

**Scottish Borders**  
**Antisocial Behaviour**  
**Policy and Procedures Manual**



AND



**WORKING IN PARTNERSHIP WITH:**



## **SCOTTISH BORDERS ANTISOCIAL BEHAVIOUR POLICIES AND PROCEDURES**

## DOCUMENT HISTORY

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Lead Person: Safer Communities Manager

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The purpose of this page is to ensure that any “hard copies” are fully up to date and amended, a master copy is kept with the ASBU but it is individual agencies responsibility (through the named person) to ensure that any copies they have, are fully up to date.

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## SCOTTISH BORDERS PARTNERSHIP AGREEMENT ON ANTISOCIAL BEHAVIOUR PROTOCOL AND PROCEDURES

The signatories and agencies below agree to the following:

- To adhere to the agreed policies & procedures
- To incorporate the policies and procedures within their own agencies agreed working practices
- To ensure that they have a designated named person who will be responsible for it's updates and use within the respective agency
- To contribute to the development of trust and confidence between signatory agencies by working within the framework of the policy and procedures for the purpose of enhancing community safety

Date of signing:

Signed: \_\_\_\_\_

Title: Chief Social Work and Public Protection Officer/  
Interim Service Director children and Young People



Signed: \_\_\_\_\_

Title: Angus MacInness,  
Superintendent  
The Lothians & Scottish Border (J) Division



Signed: \_\_\_\_\_

Title: Jean F Gray, Operations Director for BHA



Signed: \_\_\_\_\_

Title: Amanda Miller, Director of Housing Care  
Services for Eildon Housing Association Ltd



Signed: \_\_\_\_\_

Title: Dr Tim Patterson, Joint Director of Public  
Health/Caldicott Guardian



Signed: \_\_\_\_\_

Title: Julia Mulloy, Chief Executive for SBHA



Signed: \_\_\_\_\_

Title: Gregor Booth - Operations Director,  
Waverley Housing



## PREFACE

This Manual adopts the definition of antisocial behaviour outlined in the Antisocial Behaviour etc (Scotland) Act 2004:

*“Acting in a manner that causes or is likely to cause alarm or distress; or Pursuing a course of conduct that causes or is likely to cause alarm or distress, to at least one person who is not of the same household. “Conduct” includes speech and a course of conduct must involve conduct on at least two occasions”*

All signatories to this manual aim to contribute towards making the Scottish Borders a safe place to live for all sections of the community.

More information on how we aim to do this can be found on Scottish Borders Council Website [www.scotborders.gov.uk](http://www.scotborders.gov.uk)

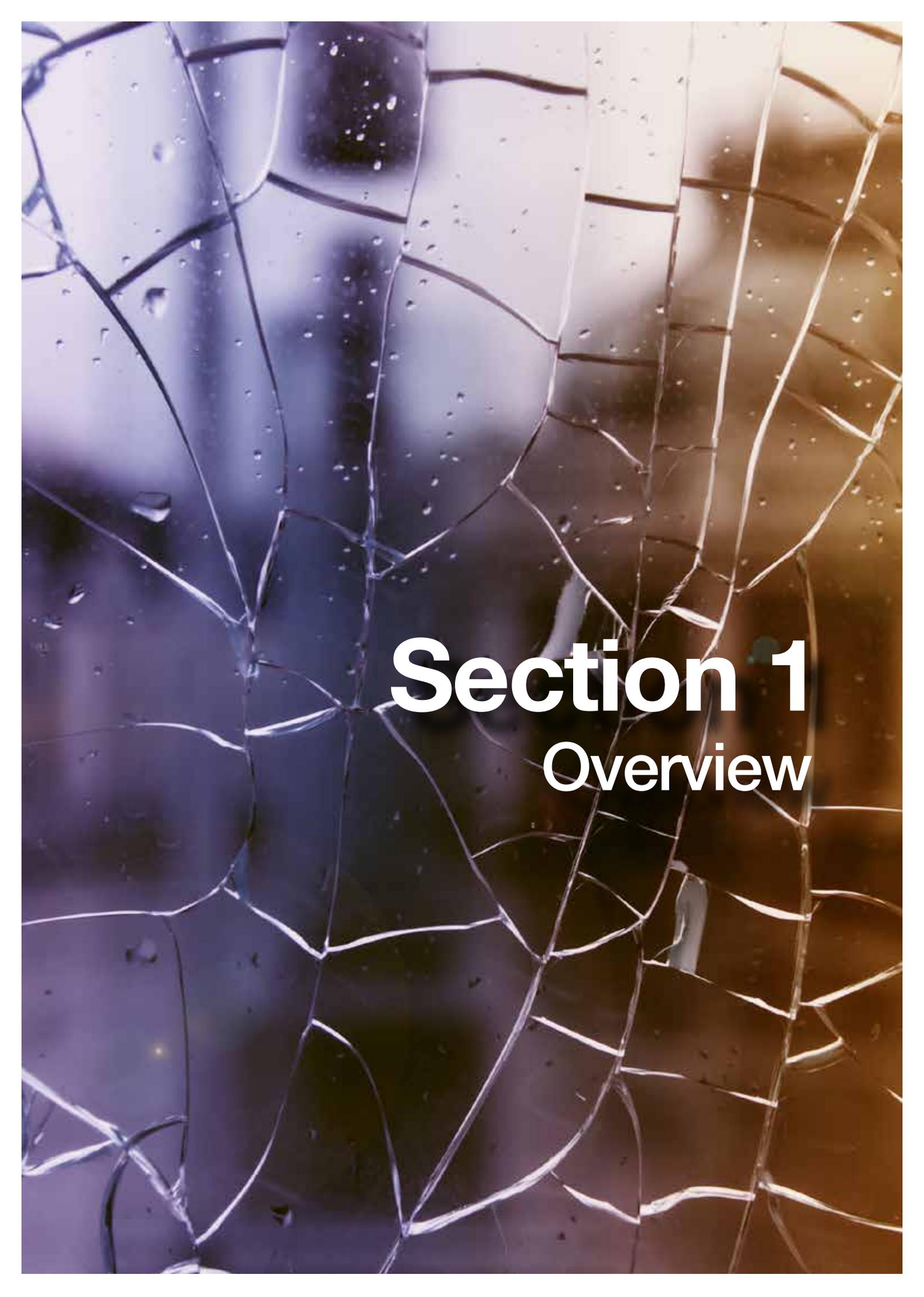
Further to the service that we provide to our customers/clients it is the aim of all partners to ensure the following:

- To provide a quick and seamless response to antisocial behaviour. Contact with one agency should mean contact with all
- To ensure common working practices in the way that all partners deal with complaints of an antisocial nature
- To support individuals affected by antisocial behaviour throughout the process of dealing with it. This includes keeping them informed and involved in what is happening.
- To ensure our staff are fully trained and capable of dealing with antisocial behaviour issues effectively

This edition of the manual aims to give a concise but effective reference guide to all our partners but is not used in isolation, it is augmented by agencies own internal procedures to deal with antisocial behaviour at an early stage and each must ensure that they are familiar with their own organisations internal procedures as well as this manual.

The manual will be available online and it is the responsibility of the individual using the manual to ensure that they are using the most up to date and amended as necessary version.

Many of the topics not covered in this manual will have web links for the most up to date information, a list of the most common ones used are in Section 20. If you still have questions about how to deal with a situation then you can call 0800 028 5711 or e mail [asbu@scotborders.gcsx.gov.uk](mailto:asbu@scotborders.gcsx.gov.uk)

The background of the slide is a microscopic image of plant cells, showing a grid-like structure of cell walls. The image is overlaid with a vertical color gradient that transitions from a deep blue on the left to a warm orange on the right. The text is centered in the lower half of the image.

# Section 1

## Overview

## ANTISOCIAL BEHAVIOUR IN THE WIDER CONTEXT - 1a

It is important to remember that these procedures are subject to change, you should always refer to the latest version. It provides guidance and a framework within which all the signatory agencies agree to work within.

Registered Social Landlords (RSL's) do have powers that they can invoke under the current legislation, including applying for Antisocial Behaviour Orders (ASBO's), however as there is a statutory duty by Scottish Borders Council and Police Scotland to monitor all ASBO's and within the context of these procedures, the Antisocial Behaviour Unit (ASBU) will be the central co-ordinating point for ASBO's.

Using Antisocial Behaviour (ASB) legislation and powers are not the only solution to try and find a resolution to a particular problem with ASB, anyone referring to this manual is encouraged to think about what other intervention/legislation or indeed referral to other agencies could be available.

Information can lawfully be shared within the context of the Antisocial Behaviour etc. (Scotland) Act, 2004 and this is further enhanced with the inclusion of the Information Sharing Protocol (ISP) within these Policies & Procedures.

All signatories agree that any internal procedures within their own organisation, will not contradict, be at odds with or otherwise undermine these agreed Policies and Procedures.

Unlike England and Wales, Police Scotland (except through the ASBU for a CRASBO) has no power to apply for an ASBO, this is the responsibility of Scottish Borders Council or an RSL, however Police Scotland are a statutory consultee. The role of Police Scotland is to support the process at every stage from involvement in meetings regarding warnings to providing relevant information to supporting those processes through to the progression of an ASBO.

The policy of Scottish Borders Council is to work with its partners (see the signatory page) to prevent Antisocial Behaviour and to intervene as early as possible to limit the negative impact it has on individuals and communities. Where prevention or intervention has been unsuccessful in addressing Antisocial Behaviour, Scottish Borders Council and its partners policy will be to pursue all available enforcement remedies to ensure that the people within the Scottish Borders are able to live in safe and secure environment.

If it is necessary to pursue enforcement measures, SBC and its partners will work with those against whom action has been taken to try and rehabilitate them to the extent that they have amended their behaviour and are able to sustain this on a day to day basis.

To enable us to achieve this we must ensure that cases are regularly reviewed and where necessary persons are either encouraged or reminded of their responsibilities throughout the period of any enforcement measures.

In dealing with Antisocial Behaviour, consideration will always be given to the protection of the individuals and their families and communities who are affected. Action will not be taken against people simply because they are different from their neighbours or because they opt to pursue a different lifestyle, whether because of race, age, culture, gender, sexual orientation, disability or religion. When considering action in respect of any form of ASB staff satisfy themselves that a complaint has not been motivated maliciously or because of discrimination or stigmatisation against a person because they fall into one of the groups mentioned. All action must be legal, proportionate and justified.

The Human Rights Act, 1998 makes it unlawful for public authorities to act in a way which is incompatible with the European Convention on Human Rights (ECHR). Staff must give consideration to ensuring that the actions they take or intend to take are compliant with ECHR. With regard to children, cognisance must also be given to the United Nations Convention on the Rights of the Child (UNCRC). All action must be legal, proportionate and justified.

### INFORMATION LEAFLETS

ASB information leaflets are currently available within all public offices operated by ASB partner agencies. These leaflets are entitled:

“Tackling Antisocial Behaviour”, a leaflet developed to give advice and information on what services are available to deal with ASB.

Mediation Services Leaflet entitled “problem next door”, again an overview of the service that is available

“Victim Support Scottish Borders,” a one page leaflet, outlining the services available specifically for ASB matters.

## **THE PIER APPROACH**

The intention of the partnership is to try and prevent Antisocial Behavior spiralling out of control as early as possible, the approach taken to try and achieve this is commonly known as the PIER (Prevention, Intervention, Enforcement, Rehabilitation) Approach. Specific measures that will be taken fall into one or more of the following threads:

Prevention – the partners will pursue initiatives designed to avert potential problems and to make it harder to commit ASB: Such initiatives could include the following:

- Housing Checks
- Settling in visits
- Mediation
- Education
- Promotional Material
- Warning Letters
- Party House Letters

Intervention – the partners will take prompt action where ASB is being experienced and use the relevant resources to help bring matters to an early resolution and persuade offenders to change their behaviour. Measures that could be used as follows:

- Use of in house early warnings
- Face to Face Warnings
- Acceptable Behaviour Contract
- Multi Agency Conference Meetings

Enforcement – the partners will ensure that all available powers are used effectively and quickly where firm action and enforcement is the most appropriate (or only) effective course of action, especially if there is a need to protect the wider community. Such measures may include:

- Eviction
- ASBO's
- CRASBO's

Rehabilitation – There are limitations as to what can be achieved within the partnership, however it should be noted, that throughout the entire process from Prevention to Rehabilitation, Perpetrators of antisocial behaviour will be offered the opportunity to be signposted to a supporting agency should they so wish. It should also be an opportunity to recognise improvements. Measures such as:

- Warning letters for a minor issue
- Mid- point review of ABC and ASBO
- Exit meetings

## **PARTNERSHIP WORKING**

The use of the PIER Approach requires coordinated partnership working and SBC is committed to working with its partner agencies to deal effectively with Antisocial Behaviour in all communities in the Scottish Borders. This partnership working will be achieved through the Antisocial Behaviour Partnership Working Group (ASBPWG) and the Antisocial Behaviour Core Group.

## **ANTISOCIAL BEHAVIOUR PARTNERSHIP WORKING GROUP (ASBPWG )**

The Scottish Borders Antisocial Behaviour Partnership Working Group comprises:

- Senior ASB Officer, SBC
- Manager of the Safer Communities Team
- Registered Social Landlords (RSLs)
- Homelessness Service
- Legal Services
- Private Landlord Liaison & Enforcement
- Scottish Fire Rescue Services

- Police Scotland
- Victim Support
- Environmental Services, SBC
- ASBU
- NHS Borders
- Homeless Services, SBC
- Private Landlord Liaison & Enforcement Officer

#### Purpose

The ASBPWG will be responsible for:

- Provide information on, and increasing the quality and diversity of, operational practices in tackling related issues through access to existing research, benchmarking, and identifying “best practice”
- Continuing professional development for staff within the partnership
- Providing guidance on Antisocial Behaviour related legislation
- Acting as a ‘steering group’ for research and other projects
- Development, monitoring and ensuring the delivery of an action plan for the ASBPWG
- The production and review of the Antisocial Behaviour Strategy so as to reflect the current needs and requirements of communities within the Scottish Borders

### **ANTISOCIAL BEHAVIOUR CORE GROUP**

The Scottish Borders Antisocial Behaviour Core Group is a practitioner-level group at which all the relevant agencies meet to manage individual cases. The ASB Core Group comprises:

- Representatives from the Antisocial Behaviour Unit (ASBU)
- SBC Youth Offending Services
- Police Scotland representative
- Representatives from the four main RSLs within the Scottish Borders
- NHS Borders Emergency and Duty representative
- NHS Borders Mental Health representative
- NHS Borders Borders Addiction Service representative
- Homeless Services representative
- Victim Support Scottish Borders

#### Purpose

The ASB Core Group is responsible for:

- Identifying individuals, areas, or properties that are emerging as possible Antisocial Behaviour cases
- Discussing relevant cases with a view to agreeing on a suitable course of action to address the Antisocial Behaviour
- ASBU will act as the conduit for information sharing within the partnership
- Ensure that all options other than the normal F2F/ABC/ASBO are considered when dealing with cases
- The meeting is chaired by the ASBU but all partners have a responsibility to find the most appropriate solution
- Any other relevant agency may be invited to discuss a case that would benefit from their in-put, this can be suggested by any party, in advance
- Under normal circumstances, the Antisocial Behaviour Core Group will meet on a monthly basis
- Discussions on fast moving cases need not wait till Core Group day if it is deemed necessary to deal with the case ASAP

## **THE PIER APPROACH (Summary) - 1b**

The method of attempting to deal with antisocial behaviour is commonly known as the PIER approach. Specific measures that will be taken fall into one or more of the following threads:

**Prevention** – the partners will pursue initiatives designed to avert potential problems and to make it harder to commit acts of an antisocial nature.

**Intervention** – the partners will take action where antisocial behaviour is being experienced. They will use all relevant resources to help bring matters to resolution as early as is possible whilst working with perpetrators to change their behaviour.

**Enforcement** – the partners will use all available powers and sanctions when it is deemed that it is the most appropriate (or only) effective course of action that can be taken.

**Rehabilitation** - the partners will (where possible) assist perpetrators in finding a resolution the underlying issues that contribute to causing the behaviour and break the cycle of exclusion and offending to bring about positive and enduring change.

Partners will continue to review how they can be involved in or make use of local services and supports, it may well be that assistance and support is available through the third sector that can help in part at least, in the delivery of the PIER approach.

There is more detailed information of how the PIER approach is delivered in sections 12 – 15, it must be borne in mind that as other agencies evolve and develop, so will our tools and methods of being able to deal with antisocial behaviour. The main focus of all partners however will always be in prevention and early intervention.

### **PARTNERSHIP WORKING**

The use of the PIER approach requires effective partnership working and SBC is committed to working with its partner agencies to deal effectively with ASB in all of its forms across all communities in the Scottish Borders. This partnership working will be achieved through the use of the Antisocial Behaviour Partnership Working Group (ASBPWG) and the ASB Core Group.

# ANTISOCIAL BEHAVIOUR PARTNERSHIP WORKING GROUP - 1C (ASBPWG)

## TERMS OF REFERENCE AND MEMORANDUM OF UNDERSTANDING

### 1. Introduction and interpretation

- 1.1 This document sets out the duties, composition and procedure regulating the Antisocial Behaviour Partnership Working Group (herein thereafter in this document will be referred to as the ASBPWG) and shall serve as a Memorandum of Understanding between the ASBPWG and any other agency carrying out any function or obligation on behalf of the ASBPWG.

### 2. In this Document

The **ASBPWG** is the body established to co-ordinate the delivery, monitoring, and evaluation of the multi-agency Scottish Borders Antisocial Behaviour Strategy. Under the powers referred to, the ASBPWG has specific responsibility under this document to direct and oversee the development of Scottish Borders antisocial behaviour services. The ASBPWG also has a remit for regularly reviewing, monitoring, and amending, where necessary, the Scottish Borders Antisocial Behaviour Strategy.

**Local authority** means a body incorporated under the Local Government etc (Scotland) Act 1994 as listed in Schedule 1 of that Act.

**Member** means any individual person or body, granted membership to the ASBPWG for the purpose of contributing to its activities or services.

### 3. Area of operation of the ASBPWG

- 3.1 The area over which the ASBPWG shall operate shall be Scottish Borders.

### 4. Purpose of the ASBPWG

- 4.1 The purposes for which the ASBPWG has been established shall be for preventing and addressing matters of an Antisocial Behaviour nature within Scottish Borders.
- 4.2 To share information on and seek continuous development of the quality and diversity of operational practices in tackling antisocial behaviour related issues through access to existing research, benchmarking, and identifying best practice in a local and national context.
- 4.3 To develop opportunities for continued professional development for all staff that deal with antisocial behaviour, through the provision of joint procurement/support for training, and staff development;
- 4.4 To keep up to date with antisocial behaviour and other related legislation.
- 4.5 To review the nature and extent antisocial behaviour and if necessary pursue joint initiatives to try and address these.
- 4.6 To review the policies & procedures and update as necessary.
- 4.7 To review the antisocial behaviour strategy and update as necessary.
- 4.8 To establish robust mechanisms within their own organisations for the implementation and integration of Scottish Borders antisocial behaviour strategy across the Scottish Borders.

- 4.9 To inform as necessary that any significant changes to policy for dealing with ASB within their own organisation is shared with the group.
- 4.10 To explore opportunities and possibilities to build increased resilience into our resources and consider project funding for schemes that can assist with reducing Antisocial Behaviour.
- 4.11 Where appropriate, to provide a collective response to government and other consultation exercises in order to maximise the influence of the response, but always recognising the rights of members of the ASBPWG to provide an individual response from their own organisation.

## **5. Membership of the ASBPWG**

- 5.1 The ASBPWG shall comprise as follows:
- 5.2 1 (one) representative appointed by each of the 4 (four) Registered Social Landlords (RSL's) (SBHA, Waverley Housing, Eildon Housing, BHA).
- 5.3 1 (one) representative of NHS Borders.
- 5.4 1 (one) representatives from Police Scotland.
- 5.5 1 (one) representative from Victim Support Scottish Borders.
- 5.6 1 (one) representative from Scottish Fire & Rescue Service.
- 5.7 1 (one) representative from each of the following Scottish Borders Council Departments.

Environmental Health (Noise Team), ASBU, Homelessness and Legal Services.

- 5.8 Membership will be reviewed on a regular basis and representatives from other departments/organisations can be co-opted on a needs basis.

## **6. Representative**

- 6.1 The word 'representative' in clause 5. Wherever it is used with regard to the composition of the ASBPWG, shall not be interpreted as implying that any member of the group has been elected or otherwise chosen by any electorate. However, a member of the group shall be expected to contribute on behalf of their agency or organisation.

## **7. Duties of the ASBPWG**

- 7.1 The group shall have responsibility for overseeing and directing the development and operation of strategies in furtherance of the purposes set out in clause 4 of this document.
- 7.2 In particular, but without prejudice to the generality of clause 4.1, the ASBPWG shall have the following duties.
- 7.3 To formulate, agree and ensure the implementation of, and review work plans to further the purposes of the Scottish Borders Antisocial Behaviour Strategy.
- 7.4 To maintain a strategic oversight of the work of the Antisocial Behaviour Core Group and to direct work back towards the Core Group members as necessary.
- 7.5 To contribute to the submission of reports on the work and progress of the ASBPWG to central government, local government or to any other agency or organisation as required.

## **8. Appointments to the ASBWG, and re-establishment of membership onto the Group**

- 8.1 Members of the group should be confirmed as the appointed representative of their respective organisations and/or agencies from the date of annual re-establishment of the ASBPWG (1st ASBWG meeting after 1st of April, each year).
- 8.2 Members of the group representing Scottish Borders Council departments should be confirmed as the appointed representative for their department by their relevant departmental Head of Service.
- 8.3 Members of the ASBPWG representing sectors or interests other than the local authority, Police Scotland, Victim Support Scottish Borders, NHS Borders and Scottish Fire & Rescue Service should be confirmed as the appointed representative by the appropriate authority within their respective agency or organisation.

## **9. Replacement of ASBPWG Members**

- 9.1 In the event that an individual is no longer able to continue as a member of the ASBPWG, it will be the responsibility of that individual to inform their respective agency or organisation and for the agency or organisation that they represent to nominate an appropriate replacement representative.
- 9.2 The nominated replacement or representative should be of a position and status to advise and inform appropriately.
- 9.3 In the event that a co-opted representative from any sector or interest other than the local authority, e.g. Borders Housing Network, NHS Borders, Shelter, DAAT, CAB, SAMH and others is no longer able to attend, the ASBPWG shall take whatever action it considers most appropriate to identify and invite a suitable replacement.

## **10. Removal from the ASBPWG**

- 10.1 A serving member of the ASBPWG will have membership reviewed if he or she is absent from 3 consecutive meetings. The ASBPWG may, at its discretion remove the individual from membership of the ASBPWG under any other special circumstances and after discussion.

## **11. Proceedings of the ASBPWG**

- 11.1 Except insofar as they are provided for by this document the ASBPWG may regulate the proceedings of its meetings and of meetings of any project group to which tasks or duties are delegated as it thinks fit.
- 11.2 There shall not be fewer than 4 (four) meetings of the ASBPWG in each calendar year. It is expected that these meetings will be hosted and held at Scottish Borders Council Headquarters. This can change on an ad-hoc basis if the group are in agreement.
- 11.3 No business shall be transacted at a meeting of the ASBPWG unless a quorum is present. There shall be a quorum when at least 4 (four) members of the ASBPWG are present.
- 11.4 The Chairperson shall preside over meetings of the ASBPWG or, in the event of his or her absence an appropriate deputy will attend. Currently the Chairperson is the Safer Communities Manager, however this can be reviewed as necessary.
- 11.5 The ASBPWG shall use all reasonable endeavours to reach decisions on the basis of consensus. In the event that consensus cannot be achieved a vote shall be taken in a manner determined by the presiding member at the meeting and shall be reached by a simple majority of the votes cast. In the event of a tied vote, the presiding member at the meeting shall have a second or casting vote. This is only to be used in exceptional circumstances.
- 11.6 The ASBPWG shall keep written minutes of the proceedings at its meetings including the names of the ASBPWG members and others present.

## **12. ASBPWG proxy vote**

- 12.1 There shall be the provision for the appointment of voting rights to be delivered by a fellow member of the group to cast a vote on her or his behalf.

## **13. Delegation to project groups**

- 13.1 The ASBPWG may appoint 1 (one) or more project group, by whatever name known, for the purpose of carrying out any function or duty which in its opinion would be more conveniently carried out by a project group provided that all acts and proceedings of any such project groups shall be fully and promptly reported to the ASBPWG.
- 13.2 The ASBPWG shall determine the membership of any project group and they shall also appoint who will be the presiding person on each project group.
- 13.3 Any delegation of powers or duties by the ASBPWG under this clause shall be subject to such terms of reference as the ASBPWG may decide and the ASBPWG shall retain the power:
- o To revoke or impose limits upon any specific authority or power granted to any project group under such terms
  - o To transfer any function or responsibility of any project group to another project group or to the direct control of the ASBPWG at any time; and
  - o To suspend or dissolve any project group and to re-instate or re-convene any project group at any time in the same or different form and subject to the same or different terms of reference as it thinks fit
- 13.4 Subject to any condition imposed in pursuance of clause 13.3, the proceedings of a project group shall be governed by the provisions regulating the proceedings of meetings of the ASBPWG insofar as they are capable of applying.
- 13.5 The following matters shall be excluded from delegation to any project group:
- o Any action or decision involving expenditure that is not in accordance with the budgets and financial regulations agreed by the ASBPWG

## **14. ASBPWG: Attendance of others**

- 14.1 The ASBPWG may invite or request the attendance at any of its meetings of any person or representative of any body for the purposes of giving advice, submitting information or evidence or otherwise assisting the group in the conduct of its business. The attendance of such persons shall be in a non-voting capacity at the discretion of the ASBPWG and shall be disregarded in determining whether a quorum is present and may be for the whole or any part of any meeting or for more than 1 (one) meeting.

## **15. Financial controls, reports and accounts**

- 15.1 The ASBPWG shall not have the power to hold funds in its own name.
- 15.2 The ASBPWG and any project group or other person or body acting with the authority or on the instruction of the ASBPWG shall not commit the ASBPWG to expenditure without the agreement of each participating organisation.

## **16. Liability and indemnity**

- 16.1 The ASBPWG shall not incur debts and liabilities under contract or agreement or otherwise in its own name. No member of the ASBPWG or any project group shall hold herself or himself out as contracting on behalf of the ASBPWG at any time.

## 17. Performance and Force Majeur

- 17.1 The ASBPWG shall strive to act at all times in the best interests of all its members in furthering the purposes of the ASBPWG.
- 17.2 Any member of the ASBPWG who is or believes herself or himself subject to conflict between the interests of the ASBPWG and any other interest, whether personal or otherwise, shall draw such conflict to the attention of the ASBPWG at the earliest opportunity in order that the ASBPWG may resolve accordingly.
- 17.3 In the event that the ASBPWG or any other party bound by the terms of this document is delayed or prevented from fulfilling its obligations to the ASBPWG by any cause beyond its reasonable control, it will be entitled to such extension of time as is deemed fair and reasonable by agreement between the parties in the circumstances, taking into account the implications that such extension will have upon the operation of the ASBPWG in delivering its aims and objectives.

## 18. Amendment

- 18.1 The terms set out in this document shall be due to expire on 31 March 2020 and shall be subject to review and renewal, amendment or replacement as thought fit by the ASBPWG, bound by its terms by no later than the said date.
- 18.2 No amendment or replacement of any term or condition set out in this document shall be made either at 31 March 2020 or at any time prior to that date unless it receives the assent of the ASBPWG, and of any other person or body subject to the said term or condition.
- 18.3 The ASBPWG shall agree to renew, revise or otherwise the terms set out in this document by or before 31 March 2020.

Signatures, (seals) and dates

Name:

Signature:

Organisation:

Date:

### Services Represented:-

Safer Communities and Community Justice Manager (Chair)

Senior Antisocial Behaviour Officer (Vice Chair)

Police Scotland

Scottish Fire & Rescue Service

Victim Support Scottish Borders

NHS Borders

Bewickshire Housing Association

Eildon Housing

Waverley Housing

Scottish Borders Housing Association

Environmental Health (Noise Team)

Homeless Service

Legal Services

Private Landlord Liaison & Enforcement Officer

## ANTISOCIAL BEHAVIOUR CORE GROUP - 1d

The Scottish Borders ASB Core Group is a practitioners group at which all the relevant agencies meet to manage cases with a view to reviewing individual cases and progress them as necessary.

The ASB Core Group comprises:

- Senior ASB Officer and ASB Officer
- SBC Youth Offending Services
- Police Scotland
- Borders Addiction Services (NHS)
- Prevention and Management of Aggression and Violence Co-ordinator (NHS)
- Hospital Mental Health representative (NHS)
- Homeless Services representative
- Scottish Borders Housing Association (SBHA)
- Bewickshire Housing Association (BHA)
- Eildon Housing Association
- Waverley Housing
- Criminal Justice Service
- Victim Support Scottish Borders

### **Purpose:**

The ASB Core Group is responsible for:

- Identifying individuals, areas, or properties that are emerging as possible ASB cases. There is an expectation that partners will only bring cases to the Core Group when their own in-house interventions have been explored or attempted, however it is acknowledged that some cases may need to be accelerated through the process due to a variety of factors
- When a partner wishes to discuss a new case at the Core Group a full audit trail should be provided that supports the justification for bringing that case to the Core Group Meeting (CGM). It will also be researched by the Police and other agencies to determine if they also hold any independent records about that case. This research will be completed prior to the Core Group Meeting
- Discussing relevant ASB cases with a view to agreeing on a suitable course of action to address the behaviour
- Establishing the facts supported by evidence that might justify intervention by the Core Group
- Considering complaints to avoid the possibility of discrimination or victimisation on the grounds of race, age, culture, gender, sexual orientation, disability or religion

The Senior ASB Officer will be responsible for ensuring that all relevant partners are involved in any decisions taken on cases that fall under their remit and that all relevant views are taken into consideration before any action is taken. This will ensure that a collaborative approach is followed wherever possible. In some cases it may also be appropriate to include reports from medical or other relevant professionals before a decision is made on how to progress a case.

Under normal circumstances, the ASB Core Group will meet during the last week of every month (with the exception of December when the date will vary) to discuss relevant cases being brought to the meeting by partners and also to review all cases already on the Scottish Borders ASB Monitoring document. Core Group arrangements will remain flexible in order to deal with cases that arise in which a person's behaviour is of such a serious nature that the safety and wellbeing of individuals is threatened. These cases require immediate discussion and consideration. In such cases a mini Core Group can be convened at very short notice on the request of one or more of the partners. In practical terms it is anticipated that the necessary discussions will be made on the telephone and not by a physical convening of the Core Group.

It should be noted that whilst the ASBU becomes the lead agency for the purpose of taking the case forward, other actions can run in tandem under RSL breach of tenancy agreement and following internal policies and procedures. The RSL will still have a responsibility for maintaining communication with their tenant.

## Core Group Process

The Core Group meets at Scottish Borders Council Headquarters. The basic mechanism of the CGM is as follows:

- New names are presented to ASBU the Friday before the CGM
- ASBU will do relevant research and pass out names to partners as necessary
- Monday prior to CGM all information held on new names is fed back to ASBU
- Tuesday prior to CGM complete lists are distributed by ASBU
- Wednesday prior to CGM all database checks are completed by ASBU
- Thursday CGM Day
- Friday – Post CGM Actions list is distributed by ASBU
- Week one after CGM all research is completed for new cases/case progression is completed
- Week two post CGM appointments are made an ASBO's are submitted
- Week 3 & 4 appointments completed and case notes updated

## Core Group Day

The Core Group has a common group that sit in the meeting for the whole day, those are:

- Antisocial Behaviour Unit
- Police Scotland
- Victim Support Scottish Borders

All other agencies filter through in particular time slots and only discuss persons relevant to their organisation/ department:

Justice Team	09:00 – 09:45
NHS Borders	09:45 – 10:45
Youth Justice	11:00 – 11:30
Homeless Service	11:30 – 12:00
Waverley Housing	12:00 – 12:45
Eildon Housing	13:15 – 14:00
Scottish Borders Housing Association	14:00 – 15:30
Private Rented/Owners	15:30 – 16:00
Berwickshire Housing Association	16:00 – 17:00

Other organisation can be called upon for attendance as necessary if it is felt that they have something they can contribute.

## DEFINITION AND CATEGORISATION OF ASB - 1e

It is not always easy to define ASB as it can mean different things to different people. When the legislation was introduced a broad definition as defined in Section 143 of the Antisocial Behaviour etc (Scotland) Act 2004 states that ASB is action that causes or is likely to cause alarm or distress or a course of conduct that causes or is likely to cause alarm or distress, and this conduct can include speech. The conduct is also required to occur on two or more occasions.

### Behaviour normally falls into four different types:

- Acceptable behaviour is behaviour that does not normally cause offence to anyone else. However, differences of 'lifestyle' may mean that what is acceptable to some people is not acceptable to others and this may become the basis for complaints, for instance children playing ball games
- Nuisance behaviour is 'low-level' annoying behaviour that causes concern to other people and, if not dealt with effectively, it can develop into disputes that are extremely difficult to resolve and very time-consuming, for instance, slamming doors and stamping loudly on the floor
- Antisocial Behaviour is behaviour that clearly falls into the definition of the act but which, in most cases but not always, falls short of criminal behaviour, for instance, playing loud music, shouting or swearing
- Criminal behaviour is behaviour that contravenes criminal law and could be dealt with in a criminal court, for instance, vandalism, drug taking, drug dealing, or fighting, it can also be used to evidence a pattern of Antisocial Behaviour

The definition of ASB in the 2004 Act has been deliberately drafted as being wide and flexible in its interpretation, this allows partners to assess the nature of problems and to take the most appropriate course of action in order to try and deal with complaints. The examples of behaviour listed (Groups A to D) are not exhaustive and other types of behaviour can be categorised as antisocial and allocated to the closest match.

The category and definitions of ASB have been directly adopted from Scottish Government guidelines issued in 2005, these are national guidelines which were adopted across the partnership by the Scottish Borders Antisocial Behaviour Partnership Working Group.

### Group A - Disregard for Community and Personal Wellbeing

- A1 Noise: Noisy neighbours, noisy cars/bikes, loud music, persistent alarms
- A2 Rowdy Behaviour: Shouting and swearing, fighting, drunken behaviour, hooliganism or loutish behaviour
- A3 Nuisance Behaviour: Urinating in public, fire raising, inappropriate use of fireworks, throwing missiles, climbing on buildings, impeding access to communal areas, playing games in restricted or inappropriate areas.
- A4 Hoax Calls: False calls to the emergency services
- A5 Animal Related Problems: Dog fouling, nuisance pets, etc

### Group B - Acts Directed At People

- B1 Intimidation and Harassment: Groups or individuals making threats, verbal abuse, nasty or offensive letters, obscene or nuisance 'phone calls or text messages, menacing gestures. This type of behaviour may be motivated by race, age, culture, sex, sexual orientation, disability or religion

### Group C - Environmental Damage

- C1 Criminal Damage/Vandalism: Graffiti, damage to street furniture, bus shelters, telephone kiosks, buildings, trees, plants or hedges
- C2 Litter and Rubbish: Dropping litter, dumping rubbish, fly-tipping, fly posting

### Group D - Misuse of Public Space

- D1 Drugs and Substance Misuse/Dealing: Taking drugs, solvent abuse, discarding needles and drug paraphernalia, presence of dealers or users
- D2 Street drinking
- D3 Prostitution: Soliciting, discarded condoms
- D4 Kerb Crawling, loitering for the purposes of prostitution, pestering residents
- D5 Vehicle Related Nuisance and Inappropriate Vehicle Use: Abandoned vehicles, setting vehicles alight, racing cars, off-road motorcycling, using quad bikes inappropriately

## GLOSSARY OF TERMS - 1f

ASB – Antisocial Behaviour

ASBAT – Antisocial Behaviour Audit Trail

ASBU – Antisocial Behaviour Unit

ASBO – Antisocial Behaviour Order

CRASBO – Criminal Antisocial Behaviour Order

ABC – Acceptable Behaviour Contract

F2F – Face to Face

SSST – Scottish Short Secure Tenancy

MI11 – A Police Scotland form that is used to request information to take formal ASB Action

MI12 – A Police Scotland form that is used to return information in relation to the MI11 form

MI13 – A Police Scotland form used to return information in relation to the MI11 Form for court action or eviction

RIPSA – Regulation of Investigatory Powers Scotland Act

NME – Noise Monitoring Equipment

RSL – Registered Social Landlord

CGM – Core Group Meeting

ASBPWG – Antisocial Behaviour Partnership Working Group

ADP – Alcohol and Drugs Partnership

VSSB – Victim Support Scottish Borders

ADP – Alcohol & Drugs Partnership

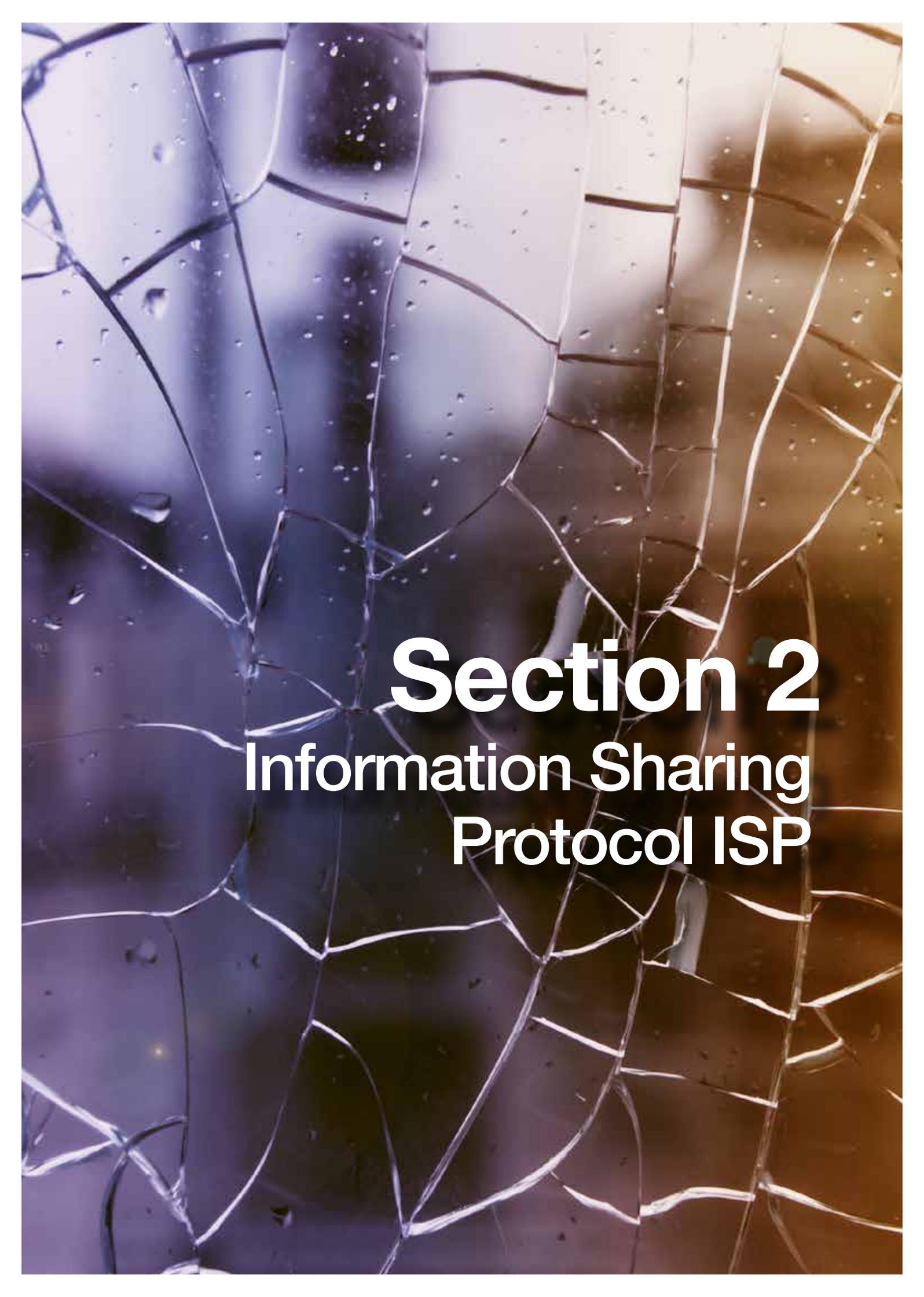
SBHA – Scottish Borders Housing Association

BHA – Berwickshire Housing Association

BAS – Borders Addiction Services

DAAS – Domestic Abuse and Advocacy Service

GDPR - General Data Protection Regulations

The background of the slide is a microscopic image of plant cells, showing a grid-like structure of cell walls. The image has a color gradient from blue on the left to orange on the right. The text is centered in white.

# **Section 2**

## **Information Sharing Protocol ISP**

## INFORMATION SHARING GENERAL OVERVIEW - 2

A key component in dealing with antisocial behaviour is the sharing of information between 'relevant authorities' who have 'an interest in dealing with antisocial behaviour'.

**Section 139 of the Antisocial Behaviour Etc (Scotland) Act 2004** makes specific provision for the disclosure and sharing of information between SBC, Police Scotland and the Registered Social Landlords where it is necessary or expedient for the purposes of any provision of the Act or any other legislation connected with antisocial behaviour or its effects. **This section puts beyond doubt the power of relevant partners to share information for the purpose of tackling antisocial behaviour.**

The Data Protection Act 2018 regulates the handling of personal data which has been lawfully obtained. Information can be disclosed legitimately for a number of purposes:

- If the information is required for the prevention, detection or investigation of a crime or suspected crime
- If the information is required for the purpose of discharging statutory functions; or
- If the information is required in connection with legal proceedings or prospective legal proceedings

If information is disclosed for one of the above purposes then the individual who is the subject of the information does not need to be advised that this information is being shared between the agencies.

Where someone's conduct is cause for complaint, those responsible for investigating that complaint must carefully consider whether or not the conduct is antisocial behaviour.

The proactive sharing of information between partners for the prevention and detection of crime and antisocial behaviour is encouraged. The Police will share information in response to a direct request that will support and assist in tackling crime and antisocial behaviour within the Scottish Borders area.

All information should be relevant and not excessive in relation to the purpose for which it is required and it should also be accurate. Each request will be considered on its own merits and in relation to the purpose for which the information is sought.

### Photographs and Other Restricted Information

If the disclosure of images or other confidential information is essential to a particular investigation and is justified then the decision, the reasoning behind it, and the details of the procedure to be adopted will be agreed and recorded at the Antisocial Behaviour Core Group.

**Scottish Borders Council's ASBU when dealing with an ASB complaint made directly to them by a member of the public, will be responsible for:**

- Log all details onto the ASB Database
- Ensure landlords are contacted so that they are allowed to take appropriate action
- Research the case/ checking with Police Scotland/Landlords/Social Work or any other relevant agency to see if they are aware of any issues
- Ensure that all information is stored electronically and any paper documentation is destroyed securely
- The ASBU will not send copies of completed ASB Incident Diary Sheets to any Private Landlords as they are the case managers for all Owner Occupier or Private Landlord initiated complaint logs
- Whenever an ASBO has been granted and once all relevant paperwork has been received from the court, the ASBU will be responsible for distributing the details to the partnership for their records

- When an ASBO ends, the ASBU will be responsible for informing the partnership

There will undoubtedly be occasions when an RSL will be required to request formal disclosure of information from the Police in a Data Protection compliant manner. There are only four reasons why they can ask for this information to be disclosed

- a) An eviction order on the grounds of antisocial behaviour;
- b) An eviction order on the grounds of a conviction for using or allowing a house to be used for illegal or immoral purposes;
- c) An eviction order on the grounds of a conviction for an offence punishable by imprisonment;
- d) An application for an anti-social behaviour order in terms of Section 19 of the Crime and Disorder Act 1998.

When an RSL has a justifiable reason for requesting formal disclosure of information from Police Scotland they will need to request this by completing a formal disclosure of Information Form (full disclosure MI11). The RSL must also ensure that copies of all MI11s they send to the Police Scotland are secured in such a manner as to prevent any unauthorised access, including copying, or theft.

Whenever an RSL has received formal disclosure of information from Police Scotland this will be provided on a full disclosure of information reply Form (MI13) by Police Scotland and the RSL must ensure that this information is secured in such a manner as to prevent any unauthorised access, including copying, or theft.

**SBC's ASBU will be responsible for the following once a decision has been taken to place a person onto the Scottish Borders ASB Monitoring document:**

- Placing the personal details of the ASB subject onto the Scottish Borders ASB Monitoring document database
- Ensuring that a personal electronic folder is made up for the ASB subject within the ASBU electronic folders
- Initiating contact with any other department, agency or organisation that needs to know the person has been placed onto the ASB Monitoring document
- Contacting all partner agencies who may be able to assist with the provision of information, intelligence or other evidence relative to the subject. This will also be an opportunity to explore what help and support is in place
- Requesting formal disclosure of information from Police Scotland in a Data Protection compliant manner, by completing a formal disclosure of information Form (MI11) to determine if the Police have any record of ASB incidents involving the subject(s) named in the complaint, or the address named in the complaint. A copy of all disclosure of information Forms (MI11s) sent to the Police must be secured in such a manner as to prevent any unauthorised access, including copying, or theft
- Ensuring that any information provided by the Police on a full disclosure of information reply Form (MI12 or 13) are secured in such a manner as to prevent any unauthorised access, including copying, or theft
- Gathering and collating all necessary ASB information relating to a subject's antisocial behaviour and ensuring that all information relating to that person is kept up to date, both on SBC's electronic ASB Monitoring document database and within that subject's personal electronic folder, also ensuring that the subject's electronic ASBAT is kept up to date
- Co-ordinating and ensuring that suitable arrangements are made for any intervention meetings that may be necessary with any subject on the ASB Monitoring document, including researching whether or not it is appropriate to invite to any intervention meeting any ASB partner agencies or key support workers working with the subject
- Preparing and producing an ASBAT or an ABC document about a subject's antisocial behaviour and making sure this is available for all intervention meetings

- Making sure that once an intervention meeting has taken place, whether that be a Face to Face” or an ABC, that a record of that meeting is placed onto the ASB Monitoring document database
- As well as the above SBC’s ASBU will be responsible for accurately notifying and consulting with Police Scotland and any relevant partner RSL when consideration is being made about applying for an ASBO against a subject in accordance with section 4(11) (a) of the Act

**Police Scotland will be responsible for:**

- Supporting SBC’s ASB Team and any other ASB partner agency in the pursuit of all investigations they are making into antisocial behaviour cases
- Responding to any initial verbal contact made by SBC’s ASBU asking their Information and Statistics Officer (ISO) to make informal research into a subject to determine if there is any need for the ASBU to prepare and provide an official request for disclosure information Form (MI11)
- Ensuring that a copy of all disclosure of information Forms (MI11s) sent to the Police (by either an RSL or SBC’s ASBU) are secured in such a manner as to prevent any unauthorised access, including copying, or theft
- Preparing and disclosing all relevant information to an RSL or SBC’s ASBU in a data protection compliant manner (by preparing disclosure of information reply Forms (MI12s or 13s) to support any investigation they are making into an antisocial subject
- Ensuring that a copy of all disclosure of information reply Forms (MI12s or 13’s) provided to either an RSL or SBC’s ASB Team are secured in such a manner as to prevent any unauthorised access, including copying, or theft
- Ensuring they provide an Officer to take the lead role at all Face to Face meetings relative to an investigation. Under normal circumstances the lead role at all Face to Face and ABC meetings will be assumed by an Antisocial Behaviour Officer from the Council
- Once a case has been placed onto the Scottish Borders ASB Monitoring document any decisions taken about escalating a subject’s intervention process will be made either at the Core Group or via the telephone (if the case warrants an immediate intervention being taken out-with the Core Group process). When the subject is an RSL’s tenant, and there have been ASB problems at the address, the RSL will always be included in this consultation process. If there have been no ASB problems at the address the RSL will not be consulted but will be made aware that the ASBU are intending to move the subject onto the next intervention level. Police Scotland will play an active part in any discussions that are required about escalating a subject’s intervention to another level. The decision to take any proposed new intervention can be initiated by SBC’s ASBU, an RSL, or Police Scotland. Before this happens, however, there will need to be new evidence that the subject has been continuing to be involved in further ASB incidents
- Any decision taken to escalate a case onto the ASBO application stage will normally be taken in consultation between SBC’s ASBU and Police Scotland. When the subject happens to be an RSL’s tenant, and there have been ASB problems at the address, the RSL will always be included in the consultation process. However if there have been no ASB problems at the address the RSL will not be consulted but will be made aware that the ASBU is intending to submit an ASBO application in accordance with section 4(11) (a) of the Act against their tenant
- Alerting and tasking SBC’s ASBU to prepare and submit a CRASBO application against a subject when they know that the individual (in their opinion is a person who would be suitable to be considered for a CRASBO application) has been arrested for an antisocial crime and is due to appear in Court from custody for that crime. Police Scotland will be responsible for preparing and sharing the information in a data compliant manner (by preparing and exchanging MI11 and 13 Forms) with SBC’s ASBU in order to support the ASB Team to making the CRASBO application. It is impossible to accurately quantify the exact criteria required before a CRASBO application will be considered. Each proposed CRASBO application will be based on a case by case basis using professional judgement and experience

- Once an ASBO has been granted Police Scotland ISO will be responsible for circulating a copy of the details of the subject's ASBO to Police Scotland Court and Records Department at Divisional HQ in Dalkeith
- The Court and Records Department will thereafter be responsible for ensuring that a copy of all ASBOs granted within the Scottish Borders are placed on the Force's various computer applications and circulated accordingly
- The Police sometimes receive complaints from aggrieved tenants of Private Landlords about issues that are not strictly ASB complaints. These usually involve complaints about tenant's living conditions, the condition of their property, or about the way their Landlord is behaving towards them. These complaints fall under the umbrella of the Housing (Scotland) Act, 2006. Scottish Borders Council employs an Enforcement Officer who deals with the Private Rented Sector who can be contacted either by email at [privatelandlordregistration@scotborders.gov.uk](mailto:privatelandlordregistration@scotborders.gov.uk) ensuring that the email is clearly marked for the attention of the Private Landlords Enforcement Officer or on telephone number 0300 100 1800.

It is suggested that when a Police Officer receives a complaint from a Private Landlord's tenant which falls under the Housing (Scotland) Act that they liaise closely with the SBC's Enforcement Officer

### **MI12 or 13 disclosure of information reply Forms**

In reply to requests for formal disclosure of information Forms (MI11s) from either SBC's ASBU or a RSL about a specific individual the Police, where they are satisfied that there is due cause for these individual organisations to have that information, will provide that information on disclosure of information reply Forms (MI12s or 13's). These reply Forms will include the following details:

- Incidents attended
- Relevant information from Crime Reports
- Pending Cases
- Previous Convictions
- Any other relevant information - where the information has been classified as being reliable, is known to be true without reservation and can be shared without in any way impinging on current operations

### **Occasions where the Police may legally request information from SBC's ASBU and its partners:**

- Where the Police are seeking information to prevent or detect crime or for the purposes of investigating suspected criminal conduct
- Where the Police seek information that is required to inform the development of strategy in relation to antisocial behaviour, i.e. for statistical analysis

### **Formal Pre Disclosure (Pre disclosure request MI11 form, and MI12 which is a pre disclosure reply form)**

- Where a written response to an information request is required but which does not amount to a formal Court disclosure, for example, to confirm the occurrence of an incident, update of a Court disposal or to provide brief details of a Police incident, an MI11 pre-disclosure request Form must be completed and signed by the Designated Signatory within the requesting organisation. This MI11 should be forwarded to the ISO who will get authorisation the release of the information
- The MI11 pre-disclosure request form must contain the information requested and the reason for the request, in particular the name, date of birth and addresses of any person of interest. The Police response will be made on an MI12 disclosure reply Form by the Police's Information and Statistics Officer who is based within the Safer Communities Team at Council HQ. Because some of the ASB partners (with the exception of SBC's ASBU) do not have a secure GSX mailbox, the reply MI12 Form will be handed personally to the requesting organisation as it cannot be sent electronically
- If, however, there is urgency for the MI12 the requesting organisation can pre-arrange to call at the Safer Communities Team at Council HQ in order to collect it. Each partner organisation will be responsible for securing all copies of (MI11 and MI12) Forms that they hold in a manner that will prevent any unauthorised access, including copying, or theft

## **Formal Disclosure (Full disclosure request MI11 form, and MI13 which is a full disclosure reply form)**

- An MI13 Form is a confidential legal document prepared by the Police, the contents of which have been approved by the Police's Scotland Information Manager. It details matters in relevant timescales and geographical areas for two purposes

(i) when the ASB Team is applying for an ASBO against a person

(ii) when an RSL has decided to go ahead with eviction proceedings against one of their tenants

### **An MI13 Form is in three sections:**

- 1) Part A – Sub - Judice (Pending charges). This information will only be disclosed with the agreement of the Procurator Fiscal
  - 2) Part B - Court disposals – guilty / not guilty / no proceedings - along with any sentence; and
  - 3) Part C - Other information and general incidents where no charges were libelled
- An MI13 can only be requested by completing an MI11 full disclosure request Form. In the Scottish Borders the only designated signatory who can sign off this form on behalf of SBC's ASBU is a Solicitor from SBC's Legal Team. These are then sent to Police's Scotland ISO who does the necessary research and completes the MI13 reply Form and gives it back to the ASB Team)
  - MI13s will only be required when a decision has been taken to progress a case to the ASBO application stage. Within the Scottish Borders the only reason why an RSL will need to complete a full disclosure request MI11 Form will be when they require information in order to instigate eviction proceedings against one of their tenants
  - Because not all the ASB partners (with the exception of SBC's ASBU) do not have a secure GSX mailbox, the full disclosure reply Form (MI13) must be handed personally to the requesting organisation as it cannot be sent electronically
  - If, however, there is urgency for the MI13 the requesting organisation can pre-arrange to call at the Safer Communities Team at Council HQ in order to collect it. Each partner organisation will be responsible for securing all copies of (MI11s and 13s) Forms that they hold in a manner that will prevent any unauthorised access, including copying, or theft

The Police will provide the relevant requested information to the requester within 28 days of receipt of any MI11 disclosure request.

### **Designated Signatories/Officers**

Police Scotland and SBC's Senior Antisocial Behaviour Officer will maintain a list of all the current authorised Designated Signatories/Officers within all the ASB partner agencies. The Force Information Manager and SBC's Senior Antisocial Behaviour Officer will be responsible for notifying each other of changes to the names or posts of authorised Designated Signatories/Officers.

## Scottish Borders Antisocial Behaviour Partnership - 2a

Information Sharing Protocol

In collaboration with

Scottish Borders Council

Police Scotland

Scottish Borders Housing Association

Waverley Housing

Eildon Housing Association

Berwickshire Housing Association

Victim Support Scottish Borders

NHS Borders

March 2019

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Appendix A Glossary of Terms

### Date Issued:

### Bi -Annual Check:

January 2021	Print Name	Sign
January 2023	Print Name	Sign
January 2025	Print Name	Sign
January 2027	Print Name	Sign
January 2029	Print Name	Sign

### Amendment Record:

Amendment Number	Date	Print Name	Sign
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## 2. GENERAL INTRODUCTION

- 2.1. Purpose: The purpose of this Protocol is to facilitate the exchange of information pursuant to the power contained in Section 139 of the Antisocial Behaviour etc. (Scotland) Act 2004 (hereinafter referred to as the “Act”).
- 2.2. Section 139 enables, “any person to disclose information to a relevant authority, where disclosure is necessary, or expedient, for the purposes of any provision of the Act, or any other enactment relating to antisocial behaviour, or its effects where that person would otherwise not have the power to disclose the information or would be, by virtue of any enactment or rule of law, susceptible to a sanction or other remedy if the person disclosed the information”.
- 2.2. By signing this Protocol, we declare our commitment to the procedures it sets out. The manner in which information can be exchanged takes into account the following legislation:
  - a. The Data Protection Act 2018, for the processing of personal information.
  - b. The Human Rights Act 1998, for the rights of the individual’s privacy.
  - c. The General Data Protection Regulation (2016/679 EU) (hereinafter referred to as “GDPR”), for the processing of personal information.
- 2.3. The scope of this Protocol is to clarify as far as is possible, under which circumstances information can be exchanged. We believe that a single, joint approach to exchanging information is a highly efficient mechanism for reducing crime, disorder and antisocial behaviour.
- 2.4. It is the purpose of this Protocol, to clarify the understanding between all the signatories, on each party’s responsibilities and duties towards each other. We are fully aware of the process for information exchange and will comply with all legal requirements.
- 2.5. All technical terms and abbreviations are defined in the extensive glossary section.
- 2.6. This Protocol is published within the context of the Act and can be made available to the general public, for clarity of purpose. Arrangements for dissemination of the Protocol and steps being taken to raise awareness of the Protocol will be explained within the Protocol.
- 2.7. This Protocol will be reviewed on a Bi-annual basis during the month of December, and any comments should be sent to the Senior Antisocial Behaviour Officer at: [asbu@scotborders.gcsx.gov.uk](mailto:asbu@scotborders.gcsx.gov.uk).
- 2.8. Any signatory may withdraw from this Protocol upon giving written notice to the other signatories. Data obtained under the terms of this protocol and which is no longer relevant should be destroyed or returned. The signatory must continue to comply with the terms of this Protocol in respect of any data that they have obtained and cannot be destroyed.

## 3. UNDERTAKINGS

- 3.1. As parties who have signed-up to this Protocol, we recognise the importance of sharing information with each other, in line with the aims of the Act and for the purpose of reducing crime, disorder and antisocial behaviour.
- 3.2. We undertake to co-operate fully with each other, within the parameters of the GDPR and the Data Protection Act 2018.
- 3.3. We pledge to periodically consult with each other upon matters of policy and strategy that may affect the terms of this protocol.
- 3.4. We undertake in this Protocol, that where possible and appropriate, information requested in the correct manner, is given as soon as is possible, as laid out in the Scottish Borders Antisocial Behaviour Policies & Procedures.

- 3.5. We pledge that all personal data remains the property of the disclosing agency, and is the responsibility of the Controller as defined by the GDPR.
- 3.6. We undertake to ensure that holding personal data complies with all relevant legislation, this Protocol, and its internal policies on disclosure.
- 3.7. We undertake to ensure that officers who have responsibilities relating to this Protocol have sufficient training or knowledge, on an ongoing basis, to reflect any changes in legislation or relevant guidance.

#### **4. NON-PERSONAL DATA**

- 4.1. We understand that non-personal data constitutes data that has never referred to individuals. Non-personal data is more often than not aggregate data [see glossary]. It is non-personal data or aggregated data (derived from personal, non-personal and de-personal data), that is normally used for mapping. We can use this non-personal data for incidence or “hot-spot” mapping purposes.
- 4.2. We agree that non-personal data held by Scottish Borders Council may be subject to the provisions of the Freedom of Information (Scotland) Act 2002. We have the legal duty to consider providing non-personal data to a third party if a formal request is made.
- 4.3. We will disclose non-personal data for the purpose of profiling local areas for antisocial behaviour activity, and use to calculate the cost, scope and scale of proposed reduction interventions by parties to this Protocol.

#### **5. DEPERSONALISED DATA**

- 5.1. We accept that depersonalised data is used in cases of antisocial behaviour audit activity, as management teams and analysts do not require personal data. Depersonalised data is excellent for profiling local areas, and for calculating the scale, scope and cost of proposed antisocial behaviour interventions.
- 5.2. We understand that depersonalised data encompasses any information that does not and cannot be used to establish the identity of a living individual, and has had all personal identifiers removed. We note that the Scottish Information Commissioner has stated that, for example, a post-code or address can give away the identity of an individual, if there is only one person living there.
- 5.3. We accept there are no legal restrictions on the exchange of information within this Protocol of depersonalised data. Although a duty of confidence may apply in certain situations; a copyright or a contractual or other legal restriction may prevent the information being disclosed to any signatories to this Protocol.
- 5.4. We appreciate that if several sets of depersonalised data are merged or compared with each other, there is a risk that an individual could be identified. We will always hold and destroy depersonalised data securely, when it is no longer required.

#### **6. PERSONAL DATA**

- 6.1. We understand that personal data is information which relates to a living individual who can be identified from the data. This data will be clearly marked as personal data, kept securely within a password protected computer system or otherwise physically secure with appropriate levels of staff access. We undertake to destroy all personal data when we are sure that it is no longer required and in line with your organisations data retention timescales.
- 6.2. We undertake to formally record all grounds for disclosure of personal data. We will process data fairly and objectively for each case. We agree that we will only disclose sufficient information, to enable signatories to this Protocol, to carry out the relevant purpose for which the data is intended. This will be determined on a case by case basis.

- 6.3. Personal data should only be shared in a particular case when we, as the disclosing signatory are satisfied that we are legally empowered to do so, the proposed disclosure of personal data can be done in accordance with the principles of the GDPR.
- 6.4. “Section 139 of the Antisocial Behaviour etc. (Scotland) Act 2004 provides us with lawful power for disclosure where this is necessary or expedient for the purposes of any provision of the Act or any other enactment with the purpose of dealing with antisocial behaviour and its effects.”
- 6.5. We will disclose personal data to signatories relating to a victim, informant or witness and the data subject will know that we are doing so. We will also disclose information without consent where there is an overriding public interest in disclosure. This disclosure will be to designated staff or posts to enable them to carry out their duties in the exercise of a public function. We can also disclose personal data for the following reasons:
  - a. To prevent or detect crime.
  - b. To apprehend or prosecute offenders.
  - c. If it is required by law (bulk disclosures are also normally allowed).
- 6.6. Provided there is a lawful basis for disclosure or/and where there is a substantial chance that one of the reasons would be prejudiced if we did not do so, when disclosure is required, we agree to ensure that:
  - a. The information is being processed lawfully and fairly.
  - b. The public interest is of sufficient weight to over-ride the presumption of confidentiality and to justify any interference with the right to privacy etc in Article 8 of the European Convention of Human Rights 1998.
  - c. A disclosure is necessary to support action under the Act or other relevant enactments.
  - d. Any disclosure must have regard to specific statutory restrictions on disclosure.

## 7. IN THE PUBLIC INTEREST

- 7.1 We understand the Public Interest criteria, to include:
  - a. The administration of justice.
  - b. Maintaining public safety.
  - c. The apprehension of offenders.
  - d. The prevention of crime, disorder and antisocial behaviour.
  - e. The detection of crime.
  - f. The protection of vulnerable members of the community.

## 8. HUMAN RIGHTS ACT

- 8.1 Human Rights Act 1998: Article 8 of the European Court of Human Rights 1998 states that “everyone has the right to respect for their private and family life, home, and their correspondence and that there shall be no interference by a public authority with this right except as in accordance with the law and is necessary in a democratic society in the interests of:
  - a. National Security.
  - b. Public Safety.
  - c. Economic well-being of the country.
  - d. The prevention of crime and disorder.
  - e. The protection of health or morals.
  - f. The protection of the rights or freedom of others.”
9. Proportionality: If the disclosure of information will in some way restrict the rights of the data subject, we will consider the rule of proportionality. This is to ensure that a fair balance must be achieved between the protection of the individual’s rights, with the general interests of society.
10. Use of information: The second GDPR Principle states that personal data may be collated “for specified, explicit and legitimate purpose”. This allows for information utilised for a criminal prosecution to be used to support civil processes such as an ASBO.

## 11. DESIGNATED OFFICERS

- 11.1. We understand that each signatory to this Protocol will appoint a Primary Designated Officer, who will be of sufficient standing, within their parent organisation, to have a co-ordinating and authorising role.
- 11.2. The PDO will be responsible for ensuring that there is a Designated Officer (DO) in their absence, or to act on their behalf.

### NAMED PERSON

- 11.3. Our specific responsibilities will be the following:
- a. Making sure that our organisation adheres to this Protocol.
  - b. Ensuring that all staff are fully aware of their responsibilities.
  - c. Appointing other staff in the organisation to act as DOs in their absence.
  - d. Authorising our organisation's involvement and co-operation in the information sharing process.
  - e. Keeping an accurate record of all information sharing documents in general.
- 11.4. The appointment or continuation of the PDO needs to be confirmed in writing and stored as an Annex to this Protocol on a bi-annual basis.
- 11.5. Only PDOs and DOs of signatory organisations to this Protocol can make the formal requests and document agreements for the sharing of personal information. PDOs and DOs can decide (on a case by case basis), why a disclosure is necessary to support action under the Act. They will also decide why and when the public interest overrides the presumption of confidentiality.
- 11.6. It is our responsibility to ensure that processing of the personal data held, is in keeping with the principles of the GDPR. In summary the data is:
- a. Processed lawfully, fairly and in a transparent manner in relation to individuals.
  - b. Collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes. Further processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes shall not be considered to be incompatible with the initial purposes.
  - c. Adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed.
  - d. Accurate and, where necessary, kept up to date; every reasonable step must be taken to ensure that personal data which is inaccurate, are erased or rectified without delay, taking cognisance of the purposes for which they were processed.
  - e. Kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data is processed. Personal data may be stored for longer periods, insofar as, the personal data will be processed solely for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes (subject to implementation of the appropriate technical and organisational measures required by the GDPR) in order to safeguard the rights and freedoms of individuals; and
  - f. Processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures.
- 11.7. The PDO or DO are the controllers. As such, any final decision (should there be doubt) to share sensitive information, rests within the respective organisations.

## 12. PROCESS

- 12.1. Signatories to the Protocol have defined the requirements and outlined the nature of the risk and identified the information holders and agree to these procedures. It is not possible to document each and every occasion or circumstance where information may be disclosed. It could be by initial contact between signatories whether by meeting, correspondence or telephone. However when anything is documented, no matter what the process, it should comply with this protocol and all relevant legislation in relation to data/personal data.

- 12.2. Agreed disclosure procedures will sometimes require making a request in writing if it is out-with the Monthly Core Group Meeting. It is the responsibility of a disclosing signatory to this protocol to make the assessment and consider the nature of the formal request.
- 12.3. Access to personal information by staff other than PDO or DOs, should be limited to employees whose work is directly related to the requirement for disclosure.
- 12.4. All PDO's and DO's should ensure that their respective organisations have a records management system in place for ensuring that data is only held for as long as is required and is secure.

### **13. SECURITY AND DATA MANAGEMENT**

- 13.1 It is our responsibility as signatories to this Protocol, to ensure that we have adequate security arrangements in place, in order to protect the integrity and confidentiality of the information we hold.
- 13.2. We agree that personal information disclosed will comply with all legislation referred to in this protocol and the ASB Policies and Procedures. However all data must:
  - a. Not be e-mailed over internet links, without adequate security being in place (e.g. use of a secure network such as the Government Secure Intranet) or passwords.
  - b. Be protected by back-up rules (within your own organisation).
  - c. When stored on a computer system it must be password protected and we agree this password will be revised regularly.
  - d. When in hard copy, be stored in a secure filing cabinet when not in use.
  - e. Be located in a geographically secure environment.
- 13.3. All personal data disclosed to us will be held until the issue to which it relates is resolved, and no longer than necessary to achieve this. However consideration will always be given to circumstances where it is necessary to retain certain types of information. This will always be in compliance with DGPR/DPA 2018 and organisation retention policies.
- 13.4. We, the signatories to this Protocol, understand that all these measures need to be taken to ensure the security of and to protect the general public.
- 13.5. We are aware that only the minimum amount of information should be disclosed to complete the task, and not in a manner incompatible with the purpose or purposes for which the personal information was obtained. We agree that all information retained by us and our partners should be kept securely.

### **14. COMPLAINTS AND BREACHES**

#### **Complaints:**

- 14.1. Initial complaints must be referred to the appropriate PDO or DO. The procedure to be followed in the event of such a complaint being received is as follows:
- 14.2. We agree that any formal complaint by a data subject regarding any stage of the process will be notified in writing to all involved signatories to this Protocol, as a best practice method indicates.
- 14.3. We undertake to do all that we can within the guidelines of the GDPR, to assist with any complaint.
- 14.4. Individuals do retain the right to raise a complaint with such bodies as the Scottish Information Commissioner or the Scottish Public Service Ombudsman.
- 14.5. We undertake at all times, to comply with GDPR and other legal requirements relating to confidentiality.

## 15. AUDIT

- 15.1. **Audit of Data:** We undertake to ensure that we will collect, process, store and disclose all data held by us, within the terms of this Protocol and the relevant legislation. We undertake to ensure that any such information held by us, is accurate, relevant and fit for the purpose for which it is intended in relation to antisocial behaviour.
- 15.2. **Audit of Security:** We agree to store all held data securely as per the terms of the Security and Data Management section. We will dispose securely of all data held. We also pledge to conduct regular audits of our security arrangements, to ensure they are effective.
- 15.3. **Audit of Protocol:** We undertake to conduct regular audits of this Protocol.

## 16. POLICE SCOTLAND INFORMATION

- 16.1. The majority of information that is shared is generated by Police Scotland it is important to be clear on how that information is processed and shared. Any person already subject to monitoring of their behaviour will be highlighted to the Antisocial Behaviour Unit (ASBU) using the MI11/MI12/MI13 process. This same process will also be used to share information with Registered Social Landlords (RSLs) and is also used when research for new cases is required.
- 16.2. All individuals are allocated a unique reference number, and each disclosure is allocated a unique reference number. Information is shared using secure email only. In the absence of such email, information is passed manually or encoded, most typically between Police and a RSL.
- 16.3. A large number of properties are owned by Private Landlords. When a new Private Landlord registers with the Local Authority the Information Statistics Officer (ISO) will research the case and share details of any relevant antisocial behaviour. This allows for an assessment to be made regarding that individual's status as a, "fit and proper person". This is continued into day to day operations and the ISO will highlight any future incidents that could alter the Private Landlord's status as a "fit and proper person" to the Private Landlord Registration Officer.
- 16.4. **Timescale for Responses to Information Requests:** Police Scotland will endeavour to respond within 28 days of the request. Invariably the response is usually within a few days of the request. Communications containing restricted information such as MI12 and MI13 reports will be transmitted to a secure e-mail address. Should this be unavailable then the reports can be collected when ready from the Safer Communities Team office or, if it is a routine enquiry, can be hand delivered at the monthly ASB Core Group meeting.

### 16.5. MI11 Forms (Requesting Information):

Form Mi11 is a two page document with associated guidance on its completion. The form details the individual, their address, the nature of the complaint, any enquiries carried out and the detail of the information sought from the police. The MI11 form can be submitted by any organisation which is part of the local strategy for dealing with antisocial behaviour and part of the local information sharing protocol. The Mi11 is submitted to the local Preventions, Interventions and Partnership Team and the subsequent MI12 or MI13 three page report is sent in reply (an MI11 is within Appendix 1). The MI12 and MI13 reports are very similar and contain similar information and are split into three parts:

Part A details information, which has resulted in a criminal charge against the subject of the report. This information is sub-judice, i.e. the case is still going through the criminal court process. The subject at this point is has not been convicted of the crime and is only alleged to have been involved in its commission. The information contained in this part of the report is of limited use to partner agencies particularly with reference to bullet points 3 and 4 in sect 16.7.

Part B details any relevant antisocial convictions, the date and court where the subject was convicted and any sentence given.

Part C details any non-offending behaviour, which has been assessed, has a relevant antisocial element, but has not resulted in any charges being libelled.

#### 16.6. MI12 Forms (Receiving Information):

MI12s are used to collate information and to build up the antisocial case against a person and is used for sharing information on persons up to the Acceptable Behaviour Contract stage in interventions.

#### 16.7. MI13 Forms (Receiving Information):

MI13s are used to present the evidence to a civil OR criminal court when applying for:

1. An antisocial behaviour order.
2. An eviction on the grounds of antisocial behaviour.
3. An eviction on the grounds of a conviction for an offence punishable by imprisonment.
4. An eviction on the grounds of a conviction for using or allowing a house to be used for illegal or immoral purpose.
5. Consideration of a criminal (CR)ASBO as part of a sentence to a relevant conviction at the criminal court.

### GLOSSARY TO THE PROTOCOL SECTION - APPENDIX A

**Core Group Monitoring List:** A register specific to a project where personal information is shared logging information in relation to antisocial behaviour being committed by individuals.

**Agencies/Partners/Organisation:** Those signatories party to this Protocol.

**Aggregate Data:** Data that consists of statistics of events forming a trend or pattern but from which it is not possible to identify individuals.

**Antisocial Behaviour:** Acting in a manner or pursuing a course of conduct that causes or is likely to cause alarm or distress to at least one person who is not of the same household as the person engaging in the behaviour.

**Audit trail:** A process of collating information of antisocial behaviour incidents from lawful sources to identify the possible course of action to prevent further antisocial behaviour.

**Bulk Transfer:** The disclosure of a quantity/set of identifiable personal data, for the purpose of a criminal investigation/crime and disorder/ antisocial behaviour initiative.

**Common Law:** A common law duty of confidentiality is owed to the public. This requires that personal information given for one purpose cannot be used for another, and places restrictions on the disclosure of that information. This duty can only be broken if the public interest requires it. Statutory provisions on disclosure override common law provisions.

**Consent:** Agreement, to an action based on knowledge of what that action involves, its likely consequences and the option of saying no.

**Express Consent:** Consent which is expressed orally, or in writing, (except where clients cannot write or speak, when other forms of communication may be sufficient).

**Data:** Essentially the same as "information" but tends to be information recorded in a form, which can be processed by equipment automatically (usually electronically), in response to specific instructions.

**Data in the Public Domain:** Any information which is publicly available, whether it relates to a living individual or not. For example, information found on the internet, television or court records,

**Controller:** Is the person who has the ultimate decision on the purposes for which, and the manner in which, 'personal data' is to be 'processed' holding, recording, retrieval, organisation and disclosure of data – it is a very wide concept.

**Data Protection Act 2018:** The implementation of the GDPR and law enforcement directive into UK Law.

**Data Sharing (exchange):** The physical exchange of data between one or more individuals or agencies; this is data recorded in an electronic or processing form. For example, this usually involves the transfer of a data set to a partner agency.

**Data Subject:** An individual who is the subject of personal data, data from which a living individual can be identified.

**De-personalised Data:** This is information where any reference to or means of identifying a living individual has been removed or "sanitised".

**Designated Officer:** A person nominated by the agency of sufficient standing, to process or initiate requests for personal information and data.

**GDPR:** General Data Protection Regulations

**Primary Designated Officer:** As Designated Officer, normally the most senior member of the information sharing party in the partnership.

**Formal Request:** A written request by the Designated Officer for personal information made to the information holder.

**Hot Spot Area's:** These are geographic areas of focus, where there is a disproportionately above average incidence of criminal activity and/or antisocial behaviour activity.

**Human Right Act 1998:** This Act requires public authorities to comply with Article 8 of the European Convention on Human Rights, amongst other human rights. Article 8 is the right to respect for private and family life. Interference with this right is justified only when it is in accordance with the law, and is necessary in pursuing a legitimate public interest in a proportionate manner.

**Indemnity:** Parties may seek to indemnify themselves against eventual legal action or litigation for compensation for damage or distress under the relevant legislation. As protocols are not legally binding documents it is wrong to assume that mention of an indemnity clause would place signatories beyond legal challenge. We have thus omitted an Indemnity clause in this model but it may be an option for an organisation.

**Information:** This is essentially the passing of knowledge from one party to another in the terms of this Protocol.

**Intelligence:** This is the end product of a process by which that information is checked and compared with other information and is then used to inform decision-making.

**Mapping:** This is the process of combining data resources and the use of different types of data, to create a more accurate or clear picture of what is going on in the area.

**Non-Personal Information:** Any information which does not or cannot be used to establish the identity of a living individual.

**Personal Information:** Information which relates to a living individual who can be identified from the data or any other information which is in the possession of the data controller.

Primary Data Officers List

Scottish Borders Council	As per Departmental Arrangements
Eildon Housing Association	Housing Services Manager
Berwickshire Housing Association	Housing Services Manager
Waverley Housing	Housing Services Manager
Scottish Borders Housing Association	Customer Services Manager
Victim Support Scottish Borders	Locality Service Co-ordinator
NHS Borders	Physical Safety Lead
Police Scotland	Area Commander or Designate
Link Housing	Data Protection Officer

The signatories to the Protocol manual are aware of the organisational responsibilities and partnership responsibilities as contained within the Terms of Reference for the Antisocial Behaviour Partnership Working Group (ASBPWG)

ORGANISATION	Name	Signature	Date
SBC	Graham Jones		
Eildon Housing Association	Hilary Scott		
BHA	Julie Riley		
Waverley Housing	Lenore Suddon		
SBHA	Gill Binnie		
VSSB	Karen Lawson		
NHS Borders	Sue Kean		
Police Scotland	Supt Angus MacInnes		
Link Housing	Gary Dougal		

(Appendix 1 MI11)



**REQUEST FOR DISCLOSURE OF INFORMATION UNDER  
SECTION 139 ANTISOCIAL BEHAVIOUR ETC (SCOTLAND) ACT  
2004 HOUSING (SCOTLAND) ACT 1987 AND HOUSING  
(SCOTLAND) ACT 2001**

To: The Chief Constable  
Police Service of Scotland

From: (Legal Representative)

1. Name Of Subject	
2. Date Of Birth Of Subject	
3. Address Of Subject	
4. Pre Disclosure/Full Disclosure (If full disclosure stipulate why, solicitor in case and date case calling in court)	
5. Enquiry With Other Agencies & Departments (See guidance notes)	
6. Please note that we are considering taking the following action in respect of the allegations set out in this request (please tick the appropriate box)	
a) An eviction order on the grounds of anti-social behaviour.	<input type="checkbox"/>
b) An eviction order on the grounds of a conviction for using or allowing a house to be used for illegal or immoral purposes.	<input type="checkbox"/>
c) An eviction order on the grounds of a conviction for an offence punishable by imprisonment.	<input type="checkbox"/>
d) An application for an anti-social behaviour order in terms of Section 19 of the Crime and Disorder Act 1998.	<input type="checkbox"/>

7. Incident Dates	From:	To:
8. Details of allegations against the subject (or offences committed)		
9. Details of other information held by you in respect of the following types of acts or behaviour by the subject (which are directly linked to the allegations on which we will rely)		
<p><b>I CERTIFY THAT THE DATA IS REQUIRED FOR THE REASON STATED ABOVE.  I UNDERSTAND THAT IF ANY INFORMATION ON THIS FORM IS OMITTED OR WRONG I MAY  BE COMMITTING AN OFFENCE UNDER SECTION 55 OF THE DATA PROTECTION ACT, 1998</b></p>		

Designated Officer

Date

Name In Block Capitals

Pre Disclosure Authorised

(Inspector) Date

# NOTES FOR COMPLETION OF PROTOCOL REQUEST FORM FOR POLICE INFORMATION IN SUPPORT OF LEGAL ACTION

**ALL FORMS MUST BE COMPLETED IN TYPED FORMAT.**

**A DESIGNATED OFFICER MUST SIGN AND PRINT THEIR NAME ON ALL FORMS**

## **Address**

At the top of the page please complete your office address in full.

## **Box 1 - Name of Subject**

You should complete the name of the individual for which the department requires information. A separate form should be completed for each individual when requesting.

## **Box 2 - Date of birth of subject**

The date of birth of the individual should be inserted in this box. If you know only an approximate date then please state this. This is particularly important when family members have the same name eg a father and son. If you do not know the date of birth then it may prove more difficult to trace relevant information.

## **Box 3 - Address of individual**

If you know the home address of the individual then this should be inserted in this box. Do not put the locality of the offence in this box unless that is the individual's home address. That information should be given later on in the form. If you are not sure whether the address is correct you should say so in this box. You should also state any other information you know i.e. if it is a temporary address or only care of etc.

## **Box 4 – Disclosure type**

State which form of disclosure is required. In most cases this will be a pre disclosure (MI12) for confirmation of incidents etc. A full disclosure (MI13) will only be issued immediately prior to court proceedings commencing and must be requested by a solicitor. This enables the most up to date information to be led in court

## **Box 5 – Enquiry with other agencies**

Here you should state what additional enquiry has been carried out. If the individual is a juvenile then Children and Families should be consulted. If there is a suggestion of mental health issues then consideration should be given to making contact with the individual's GP. This consultation can allow objections, which may be raised in later court proceedings to be addressed at an early stage.

## **Box 6 – Incident Dates**

In here you should state how long you wish the police to search their records. For pre disclosures information will be provided going back up to six months. A disclosure prepared for court purposes will go back up to 18 months but can be increased dependant on circumstances. However, you should state the period over which you require searched. In working out the period required you should look at the dates of the allegations, which have been reported to you. Obviously if you request a longer search period than is necessary this may result in a delay.

## **Box 7 - details of allegation**

This information should include details of all the allegations made giving details of where the action complained about took place, dates or approximate dates and the nature of the acts complained about. All information should be given in date order. This is also your justification for your request and should demonstrate that you have grounds to make the request. Generic request forms are not acceptable and each form must be completed on a case-by-case basis.

## **Box 8 - other related information**

In this box you can request details of other offences/allegations about which you may not know the specific details but which would be helpful to the court action. For example if the allegations made against the individual concern noise nuisance or drug related activities then you should specifically ask for any other relevant information of this nature. Only relevant information will be disclosed.

**Designated officers**

Each housing office will appoint two designated officers who, along with the solicitors who are designated officers, are authorised to sign this form. They are responsible for ensuring that the forms are properly completed. The Police Service of Scotland currently has named designated officers who have responsibility for processing your requests.

**Authorisation**

In instances where a pre disclosure is required, the form must be sent to the relevant Station Inspector to authorise the release of the information.

RESERVED

RESERVED

# HOUSING PERSONS KNOWN FOR ANTISOCIAL BEHAVIOUR - 2e

## 1. INTRODUCTION

- 1.1 The purpose of this section is to outline the procedures that can be used to have a pre-housing allocation check for any of the partnerships housing providers to try and ensure that there is a trouble free tenancy and also minimise any potential risks to the community.

## 2. WHAT IS THE PURPOSE OF THIS SECTION?

- To minimise the risk of an inappropriate allocation of a property in relation to a person who has a history of antisocial behaviour
  - To ensure that where a high risk person is being housed that the appropriate checks are carried out and the support needed to try and sustain the tenancy is put in place
  - To have consistency from the partnership housing providers when allocating property
  - To outline what check can be completed and how to share the information
- 2.1 All agencies that sign the Policies and Procedures agree to assist and share information within the terms of this section. Those are (in particular):
- Police Scotland
  - Four main Registered Social Landlords (RSLs)
  - Scottish Borders Council's Homeless Service and ASBU
- 2.2 It needs to be emphasised that the checks being completed can only minimise any risks posed, it will not eliminate risk entirely, However if checks are done for all cases, this will provide the consistency required. This however will be a decision for the Housing Provider to make.
- 2.3 When the ASBU conduct the checks, the reply will be on the basis of the known ASB. Any decision to bypass any allocation is entirely a decision for the housing provider.

## 3. PARTNERSHIP HOUSING PROVIDERS

- 3.1 When requesting a check please use the appropriate form that is appendix 1 to this instruction, the form explains what checks are carried and how the response is graded.
- 3.2 This section is to facilitate a working practice for the exchange of information for known ASB offenders; it does not supersede the Information Sharing Protocol.
- 3.3 If there is a multi-agency case conference required, the relevant landlord will be responsible for organising this.
- 3.4 Section 5 referrals will probably make up the majority of requests; however, Homeless Services have the opportunity to check on anyone they think may pose any risks in respect to ASB, prior to this.
- 3.5 The information requests by the Homeless Service to the ASBU will, in turn, allow the Homeless Service to alert the appropriate RSL receiving their Section 5 referral about any offending history or patterns of behaviour; they have permission within the context of these P&P to share the information with the respective RSL.
- 3.6 All requests should be sent by email, however for emergency situations a phone call will be sufficed as long as a formal request follows.
- 3.7 For persons presenting from outside of the Scottish Borders area it will be necessary for a check to be made with Police Scotland. Police Scotland will not normally be involved for anyone who resides within the Scottish Borders.

- 3.8 All information requests should be sent to [asbu@scotborders.gcsx.gov.uk](mailto:asbu@scotborders.gcsx.gov.uk).
- 3.9 Replies to information requests will, in most cases, be answered in the same day. However, this is not a guarantee and out of area checks may take 2–3 days as information is requested from Police Scotland.
- 3.10 If an RSL houses a person who is the subject of a current ASBO, or if they have a tenant who is made the subject of a full ASBO during their tenancy with them, then the RSL may wish to consider making that person the subject of a Scottish Short Secure Tenancy (SSST).
- 3.11 The partnership housing providers agree to co-operate in the spirit of this memorandum and ensure that, if information is known about the offending history of an individual awaiting allocation, it is shared.

#### **4. RISK MATRIX INDICATORS**

- 4.1 To interpret the level of risks involved when dealing with a person who is going to be provided with accommodation the ASBU will apply the following risk classifications when replying to any requests:

RED High risk: Multi agency case conference and full risk assessment required before any placement is considered

AMBER Medium Risk: Multi agency settling in/sign up required with a general area risk assessment.

GREEN No risks currently known for this person in relation to ASB

#### **5. INFORMATION SHARING**

- 5.1 Sharing information can happen in several ways, for example:

- Homeless Services - It is recognised that because of the quick moving dynamics that are sometimes involved when Homeless Services are required to find immediate temporary accommodation, in a few emergency Homeless Service presentations there may not always be time to carry out a full assessment. It may also be the case that some presentations may take place out of normal officer hours when a full risk assessment cannot be done. However, the opportunity to assess emergency allocation of immediate temporary housing, or any allocations made out of normal office hours, should be considered as soon as it is practicable to do so
- If at all possible, if someone is on a housing partners' monitoring list and they move, a forwarding address should be sent to the ASBU

- 5.2 Information will be shared by secure email or encrypted data.

- 5.3 It must be understood that checks made are completed with the information available at the time. It is entirely possible for someone to have a significant history of offending but not known to the ASBU for antisocial behaviour.

- 5.4 The ASBU will not be involved in any bypass/allocation disputes, this will be entirely for the relevant housing providers.

#### **6. HOUSING ANTISOCIAL OFFENDERS**

(Possible routes into housing by antisocial offenders)

- 6.1 The checks carried out by the ASBU will vary in time however, in line with Data Protection Document Management Guidance, it may mean that someone who has a fairly historical record of ASB may not be highlighted as a problem as the ASBU simply do not retain that information any more.

#### **7. THE ROLE OF THE RESPONSIBLE AUTHORITIES (ASBU)**

- 7.1 The Responsible Authorities will provide the response to housing antisocial offenders on behalf of Scottish Borders Council.

## 7.2 The Responsible Authorities will:

- Be a point of contact for any partner agency to liaise with whenever they are considering housing an identified antisocial offender
- Hold all appropriate information centrally about antisocial offenders to assist with future allocation issues relative to housing known antisocial offenders
- Provide information to all RSLs and Homeless Services when an antisocial offender is being considered for a housing allocation, whether that be into temporary homeless or into permanent accommodation so that inappropriate housing allocations are minimised
- Contribute and attend any professional meetings or multi agency case conferences about an antisocial offender
- Provide all partner agencies with a copy of all ASBOs granted within the Scottish Borders

## 8. THE ROLE OF HOMELESS SERVICES OR RSL HOUSING OFFICERS

8.1 Homeless Services, RSL Housing Officers, Estates Officers and Support Officers will at the Housing offer stage:

- Check their own records for history of ASB
- Check with the ASBU for a flag through the RAG system
- Make an assessment based on the information available

## 9. EVICTION ACTION TO END THE TENANCY OF AN ANTISOCIAL OFFENDER

9.1 Good practice would be to conduct a full multi- agency case conference prior to proceedings so that, again, all information relevant to the pattern of behaviour is exchanged and potential future allocation, whether temporary or private, can be taken into consideration.

9.2 If eviction action is taking place because of antisocial behaviour, the information to be used can be requested on a formal MI11 request for to Police Scotland.

9.3 ASBO Breaches – If a person breaches the terms of their ASBO the ASBU will advise that person's housing regarding the terms of that breach.

9.4 Antisocial offender or a person on a current ASBO living within a property but is not the tenant – When the Responsible Authorities become aware that an antisocial offender or a person on a current ASBO is living in a housing partnership property they will ensure that the appropriate agency, including Homeless Services, RSLs, or the Private Landlord, are made aware of this.

**(Appendix 1 to Part 2e Rehousing known ASB offenders)  
HOUSING ASSOCIATION/HOMELESS PRE-ALLOCATION CHECK WITH ASBU**

**ORGANISATION** \_\_\_\_\_

**OFFICER NAME** \_\_\_\_\_

**NAME** \_\_\_\_\_

**ADDRESS** \_\_\_\_\_

**DOB** \_\_\_\_\_

Notes:

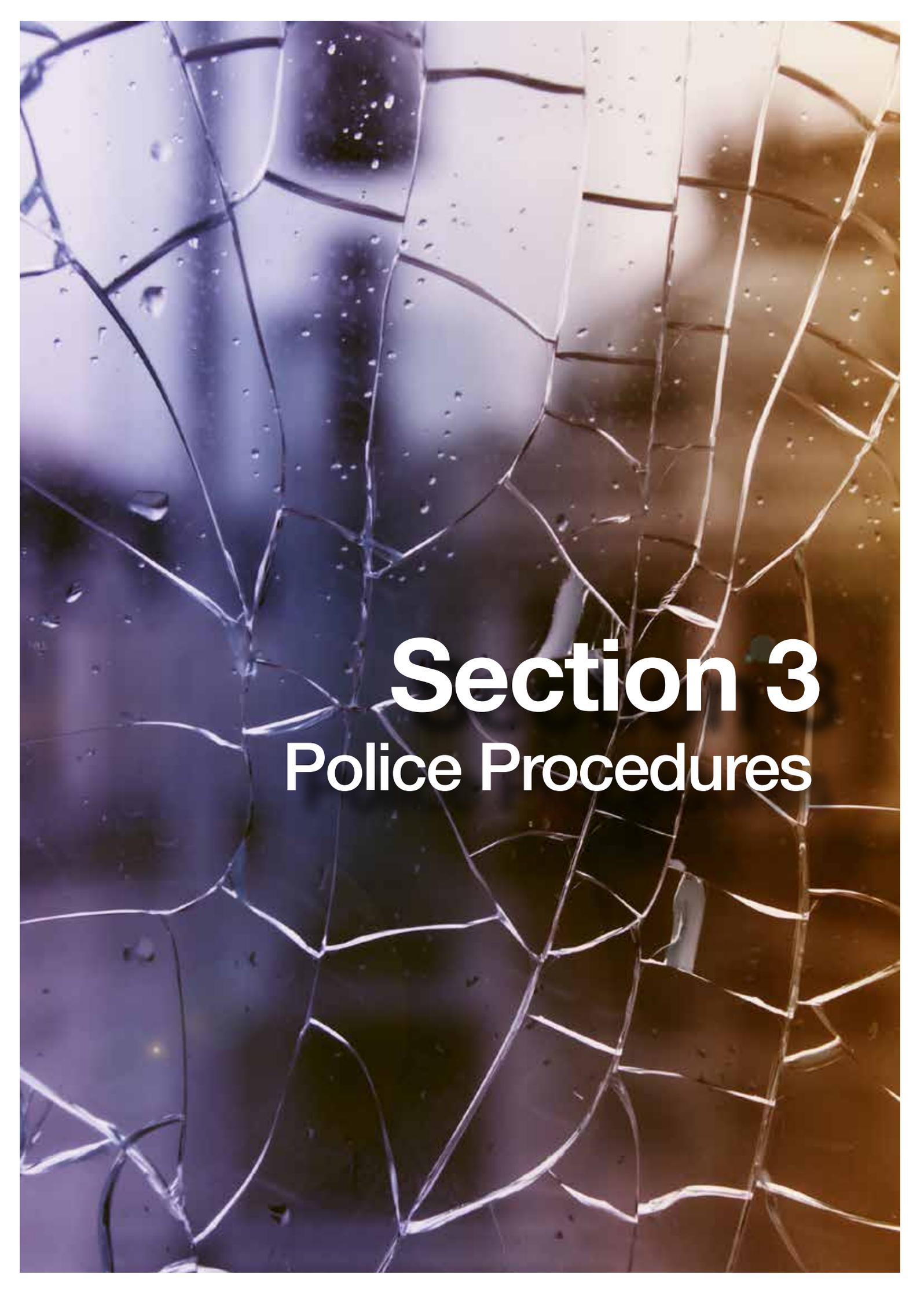
PREVIOUS CONTACT	
CURRENT CONTACT	
POLICE INFO (Only checked for out of Borders area placements)	
TRAFFIC LIGHT CATEGORY	<input type="checkbox"/> Red <input type="checkbox"/> Amber <input type="checkbox"/> Green

Checks that have been carried out: Monitoring List/ASBU Complaints Log/Party House Letters.

**Red - High risk, multi - agency case conference and full risk assessment required before any placement is considered.**

**Amber – Medium Risk – Multi agency settling in/sign up required with a general area risk assessment.**

**Green – No risks currently known for this person in relation to ASB**



# **Section 3**

## **Police Procedures**

# POLICE PROCEDURES IN RELATION TO ANTISOCIAL BEHAVIOUR

## INTRODUCTION

Within the Scottish Borders there is a locally based team who have responsibility for tackling Antisocial Behaviour. This team is made up of two parts - Police Scotland and the Antisocial Behaviour Unit (ASBU). Both these departments (and others) are co-located, within Scottish Borders Council (SBC) Headquarters, Newtown St. Boswells, TD6 0SA.

Initially this may appear to be a relatively small unit, however both these departments have wider links with various recognised partner agencies, who work collaboratively when called upon to tackle various aspects of Antisocial Behaviour.

This part of the manual intends to set out the role and duties to be carried out by Police Scotland in the context of antisocial behaviour at a local level within the Scottish Borders. These procedures should be read in conjunction with the ASB Operating Procedure for Police Scotland and within the context of the legislation outlined in the Antisocial Behaviour etc. (Scotland) Act 2004.

### **Police Scotland**

Within SBC sits an Information and Statistics Officer (ISO), they can be contacted on 01835 825940 or emailed on [LothianscotbordersscotbordersASB@scotland.pnn.police.uk](mailto:LothianscotbordersscotbordersASB@scotland.pnn.police.uk).

They are part of the Local Area Commander Support Unit. As part of their remit they can access Community Beat Officers, Youth Community Officers, Community Action Team, Roads Policing, Public Protection Unit, Domestic Abuse Liaison Officer and others.

### **Antisocial Behaviour Unit**

Within SBC, this team has a Senior ASB Officer, an ASB Officer and a Mediator. The team can be contacted on [ASBU@scotborders.gcsx.gov.uk](mailto:ASBU@scotborders.gcsx.gov.uk).

They can access other partner agencies and internal departments

### **Partnership Analyst**

Partnership Analyst is employed by SBC but carries out statistical analysis for SBC, Scottish Fire and Rescue Service, Health, RSL's and many more.

## CORE DUTIES

Police Scotland deal with all criminal behaviour as normal practice, however in relation to repeated criminal behaviour and non-offending antisocial behaviour, there will be particular focus on:

- How the police deal with non-criminal antisocial behaviour
- The mechanisms for recording and sharing information
- The methods used to intervene in existing antisocial behaviour cases

All officers will have access to points of contact for various support agencies, such as the:

- Antisocial Behaviour Unit: [asbu@scotborders.gcsx.gov.uk](mailto:asbu@scotborders.gcsx.gov.uk)
- Victim Support: [VictimSupport.ScottishBorders@victimsupportscotland.org.uk](mailto:VictimSupport.ScottishBorders@victimsupportscotland.org.uk)
- Neighbourhood Dispute Resolution Service (Mediation): [mediation@scotborders.gcsx.gov.uk](mailto:mediation@scotborders.gcsx.gov.uk)
- Environmental Health: [PLACEhealth@scotborders.gov.uk](mailto:PLACEhealth@scotborders.gov.uk)

Points of contacts can be found within relevant sections within this manual.

All officers during the course of their work will respond to calls about antisocial behaviour. ASB can take the form of other crimes not necessarily associated initially with ASB, however through investigation and in the wider context these crimes could have an ASB element, such as Fire settings. Further examples can be found in Section 1e. Most of the partnership work is carried out by:

- **Community Beat Officers (CBOs)**

These Police Officers report to a Community Sergeant and an Area Inspector. Each officer has a designated beat (area) they are responsible for. CBOs should be a regular point of contact for the public and Housing Officers. They will be involved extensively with Face to Face meetings, arranging

Mediation, attending Acceptable Behaviour Contract meetings and any other ad hoc interventions arranged through the Antisocial Behaviour Unit

- **Youth Community Officers (YCO's)**

There are six officers, part commissioned by Scottish Borders Council. They work with children and young people within Nursery, Primary School, High Schools, and Further Education, and do this through identified multi-agency partnership working. One of their many remits is aiming to keep children safe, prevent from offending and divert them away from criminality or unsafe practices. Anyone who has a concern about children/young people can speak to the Local YCO

- **Response Officers**

These officers play a vital role in ASB, often being the first officers to attend any incidents and incidents of ASB. They deal with the situation at that given point but will liaise with CBO's, YCO's, ASBU and the ISO to make them aware of the situation for further action

- **Information and Statistics Officer (ISO)**

One staff member, who is a civilian employee, monitors police incidents on a daily basis, logs antisocial behaviour and is the main single point of contact when researching cases. This officer is also responsible for the management of Information Disclosure forms. Provides the majority of the information that determines the Core Group meeting (a tool used for identifying and monitoring ASB within the Scottish Borders). A representative from Police Scotland will attend the Core Group Meeting

- **Community Action Team (CAT)**

Community Action Team (CAT) - There are six Constables and one Sergeant, fully funded by Scottish Borders Council. They are tasked through the police Community Action team Member/Officer Strategic Oversight Group whom elected members make representation to about issues within their locality. The CAT Team will action emerging issues, seasonal issues and ongoing issues in each locality

## IDENTIFYING ASB INCIDENTS

The ISO reviews all police incidents for every day of the year, weekends and public holidays. They are responsible for identifying incidents that have an antisocial behaviour element to them and categorises them into a nationally accepted ASB Code (See section 1e to this manual). If an individual requires to be looked at in more detail by the ASBU and partners the individuals are highlighted as a case for discussion. The ISO is also responsible for providing daily updates to the Antisocial Behaviour Unit regarding persons that are being monitored. Creating a report based on the analysis of several months of incidents in order to identify recidivists and repeat addresses.<sup>1</sup>

A large number of properties are owned by Private Landlords. When a new Private Landlord registers with the Local Authority the ISO will research the case and share details of any relevant antisocial behaviour. This allows for an assessment to be made regarding that individual's status as a "fit and proper person".

This is continued into day to day operations and the ISO will highlight any future incidents that could alter the Private Landlord's status as a "fit and proper person" to the Private Landlord Registration Officer.

The ISO also acts as the link between the ASBU and Police Scotland, maintaining occurrence markers on addresses, recording intelligence and ensuring details of ASBOs are available and amended as required. Through this process it is also highly likely that "Hot Spots" can be identified early for multi-agency action.

## CORE GROUP

The Core Group meets every month and a list of attendees can be found at section 1d. From this meeting it is agreed what appropriate intervention is required and which agency will take this forward. There is representation from Police Scotland at this meeting. The interventions that the ASBU and Police Scotland can take forward are

<sup>1</sup> It is recognised that there are vulnerabilities within this process. It relies on researching names and these sometimes may be missed due to mis-spellings, variations of spelling of names or anonymous calls which cannot be attributed to any person, etc.

## INTERVENTIONS

The proven and evidenced way of reducing ASB is by intervening at the earliest opportunity, those interventions are listed within the Sections 12 to 14 of this manual, details on summaries below:

- **Party House Letter**  
If Police attend a noise complaint, and the level of noise is deemed excessive and corroborated by the Police the occupier will receive a warning letter. The Landlord will also be notified
- **Victim Support<sup>2</sup> and Mediation (refer to Sections 9 and 10 for more information)**  
The CBO's, YCO's and Response Officers are fully aware of the victim support and mediation services available as part of the early antisocial behaviour interventions and are encouraged to consider both when dealing with the initial complaints
- **Face to Face**  
As part of the local monitoring of antisocial behaviour, when an individual has contacted the police to report any crime or antisocial behaviour incident, their details are noted with any relevant information. Following six reports of an antisocial nature within six months all the incident are discussed at the Core Group meeting. Where a Face to Face is deemed appropriate, the ASBU organise this meeting and request the attendance of a CBO through the CBO Sergeant
- **ABC**  
From the Core Group meeting if it is deemed appropriate for an Acceptable Behaviour contract to be implemented again the ASBU organise this meeting and request the attendance of a CBO through the CBO Sergeant. The ABC is similar to an ASBO in that it formalises the behaviours that are unacceptable and requires the perpetrator to voluntarily sign the document to agree to desist from certain courses of conduct. This is not enforceable
- **ASBO**  
When an ASBO is considered, the ISO will ensure the ASBU has all relevant information to allow the most suitable "craves" (conditions) to be identified, and for police witnesses to be cited. If there are any subsequent amendments, cancellations or updates the ASBU will ensure the ISO is updated without delay. It should be noted that untimely delays could lead to unlawful arrest or complaints as the ASBO remains live until police records are updated

When an ASBO is breached, the ISO will share this information with the ASBU in the normal manner.

It should be noted that the ASBO process is civil. Police may also initiate a Criminal ASBO (CRASBO) and this is completed on their behalf by the ASBU. A CRASBO is similar to an ASBO the only difference being the behaviour is criminal as opposed to antisocial for example fighting, possession of weapons, urinating, etc.

- **Monitoring**  
When an ASBO is granted, the relevant paperwork is sent by the court to the ISO. The ISO will then update the police records department and details will be placed on the Police National Computer. The details will also be circulated locally (within Scottish Borders local command area)
- **CRASBO**  
Details of these are contained in the Police Scotland Antisocial Behaviour Standard Operating Procedure and in the Antisocial Behaviour etc. (Scotland) Act 2004
- **Dispersal Order**  
Details of these are contained in the Police Scotland Antisocial Behaviour Standard Operating Procedure and in the Antisocial Behaviour, etc. (Scotland) Act 2004

<sup>2</sup> Victim Support: They are aware that consent is required from the complainers and others involved, prior to the disclosure of any relevant information, and are aware of the contact details.

- **Closure Order**  
Details of these are contained in the Police Scotland Antisocial Behaviour Standard Operating Procedure and in the Antisocial Behaviour etc. (Scotland) Act 2004
- **Antisocial Driving**  
There is specific legislation for antisocial driving. Details of these are contained in the Police Scotland Antisocial Behaviour Standard Operating Procedure and in the Antisocial Behaviour etc. (Scotland) Act 2004

### **TIMESCALES FOR RESPONSE**

On receipt of a request for information from any partner organisation involved in the local strategy for dealing with antisocial behaviour, Police Scotland will endeavour to respond within 28 days of the request.

Invariably the response is usually within a few days of the request. Communications containing restricted information such as Mi12 and Mi13 reports will be transmitted to a secure e-mail address. Should this be unavailable then the reports can be collected when ready from the ISO or, if it is a routine enquiry, can be hand delivered at the monthly Core Group meeting for antisocial behaviour as detailed by the Information Sharing Protocol.

### **MANAGEMENT INFORMATION - Mi11, Mi12 and Mi13 REPORTS**

Police Scotland forms Mi11, Mi12 and Mi13 refer to the labelling number used to identify the correct forms to request and provide information disclosed under the Antisocial Behaviour (Scotland Act) 2004:

- **MI11**  
Is a two page document on page 37 with associated guidance on its completion. The form details the individual, their address, the nature of the complaint, any enquiries carried out and the detail of the information sought from the police. The MI11 form can be submitted by any organisation which is part of the local strategy for dealing with antisocial behaviour and part of the local information sharing protocol. The MI11 is submitted to ISO and the subsequent MI12 or MI13 three page report is sent in reply. The MI11 is submitted to the ASBU and the subsequent Mi12 or Mi13 three page report is sent in reply
- **Mi12 and Mi13**  
These reports are very similar and contain similar information. They are split into three parts:
  - o Part A details information, which has resulted in a criminal charge against the subject of the report. This information is sub-judice, i.e. the case is still going through the criminal court process. The subject at this point has not been convicted of the crime and is only alleged to have been involved in its commission. The information contained in this part of the report is of limited use to partner agencies particularly with reference to bullet points 3 and 4 below
  - o Part B details any relevant antisocial convictions, the date and court where the subject was convicted and any sentence given
  - o Part C details any non-offending behaviour, which has been assessed, has a relevant antisocial element, but has not resulted in any charges being labelled

MI12s are used to collate information and to build up the antisocial case against a subject.

MI13s are used to present the evidence to a civil OR criminal court when applying for:

- An antisocial behaviour order under the Crime and Disorder Act 1998
- An eviction on the grounds of antisocial behaviour
- An eviction on the grounds of a conviction for an offence punishable by imprisonment
- An eviction on the grounds of a conviction for using or allowing a house to be used for illegal or immoral purpose
- Consideration of a criminal (CR)ASBO as part of a sentence to a relevant conviction at the criminal court

Any person already subject to the intervention processes will be highlighted to the Antisocial Behaviour Unit (ASBU) using the MI11/MI12/MI13 process. This same process can also be used to share information with Registered Social Landlords (RSLs) and is also used when research for new cases is required.

All individuals are allocated a unique reference number, and each disclosure is allocated a unique reference number. Administration in relation to this process is stored electronically and held under Police Scotland Data Control in regards to collation, storage, retention and destruction. This is in line with GDPR in order to manage the sharing of information.

## **REPEAT CALLERS**

This can be divided into 5 main categories:

- Organisations or agencies: These can be businesses, shops or other organisations such as schools or hospitals, which we fully expect to call on a regular basis
- Repeat informants: These are people who contact the police on a regular basis to report incidents and provide information. Usually they would not be described as victims. Care should be taken not to dismiss reports as trivia as history shows that in amongst seemingly minor matters, there can be information containing substance
- Repeat victims: These are people who have genuine complaints of incidents/conduct causing an adverse effect on their quality of life. These may be of a “low level” and not necessarily recorded, so the individual may not be identified as in need of additional support
- Vulnerable persons: These are persons whose situation makes them more vulnerable to harm. They may contact the police for a variety of reasons, not always police related e.g. individuals with an impairment. Repeat victims of crime may also fall into this category. Time needs to be taken to correctly identify vulnerable persons at the earliest opportunity
- Nuisance callers: These are people intentionally calling to disrupt services. It should remember that nuisance callers may also be in need of support

## **REPEAT VICTIM**

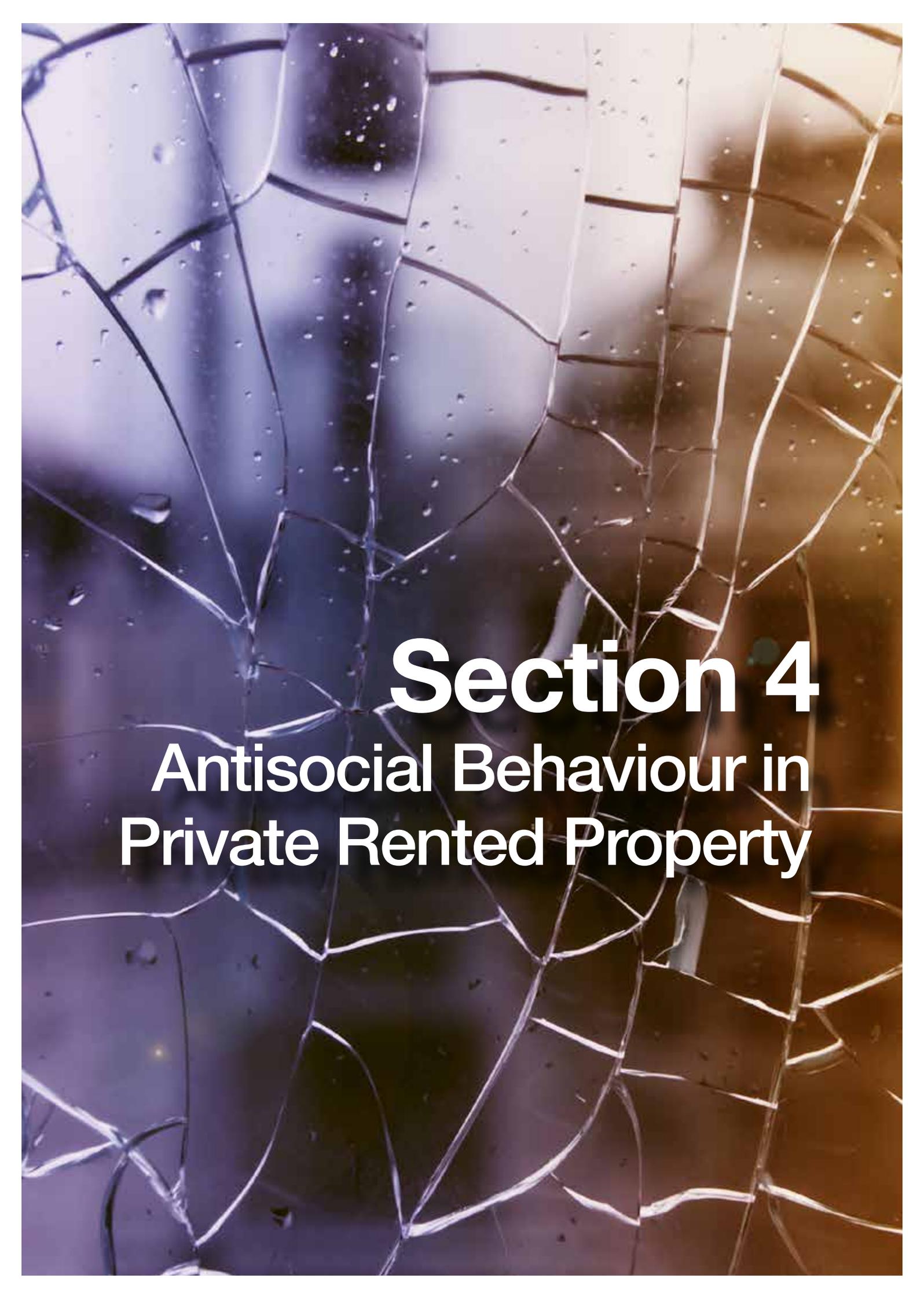
The methodology adopted locally within Scottish Borders is to identify persons/organisations referred to as “repeat victims” from the above criteria, who have called the police on at least 3 occasions over the course of 12 months. Once the “repeat victim” criteria is met, and a further call from that source is received, an assessment is made on the nature of all the calls to ensure that it is appropriate to class them as repeat victims of crime or antisocial behaviour.

A report containing the relevant information is generated and sent to the relevant Policing Area where the caller resides.

There is an expectation thereafter, that the relevant Inspector will retain ownership of these cases and that community officers will contact the individuals. Although not exhaustive the officers will:

- discuss the cases with the victim to ensure that all the information regarding their complaint has been recorded
- ensure appropriate referrals are made to appropriate partner agencies/third sector
- give advice on other supports that are available and if deemed necessary act as a single point of contact for that victim
- manage the case at a local level, ensuring all relevant parties are fully updated

Any further calls from the same individual will also be forwarded on to the community officers for their attention and action.

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# **Section 4**

## **Antisocial Behaviour in Private Rented Property**

## ANTISOCIAL BEHAVIOUR IN PRIVATE RENTED PROPERTY - 4a

[privatelandlordregistration@scotborders.gov.uk](mailto:privatelandlordregistration@scotborders.gov.uk)

0300 100 1800

This section of the procedures focus on the Private Landlords and their tenants. For practical reasons, guidance and assistance for Private Landlords will come from either the ASBU or the Private Landlord Registration Team.

Private Landlords have a duty under the terms of the legislation to deal with incidents of antisocial behaviour if it is their tenant. If anyone in the ASB partnership becomes aware that a Private Landlord is either failing or refusing to take appropriate action in order to try and resolve an issue of antisocial behaviour involving their tenants, they should direct their concerns to the Antisocial Behaviour Unit (ASBU). This may result in the Council making use of the provisions of Part 7 of the Antisocial Behaviour etc. (Scotland) Act. (For more information visit the website.) including:

- Orders as to rent payable
- Management Control Orders
- Action at the expense of the Landlord

The details of these are contained in the Scottish Government's Guidance on the use of Part 7 of the 2004 Act. Private Landlords will be directed to this part of the act to make them aware of their obligations. Landlords will also be made aware that it is a criminal offence to fail to act as instructed under the terms of an ASBN issued on them by the Local Authority.

[www.gov.scot/Publications/2004/10/20146/45685](http://www.gov.scot/Publications/2004/10/20146/45685)

The Council's ASBU monitors all ASB cases in regard to Private Landlords.

### RECEIVING COMPLAINTS

If a complaint is received that has a known private landlord, the ASBU will contact the landlord to alert them to the fact that a complaint has been received and is being investigate. Should a case progress to formal action, the landlord will be made aware of what action is being taken. At the same time, it is expected that the landlord will also take their own measures to address the situation.

### Antisocial Behaviour Orders

A Private Landlord will be notified about the ASBO if it is their tenant, the landlord will have the right to convert that tenancy to a SSST and evict for breach of ASBO. Guidance will be given by the ASBU.

Further information on grounds for eviction can be found on the following link:

<https://www.gov.scot/publications/private-residential-tenancies-tenants-guide/pages/grounds-for-eviction/>

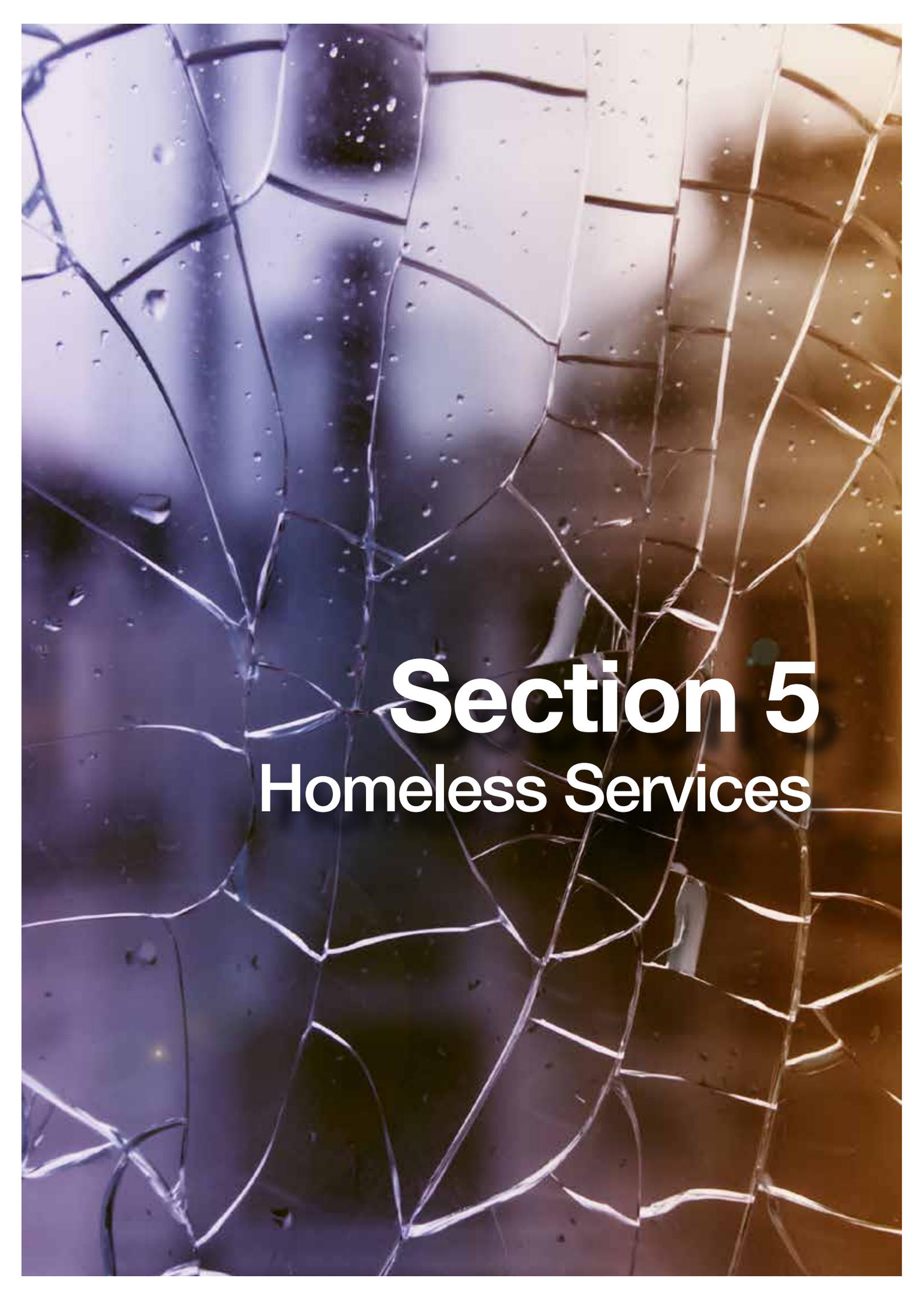
### ANTISOCIAL BEHAVIOUR OWNER OCCUPIERS

Owner occupiers will be subject to the same regulations as anyone else in the Scottish Borders. What is different from rented property is that there is no power to evict at any stage of the process, that said, all other powers and interventions may be applied.

If an RSL has a property that is complaining about ASB from an owner occupier, the ASBU will be the lead agency, however if an owner occupier is complaining about an RSL property the RSL will be the lead agency. The reasoning behind this is that any ASB sanctions should rest with the agency that has the power to enforce such action.

If an RSL receives a complaint from their tenant about an owner occupier, it is still necessary for them to have logged the complaint with as much detail as possible and then pass it over to the ASBU to follow up. The ASBU will do the same if it is a Private/Owner complaining about an RSL property.

All other procedures are covered under the relevant section within this manual.

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# Section 5

## Homeless Services

## **Homeless Services Property Service Team**

### **Antisocial Behaviour Procedure.**

At the point of referral for Temporary Accommodation, SBC Homelessness Service will provide details of the potential tenant and property(s) to the ASBU for feedback on whether any previous Anti-Social Behaviour has occurred, if so the level of concern and whether the property is a suitable offer of accommodation.

If the ASBU flag any areas of concern which make the offer of accommodation unsuitable Property Service Team will look at an alternative offer. If there are areas of concern but the accommodation is suitable The Housing Officer will arrange a joint visit with ASBU, within 10 working days of tenancy commencement, to advise the client on their responsibilities as detailed within the tenancy agreement to prevent any Anti-Social Behaviour issues from arising.

#### **Initial Report of Anti-Social Behaviour:**

- o Housing Officer will take any telephone complaints on a case by case basis in the short-term. Property Service Manager to assist with these should the Housing Officer require support
- o The Housing Officer should offer complainant Anti-Social Behaviour recording sheets and a referral to Victim Support Service. At this point, the possibility of Mediation can also be explored. If the complaint is a noise complaint, a standard RIPSAs letter should also be posted to the alleged perpetrator
- o The Housing Officer should notify ASBU of complaint particularly when previous Anti-Social Behaviour issues have been flagged
- o Depending on severity of complaints the Housing Officer will write to client providing warning of behaviour utilising standard first warning letter (Appendix 1). If this is particularly severe this should be a home visit (possible joint visit where potential risks are identified). All communications should be recorded on HL1 and the notes of North gate
- o Housing Officer should notify Social Work of any concerns relating to the behaviour (e.g. Child protection, Adults at risk etc.) Housing Officer should also notify other involved or relevant agencies of any issues/risks (e.g. addictions/mental health /animal welfare)
- o Housing Officer should offer tenant support, if this is not in place already to provide advice and assistance on developing tenancy skills to alleviate the risk of further Anti-Social Behaviour issues

#### **Following second report of Anti-Social Behaviour:**

- o Housing Officer to obtain details on nature of complaint and explain the process relating to this (i.e. Manage expectation on not being able to remove tenant with immediate effect) and encourage further calls should the Anti-Social Behaviour continue
- o Housing Officer should offer complainant Anti-Social Behaviour recording sheets and referral to Victim Support Service. At this point, the possibility of Mediation can also be explored
- o Housing Officer should notify ASBU of complaint
- o Housing Officer to advise relevant RSL and offer joint visit with RSL and ASBU
- o Housing Officer to hand deliver final warning letter (Appendix 2) and discuss the issues with the tenant with safer communities team input – discuss the nature of complaint and determine if there is action we can do to reduce the risk of a repeat (e.g. – support referral, move accommodation etc.) Make tenant aware of consequences of any further breach of the tenancy and that this is a final warning. Highlight event of breach as per occupancy agreement

#### **Following 3rd report of Anti-Social Behaviour:**

- o Housing Officer should notify ASBU of complaint particularly when previous Anti-Social Behaviour issues have been flagged
- o Housing Officer should offer complainant Anti-Social Behaviour recording sheets and referral to Victim Support Service
- o Joint visit with colleague. Offer of alternative accommodation if appropriate. Advise of further complaints – provide further letter advising of breach of tenancy following previous final warning
- o If offer of alternative accommodation is refuse, then officer will advise tenant that the expectation is they will leave the accommodation and will be provided with 14 days' notice as per lease agreement
- o Send initial 14 days' notice letter (Appendix 3)
- o Advise legal team of notice requirement and provide relevant paperwork to legal services – Should this be to enforce move to alternative accommodation or removal from temporary accommodation or does this depend on circumstances?

**Insert name – head of,  
Regulatory Services**

*Please ask for:*

*Tel:* 01835865180

*Email:* [homelessnessservices@scotborders.gov.uk](mailto:homelessnessservices@scotborders.gov.uk)

*Our Ref:*

*Your Ref:*

*Date:*

**RE.**

**Dear** ,

I write in regards to the above temporary accommodation address of which you are tenant.

We have received complaints, from neighbours within the surrounding area of the temporary accommodation of . This is in direct breach of your lease which you have signed on . In particular your actions breach section of this occupancy agreement. I would draw your attention to this section highlighting the relevant areas:

Given these reports I would conclude you are in breach of your lease. I would also highlight section sixteen within the occupancy agreement:

**16. I understand that I shall be held to be in breach of this lease if I or those living with me or my visitors do anything which is prohibited. In the event of a breach I may be subject to any action deemed necessary by the Council, including a notice to terminate or a transfer to different temporary accommodation.**

In resolving these issues I would advise you to . Should you fail to resolve these issues and we receive further complaints of this nature we would have to take action to move you to alternative accommodation; which could be anywhere in the Scottish Borders area; or remove you from temporary accommodation.

If you have any questions regarding this letter please do not hesitate to contact me at the Galashiels office on 01896 661385.

**Yours sincerely**

**Housing Officer  
Homelessness Service**

(  
Appendix 2 to Section 5

**Insert Name Head of,  
Regulatory Services**

*Please ask for:*

*Tel:* 01835865180

*Email:* [homelessnessservices@scotborders.gov.uk](mailto:homelessnessservices@scotborders.gov.uk)

*Our Ref:*

*Your Ref:*

*Date:*

**\*\*Hand Delivered\*\***

**RE.**

**Dear** ,

I write again in regards to the above temporary accommodation address of which you are tenant.

We have received further complaints, from neighbours within the surrounding area of the temporary accommodation of . This is again in direct breach of your lease which you signed on . In particular your actions breach section(s) of this occupancy agreement. I would draw your attention to this/these section(s) highlighting the relevant areas:

Given these reports I would conclude you are in breach of your lease. I would also highlight section sixteen within the occupancy agreement:

**16. I understand that I shall be held to be in breach of this lease if I or those living with me or my visitors do anything which is prohibited. In the event of a breach I may be subject to any action deemed necessary by the Council, including a notice to terminate or a transfer to different temporary accommodation.**

In resolving these issues I would advise you to .

I am aware that the service has previously received complaints in relation to your stay within this temporary accommodation and as such any further complaints of this nature we would have to take action to move you to alternative accommodation; which could be anywhere in the Scottish Borders area; or remove you from temporary accommodation.

If you have any questions regarding this letter please do not hesitate to contact me at the Galashiels office on 01896 661385.

**Yours sincerely**

**Housing Officer  
Homelessness Service**

***Please ask  
for:***

***Our Ref:***

***Your Ref:***

***E-Mail:*** [homelessnessservices@scotborders.gov.uk](mailto:homelessnessservices@scotborders.gov.uk)

***Date:***

**Dear**

**Re: Notice to leave (address)**

I write to you in relation to your temporary accommodation at the above address.

Due to (reasons for ending accommodation – breach of lease/SBC duty met, etc), Scottish Borders Council Homelessness Service have met their duty in the provision of homelessness temporary accommodation.

I hereby give you 21 days' notice from the date of this letter to remove yourself and your belongings from the property at (Address).

In accordance with this notice it is expected that you will leave the accommodation on or before (date client to leave).

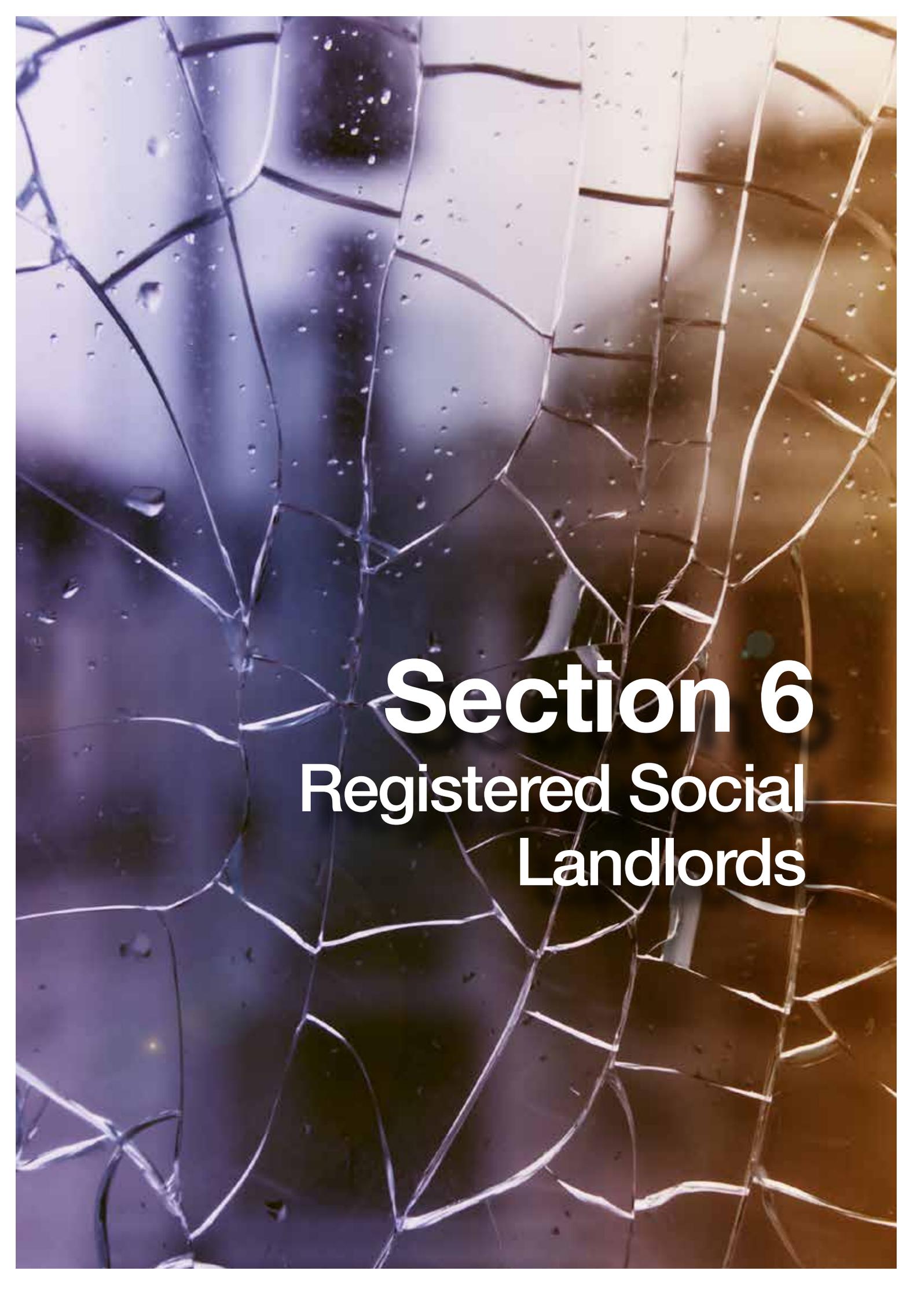
You have the legal right to appeal against this decision and have your case reviewed. If you wish to appeal you must tell us in writing within 21 days and you must tell us why you think the decision was unreasonable. You can do this yourself or you can contact Shelter on 0808 800 4444 or your Citizen's Advice Bureau to help you.

Should this letter be unclear or you wish to discuss this or any other aspect of your homeless application please do not hesitate to contact me at the Homelessness Services office on 01896 661385.

**Yours sincerely**

**Property Service Manager**



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# **Section 6**

## **Registered Social Landlords**

## REGISTERED SOCIAL LANDLORDS (RSLs)

This section outlines the basic guidelines that RSL staff should follow in most neighbour nuisance situations. Any action taken is proportionate to the level of behaviour of the perpetrator. The steps listed need not be incremental and will depend on what is deemed the most appropriate level.

Dealing with ASB is not a sequential process and it is not necessary to go through all of the warning stages if the behaviour justifies an immediate and more robust course of action. Procedures for dealing with Antisocial Behaviour complaints should align with the PIER approach to resolution.

- a) Prevention
- b) Intervention
- c) Enforcement
- d) Rehabilitation

Definitions and categories of ASB are contained in Part 1e of the manual.

RSLs should initially follow their own in-house ASB Policies and Procedures whenever they are dealing with an ASB complaint maintaining regular contact with their Police Community Beat & Local Officers (CBO) If required they can also contact the Council's ASBU for advice and assistance about any ASB case on 0800 028 5711 or [asbu@scotborders.gcsx.gov.uk](mailto:asbu@scotborders.gcsx.gov.uk)

### RECEIVING AND ACKNOWLEDGING COMPLAINTS

Lead agency for complaints received :

- If you receive a complaint from an RSL tenant about another RSL tenant then it will be logged and diary sheets sent but the RSL of the alleged perpetrating tenant should take the lead
- If you receive a complaint from an owner or private landlord property about an RSL tenant then the RSL is the lead agency
- If an RSL tenant complains about an owner/private occupier then RSL would send out diary sheets log all details but would look to the ASBU to take the lead role as the RSL has no jurisdiction over the owner/private landlords

Key stages for dealing with complaints are:

- Acknowledging (Issuing Diary Sheets/Sending out RIPSA Letters)
- Investigation (Consider Mediation/Victim Support/Noise Monitoring)
- Gathering evidence
- Regular contact with both the complainant and subject
- Regular case review
- Seeking feedback on how the case was handled by the RSL

### PREVENTION

The most effective means for RSLs to prevent housing-related ASB is for them to proactively manage their properties, tenancies and estates key prevention activities are:

- Sensitive allocations
- Effective partnership working with all relevant agencies
- Information at sign up
- Associated policies e.g. pet policy
- Pro- active estate management

## **INTERVENTION**

Key intervention activities for RSLs are:

- Early action on complaints
- Investigation of complaints
- Liaison with all relevant agencies
- Victim Support Referrals
- Other Support Referrals
- Gathering evidence
- Mediation
- Noise Monitoring referrals (Done through the ASBU)
- Warnings
- Refer to ASBU
- Joint action such as Face to Face/ Acceptable Behaviour Contract
- Assistance with re-housing
- Management transfers in exceptional circumstances.

## **ENFORCEMENT**

Key enforcement activities for RSLs are:

- NOPROPs (Notice of Proceedings)
- Court Actions to end tenancy
- Compulsory transfer
- Converting to SSST
- ASBO Application
- Interdicts
- Specific Implements
- Eviction
- Joint action e.g. closure orders

## **REHABILITATION**

Although limitations apply to this particular part, every effort should be made to seek out (with other agencies) appropriate measures, some examples are:

- Referral to Addaction
- Routes to employment
- Debt management
- Mental Health referrals
- Tenancy support

Once initial enquiry has been made and a determination that a complaint is justified and you are satisfied there is sufficient evidence one of the following actions will take place :

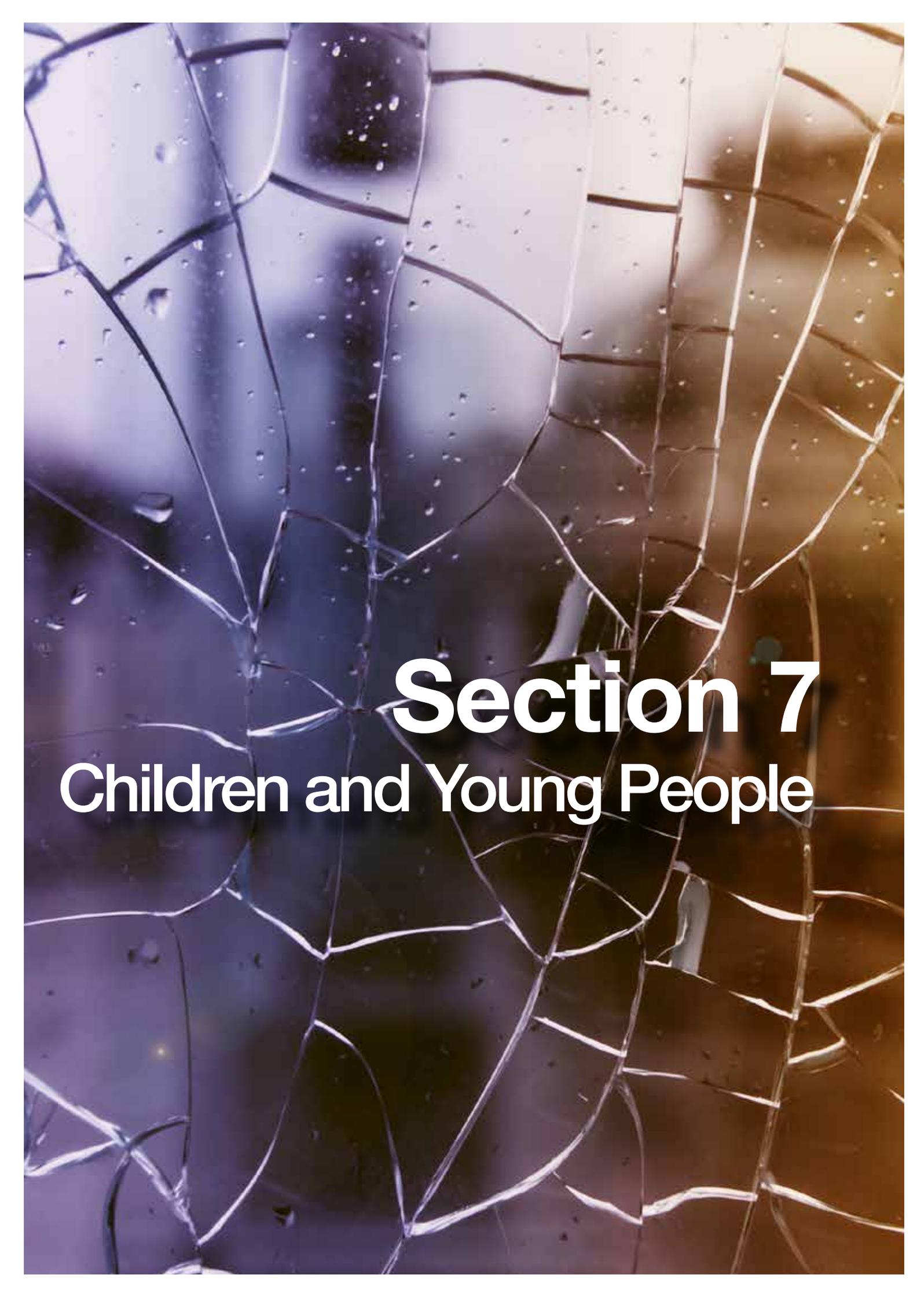
1. Issue a verbal Warning – a record of this must be kept in the complaint file
2. Issue a 1st Written Warning – a record of this must be kept in the complaint file
3. Issue a 2nd Written Warning – a record of this must be kept in the complaint file

If an RSL continues to receive further complaints and information about a case after a person has reached the 2nd Written Warning stage the RSL needs to refer the case to:

1. The ASB Core Group for discussion (along with a full copy of the audit trail they hold against the person) so that an informed decision can be taken whether that person needs to be added onto the Scottish Borders ASB Monitoring Document.

Once a case has been referred to the ASB Core Group, they are the multi-agency body that thereafter make a decision about how the case should be dealt with. A letter informing the person that they are being monitored for ASB will be sent. The interventions available to them are as follows:-

1. Carry out a multi- agency “Face to Face” warning with the person
2. Prepare and carry out an ABC warning meeting with the person
3. Prepare and submit an ASBO application against the person

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# Section 7

## Children and Young People

# ANTISOCIAL BEHAVIOUR - CHILDREN AND YOUNG PEOPLE

## INTRODUCTION

Young people over the age of 16 are considered to be adults and can be dealt with using the full range of criminal and civil sanctions. However, where a young person is aged between 16 and 18 years of age, and subject to Compulsory Supervision Requirement imposed on them by a Children's Hearing, the law considers that they are still dealt with as a young person.

The aim of any action associated with these guidelines is to achieve a change in antisocial behaviour by the young person, and this should be the overriding principle of all discussions or meetings arranged by departments and agencies.

All agencies must acknowledge the level of understanding of the child and, in particular, consider whether the child has legal capacity to enter into any agreements, particularly if the agreement has implications for another person. This policy has been developed from the understanding of the content of the original P&P manual launched in 2008 and taking into account changes in a variety of agencies and policies. It explains the circumstances in which an ASBO might be appropriate for a young person against the background of other possible remedies, voluntary interventions, the Children's Hearings system and formal civil or criminal proceedings. It also establishes a consultative and co-operative framework for local agencies to work together to reduce ASB involving children and young persons.

## PRINCIPLES

The main aim of this policy is to work together to reduce ASB and provide children and young people with an environment where they are given the best possible opportunity to amend their pattern of ASB within the context of the possibility of enforcement action.

It is essential to seek to involve children and young people and their carers from the outset of problems having been identified. They need to know what the concerns about their behaviour are and be given an opportunity to voice their point of view. They also need to know what changes they need to make to their behaviour, as well as what the possible consequences might be for them if they are unwilling to try and change their behaviour. They also need to be given the opportunity to say what they think might best help them to change their behaviour.

## PREVENTION

Where a young person is involved with ASB, an assessment must be made of the child to identify their needs and what, if any, services they might benefit from. This would normally be undertaken at a Meeting Around the Child (MAC) convened for that purpose and will comprise of all services and agencies that might competently have a role in that assessment.

The responsibility for chairing and pulling together that meeting may be the responsibility of Social Work, although the request to do so could come from the ASBU as a result of a decision made at the multi-agency Core Group Meeting (held once a month).

The determining factor as to who should arrange/chair a MAC would be whoever is identified as the lead professional.

In schools, patterns of attendance, exclusion, discipline referrals and regular reviews of an individual's learning and academic development, can provide an early indication of the children most at risk of becoming involved in ASB. Schools and Youth Engagement Police Officers must share information with a view to implementing strategies to address particular children's needs in a consistent and holistic way, both in school and in the community.

A variety of alternative approaches are available to prevent and deal with ASB committed by children and young people. These include early intervention projects, diversionary activities and restorative justice programmes, including reparation and mediation. Face to Face Meetings and Acceptable Behaviour Contracts (ABCs) are another tool which can be used as an effective means of preventing a person's behaviour from becoming the subject of further complaint.

When it is considered appropriate a report may be submitted to the Children’s Reporter, in such cases it is important that consideration be given to inclusion of any reports from the ASBU.

## **ACCOUNTABILITY**

Scottish Borders Council’s policy is that any young people under the age of 16 (and those between 16 and 18 years of age who are the subject of a Supervision Requirement) will only be progressed to the ASBO application stage with the consent of the Chief Social Work Officer after consultation with the Legal Department. **THIS ONLY REFERS TO FULL CIVIL OR INTERIM ASBOs.**

On occasions when the Council fulfils the statutory role of Corporate Parent for a young person and the Chief Social Work Officer may find him/herself with a conflict of interest. In these cases, the responsibility may defer to the Head of the Legal Department to make the decision whether or not it is appropriate for the Council’s ASBU to proceed with an ASBO application against that person. This procedure is applicable to young persons who are eligible for “after care” provision as determined by the Children & Young People (Scotland) Act 2014. Young people who were previously “looked after” are potentially eligible for “after care” up until their 26th birthday.

In exceptional cases of criminal ASB where the Council is fulfilling the role of Corporate Parent, the Police may elect to request a CRASBO as part of a preferred disposal by a Sheriff upon a successful criminal prosecution having been made against the young person. The Police have the power to do this independently and need have no recourse to do this through the referral process. However, it is anticipated that most, if not all, preferred methods of dealing with cases will be agreed through consensus at the MAC. In all cases, a balance needs to be struck between the impact that the young person’s behaviour is having on the community and the potential impact on the young person should they be made the subject of an ASBO.

## **PROCESSES**

Decision-making will always involve all the relevant agencies. multi-agency discussions in the MAC should, wherever possible, seek agreement about what is considered to be the best way forward to address the young person’s needs balanced against the needs of the community so that they can be afforded as much protection as possible from further acts of ASB by the young person. If there is active engagement with other supports, this will be considered and where possible if it is addressing the behaviour then time will be afforded to see what the impact is.

## **AVAILABLE INTERVENTIONS**

### **Use of Mediation**

In seeking to resolve a complaint of ASB by a young person, consideration should always be given to referring the problem to the SBC’s Mediation Service. This can help the complainer and the young person understand more about each other and each other’s needs, assist in making them more tolerant and co-operative and prevent disputes escalating into a more protracted conflict. Mediation is also cost effective, if successful, it usually prevents the need to resort to other, more costly and intrusive interventions up to and including legal action. See the Mediation section for further information.

### **Monitor Letter**

A decision could be taken to send out a monitor letter to both the individual and the Legal Guardian if it has been identified soon enough, it is hoped that this can have an early impact on the behaviour without more formal action.

### **Face to Face Warning**

A decision to conduct a Face to Face warning with a young person can be made by the ASB Core Group. All Face to Face meetings will be co-ordinated and carried out by the ASBU on a multi - agency basis. At a Face to Face meeting the young person is made aware of the impact of their ASB. They are also made aware that their behaviour is being monitored and lastly, they are told about the possible consequences of them continuing to get involved in further ASB incidents. It is also an opportunity to engage with the parent/guardian and for them to know the impact of their behaviour, more often than not, parents will only be aware of incidents where the police have been involved and submitted a report, quite often it transpires that the person is also in the company of larger groups that cause ASB and have an impact on the community.

## **Acceptable Behaviour Contracts (ABC)**

Acceptable Behaviour Contracts (ABCs) are written agreements between an individual (a young person or an adult) involved in ASB and relevant partner agencies working together to prevent ASB.

An ABC sets out the behaviour that a young person has agreed to stop – for example, to stop intimidating residents, creating graffiti or causing noise and disturbance. It should also set out what support is available to the young person to assist them in changing their behaviour. The contract should also specify that legal action may follow as a consequence of a breach of its terms.

In reality, legal action will only be pursued after all other possible measures have failed to amend the behaviour of the individual.

An ABC is not legally binding but a breach of an ABC may demonstrate that the young person concerned is not willing to voluntarily change their behaviour and it may be cited in support of any Civil ASBO Court proceedings. ABCs, although voluntary, can be a strong deterrent when the child, a young person or their family know that if they break the contract, legal action may follow. ABCs have no statutory basis but, in order to be an effective deterrent, breach of an ABC or refusal to enter into one without reasonable excuse may be used to support a decision to take an alternative form of action.

A professionals' meeting may be held prior to consider the appropriateness of an ABC, but the ABC must be presented at the MAC with the young person and their parent/carer present. There is no obligation for the person to sign the ABC however it would be expected that all agencies attending the MAC are in agreement with the content of the ABC and that it will be presented to the young person in the hope that they will sign and agree the terms. It is expected that the contents and expectations in the ABC are fully explained to the young person and parents in advance of the meeting where possible.

### **Offering an Acceptable Behaviour Contract (ABC)**

Before an ABC is offered the ASBU will make contact with Social Work to check if the child/young person or their family is the subject of an ongoing investigation by the Reporter or in receipt of support from services. It is the responsibility of the ASBU to research and gather all evidence, and to complete and prepare all relevant documentation in respect of an ABC involving a young person. The decision to progress to an ABC is initially done through the monthly Core Group meeting for ASB, There is representation from Children & Families Social Work (Youth Justice Service) at the meeting.

Once the checks have been carried out, a MAC should be arranged with the subject to discuss the details of the ABC and to have the respective parties sign it.

An ABC will normally last for six months, but this is flexible and depends on the nature of the ASB being dealt with, and whether the subject has been of good behaviour throughout the 6 month period of their ABC. The ABC will be reviewed on a monthly basis to monitor a person's behaviour and to confirm if there is still a continuing need for the ABC. An ABC can be renewed, but it is recommended that a further MAC should be convened for this purpose to allow for alternative courses of action to be considered.

### **Documentation and Record-Keeping**

The ASBU is responsible for retaining copies of all ABCs issued within the Scottish Borders area. The ASBU will also be responsible for circulating copies of ABCs to all agencies supporting the young person. The young person, plus their parent/guardian or carer, will also be provided with a copy of the ABC.

### **Breaches of Acceptable Behaviour Contracts**

If it is considered necessary at the monthly ASB Core Group meeting, breaches of the ABC would be considered at the convening of a further MAC to see what further measures are required.

## **ENFORCEMENT**

Where it has not been possible to prevent ASB, and all attempts at intervention have been unsuccessful, some form of enforcement action will require to be considered. However, any enforcement remedy will only be considered after discussion within the monthly ASB Core Group.

When it is considered appropriate, a Children's Hearing may impose compulsory measures of Supervision, setting out what a young person should do or refrain from doing. This may include a requirement on the young person to take up and co-operate with programmes and other support measures aimed at addressing their needs and behaviours, for example cognitive skills and anger management programmes. More intensive programmes are also available to help those who do not respond to lower level interventions. Should the MAC agree that enforcement action is an appropriate course of action, a written report from the ASBU will be sent to the Lead Professional for inclusion.

### **Anti-Social Behaviour Orders for 12 to 15 Year Olds**

There has been no case to date (up to production of this manual) where there has been an ASBO application made for a child, it is the widespread opinion that there are alternative methods of taking more formal action. These procedures are laid out purely for the purpose of the unlikely event there is a requirement to consider such action

[www.gov.scot/Publications](http://www.gov.scot/Publications)

[www.gov.scot/Publications/2004/10/20146/45685](http://www.gov.scot/Publications/2004/10/20146/45685)

### **Roles and Responsibilities**

The ASBU will be responsible for preparing, completing and administering all relevant documentation in relation to ASBO applications in respect of children and young people. The ASBU will be responsible for liaising with the senior Police Officer for the Borders and the, Children's Reporter.

The Senior Police Officer for the Borders is responsible for liaising with Police colleagues within the Scottish Borders who may have an involvement with the children and young people against whom an ASBO application is being considered.

Scottish Borders Council's Legal Services ASB Solicitor is responsible for liaising with the Children's Reporter and defence solicitors operating within the Scottish Borders in relation to proposed or ongoing ASBO applications against a young person.

The Children's Reporter is responsible for chairing multi-agency meetings in relation to a young person against whom an ASBO is being considered.

### **Reporter-chaired Multi-agency Meetings**

Before proceeding to this stage of the process there must be consensus from all agencies that an ASBO application is an appropriate course of action that requires to be taken against a young person. In such a case, the case files should be referred to the ASBU with a request that contact is made with the Children's Reporter to obtain their views on whether or not they consider an ASBO is an appropriate remedy for the young person. The ASBU will contact the Children's Reporter in writing as soon as possible. The ASBU, in consultation with the Children's Reporter, will arrange for a multi-agency meeting, to be chaired by the Reporter, to consider the circumstances that have led to there being the need for a decision to be made as to whether or not an ASBO application should be made.

The Authority Reporter or nominated replacement will chair this meeting with the case reporter also being present. The purpose of this meeting is to decide whether or not to proceed with an ASBO application against the young person and to allow the Reporter to form the basis of what their advice will be to the Court. The minutes of any previous meetings and any relevant reports should be available to the Reporter. The ASBU should be present at this meeting, including the young person and their parent/guardian or carer.

Following this meeting, the Children's Reporter will indicate their view on the proposed application for an ASBO in writing. Where the Reporter supports the application, the Council's solicitor should be notified by the ASBU and provided with a copy of the Reporter's opinion along with the minutes of the meeting.

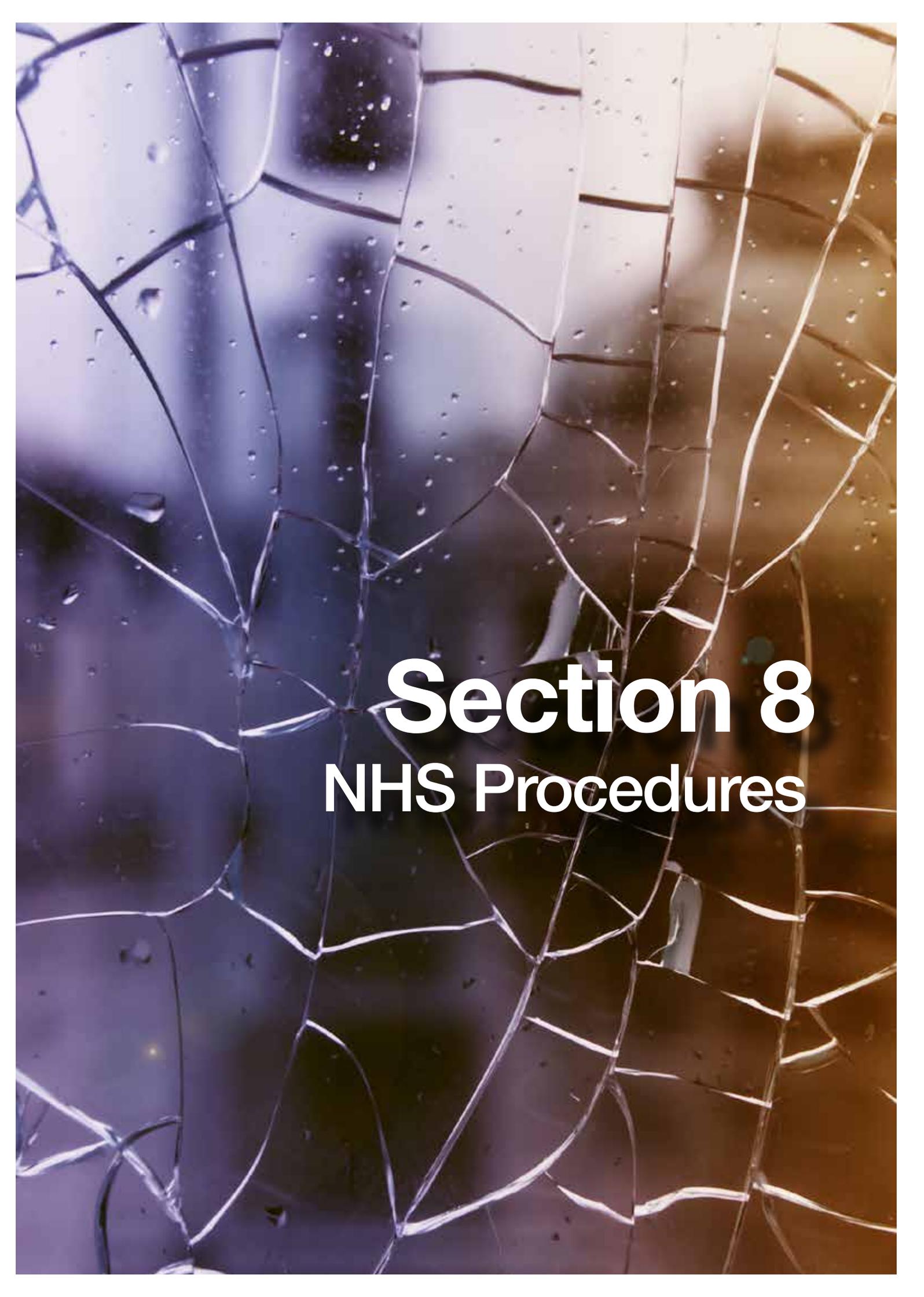
If the Children's Reporter does not support the ASBO application, they will indicate the reason for this. The Lead Professional should convene a MAC to enable further discussion and to consider alternative action to address the young person's ASB.

If the Tasking and Co-ordinating meeting (Police Scotland led) (TAC) considers that an application for an ASBO is still the only appropriate course of action, then the case should be referred to the Chief Social Work Officer for a final decision. It is anticipated that only in extremely exceptional cases will an application for an ASBO be pursued if the Children's Reporter does not support this course of action.

### **Applying for an Anti-Social Behaviour Order**

Where an application for an ASBO is considered an appropriate course of action, the normal process for applying to the Court for an ASBO will be followed. A completed file containing all relevant information and evidence will be forwarded by the ASBU to the Council's Solicitor with a report containing a summary of the case. Minutes from any meetings from previous stages of this procedure should be included in the case file. It is anticipated that a request for reporting restrictions will be made to the Court at the time of lodging the application for an ASBO.

It is important that the report from the Children's Reporter indicating their support for the application is submitted with the Writ. This will enable the Sheriff to consider whether or not to grant an Interim ASBO at the time of the initial application and obviate the need to adjourn the case to obtain their opinion. The Reporter would not normally be in attendance at Court.

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# **Section 8**

## **NHS Procedures**

## NHS PROCEDURES

The NHS are fully signed up to addressing ASB in all NHS premises, this includes:

Hospital

A&E Department

Borders Addiction Service

Mental Health Crisis Team

NHS have three representatives that attend the monthly Core Group Meeting

If someone needs to be discussed because of their behaviour there is a DATIX form that is completed and sent to the ASBU for consideration of what action needs to be taken.

A copy of the DATIX form is at Appendix 1 to this section.

If there is no requirement for the ASBU to take action then the NHS should write to the individual to alert them to the fact that their behaviour will not be tolerated and any further occurrences will be alerted to Police Scotland and the ASBU.

A copy of the letter is at Appendix 2 to this section.

It is vital that all incidents are reported “real time” or as soon as is practical to do so, the longer it is left to report an incident, the more diluted it will become. If anyone reports ASB they must also be aware that they may be required to give further statements or attend at court, should formal judicial action be required.

**statement** which will form part of the evidence for the Procurator Fiscal who will be dealing with the case in Court the next lawful day. Under these circumstances there is still the potential that if the person pleads “not guilty” that staff members could be required to give evidence in Court at a subsequent trial diet.

## Antisocial Behaviour Unit Communication Form



Affix Addressograph

<b>Date &amp; Time Of Incident</b> <b>Datix Incident number</b>	
<b>Where did incident occur?</b>	
<b>Has a check been made with Huntlyburn to ensure no current active MH problems that may contribute to behaviour?</b>	

**Brief Summary Of Nature Of Antisocial Behaviour Demonstrated**  
(Relevant Clinical Details are required, Continue Overleaf if necessary)

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Has the patient been admitted? (Please tick)      YES       NO

If answer is YES where to?

<b>Witness to behaviour:</b> <b>NAME</b>	<b>Position / Title</b>	<b>Department &amp; Contact No:</b>

**On completion of form please return via internal mail in a sealed envelope to:  
PMAV Co-ordinator, PMAV Training Unit, BGH**

## **Requests by Police Scotland for staff statements relating to Anti-Social Behaviour Guide for staff**

### **Aim**

The aim of this document is to answer questions that are frequently asked by NHS Borders staff when they are asked by the Police to share information about patients who have behaved in an anti-social manner.

### **Confidentiality**

Some staff may justifiably have concerns about sharing patient information. The Health & Safety at Work Act 1974, Section 7 and The Management of Health & Safety at Work Regulation 1999, Regulation 14 outlines duties of employees as every employee must “co-operate with his employer or any other person as far as is necessary to enable the employer to meet his legal obligations”, “inform their employer or his representative of any work situation that might present a serious and imminent danger to health and safety”. Staff should speak to their direct line manager if there are concerns are not answered below.

#### **1. What exactly should staff have to do to make a statement to the Police?**

Staff have to provide an account of what they observed to a Police Officer, this has to be noted in writing normally on the Officers hand held PDA and this would be read over and then signed by the staff member.

This then forms the basis of the evidence available to the officers to then present to the Procurator Fiscal to take the case to court.

#### **2. How Confidential is this for staff?**

The statements are confidential in that they are provided to the Procurator Fiscal; however, in due course these are disclosed to the defence and in turn to the person being accused.

It is only correct, that where there is evidence against someone they have the opportunity to know what they are accused of.

No medical information would be included in statements relating to Anti-Social Behaviour offences.

#### **3. If statements are given to the police, will staff have to attend court?**

There is always the potential for staff members to attend court.

If it is the case that the Police are called and arrest someone, then those present are witnesses to the actions of the person prior to the Police attending. They thereafter would have to give evidence (provide a statement) about the incident if the matter is to be reported to the Procurator Fiscal.

#### **4. What if this relates to someone with a current Antisocial Behaviour Order?**

If someone has a live Antisocial Behaviour Order and they conduct themselves in a disorderly manner or are violent, abusive or unruly within any NHS premises within the Scottish Borders (and their ASBO covers the type of behaviour they have engaged in) then this will **always** (if there is the evidence of at least 2 witnesses to their behaviour) **result in that person** (provided their medical condition allows them to be kept in custody) **being arrested and detained for breaching their ASBO.**

#### **ASBO Action:**

The person will thereafter be kept in custody until the next lawful day, when they will appear at Court from custody to be dealt with for Breaching their ASBO. Under these circumstances the witnesses to the breach of ASBO **will be required to immediately provide the Officers dealing with the incident with a witness statement** which will form part of the evidence for the Procurator Fiscal who will be dealing with the case in Court the next lawful day.

Under these circumstances there is still the potential that if the person pleads “not guilty” that staff members could be required to give evidence in Court at a subsequent trial diet.

## NHS Borders

Chair & Chief Executive's Office

Chair & Chief Executive's Office  
NHS Borders  
Headquarters  
Borders General Hospital  
Melrose  
Roxburghshire TD6 9BD



Tel : 01896 826000

[www.nhsborders.scot.nhs.uk](http://www.nhsborders.scot.nhs.uk)

Mr

Date

Your Ref

ADDRESS

Our Ref JD/KA

Enquiries to ENTER NAME. Delivery Support Officer

Extension 8220

Direct Line 01896 828220

Email [ENTER NAME@borders.scot.nhs.uk](mailto:ENTER_NAME@borders.scot.nhs.uk)

DRAFT LETTER NOT STARTED YET

Dear

It has been reported that during your recent admission to Borders General Hospital (EG 30<sup>th</sup> June 2017) you behaved aggressively towards staff, specifically this behaviour included being obstructive, shouting, repeated swearing at staff and making threats of physical violence to staff. As a consequence of this other patients on the ward were left in a state of fear and alarm.

This behaviour is unacceptable and has resulted in a number of Anti-Social Behaviour Notification forms submitted, consequently these have been discussed with Police Scotland. Following discussion, it has been recommended by Police Scotland and Safer Communities that on this occasion NHS Borders should issue a letter regarding your behaviour, to inform you that during any future contact with all NHS Borders departments/services that your behaviour will be monitored.

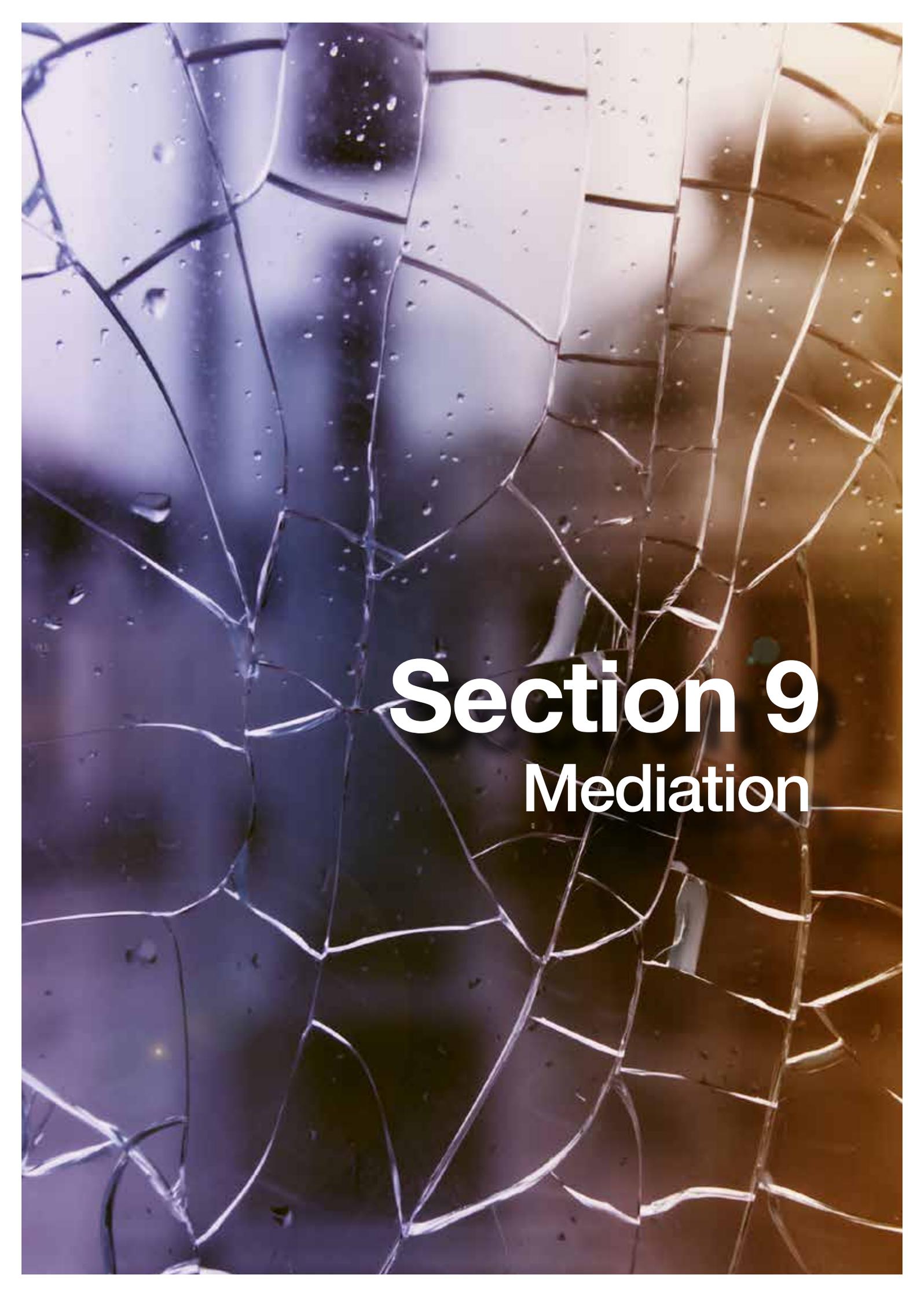
NHS Borders works in partnership with Safer Communities, Police Scotland and the Antisocial Behaviour Unit, incidents of unacceptable behaviour are reported to them. Should this happen again, or if it is felt that there is a pattern of unacceptable behaviour towards staff, patients, relatives, or the public, within any NHS Borders premises, then details will be passed on to the Antisocial Behaviour Unit and Police Scotland. This may result in an Anti-Social Behaviour Order or criminal charges for Breach of the Peace being issued.

Yours sincerely

ENTER NAME

Chief Executive



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# Section 9

## Mediation

## **NEIGHBOURHOOD DISPUTE RESOLUTION SERVICE**

**(Mediation)**

**Scottish Borders Council**

**Tel: (01835) 826781**

**e-mail: [mediation@scotborders.gov.uk](mailto:mediation@scotborders.gov.uk)**

Mediation is an early intervention in the ASB process and can help neighbours, who agree to take part, to resolve disputes in a number of different ways. Mediation may simply, through discussion, provide good suggestions as to how neighbours can overcome difficulties themselves or ideas about how best to approach and talk to a neighbour, what to say and how to say it.

If an approach like this is not enough or is not the best way forward then the mediator will arrange to go and visit the complainant to hear their side of the situation and discuss possible solutions. With the complainants agreement the mediator will then approach any other neighbours to hear their side of the situation and again explore solutions.

After the mediator has heard what both sets of neighbours would like to happen, if everyone agrees, the mediator will usually arrange to bring everyone together in a “mediation meeting” in a local, neutral venue. Meetings normally last no longer than one hour and are structured so that everyone has the opportunity to hear what each other has to say and hopefully to understand each other better. It is the job of the mediator to ensure this meeting goes smoothly.

Most mediation meetings are successful with neighbours working out a solution they can both agree on. If meetings do not end in agreement clients always have other options such as going to a solicitor to seek advice.

If there are special reasons why people cannot meet in person, the mediator can also arrange to help resolve a dispute without a meeting, through a technique called “shuttle mediation” – where the mediator acts as a go-between – this method also has a high success rate.

Community Mediation has a really good record and high success rate in resolving neighbour disputes. It is free and private and usually allows neighbours to reach a speedy resolution to the difficulties.

Mediation is not as “soft” option. It is a genuine early intervention that has a real chance of resolving issues if both parties are willing to engage.

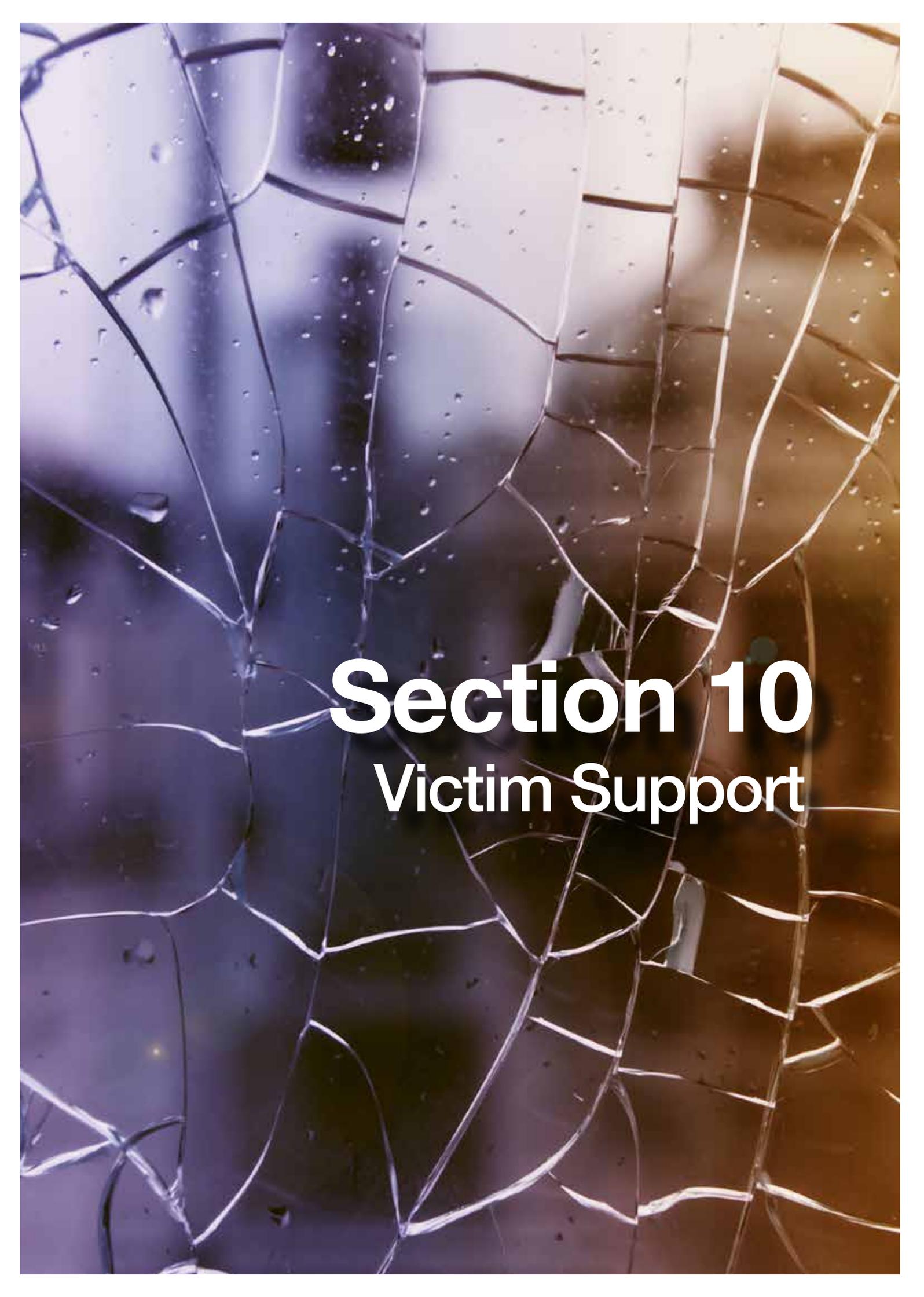
Mediation can be considered at any stage, people’s circumstances change and what may not have been appropriate for Mediation at the outset, may be Mediatable at a later stage.

Mediation does not need to involve all parties around the table, there are options available to facilitate Shuttle Mediation and agreement can also be reached if the intervention is early.

Although at the point of this manual going to print SBC have one full time trained Mediation Officer, other general advice on Mediation can be found at [www.scmc.sacro.org.uk](http://www.scmc.sacro.org.uk)

To make a referral just e mail the contact details or phone them through and it will be taken from that point forward, as a referrer, you will be given regular updates including the outcome.

The Mediation Officer may make referrals to other agencies if there is any possibility that they may be able to help with the situation.

A microscopic view of plant cells, showing a network of cell walls. The image has a color gradient from blue on the left to orange on the right. The text "Section 10" and "Victim Support" is overlaid in white.

# Section 10

## Victim Support

## VICTIM SUPPORT SCOTTISH BORDERS

01896 751212

Email [victimsupport.scottishborders@victimssupportsco.org.uk](mailto:victimsupport.scottishborders@victimssupportsco.org.uk)

National Web Site: [www.victimssupportsco.org.uk](http://www.victimssupportsco.org.uk)

Victim Support Scottish Borders (VSSB) is part of a National Charity funded by the Scottish Government.

We operate Monday- Friday 9am-3pm with 24 hour answer phone service, we are Located at 72High Street Galashiels TD1 1SQ

We have around 25 - 30 Volunteers covering the whole service, ten are able to directly support ASB complainers in the community, in addition to this we can provide support if a case goes to court. There are two paid staff members who case manage all ASB cases. The Safer Communities Team commission 19 contracted hours per week.

We offer a comprehensive service to all sections of the community. Our fully trained staff and volunteers provide free independent and confidential support, which includes impartial Emotional & Practical proactive support by phone, home visits and/or office appointments. Support at meetings including mediation, multi-agency and housing options.

We can help explain how the ASB process works and keep victims updated on a regular basis, this is invaluable when cases are going on for a long period of time.

We can provide practical assistance in completion of diary sheets for people who have difficulty in maintaining them.

We also attend the monthly Core Group Meeting and ensure the voice of the victims is heard, how it is impacting on them and their health, we can also give feedback to the victims from this meeting if required.

We can discuss how people can keep themselves safe and can also help on a practical basis with alarms and CCTV as well as some basic crime prevention advice.

### **To make a referral to Victim Support**

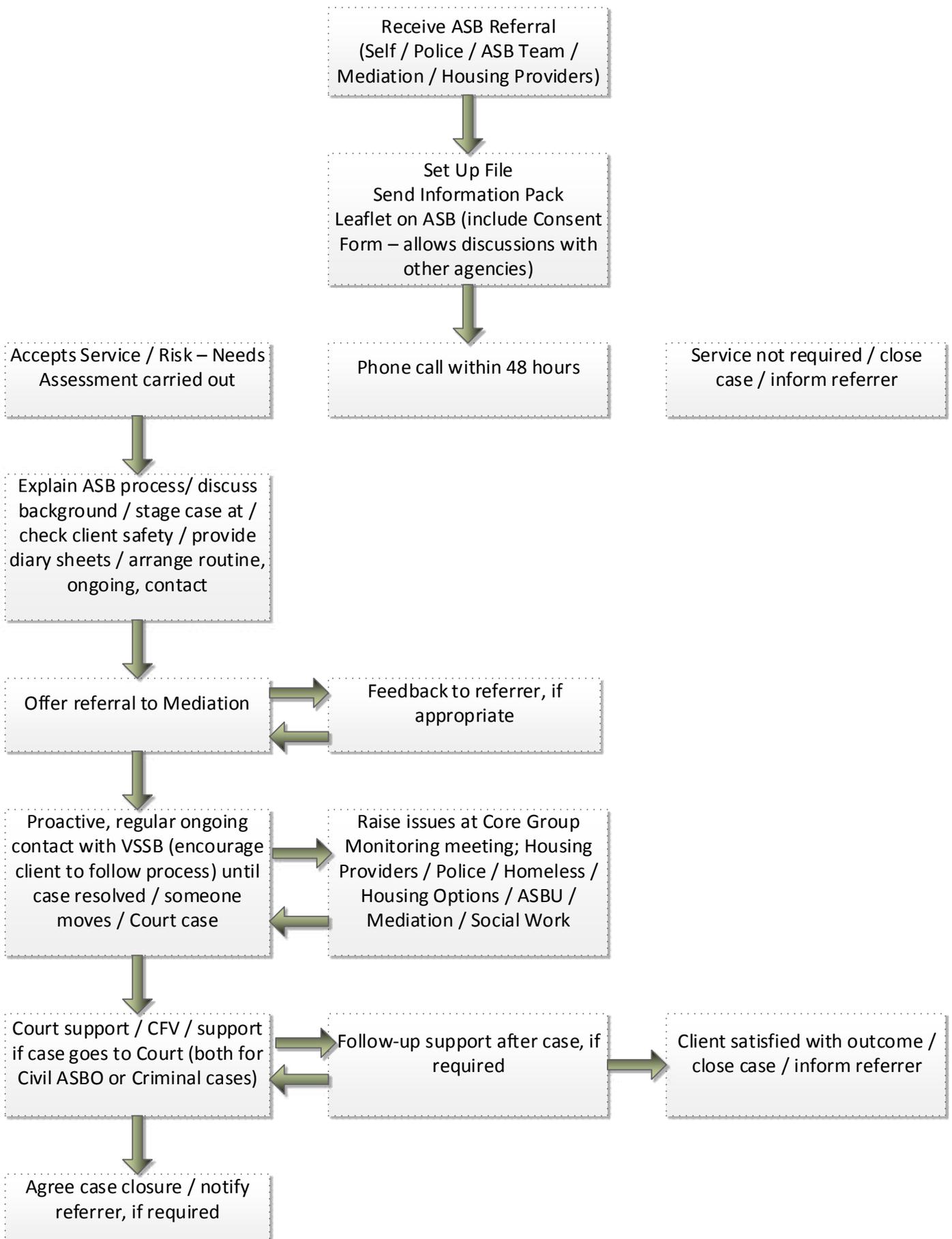
A referral can be made to **VSSB** at any time within the complaints process but as soon as who receive the complaint a proactive referral should be encouraged, suggestion of wording "A referral to VSSB will be made" rather than "please consider a referral to VSSB" as this would mean that someone has to opt out as opposed to opt in.

Any individual or service can refer an ASB case to us

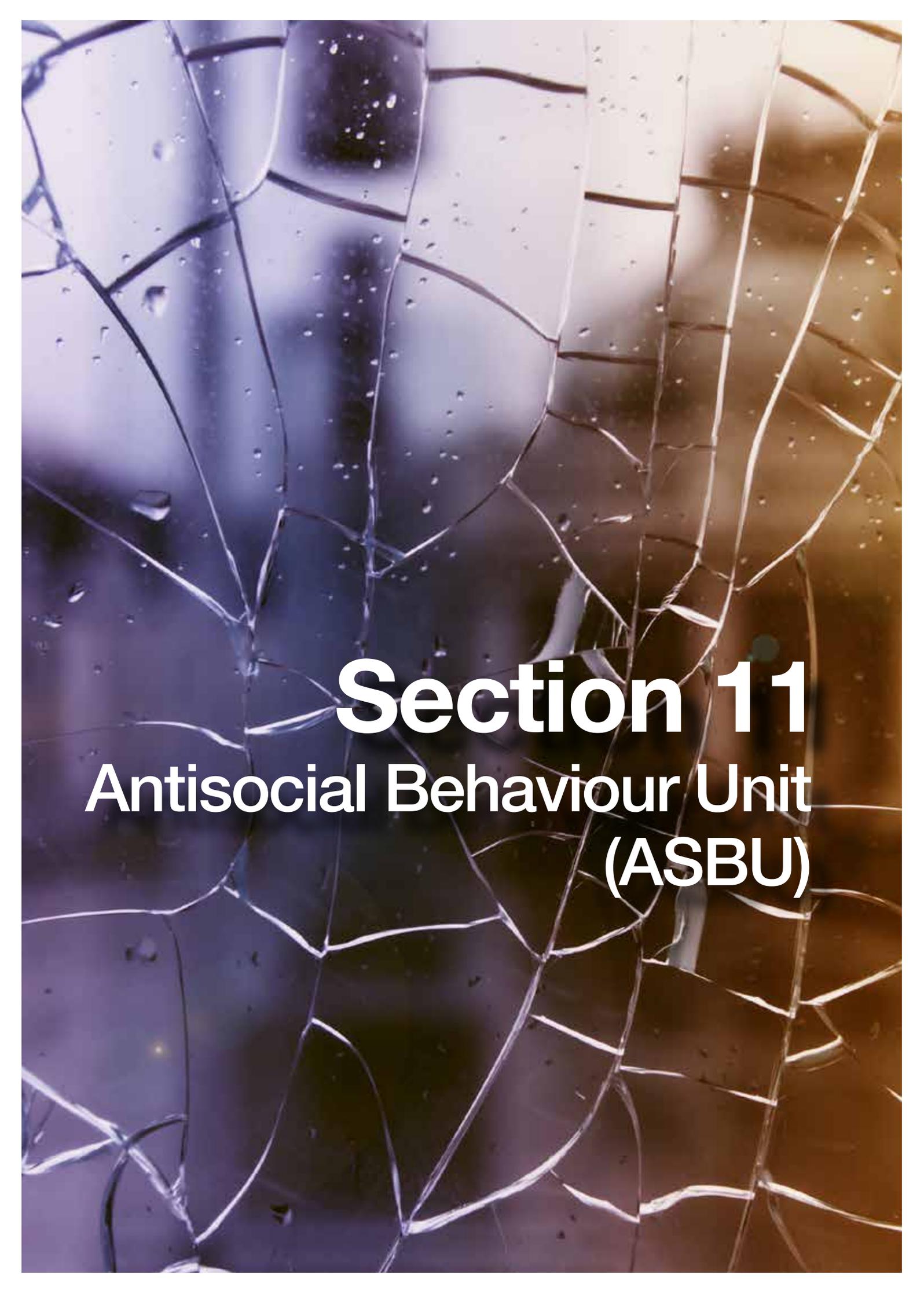
We require only a few basic details such as Name and full address, Contact telephone number(s), Housing Provider details are helpful but not essential as is a brief description of what the problems are.

**Here to Listen, Here to Support and Here to Help - you and your client  
Think Victim - Think Victim Support**

## Victim Support ASB Referral Process





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# **Section 11**

## **Antisocial Behaviour Unit (ASBU)**

## ANTISOCIAL BEHAVIOUR UNIT (ASBU) – SCOTTISH BORDERS COUNCIL

0800 028 2711

asbu@scotborders.gov.uk

The Antisocial Behaviour Unit currently comprises of two officers, the word unit would suggest more resources were available but that is not the case, however they do have access to a wide variety of agencies and resources that can assist in tackling ASB.

The Mediation Officer is part of the ASBU but works independent and can be dealing with cases that the ASBU have no knowledge of.

The primary roles and responsibilities are listed:

- To monitor Antisocial Behaviour Orders and the associated process
- To offer help and advice to partners in relation to dealing with ASB
- To chair and manage the monthly Core Group Meetings
- To assist the delivery of training in relation to ASB matters
- To be responsible for investigating and taking action against Private Landlords/Home Owners in relation to matters of ASB
- Review the P & P manual
- Assist with the development of an ASB strategy along with Police Scotland

### **What will the ASBU do if a member of the public or a partner agency makes a complaint about ASB?**

- They will open a formal complaint including the complainant's full details, and log this on the Scottish Border ASB monitoring database
- Researching who the complainant's landlord is, who the landlord of the person being complained about is, and making these persons aware of the complaint received in general terms and give guidance on any action that they could be taking if required
- Initiating contact with any other relevant department, agency or organisation that may assist with the provision of evidence, information or intelligence relative to the complaint
- Making initial contact with Police Scotland to make informal research into the complaint to determine if there is any need for the ASBU to prepare and provide an official request for disclosure by submitting an information request Form (MI11)
- Will make an attempt (where possible) to signpost to Mediation
- Will inform complainant (where possible) that a referral will be made to VSSB
- Gathering and collating all necessary ASB information, If any Diary Sheet is sent directly to the ASBU by the complainant, either electronically or by post, the ASBU will ensure that an electronic copy of Diary Sheets are sent to the complainants Registered Social Landlord for their information and attention.  
**The ASBU will not send copies of completed ASB Incident Diary Sheets to any Private Landlords as they (ASBU) are the case managers for all Owner Occupier/Private Landlord initiated complaint logs**
- If a landlord is not registered, a referral will go to the Private Sector Liaison & Enforcement Officer to investigate further
- When a case is opened and the complainant is either an owner occupier or the tenant of a Private Landlord and the address being complained about is an RSL's property, the RSL will be the lead agency for initial investigations and remedies

- When a case is opened and the complainant is either the tenant of an RSL complaining about an owner or Private Landlord tenant, then the ASBU will be the lead agency for initial investigations and remedies
- Where an RSL tenant is complaining about another RSL tenant, then the alleged perpetrator's RSL will be the lead agency
- Where there are counter allegations, in all cases, the ASBU will be the lead agency.

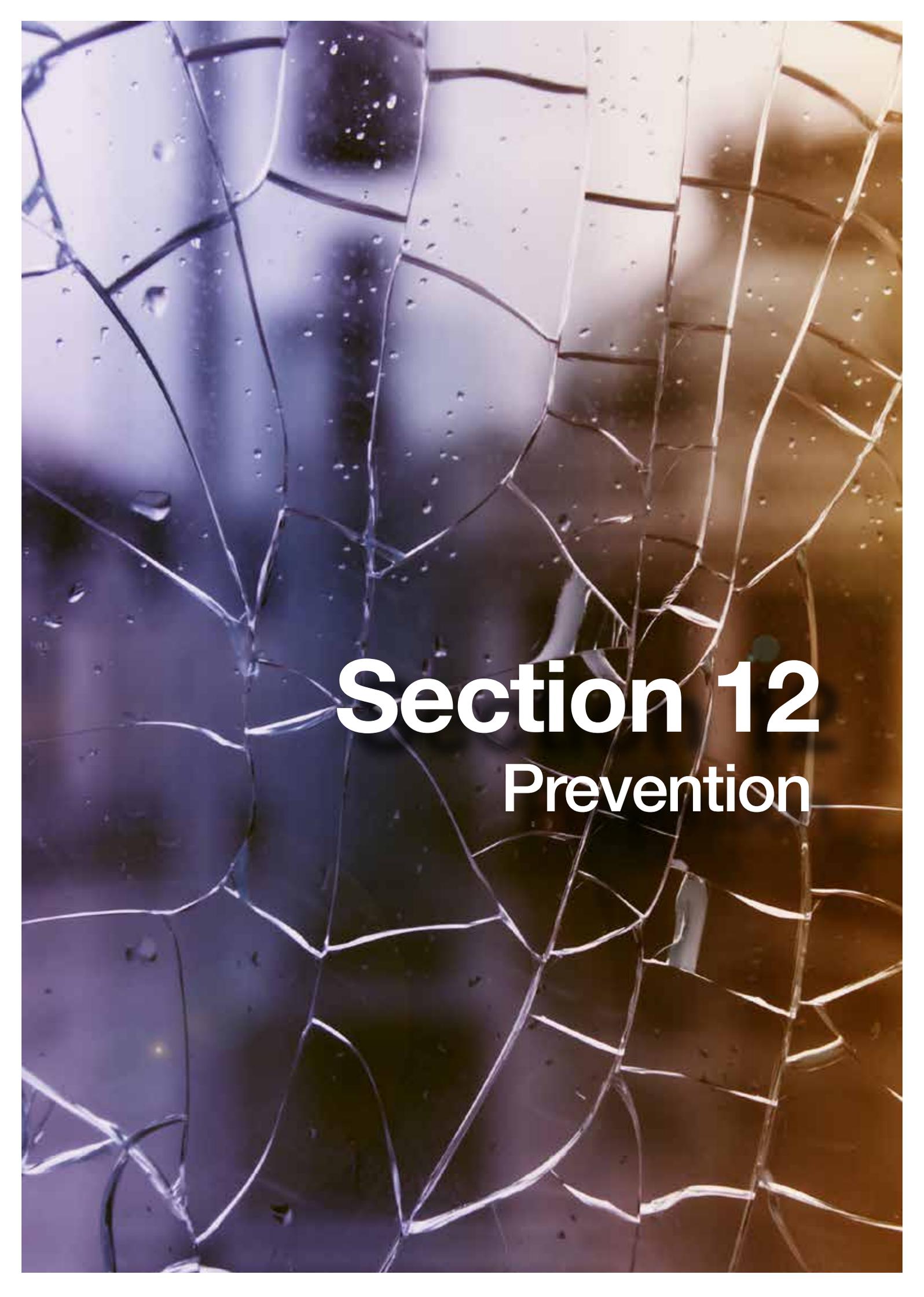
#### **What will the ASBU do if someone needs to be monitored at Core Group?**

- Placing the personal details of the ASB subject onto the Scottish Borders ASB Monitoring Database
- Ensure that a personal electronic folder is made up for the ASB subject within the ASBU electronic folders
- Initiating contact with any other relevant department, agency or organisation that needs to know the person will now be considered/case managed with respect to ASB issues at the Core Group Level
- ASBU will request formal disclosure of information from the Police, in a Data Protection compliant manner
- During case management the ASBU will be responsible for collating all necessary ASB information relating to a subject's ASB and ensuring that all information relating to that person is kept up to date, both on SBC's electronic ASB Monitoring Database and within that subject's personal electronic folder, also ensuring that the subject's Antisocial Behaviour Audit Trail (ASBAT) is kept up to date
- Ensuring that all interventions taken from Core Group are recorded correctly, including any follow on actions
- As well as the above the ASBU will be responsible for notifying and consulting with the Police Scotland and any relevant partner/RSL when consideration is being made about applying for an ASBO
- If an ASBO has been granted the ASBU will be responsible for circulating a copy of the details of that person's ASBO to all relevant ASB partners

The other roles and responsibilities of the ASBU are covered in various sections within this manual, however in this section we have highlighted what we do with complaints as the Core Group functions and interventions are well covered in other sections of this manual.

Please use the ASBU for help and advice on a range of matters with ASB as that is the units core function, it also has excellent links to a variety of agencies that can help and assist.



The background of the slide is a microscopic view of plant cells, showing a network of cell walls. The image has a color gradient from a deep blue on the left to a warm orange on the right. The text is centered in white.

# Section 12

## Prevention

## **MEASURES TO TRY AND PREVENT ANTISOCIAL BEHAVIOUR ESCALATING TO FORMAL INTERVENTIONS**

Clearly, the best that we can do is to prevent Antisocial Behaviour (ASB) in the first place, every case is different so there is no one size fits all, many factors can influence what approach is taken to deal with ASB cases. What are listed here are the most common used ones, however as a practitioner, you should always be looking at what other agencies can offer and think about what else could be done to try and address the behaviour. The saying that if it is predictable, it is preventable has never been more appropriate than within an ASB Environment.

### **Housing Checks:**

Social Housing is in high demand and the constraints placed on an RSL are greater than within the private sector. Trying to get the right tenant for the right property (not just based on need but suitability if there is a history of ASB) It is currently at the discretion of Homeless and RSL to make a check with the ASBU to see if there are any reasons why a property may be unsuitable but you are strongly advised to make those checks. There is no guarantee that every individual will be known to the ASBU and does not take into account any criminal records. If someone is from out of area (not from the Borders), a check can be carried out but it will take a little longer.

Housing check form is at Section 12b and Appendix 17

### **Mediation:**

Mediation is explained in section 9 of this manual. It should always be considered at any stage in dealing with ASB, if used at the earliest opportunity, it has a greater chance of success, however even up to the point where an ASBO application is being applied for, Mediation can be considered, therefore Mediation can also be seen as an intervention in this context.

### **Victim Support:**

Whilst not looking for a direct resolution to an issue VSSB can be very useful in providing help and support to individuals. The service is described further in section 10 of this manual. Being supported through what can be a very long process may encourage clients to seek alternative issues or look at matters in a different way. You are encouraged to signpost individuals to VSSB at the earliest opportunity.

### **Party House Letters:**

When Police have been called to an address where there has been loud noise, music etc., and they have witnessed it or the alleged perpetrator has admitted they have been making excessive noise and they have been spoken to and warned about this, the ASBU will be alerted to this fact and will send a follow up warning letter in the post to the address in question.

Template Letters at section 12b and Appendix 3

### **Persons being researched at Core Group Meeting (CGM):**

It may be that a name has been flagged up by one of the partners for the monthly CGM and it is felt that they should only be on to research at this stage. There are several reasons why someone would be taken on at the research stage:

- The information provided is not clear enough to make a decision on what to do next
- There are Mental Health or other concerns about the individual which need to be clarified
- There is a piece of support work ongoing with the individual which requires to run its course and may assist in improving behaviour

### **Monitor Letters:**

When there is sufficient evidence to suggest that someone has been engaging in ASB but it is not at sufficiently high a level to warrant a formal warning, the ASBU would send a letter to an individual who has been discussed at Core Group and this is deemed as an appropriate action to take.

The purpose of a monitor letter being sent is to alert the individual to the fact that there are concerns being raised about their behaviour and allow them the opportunity to take steps themselves to amend this and the offer of advice if they wish it.

Template letter is contained in section 12b and Appendix 5

### **Regulatory Investigation Powers Scotland Act (RIPSA) Letters:**

These are letters that are sent out by all partner agencies at the outset of noise complaints, it serves two purposes. First we are required to inform persons being complained about that we are going to investigate the noise complaints and this may also involve Noise Monitoring Equipment. Secondly it may just be enough to make the person aware that the noise they are creating, is having an impact on someone nearby, they may then, take some steps to reduce this or make contact with the originator of the letter to seek clarification.

Example letter is contained in section 12b and Appendix 1

### **Landlord Interventions:**

Please see the section for Landlords at section 6

## **PROBLEMATIC HOT SPOT AREA - 12a**

In some circumstances it may not be possible to identify all of the individuals responsible for ASB in an area, in other circumstances, victims may not be willing to come forward for fear of reprisal. In such circumstances the ASBU is able to head up a multi-agency approach to dealing with an issue like this. There are particular phases to such a planned event and it is planned in the using the following steps:

**Ground:** Identify the area of concern, where it sits, geographical on the ground, how many households or premises it takes in and who does the property belong to.

**Situation:** The partnership analyst along with the other agency information will be able to give a good analysis of the situation including person profiles and inter relationships between certain identified individuals. This will give a good indication as to the scale and type of issue that should be addressed.

**Mission/Plan of action:** What is it that we want to achieve, the question needs to be asked, it could be warning all individuals concerned, providing re-assurance to residents that all agencies are working together and will take action or just to raise the profile of the agencies that are able to help people with reporting and dealing with ASB.

**Execution of the plan:** Who needs to be involved/what information needs to be given to people and a detailed breakdown of properties/premises that need to be seen or approached, which agency needs to do what task and a breakdown of the area for teams.

**Timescales:** How quickly does it need done? How long will it take? And how long do we think it will take to achieve the aim and how will we measure that?

**Review some other considerations:** Do we need to involve Councillors? If they are the ones receiving the complaints then perhaps it would be wise to do so. Always consider using Victim Support as if people are frightened of reprisals they will need that kind of support that is offered by the service.

These are just some of the consideration in pulling together such a targeted piece of work, the ASBU will be the lead agency but will require help and resources from other agencies.

## PRIVATE LANDLORD PARTY HOUSE LETTER TEMPLATE

**Enter Name**  
**Chief Officer for Public Protection**

**Please ask for:** *Antisocial Behaviour Unit*  
**Our Ref:** *PHL*  
**Your Ref:**  
**E-Mail:** *asbu@scotborders.gov.uk*  
**Date:**

Dear

Address of Complaint  
Your Tenant(s)  
Date of Incident

The Antisocial Behaviour Unit (ASBU) of Scottish Borders Council and Police Scotland are working together to stop anti-social behaviour within the region.

Following a complaint received regarding a noisy house party / gathering, Police attended the above premises for which you are the Registered Private Landlord. This anti-social behaviour was a nuisance and annoyance to others in the area. Please be advised that your tenant(s) has/have also been sent a letter informing them of the potential consequences if the Police receive any further calls to that address as a result of a noisy house party / gathering.

Before a noisy house party / gathering letter is sent out to any tenant or their landlord you need to be aware that on arrival of Police officers at the property, they either witnessed noise or disturbance taking place or, when challenged about the call to their premises, your tenant(s) admitted that the noise and disturbance from the property prior to Police arrival could have been excessive.

We hope by receiving this letter you understand that the behaviour of your tenant(s) has caused distress to others living in the vicinity of their property. If this behaviour continues it could lead to further action by the Police or the Council's ASBU with the potential for your tenant(s) and the address being monitored for future legal action under antisocial behaviour legislation.

At this stage we advise that you make contact with your tenant(s) and make them aware that you have been informed of the Police call to the address relative to a noisy house party / gathering. We also advise if you could inform us of what action you have taken with your tenant(s) to try and ensure that there will be no further repeat calls of an antisocial nature for the address.

Should we have occasion to write to you on a second or subsequent occasions we will also inform the Private Landlords Registration Team for their consideration.

If you have any queries about this letter please do not hesitate to contact the ASBU on 0800 028 5711 and they will be happy to discuss the content of this letter with you.

Yours sincerely

Senior Antisocial Behaviour Officer

## OWNER/PRIVATE TENANT PARTY HOUSE LETTER TEMPLATE

**Enter Name**  
**Chief Officer for Public Protection Officer**

**Please ask for:** *Antisocial Behaviour Unit*  
**Our Ref:** *PHL*  
**Your Ref:**  
**E-Mail:** *asbu@scotborders.gov.uk*  
**Date:**

Dear

### **WARNING - AS A RESULT OF A POLICE REPORT RECEIVED ABOUT ANTISOCIAL NOISE FROM YOUR PROPERTY**

The Antisocial Behaviour Unit (ASBU) of Scottish Borders Council and Police Scotland are working together to stop anti-social behaviour within the region.

Following a complaint received regarding a noisy party/gathering and/or loud music, Police attended at your home on XXXXXXXXXXXX. This anti-social behaviour is a nuisance and an annoyance to others in the area.

We hope by receiving this letter you understand that your behaviour has caused distress to other people. If it continues this could lead to further Police action, with the potential for both you and the address being monitored for future legal action under antisocial behaviour legislation. It may also have an impact on your tenancy agreement as your landlord will also be notified.

If you have any queries about this letter please contact us.

Yours sincerely

Senior Antisocial Behaviour Officer

## ASSOCIATION/HOMELESS PRE-ALLOCATION CHECK WITH ASBU

ORGANISATION

---

OFFICER NAME

---

NAME

---

ADDRESS

---

DOB

---

Notes:

PREVIOUS CONTACT	
CURRENT CONTACT	
POLICE INFO (Only checked for out of Borders area placements)	
TRAFFIC LIGHT CATEGORY	<input type="checkbox"/> Red <input type="checkbox"/> Amber <input type="checkbox"/> Green

Checks that have been carried out: Monitoring List/ASBU Complaints Log/Party House Letters.

**Red - High risk, multi - agency case conference and full risk assessment required before any placement is considered.**

**Amber – Medium Risk – Multi agency settling in/sign up required with a general area risk assessment.**

**Green – No risks currently**

## MONITORING LETTER TEMPLATE

**ENTER NAME**  
**Chief Officer for Public Protection**

*Please ask for*     *Antisocial Behaviour Unit*  
*Tel No*             *0800 028 5711*  
*Our Ref*             *Monitor*  
*E-Mail*             *asbu@scotborders.gov.uk*  
*Date*

### CONCERNS OVER REPORTS OF ANTISOCIAL BEHAVIOUR

The Antisocial Behaviour Unit of Scottish Borders Council works in partnership with other agencies to try and prevent antisocial behaviour acts by groups or individuals from getting out of control.

Following information we have received through our partnership about your possible involvement in antisocial behaviour, we are writing to inform you that we will look into this and may take further action if there are continued reports.

We hope that making you aware of the situation will be enough to allow you to make decisions that can prevent any further escalation.

If you have any questions, please do not hesitate to contact us on the number below.

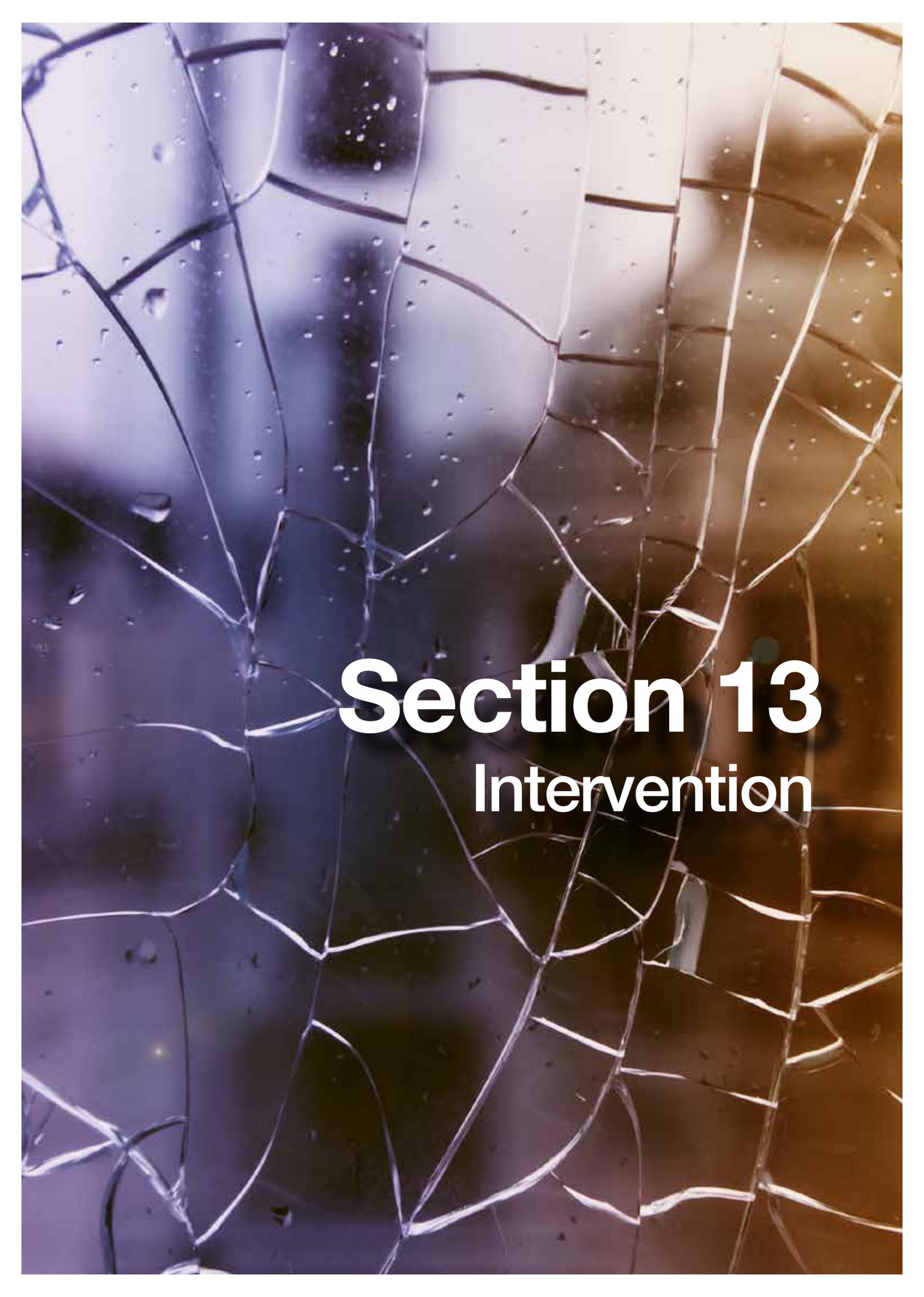
If your antisocial behaviour is due to conflict with neighbours, we have a Neighbourhood Dispute Resolution Service (Mediation). Enclosed is a leaflet providing details of the service and contact details should you wish to consider this.

Yours sincerely

Senior Antisocial Behaviour Officer

Encl. Mediation Leaflet

12b - Reserved

A microscopic view of plant cells, showing a grid-like structure of cell walls. The image has a color gradient from blue on the left to orange on the right. The text "Section 13 Intervention" is overlaid in the center.

# Section 13

## Intervention

## MEASURES TO TRY AND PREVENT ANTISOCIAL BEHAVIOUR ESCALATING TO FORMAL ENFORCEMENT

### Face to Face Warning (F2F):

This is an invite sent out to a person who is committing acts of an ASB nature, it is a formal warning from a multi-agency basis.

Multi-agency meeting will always comprise of the following:

ASBU – (Lead Agency) who will do all the preparations for the F2F, arrange venue and send invites.

**Police Scotland** – As in most cases, a lot of the calls are to Police Scotland, it is important to have a representative in attendance. The invitation will normally go out to the Community Beat Sergeant for allocation to a CBO. Local inspectors will be advised so that they know what is going on.

If the person is a tenant of an **RSL**, they will also be in attendance. If the behaviour continues and formal court action is taken in the future, the RSL needs to highlight the implications in relation to the person's tenancy, the landlord may also wish to use this opportunity to give formal warning from a housing perspective for any future proceedings they may wish to take (See Landlords Section).

**Support Services** – If someone has any support workers (Social Work/Mental Health/Criminal Justice) to name but a few, they will also have the opportunity to be in attendance.

**Face to Face Conduct** – Where possible the F2F should be in a neutral venue, there are several reasons for this. However in the main it should mean that the person being warned at the meeting does not feel agencies are overbearing by appearing at the property or having to attend a Police Station.

If the individual fails to attend the meeting and time allows, it may be of use to attend at the address on that occasion as the opportunity to voluntarily attend has been given up. No visits are to be undertaken alone.

The only paperwork that there is at the F2F is the audit trail of known ASB, this is used by the ASBU to highlight to the individual, the impact their behaviour is having on others. It will also be used to see if there are any patterns or concerns with the individual that may warrant a referral to another support service.

The basic structure of the F2F should follow the bullet points below:

- Make introductions
- Explain the purpose of the meeting
- Explain what could happen if the behaviour continues
- Ask/enquire if there are any issues that the individual needs assistance with
- Explain how long they will expect to be monitored (Normally 2 months)

### Acceptable Behaviour Contract (ABC):

An example of an ABC is at Section 20, Appendix 11

An ABC is another formal warning but one step up from a F2F meeting, again this is voluntary for the individual concerned so no action can be taken for non-attendance.

The arrangements for setting up the ABC are the same as for the F2F and again the ASBU will be the lead agency. The ABC will be the first time that the individual will get to see what the conditions of any ASBO application would look like, it is a formal contract, written up and signed up to by all agencies present. The individual will be provided with a copy of the agreement, however the ASBAT is retained by the ASBU.

Although voluntary for attendance and sign up, the ABC is an important part in the process leading up to any application for an ASBO/CRASBO with any individual. It will demonstrate that all agencies have tried to engage with the individual and make it clear what is expected. If the person does not show up to the ABC then they are to be sent a copy of the ABC (Not the ASBAT) so that they know what is expected.

Conducting ABC meeting:

- Make introductions
- Ask about reading comprehension
- Explain the purpose of the meeting
- Hand out ABC and ASBAT
- Explain what could happen if the behaviour continues
- Ask/enquire if there are any issues that the individual needs assistance with
- Explain how long they will expect to be monitored (Normally 6 months) and what happens if there are any breaches of the ABC

If the ABC is signed then copies are distributed to the agencies who have witnessed this namely:

ASBU/Police Scotland/RSL/Individual

### **Acceptable Behaviour Contract (Points to Note)**

ABCs can be complementary to ASBO rather than an alternative. The agreement is an individual written agreement between that perpetrator of the antisocial behaviour, the relevant authority (i.e. local Authority / RSL) and the Police Scotland.

The aim of the contract is to make people personally responsible for their actions. The contract will cover the responsibilities of the person on identified ASD activities that the person has committed.

ABC are not legally enforceable and a perpetrator cannot be compelled to enter into such an agreement.

ABC are flexible enough to be used in respect of antisocial adults or juveniles (children aged between 8 and 15) irrespective of their housing tenure.

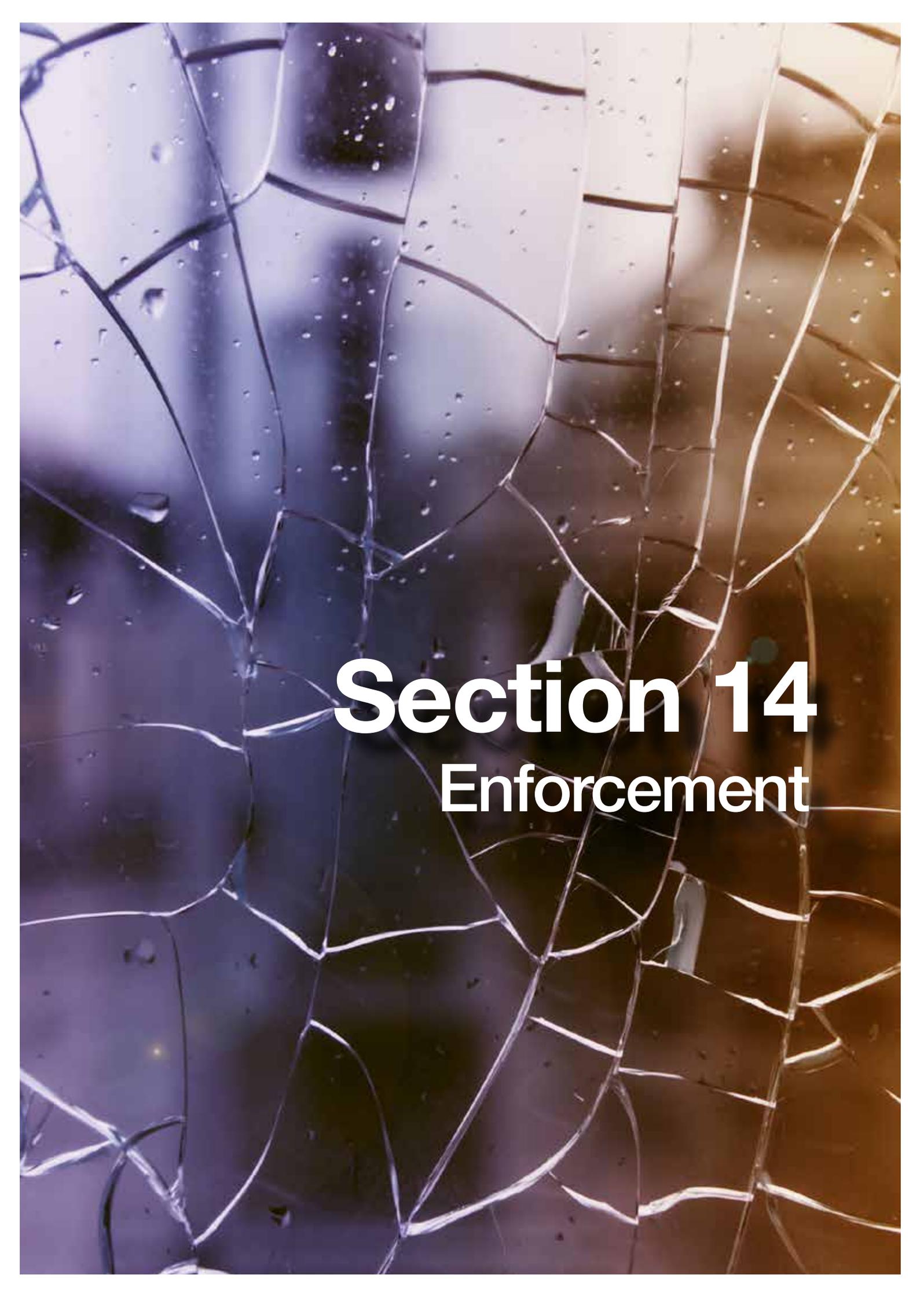
If the contract involves a person who is under 16 years of age then in addition to obtaining his/her agreement and signature, the agreement and signature of the young person's parent or guardian must also be obtained. The responsibility of upholding the agreement rests with the parent or guardian.

The signing of an agreement by a juvenile and his/her parent or guardian should not prevent the reporting of that Juvenile to the Reporter where it is thought that he/she may be in need of compulsory measures of supervision.

In the case of an adult who subsequently breached the agreement, the ABC can be used to support a body of evidence to proceed with an application for an ASBO and / or in the case of a tenant the raising of an eviction action. This would demonstrate to the Sheriff Court that the landlord had tried an alternative non-legal and reasonable approach to tackle antisocial behaviour, thus strengthening the case against the antisocial person.

ABCs are flexible by nature and by signing the agreement the perpetrator basically admits that their behaviour is unacceptable. ABC's are significantly quicker and cheaper than court actions, however they are not legally binding.



The background of the slide is a microscopic image of plant cells, showing a network of cell walls. The image has a color gradient from blue on the left to orange on the right. The text is centered in white.

# Section 14

## Enforcement

## ANTISOCIAL BEHAVIOUR ENFORCEMENT MEASURES

### Antisocial Behaviour Order

All references to Antisocial Behaviour Orders (ASBO's) include Civil ASBO's, Interim ASBO's, Criminal ASBO's (CRASBO's).

An ASBO is a measure, which is intended to tackle behaviour which cumulatively causes considerable alarm and distress to the community. This may consist of a number of single acts that due to insufficient evidence could not be prosecuted independently as criminal offences.

**An ASBO is not intended to be a substitute for criminal proceedings where these are deemed as appropriate.**

An ASBO can be made against persons of all housing tenure types i.e. owner/occupier, private sector tenants of public sector landlords.

Currently, RSL and Police Scotland through the ASBU can apply to the court for an ASBO against any person (whether or not he or she is an RSL tenant), and is over the age of 12 years, **who has acted in an antisocial manner or pursued a course of antisocial conduct within their area of geographical responsibility**. In practice the ASBU will be the lead agency for the actual application in all cases.

Prior to application for an ASBO all organisations concerned must consult with Police Scotland (a statutory requirement) this is because they may have information in support of the application. This consultation should also prevent the possibility of civil and criminal action relating to the behaviour taking place simultaneously, unless it is agreed that both are necessary.

*“Section 45 of the criminal Justice (Scotland) Act 2003 requires RSL's to consult with Police and notify the local authority before applying for an ASBO or an interim ASBO”*

*“The Local Authority must consult with the Police (a statutory requirement under Section 4 subsection 23(11) (a) and Section 18 of the Antisocial Behaviour etc (Scotland) Act, 2004.)”*

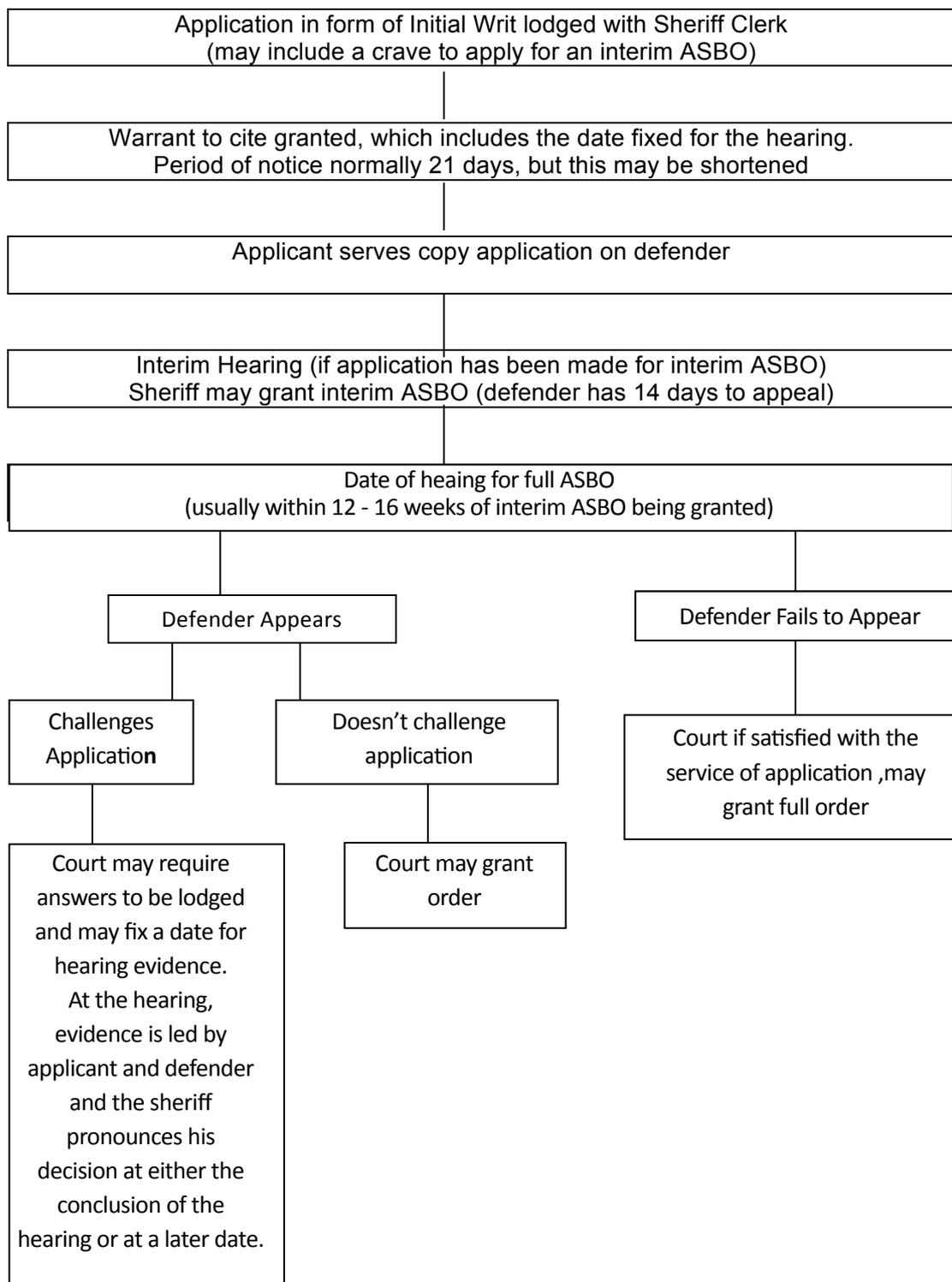
An application for an ASBO will be made to Scottish Borders Council Legal Services who will seek it by summary application to the relevant court in relation to where the antisocial behaviour is alleged to have taken place. If granted, the clerk of the court making the ASBO shall give a copy of it to the person named in the order or be sent to the person so named by registered post or recorded delivery service.

If an individual against whom an ASBO is made has moved house, the ASBU in consultation with the RSL will decide whether the ASBO should be revoked. ASBO's relate to the protection of a particular community and therefore cannot be transferred if the individual moves, Although if the order is made for Borders wide, an alteration can be requested to any specified addresses.

When an ASBO has been granted, the ASBU will forward a copy of the full ASBO to Police Scotland. Details of the ASBO will be placed on the Storm Incident system and on PNC. This will contain a brief description of the nature of the ASBO of the relevant Division. In order for that to happen there are three documents that are required:

- a. A Copy of the application that was sent from SBC Legal Services to the court
- b. A copy of the Order
- c. Proof of Service on the individual

this may vary according to differing circumstances.



ASBO's and Interim Orders are applied for in the Sheriff Court under Summary Cause Civil procedure. The civil standard of proof applies during the evidence gathering period of obtaining an Order (Only one witness required to prove each incident) and Orders will be granted, provided that proof of antisocial behaviour is satisfied, on the balance of probabilities.

CRASBO's are slightly different in that they are Orders granted as a sentencing option by a Sheriff or Justice of the Peace on a person who has been convicted at a Criminal Court of an ASB type of Crime such as - Breach of the Peace, Vandalism, Assault etc

### Breaches of ASBO

In order to prove that either a Civil, Interim, or CRASBO has been breached the evidence required to prove a breach reverts back to the criminal standard of proof - beyond all reasonable doubt - and it requires the corroborative evidence of two witnesses to prove any breach.

## Interim ASBOs

Section 44 of the Criminal Justice (Scotland) Act 2003 introduced Interim ASBO's, and Section 7 of the Antisocial Behaviour etc (Scotland) Act, 2004, replaces Section 44 of the Criminal Justice (Scotland) Act, 2003. Interim orders are intended to provide a more immediate protection and can be applied for pending the substantive application for an ASBO being dealt with. Section 7 (2) of the Act sets out the conditions to be fulfilled before a Sheriff will consider granting an interim ASBO.

## Criminal ASBO's (CRASBO's)

Section 118 of the Antisocial Behaviour etc (Scotland) Act, 2004, inserts a new Section 234AA into the Criminal Procedure (Scotland) Act, 1995, which allows a criminal court to impose an ASBO as a sentencing option, on conviction. This provides that a court may impose an ASBO instead of, or in addition to any sentence where the person is convicted of an offence involving antisocial behaviour, provided the person is:

- (a) convicted of an offence
- (b) at the time when they committed the offence they were at least 12 years of age
- (c) in committing the offence, they were engaged in antisocial behaviour and
- (d) the court is satisfied, on balance of probabilities, that the making of an antisocial behaviour order is necessary for the purpose of protecting other persons from further antisocial behaviour by the person

## Keeping Records of all types of Antisocial Behaviour Orders made:

Section 15 of the Antisocial Behaviour etc (Scotland) Act, 2004, requires local authorities to keep records of ALL types of ASBO's they have applied for and had granted, varied, revoked, or in the case of an Interim Order had recalled.

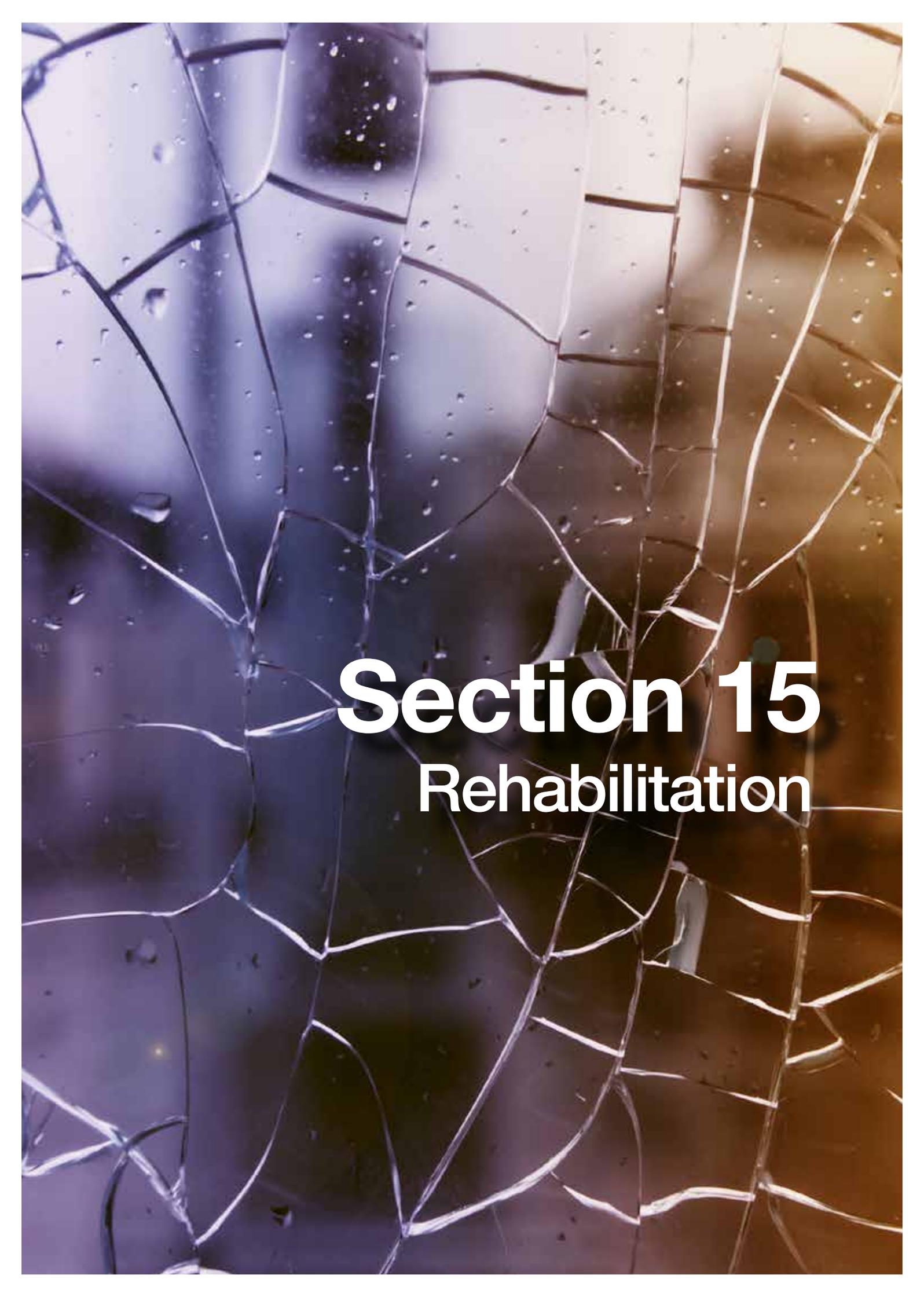
Section 119 of the Antisocial Behaviour etc (Scotland) Act, 2004, places a duty local authorities to keep records of ALL Antisocial Behaviour Orders made under Section 234AA of the 1995 Act (ie Orders made following conviction CRASBO's) in respect of which a copy has been received from the Court by virtue of subsection (1)(b) of Section 234AB of the 1995 Act. The Scottish Borders ASBU, will be responsible for keeping ALL the above ASBO records up to date.

The terms of all ASBO's currently relate to the protection of a particular community and they cannot be "transferred" to another community if the recipient happens to move house. (Under these circumstances an application to have their ASBO varied would need to be considered, and this would only happen if that individual continued to behave antisocially at their new address). Only Civil and Interim ASBO's can be varied in this manner.

CRASBO's terms cannot be varied, and if the above circumstances prevailed for a CRASBO recipient, a new CRASBO would need to be applied for and this could only cover the new type of criminal ASB the recipient had been involved in at his new address, or to cover his new town of residence.

If an individual moves away from the area, consideration should be given as to whether or not the original ASBO is still required, and some kind of risk assessment needs to be taken as to whether it is feared that despite moving from the area the recipient may return to persist in ASB. Where it is deemed that there is no continuing need for the ASBO an application should be made to the Sheriff to consider revoking the ASBO.

More information on detailed aspects of this particular part of the act is freely available on the Scottish Government website.

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# Section 15

## Rehabilitation

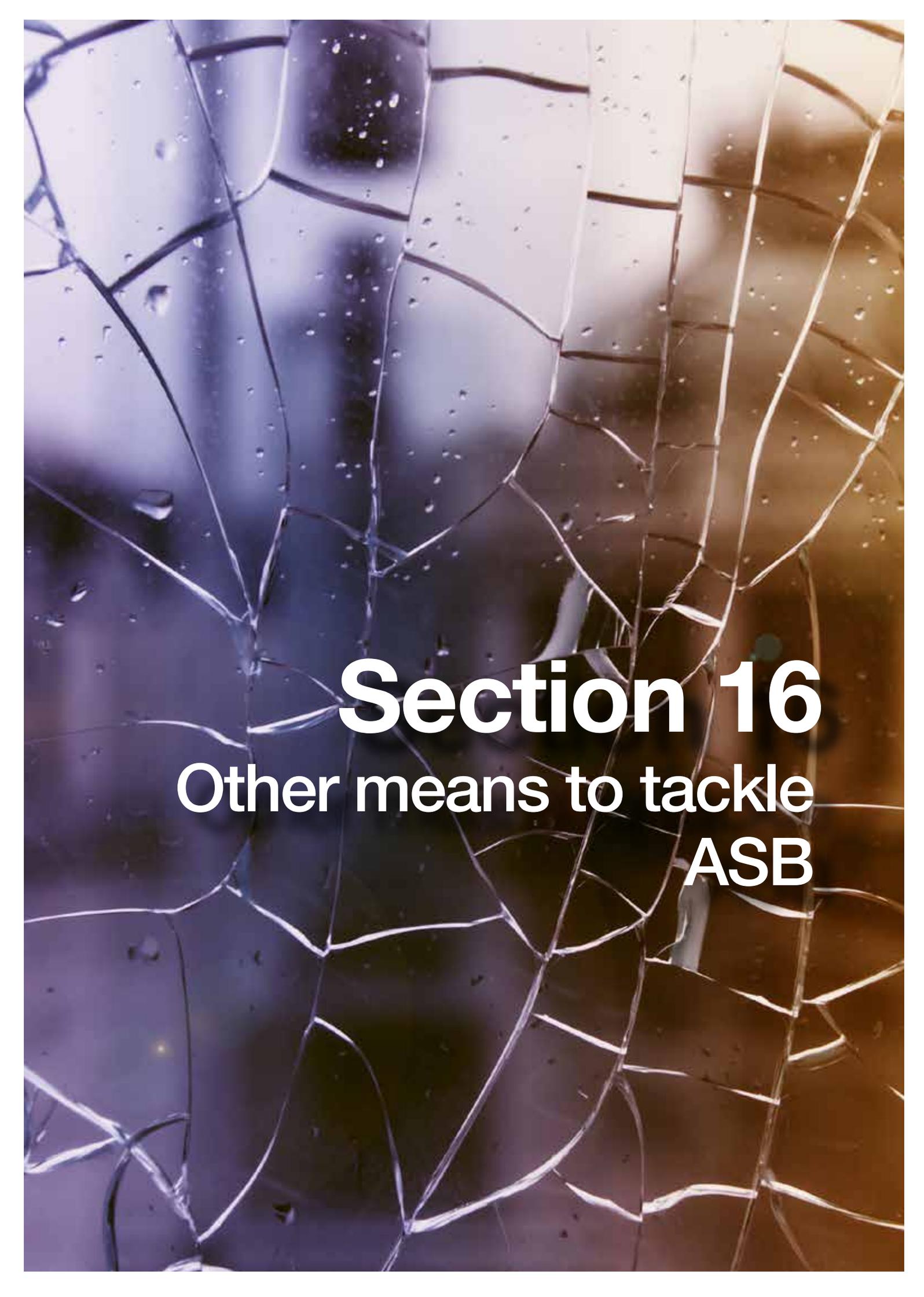
## REHABILITATION

The ability of the partnership to offer opportunities for rehabilitation are limited, partly due to resources at our disposal but mainly due to staff capacity to be able to see through any long term projects.

At the time of production of this second edition of the P&P research into how this can be better achieved in conjunction with the Justice Team will be explored.

Currently there is no process in place to review and have an exit interview for persons who have signed up to an Acceptable Behaviour Contract and ASBO's, in 2019/20 we will introduce a pilot where this will come into effect. It is hoped that by doing this, perhaps it can be a good point to evaluate what worked or what did not work for the individual concerned.

It may also be that the person is at a particularly vulnerable point in their life which may mean that they are in danger of re-offending for a variety of personal circumstances that could be addressed at that point. It is highly likely that this section will be further developed in the future.



**Section 16**  
**Other means to tackle**  
**ASB**

## **GENERAL OVERVIEW OF THE ANTISOCIAL BEHAVIOUR ETC. (SCOTLAND) ACT 2004**

Following the Scottish Parliament elections in 2003 the Scottish Executive made tackling ASB one of its key priorities. In June 2003 a consultation paper was issued, Putting Our Communities First and a Strategy for Tackling Antisocial Behaviour, and by October 2003 the Scottish Executive had published the Antisocial Behaviour etc (Scotland) Bill. In June 2004 the Bill passed its final stage in the Scottish Parliament and upon receiving royal assent, became the Antisocial Behaviour etc. (Scotland) Act 2004.

The act set up a framework and range of measures that can be used by local authorities, Police, Courts, Children's Panels and Registered Social Landlords to tackle the blight of persistent antisocial behaviour in Scotland Communities.

This section gives only the briefest of insight, for those who wish to get more detail on the legislation, the Scottish Government Website will give that.

Part 1 – Outlines the statutory duties of the Council and Police Scotland in the preparation and review of an Antisocial Behaviour Strategy. (Council and Police Scotland responsibility)

Part 2 – Cover measures appertaining to ASBO's (Multi- Agency Powers)

Part 3 – Dispersal of Groups (Police Powers)

Part 4 – Closure of Premises (Police Powers)

Part 5 – Noise Nuisance (This part was not adopted by Scottish Borders Council)

Part 6 – Environmental Issues – Strengthens powers contained within the Environmental Protection Act 1990 with particular emphasis on Graffiti/Fly Tipping (Council Powers)

Part 7 – Antisocial Behaviour Notices – Giving the Council more power to ensure that private landlords take action against tenants that are antisocial (Council Powers)

Part 8 – Private landlord registration (Council Powers)

Part 9 – Parenting Orders – (Council Powers)

Part 10 – Further Criminal Measures:

- a. Ban on selling spray paint to under 16s (Council responsibility)
- b. CRASBO's (Court Powers)
- c. Community Reparations (Court Powers)
- d. Extended RLO's (Court Powers)
- e. Seizure of Vehicles (Police Powers)

Part 11 – Fixed Penalty Notices (Police Powers)

Part 12 – Children's Hearings – (Reporter)

Part 13 – Misc and Privacy of certain proceedings

### **DISPERSAL OF GROUPS (Police Power only)**

The dispersal provisions outlined within Part 3 of the Antisocial Behaviour etc (Scotland) Act 2004 is a police power they are not intended as a first resort and should not be used in isolation.

There is nothing contained within the provisions which would empower police officers to 'move on' persons of any age, who are merely gathering peacefully in the streets of their communities. There must be demonstrable ASB associated with the group/area.

The dispersal provisions are intended for use as part of a package of measures agreed with partner agencies, and would be utilised only in circumstances where all other relevant measures have proved ineffective in breaking the cycle of significant, persistent and serious antisocial behaviour.

This guidance cannot, however, cover every eventuality. Every situation is different and each needs to be assessed on its own merits and dealt with accordingly. It might be appropriate in some circumstances to apply these provisions to a whole street or neighbourhood. It might equally be appropriate to apply them only around or in the vicinity of a single building.

The sort of behaviour that could be considered are: threats, noise nuisance, harassment and intimidation, vandalism, graffiti and drunken and abusive behaviour. The net effect of this behaviour will be the creation of an intimidating environment for people, which curbs their ability to go about their normal daily business.

What constitutes **significant antisocial behaviour** is not defined formally in the Act. For the purposes of this guidance, the word significant is taken to mean “of considerable effect or importance”. For antisocial behaviour to be significant, it must therefore considerably affect the lives of the people on whom it impacts. Arguably that impact may differ from individual to individual. It will be for the senior police officer, based on their judgment, to gauge whether the behaviour is significant in each case for them to authorise the use of the dispersal power.

The senior police officer should normally support their decision with other tangible evidence, such as receipt of several calls / complaints about the behaviour made to the police, either directly or through third-party reporting, by members of the public, local officials and/or evidence by police officers themselves or CCTV evidence. Complaints made by a single person or family would not normally be sufficient although, in some circumstances, they may be.

Possible examples could be an individual, family, residence or business being harassed, victimised or threatened for whatever reason (including racist behaviour) or a concierge or a warden of a block of flats acting on behalf of residents in the flats. Clear signs of the kinds of alarm and distress that the power is designed to relieve are people becoming afraid to leave their homes when it is dark, people feeling afraid even when in the supposed safety of their homes or sheltered accommodation.

### **Procedure for Making Authorisation**

The power to implement the dispersal provisions lies with an officer at or above the rank of Superintendent (including Temporary Superintendent), hereafter referred to as the “Relevant Officer”. Please refer to “Dispersal of Groups - Definitions” at the end of this Section for the definition of “Relevant Officer”.

Should the Relevant Officer deem it necessary to exercise the power of dispersal granted by the Act, they must ensure that both conditions outlined in Section 19(1) of the act are fulfilled.

*Where a police officer at or above the rank of Superintendent has reasonable grounds for believing that members of the public have been alarmed or distressed as a result of the presence or behaviour of groups of 2 or more persons in public places in any locality in the officers police area;*

*and,*

*the antisocial behaviour is significant, persistent and serious*

Full consultation will take place between the Relevant Officer and the Local Authority for the area of the proposed designation. Consultation should take place with the Council’s Antisocial Behaviour Unit.

The discussion between the Relevant Officer and the Local Authority should in no way preclude discussions at a local level with elected representatives, community councils, residents / tenants associations etc. through an existing network of contacts where dialogue should already have taken place due to the level of antisocial behaviour.

Prior to making a final decision on dispersal, the Relevant Officer will take full account of the views expressed by both the Local Authority and the community.

While there is no legal requirement for the senior police officer to formally consult members of the community, it will be vital that the force engages as fully as possible with the community or communities affected; and ideally long before there is any consideration given to granting an authorisation. Indeed, the more that a force has engaged with local communities, and has tested what is and what is not likely to work, the greater the chance that the dispersal provisions will be effective. Intelligence on community views and tensions will be invaluable in shaping the decision on whether or not to grant authorisation. Communities need to understand what is happening and why, and should be given the opportunity to feed in their views if at all possible.

Should the proposed area of dispersal border a separate policing division, or indeed another Police Force area, the Relevant Officer must consult with an officer of the equivalent rank who, in turn, will consult where applicable with their respective Local Authority.

Consultation with the Local Authority (or Authorities) should be at the level of the Chief Executive or other such senior officer in each Authority as may be agreed with the Chief Executive in advance, such as the Chief Social Work Officer in relation to incidents involving young people. This in no way precludes discussions at local level with elected representatives, community councils, residents / tenants’ associations, community groups, local youth groups, etc. Indeed, dialogue at this level should already have taken place if ASB is an ongoing problem in the

area. Such an approach, which should build on existing contacts between the police force and the Local Authority or authorities, should set out the context in which the authorisation is being considered. It should set out in writing such arrangements as have already been discussed with the relevant Local Authority's officers to deal with the problems for which it is now considered necessary to seek an authorisation, including such other steps as are planned, in line with the antisocial behaviour strategy for the area.

Once the Relevant Officer has made the decision to designate an area as a dispersal zone, they will forward a formal authorisation (Police Force form ta30) in writing to notify the Local Authority. The formal authorisation must specify:

- The locality of the dispersal zone
- The grounds on which the authorisation is given
- When the powers are exercisable, that is, the period for which dispersal is valid (including days and/or times) and
- A map clearly illustrating the designated area

A copy of the formal authorisation should be sent to the Local Authority and the Police Force Control Centre (FCC). It may also be prudent to include more information on the formal authorisation. For example, a map of the designated area may prove useful. It might also be useful to outline the nature of the problem, include a brief summary of relevant incidents, outline any action which was previously taken to deal with the problem, list any other solutions and give the reason(s) why this is considered to be the most appropriate course of action. Finally, if possible, the authorisation notice should also contain the measures taken to publicise the notice, detailing publication in newspapers in the relevant locality and in conspicuous places in the locality where the notice is displayed.

Once the decision to authorise has been taken, every effort should be made to contact the relevant local councillor for any ward affected.

A Storm Incident Log will be created for each dispersal zone and will be used to enter and manage data pertaining to that particular dispersal zone.

Section 20(1) of the Act requires the Relevant Officer to publicise the use of dispersal powers prior to them coming into effect. The Relevant Officer must:

*"Publish an authorisation notice in a local newspaper and display authorisation notices (copy of Force form ta30) in conspicuous places, before the dispersal powers can be exercised".*

Conspicuous areas include public buildings, e.g. libraries, police offices, Local Authority properties etc., and other places where the public are granted access. Care should be taken to avoid areas where the notices may be the subject of vandalism.

**It is imperative that the Relevant Officer ensures that the publications have been made and display accurate information. Only once the newspaper advert and public notices have been published and displayed can officers act upon the powers granted.**

The requirement to publish the authorisation in a local newspaper will have many advantages. Community safety and antisocial behaviour invariably arouse strong feelings locally. Therefore it is likely that a local newspaper will be interested in covering any initiative which is designed to tackle such concerns, particularly one involving the exercise of powers of dispersal.

It is essential to check that the publication of the authorisation notice has appeared on the agreed date as the dispersal powers cannot be exercised unless and until publication takes place. Likewise, it is essential to check the accuracy of the information passed to the newspaper and to check the details of the newspaper notice, as this will determine where, when, and for how long, the authorisation notice will last. Should an inaccurate notice be published by mistake, it should be immediately withdrawn and a new one issued as soon as possible.

### **Dispersal of Groups – Area / Period of Designation**

The area to be designated should not be so large or disparate that enforcing the powers will prove to be impractical. Issues to be considered may include the level of street lighting, CCTV availability, the number of secluded areas where individuals could gather, or whether or not an adequate and effective policing presence could be provided in response to any breach of the provisions of the Order.

If dispersal is to be an effective method of tackling antisocial behaviour, it must be used as part of the area's Antisocial Behaviour Strategy, taking account of factors such as natural community boundaries, the root causes of such behaviour, and whether or not the issues could be tackled in other ways.

Equally, there would be no point in "designating" an area if the result would be that the group responsible for the ASB is simply displaced to an adjacent area in which they continue to behave in the same way. Careful planning and consideration should be put into avoiding such an eventuality.

The Relevant Officer should make every effort to avoid designating an area which is normally utilised as a recreation facility, such as a skateboard park or a youth shelter. Where the aim is to prevent certain named individuals from gathering and causing trouble within this area, then consideration should be given to the use of measures such as an Acceptable Behaviour Contract (ABC) or an Antisocial Behaviour Order (ASBO).

The **maximum period** available for designation of an area at any one time is **3 months**. The possibility of further authorisations after this period exists if required. The period chosen should be in direct correlation to the problem that exists, e.g. where antisocial behaviour occurs only on weekday evenings between 18:00 and 22:00, this would be the period targeted for dispersal.

In deciding what this period should be, senior police officers should ask themselves various questions e.g. does the problem only occur on weekends or does it only occur during school holidays? Careful consideration should always be given to issues of proportionality and necessity when considering the appropriate timescale.

If the antisocial behaviour (expected or otherwise) is linked directly to a particular occasion which lasts one week, that should be the period of the designation.

### **Dispersal of Groups – Procedure for Withdrawing Authorisation**

Where the Relevant Officer considers that the level of antisocial behaviour within the designated area has been reduced substantially and contemplates rescinding the authorisation prior to the agreed expiry date, the officer must once again consult with the Local Authority. In addition, it would be prudent to take further soundings from the local community prior to taking such action.

Where the Relevant Officer has taken the decision to rescind the authorisation, every effort should be made to withdraw the dispersal notices as soon as reasonably practical. A media release, indicating the withdrawal of the authorisation and giving the community a general update on the outcome of the action, should be issued as soon as possible.

Any decision to rescind authorisation does not prevent a further authorisation being granted at a future time.

### **Dispersal of Groups – Dispersal Powers – Designating a Dispersal Zone**

The power of dispersal should not be interpreted as preventing officers from using their discretion, and in all cases, officers should consider the full circumstances prior to enforcing the powers.

Where an authorisation notice has been issued and all the conditions set out in sections 19 and 20 of the Act have been met (as described in relevant sections in this guidance), a Constable can exercise the dispersal powers if they have reasonable grounds for believing that the presence or behaviour of a group of (two or more) persons in any public place in the relevant locality is causing or is likely to cause alarm or distress to any members of the public. A police officer cannot exercise the power to disperse a group of people who are engaged in industrial disputes or other public processions which either require permission, or are exempt from requiring permission, under section 62 of the Civic Government (Scotland) Act 1980.

While such "reasonable grounds" will depend on the circumstances of each case, there must be an objective basis for those grounds based on demonstrable facts, information and intelligence relevant to the presence or behaviour of any groups. This could be, for example, from:

- Recorded observations by a police officer or special constable
- As captured by public space CCTV or
- As reported by member of the public identifying individuals either by name or by providing a description

The test of “reasonable grounds” would not be met where officers simply come across a group whose members had on one or more previous occasions been dispersed, unless they had reasonable grounds for believing that those involved were likely to commit antisocial behaviour. Of course, if this group or members of it, without a reasonable excuse knowingly contravened a direction given to them by a constable by returning to a designated area within twenty-four hours, they would then be committing an offence.

In determining whether or not to exercise the dispersal powers, a Constable must have regard to whether the exercise of the power would be likely to result in the persons in the group causing less alarm and distress to members of the public in the relevant locality than if the power were not exercised. The members of the public whom the constable should be concerned with are strictly those members in the designated area. It would not be appropriate for a Constable to decide not to use the dispersal powers on the grounds that to do so would not reduce alarm and distress across the police area as a whole, due to any likelihood of the group simply re-congregating elsewhere.

What the constable should be concerned with is whether or not the use of the power will lessen the alarm and distress to members of the public within the relevant locality. The Constable will want to consider, however, whether or not a person or persons so dispersed might go on causing alarm and distress to persons inside the relevant locality from outside it. That might be a reason not to use the powers, as would the possibility that sending someone out of the relevant locality will actually inflame the behaviour of the remaining members of the group.

The power of dispersal, in keeping with all other police powers, should be used fairly without fear, favour, malice or ill-will. The **Race Relations (Amendment) Act 2000** makes it unlawful for police officers to discriminate on the grounds of race, colour, ethnic origin, nationality or national origins when using their powers. In some areas, police officers will require to be particularly alert to the possibility of requiring translation services. Likewise police officers are required to give due consideration to all other equally important legislation such as the **Disability Discrimination Act 1995**, and should consider if individuals are suffering from autistic spectrum disorder or any other developmental or medical condition (including mental health problems) and require assistance and support.

Both uniform and plain-clothed police officers may disperse groups; however, plain-clothed officers must show their warrant cards. Officers who exercise the powers of dispersal should note the identity of group members in their notebooks, together with a short description of those dispersed, either at the time or as soon as possible thereafter.

Where available, CCTV or video footage can be used to provide additional evidence. Although this is not mandatory, such evidence may be beneficial when dealing with large groups, and may also help to provide additional evidence of identification where it is not practical to note individual persons’ details.

A police officer who disperses a group of two or more individuals shall inform the person or persons:

- That the location in which they were found has been designated as a dispersal area under the Antisocial Behaviour etc. (Scotland) Act 2004; and
- They must inform them of the boundaries of that designated area at the time

The police officer shall thereafter note the personal details of the person indicating the time, date and location where they were found together with the other individuals in whose company they were found. It should be noted that it is NOT an offence under this legislation if a person refuses to provide his/her name and address.

Section 21 of the Act contains the dispersal powers granted to a Constable, which are directions:

- requiring persons to disperse
- requiring persons to leave the locality or part thereof
- prohibiting persons to return to the locality within a period of 24 hours
- requiring dispersal immediately or at a time specified by the officer or
- requiring dispersal in any such way as may be specified

**It should be noted that if the individuals who are to be dispersed reside within the relevant locality, e.g. their home addresses are situated within the dispersal zone, officers may still require them to disperse, however, the individuals cannot be required to leave the locality of their home.**

Although not a requirement, it would be advisable to inform those required to disperse that their return to the locality within the specified period of time is an arrestable offence under section 21(b) of the Act.

Section 21(a) provides that it is competent for a police officer to issue oral directions to a group of people when they are dispersed. Officers should ensure that any individual who is ordered to disperse is informed of how long this direction will be enforced. They should also record this information in their notebooks at the time the power of dispersal was used, or as soon as possible thereafter. It should be noted that a police officer can vary or withdraw the direction, which is given to groups when exercising the power of dispersal.

It may be that individuals will claim that they did not understand the instructions given to them, whether because they were under the influence of drink or drugs or for other reasons. One way to address that possibility may be for officers to routinely give every person so dispersed a leaflet setting out clearly what is required of them. The police have a duty to care, and should officers feel that under-16s are at risk through abuse of alcohol / drugs, they should follow relevant force procedures in relation to child protection.

Should an individual, having been directed to disperse as part of a group of two or more persons, knowingly contravene a direction without reasonable excuse, either:

- as part of the same group or
- as part of a different group or
- alone

prior to the expiry of the time indicated by the police officer, that person will have committed an offence under Section 22(2).

Section 21(b) of the Act provides that a Constable may **arrest without warrant**, any person that he/she reasonably believes has committed or is committing an offence in contravention of any direction given under Section 21 of the Act.

There are no powers granted under the Act that authorise an officer to conduct a search on any person. Should officers feel the requirement to search an individual, existing legislation / procedures should be utilised.

Due to the number of individual police officers who could reasonably be expected to undertake patrol duties over a 24-hour/seven-day period, it is essential that accurate records are maintained of areas designated within a command area together with details regarding individuals who have been directed to disperse. Full details, including any description, should be added to the relevant Storm Incident Log.

Exercising the powers will require to be carefully managed over the period of the authorisation (up to 3 months - or possibly longer if the authorisation is renewed), depending on the number of areas designated. It is therefore vital that the Force has systems in place that will enable any officer, at any time, to have up-to-date information on who has been dispersed and from where.

## **Dispersal of Groups – Responsibilities**

### Responsibilities of Superintendent

See diagram entitled, “Dispersal of Groups – Flowchart of Dispersal Procedures” at the end of this Section.

### Responsibilities of Force Communication Centre (FCC)

- Once the Relevant Officer has designated an area as a dispersal zone, he/she will send the formal authorisation (Force form ta30) to the FCC to enable a Storm Incident Log to be created
- FCC staff will enter details of the designated area onto Storm with full details of the authorisation. On receipt of cancellation of authorisation from the Relevant Officer, FCC staff will close the Storm Incident
- FCC personnel will update the dispersal incident as and when operational officers provide details of those stopped, moved on or arrested. **The updates placed on the Storm system must be recorded at the time they are being transmitted by operational officers**, as the dispersal measures will fail if our information recording systems are not accurate at all times

#### Responsibilities of Divisional Staff Officer

- The authorisation notice will be sent to the Divisional Staff Officer, who will file the Dispersal Authorisation for their respective divisions and, on notification of cancellation from the Relevant Officer, retain the Authorisation as per the Force retention schedule

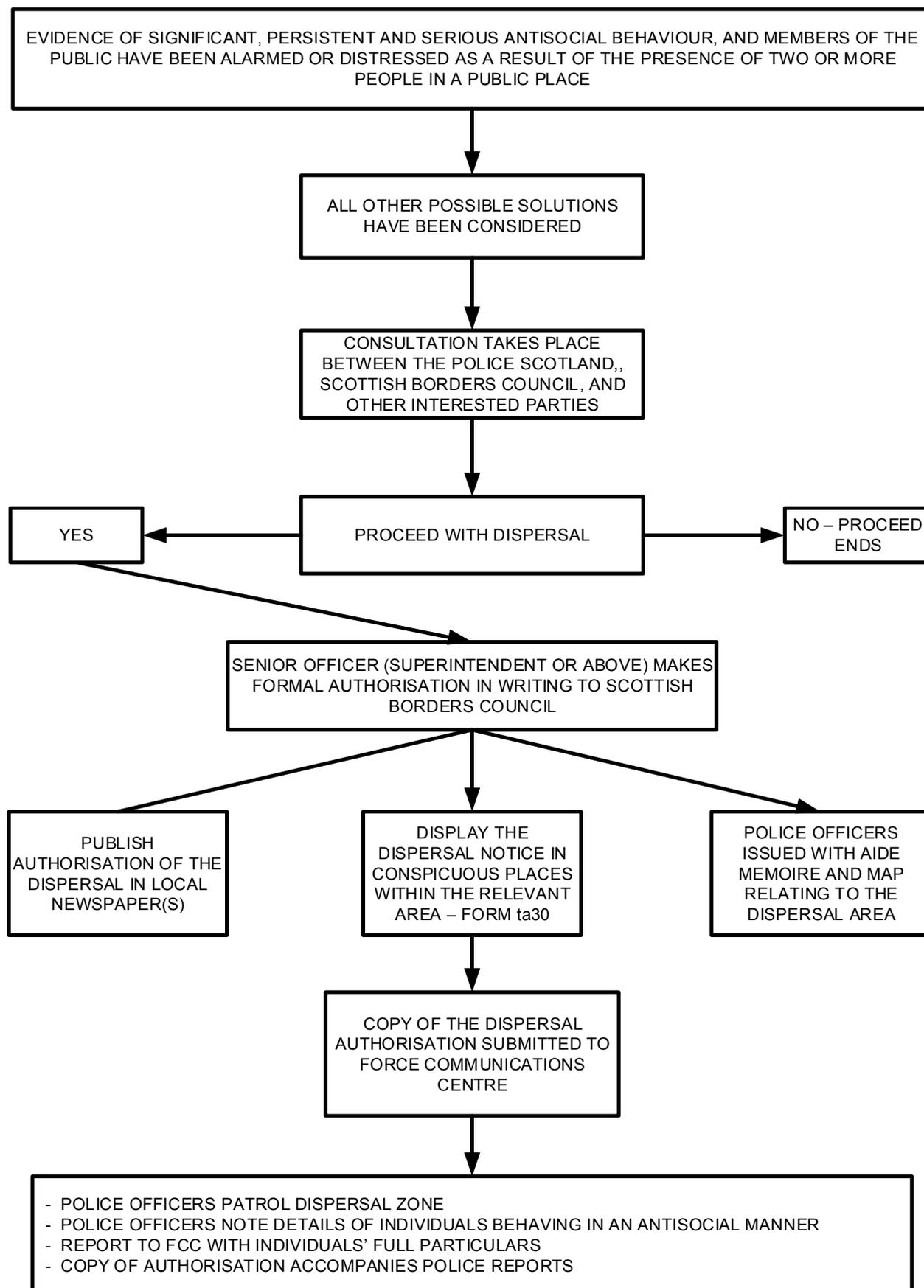
#### Responsibilities of Operational Officers

- Once a dispersal zone has been designated, and the times of operation publicised, it will be the role of operational officers to enforce the provisions
- All operational officers should be briefed detailing the dispersal provisions which will be enforced within the area. Good practice suggests they should be given a map outlining the designated area
- On patrolling the designated area during the times of enforcement, officers should note full details of any individuals who are behaving in an antisocial behaviour manner and thereafter pass their details to the FCC
- Individuals who fail to comply with the dispersal powers commit an offence and may be arrested without warrant (Please see Dispersal Powers above)
- They should then be reported to the Local Procurator Fiscal using the Charge Code: **ANSB200400210300 - Antisocial Behaviour 2004 21(3)(A/B/C)&22(2) CONTRAVENE REQUIREMENT**

#### Responsibilities of Case Management Units:

- When an individual has breached a Dispersal Order, a report will be submitted to the Procurators Fiscal / Reporter to the Children's Panel
- Case Management staff will ensure a copy of the dispersal authorisation notice accompanies the police report. Lord Advocates Guidelines in respect of juvenile offenders should be followed

## Dispersal of Groups – Flowchart for Dispersal Procedures



## Dispersal of Groups – List of Definitions

The Act interprets persons as having engaged in antisocial behaviour if they:

*“Act in a manner that causes or is likely to cause alarm or distress;  
or,  
Pursue a course of conduct that causes or is likely to cause alarm;  
or,  
distress to at least one person not of the same household as them”.*

*In this definition “conduct” would include speech and a “course of conduct” would involve conduct on at least two occasions.*

*“Significant antisocial behaviour” is interpreted as being of “considerable effect or importance”. The behaviour, therefore, must have some considerable effect on the lives of others.*

*“Persistent antisocial behaviour” relates to “behaviour that has occurred repeatedly over a reasonable period of time”. Whilst it will be for the officer in charge (Superintendent) to judge how long a reasonable period of time is, the Act provides the following guidance:*

*“Where significant antisocial behaviour involving groups is reported to have occurred:*

- Within a Local Authority ward;*
- Within part of a Local Authority ward; or*
- At the boundary between Local Authority wards or the boundary between 2 or more Local Authorities;  
on a minimum period of 6 days (not necessarily consecutive) at any time within a period of 21 days”.*

*“Serious antisocial behaviour” is described as “behaviour, which would normally mean a possible danger or risk to members of the public”, e.g. setting fire to a building, or a physical assault.*

*“A group” is “2 (or more) people who are clearly associated with each other whether because of their physical closeness, or through speaking to each other, or by their actions”.*

*“A public place” is defined in the Act as being, “any place to which the public have access at the material time, whether on payment of a fee or otherwise, including any area where access has been gained unlawfully”.*

*“A Relevant Officer” refers to a Police Officer who is at or above the rank of Superintendent, including officers in the post of Temporary Superintendent.*

## ANTISOCIAL BEHAVIOUR PREMISES - CLOSURE POWERS

The power to close premises is contained within Part 4 of the Antisocial Behaviour etc. (Scotland) Act 2004. Section 23(1) of the Act states:

*“A senior Police Officer may authorise the service of a notice (‘Closure Notice’) prohibiting access to premises by any person other than a person who habitually resides in the premises; or the owner of the premises”.*

The intention of this provision is to empower Police Officers, working in consultation with Local Authorities, to take action against “premises”, which cause “significant and persistent disorder or serious nuisance to a community”. (For full definitions please see Appendix “A” – towards the end of this Section.)

The powers are designed to empower the Police to take rapid and effective action against activity which causes ‘relevant harm’ to communities. Action to close a property will be taken in consultation with the Council’s ASBU and other relevant agencies involved in the case.

The power of closure can be utilised not only in relation to domestic dwellings but also to any type of premises where there is persistent and serious nuisance or disorder. Premises such as licensed premises, warehouses and businesses can be closed if they are the subject of an Order. Closure would clearly have a dramatic impact on the viability of a business and hence can be very useful as an effective incentive to reform, where this is necessary.

### Closure of Premises - Closure Powers

The decision to utilise closure powers rests with a Police Officer at or above the rank of Superintendent (including Temporary Superintendent), hereafter referred to as the “Relevant Officer”. In all cases of the use of this power, the Relevant Officer must demonstrate that significant and persistent disorder or serious nuisance is associated with the use of the premises.

When the Relevant Officer is assessing the requirement of a Closure Notice, they must have reasonable grounds for believing that:

*“at any time within the preceding three months a person has engaged in ASB on the premises; and  
the use of the premises is associated with the occurrence of relevant harm”.*

Where premises have been identified as causing significant persistent disorder, or serious nuisance to a community”, this will be identified through the ASB Core Group process and the premises will have been subjected to regular monitoring before any consideration is ever given to it being taken down the Closure route. Existing procedures with regard to dealing with the behaviour of all individuals engaged in ASB in or near the premises must have been used and exhausted unsuccessfully before consideration will be given to using closure powers. Those persons involved with the premises must be advised during the monitoring process that a Closure Notice is an available option to the Police and its partners and will be applied for if there is no change in the behaviour affecting the community.

Where it is considered that this approach has not been successful, or where there is a fast moving case that is so serious that there is an immediate need, consideration will be given to applying for a Closure Order.

It is realised that a Closure Order will have a significant effect on the lives of the individuals involved. As such, the Relevant Person will need to convene a meeting of all the professional bodies involved with those person(s) resident in the property or, in the case of owner/occupied premises or commercial business premises, review the impact that closure of the premises would have on these persons or their business.

The purpose of the meeting is to review the impact of the ongoing behaviour of those involved in and around the premises, and to give notice to partner agencies who are involved with the individuals who are linked or associated with the premises that a Closure Notice is being considered. The meeting will allow these agencies to plan ahead if a Closure Order is eventually served on the premises.

The meeting could include representation from any one or all of the following agencies dependent upon the individual circumstances of the person(s) involved.

- Safer Communities Team
- Community Policing Area
- Council's ASBU
- Scottish Borders Council Solicitor
- Registered Social Landlord
- Private Landlord
- Social Work Department
- Homelessness Services
- Scottish Children's Reporter Agency (SCRA)
- Mental Health Officer
- Community Health Worker
- Citizens Advice Bureau
- Advocacy Worker

This meeting must be minuted and a decision will thereafter be taken by the Relevant Person following this meeting as to whether or not a Closure Order should be pursued for the premises.

### **Closure of Premises - Closure Notice**

A Closure Notice is a means of alerting those individuals using the property, those resident within the property, the owner of the property and any other interested party (who can be identified) of the intention to apply to the Court for a Closure Order.

The Closure Notice signifies that a clear course of action is being taken against the premises and those who reside in or frequent the premises and who indulge in significant and persistent ASB in or around the premises.

The Act sets out a requirement for the Police Scotland to take reasonable steps to identify all such persons who may have an interest in, control of, responsibility for, or who live in the premises, before the Notice can be authorised. Police Scotland are not required to ensure that all such individuals are notified; they merely require to take reasonable steps to carry out this measure.

A Closure Notice will be authorised by the Relevant Officer in writing and will contain the following information:

- That a Closure Order is being sought
- The details of the premises to which it relates
- Only the owner or person(s) who are habitually resident at the premises may now enter the building
- The date, time and place at which Court an application for a Closure Order will be considered (must be in place when issuing Closure Notice)
- An explanation of what will happen should a Closure Order be granted, in particular that there will be no further entry to the premises and it will be totally sealed. If the premises are residential, then the occupier will be forced to find alternative accommodation
- An explanation that any person who does enter the premises, and who is not the owner or habitually resident there, commits an offence and can be arrested
- Information on providers of relevant advice who will be able to assist in relation to housing and legal matters. This will depend on the particular arrangements in place for the area and should be agreed with the relevant Local Authority as part of the consultation process. (Advice providers are likely to be the Council's Homeless Services Team, Registered Social Landlords, Citizens' Advice Bureaux, or Solicitors acting on their behalf)

A Closure Notice should be served on all those people identified as having an interest in the property, including:

- Tenants and their dependants
- Owners or their representatives
- Neighbouring residents
- Persons affected by access to the premises

Information pertaining to the identity of the above will be sourced through consultation with Scottish Borders Council, however, the time spent identifying such people should not impede the service of the Notice. In circumstances where consultation and investigation has led only to a letting agent, then it is acceptable to serve the Notice on that agent.

**In all instances, a copy of the Closure Notice will be fixed to a conspicuous part of the property and to all points of entry / exit to the property as a means of notifying all identifiable persons.**

**There is no power to force entry to the relevant premises to serve the Closure Notice.** Police Officers may hand the notice to the person(s) at the door or, alternatively, they must affix it to the entry / exit points of the premises. An officer of any rank may serve a Closure Notice.

It is an offence, arrestable without warrant, under Section 37 of the Act, for any person who does not normally live at the premises, or who is not the owner, to continue to reside at or enter the property in contravention of a Closure Notice. (It is also an offence to obstruct a Police Officer serving a Closure Notice, for which the officer may arrest without warrant).

It should be borne in mind that a Closure Notice might have the desired effect and prevent further antisocial conduct within the property. For this reason Closure Notices should be considered as part of strategic and tactical action against ASB at a more formal level.

A certificate of service of Closure Notice should be completed and submitted with the relevant correspondence to the Court for consideration of a Closure Order.

### **Closure of Premises - Closure Orders**

When a Relevant Officer has deemed it necessary to authorise a Closure Notice on a property, the Relevant Officer must make a formal application to the Sheriff Court in order to obtain a Closure Order. The application for a Closure Order must be made on the next Court day after the Closure Notice has been executed. The Closure Order will be subject to a hearing in front of a Sheriff, which must be held the next lawful day after the Closure Notice has been served.

The Closure Order grants the power to close a property completely and remove all access by any persons, even those with rights of abode or ownership, except where they are permitted access to the property under the supervision, directions or permission of the Court or the Police.

The Relevant Officer must submit the following information in the application they make for a Closure Order:

- a) They must specify the premises in respect of which closure is being sought;
- b) They must state the full grounds on which the application is being made; and
- c) The application must be accompanied by such supporting evidence (whether in documentary form or otherwise) to enable the Sheriff to determine the application, e.g.
  - Full details of the consultation process which has already taken place prior to the Closure Notice being authorised (statutory and voluntary)
  - Evidence from the Police and the Council's ASBU database
  - Other intervention powers which have been utilised or considered when attempting to gain control over the premises and prevent the serious nuisance or disorder
  - Details of the actions taken by the Relevant Officer in relation to the authorisation of a Closure Notice, i.e. how many interested parties were identified, who has been served with the Notice, how and when were the Notices served, were Notices placed in conspicuous places around the property, and who served the Notice; and
  - How the situation has developed since the Closure Notice was placed on the property

The Sheriff Clerk will grant a Closure Order, which will be issued to the Relevant Officer who will attend the hearing personally. The Relevant Officer will ensure that the original Order gets transported to Police Court and Records Department. The Relevant Officer will ensure that Scottish Borders Council is officially informed of the Closure Order as they will be responsible for the implementation of appropriate support mechanisms for those who will require alternative accommodation (please see below for details of Scottish Borders Council's responsibilities).

The solicitor representing the Police will provide verbal submissions to the Court and the following persons will attend the Court to provide evidence should it be required:

- Relevant Officer
- Local Officer(s) directly involved in the case
- ASBU Officer with knowledge of the case; and
- Relative Registered Social Landlords/Private Landlords

### **Police Responsibilities - after a Closure Order has been granted**

Police Officers may use reasonable force to enter and seal a property and to seal the premises with the required shutter. The Relevant Officer will consult with Scottish Borders Council to have this work undertaken on behalf of the Police.

A risk assessment should be carried out by the Police prior to staff from Scottish Borders Council carrying out or commissioning any firm to secure the property. A full Community Impact Assessment Statement must also be completed by the Police following the closure of the premises, including what measures are going to be provided by the Police to provide support and reassurance in the form of patrols in the area of the premises.

Breach of a Closure Order is an offence, and persons can be arrested without warrant if they enter / remain within the building.

A Closure Order is limited to a maximum term of 3 months. The length of any Order should reflect the type of behaviour associated with the premises and should be designed to bring the property back into a managed state of use as quickly as possible.

The Relevant Officer can make an application to the Sheriff to extend the Closure Order for a further period, with the total period of closure not to exceed 6 months. Where an extension is necessary, the Relevant Officer should engage in the same consultation process with partners and relevant agencies that was carried out for the initial application for the Closure Notice. The application for an extension must be made at least 3 weeks prior to the date when the original Order is about to expire.

It will be the duty of the Relevant Officer to ensure that any premises which are subject to a Closure Order are monitored for illegal entry and that the security of the premises is maintained in good order. The Relevant Officer will not be required to apply for another Order to re-close the property should the property have been breached, as the original Order will still apply until the Court decides otherwise.

The Relevant Officer or Scottish Borders Council may, through consultation, wish to have the Closure Order rescinded prior to its expiry date. This is desirable when the problems associated with the premises no longer exist. It should be stressed that no property should remain empty longer than is absolutely necessary. Where the property can be brought back under some managerial control, then an application should be made for the Order to be rescinded. An example of this would be if a tenant agreed to give up their tenancy immediately as a result of the Order, then the property could be brought back under management control, allowing the Order to be discharged in the minimum of time.

Should a Relevant Officer, after consultation, deem it desirable to rescind a Closure Order, the officer will complete the Revocation Form and submit it for scrutiny by a Sheriff.

### **Individual Police Officer's Responsibilities**

#### Responsibility of Superintendent (Relevant Officer)

- See Section entitled, "Closure Notices – Relevant Officer's Checklist" towards the end of this Section
- See "Closure of Premises – Flowchart of Procedures" at the end of this Section
- On receipt of the original Closure Order, ensure that an open incident log and occurrence marker is placed on STORM, populate SID with details of the full Closure Order, and advise the FCC of the Closure Order's circumstances
- File the original Closure Order as granted at the Sheriff Court
- On expiry of a Closure Order, ensure that all details of the Order are removed from all Police IT systems

#### Responsibility of Police Divisional Case Manager

- When an individual is being reported for breach of a Closure Notice or Closure Order, ensure that a copy of the Closure Notice / Order accompanies the Police report to the Custody Court

## Responsibility of Operational Police Officers

- Be aware of the powers conferred with the issue of a Closure Notice / Closure Order in preparation of any breach of the Order

## **Closure of Premises – Scottish Borders Council’s Responsibilities**

Scottish Borders Council will carry out the following actions:

- A solicitor from Scottish Borders Council will be employed to present the case on behalf of the Police. A report outlining the circumstances will be presented to the Court; this should include relevant details in respect of how each of the conditions relating to how relevant harm has been caused have been met
- Provide housing advice, including access to Homelessness Services and benefit advice
- Provide appropriate staff to assess the condition of the premises
- Commission the securing of metal window blinds, secure doors and any other measures necessary to prevent further access to the premises
- Co-ordinate the removal of possessions to a future address

## Appendix “A” - Closure of Premises - Definitions

### Definition - Relevant Harm

The Act defines relevant harm as being:

*“Significant and persistent disorder; or significant, persistent and serious nuisance to members of the public.”*

Examples of problems that may constitute relevant harm are as follows:

- Intimidating and threatening behaviour towards residents and members of the public
- An increase in crime in the immediate area surrounding the accommodation
- The presence or discharge of a firearm on or adjacent to the premises
- Consistent evidence of discarded drugs paraphernalia and other dangerous items in and around the premises
- Serious disorder associated with alcohol abuse, for example, in and around drinking dens
- High numbers of people entering and leaving the premises over a 24 hour period and the resultant disruption they cause to residents
- Noise – constant / intrusive noise – excessive noise at all hours associated with visitors to the property

The above-mentioned examples could be evidenced by accounts from neighbours and/or professional witnesses. The accounts should provide an objective base for the assessment of the gravity of the problem.

### **Definition - Premises**

*“Any land or other place (whether enclosed or not) and any outbuildings which are or are used as part of the premises.”*

Examples of property that would fall into this definition are:

- Houses/Flats/Apartments
- Sheds
- Common areas adjacent to houses/flats/apartments
- Garages
- Factories
- Shops
- Pubs/Clubs
- Public Buildings; and
- Community centres or halls

### **Definition - Interested Party**

The Act does not give a definition of an Interested Party however, it gives the following guidance:

Any person with an interest in the property, such as:

- Residents (both legal and illegal)
- The tenant and their dependants
- The owner or their representative; and
- Persons affected through access to their property

Failure to serve a Notice on a particular individual will not in any way invalidate the proceedings of the Court if reasonable steps have been taken to identify them.

### **Definition - Exempted Properties**

The term Exempted Properties relates to the properties that are exempt from the Act. **At this time there are no properties listed in this category.**

### **Definition - Closure Notice**

A Closure Notice prohibits access to all but the owner or resident of the property by signifying intention to apply to a Sheriff Court for a Closure Order.

### **Definition - Relevant Officer**

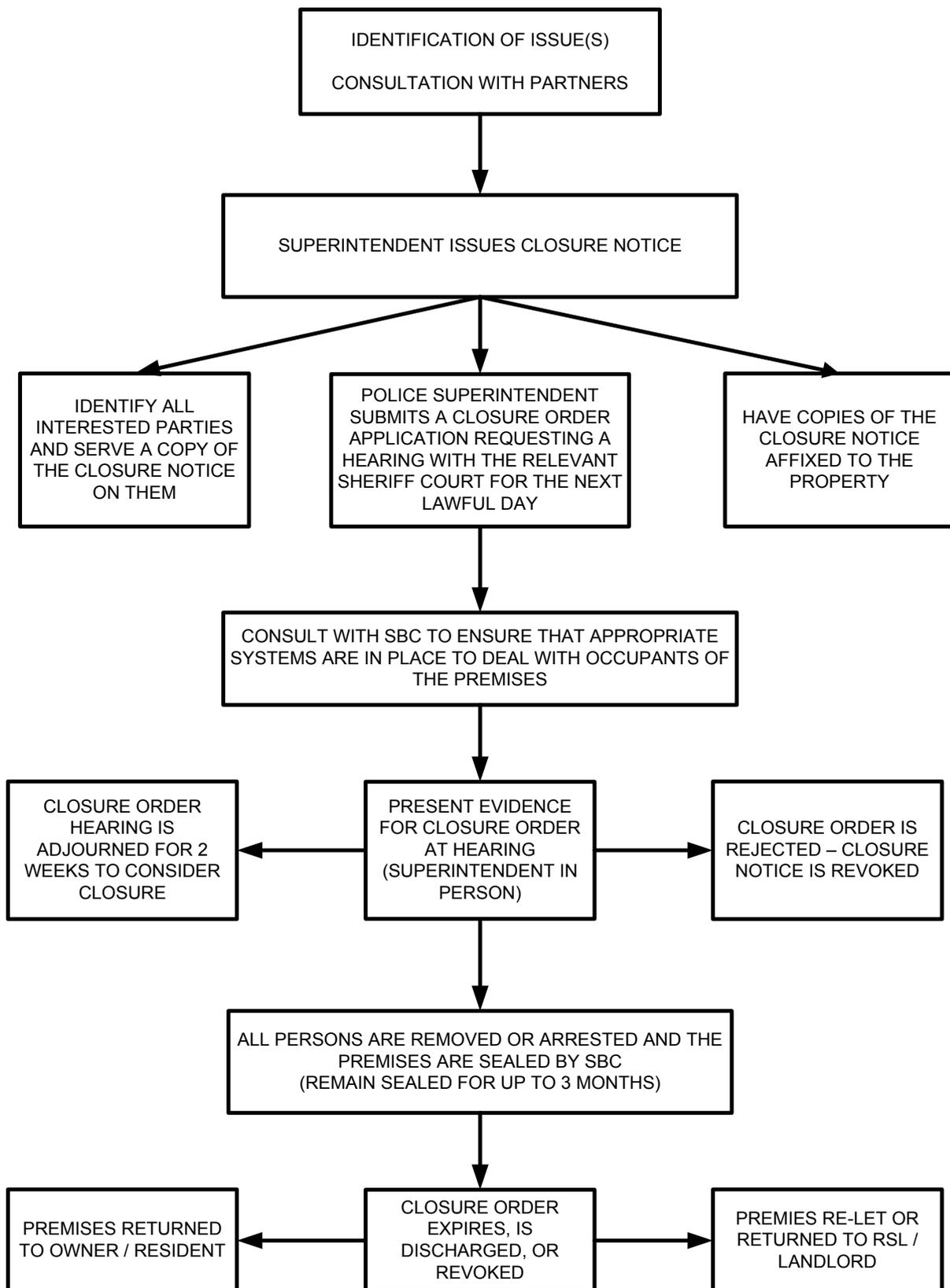
The term Relevant Officer relates to a Police Officer at or above the rank of Superintendent, including officers in the post of Temporary Superintendent.

### **Appendix “B” - Relevant Officer’s Checklist**

- Is there persistent and serious disorder or serious nuisance associated with the premises?
- Has evidence of this behaviour been properly collated?
- Is this within 3 months of the authorisation of the Closure Notice (today)?
- Has the Local Authority been consulted?
- Has this involved an exchange of information and have their views been taken into account where appropriate?
- Have those who live, control, own, have responsibility for, or an interest in the property been identified?
- Have Notices been prepared which will be served upon the individuals identified?
- Have other options been considered, or put in place where possible, to tackle the antisocial behaviour?
- Has a Sheriff Court Hearing been secured for the next lawful day of the intended date and time for the service of the Closure Notice?
- Does the Closure Notice contain the information required by the Act?
- Notice of the application for a Closure Order
- State the date, time and place where this will be heard
- Inform all persons that access to the premises is prohibited unless they are the habitual resident or owner
- Explain that access by any other persons is considered an offence
- Detail the effects of a Closure Order if issued by the Court
- Provide information on how to contact advice providers such as housing or legal advisors
- Has a risk assessment been carried out in relation to the premises and to any relocation premises?
- Are there sufficient resources in place, and have additional policing tactics been considered?
- Has the nature of the premises and possible vulnerable persons or children within been considered?
- Have appropriate services been notified of the potential demand placed upon them by such vulnerable persons?
- Have arrangements been put in place to secure and seal the premises and for the isolation of utilities?
- Have Scottish Ministers granted any exemptions to any type of premises to which the premises being targeted may apply?
- Have appropriate structures been put in place to ensure witnesses can be contacted for the case and can be kept informed of developments?
- Has a plan been set out to follow up on the Closure Order in the event of retribution at the premises or with neighbours?

Further advice can be read at [www.gov.scot/Publications/2004/10/20147/45688](http://www.gov.scot/Publications/2004/10/20147/45688)

## Closure of Premises – Flowchart of Procedures for Closure Powers



## PARENTING ORDERS

All parents need information and support at some point. Universal services such as GPs, health visitors, nurseries, schools and others all provide information and support to parents and there are also a range of services which are offered to parents to enhance parenting skills. Some of these are preventative services which can be accessed by all parents, and others are services which are targeted at the parents of children and young people with specific needs. Many parents in need of support will seek help from agencies and organisations on a voluntary basis, but some parents who have been recognised to need additional help may refuse to engage with that support.

Parenting Orders are about the behaviour of parents and getting them to positively change their behaviour in respect of their child and to take appropriate parental responsibility. Parenting Orders are designed to provide the help and support a parent needs to change their behaviour where efforts to engage them voluntarily have been unsuccessful. They will direct the parent as to how they should behave in respect of their child and will require the parent to undertake certain actions which should lead to a reduction in the offending or antisocial behaviour of their child or improve the welfare and safety of their child.

- A Parenting Order is a civil matter, but breach of an Order is a criminal offence
- The welfare of children will be the paramount consideration when considering the parenting needs of children
- Parenting Orders will be used to ensure parents accept the help and support they need to change their behaviour. They will not be used to punish the parent(s)
- Parenting Orders may be appropriate where the behaviour of the parent(s) is such that they are not prepared to take steps to address serious concerns about their child's welfare or behaviour and where voluntary help and support offered to them has not been taken up
- Parenting Orders can last for up to 12 months and the parent(s) must comply with the requirements during the specified period
- Parenting Orders will include requirements to attend "counselling or guidance" as directed, for a maximum period of 3 months although, if a parent has previously been the subject of a Parenting Order in respect of the same child, that requirement is not mandatory
- A Parenting Order will direct the parent(s) as to how they should behave in respect of their child. It will require the parent(s) to undertake certain actions designed to lead to reducing the young person's offending or antisocial behaviour or to improve the welfare of the child
- A Parenting Order may require the parent(s) to exercise control over their child's behaviour. These requirements should not conflict with those within any supervision requirement
- Parenting Orders will be used to engage with the significant carers of children - where appropriate both parents – but, where necessary, including a parent absent from the home

Detailed information on Parenting Orders can be found at on the Scottish Government Website and the legislation is contained in Part 9 of the Antisocial Behaviour etc (Scotland) Act 2004.

### Policy Statement

In considering applying for a Parenting Order, the following principles underpin the work of all statutory and voluntary agencies working with parents and their children:

- The welfare of the child is the paramount consideration
- Every child has the right to be treated as an individual
- Every child who can form a view on matters affecting him/her has the right to express those views if he/she wishes
- Every child has the right to protection from all forms of abuse, neglect or exploitation
- Parents will normally be responsible for the upbringing of their children and should share that responsibility
- So far as is consistent with safeguarding and promoting the child's welfare, local authorities should promote the upbringing of children by their families
- Any intervention by a public authority in the life of a child must be properly justified and supported by services from all relevant agencies working in collaboration and
- Parenting capabilities should be assessed within an overall assessment of the needs of a child

In this context, Parenting Orders should neither be used as a first option nor be used without attempting voluntary engagement with parenting services. Wherever possible, consideration of applying for a Parenting Order will take place within the established multi-agency decision-making processes such as Child Protection Case Conferences and Looked After Children Reviews.

Scottish Borders Council or the Children's Reporter may make applications for Parenting Orders to address offending or antisocial behaviour, but only the Children's Reporter may apply on welfare grounds.

## **Voluntary Intervention**

Once it is identified that better parenting could help meet the child's needs parents should be offered prompt support to help them engage and participate with the services being offered. It is important that the mother is not targeted for parenting support primarily because she is easiest to access. In addition to considering the person who has day-to-day responsibility for the care and behaviour of the child, staff also need to consider the role and responsibility of the other parent. Effective intervention and support requires involvement and support of other carers as well. Many parents participate voluntarily but others need encouragement and a more structured approach. One way of offering that structure is through a written agreement such as an Acceptable Behaviour Contract (ABC) in cases of antisocial behaviour. (See separate guidance on ABCs in Section 7 of this Manual.) Such an ABC will set out what the parents agree to do to address the behaviour of their child and the support the Scottish Borders Council or other agencies agree to provide. It should be specific, with timescales, and progress should be reviewed regularly. When engaging a parent on a voluntary basis where there are concerns about the impact of their behaviour on the child, workers will explain to the parents and, where appropriate the young person, the possible consequences of failing to engage voluntarily.

A failure by the parents to engage as required with no satisfactory improvement in the young person's behaviour will require the relevant Social Work Service Manager to consider an application for a Parenting Order.

## **When a Parenting Order Might Be Considered**

In all cases, the parents for whom a Parenting Order is being considered should be well known to relevant local agencies. Where the parents have previously been offered relevant and targeted services and have shown that they will not engage with those services on a voluntary basis, and where the behaviour of the parent continues to cause concern, an application for a Parenting Order might be appropriate. It is anticipated, therefore, that services deemed to be suitable for addressing the parents' needs will already have been offered. Such services will ensure that all reasonable steps have been taken to engage the parents with their services and start the process of addressing parenting behaviour.

Assessments relating to the possible need for a Parenting Order should include the following:

- The resources already utilised to address concerns about parenting
- The ways in which the parents have been engaged by agencies
- The strengths and weaknesses of the parenting; and
- The time period over which these processes have taken place

In cases where the assessment is that parenting has not improved on a voluntary basis, consideration will then be given to an application for a Parenting Order. Consideration will also be given to whether there are any special circumstances that might need to be taken into consideration. For example, where a Parenting Order might put a parent at risk, such as where a parent is a victim of a child's behaviour, or where there are mental health or domestic abuse issues, Parenting Orders would not be appropriate. Staff will also consider if there are any factors affecting the parent's ability and willingness to seek help and engage with services. Where appropriate, a specialist assessment (e.g. psychiatric, psychological) may need to be carried out as part of the holistic assessment of the child's circumstances.

Where an assessment indicates that a parent is already engaged to the best of his or her ability, a Parenting Order is unlikely to be of any help and therefore should not be used.

Concerns about the welfare or behaviour of children who are accommodated in foster care will be dealt with by existing mechanisms and not through Parenting Orders.

## **Grounds for Applications**

The Council or Children's Reporter may make an application for a Parenting Order when:

- A child has engaged in antisocial behaviour and that the making of the Order is desirable in the interests of preventing the child from engaging in further such behaviour

- A child has engaged in criminal conduct and the making of the Order is desirable in the interests of preventing the child from engaging in further such conduct
- The Children’s Reporter may make an application when the making of the Order is desirable in the interests of improving the welfare of the child. **APPLICATIONS ON WELFARE GROUNDS CAN ONLY BE MADE BY THE REPORTER**

### **Applications in Cases of Criminal or Antisocial Behaviour**

Applications can be made on the grounds that the child has engaged in criminal or antisocial behaviour and that an Order is desirable in the interests of preventing a recurrence. Applications can be made by the Reporter or Scottish Borders Council. When consideration of a Parenting Order on criminal or antisocial behaviour grounds originates from the Council, it will be referred to the relevant Social Work Service Manager.

When it is considering applying for a Parenting Order, the Council will advise the parents in writing, propose a meeting to discuss the matter, and advise them to seek legal advice from a solicitor or the Citizen’s Advice Bureau. At this stage, if the parents agree to modify their behaviour and engage with support on a voluntary basis, an Order may no longer be necessary.

### **Multi-Agency Meeting**

A meeting will always be held prior to taking a decision to apply for a Parenting Order. All services involved in the case, and those which may have a future role, should be represented at the meeting. It is anticipated that in most cases such meetings will already be taking place for assessment, planning and review purposes. Where this is the case, the consideration of applying for a Parenting Order will take place at such meetings. It is anticipated that it would be very rare for a meeting to be called purely to discuss the possibility of applying for a Parenting Order.

The following factors will be considered when deciding whether to apply for a Parenting Order:

- Evidence of offending or antisocial behaviour or welfare concerns
- Evidence of a lack of co-operation or willingness from parents to engage voluntarily with support services
- Previous interventions attempted, including successful interventions which could form the foundations for future engagement
- Alternative interventions available, including the use of an ABC to provide a more formal structure to support involvement
- Whether a Parenting Order would have the desired effect
- The views of the child and parents
- The possible impact of the Parenting Order on the family, including risk factors for children involved; and
- Any medical or developmental condition or mental disorder relating to a parent

### **When a decision is made that a Parenting Order is appropriate the following will be agreed:**

- A referral to the children’s hearing system, if relevant
- The grounds for the application
- Whether the Council or the Children’s Reporter will make the application
- The terms of the Order detailing the help and support parents are required to seek and duration of the Order
- The provision of identified help and support required
- The relevant roles and responsibilities, including identification of a Responsible Officer\*
- Steps to be taken should the parents not respond to the letter providing the final opportunity to engage support services; and
- Potential complementary interventions required, including an ASBO

\*The Responsible Officer will usually be a social worker, but this will depend on the circumstances of each individual case. The Responsible Officer will oversee delivery of the Parenting Order, including delivery and co-ordination of support services and monitoring compliance.

Within 2 working days of the decision being taken that a Parenting Order may be applied for, the Responsible Officer identified at the meeting will write to the parents. The letter will address the following issues:

- Giving a final opportunity to respond on a voluntary basis
- Setting out the implications of a Parenting Order

- Offering a meeting to discuss the matter
- Advising that independent advice should be obtained; and
- Any other relevant information

If the parents do not respond as reasonably requested in the letter, action will be taken as agreed at the meeting.

## **Preparing an Application**

A case history report will be produced which sets out:

- Grounds for the application, including evidence of the offending or antisocial behaviour or welfare concerns
- Terms of the Parenting Order sought, including an assessment that the parent is capable of complying with these
- Details of the resources and opportunities which were available to the parents in a way that the parents could have engaged with on a voluntarily basis
- Evidence that the services offered on a voluntary basis were easily accessible and appropriate; and
- Evidence that, despite this, the parents failed or refused to engage

The report will be signed off by the Senior Social Worker and his/her line manager and forwarded to the Reporter for consultation. The Reporter will respond within 5 working days indicating support or opposition to the application.

When a report is approved the Responsible Officer will forward the report to Legal Services ASB Solicitor to make the Court application. The Social Work Service Manager will sign the prescribed form authorising the application.

The Responsible Officer or Children's Reporter will instruct the Solicitor on the case, consulting other services as and when required.

## **Award of Parenting Order**

The ASB Solicitor making the application to the Court will inform the Responsible Officer of the award of the Parenting Order on the day of award.

The Responsible Officer will attempt to meet with the parents within 2 working days of the award of the Parenting Order in order to explain the implications of the Parenting Order.

The Responsible Officer will provide or arrange the delivery of the appropriate support services and will supervise any other requirements in the Order.

## **Parenting Orders in Other Court Proceedings**

The Antisocial Behaviour (Scotland) Act 2004 allows a Sheriff to make a Parenting Order when making an Antisocial Behaviour Order (ASBO) against a child. In ASBO cases where the Sheriff decides that a Parenting Order should be considered the ASB Solicitor will inform the officer instructing the ASBO who will contact the relevant Social Work Service Manager. The suitability of a Parenting Order and other interventions will then be considered at the next review meeting for the child if he/she is already within a formal planning and review process or a specific meeting will be called to consider the matter.

A Sheriff may also identify potential cases for Parenting Orders through other relevant Court proceedings. The Sheriff will require the Children's Reporter to consider an application for a Parenting Order. In such circumstances the Children's Reporter will contact the relevant Social Work Service Manager and the same action will be taken as described above.

The use of Parenting Orders will be considered by the Antisocial Behaviour Core Group when considering the use of an ASBO against a child. In appropriate cases Parenting Orders will be considered as a complementary or alternative measure to an ASBO.

## **Managing a Parenting Order**

The Role of the Responsible Officer

Scottish Borders Council is responsible for the provision of parenting services and support for those made subject of a Parenting Order. However, the services themselves may be delivered by other agencies. In such cases,

a member of Council staff, most likely a member of Social Work Children and Families will be nominated as the Responsible Officer. In some cases, however, it may not be appropriate for the social worker to be the Responsible Officer if he or she is the main service provider, or if the assumption of such a role would be detrimental for his or her relationship with the child and parent. In such cases, the multi-agency meeting will identify the most relevant person to fulfil that role.

### **The Responsible Officer will:**

- Provide or arrange for the provision of support services and will supervise any other requirements in the Order
- Make contact with the parent before the end of the working day after the Order is made
- Ensure that an initial meeting between the support services and the parent take place within 10 working days of the Order being made
- Identify and liaise with other agencies involved with the parent or their family
- Ensure that all interventions fit well together and are complementary
- Take responsibility for monitoring the parents' compliance with the requirements imposed by the Order
- Maintain regular contact with the parents while the Order remains in force
- Maintain a written record of contact
- Consider whether or not the Order needs to be varied if the parent is finding it difficult to comply through no fault of his or her own; and
- Seek to ensure that parents co-operate and comply with the requirements of the Order to ensure that it is completed successfully

### **Review and Breach of a Parenting Order**

Parenting Orders may be varied for a number of reasons, for example, where the requirements of the Order are not proving effective. The parent, child or the Council can apply for a review.

### **Where problems arise the Responsible Officer should:**

- Make contact with the parent within 1 working day if he or she fails to comply with one or more requirements of the Order. Contact may be by visit, by phone or by letter
- Give the parent a written warning if there is no acceptable reason for the non-compliance, backed up by a warning in person if possible
- In the event of more than one unacceptable failure to comply within a period of 3 months, meet with the parent to review the Order and consider how it can be made to work
- Consider, in consultation with the Reporter, (and seeking legal advice if appropriate) whether the failure to comply should form the basis of breach proceedings

A breach of a Parenting Order is a criminal offence which will require to be reported to Police Scotland. If it appears that an Order has been breached, the evidence will be considered by the appropriate Social Work Service Manager who will be responsible for making the referral to the named Officer in Police Scotland. A multi-disciplinary meeting involving those working with the parents and the young person may be required to review the situation, and those involved should consider the possible impact of breach proceedings on the young person involved and whether additional help and support may be required.

The Court is required to take into account the welfare of any child of the parent subject to the Order in determining what sentence to impose for breach of a Parenting Order.

### **Parenting Orders – Overview**

- A sheriff has the power to issue a parenting order. They can only do so in an area where a Scottish Borders Council has made arrangements for an order to be complied with. A Sheriff must also be satisfied that certain conditions are met as set out in the Act. A Sheriff's decision can be appealed against
- The application for an order can be made by a Scottish Borders Council or the Principal Reporter. Before making an application they both have duties to consult specific parties

## **SPECIFIC IMPLEMENT**

Specific implement is a Court Order requiring a contract-breaker to perform the positive obligations under a contract in accordance with its terms.

In the case of a tenant failing to comply with a condition of their tenancy agreement the landlord may apply to a Court for such an Order to require the tenant to comply with that condition.

Failure to comply may lead to a Court imposed sanction.

## **CIVIL INTERDICT**

A Civil Interdict is a Court Order prohibiting the defender from performing a wrongful act such as a breach of a contract. A Landlord can use this remedy to compel a tenant to comply with a condition of their tenancy agreement such as not to cause a nuisance to neighbours or others in the vicinity of their property. An Interdict is granted at the discretion of the Sheriff. It is effective immediately from the date that it is served on the defender

## **SEIZURE OF VEHICLES**

This is a Police power and it is available for use by the Police, but there needs to be clear evidence that a vehicle has been used or driven in an ASB manner to the alarm and distress of the public.

## **SCOTTISH SHORT SECURE TENANCY (SSST)**

The Housing (Scotland) Act 2014 allows social landlords to convert an existing tenant's Scottish secure tenancy (SST) to a Short SST or to grant a Short SST to new tenants in cases where there is evidence that the tenant, a member of their household or a visitor has been involved in ASB in or near their home within the last three years.

Tenants with a Short SST have reduced security of tenure.

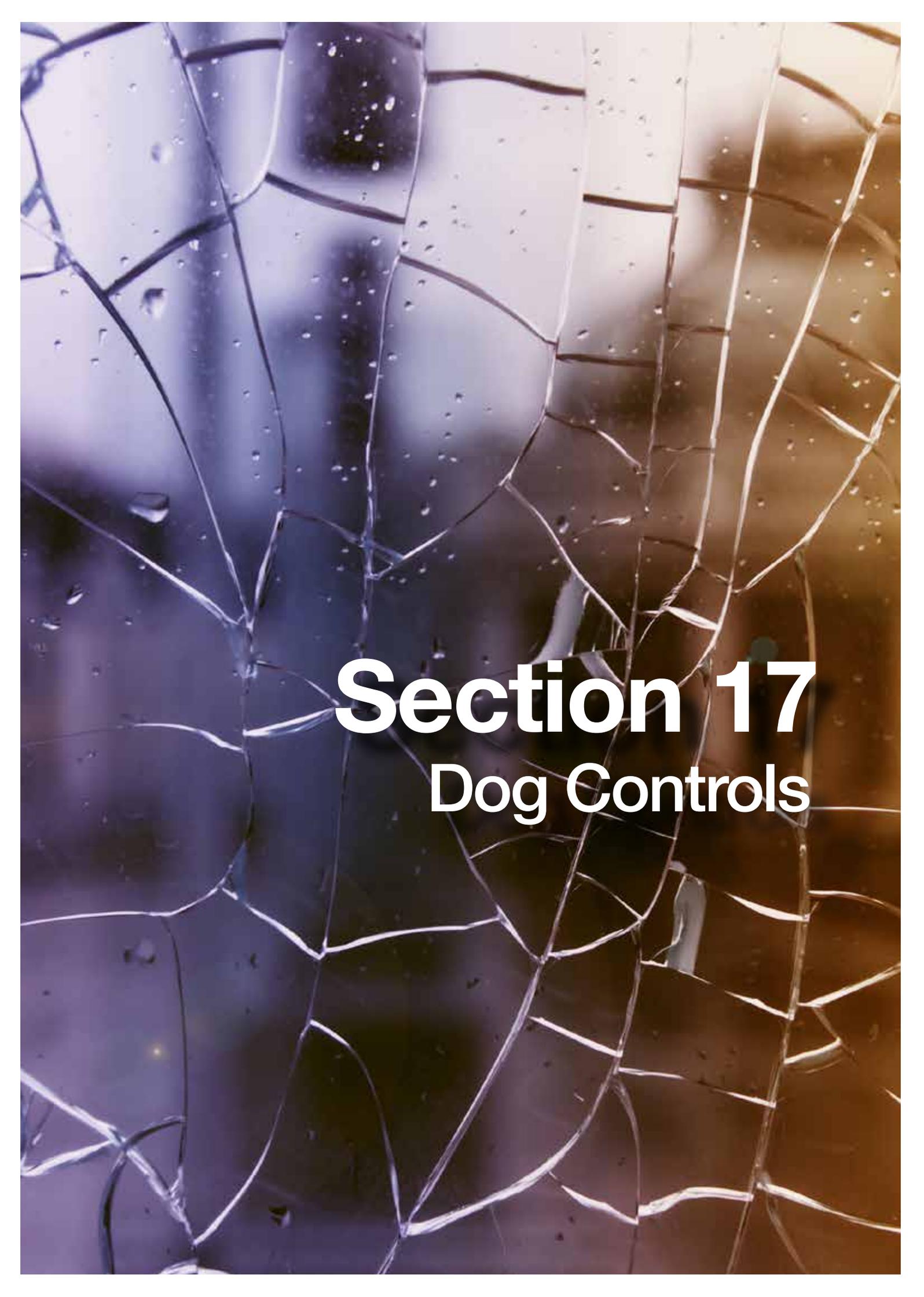
The length of a Short SST in cases involving antisocial behaviour is 12 months with provision for the landlord to request a further six month extension if antisocial behaviour issues persist.

The extension of short SSTs is intended to allow more time for landlords to work with tenants with a view to encouraging positive changes in behaviour as an alternative to eviction proceedings.

When issuing a Short SST for antisocial behaviour, the landlord must state the reasons for the decision and the tenant will have the right to appeal. If the landlord does not seek recovery of the home, the short SST will revert to a SST at the end of the period.

16a - Reserved



A microscopic view of plant cells, likely from an onion skin, showing a grid-like structure of cell walls. The image has a vertical color gradient from blue on the left to orange on the right. The text "Section 17" and "Dog Controls" is overlaid in white.

# Section 17

## Dog Controls

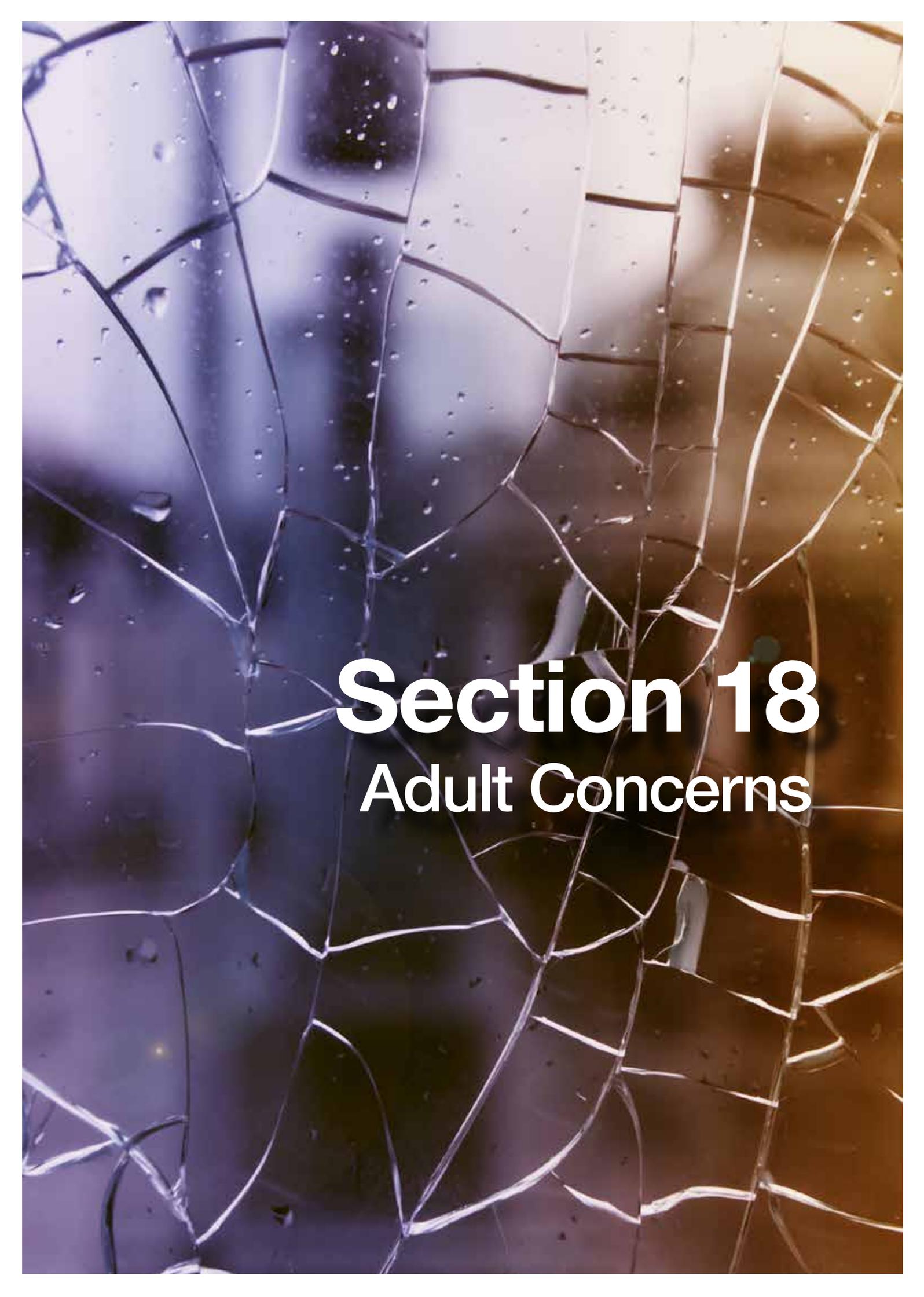
## DOG CONTROLS

Scottish Borders Council employs a full time Dog Control Officer who works under the legislation referred to in the link below. The officer will attend to matters where a dog is out of control and causing fear and alarm. They have the power to enforce Dog Control Notices. They do NOT deal with dog fouling or dog barking.  
<http://www.gov.scot/Resource/Doc/254430/0114020.pdf>

Dog barking is addressed in the noise related section of the manual but to summarise, all complaints of dog barking will be investigated by Environmental Health and or under tenancy agreements.

Dog fouling is dealt with under its own regulation. Currently there are no designated “Dog Wardens” and at the time of writing this manual Police Scotland have the authority to issue FPN for dog fouling. If the dog fouling is on private land, Scottish Borders Council do not have authority to take any action unless it is at such a level as to constitute a health hazard, that can only be determined by a trained officer from Environmental Health.

Any officer/employee who wants to report dog fouling should do so on 0300 100 1800 or visit [www.scotborders.gov.uk](http://www.scotborders.gov.uk) and use the Report it icon.

The background of the slide is a microscopic view of plant cells, showing a network of cell walls. The image has a color gradient from a deep blue on the left to a warm orange on the right. The text is centered in white.

# **Section 18**

## **Adult Concerns**

## **DEALING WITH PERSONS WHO HAVE A MENTAL HEALTH DIAGNOSIS WHO ARE ALSO PERPATRATORS OF ANTISOCIAL BEHAVIOUR**

There are two categories of people that you may encounter with MH issues and those are:

- a. People who may display behaviour that you think may indicate that there is an issue
- b. People who have a diagnosis of a particular condition

If a person is a perpetrator of antisocial behaviour they must be dealt with in much the same way as anyone else would, using the interventions that are available to the partnership. If there is a concern for someone's mental health, further guidance can be sought at [www.scotborders.gov.uk](http://www.scotborders.gov.uk)

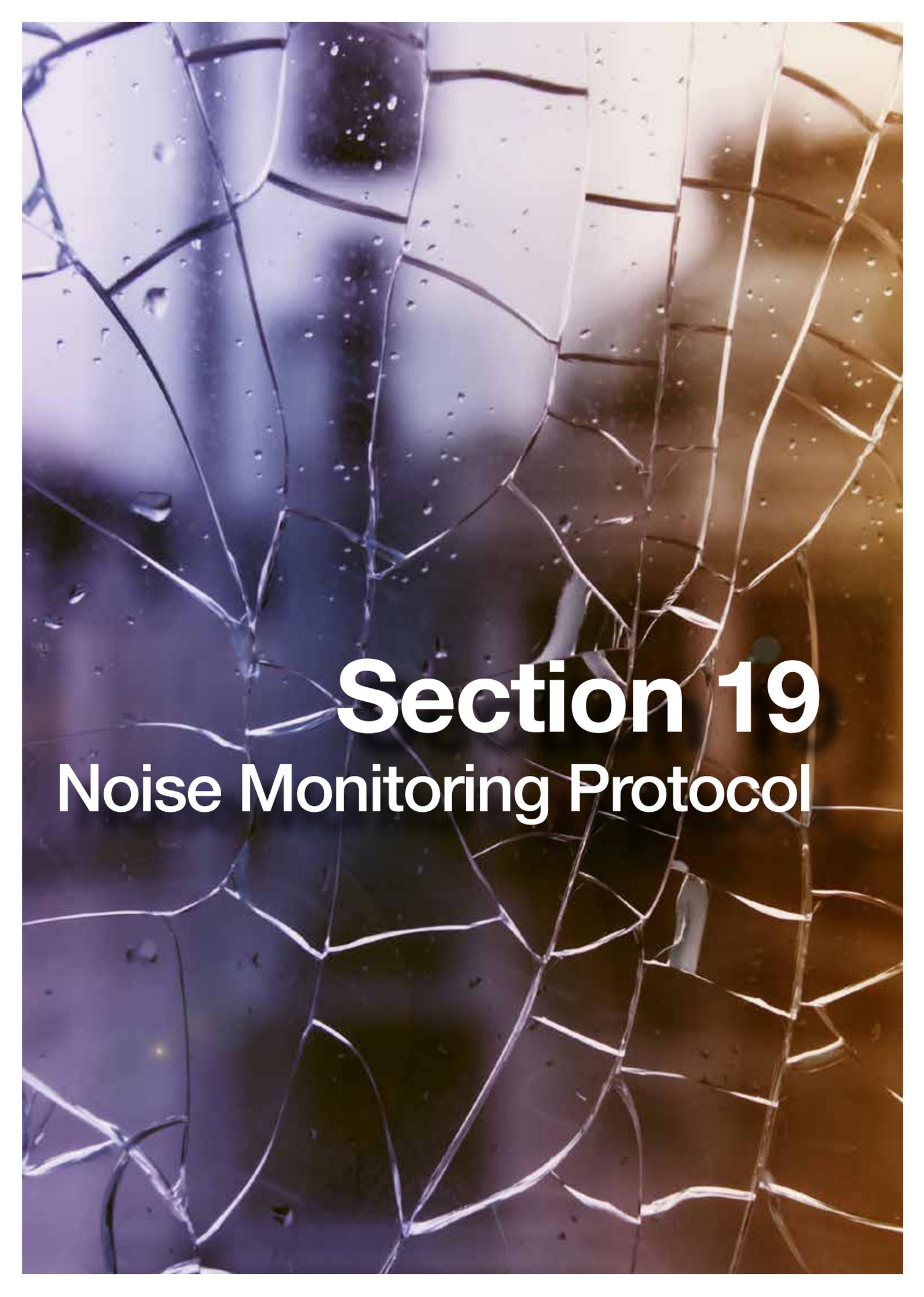
However if you know that someone has a MH issue, you need to make contact with the relevant support worker. If you are finding that difficult to find then please contact the ASBU and they will assist.

In the case of a person with MH being housed by a private landlord or being an owner occupier the ASBU will progress the case in partnership with Adult Protection Services.

Where there is a conflict of interest on the suitability of an ASBO application then a hearing with SBC legal team should be convened at the earliest opportunity for a decision with all parties concerned in the application. The ASBU act on behalf of RSL's who under the legislation can in their own right, make an application to the court for a civil ASBO. In these circumstances the case may be progressed as there is no conflict of interest.

In cases where the MH of a person is such (for Private/Owner) and the ASBU cannot progress this, then an identified point of contact for complainants to have dialogue will be identified. This may well be someone within Adult Protection/Social Work and from that given point they shall case manage complaints of ASB.

Where someone who is being investigated for ASB makes a claim of having a MH disorder, this will have to be verified and cannot be taken at face value.

The background of the slide is a microscopic image of plant cells, showing a network of cell walls. The image has a color gradient from blue on the left to orange on the right. The text is centered over this background.

# **Section 19**

## **Noise Monitoring Protocol**

# NOISE MONITORING PROTOCOL

## 1.0 INTRODUCTION

Antisocial Behaviour (ASB) is defined in the Antisocial Behaviour (Scotland) Act 2004 as:

*“A person...act{ing} in a manner that causes or is likely to cause alarm or distress; or pursue{ing} a course of conduct that causes or is likely to cause alarm or distress to at least one person not in the same household.”*

Scottish Borders Council (SBC) works in partnership with Registered Social Landlords (RSLs) and Police Scotland, to investigate complaints of domestic noise with the objective of reducing the incidence of antisocial behaviour. This document sets out the agreed roles and responsibilities in carrying out ASB noise monitoring and how the process is carried out. It also specifies the way in which sensitive personal data will be shared by the services to meet the objective of reducing the incidence of anti social behaviour.

The specific role of the Antisocial Behaviour Unit (ASBU) in the noise referral process is:

- To provide a single point of contact (SPOC) for all ASB noise complaints received
- To make referrals for noise monitoring equipment (NME) to Regulatory Services
- To communicate between Regulatory Services, RSLs and clients on progress or problems associated with noise monitoring referrals
- To receive and consider reports from Regulatory Services on findings from noise monitoring carried out

The specific role of Protective Services in the noise referral process is:

- To receive noise monitoring referrals via ASBU and determine suitability for monitoring
- To install noise monitoring equipment (NME) into the properties of those allegedly being subjected to excessive noise
- To analyse the recordings made by the complainant during the noise monitoring period and
- To provide the ASBU and RSLs with advice and recommendations based on the noise levels that have been recorded and assessed
- Monitor performance of the process and report the performance to partners

The specific role of RSLs in the Noise referral process is

- To request noise monitoring on behalf of a tenant via the ASBU
- To assist the ASBU with any problems associated with a referral from their tenant i.e. where contact is difficult to establish
- To receive and consider reports from Regulatory Services via the ASBU on findings from noise monitoring carried out

## 2.0 RECEIPT OF ASB NOISE MONITORING REFERRAL

Domestic noise complaints can be received from the following tenures: or;

- Privately owned / occupied properties
- Privately let properties
- Properties owned and let by RSLs

All domestic noise complaints will initially be referred to and collated by the ASBU who is designated in this document as the lead co-ordinating team for all ASB Noise investigations.

The ASBU will refer all noise monitoring referrals to the Environmental Health Team in Protective Services via the central mailbox; [placehealth@scotborders.gov.uk](mailto:placehealth@scotborders.gov.uk) and should be titled 'ASB Noise Monitoring Referral – (Address of Client)'.

Business Support (Operations Team) will arrange for the enquiry to be logged as a Service Request on the Uniform Database and allocated to the appropriate Protective Services Officer (PSO) within the Environmental Health Team.

## 3.0 INITIAL CASE ASSESSMENT

### 3.1 Initial Screening

The PSO will carry out an initial screening assessment of the information received from the ASBU. At this point, an officer may be of the opinion that the case is not suitable for monitoring.

In such cases, the PSO will discuss this opinion with the ASBU and relevant RSL and an agreed course of action will be taken.

### 3.2 RIPSAs Compliance

The PSO will also check and confirm that the occupier of the 'source' property has been informed to ensure that SBC policy on RIPSAs has been met.

If a copy of the RIPSAs letter is not contained within the information received, the PSO will inform the ASBU by email and the case will be closed on Uniform until the documentation is received.

### 3.3 Multiple Noise Sources

In the instance that the referral involves multiple noise sources (i.e. from more than one neighbouring property), each source has to be investigated on a case by case basis.

## 4.0 PROGRESSING TO INVESTIGATION

### 4.1 Adding a Case to the Waiting List

Once a referral case has been approved for monitoring, arrangements will be made to install NME. If there is no NME available at the time of the referral, it will be added to a waiting list which administered by Protective Services.

A letter will then be sent to the client by the PSO to advise that the case is now on the waiting list and that they will be contacted in due course to make arrangements to install the equipment.

### 4.2 Contacting the Client for Installation

When NME becomes available, the PSO will make two attempts to contact the client by telephone or email, to agree an installation date.

Where these attempts have been unsuccessful, the PSO will contact the ASBU to arrange for a third and final attempt to contact the client.

On the third and final attempt, If the PSO has not been informed of an installation date by the ASBU within 5 working days of the case being referred to them, the case will be closed and the next case on the waiting list will be contacted.

## 5.0 INSTALLING MONITORING EQUIPMENT

### 5.1 Monitoring Equipment

Regulatory Services has 3 Sound Level Meters used for carrying out ASB noise monitoring:

- 2 x NOR139 – This meter is a 'Lite' version of Nor 140 meter specifically designed for noise nuisance investigations.
- NOR140 – Hand held meter designed for environmental noise measurements but can also be used noise nuisance investigations.

These meters are classed as 'Type 1 analysers' and therefore meet the British Standard required for noise monitoring and measurement. Further details are given in **Appendix I** of this document.

To ensure measurements are accurate and precise, the meters must be sent for external calibration every 2 years.

The portable calibrators used for on-site calibration are also externally calibrated but on an annual basis rather than every 2 years.

### 5.2 Installation Procedure

The NME is installed in a property for a period of 7 days. The NME does not have the memory capacity to extend this monitoring time and the recorded data may be at risk of corruption if left for longer.

The PSO will ensure that the client has understood how the NME is operated. The officer will also leave a log sheet for clients to note details of their recordings. This sheet also has officer contact details should they have any queries or suspect that the meter is not operating properly.

Before leaving the property the PSO will confirm the date and time for the NME to be uplifted.

### 5.3 Uplift Procedure

The PSO will uplift the NME on the agreed date and time. If no recordings have been made by the client, the RSO will inform the ASBU by email and the case will be closed.

## 6.0 ANALYSING RECORDINGS

The analysis of noise recordings is carried out in the Production Room in the basement of the SBC HQ Building or any other suitably quiet room in other SBC buildings.

The PSO will follow a set procedure for analysing the recordings and all analysis is documented on a worksheet. A copy of this worksheet is contained in **Appendix II**.

## 7.0 REPORTING TO ASBU

All analysis reports are completed on a template form and then submitted to the ASBU. A copy of the diary sheet left with the client will also be sent to the ASBU. The referral is then closed by the PSO. This template can be found in **Appendix III**.

## 8.0 PERFORMANCE MONITORING

Performance will be measured via the following indicators:

- Number of working days from the date of case added to the monitoring waiting list to date noise monitoring equipment is installed
- Number of working days from date of Noise Monitoring Equipment uplifted to submission of analysis report to ASB Unit

Performance data will be collated on a quarterly basis by the Principal Regulatory Services Officer.

## 9.0 DATA PROTECTION & DOCUMENT RETENTION

Carrying out noise monitoring activities involves acquiring and using data of a personal, and therefore, sensitive nature. Some of this personal data is acquired from other internal and external agencies.

Officers carrying out duties in relation to noise monitoring will have completed the SBC online mandatory training on Data Protection and adhere to the information sharing statement in Section 2 of the SBC ASB Policy and Procedures Manual.

All documentation associated with the ASB noise monitoring referral process will not be held for a period of longer than 3 years from the date that the file is created.

## 10.0 COMPLAINTS

Where a business or individual is unhappy with the service that has been provided, Protective Services will follow Scottish Borders Council's Complaints Handling Procedure to ensure a consistent and satisfactory response.

All formal complaints will be investigated and responded by the ASBU in liaison with Protective Services and the appropriate RSL.

## NORSONIC 139 NNR

New 'Lite' Noise Nuisance Recorder



- Value engineered to give a full system for noise nuisance investigations
- Investigations at reduced cost
- Full fidelity audio uncompressed audio recordings
- 99 second pre trigger on audio recordings
- SD memory card for fast transfer of data to a PC
- Tough case inside rucksack for discreet deployment of equipment

## NORSONIC 140 NNR

The original noise nuisance recorder



- Simple 3 button setup
- Full fidelity audio uncompressed audio recordings
- 99 second pre trigger on audio recordings
- SD memory card for fast transfer of data to a PC
- Tough case inside rucksack for discreet deployment of equipment

## Noise Monitoring Worksheet

**Ref:** \_\_\_\_\_ **Uniform Ref:** \_\_\_\_\_ **NOR:** \_\_\_\_\_  
**Complainant:** \_\_\_\_\_ **Address:** \_\_\_\_\_ **Room:** \_\_\_\_\_  
 D - Dogs TV - Television M - Music V - Voices S h- Shouting Sw- Swearing [ Extraneous noise]

Rec.	Date	Time	Details	Ave. Level (L <sub>Aeq</sub> )

**Comments**

**Conclusion:**

**Officer:**  
**Date:**

**Scottish Borders Council  
Environmental Health  
Norsonic Monitoring Report**

**Address of Source  
Premises  
Complainant  
details**

**Complaint  
Reference**

Name

Address

Location of  
monitor

Date of installation		Nor Ref	
Date of Uplift		Calibrator serial No	
Date of Review		Review Officer	

**Summary or Recordings**

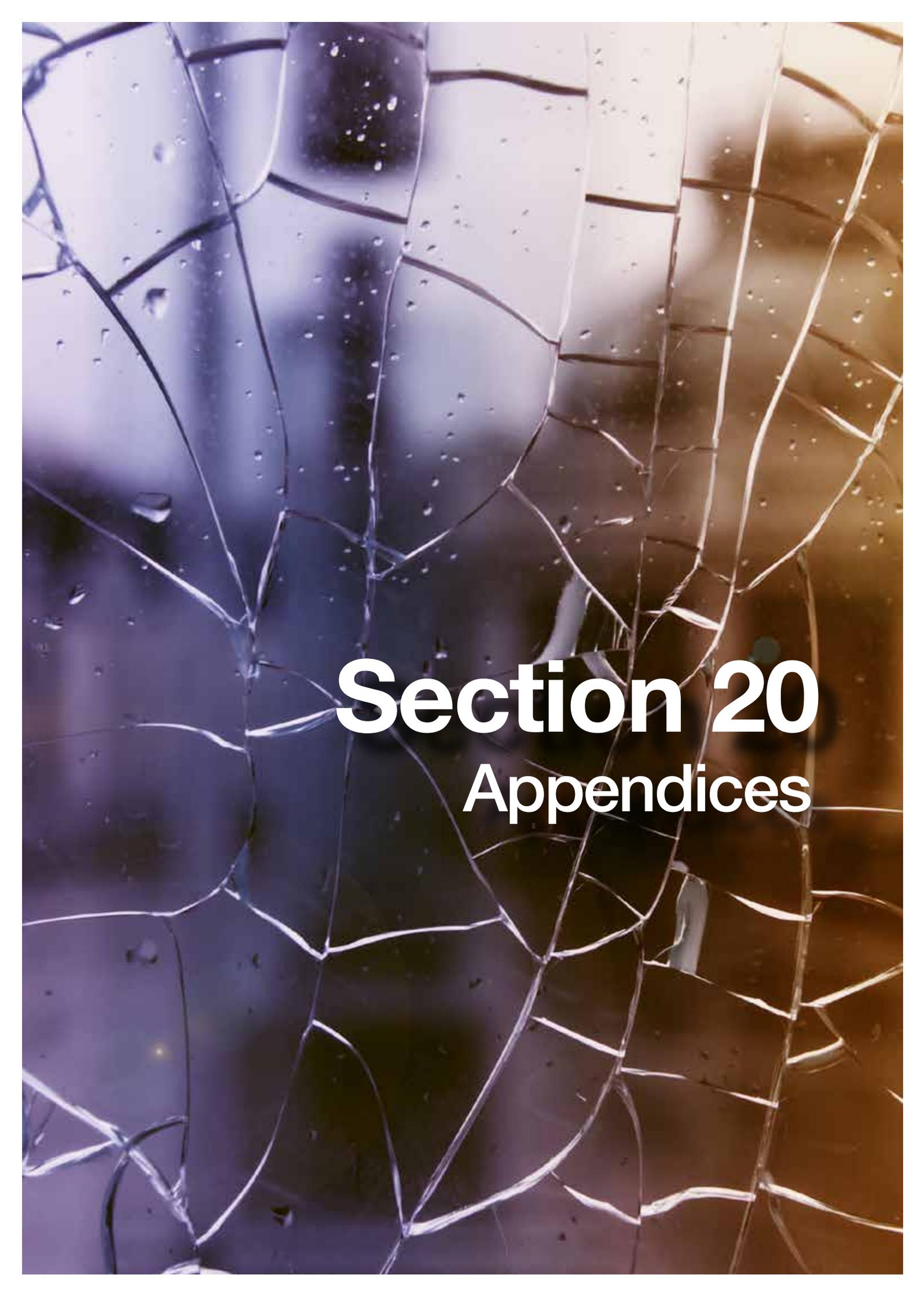
Date	Details	Assessment

**Warning Messages**

**Comment**

**Action**



A microscopic view of plant cells, showing a grid-like structure of cell walls. The image has a color gradient from blue on the left to orange on the right. The text "Section 20 Appendices" is overlaid in white.

# Section 20

## Appendices

The Occupier

**Please ask for:** *Antisocial Behaviour Team*  
**Our Ref:** *RIPSA*  
**Your Ref:**  
**E-Mail:** *asb@scotborders.gov.uk*  
**Date:**

**WE HAVE RECEIVED AN ALLEGATION OF EXCESSIVE NOISE**

Please be advised that the Antisocial Behaviour Unit (ASBU) of Scottish Borders Council has recently received a complaint about **alleged** excessive antisocial noise coming from your property.

We have a statutory duty to make further enquiries into this allegation and, at this early stage, we must inform you that part of our investigations may involve subjective assessment by Council officers and/or the use of electronic measuring and recording equipment.

It is important for us to point out at this stage, we do not assume guilt or that the facts have been proven which will lead us to take further action, at this time it is an investigation and nothing further.

If after investigations have been concluded and we feel the need to take matters further, we will of course be back in touch with you.

If you have any queries about this letter please do not hesitate to contact us.

Yours sincerely

XXXXXXXXXXXXXXXXXXXXXXXXXX

Tel No: 0800 028 5711



**AND**



**WORKING IN PARTNERSHIP WITH**



**AND VARIOUS OTHER AGENCIES ARE WORKING TOGETHER TO TACKLE ANTISOCIAL BEHAVIOUR**

# **ANTISOCIAL BEHAVIOUR INCIDENT RECORDING BOOKLET**

**(This is an extremely important evidential document in building the evidence required to prove a case of Antisocial Behaviour. Please complete it accurately as the Antisocial Behaviour happens – and also keep it safe)**

The Antisocial Behaviour Unit of Scottish Borders Council works in partnership with Police Scotland, Housing Associations, the NHS and Victim Support to tackle antisocial behaviour in the Borders. This is in line with Scottish Government legislation – **Antisocial Behaviour Act (Scotland) 2004**.

**Please see Appendix 1 which gives guidance on what is, and what is not Antisocial Behaviour.**

Along with other measures used to tackle antisocial behaviour, we also ask you to complete this incident diary sheet to help us gather evidence. We may share this information with other agencies involved. The information you provide on the incident diary sheet could be used as evidence at Court if an Antisocial Behaviour Order (ASBO) is to be applied for. **You may also be called upon to give evidence at Court and be cross examined on the incidents that you report in this diary should an ASBO be applied for.**

If the antisocial behaviour you are experiencing is due to conflict with neighbours, we have a Neighbourhood Dispute Resolution Service (Mediation) who can offer assistance and support. This Service is available on the number at the back of this form.

**YOUR DETAILS:**

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Telephone: \_\_\_\_\_  
Email: \_\_\_\_\_

**WHO ARE YOU COMPLAINING ABOUT?**

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_

**Signature:**

**Date:**

**Only acts of an Antisocial Behaviour nature are to be recorded. We reserve the right to discount and ignore any recorded incidents that are deemed to be irrelevant and contain either private or hearsay information about a person, or contain information about lifestyle choices that you disagree with but is not antisocial.**

**Return to:** Your Housing Provider  
OR  
Antisocial Behaviour Unit  
Council Headquarters  
Bowden Road  
Newtown St Boswells  
TD6 0SA

**Tel:** 0800 0285711 **email:** [asbu@scotborders.gov.uk](mailto:asbu@scotborders.gov.uk)

**NOTES:**

Version 6 – July 18

Record as accurately as you can (and within the boxes provided) as the antisocial behaviour happens. Give a full and accurate account of incidents, including any witnesses and if Police were called.

Date:		Start Time:		Finish Time:	
Incident Details:					
Police Incident No. (if applicable):					

Date:		Start Time:		Finish Time:	
Incident Details:					
Police Incident No. (if applicable):					

Date:		Start Time:		Finish Time:	
Incident Details:					
Police Incident No. (if applicable):					

Date:		Start Time:		Finish Time:	
Incident Details:					
Police Incident No. (if applicable):					

**NOTES:**

Record as accurately as you can (and within the boxes provided) as the antisocial behaviour happens. Give a full and accurate account of incidents, including any witnesses and if Police were called.

Date:		Start Time:		Finish Time:	
Incident Details:					
Police Incident No. (if applicable):					

Date:		Start Time:		Finish Time:	
Incident Details:					
Police Incident No. (if applicable):					

Date:		Start Time:		Finish Time:	
Incident Details:					
Police Incident No. (if applicable):					

Date:		Start Time:		Finish Time:	
Incident Details:					
Police Incident No. (if applicable):					

**NOTES:**

Record as accurately as you can (and within the boxes provided) as the antisocial behaviour happens. Give a full and accurate account of incidents, including any witnesses and if Police were called.

Date:		Start Time:		Finish Time:	
Incident Details:					
Police Incident No. (if applicable):					

Date:		Start Time:		Finish Time:	
Incident Details:					
Police Incident No. (if applicable):					

Date:		Start Time:		Finish Time:	
Incident Details:					
Police Incident No. (if applicable):					

Date:		Start Time:		Finish Time:	
Incident Details:					
Police Incident No. (if applicable):					

**YOU NOW NEED TO RETURN THIS DIARY – SIGNED AND DATED -  
WITH YOUR COMPLETE CONTACT DETAILS**

**Agencies that may be able to help and assist you:**

**Mediation Service:** Use this service if you want to try and resolve your issue by negotiation. 01835 826781 – email: [mediation@scotborders.gov.uk](mailto:mediation@scotborders.gov.uk)

**Victim Support:** Use this service if you need help and advice about the process/need some help to cope with the situation. 01896 751212 – email: [victimsupport.scottishborders@victimsupportscot.org.uk](mailto:victimsupport.scottishborders@victimsupportscot.org.uk)

**Breathing Space:** Use this service if you are feeling low/anxious or stressed 0800 838 587 - email: [info@breathingspace.scot](mailto:info@breathingspace.scot)

**Lets Talk:** Use this service if you feel that counselling could help you cope. 0800 389 3416 - email: [letstalk@tlcborders.org.uk](mailto:letstalk@tlcborders.org.uk)

**Addaction:** Use this service if you feel that you need advice because your drug or alcohol use is causing you concern. 0800 028 6664 – email: [info@addaction.org.uk](mailto:info@addaction.org.uk)

**There are many other organisation/charities that are out there that can help you deal with stressful situations.**

## FOR OFFICE USE ONLY

Name of organisation/department receiving this diary sheet:

Name of person who received and assessed the diary sheet:

**From:**

Name: \_\_\_\_\_ Period Covered: \_\_\_\_\_

Address: \_\_\_\_\_ D/S No.: \_\_\_\_\_

RSL: \_\_\_\_\_  Private  Owner/Occupier

**Alleged Perpetrator:**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

RSL: \_\_\_\_\_  Private  Owner/Occupier

No. Incidents: _____	No. ASB Incidents: _____	<b>Times:</b>	<b>No.</b>
		Morning (1) (06.00 - 12.00)	_____
Behaviour: _____		Afternoon (2) (12.00 – 18.00)	_____
_____		Evening (3) (18.00 – 12.00)	_____
_____		Early Hours (4)(12.00 – 06.00)	_____
		Not Specified (5)	_____

Action Taken by RSL in response to this diary sheet?

Action taken by ASBU in response to receiving this sheet?	
Signed: _____	Date: _____

ASBU Actions:			
<input type="checkbox"/> Scan/File/DB Linked	<input type="checkbox"/> Copy to RSL	<input type="checkbox"/> Author Contacted	<input type="checkbox"/> Update Appx 1

## **PRIVACY NOTICE**

### **Data Control:**

The information you have provided will be processed by Scottish Borders Council, Newtown St Boswells, TD6 0SA. You can contact the Council on 0300 100 1800 or [customerservices@scotborders.gov.uk](mailto:customerservices@scotborders.gov.uk).

### **Data Protection Officer:**

The Council's Data Protection Officer is Brian Frater and he can be contacted using the contact details for the Council as set out above or by email at [dataprotection@scotborders.gov.uk](mailto:dataprotection@scotborders.gov.uk)

### **How we will use your information?**

SBC will keep personal information given by you securely and confidentially, we will use your information to investigate antisocial behaviour. The Council is collecting and using this information to fulfil its duty as a **Public Task** and may also use **Criminal Offence Data** to ensure we meet our **Legal Obligation**. This information is also essential to ensure that we comply with the **Antisocial Behaviour etc (Scotland) Act 2004**.

<http://www.gov.scot/Publications/2004/10/20154/45720>

Our aim is to use the information for the prevention of antisocial behaviour

### **How long will we retain your information?**

The information you have provided will be retained for a minimum of 12 months and up to a period of 5 years depending on what actions have been taken to conclude matters.

### **Who we may share your information with:**

Your information will be accessed by Council staff that need to use it in order to provide the service described above. Your information may be shared with the following third party organisations:

Police Scotland  
Registered Social Landlords  
Victim Support Scottish Borders  
NHS Borders

Your information may also be shared and analysed internally in order to provide management information, inform service delivery reform and similar purposes to meet our duty to achieve best value and continuous service improvement.

In general the Council does not transfer personal data outside either the UK or the European Economic Area (EEA) and on the rare occasions when it does so the Council will inform you. The Council will only transfer data outside the UK and the EEA when it is satisfied that the party which will handle the data and the country it is processing it in will provide adequate safeguards for personal privacy.

### **You're Rights:**

For information on the rights you have over your personal data, please visit our website

<http://www.scotborders.gov.uk/DPYourRights> or if you would like a hard copy of this information, please contact us using the contact details provided above.

### **How to make a complaint:**

Please visit our website <http://www.scotborders.gov.uk/DPYourRights> for information on how to raise a complaint if you are unhappy with the way the Council has processed your data.

### **Decision-Making:**

The Council does not use profiling or automated decision-making processes. Some processes are semi-automated (such as anti-fraud data matching) but a human decision maker will always be involved before any decision is reached in relation to you.

The Occupier

**Please ask for:** Antisocial Behaviour Unit  
**Our Ref:** PHL  
**Your Ref:**  
**E-Mail:** [asbu@scotborders.gov.uk](mailto:asbu@scotborders.gov.uk)  
**Date:**

**WARNING**  
**WE HAVE RECEIVED A POLICE REPORT**  
**ABOUT ANTISOCIAL NOISE FROM THIS ADDRESS**

The Antisocial Behaviour Unit (ASBU) of Scottish Borders Council and Police Scotland are working together to stop anti-social behaviour within the region.

Following a call to Police Scotland regarding excessive noise that has impacted on others, not from the same household, they have attended at this address on XXXXXXXXXXXX.

The police report confirms that at the time of attending, the excessive noise was evidenced and was deemed to be antisocial and disturbing others in the Neighbourhood.

We hope by receiving this letter you understand that the distress this can cause. If there are further calls or Police attention for excessive noise this will have the potential for you as the legal tenant or owner and the address being monitored for future legal action under the antisocial behaviour legislation.

This may also have an impact on your tenancy agreement as your landlord will also be notified about this occurrence.

If you have any queries about this letter please contact us.

Yours sincerely

Senior Antisocial Behaviour Officer

Landlord of

**Please ask for:** *Antisocial Behaviour Unit*  
**Our Ref:** *PHL*  
**Your Ref:**  
**E-Mail:** *asbu@scotborders.gov.uk*  
**Date:**

Dear

Address of Complaint  
Your Tenant(s)  
Date of Incident

The Antisocial Behaviour Unit (ASBU) of Scottish Borders Council and Police Scotland are working together to stop anti-social behaviour within our region.

We have received a report from Police Scotland regarding excessive noise from the address listed above, Police attended the above premises for which you are the Registered Private Landlord.

The excessive noise was evidenced by the Police so we have sent a warning letter to the occupier (see attached).

We hope by receiving this letter you understand that the behaviour of your tenant(s) has caused distress to others living in the vicinity of their property. If this behaviour continues it could lead to further action by the Police or the Council's ASBU with the potential for your tenant(s) and the address being monitored for future legal action under antisocial behaviour legislation.

At this stage we advise that you make contact with your tenant(s) and make them aware that you have been informed of the Police call to the address relative to excessive noise.

We would also like you to inform us of what action you have taken with your tenant(s) to try and ensure that there will be no further repeat calls of an antisocial nature for the address.

We will also inform the Private Landlords Liaison and Enforcement Officer, for their records.

If you have any queries about this letter please do not hesitate to contact the ASBU on 0800 028 5711 and they will be happy to discuss the content of this letter with you.

Yours sincerely

ENTER NAME  
Senior Antisocial Behaviour Officer

ENTER NAME &amp; ADDRESS

*Please ask for*     *Antisocial Behaviour Unit*  
*Tel No*                 *0800 028 5711*  
*Our Ref*                *Monitor*  
*E-Mail*                 *asbu@scotborders.gov.uk*  
*Date*

### **ANTISOCIAL BEHAVIOUR**

The Antisocial Behaviour Unit of Scottish Borders Council works in partnership with other agencies to try and prevent antisocial behaviour acts by groups or individuals from getting out of control.

Following information we have received through our partnership about your possible involvement in antisocial behaviour, we are writing to inform you that we will look into this and may take further action if there are continued reports.

We hope that making you aware of the situation will be enough to allow you to make decisions that can prevent any further escalation.

If you have any questions, please do not hesitate to contact us on the number below.

If your antisocial behaviour is due to conflict with neighbours, we have a Neighbourhood Dispute Resolution Service (Mediation). Enclosed is a leaflet providing details of the service and contact details should you wish to consider this.

Yours sincerely

ENTER NAME  
 ENTER JOB TITLE

Encl. Mediation Leaflet

ENTER NAME & ADDRESS

**Please ask for:** ENTER NAME  
**Our Ref:** F2F  
**Your Ref:**  
**E-Mail:** asbu@scotborders.gov.uk  
**Date:**

**FACE TO FACE MULTI- AGENCY MEETING - ANTISOCIAL BEHAVIOUR**

Please be informed that the Antisocial Behaviour Unit (ASBU) of Scottish Borders Council, along with other agencies involved in tackling Antisocial Behaviour within the Scottish Borders, have been monitoring your pattern of antisocial behaviour.

As a result of your reported behaviour, we are requesting that you meet with us. At the meeting we will discuss your alleged behaviour and what further actions may be taken if the antisocial behaviour continues. This meeting is a formal Face to Face warning which will be recorded as such.

The meeting will be held on ENTER DATE/TIME/PLACE

The meeting will be conducted on a multi-agency basis and all other agencies that are directly involved will be invited to attend.

It is important that you attend the meeting to allow us to support you in addressing your behaviour.

If you do not attend and there are further reported incidents of antisocial behaviour, we may take further action without making contact with you. This may include an application to the Court for an Antisocial Behaviour Order (ASBO).

If you have any questions, please do not hesitate to contact me.

Yours sincerely

ENTER NAME  
ENTER JOB TITLE  
Tel: 0800 028 5711

**FACE TO FACE MEETING CHECKLIST**

Documents to take for reference only:

- ASBAT
- Complaint logs (if applicable)

- Introductions: work in partnership with Police, RSLs and NHS

Literacy issues?  Numeracy issues?

- Reason meeting taking place

- Next step if no improvement in behaviour → Acceptable Behaviour Contract  
→ Antisocial Behaviour Order

- Impact on current/future housing → over to housing provider

- Supports

**SUBSTANCE MISUSE**

ALCOHOL  Addaction  BAS  Other: \_\_\_\_\_

DRUGS  BAS \_\_\_\_\_  Other: \_\_\_\_\_

**MENTAL HEALTH**

Depression  Self Harm  Learning Disability  Other: \_\_\_\_\_

**EMPLOYMENT/EDUCATION**

Employed? \_\_\_\_\_

Unemployed  Benefit \_\_\_\_\_  Welfare Benefits Refer *Date Comp:*  
\_\_\_\_\_

Full Time Education  Training  Other: \_\_\_\_\_

**OTHER INFORMATION**

*(e.g. domestic abuse, Fire (smoke/heat alarms and blocked passage ways)*

Consider referral to:  Mediation  Victim Support

- Summarise
  - Continue to be monitored by ASBU
  - Removed from monitoring list if 2 clear months
  - Responsible for yourself and anyone you have in your house

<b>ASBU</b>				
<b>FACE TO FACE MEETING SUMMARY SHEET</b>				
<b>Client Name:</b>		<b>Address</b>		
<b>Place and date of F2F:</b>				
<b>Present:</b>				
<b>Lead Person:</b>		<b>Sheet:</b>		<b>of:</b>

<b>Narrative Report</b>

ENTER NAME AND ADDRESS

*Please ask for:* Antisocial Behaviour Unit  
*Our Ref:* ABC  
*Your Ref:*  
*E-Mail:* asbu@@scotborders.gov.uk  
*Date:*

**ACCEPTABLE BEHAVIOUR CONTRACT MEETING - ANTISOCIAL BEHAVIOUR**

Please be informed that the Antisocial Behaviour Unit (ASBU) of Scottish Borders Council, along with other agencies involved in tackling Antisocial Behaviour within the Scottish Borders, have been monitoring your pattern of antisocial behaviour.

As a result of the reported behaviour, we are arranging a multi-agency meeting with you. The purpose of the meeting will be to discuss the reported antisocial behaviour and agree the terms of an Acceptable Behaviour Contract (ABC).

The meeting will take place on ENTER DATE/TIME/PLACE.

All agencies that have a direct involvement will be invited to the meeting, it is important that you make every effort to attend. If you do not attend the meeting and if there are more reported incidents of antisocial behaviour, we may take further action without further notification. This may include an application for an Antisocial Behaviour Order (ASBO).

If you have any questions, then please do not hesitate to contact me.

Yours sincerely

ENTER NAME  
ENTER JOB TITLE  
Tel: 0800 028 5711

### ACCEPTABLE BEHAVIOUR CONTRACT (ABC) MEETING CHECKLIST

Documents to take:

- ABC x3
- ASBAT x3
- Complaint logs (if applicable)

- Introductions: work in partnership with Police, RSLs and NHS

Literacy issues?  Numeracy issues?

- Reason meeting taking place. ABC, not legal document, in place for 6 months. Signing shows taking ownership and responsibility for behaviour
- Next step if no improvement in behaviour → Civil Antisocial Behaviour Order (go back 2 yrs)

#### CIVIL – BALANCE OF PROBABILITY

- Impact on current/future housing → over to housing provider
- Supports

#### SUBSTANCE MISUSE

ALCOHOL       Addaction       BAS       Other: \_\_\_\_\_  
 DRUGS       BAS      \_\_\_\_\_       Other: \_\_\_\_\_

#### MENTAL HEALTH

Depression       Self Harm       Learning Disability       Other: \_\_\_\_\_

#### EMPLOYMENT/EDUCATION

Employed? \_\_\_\_\_  
 Unemployed       Benefit \_\_\_\_\_       Welfare Benefits Refer      *Date Comp:* \_\_\_\_\_  
 Full Time Education       Training       Other: \_\_\_\_\_

#### OTHER INFORMATION

*(e.g. domestic abuse, Fire (smoke/heat alarms and blocked passage ways). Housing Support*

Consider referral to:  Mediation       Victim Support

- Summarise
  - Continue to be monitored by ASBU and discussed at Core Group
  - Removed from monitoring list if 6 clear months
  - Responsible for yourself and anyone you have in your house



## ANTISOCIAL BEHAVIOUR ACCEPTABLE BEHAVIOUR CONTRACT

**BETWEEN**

Name:

DOB:

Address:

**AND**

Antisocial Behaviour Unit (ASBU) of Scottish Borders Council

Police Scotland

**WORKING IN PARTNERSHIP WITH**



**AND OTHER AGENCIES TO TACKLE ANTISOCIAL BEHAVIOUR**

## **AGREEMENT**

ENTER NAME agrees to stop acting in an antisocial manner or pursuing a course of antisocial conduct by:

1. Shouting, swearing, or generally creating a nuisance, all to the potential alarm and distress of others;
2. Behaving in a violent or intimidating manner towards others by punching, kicking, grabbing or pushing others or by fighting with others or acting in a manner or threatening to act in a manner which may cause physical harm or fear and alarm to others;
3. Being drunk in a public place, causing fear and alarm to others;
4. Playing any music, television, radio, game station or any other type of electronic equipment at a volume, whereby it can be heard by anyone out-with your property, all to the potential alarm and distress of others. This condition will also apply to any other property that you subsequently own or occupy within the Scottish Borders area.

All as necessary to prevent fear and alarm of others and  
to cover the entire Scottish Borders area.

**Audit trail of known and evidenced unacceptable behaviour**

See attachment – ASBAT

**What intervention methods or warnings have been made to try and address the antisocial behaviour?**

See attachment – ASBAT

**FURTHER**

**ENTER NAME enters into a commitment with the ASBU of Scottish Borders Council and Police Scotland (ENTER NAME OF OTHERS AS NECESSARY) and agrees not to act in a manner that causes or is likely to cause harassment, alarm or distress to one or more persons not in the same household. (General Behaviour). In other words, behaviour not specified but is antisocial.**

**SUPPORT**

ENTER NAME agrees to participate and engage with other support agencies, namely:

**BREACH OF CONTRACT**

If ENTER NAME does anything which he/she has agreed not to do within this contract which either ASBU of Scottish Borders Council, Police Scotland or (NAME OF RSL) consider amounts to antisocial behaviour, then the ASBU of Scottish Borders Council may make an application through the Sheriff Court for an Antisocial Behaviour Order which, if breached, would result in criminal charges being brought against you and may also jeopardise your tenancy

**SUMMARY**

- This contract is for 6 months (expiry date: xxxx)
- We may take formal action through the Court should you breach this contract
- This is not a legal document

**MEETING NOTES**

**DECLARATION**

I confirm that I understand the meaning of this Contract and that the consequences of any breach of this Contract have been explained to me.

Signed:	xxxxxxxxx
Signed:	ASBU
Signed:	Police Scotland
Signed: _____	Landlord/Witness
Date:	

**It must be stressed that this contract is NOT legally binding, and is entered into voluntarily, by both sides, who have displayed good will to try and address the behaviour the contract highlights.**

I

ENTER NAME &amp; ADDRESS

*Please ask for:* Antisocial Behaviour Unit  
*Our Ref:* ASBO Application  
*Your Ref:*  
*E-Mail:* [asbu@scotborders.gov.uk](mailto:asbu@scotborders.gov.uk)  
*Date:*

**WARNING NOTICE**  
**OF INTENTION TO MAKE AN APPLICATION TO THE COURT**  
**FOR AN ANTISOCIAL BEHAVIOUR ORDER (ASBO)**

This letter is to inform you that Scottish Borders Council on behalf of the Scottish Borders Antisocial Behaviour Partnership will be making a formal application to request a hearing to impose an Antisocial Behaviour Order (ASBO) on you.

This is following a series of reports in respect to your antisocial behaviour. We feel that in this particular situation that you should be informed that we are taking this action as we see no other alternative.

It is in your best interests, even at this late stage, to try and amend your behavior so that it does not impact on others, should you feel that this is something that we might be able to help you do, then please call us.

Yours sincerely

ENTER NAME  
ENTER JOB TITLE  
Tel 0800 028 5711



**REQUEST FOR DISCLOSURE OF INFORMATION  
 UNDER SECTION 139 ANTISOCIAL BEHAVIOUR  
 ETC (SCOTLAND) ACT 2004 HOUSING  
 (SCOTLAND) ACT 1987 AND HOUSING  
 (SCOTLAND) ACT 2001**

To: The Chief Constable  
 Police Service of Scotland

From: (Legal Representative)

1. Name Of Subject	
2. Date Of Birth Of Subject	
3. Address Of Subject	
4. Pre Disclosure/Full Disclosure (If full disclosure stipulate why, solicitor in case and date case calling in court)	
5. Enquiry With Other Agencies & Departments (See guidance notes)	
6. Please note that we are considering taking the following action in respect of the allegations set out in this request (please tick the appropriate box)	
a) An eviction order on the grounds of anti-social behaviour.	<input type="checkbox"/>
b) An eviction order on the grounds of a conviction for using or allowing a house to be used for illegal or immoral purposes.	<input type="checkbox"/>
c) An eviction order on the grounds of a conviction for an offence punishable by imprisonment.	<input type="checkbox"/>
d) An application for an anti-social behaviour order in terms of Section 19 of the Crime and Disorder Act 1998.	<input type="checkbox"/>

7. Incident Dates	From:	To:
8. Details of allegations against the subject (or offences committed)		
9. Details of other information held by you in respect of the following types of acts or behaviour by the subject (which are directly linked to the allegations on which we will rely)		
<p align="center"><b>I CERTIFY THAT THE DATA IS REQUIRED FOR THE REASON STATED ABOVE. I UNDERSTAND THAT IF ANY INFORMATION ON THIS FORM IS OMITTED OR WRONG I MAY BE COMMITTING AN OFFENCE UNDER SECTION 55 OF THE DATA PROTECTION ACT, 1998</b></p>		

Designated Officer

Date

Name In Block Capitals

Pre Disclosure Authorised

(Inspector) Date

mi11 (04/08)

**NOTES FOR COMPLETION OF PROTOCOL REQUEST FORM FOR POLICE  
INFORMATION IN SUPPORT OF LEGAL ACTION**

**ALL FORMS MUST BE COMPLETED IN TYPED FORMAT.**

**A DESIGNATED OFFICER MUST SIGN AND PRINT THEIR NAME ON ALL FORMS**

Address

At the top of the page please complete your office address in full.

Box 1 - Name of Subject

You should complete the name of the individual for which the department requires information. A separate form should be completed for each individual when requesting.

Box 2 - Date of birth of subject

The date of birth of the individual should be inserted in this box. If you know only an approximate date then please state this. This is particularly important when family members have the same name eg a father and son. If you do not know the date of birth then it may prove more difficult to trace relevant information.

Box 3 - Address of individual

If you know the home address of the individual then this should be inserted in this box. Do not put the locality of the offence in this box unless that is the individual's home address. That information should be given later on in the form. If you are not sure whether the address is correct you should say so in this box. You should also state any other information you know i.e. if it is a temporary address or only care of etc.

Box 4 – Disclosure type

State which form of disclosure is required. In most cases this will be a pre disclosure (MI12) for confirmation of incidents etc. A full disclosure (MI13) will only be issued immediately prior to court proceedings commencing and must be requested by a solicitor. This enables the most up to date information to be led in court

Box 5 – Enquiry with other agencies

Here you should state what additional enquiry has been carried out. If the individual is a juvenile then Children and Families should be consulted. If there is a suggestion of mental health issues then consideration should be given to making contact with the individuals GP. This consultation can allow objections, which may be raised in later court proceedings to be addressed at an early stage.

Box 6 – Incident Dates

In here you should state how long you wish the police to search their records. For pre disclosures information will be provided going back up to six months. A disclosure prepared for court purposes will go back up to 18 months but can be increased dependant on circumstances. However, you should state the period over which you require searched. In working out the period required you should look at the dates of the allegations, which have been reported to you. Obviously if you request a longer search period than is necessary this may result in a delay.

mi11 (04/08)

### Box 7 - details of allegation

This information should include details of all the allegations made giving details of where the action complained about took place, dates or approximate dates and the nature of the acts complained about. All information should be given in date order. This is also your justification for your request and should demonstrate that you have grounds to make the request. Generic request forms are not acceptable and each form must be completed on a case-by-case basis.

### Box 8 - other related information

In this box you can request details of other offences/allegations about which you may not know the specific details but which would be helpful to the court action. For example if the allegations made against the individual concern noise nuisance or drug related activities then you should specifically ask for any other relevant information of this nature. Only relevant information will be disclosed.

### Designated officers

Each housing office will appoint two designated officers who, along with the solicitors who are designated officers, are authorised to sign this form. They are responsible for ensuring that the forms are properly completed. The Police Service of Scotland currently has named designated officers who have responsibility for processing your requests.

### Authorisation

In instances where a pre disclosure is required, the form must be sent to the relevant Station Inspector to authorise the release of the information.

**RESTRICTED****POLICE**  
SCOTLAND**Subjects Details:**

<b>Subject URN: XXXX</b>	<b>Mi12 Ref No:XXXX</b>
--------------------------	-------------------------

Name: XXXXXXXXX  
DOB: XXXXXXXX  
Address: XXXXXXXXXXXXX  
Requesting Agency:

**Nature of Allegations:**

Loud music parties and drunken disorder

**Requested Information:** Details of incident between 01/05/2018 and 29/10/2018**PART A****To be completed if an appropriate reported offence is Sub-Judice:-**Summary of Evidence:Charges:

A report has been submitted to the Procurator  
Fiscal, Police Report No.

<b>Further Requests For Information Should Be Directed To The Procurator Fiscal.</b>
--

**Received By:** \_\_\_\_\_**Date:** \_\_\_\_\_

mi12 (04/08)

**PRE DISCLOSURE**

## RESTRICTED

### PART B

To be completed if an appropriate reported case has been disposed:-

Named person (tenant/subject of ASBO):

Appeared at (Court):

On (date):

On the charge of:

The result of the Court case was:

Named person (tenant/subject of ASBO):

Appeared at (Court):

On (date):

On the charge of:

The result of the Court case was:

Named person (tenant/subject of ASBO):

Appeared at (Court):

On (date):

On the charge of:

The result of the Court case was:

**Received By:**

**Date:**



<b>CONFIDENTIAL</b>
DISCLOSURE OF INFORMATION UNDER SECTION 139 ANTISOCIAL BEHAVIOUR (SCOTLAND) ACT 2004

<b>Subject URN:XXXX</b>	<b>Mi13 Ref No: XXXX</b>
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**From:** The Chief Constable  
Police Service of Scotland

**To:** Scottish Borders Council ASBU  
Bowden Road Newtown St.Boswells

**Agency Ref. No.:**

**Subject:** XXX

In response to your request for information, the following details are provided in accordance with the Antisocial Behaviour (Scotland) Act 2004

**PART A**

**To be completed if an appropriate reported offence is Sub-Judice:-**

Summary of Evidence:

Charges:

A report has been submitted to the Procurator Fiscal,  
Police Report No.

<b>Further Requests For Information Should Be Directed To The Procurator Fiscal.</b>
--

**Local Authority Liaison Officer:**

THE ABOVE INFORMATION IS DISCLOSED IN ACCORDANCE WITH SECTION 139 OF ANTISOCIAL BEHAVIOUR (SCOTLAND) ACT 2004 AND DATA PROTECTION LEGISLATION (all additional sheets must be signed by Local Authority Liaison Officer).

**mi13 (06/08)**

## **PART B**

### **To be completed if an appropriate reported case has been disposed:-**

Named person (tenant/subject of ASBO):

Appeared at (Court):

On (date):

On the charge of:

The result of the Court case was:

Named person (tenant/subject of ASBO):

Appeared at (Court):

On (date):

On the charge of:

The result of the Court case was:

Named person (tenant/subject of ASBO):

Appeared at (Court):

On (date):

On the charge of:

The result of the Court case was:

### **Local Authority Liaison Officer:**

THE ABOVE INFORMATION IS DISCLOSED IN ACCORDANCE WITH SECTION 139 OF ANTISOCIAL BEHAVIOUR (SCOTLAND) ACT 2004 AND DATA PROTECTION LEGISLATION (all additional sheets must be signed by Local Authority Liaison Officer).

## **PART C**

**mi13 (06/08)**

**To be completed where Police attended and summary of action taken outwith the above:**

Ref No XXX

Date XXXXX

Time XXXXXX

**Local Authority Liaison Officer:**

THE ABOVE INFORMATION IS DISCLOSED IN ACCORDANCE WITH SECTION 139 OF ANTISOCIAL BEHAVIOUR (SCOTLAND) ACT 2004 AND DATA PROTECTION LEGISLATION (all additional sheets must be signed by Local Authority Liaison Officer).



**HOUSING ASSOCIATION/HOMELESS PRE-ALLOCATION CHECK WITH ASBU**

**ORGANISATION** \_\_\_\_\_

**OFFICER NAME** \_\_\_\_\_

**NAME** \_\_\_\_\_

**ADDRESS** \_\_\_\_\_

**DOB** \_\_\_\_\_

Notes:

PREVIOUS CONTACT	
CURRENT CONTACT	
POLICE INFO (Only checked for out of Borders area placements)	
TRAFFIC LIGHT CATEGORY	<input type="checkbox"/> Red <input type="checkbox"/> Amber <input type="checkbox"/> Green

Checks that have been carried out: Monitoring List/ASBU Complaints Log/Party House Letters.

**Red - High risk, multi - agency case conference and full risk assessment required before any placement is considered.**

**Amber – Medium Risk – Multi agency settling in/sign up required with a general area risk assessment.**

**Green – No risks currently known for this person in relation to ASB**

ASBU/April 2016

PMAV Coordinator  
 PMAV Training Unit (next to car park 7)  
 Borders General Hospital  
 MELROSE  
 TD6 9BS



### Antisocial Behaviour Unit Communication Form

Affix Addressograph

<b>Date &amp; Time Of Incident</b> <b>Datix Incident number</b>	
<b>Where did incident occur?</b>	
<b>Has a check been made with Huntlyburn to ensure no current active MH problems that may contribute to behaviour?</b>	

**Brief Summary Of Nature Of Antisocial Behaviour Demonstrated**  
 (Relevant Clinical Details are required, Continue Overleaf if necessary)

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Has the patient been admitted? (Please tick)    YES     NO

If answer is YES where to?

Witness to behaviour: NAME	Position / Title	Department & Contact No:

On completion of form please return via internal mail in a sealed envelope to:  
 Sue Kean PMAV Co-ordinator, PMAV Training Unit, BGH

April 2016

## Requests by Lothian & Borders Police for staff statements relating to Anti-Social Behaviour Guide for staff

### Aim

The aim of this document is to answer questions that are frequently asked by NHS Borders staff when they are asked by the Police to share information about patients who have behaved in an anti-social manner.

### Confidentiality

Some staff may justifiably have concerns about sharing patient information. The Health & Safety at Work Act 1974, Section 7 and The Management of Health & Safety at Work Regulation 1999, Regulation 14 outlines duties of employees as every employee must “co-operate with his employer or any other person as far as is necessary to enable the employer to meet his legal obligations”, “inform their employer or his representative of any work situation that might present a serious and imminent danger to health and safety”. Staff should speak to their direct line manager if there are concerns are not answered below.

#### 1. What exactly should staff have to do to make a statement to the Police?

Staff have to provide an account of what they observed to a Police Officer, this has to be noted in writing normally on the Officers hand held PDA and this would be read over and then signed by the staff member.

This then forms the basis of the evidence available to the officers to then present to the Procurator Fiscal to take the case to court.

#### 2. How Confidential is this for staff?

The statements are confidential in that they are provided to the Procurator Fiscal; however, in due course these are disclosed to the defence and in turn to the person being accused.

It is only correct, that where there is evidence against someone they have the opportunity to know what they are accused of.

No medical information would be included in statements relating to Anti-Social Behaviour offences.

#### 3. If statements are given to the police, will staff have to attend court?

There is always the potential for staff members to attend court.

If it is the case that the Police are called and arrest someone, then those present are witnesses to the actions of the person prior to the Police attending. They thereafter would have to give evidence (provide a statement) about the incident if the matter is to be reported to the Procurator Fiscal.

#### 4. What if this relates to someone with a current Anti-Social Behaviour Order?

If someone has a live Anti Social Behaviour Order and they conduct themselves in a disorderly manner or are violent, abusive or unruly within any NHS premises within the Scottish Borders (and their ASBO covers the type of behaviour they have engaged in) then this will **always** (if there is the evidence of at least 2 witnesses to their behaviour) **result in that person** (provided their medical condition allows them to be kept in custody) **being arrested and detained for breaching their ASBO.**

### ASBO Action:

The person will thereafter be kept in custody until the next lawful day, when they will appear at Court from custody to be dealt with for Breaching their ASBO. Under these circumstances the witnesses to the breach of ASBO **will be required to immediately provide the Officers dealing with the incident with a witness statement** which will form part of the evidence for the Procurator Fiscal who will be dealing with the case in Court the next lawful day.

Under these circumstances there is still the potential that if the person pleads “not guilty” that staff members could be required to give evidence in Court at a subsequent trial diet.

April 2016

## NHS Borders

Chair & Chief Executive's Office

Chair & Chief Executive's Office  
NHS Borders  
Headquarters  
Borders General Hospital  
Melrose  
Roxburghshire TD6 9BD



Tel : 01896 826000  
[www.nhsborders.scot.nhs.uk](http://www.nhsborders.scot.nhs.uk)

Mr  
ADDRESS

Date  
Your Ref  
Our Ref JD/KA

DRAFT LETTER NOT STARTED YET

Enquiries to Kirsten Austin, Delivery Support Officer  
Extension 8220  
Direct Line 01896 828220  
Email [Kirsten.austin@borders.scot.nhs.uk](mailto:Kirsten.austin@borders.scot.nhs.uk)

Dear

It has been reported that during your recent admission to Borders General Hospital (Enter Date eg 30<sup>th</sup> June 2017) you behaved aggressively towards staff, specifically this behaviour included being obstructive, shouting, repeated swearing at staff and making threats of physical violence to staff. As a consequence of this other patients on the ward were left in a state of fear and alarm.

This behaviour is unacceptable and has resulted in a number of Anti-Social Behaviour Notification forms submitted, consequently these have been discussed with Police Scotland. Following discussion, it has been recommended by Police Scotland and Safer Communities that on this occasion NHS Borders should issue a letter regarding your behaviour, to inform you that during any future contact with all NHS Borders departments/services that your behaviour will be monitored.

NHS Borders works in partnership with Safer Communities, Police Scotland and the Antisocial Behaviour Unit, incidents of unacceptable behaviour are reported to them. Should this happen again, or if it is felt that there is a pattern of unacceptable behaviour towards staff, patients, relatives, or the public, within any NHS Borders premises, then details will be passed on to the Antisocial Behaviour Unit and Police Scotland. This may result in an Anti-Social Behaviour Order or criminal charges for Breach of the Peace being issued.

Yours sincerely

Chief Executive