ISO is necessary and the conditions an ISO should contain. This information is based on a needs assessment of the young person.

The YOT is responsible for co-ordinating delivery of the ISO and also has a role in ensuring that the terms and conditions of both the ASBO and ISO are understood by the defendant. The conditions within the ISO are overseen by a responsible officer who is usually a member of the YOT, social services or the local education authority.

ISOs form an integral part of the work of YOTs in providing support to young people subject to ASBOs. This is done by working with the young person to provide tailored interventions to prevent recurrence of the behaviour that led to the ASBO.

YOTs have the expertise to advise on the individual needs and circumstances of young people; and they have close links with other agencies such as the young person's school, social services, Connexions (in England), the youth service or other children's services, including those under the auspices of the Welsh Assembly Government. They will often have information on past interventions with individual young people, and knowledge about the young person's family, the behaviour of siblings, and the engagement of parents/carers in addressing their child's behaviour. Research has shown that children and young people who offend have multiple needs that must be identified and addressed to reduce their risk of offending or re-offending. YOTs use a range of assessments to identify the needs of young people, the risk they present to themselves and others, and the likelihood of them offending or re-offending.

YJB guidance *Anti-social Behaviour: A guide to the role of Youth Offending Teams in dealing with anti-social behaviour* is available on the YJB website at:
www.yjb.gov.uk/Publications/Scripts/prodView.asp?idproduct=212&eP=YJB.

Further YJB guidance *Providing consistent advice to courts in Anti-Social Behaviour Order proceedings (Guidance for youth offending teams)* is available on the YJB website at:
www.yjb.gov.uk/Publications/Scripts/prodView.asp?idproduct=378&eP=YJB.

Manchester YOT has also produced very clear and helpful guidance for magistrates, judges, court staff and other practitioners on ISOs and Parenting Orders and how they manage the application process. Importantly, it emphasises the positive requirements of ISOs, dispelling the myth that they are a punishment. The leaflet entitled *Parenting Orders and Individual Support Orders* is a helpful model for other areas producing similar guidance and is available at: www.respect.gov.uk/uploadedFiles/Members_site/Documents_and_images/Supportive_interventions/Parenting_ISO_orders_ManchesterYOT0003.pdf.

Annex A: Criminal Justice and Immigration Act 2008 (c. 4)

Anti-social Behaviour Orders etc. in respect of children and young persons

123 Review of anti-social behaviour orders etc.

(1) In Part 1 of the Crime and Disorder Act 1998 (c. 37) (prevention of crime and disorder) after section 11 insert—

“1J Review of orders under sections 1, 1B and 1C

(1) This section applies where—

- (a) an anti-social behaviour order,
 - (b) an order under section 1B, or
 - (c) an order under section 1C,
- has been made in respect of a person under the age of 17.

(2) If—

- (a) the person subject to the order will be under the age of 18 at the end of a period specified in subsection (3) (a “review period”), and
- (b) the term of the order runs until the end of that period or beyond,

then before the end of that period a review of the operation of the order shall be carried out.

(3) The review periods are—

- (a) the period of 12 months beginning with—
 - (i) the day on which the order was made, or
 - (ii) if during that period there is a supplemental order (or more than one), the date of the supplemental order (or the last of them);
- (b) a period of 12 months beginning with—
 - (i) the day after the end of the previous review period, or
 - (ii) if during that period there is a supplemental order (or more than one), the date of the supplemental order (or the last of them).

(4) In subsection (3) “supplemental order” means—

- (a) a further order varying the order in question;
- (b) an individual support order made in relation to the order in question on an application under section 1AA(1A).

(5) Subsection (2) does not apply in relation to any review period if the order is discharged before the end of that period.

(6) A review under this section shall include consideration of—

- (a) the extent to which the person subject to the order has complied with it;
- (b) the adequacy of any support available to the person to help him comply with it;
- (c) any matters relevant to the question whether an application should be made for the order to be varied or discharged.

(7) Those carrying out or participating in a review under this section shall have regard to any guidance issued by the Secretary of State when considering—

- (a) how the review should be carried out;
- (b) what particular matters should be dealt with by the review;
- (c) what action (if any) it would be appropriate to take in consequence of the findings of the review.

1K Responsibility for, and participation in, reviews under section 1J

(1) A review under section 1J of an anti-social behaviour order or an order under section 1B shall be carried out by the relevant authority that applied for the order.

(2) A review under section 1J of an order under section 1C shall be carried out—

- (a) (except where paragraph (b) applies) by the appropriate chief officer of police;
- (b) where a relevant authority is specified under section 1C(9ZA), by that authority.

(3) A local authority, in carrying out a review under section 1J, shall act in co-operation with the appropriate chief officer of police; and it shall be the duty of that chief officer to co-operate in the carrying out of the review.

(4) The chief officer of police of a police force, in carrying out a review under section 1J, shall act in co-operation with the appropriate local authority; and it shall be the duty of that local authority to co-operate in the carrying out of the review.

(5) A relevant authority other than a local authority or chief officer of police, in carrying out a review under section 1J, shall act in co-operation with—
(a) the appropriate local authority, and
(b) the appropriate chief officer of police; and it shall be the duty of that local authority and that chief officer to co-operate in the carrying out of the review.

(6) A chief officer of police or other relevant authority carrying out a review under section 1J may invite the participation in the review of a person or body not required by subsection (3), (4) or (5) to co-operate in the carrying out of the review.

(7) In this section—

“the appropriate chief officer of police” means the chief officer of police of the police force maintained for the police area in which the person subject to the order resides or appears to reside;

“the appropriate local authority” means the council for the local government area (within the meaning given in section 1(12)) in which the person subject to the order resides or appears to reside.”

(2) In section 1(1A) of that Act (meaning of “relevant authority”) for “1CA, 1E and 1F” substitute “1C, 1CA, 1E, 1F and 1K”.

(3) In section 1C of that Act (orders on conviction in criminal proceedings) after section (9) insert—

“(9ZA) An order under this section made in respect of a person under the age of 17, or an order varying such an order, may specify a relevant authority (other than the chief officer of police mentioned in section 1K(2)(a)) as being responsible for carrying out a review under section 1J of the operation of the order.”

124 Individual support orders

(1) In section 1AA of the Crime and Disorder Act 1998 (c. 37) (individual support orders) for subsection (1) and the words in subsection (2) before paragraph (a) substitute—

“(1) This section applies where a court makes an anti-social behaviour order in respect of a defendant who is a child or young person when that order is made.

(1A) This section also applies where—

- (a) an anti-social behaviour order has previously been made in respect of such a defendant;
- (b) an application is made by complaint to the court which made that order, by the relevant authority which applied for it, for an order under this section; and
- (c) at the time of the hearing of the application—
 - (i) the defendant is still a child or young person, and
 - (ii) the anti-social behaviour order is still in force.

(1B) The court must consider whether the individual support conditions are fulfilled and, if satisfied that they are, must make an individual support order.

(2) An individual support order is an order which—

(2) In subsection (3)(a) of that section, for the words after “the kind of behaviour which led to” substitute “the making of—

- (i) the anti-social behaviour order, or
 - (ii) an order varying that order (in a case where the variation is made as a result of further anti-social behaviour by the defendant);”.
- (3) In subsection (5) of that section, for “which led to the making of the anti-social behaviour order” substitute “mentioned in subsection (3)(a) above”.
- (4) In section 1(1A) of that Act (meaning of “relevant authority”) after “and sections” insert “1AA,”.
- (5) In section 1AB of that Act (which makes further provision about individual support orders) after subsection (5) insert—
- “(5A) The period specified as the term of an individual support order made on an application under section 1AA(1A) above must not be longer than the remaining part of the term of the anti-social behaviour order as a result of which it is made.”
- (6) In section 1B of that Act (orders in county court proceedings) after subsection (7) insert—
- “(8) Sections 1AA and 1AB apply in relation to orders under this section, with any necessary modifications, as they apply in relation to anti-social behaviour orders.
- (9) In their application by virtue of subsection (8), sections 1AA(1A)(b) and 1AB(6) have effect as if the words “by complaint” were omitted.”
- (7) In section 1C of that Act (orders on conviction in criminal proceedings) after subsection (9A) insert—
- “(9AA) Sections 1AA and 1AB apply in relation to orders under this section, with any necessary modifications, as they apply in relation to anti-social behaviour orders.
- (9AB) In their application by virtue of subsection (9AA), sections 1AA(1A)(b) and 1AB(6) have effect as if the words “by complaint” were omitted.
- (9AC) In its application by virtue of subsection (9AA), section 1AA(1A)(b) has effect as if the reference to the relevant authority which applied for the anti-social behaviour order were a reference to the chief officer of police, or other relevant authority, responsible under section 1K(2)(a) or (b) for carrying out a review of the order under this section.”

Annex B: Diversionary activities for young people

Diversionary activities/schemes

Making sure that young people have activities they can easily access, and which are appropriate for their age and particular needs, can help to prevent and reduce anti-social behaviour.

Activities can be in the form of generic provision, which helps ensure that young people make constructive use of their leisure time rather than becoming involved in anti-social behaviour.

Provision includes local authority detached youth work and drop-in clubs, voluntary activities run by parents and local community groups. These activities can play a valuable role in helping to set local standards of acceptable behaviour.

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

- Youth Inclusion Programmes;
- Youth Inclusion and Support Panels;
- parenting interventions;
- Safer School Partnerships;
- Splash Cymru; and
- mentoring.

Youth Inclusion Programmes

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

YIPs are also open to other young people in the local area. The programmes operate in 120 of the most deprived/high-crime estates in England and Wales. YIPs aim to reduce youth crime and anti-social behaviour in the neighbourhoods where they work. Young people on the YIP are identified through a number of different agencies including YOTs, police, social services, local education authorities or schools, and other local agencies.

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

Youth Inclusion and Support Panels

Youth Inclusion and Support Panels (YISPs) aim to prevent anti-social behaviour and offending by 8 to 17-year-olds who are considered to be at high risk of offending.

YIPs and YISPs have been designed to help local areas reduce the number of first-time entrants to the youth justice system.

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

Safer School Partnerships

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

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

- reduce victimisation, criminality and anti-social behaviour within the school and its community;
- work with schools on whole-school approaches to behaviour and discipline;
- identify and work with children and young people at risk of becoming victims or offenders;

- ensure the full-time education of young offenders (a proven preventative factor in keeping young people away from crime);
- support vulnerable children and young people through periods of transition, such as the move from primary to secondary school; and
- create a safer environment for children to learn in.

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

Mentoring

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

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

Splash Cymru

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

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

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

Positive Activities for Young People

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

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

The programme aims to give young people opportunities for personal development including the development of self-discipline, self-respect and self-confidence, enabling them to communicate more effectively with a range of people and work effectively in a team. The programme will be targeted to reach those young people most at risk. YOTs, Connexions partnerships, behaviour improvement programmes in schools and other agencies working with at-risk young people will be responsible for identifying the target group of young people in the referral process.

A child or young person who is identified as being at risk of anti-social behaviour, particularly after school and during the holidays, may benefit from referral to the PAYP scheme. This should be via the local YOT or Connexions.

Positive Futures

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

Sure Start

Sure Start offers targeted services for 0- to 4-year-olds and their families living in areas of high deprivation to ensure that they have the best start in life. Sure Start programmes may provide a useful support mechanism for families that are struggling and behaving anti-socially – especially when there are young children in the household. Intervening early and providing support helps prevent young children from behaving anti-socially in the future, and support their parents. To find out more about the Sure Start initiative, see the website at: www.surestart.gov.uk.

Education initiatives

For example behaviour improvement programmes, aimed at improving poor behaviour and attendance and supporting children most at risk of exclusion, truancy, criminality and anti-social behaviour.

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

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

Targeted Youth Support

Targeted Youth Support is an initiative aimed at vulnerable young people and involves ensuring that agencies work together to meet young people's needs. The initiative's rationale is that a collaborative, joined-up approach is needed because young people may have complex and multiple needs which cannot be met by mainstream or specialist services in isolation. It is rooted in the principles expressed in *Youth Matters*, which was published in July 2005 as part of the Government's wider Every Child Matters agenda. The central thrust within *Youth Matters* is the reform of targeted support to children and young people.

Annex C: Other interventions available for parents and families

Parenting interventions

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

Parenting programmes

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

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

Family intervention projects

Family intervention projects work with persistently anti-social families to change their behaviour. They take a whole-family approach which considers the needs of the whole household and assesses the underlying problems driving the family's behaviour, in order to identify which

services need to be involved. Projects use a twin-track approach which includes help for families to address the causes of their behaviour, alongside supervision and enforcement tools to provide them with the incentives to change.

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

Further information on family intervention projects can be viewed at: www.respect.gov.uk/members/article.aspx?id=8678.

Parenting Contracts

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

The Act set out Parenting Contracts in legislation to make it clear that:

- schools and local education authorities 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 anti-social behaviour.

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 local education authority agreeing to provide the necessary support to the parent(s) to comply with the requirements. As with acceptable behaviour agreements/contracts, it is important that there is a clear agreement about the consequences if the Parenting Contract is not adhered to.

If the Contract is broken, then the agency may apply to the court for a Parenting Order which makes the requirements compulsory.

There is comprehensive information on the issue of parenting on the YJB website at: www.yjb.gov.uk.

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

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

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

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

Parenting Orders

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

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

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

Annex D: Perpetrators with health needs

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

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

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

When applying for an Order against a young person aged between 10 and 17 years, an assessment should be made of their circumstances and needs. This will enable the local authority to ensure that the appropriate services are provided for the young person concerned and for the courts to have necessary information about him or her. The assessment of the child's needs should run in parallel with evidence gathering and the application process.

For more information, see the article 'Is a needs assessment required for an ASBO application under the Childrens Act 1989?' on the Respect website at: www.respect.gov.uk/members/article.aspx?id=7866.

From December 2006, the new general duty under the Disability Discrimination Act 1995 requires a public authority to pay due regard when carrying out its functions to the need to:

- eliminate unlawful discrimination against disabled people;
- eliminate disability-related harassment of disabled people;
- promote equality of opportunity for disabled people; and
- take account of disabled people's disabilities even where that involves more favourable treatment.

All programmes around anti-social behaviour will need to be designed to address specific needs. A child's disability, special educational needs or mental health problems will also have a bearing on any requirements set out in any Order.

The measures taken to prevent and tackle anti-social behaviour should ensure that young people with disabilities, mental health problems or special educational needs are not excluded or discriminated against, and are able to access the same quality and level of support as others.

Advice on the general duty can be obtained from a leaflet issued by the Office for Disability Issues entitled *Disability equality: a priority for all* at: www.officefordisability.gov.uk/docs/disability-equality.pdf. The Equality and Human Rights Commission website at www.equalityhumanrights.com contains information under the publications section entitled 'The Disability Equality Duty and Involvement'.

It is also worth noting the case of *Cooke v Department for Public Prosecutions* (21 October 2008) which concluded that it would be wrong to make an ASBO against a person who by reason of mental ill health would not have the capacity to understand or comply with the Order. For example, the fact that a person would be likely to breach an Order because he or she suffers from mental health problems is not, of itself, a good reason for not making the Order.



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