



South Derbyshire

Tackling **Antisocial** Behaviour
Together

**South Derbyshire
District Council**



at the Heart of the National Forest

SOUTH DERBYSHIRE DISTRICT COUNCIL

**POLICY & PROCEDURES FOR
DEALING WITH ANTI-SOCIAL
BEHAVIOUR**

**LEISURE & COMMUNITY DEVELOPMENT
DEPARTMENT**

OCTOBER 2005

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1. Introduction

- 1.1 Where people live close together there is always the scope for friction and disputes. Clashes of lifestyles where people are from different age groups, or come from different cultural backgrounds, or have different working or sleeping patterns can easily give rise to arguments. The spectrum of neighbour disputes and anti-social behaviour is wide – on the one hand, neighbour nuisance might refer to a dispute between two neighbours whilst anti-social behaviour might threaten the physical or mental health, safety or security of other households or individuals.
- 1.2 South Derbyshire District Council is committed to reducing and tackling neighbour disputes and anti-social behaviour by responding firmly and effectively to complaints. This policy will provide a framework for action relating to complaints of neighbour nuisance involving owner occupiers, private tenants and other anti-social behaviour.
- 1.3 This document also links with and complements Housing Service's Anti-social Behaviour Policy and Procedures, the Anti-social Behaviour Strategy, Environmental Services policies and the South Derbyshire Crime & Disorder Strategy 2005/08. The Council is also committed to encouraging the local community to report incidents of neighbour disputes or anti-social behaviour and to dealing with such complaints in a consistent and sensitive manner.
- 1.4 The policy and procedures outlined below consider the definitions of neighbour disputes and anti-social behaviour. In some cases, differing lifestyles may cause clashes and conflict between neighbours. This policy is not intended to address behaviour that is merely different and will not be used to promote the harassment of individuals or groups for behaviour that results from being of a different race or origin.
- 1.5 The Council recognises that neighbour disputes and anti-social behaviour can occur in any housing tenure. This policy recognises that disputes may arise between Council tenants and neighbouring owners or private tenants, as a result of the growing tenure diversity as a result of right to buy in the public sector.

2. Principles of the Policy

- 2.1 The Council is committed to ensuring that as far as is possible all of its residents are able to live their lives without being adversely affected by someone else's behaviour.

The principles underpinning this Policy and procedures document are:

- the incidence of severe cases of anti-social behaviour is low, but where it does occur, it can cause severe stress. The Council recognises the stress that extreme instances causes;
- any response to neighbour disputes and anti-social behaviour complaints often requires a multi agency approach. The Council will therefore seek to work co-operatively with relevant agencies in dealing with cases;
- where appropriate, the Council will take early action to prevent disputes escalating;
- the Council will seek to act in a manner that is consistent with accepted good professional practice;
- the Council will ensure that it does not act in a discriminatory manner when dealing with neighbour nuisance or anti-social behaviour complaints.

3. Objectives

The objectives of this policy are:

- To address and deal with instances of neighbour nuisance caused by owner occupiers & private tenants
- To assess complaints of anti-social behaviour in an objective, consistent and fair manner, complying with relevant legislation and best practice;
- To place emphasis on tackling anti-social behaviour through the modification of behaviour, rather than displacement;
- To inform the Council's strategic planning process, particularly in relation to section 17 of the Crime and Disorder Act 1998;
- To support and inform other relevant Council and partner agency strategies, for example, Council's Anti-social Behaviour Strategy, Housing Departments Anti-social Behaviour Policy and Environmental Services' policies;
- To work in partnership with other partner agencies to tackle anti-social behaviour, and to support victims and witnesses.

4. Definition of anti-social behaviour

- 4.1 A legal definition of behaving in an anti-social manner is found in the Crime and Disorder Act 1998. Section 1(1) of the Act defines acting in an anti-social manner *as "a manner that caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household as the complainant."* This definition is also used in relation to anti-social behaviour orders.
- 4.2 This is the definition that has been adopted by South Derbyshire District Council. It clearly recognises that any behaviour, whether criminal or not, can be anti-social. It is dependent on a number of factors including the context in which it takes place, the location, the tolerance levels of the local community and their expectations about the quality of life in the area. Whilst recognising that both individuals and communities have different tolerance levels of anti-social behaviour, the District Council is committed to reducing the levels of anti-social behaviour, whether the victims are residents, visitors or work in South Derbyshire.
- 4.3 Responsibility for tackling anti-social behaviour does not rest with one Council department. The Council's Housing Department deals with anti-social behaviour caused by Council tenants and their families. The Environmental Health Department is responsible for tackling fly-tipping, litter, noise, nuisance dogs, abandoned vehicles and graffiti. The policies for these services are available from the Civic Offices.
- 4.4 The purpose of this policy, and the procedures within it, is to cover the responsibilities of the Safer South Derbyshire Partnership's Support Team based within the Leisure and Community Development Department. Their remit is to deal with incidents of anti-social behaviour caused by owner-occupiers and private tenants. The role also covers other nuisance behaviour such as the playing of games in restricted/ inappropriate areas, unruly and threatening behaviour and verbal abuse. If a complaint is received which does not fall within the Team's remit, it will be referred to the relevant department or agency. The majority of complaints received by this department require a multi-agency approach.

5. Categorisation of Complaints

5.1 The Support Team will deal with all complaints in different ways depending on the type and severity of the incident and/or type of behaviour being complained of. As a result, complaints will be classified upon receipt as:

Class A – Very serious

Class B – Serious

Class C - Minor

5.2 Class A includes harassment on the grounds of race, sexual orientation or disability, as well as any other actual or threatened violence, or any other serious criminal activity.

5.3 Class B includes heated verbal arguments and serious disputes, allegations of petty criminal activity, threats or threatening behaviour.

5.4 Class C includes most neighbour disputes, as well as low level anti-social behaviour such as the inappropriate playing of ball games or climbing on public buildings.

6. Complaints of Anti-social Behaviour

6.1 Complaints of anti-social behaviour can be received in a number of ways including:

- Telephone
- Letter
- Face-to-face e.g. public meeting, visit to office
- Email
- Fax
- Referral from other agency

6.2 Complaints will be taken from any individual, group or organisation:

- Alleged victim
- Elected member
- Relative
- Carer
- Friend
- Police
- Social Services
- Voluntary organisations

Anonymous complaints will be recorded, but it will not normally be possible to act on such complaints unless it is possible for an officer of the Council to verify the complaint. The Council is committed to responding to complaints of neighbour disputes or anti-social behaviour as quickly as possible. However, it is important to ensure that the most serious complaints are investigated without delay. Target times for responding are outlined below.

7. Upon receipt of initial complaint

- 7.1 If the complaint is received by the Council's Customer First Team. The Customer First Team will record the complainants name, address, telephone number(s) and type of incident on the CRM system. They will send out an acknowledgement letter, incident diary and guidance notes *within 24 hours*.
- 7.2 If the complaint is received by the Support Team, details will be entered onto the FLARE system including, as a minimum, the complainants name, address, telephone number(s) and type of incident. An acknowledgement letter, incident diary and guidance notes will be sent out *within 24 hours*.
- 7.3 In addition to the above, if an initial complaint is believed to be a Class A complaint, the complainant will be advised to contact the Police *immediately*. The Council's Racial Harassment Reporting Form will be completed if appropriate.
- 7.4 If no completed incident diary is received *within 31 days* of the diary being issued, the incident will be closed on the FLARE system.

8. Upon receipt of a completed incident diary

- 8.1 When a completed incident diary is received, it will be assessed, and categorised *within 3 working days*. The incident diary will be scanned and saved onto the FLARE system. If the complaint is a Class B complaint, go to section 9. If the complaint is a Class C complaint, go to section 10.

9. Class B Complaints

- i. An acknowledgement letter will be sent to the complainant within 3 working days.
- ii. If the alleged perpetrator(s) has been identified, a letter will be sent to them or their parent/carer explaining that a complaint has been received, that it is being investigated and the possible consequences if evidence is found to substantiate the complaint. The alleged perpetrator(s) and/or their parent/carer will also be invited to discuss the complaint. This will be sent within 2 working days of the completed incident diary being assessed. A copy of the letter(s) will be saved onto the FLARE system.
- iii. If a response is received from the alleged perpetrator(s), this will be logged/scanned onto the FLARE system. If a meeting is requested, this should be held within 5 working days, if at all possible.
 - If the alleged perpetrator(s) accepts responsibility, go to step iv
 - If the alleged perpetrator(s) does not accept responsibility, go to step vii
- iv. If the alleged perpetrator(s) accepts that he/she had behaved in an anti-social manner, letters will be sent to the perpetrator and the complainant to confirm the outcome of the complaint and the action agreed by the perpetrator within 3 working days. The letters will be scanned onto the FLARE system.
- v. If it is believed that the perpetrator could benefit from support/ advice from a partner agency in changing his/her behaviour, a referral will be made with the perpetrators consent. This will be made within 5 working days and will be logged onto the FLARE system.
- vi. If there is no repeat anti-social behaviour within 31 days, the case will be closed on the FLARE system. An evaluation questionnaire will be sent to the complainant.
- vii. If the alleged perpetrator(s) does not accept responsibility for their behaviour, or that his/her behaviour was anti-social or does not agree to stop the behaviour, this will be recorded on the FLARE system.
- viii. If the anti-social behaviour persists, a further letter will be sent to the alleged perpetrator within 5 working days of a complaint being received.
- ix. If the anti-social behaviour continues, the alleged perpetrator will be invited to attend a meeting to sign an Acceptable Behaviour Contract (ABC) or a Parental Control Agreement. The process involved is outlined in section 11.

9.1 Counter allegations

- i. If counter allegations are made by 2 parties, and there is no evidence to suggest that one is more at fault than the other, free mediation will be offered to both complainants. If this offer is not accepted, and the anti-social behaviour is not affecting the wider community, the case will be closed. Letters will be sent to both parties and these will be scanned onto the FLARE system.

10. Class C Complaints

- i. An acknowledgement letter will be sent to the complainant within 5 working days.
- ii. If the alleged perpetrator(s) has been identified, a letter will be sent to them or their parent/carer explaining that a complaint has been received, that it is being investigated and the possible consequences if evidence is found to substantiate the complaint. The alleged perpetrator(s) and/or their parent/carer will also be invited to discuss the complaint. This will be sent within 5 working days of the completed incident diary being assessed. A copy of the letter(s) will be saved onto the FLARE system.
- iii. If a response is received from the alleged perpetrator(s), this will be logged/scanned onto the FLARE system. If a meeting is requested, this should be held within 10 working days, if at all possible.
 - If the alleged perpetrator(s) accepts responsibility, go to step iv
 - If the alleged perpetrator(s) does not accept responsibility, go to step vii
- iv. If the alleged perpetrator(s) accepts that he/she had behaved in an anti-social manner, letters will be sent to the perpetrator and the complainant to confirm the outcome of the complaint and the action agreed by the perpetrator within 7 working days. The letters will be scanned onto the FLARE system.
- v. If it is believed that the perpetrator could benefit from support/ advice from a partner agency in changing his/her behaviour, a referral will be made with the perpetrators consent. This will be made within 7 working days and will be logged onto the FLARE system.
- vi. If there is no repeat anti-social behaviour within 31 days, the case will be closed on the FLARE system. An evaluation questionnaire will be sent to the complainant.
- vii. If the alleged perpetrator(s) does not accept responsibility for their behaviour, or that his/her behaviour was anti-social or does not agree to stop the behaviour, this will be recorded on the FLARE system.
- viii. If the anti-social behaviour persists, a further letter will be sent to the alleged perpetrator within 7 working days of a complaint being received.
- ix. If the anti-social behaviour continues, the alleged perpetrator will be invited to attend a meeting to sign an Acceptable Behaviour Contract (ABC) or a Parental Control Agreement. The process involved is outlined in section 11.

10.1 Counter allegations

- i. If counter allegations are made by 2 parties, and there is no evidence to a clear perpetrator/victim, free mediation will be offered to both complainants. If this offer is not accepted, and the anti-social behaviour is not affecting the wider community, the case will be closed. Letters will be sent to both parties and these will be scanned onto the FLARE system.

11. Acceptable Behaviour Contracts

11.1 An Acceptable Behaviour Contract (ABC) is a written voluntary agreement between a person who has been involved in anti-social behaviour and one or more agencies whose role is to prevent such behaviour. The contract, written in a form that the individual can understand, specifies a list of anti-social acts which they agree not to continue. The contracts usually last for six months and need to be monitored. ABCs are not an order but are a key element of Home Office Guidance.

11.2 A Parental Control Agreement is effectively an ABC for children under the age of 10 years where only the parents/carers sign as opposed to an ABC where both parent and young person sign.

11.3 Setting up an ABC/PCA meeting

- i. If an ABC or PCA is deemed necessary, a letter will be sent to the alleged perpetrator, or his/her parent/carer, inviting him/her/them to attend a meeting to sign an ABC/PCA within 5 working days of the decision to proceed. The letter will suggest a meeting time, date and place providing at least 10 working days notice. This letter will be scanned onto the FLARE system. The alleged perpetrator will be asked to confirm their attendance at the meeting, or make contact to rearrange the meeting if the time/date is unsuitable. Any contact will be logged on the FLARE system.
- ii. Any relevant partner agencies will be invited to attend the ABC/PCA meeting by telephone, email, letter or fax. Where the subject of the ABC/PCA is a young person under the age of 18 years then the Youth Offending Service must be informed and, where relevant, their school. This will be recorded on the FLARE system. If a representative is unable to attend, any relevant information will be requested prior to the meeting.
- iii. If no response is received, within 5 working days of the proposed meeting, a reminder letter will be sent. This will be scanned onto the FLARE system.
- iv. If the alleged perpetrator fails to attend the ABC/PCA meeting, the process will be repeated from (i) above. If this fails, an application for an Anti-social Behaviour Order (ASBO) will be considered. The process is outlined in section 12.

11.4 At the Meeting

- i. It will be made clear to those present that notes of the meeting will be taken. These will be scanned onto the FLARE system.
- ii. The anti-social behaviour of the individual(s) will be discussed. It will be made clear that the anti-social behaviour must stop, however individuals, and where appropriate parents/carers, will be given an opportunity to contribute to the discussion and made aware of support mechanisms that are available to assist them.
- iii. The alleged perpetrator and his/her parents/carers will be advised that the contents of the ABC/PCA may be disclosed to the complainant and/or other members of the community to ensure that the Agreement can be monitored.
- iv. Copies of the ABC/PCA will be signed by the relevant parties and copies provided to all present before the end of the meeting. A copy of the signed ABC/PCA will be scanned onto the FLARE system.

11.5 After the meeting

- i. After the meeting, a letter will be sent to the complainant *within 3 working days* advising them that an ABC/PCA has been signed and outlining its conditions. They will be advised to report any breach to the Council. The letter will be scanned onto the FLARE system.

11.6 In the event of a breach

- i. If a report is received that the ABC/PCA has been breached, a letter will be sent to the alleged perpetrator or his/her parent/carer outlining the allegation *within 3 working days*. If the breach is severe, they will be given at least 10 working days notice to attend a meeting to discuss the complaint. The alleged perpetrator will be asked to confirm their attendance at the meeting, or make contact to rearrange the meeting if the time/date is unsuitable. Any contact will be logged on the FLARE system. The process from 11.3ii then applies.
- ii. If the ABC/PCA is repeatedly breached, an application for an Anti-social Behaviour Order (ASBO) will be considered. The process is outlined in section 12.

11.7 Six-monthly review

- i. After a period of 6 months, the ABC/PCA will be reviewed. If it has been completed successfully, the individual will receive a letter *within 5 working days* acknowledging this.
- ii. A letter will also be sent to the complainant. The case will be closed on the FLARE system.

12. Anti-social Behaviour Orders

- 12.1 Anti-social behaviour orders (ASBOs) are civil orders made by a court which prohibit the perpetrator from specific anti-social acts and/or from entering defined areas on a map (exclusion zones). ASBOs are not criminal penalties and are not intended to punish the offender, instead they prohibit that person from continuing to do specified anti-social acts or entering defined locations, in order to protect the public in those areas.
- 12.2 An ASBO will only be considered where it is necessary to protect individuals or communities who are experiencing anti-social behaviour and whose quality of life is suffering.
- 12.3 Case Management Meeting
- i. When a case that may require an ASBO is identified, a letter inviting relevant partner agencies to attend a case management meeting will be sent. The meeting will be held within 2 weeks.
 - ii. A member of the Support Team will normally chair the case management meeting including arranging for minutes to be taken and a note of the action plan agreed. All notes will be recorded on the FLARE system.
 - iii. The purpose of the case management meeting is to agree an action plan aimed at: -
 - supporting the victims and witnesses of the anti-social behaviour;
 - preventing further anti-social behaviour.
 - iv. In all cases involving an adult, the Probation Service will be contacted to determine whether the individual is known and, if so, they will be asked to become involved directly in securing a positive outcome as an alternative to seeking an ASBO. If the individual is under 18 years of age, information about the case will be sent to the Youth Offending Team with a request that they contact the key agencies involved with young people in the area and coordinate their responses within the agreed timescale.
 - v. In agreeing an action plan to prevent further anti-social behaviour, the following considerations will be taken into account:
 - is there evidence that an identified individual has acted in a manner that has caused or is likely to cause harassment, alarm or distress to another person not of the same household in circumstances where there is no reasonable excuse for the conduct?
 - is there evidence that the actions of the individual (including racially motivated behaviour) have had or likely to have a serious negative impact on others?
 - what action (if any) has been taken to restrain the type of conduct or to divert the individual to more positive ends?
 - are there courses of action other than an ASBO which are available and (at this stage) more appropriate (e.g. mediation, Acceptable Behaviour Contracts, warnings, challenges, injunctions, criminal prosecutions, eviction)?
 - does the case management meeting agree that it is appropriate and necessary in the given circumstances to apply for an ASBO?
 - are there circumstances involved in the case to indicate that an interim Order, including an ex parte Order, is required to provide more immediate protection for the community?
 - if the case management meeting decides to apply for an ASBO what other actions (if any) are being taken or should be taken in parallel? In particular, the case management meeting will establish if there are any civil or criminal proceedings proposed or pending with which an application should be coupled (e.g. relevant principal proceedings in the County Court and/or prosecution in the criminal courts).

- if the case management meeting decides not to apply for an ASBO, what alternative action is agreed and why?
- if the action should be given publicity and how?

12.4 Consultation Considerations for the Case Management Meeting

- i. Where the individual is aged under 18 years, the Youth Offending Team, Social Services and Education will be consulted in advance and will be represented at the case management meeting.
- ii. Where the individual is subject to a local authority Care Order or accommodated by the local authority, Social Services will be represented or consulted in advance of the case management meeting.
- iii. Where the individual is considered to be vulnerable (e.g. by reason of age or disability) or to have significant health or social problems (including those due to drugs/alcohol misuse or mental health) other relevant agencies will be consulted and invited to the case management meeting. The case management meeting will pay particular attention to the likely ability of the individual to understand the terms of an ASBO.
- iv. Where the anti-social behaviour is of a racist nature, Derby Race Equality Council will be consulted in advance of the case management meeting for its views on whether, taking account of the views of the victims, an ASBO is appropriate and for any assistance it can provide to victims.

12.5 Recording and implementing the meeting's decision.

- i. The Support Team member will circulate the minutes of the meeting and the note of the actions within 7 working days of a case management meeting. An action plan will be formulated at the meeting and will commence from the date of the meeting's decision. The action plan will not be varied without reference back to the agencies involved in the case management meeting.
- ii. If the case management meeting is unable to agree a course of action, the Support Team member will need to review whether there are reasons for seeking an ASBO despite the absence of a consensus.
- iii. If it is decided to apply for an ASBO, a Support Team member will also: -
 - (a) ensure that complainants are kept informed of the progress of the case and take responsibility for handling the media;
 - (b) convene a further meeting, or make alternative arrangements as agreed by the case management meeting, not later than 4 weeks from the date of the decision in order to monitor progress against the action plan; and
 - (c) where the individual is under 18 years, and if agreed by those present at the case management meeting, ask the Youth Offending Team to arrange an assessment for a Parenting Order/Individual Support Order to be prepared for submission to the Court; and
 - (d) keep partner agencies in touch with the preparation of the ASBO application
 - (e) obtain witness statements and such other evidence as is required;

12.6 Evidence in support of an application

- i. To obtain an ASBO it is necessary to prove that the subject has acted in an anti-social manner and that an Order is required to protect persons from further anti-social acts. The following points will be borne in mind: -
 - the safety of witnesses and victims;
 - the need for the Court to be satisfied that the defendant has acted as stated and that an Order is necessary to protect others;
 - the application must be made *within 6 months* of the behaviour that gave rise to the complaint;
 - earlier evidence may be used to support the case that there is a pattern of behaviour; and
 - the Police and Criminal Evidence Act 1984 does not apply to civil proceedings but its basic principles should be applied as a matter of good practice when conducting interviews.
- ii. A Support Team member will take charge of gathering and presenting the evidence, but in consultation with partner agencies as necessary. Any covert evidence gathered will comply with the requirements of the Regulation of Investigatory Powers Act 2000. The use of evidence by professionals will be maximised. Where direct evidence is provided by members of the public, the Support Team member will notify the relevant partner agencies of the support needs of those witnesses.
- iii. The Support Team member will ensure that evidence of spent convictions is not included in the application.
- iv. The Support Team member, or the police if appropriate, will obtain the formal agreement of the police and/or the Crown Prosecution Service (CPS) to the inclusion of evidence from criminal proceedings.

12.7 Applying for an Order

- i. The case management meeting will have identified the route (i.e. County Court, Magistrates Court or Criminal Court via an attachment on conviction) for the application, inclusive of whether an Interim Order is also to be sought. This will have implications for the detail of the application.
- ii. The Support Team member, in consultation and agreement with the relevant Solicitors will be responsible for preparing the ASBO application ensuring that the following key elements or documents are contained within the case file:
 - case summary
 - certificate of consultation
 - evidence in support of the application
 - proposed terms and duration of the ASBO being applied for
 - ASBO application form
 - summons form
 - certificate of service

The case summary will contain the following:

- details of the person against who the ASBO is sought.
- outline of incidents involved

- welfare issues relating to the defendant and evidence that there has been consultation between appropriate agencies
 - adequate and appropriate information about the defendant and her/his family (e.g. to enable the court to discharge its duty under the Children Act 1989.)
 - evidence that consideration has been given to ensure that the defendant has not been victimised or discriminated against
 - evidence of other interventions where applicable
- iii. The Support Team member will ensure that the file of evidence is prepared with related documents grouped together in chronological order. In drawing up the terms of the proposed prohibitions, the Support Team member will ensure that they:
- relate to the actions of the individual and are likely to be repeated if an ASBO is not granted;
 - are reasonable and proportionate;
 - are realistically practical;
 - are clear, concise and accurate;
 - are specific (e.g. OS maps to be used to identify prohibition areas);
 - are not mandatory;
 - are not confined to acts that are already criminal.

In case of any doubt over the terms of the prohibitions, the Support Team member will consult the CPS.

- iv. All evidence will be recorded on the FLARE system by the Support Team member.

12.8 Summons procedure

- i. The Support Team member and the Solicitor will arrange for a summons form to be completed, with a copy retained on the case file, and for the defendant to be served with the following:
- the summons;
 - a copy of the ex parte Order where applicable;
 - a copy of the completed ASBO application;
 - a copy of the certificate of consultation;
 - guidance on how the defendant may obtain legal advice and representation;
 - any notice of hearsay evidence;
 - details of supportive evidence as agreed with the case solicitor;
 - a formal warning to the defendant that it is a common law offence to pervert the course of justice and that witness intimidation is liable to lead to prosecution.
- ii. No evidence involving members of the public will be disclosed in advance of the hearing before the Support Team member has consulted the police and other agencies on the steps to be taken to prevent witness and victim intimidation.
- iii. Wherever possible the Support Team member will ensure that the summons is served personally on the defendant. The officer serving the summons will complete the certificate of service, which will then be placed on the case file. Where a child or young person is concerned, a person with parental responsibility must also receive a copy of the summons.
- iv. Prior to the date of the hearing, the Support Team member will inform the case solicitor of the availability of every witness involved and liaise with the Justices Clerk on whether witnesses will be required at the first hearing.

12.9 Procedure on hearing an application for an Order

- i. Where a young person under 18 years is involved, the Support Team member will contact the Justices Clerk in advance of the hearing to ensure that it will be conducted in a manner suitable for a child or young person. The Support Team member will make every effort to ensure that a parent or legal guardian attends Court where a person under 16 years is the subject of the hearing.
- ii. The Support Team member will seek to ensure that all evidence and witnesses are available at the hearing.
- iii. Where an ASBO is granted, the Support Team member will seek to ensure that the Magistrates Clerk serves a copy of the Order on the defendant prior to her/his departure from the Court. In the case of a child or a vulnerable adult, a copy should also be given to the parent or guardian.
- iv. The Support Team member will ensure that the Order(s) is publicised in accordance with the actions agreed by the case management meeting, subject to any reporting restrictions imposed by the Court.

12.10 Appeal against an Order

- i. An appeal is in the form of a rehearing of the case. The Support Team member for the original application will take charge of defending any appeal.

12.11 Post Order Procedure

- i. The period for which an ASBO lasts dates from the date of its service on the defendant. Where it has not been possible to serve the Order on the defendant at Court, the Support Team member will ask the Court to arrange and confirm personal service as a matter of urgency.
- ii. Where an ex parte Interim Order has been made, it will be served personally and as immediately as possible on the defendant together with the application for the full Order and a date for the defendant to attend Court.
- iii. The Support Team member will ensure that a Court copy of the ASBO, including interim Order, is forwarded immediately to the police. The Support Team member, in addition to publicising the Order(s) as agreed by the case management meeting, will also provide details of the ASBO to partner agencies and to victims and witnesses so that breaches can be reported and acted upon promptly.
- iii. Where an ASBO is granted against a person under 18 years, the Support Team member will notify the Youth Offending Team immediately.

12.12 Breaches of an ASBO

- i. Breach of an Order is a criminal offence. Breach penalties are the same for all Orders, including interim Orders.
 - The maximum penalty on conviction in the magistrate's court is six months in prison or a fine not exceeding £5000 or both.
 - At the Crown Court the maximum penalty is five years in prison or a fine or both.

- ii. Any information received by the Support Team regarding a breach of an ASBO will be passed immediately to the police. The lead agency for investigating and prosecuting breach of an ASBO will be the police.

12.13 Prosecution of breaches

- i. The CPS is the agency responsible for prosecution of breach of an ASBO. In deciding whether to prosecute the CPS will have regard to the evidential and the public interest tests.
- ii. The CPS will present information to the Court to appraise it of the background to obtaining the ASBO and its importance in protecting the community.

12.14 Variation and discharge of an ASBO

- i. Variation or discharge of an Order, including an interim Order is by way of complaint to the Court that made it. An Order, other than an interim Order, cannot be discharged within 2 years of its service without the agreement of the original applicant.
- ii. If the Support Team or other partner agency considers that it is necessary to vary the conditions of an ASBO it will notify the original Support Team member. The Support Team member will convene a case management meeting, liaising as necessary with the CPS. The relevant application will then be made by the Support Team member and Solicitor to the Magistrates Court.
- iv. If the defendant asks for variation or discharge of an ASBO, the Support Team member (for the original application) will ensure that a considered response is given to the Court after convening a case management meeting. If it is decided that the defendant's application should be contested, the Support Team member will give the Court its reasons, with supportive evidence gathered.
- v. The Magistrates Court Clerk should send details of the variation or discharge of any ASBO to the Support Team member within 24 hours. The Support Team member will request the police to record any discharge or variation of the ASBO on the PNC.

12.15 Monitoring and evaluation

- i. The Support Team member will collate information from partner agencies for monitoring both successful and unsuccessful ASBO applications. Details of each case will be recorded on the FLARE system and forwarded to the police (for recording on the PNC where applications are successful).
- ii. The records kept will detail:
 - name, address, date of birth, gender and ethnicity of the defendant;
 - name, address, date of birth, gender and ethnicity of the victim(s) – or a statement that the case involved no identified victim;
 - date and conditions of any Order obtained;
 - date and details of any variation/discharge of the Order;
 - details of breaches and the outcomes of actions to enforce breaches;
 - details of any contributory issues - e.g. drugs, alcohol and/or substance misuse and/or mental health problems;
 - details of any aggravating factors – e.g. racial motivation for harassment;
 - assessment of outcome in terms of whether or not the anti-social behaviour ceased.

13. Other resolutions

13.1 There are a number of other courses of action which will be considered, as and when necessary. The majority of these will require multi-agency working and include:

- Injunctions
- Installation of CCTV
- Referrals to support agencies
- Fixed Penalty Notices
- Parenting orders
- Child Safety Orders
- Section 30 dispersal of groups

14. Appeals

Each incident will be considered on an individual basis and the decision as to whether action will be taken will be based on the individual elements of the case. There will be no right of appeal against that decision other than through the Council's complaints procedure or the Local Government Ombudsman.

15. Record Keeping and Monitoring

15.1 It is essential that good records are kept of complaints made and action taken, both for monitoring purposes and to help the Council to identify the nature of problems and the type and frequency with which problems occur. It will also help to direct the work of the Safer South Derbyshire Partnership's Anti-social Behaviour Action Team and the Council's Anti-social Behaviour Strategy.

15.2 All complaints will be recorded, progressed and monitored via the Council's anti-social behaviour management system (FLARE). This will ensure a broad consistency of approach, as well as facilitating legal action where deemed appropriate.

15.3 Quarterly reports will be made available through Members' Bulletins and the Anti-social Behaviour Action Team.

16. Training

16.1 Training will be provided to all relevant staff. Such training will be undertaken jointly between Council Departments and partner agencies where appropriate. Ongoing training requirements will be regularly reviewed.

17. Review Period

17.1 This document will be reviewed as required but initially after 12 months.

18. Confidentiality

18.1 All complaints will be treated in confidence. The complainant will be advised that the information they provide may be shared with other agencies, such as the Police, Youth Offending Service and Social Services, if it is assessed that their assistance is required in order to resolve the issue. An information sharing protocol for South Derbyshire is being drafted to ensure that all human rights and data protection legislation is adhered to.

