



SCOTTISH BORDERS

ANTISOCIAL BEHAVIOUR POLICY & PROCEDURES MANUAL





AND



**WORKING IN PARTNERSHIP WITH
Registered Social Landlords and Various other Agencies**

**ANTISOCIAL BEHAVIOUR POLICIES AND PROCEDURES
FOR THE SCOTTISH BORDERS**

DOCUMENT HISTORY

Document Name: Scottish Borders Antisocial Behaviour Policy and Procedures Manual

Department: Safer Communities Team

Lead Person: Senior Antisocial Behaviour Officer

EQIA Date: January 2025

First Edition: April 2008

Second Edition: April 2019

Third Edition: August 2025

Amendment History:

Manuscript Amendment:

Date: Detail:

Date: Detail:

Date: Detail

Document Amendment:

Date: Pages Deleted: Pages Inserted:

Date: Pages Deleted: Pages Inserted:

Date: Pages Deleted: Pages Inserted:

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 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 its 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: 31/08/2025

Signed: _____
Title: Jenni Craig – Service Director, Neighbourhood Services
for Scottish Borders Council

Signed: _____
Title: Chief Inspector Stuart Fletcher, Local Area Commander,
Scottish Borders for Police Scotland

Signed: _____
Title: Evie Copeland – Director of Customer & Communities for
Berwickshire Housing Association

Signed: _____
Title: Amanda Miller, Director of Community Services for
Eildon Housing Association Ltd

Signed: _____
Title: Peter Moore, Chief Executive for NHS Borders

Signed: _____
Title: Susan McDonald, Director of Customer Services for SBHA

Signed: _____
Title: Paul Scott – Chief Executive for Waverley Housing

Signed: _____
Title: Tricia McManus, Head of Housing for Link Housing

PREFACE

This Third Edition 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

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 you must ensure that you are familiar with your own organisation’s 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 email asbu@scotborders.gov.uk



SECTION 1

Overview



ANTISOCIAL BEHAVIOUR IN THE WIDER CONTEXT

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 is not the only way 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 for Criminal Antisocial Behaviour Orders) have 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 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 also work with those where 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 must 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 ensure that the actions they take or intend to take are compliant with ECHR. With regards 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 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

THE PIER APPROACH

The intention of the partnership is to try and prevent Antisocial Behaviour spiralling out of control as early as possible, the approach taken to try and achieve this 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 act of 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 are as follows:

- Use of in - house early warnings
- Monitoring Letters
- Party House Letters
- F2F Warnings
- ABC
- Meeting Around the Child (MAC) & Multi-agency Meetings (MAM)

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 supported 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, SBC
- Registered Social Landlords x 5 (RSLs)
- Homelessness Service, SBC
- Legal Services, SBC
- Private Landlord Liaison & Enforcement, SBC
- Scottish Fire Rescue Services
- Police Scotland
- Justice Service, SBC
- Environmental Services, SBC
- NHS Borders
- Education Rep, SBC

Purpose

The ASBPWG will be responsible for:

- Providing 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 review of the Antisocial Behaviour Strategy 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 Services
- Police Scotland Representative
- Representatives from the five main RSLs within the Scottish Borders
- NHS Borders Health & Safety representative
- NHS Borders Mental Health representative
- NHS Borders BAS representative
- Homeless Services representative
- SBC Justice Service

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 Monitoring/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 monthly
- Discussions on fast moving cases need not wait till Core Group if it is deemed necessary to deal with the case ASAP

THE PIER APPROACH

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 appropriate action where antisocial behaviour is being experienced. They will use all relevant resources to help bring matters to a 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 to the underlying issues that contribute to causing the behaviour and break the cycle of exclusion and offending, bringing 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 kept in mind that as other agencies evolve and develop, so will our tools and methods of being able to deal with antisocial behaviour. The 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 forms across all communities in the Scottish Borders. This partnership working will be achieved through the Antisocial Behaviour Partnership Working Group (ASBPWG) and the ASB Core Group.

THE ANTISOCIAL BEHAVIOUR PARTNERSHIP – WORKING GROUP (ASBPWG)

The ASBPWG will have a role in the monitoring and evaluation of the Scottish Borders Antisocial Behaviour Strategy. The ASBPWG also has a remit for reviewing, monitoring, and amending the strategy. The group meet a minimum of 4 times per year.

The purpose of the group is as follows:

- The purposes for which the ASBPWG has been established is to develop, review and share best practice in relation to matters of an antisocial behaviour nature within Scottish Borders
- To provide 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
- 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
- To keep up to date with antisocial behaviour and other related legislation
- To review the nature and extent of antisocial behaviour and if necessary, pursue joint initiatives to try and address these
- To assist with the review the antisocial behaviour policies & procedures on an annual basis
- To assist with the review the antisocial behaviour strategy as necessary
- To incorporate robust mechanisms within their own organisations to ensure they incorporate the principles of Scottish Borders antisocial behaviour strategy
- To inform the group as necessary about any changes to policy for dealing with ASB within their own organisation
- 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
- Where appropriate, to provide a collective response to government and other consultation exercises 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
- The ASBPWG have agreed Terms of Reference which have been signed up to within the context of the Policies & Procedures Manual

ANTISOCIAL BEHAVIOUR PARTNERSHIP WORKING GROUP (ASBPWG)

TERMS OF REFERENCE (TOR)

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 contribute to 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 assist with the review of the policies & procedures and update as necessary;
- 4.7 To review the antisocial behaviour strategy and update as necessary.
- 4.8 To ensure there is robust mechanisms within their own organisations for the integration of Scottish Borders antisocial behaviour strategy principles.
- 4.9 To inform as necessary about any changes to policy for dealing with ASB within their own organisation.
- 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 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 5 (four) Registered Social Landlords (SBHA, Waverley Housing, Eildon Housing, BHA, Link Housing).
 - 5.3 1 (one) representative of NHS Borders.
 - 5.4 1 (one) representative from Police Scotland.
 - 5.5 1 (one) representative from Scottish Borders Mediation Network
 - 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, Legal Services
Social Work Justice Team/Children's Services/Adult Services
 - 5.8 Membership will be reviewed on a regular basis and representatives from other departments/organisations can be co-opted on a need's basis.

6. Representative

- 6.1 The word 'representative' in clause 5. Wherever it is used regarding 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 any other strategies in furtherance of the purposes set out in clause 4 of this document.
- 7.2 In particular and without prejudice to the generality of clause 4.1, the ASBPWG shall have the following duties:
- 7.3 To help 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 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, 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 If a co-opted representative from any sector or interest other than the local authority 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 by Scottish Borders Council. This can change on if the group agree.
- 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 based on consensus. If 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.

- To revoke or impose limits upon any specific authority or power granted to any project group under such terms.
 - 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
 - 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 can apply.
- 13.5 The following matters shall be excluded from delegation to any project group:
- 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 majeure*

- 17.1 The ASBPWG shall strive to always act 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 the same date as the Policy & Procedures review (31st December 2030) 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 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 agree to renew, revise or otherwise the terms set out in this document.
- 18.4 By signing up to the Policies & Procedures it is agreed to accept this TOR in its entirety

Services Represented:

Safer Communities Manager (Chair)
Senior Antisocial Behaviour Officer (Vice Chair)
Police Scotland
Scottish Fire & Rescue Service
NHS Borders
Berwickshire Housing Association
Eildon Housing
Waverley Housing
Scottish Borders Housing Association
Link Housing
Environmental Health (Noise Team)
Justice Service (SW)
Children's Service (SW)
Adult Services (SW)
Education Service
Homeless Service
Legal Services
Private Landlord Liaison & Enforcement Officer

ANTISOCIAL BEHAVIOUR CORE GROUP

The Scottish Borders Antisocial Behaviour Core Group is a practitioner's group at which all the relevant agencies meet to manage antisocial behaviour issues, reviewing individual cases.

The ASB Core Group comprises:

- Senior ASB Officer and ASB Officers
- SBC Youth Services
- Police Scotland
- Borders Addiction Services (NHS)
- Health & Safety representative (NHS)
- Mental Health representative (NHS)
- Homeless Service representative
- Scottish Borders Housing Association (SBHA)
- Bewickshire Housing Association (BHA)
- Eildon Housing Association
- Waverley Housing Association
- Link Housing Association
- Social Work Justice Service

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. 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 way to try and address the behaviour that negatively impacts on others
- Establish the facts supported by evidence that might justify any intervention by the Core Group
- Consider any complaints to avoid the possibility of discrimination or victimisation on the grounds of race, age, culture, gender, sexual orientation, disability or religion

Section 1d

The Senior ASB Officer will be responsible for ensuring that all relevant partners are involved in any decisions taken about cases and that all relevant views are considered before any action is taken. This will ensure that a collaborative approach is followed. In some cases, it may also be appropriate to include reports from medical and/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 Thursday of every month (except for December when the date will vary) to discuss relevant cases being brought to the meeting by partners and to review all cases already on the Scottish Borders ASB Monitoring List. 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 small/quick Core Group type meeting can be convened at short notice on a request of one or more of the partners.

It should be noted that whilst the ASBU is the lead agency for the purpose of taking the case forward, other actions can run in tandem such as RSL breach of tenancy agreement and following internal policies and procedures or CRASBO applications from Police Scotland. An RSL will still have a responsibility for maintaining communication with their tenant throughout the process.

Core Group Process

The Core Group meets monthly. The basic mechanism of the Core Group Meeting (CGM) is as follows:

- New names are presented to ASBU the Thursday 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 is distributed by the ASBU
- Wednesday prior to CGM all database checks are completed by ASBU
- Thursday CGM Day
- Wednesday – 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

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

Section 1d

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 – 12:30
Eildon Housing	13:30 – 14:00
Scottish Borders Housing Association	14:00 – 15:00
Berwickshire Housing Association	15:15 – 15:45
Link Housing	15:45 – 16:00
Private Rented/Owners	Ad- Hoc

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

It is not straight forward to define antisocial behaviour 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 antisocial behaviour 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 or someone who gets up late and stays up late
- 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 floors
- 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 antisocial behaviour in the 2004 Act has been deliberately drafted as being wide and flexible in its interpretation, this allows practitioners to assess the nature of problem and to take the most appropriate course of action to try and deal with the complaint. 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 antisocial behaviour 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 (ASBPWG).

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

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

SBHA – Scottish Borders Housing Association

BHA – Berwickshire Housing Association

BAS – Borders Addiction Services

DAAS – Domestic Abuse and Advocacy Service

GDPR - General Data Protection Regulations

NME – Noise Monitoring Equipment

SNT – Subjective Noise Test



SECTION 2

Information Sharing Protocol



INFORMATION SHARING GENERAL OVERVIEW

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 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.

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 or made by case officers.

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 MOSAIC
- Ensure landlords (where applicable) 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 (ASBU) are the case managers for all Owner Occupier or Private Landlord initiated complaints
- 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 is being made for an anti-social behaviour order.
- 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. The RSL must also ensure that a copy of all forms 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 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 List:

- Placing the personal details of the ASB subject onto MOSAIC
- Initiating contact with any other department, agency or organisation that needs to know the person is being monitored for antisocial behaviour
- 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 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.
- Ensuring that any information provided by the Police on a full disclosure of information reply form are deleted once data has been transferred and statistics obtained.
- 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 on MOSAIC
- Co-ordinating and ensuring that suitable arrangements are made for any intervention meetings that may be necessary with any subject being monitored, including researching whether 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 Antisocial Behaviour Audit Trail (ASBAT) 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 completed on MOSAIC
- 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

Police Scotland will be responsible for:

- Supporting SBC's ASBU 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 for the Information & 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.
- Ensuring that a copy of all disclosure of information forms sent to the Police (by either an RSL or SBC's ASBU) are secured or destroyed in such a manner as to prevent any unauthorised access, including copying, or theft

Section 2

- 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 to support any investigation they are making into an antisocial subject
- Ensuring that a copy of all disclosure of information forms provided to either an RSL or SBC's ASBU are secured or destroyed in such a manner as to prevent any unauthorised access, including copying, or theft
- Ensuring they provide an Officer to attend all meetings requested by the ASBU 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 person is being monitored 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 be included in this consultation process. If there have been no ASB problems at the address the RSL may 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 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
- For 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 the CRASBO with SBC's ASBU. 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
- 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. Scottish Borders Council employs a Liaison & Enforcement Officer who deals with the Private Rented Sector and can be contacted either by email at privatelandlordregistration@scotborders.gov.uk ensuring that the email is clearly marked for the attention of the Private Landlord Liaison & 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 Officer

Disclosure of information reply forms

In reply to requests for formal disclosure of information forms from either SBC's ASBU or an RSL about an 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 forms. These 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

Pre Disclosure

- When 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, a pre-disclosure request form must be completed and signed by the Designated Signatory within the requesting organisation. This form should be forwarded to the ISO who will get authorisation for the release of the information
- The pre-disclosure request form must contain details of 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 a disclosure reply form by the ISO, based at Langlee Community Centre. Because some of the ASB partners do not have a secure mailbox, the reply form will be password encrypted to the requesting organisation

- Each partner organisation will be responsible for securing or destroying all copies of Police forms that they hold in a manner that will prevent any unauthorised access, including copying, or theft

Formal Disclosure

- This 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 ASBU 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 or applying for an ASBO

The form is in 4 sections:

- Part A – Crime Reports – no charges
- Part B – Pending cases – Charges and reports sent to court
- Part C – List of previous convictions for ASB
- Part D – Court disposals

Each partner organisation will be responsible for securing or destroying all copies of 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 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

Information Sharing Protocol

In collaboration with

Scottish Borders Council

Police Scotland

Scottish Borders Housing Association

Waverley Housing

Eildon Housing Association

Berwickshire Housing Association

Link Housing Association

NHS Borders

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Appendices:

Appendix A Glossary of Terms

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 adopting this protocol, we declare our commitment to the procedures it sets out. The way information can be exchanged considers 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 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.

2.7. This protocol will be reviewed on a regular basis and any comments should be sent to the Senior Antisocial Behaviour Officer at: asbu@scotborders.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 often 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 (PDO), 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 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) 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 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 and DO 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 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 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 follow GDPR/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 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 or destroyed 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 always undertake, 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 or destroy all data securely as per the terms of the Security and Data Management section. 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. Most of the 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 process outlined in this manual. 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 an RSL.

16.3. Many 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 reports will be transmitted to a secure e-mail address. Should this be unavailable it will be password protected.

16.5. Police Forms (Information Disclosure)

Information Disclosure Form is a three-page document. 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 request 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. Reply reports are very similar and contain common information. Copies are contained within Section 20 of the Policies & Procedures Manual.

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.

Antisocial 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 way, ‘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 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
NHS Borders	Physical Safety Lead
Police Scotland	Area Commander or designate
Link Housing	Data Protection Officer

POLICE SPECIFIC - INFORMATION SHARING

Timescale 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 Police reports will be transmitted to a secure e-mail address or be password protected.

The Police Reports

Police Scotland forms refer to the labelling number used to identify the correct forms to request and provide information disclosed under the Antisocial Behaviour Scotland Act 2004

Disclosure of Information Police Form is a three-page document, full details of how it is used is in Section 2 and a template of the form is in Section 20.

INFORMATION SHARING

Updates will be given to the ASBU daily for any person being monitored . The 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.

Information is shared using secure email or password protected email only.

Individuals are identified in advance of the monthly core group meeting. This is based on the occurrence of four or more incidents in six months involving that person. This is flexible and can be adjusted according to the severity and frequency of incidents or previous interventions with the same person. It is also not bound to the core group meeting, allowing cases to be progressed as and when required.

The same data is used to support various police processes (regarding youths, underage drinking, domestics, missing persons etc.), to identify emerging hotspots and is also utilised to report to Scottish Government.

Many 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 Liaison & Enforcement Officer.

Section 2c

CHILDREN SPECIFIC - INFORMATION SHARING

RESERVED

Section 2d

MENTAL HEALTH SPECIFIC – INFORMATION SHARING

RESERVED

HOUSING PERSONS KNOWN FOR ANTISOCIAL BEHAVIOUR

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 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 person with a history of antisocial behaviour 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 facilitate consistency from the partnership housing providers when allocating property.
 - To outline what checks are 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
 - Five 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, if checks are done for all cases, this can provide consistency.
- 2.3 When the ASBU conduct the checks, the reply will be based on 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 at 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 (Normally red graded), the relevant landlord will be responsible for organising this.
- 3.4 Section 5 referrals will probably make up many requests; however, Homeless Services can 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 e mail, however for emergency situations a phone call will suffice if 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.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 several days as information is requested from Police Scotland.
- 3.10 If an RSL houses a person who is the subject of an 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 section 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 emergencies, Homeless Service presentations there may not always have time to carry out a full risk 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. The opportunity to assess emergency allocation of immediate temporary housing, or any allocations made out-with normal office hours, should be considered as soon as it is practicable to do so
 - If possible, someone who is being monitored at core group level and they move, a forwarding address should be sent to the ASBU
- 5.2 Information will be shared by secure email or encrypted/password protected 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 be a serious criminal 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 historical record of ASB may not be highlighted as a problem as the ASBU simply do not retain that information anymore.

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 request to Police Scotland.

9.3 **ASBO Breaches**

If a person breaches the terms of their ASBO the ASBU will advise that person's housing provider 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 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

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 are co-located.

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 Antisocial Behaviour Standard 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 0300 425 1446 however all requests for disclosure must first be directed to the ASBU
- **Antisocial Behaviour Unit**
Within SBC, this team has a Senior ASB Officer, Three ASB Officers who are also trained as Mediators. The team can be contacted on 0800 028 5711 or emailed on ASBU@scotborders.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.gov.uk
- Environmental Health: PLACEhealth@scotborders.gov.uk

Points of contacts for others can be found within relevant sections within this manual

All officers during 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, 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 Sergeant. Each officer has a designated beat (area) they are responsible for. CBOs should be a regular point of contact for the public and partners. They will be involved with antisocial behaviour meetings, and meetings arranged through the Antisocial Behaviour Unit. They should also be used as a first point of contact for information to investigate reports of ASB by partners.
- **School Link Officers**
There are six officers, funded by Scottish Borders Council. They work with children and young people within Nursery, Primary School, High Schools and Further Education. This is done through and with multi-agency partnership working. One of their remits is aiming to keep children safe, preventing them from offending and diversion from criminality or unsafe practices. Anyone who has a concern about children/young people can speak to the School Link Officer
- **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, 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 daily, logs antisocial behaviour and is the single point of contact when researching cases. This officer is also responsible for the management of Information Disclosure forms. The ISO also provides most of the information that is used at the monthly multi-agency Core Group Meeting (CGM) . A representative from Police Scotland will attend the Core group Meeting

IDENTIFYING ASB INCIDENTS

The ISO reviews all police incidents for every day of the year. 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, then 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 to identify repeat offenders and addresses.

Private Landlords

Many properties in the Borders 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".

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.

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 action is required and which agency will take this forward. There is representation from Police Scotland at this meeting. The proven and evidenced way of reducing ASB is by intervening at the earliest opportunity, those interventions are listed within Sections 12 to 14 of this manual

The interventions that the ASBU and Police Scotland can take forward are:

INTERVENTIONS

- **Party House Letter**
If Police attend a noise complaint, and the level of noise is deemed excessive by the attending officers corroborated by the Police the occupier will receive a warning letter from the ASBU. The Landlord will also be notified. The same applies if the noise is not witnessed but the occupant admits that it was
- **Mediation**
The CBOs, and Response Officers should be aware that the ASBU can offer a Mediation services available as part of the early antisocial behaviour interventions and are encouraged to consider this when dealing with the initial complaints
- **Monitor Letter**
ASBU informs a person by letter that they are being monitored for ASB
- **Face to Face**
As part of the local monitoring of antisocial behaviour, when an individual has contacted the police to report any antisocial behaviour incident, their details are noted with any relevant information. Following four reports of an antisocial nature within six months all the incidents are discussed at the core group meeting. Where an intervention is deemed appropriate, if a meeting is required the ASBU will organise this and request the attendance of an officer through the Community 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 Sergeant. The ABC is like an ASBO in that it formalises the behaviours that are unacceptable and requires the perpetrator to voluntarily sign the contract to agree to desist from certain courses of conduct. This is not enforceable
- **ASBO**
When an ASBO is considered, Police witnesses may have to be cited, this will be requested from the ASBU to the relevant Community Sergeant.

Section 3

It should be noted that the ASBO process is civil. Police may also initiate a Criminal ASBO (CRASBO). A CRASBO is like an ASBO the only difference being the behaviour is a criminal proceeding

- **Monitoring**
When an ASBO is granted, the relevant paperwork is sent by the court to the ASBU, who in turn send it 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) by the ASBU
- **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 -
- **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

TIMESCALS 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.

The priority work for the ISO will be to provide information to the ASBU for their core duties, all other parties must be aware that during times of peak workload for this purpose, their requests may be delayed even further. Formal requests can (if required) be directed to Police Headquarters.

MANAGEMENT INFORMATION - POLICE REPORTS

These can be referenced in Sections 2 and 20



SECTION 4

Private Landlords



ANTISOCIAL BEHAVIOUR IN PRIVATE RENTED PROPERTY

privatelandlordregistration@scotborders.gov.uk

0300 100 1800

This section of the procedures focusses 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.

Landlords are advised to keep written records of complaints, undertake inspections on regular basis and to try and mediate between their tenant and complainant, further advice can be obtained from

[21. Respect for Others - Private residential tenancy model agreement: easy read notes - gov.scot](#)

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 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.

- 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

The ASBU monitors all ASB cases regarding 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

Owners of properties will be subject to the same regulations as for 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 will 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 rented/owner complaining about an RSL property.

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



SECTION 5

Homeless Service



Homeless Services

Antisocial Behaviour Procedure.

At the point of referral for Temporary Accommodation, SBC Homeless Service have the opportunity to provide details of the potential tenant and property(s) to the ASBU for feedback on if there have been any previous antisocial behaviour issues and if so, the level of concerns and whether the property is on offer has also been involved with complaints.

If the ASBU flag any areas of concern which make the offer of accommodation unsuitable the service may look at an alternative offer. If there are areas of concern but the accommodation is suitable, a Housing Management Officer can arrange a joint visit with ASBU at the earliest opportunity to advise their client on the responsibilities as detailed within the tenancy agreement to prevent any antisocial behaviour issues from arising.

Reported Antisocial Behaviour

Initial Report of Antisocial Behaviour:

- A Housing Management Officer will take any complaints on a case-by-case basis in the short-term. The Property Service Manager will assist with these should the Housing Officer have issues about capacity to do so.
- A Housing Management Officer should log the details and offer the complainant antisocial behaviour diary sheets and a referral to any other Support Service if required. At this point, the possibility of Mediation can also be explored.
- The Housing Management Officer should notify the ASBU of the complaint if they feel that it should be discussed at Core Group level and internal procedures have not changed the behaviour.
- Depending on severity of complaints, The Housing Management Officer may decide that a warning is required and, in that case, will send out a standard first warning letter (Appendix 1). If warranted this could also be followed up by a home visit. All communications should be recorded on the appropriate database/systems.
- The Housing Management Officer should notify Social Work of any concerns relating to the behaviour (e.g. Child protection, Adults at risk etc.) they should also notify other involved or relevant agencies of any issues/risks (e.g. addictions/mental health /animal welfare)
- The Housing Management Officer should offer the tenant support if this is not in place already, to provide advice and assistance to alleviate the risk of further antisocial behaviour.

Following second report of Antisocial Behaviour:

- The Housing Management Officer will log all details on the 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 antisocial behaviour continue.
- The housing management officer should offer the complainant antisocial behaviour diary sheets and a referral to Support Services if required. At this point, the possibility of Mediation can be explored.
- The Housing Management Officer should notify ASBU of complaint if they think that the case should be discussed at the Core Group
- The Housing Management Officer will advise the relevant RSL and offer joint visit and or the ASBU if required.

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- The Housing Management Officer will hand deliver a final warning letter (Appendix 2) and discuss the issues with the tenant. The tenant should be made aware of the consequences of any further breach of the tenancy and that this is a final warning.

Following 3rd report of Antisocial Behaviour:

- The Housing Management Officer should notify the ASBU about the complaint.
- The complainant should be given antisocial behaviour diary sheets and referral to support services if required.
- Arrange a joint visit with a colleague. Offer of alternative accommodation if appropriate. Advise of further complaints – provide further letter advising of breach of tenancy following previous final warning.
- If the offer of alternative accommodation is refused, then the officer will advise the tenant that the expectation is they will leave the accommodation and will be provided with 14 days' notice as per occupancy agreement.
- Send the initial 14 days' notice letter (Appendix 3)
- Advise SBC legal team of notice requirement and provide relevant paperwork to legal services – Should this be to enforce a move to alternative accommodation or removal from temporary accommodation.

Appendix 1

Please ask for:

Tel: 01835865180

Email: homelessnessservices@scotborders.gov.uk

Our Ref:

Your Ref:

Date:

RE.

I write regarding the above temporary accommodation address, which you are tenant.

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

I would also highlight section sixteen within the occupancy agreement:

16. I understand that I shall be in breach of this lease if I, 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.

If you have any questions regarding this letter, please contact me on 01896 661385.

Yours sincerely

**Housing Management Officer
Homelessness Service**

Appendix 2

Please ask for:

Tel: 01835865180

Email: homelessnessservices@scotborders.gov.uk

Our Ref:

Your Ref:

Date:

****Hand Delivered****

RE.

I write again regarding the above temporary accommodation address, which you are tenant.

We have received further complaints, from neighbours within the surrounding area. This a further direct breach of your lease which you signed on . In your actions breach section(s) of this occupancy agreement. I would again 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, 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.

If you have any questions regarding this letter, please contact me on 01896 661385.

Yours sincerely

**Housing Management Officer
Homelessness Service**



SECTION 6

RSL's



Section 6

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 be dependent 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 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) **P**revention
- b) **I**ntervention
- c) **E**nforcement
- d) **R**ehabilitation

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 Officers (CBO) If required they can also contact the Council's Antisocial Behaviour Unit for advice and assistance about any ASB case on 0800 028 5711 or asbu@scotborders.gov.uk

RECEIVING AND ACKNOWLEDGING COMPLAINTS

Lead agency for complaints received

- If you receive a complaint from another RSL about your tenant, then it will be logged and diary sheets sent. The RSL of the alleged perpetrating tenant should take the lead. If there is contradiction in who is the perpetrator you can ask the ASBU to assist
- If you receive a complaint from an owner or private landlord property about your tenant, then you are the lead agency. If this comes from the ASBU then they will have logged it, sent you details and then close it having informed the complainant that they have done so
- If an RSL tenant complains about a house owner or a private landlord, the RSL would log and send 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 complaint letters)
- Investigation (Consider mediation)
- Collate evidence

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- Regular contact with both the complainant and subject
- Regular case review
- Seeking feedback on how the case was handled

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
- Support Referrals
- Collating evidence
- Mediation
- Noise Monitoring referrals (Done through the ASBU)
- Warnings
- Refer to ASBU
- Joint action as agreed through the monthly Core Group
- Assistance with re-housing
- Management transfers in exceptional circumstances.

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ENFORCEMENT

Key enforcement activities for RSLs are:

- NOP (Notice of Proceedings)
- Court Actions to end tenancy
- Compulsory transfer
- Converting to SSST
- ASBO Application
- Interdicts
- Specific Implements
- Eviction
- Joint action through monthly Core Group

REHABILITATION

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

- Referral to Drug & Alcohol Support Services
- Routes to employment
- Debt management
- Mental Health referrals
- Tenancy support

Once initial enquiry has been made and you have determined that a complaint is justified, and you are satisfied there is sufficient evidence do one of the following:

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

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An RSL can refer a case to the ASB Core Group whenever they feel it is required, normally they will try and resolve matters internally, but this will be assessed on a case-by-case basis. When making the referral, if they have taken any action, this will need to be documented and sent to the ASBU prior to the ASB Core Group meeting.

Once a case has been referred to the ASB Core Group, they (ASB Core Group) are the multi-agency body that thereafter make decision about how the case should be dealt with. RSLs are part of this group and still have a duty of care to their tenants throughout the process. If persons are being monitored but no direct intervention is planned at the early stage, they will receive a letter informing them as such. The direct interventions available are:

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
4. Multi-Agency Meetings can be convened if it is thought there is another more appropriate agency that could assist



SECTION 7

Children & Young People



ANTISOCIAL BEHAVIOUR - CHILDREN AND YOUNG PEOPLE

INTRODUCTION

Young people over the age of 16 are 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 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 last P&P manual revised in 2019 and considering 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 need to be given the opportunity to say what they think might best help them to change their behaviour.

PREVENTION

If a young person is involved with antisocial behaviour, an assessment must be made 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 because of a decision made at the multi-agency Core Group Meeting (held

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once a month).

The determining factor as to who should arrange/chair a MAC Meeting 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. School Link Police Officers should share information with a view to implementing diversions at an early stage, to address children's needs in a consistent and appropriate way, both in school and in the wider 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 Intervention that can be used as an effective means of preventing a person's behaviour from becoming the subject of further complaints and or Police Involvement.

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 by Social Work.

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 it is appropriate for the Council's ASBU to proceed with an ASBO application against that person.

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 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 antisocial behaviour by a young person, consideration should always be given to referring the problem to the Scottish Borders Council'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 the supports the young person can expect to receive to assist them in changing their behaviour. The contract should also specify

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that legal action may follow because of a breach of its terms.

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 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, to be an effective deterrent, breach of an ABC or refusal to enter 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, an ABC can be presented at 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 agree 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.

If it has not been possible to arrange the ABC through a MAC Process (due to many factors), then the ABC can be conducted as normal through the Core Group Process as long as the parent/Legal Guardian is present

Offering an Acceptable Behaviour Contract (ABC)

Before an ABC is offered the ASBU will contact 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 Social Work (Youth Justice Service) at the meeting.

Once the checks have been carried out, a MAC (where possible) 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 monthly 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.

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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 (where possible) 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.

The ASBU reserve the right to make referrals direct to the Children's Reporter

Antisocial Behaviour Orders for 12 to 15 Year Olds

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 may request further multi-agency meetings in relation to a young person against whom an ASBO application has been requested.

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Reporter-chaired Multi-agency Meetings

Before proceeding to this stage of the process there should 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 they consider an ASBO is an appropriate remedy for the young person. The ASBU will contact the Children's Reporter 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 the need for a decision to be made as to whether an ASBO application should be made.

The Reporter or nominated replacement will chair this meeting. The purpose of this meeting is to decide whether 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 the meeting, including the young person and their parent/guardian or carer.

Following the meeting, the Children's Reporter will indicate their view on the proposed application for an ASBO. Where the Reporter supports the application, the Council's solicitor should be notified by the ASBU and be 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.

Applying for an Antisocial 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 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 attend Court.



SECTION 8

NHS



NHS PROCEDURES

The NHS are fully signed up to addressing antisocial behaviour in all NHS premises and services, this includes:

Borders General Hospital, Primary & Community Hospitals, Health Centres, Mental Health Services, Clinics, Drop-ins and associated services.

NHS have three representatives that attend the monthly Core Group Meeting (Occupational Health & Safety, Borders Addiction Services and Mental Health Crisis Team.

If a person needs to be discussed due to their behaviour, there is an Antisocial Behaviour Notification Form (ANF) that is completed based on the Adverse Event Report (AER) and sent to the Anti-Social Behaviour Unit (ASBU) for consideration of what action needs to be taken. Only the ANF is sent to the ASBU.

A copy of the Antisocial Behaviour Form (ANF) is at Appendix 1.

If there is no requirement for the ASBU to act, NHS Borders will consider if it is appropriate to write to the individual informing them that their behaviour is not acceptable, and any further occurrences may lead to further action being taken.

A copy of the letter template is at Appendix 2 to this section, for internal use by the PMAV team in partnership with the appropriate service.

It is vital that all adverse events are reported as per NHS Borders Policy. 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, to support staff this information is provided on the back of the ANF Form.

What do staff have to do, to make a statement to the Police?

Staff must provide an accurate account of what they observed to a Police Officer, this must be noted in writing, normally on the Officers handheld 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 consider if court proceedings are necessary.

How Confidential is this?

The statements are confidential up to the point that court proceedings are started and then all documented evidence would be made available to the defence. No medical information would be included in statements relating to Antisocial Behaviour offences.

If statements are given to the Police, will staff have to attend court?

If a case is being defended, there is a possibility, but not all statements will mean attendance at court, that is a decision for the Procurator Fiscal to make.

If a staff member is called to court, to protect and support staff, the staff member should give their address as NHS Borders, Borders General Hospital, Melrose, TD6 9BS and not offer their home address.

What if this relates to someone with a current Antisocial Behaviour Order?

If the person already has a live Antisocial Behaviour Order and they conduct themselves in a disorderly manner or are violent, abusive or unruly when they are within any NHS service or premises within the Scottish Borders an adverse event should be completed and Police Scotland informed immediately.

Antisocial Behaviour Unit Communication Form



Affix Addressograph

Date & Time of Incident Adverse Event Number	
Where did the incident occur?	
Has a check been made with Mental Health to ensure there are no current MH problems that may contribute to behaviour?	

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

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:
Health & Safety Lead Advisor, 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 must provide an accurate account of what they observed to a Police Officer, this must be noted in writing normally on the Officers handheld PDA and this would be read over and then signed by the staff member.

This will form the basis of the evidence available to the officers to then send to the Procurator Fiscal to consider for court proceedings.

2. How Confidential is this for staff?

The statements are confidential up to the point where court proceedings have been arranged, they would then have to be disclosed to the defendant.

No medical information would be included in statements relating to Antisocial 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 a case is being defended.

If 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 a staff member is called to court, to protect and support staff, the staff member should give their address as NHS Borders, Borders General Hospital, Melrose, TD6 9BS and not offer their home address.

4. What if this relates to someone with a current Antisocial Behaviour Order (ASBO)?

If someone currently has a live Antisocial Behaviour Order and they conduct themselves in a disorderly manner or are violent, abusive or unruly within any NHS services or NHS premises an adverse event should be completed and Police Scotland informed immediately.

NHS
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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

Mr

Date
Your Ref
Our Ref JD/KA

ADDRESS

Enquiries to ENTER NAME. Delivery Support Officer
Extension 8220
Direct Line 01896 828220
Email 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 30th June 2017) you behaved in an antisocial manner (list what they have done). Because of this, other patients on the ward were left in a state of fear and alarm.

This behaviour is unacceptable and has resulted in the matter being reported and has been discussed with Police Scotland and the Antisocial Behaviour Unit (ASBU) of Scottish Borders Council. It has been agreed that on this occasion NHS Borders will send this warning letter regarding your behaviour.

NHS Borders works in partnership with Police Scotland and the ASBU, incidents of unacceptable behaviour will not be tolerated. If there are further reported incidents of antisocial behaviour towards staff, patients, relatives, or the public, within any NHS Borders premises, details will be shared with the Antisocial Behaviour Unit and Police Scotland. This may result in further action which could include an application for an Antisocial Behaviour Order and/or formal charges by Police Scotland.

Yours sincerely

ENTER NAME

Chief Executive



SECTION 9

Mediation



MEDIATION

Scottish Borders Council

Tel: 0800 028 5711

e-mail: asbu@scotborders.gov.uk

Mediation is an early intervention and can help people to resolve disputes without taking formal action. It is entirely voluntary and requires all parties to participate.

There are three ways that Mediation can be conducted and does not always require people to meet face to face. In fact, from the outset of engagement with a Mediator, there is no requirement to do so.

Telephone Mediation: This basically means that the Mediator will conduct conversations with all parties over the telephone and act as the go between to relay the details and or any final agreements.

Shuttle Mediation: This is like the Telephone Mediation, but the Mediator will be able to visit in person.

Full Mediation: This will start with one-to-one meetings with all parties where the Mediator will listen to what issues are being raised and then will decide if a full face-to-face meeting would be beneficial and that all parties agree.

It is important to note that the Mediator is impartial and will not dictate what needs to happen to resolve matters that will come from the parties involved.

If everyone agrees, the Mediator will arrange to bring everyone together in a “Mediation Meeting” We endeavor to ensure that it is in a local, neutral venue. Meetings normally last no longer than one hour and are structured so that everyone can 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.

mediation meetings can be successful with neighbours working out a solution they can both agree on. If meetings do not end in agreement clients often reflect on what has been said and matters can still improve.

Section 9

Mediation can be a much less stressful way of resolving disputes. It is free, confidential and all the Mediators are accredited at national level.

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.

All staff at the Antisocial Behaviour Unit are trained Mediators and can offer help and advice if this is something that needs to be considered. Other general advice on Mediation can be found at www.scmc.sacro.org.uk

Section 20 has the template for a referral which is the ideal way to refer to the service.

A Mediation Officer may make referrals to other agencies or decide if it is unsuitable for Mediation. You will be informed of this and the reasons why.



SECTION 10

Intentionally Blank





SECTION 11

Antisocial Behaviour Unit



Antisocial Behaviour Unit (ASBU) – Scottish Borders Council

0800 028 2711

asbu@scotborders.gov.uk

The Antisocial Behaviour Unit currently comprises of four officers; they have access to a wide variety of agencies and resources that can assist in tackling ASB.

They are also trained Mediation Officers but work in an independent role in that function so will not deal with clients that are in the same geographical area that they have responsibility for when dealing with antisocial behaviour cases.

The primary roles and responsibilities are listed:

- To monitor Antisocial Behaviour Orders and the processes that surround that
- 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/Homeowners in relation to matters of ASB
- Review the P & P manual on a regular basis
- 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 onto the database
- Research 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 always consider Mediation as a first option
- Will inform complainant (where possible) that a referral to other agencies may be required
- 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 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 Level?

- Placing the personal details of the person onto the Scottish Borders ASB Monitoring List
- Ensure that a personal electronic folder is made up for the ASB subject within the ASBU electronic folders if needed for media storage
- 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 antisocial behaviour issues at the Core Group Level
- ASBU will request a formal disclosure of information from the Police
- During case management the ASBU will be responsible for 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, also ensuring that the subject's Antisocial Behaviour Audit Trail (ASBAT) is kept up to date
- Ensuring that all interventions taken from Core Group level 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, the Core Group functions and interventions are well covered in other sections of this manual.

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



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 is 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 it does not consider 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 20

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.

Party House Letters:

When Police have been called to an address for 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 20

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 decide 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 face to face warning, the ASBU will send a letter to an individual who has been discussed at Core Group and this is deemed as appropriate action to take.

Section 12

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 and support if they wish it.

Template letter is contained in section 20

Complaint Letters:

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

Example letter is contained in section 20

Landlord Interventions:

Please see the section for Landlords at section 6

PROBLEMATIC HOT SPOT AREA

In some circumstances it may not be possible to identify all 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 can 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 using the following steps:

Ground: Identify the area of concern, where it sits, geographically 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 act, 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?

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 other agencies that would perhaps not be involved in day-to-day ASB matters.

These are just some of the considerations 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.



SECTION 13

Intervention



MEASURES TO TRY AND PREVENT ANTISOCIAL BEHAVIOUR

Monitoring Letter:

This is a letter sent out to someone who has been discussed as being involved with antisocial behaviour, but it is at a relatively low level. It is hoped that the letter will give them enough notice for them to try and amend the behaviour.

Face to Face Warning:

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.

The 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 invite will normally go out to the Community Beat Officer (CBO) and inform the relevant supervisor for that CBO so that they can have the opportunity to re-allocate if required.

If the person being seen at F2F is a tenant of an RSL, the RSL 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 a 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/Justice Team) to name but a few, they will have the opportunity to be in attendance.

Face to Face Meeting: 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 person does not attend the meeting this will be noted for future action should that be necessary.

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

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)

- Do not give the ASBAT to the subject of the F2F until finished as this will detract from the discussion and important points

Acceptable Behaviour Contract (ABC):

An example of an ABC is at Section 20

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 get to keep 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 not the ASBAT (same reason as F2F)
- 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 normally:

ASBU/Police Scotland/RSL/Individual

Acceptable Behaviour Contract (Points to Note)

The agreement is an individual written agreement between the perpetrator of the antisocial behaviour, the relevant authorities and Police Scotland.

The aim of the contract is to make perpetrators personally responsible for their actions. The contract will cover the responsibilities of the person on identified antisocial behaviour acts that the person has been committing.

Acceptable Behaviour Contracts are not legally enforceable, and a perpetrator cannot be compelled to enter into such an agreement.

Section 13

Acceptable Behaviour Contracts are flexible enough to be used in respect of antisocial adults or juveniles (children aged between 12 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 need compulsory measures of supervision.

In the case of an adult who subsequently breaches the agreement, the ABC can be used to support 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 Court that other interventions have been tried, thus strengthening the case.

ABCs are flexible by nature and by signing the agreement the perpetrator acknowledges that their behaviour is unacceptable. ABC's can be extended and should be reviewed at the mid-point. They are normally in place for 6 months from start to finish.



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 intended to tackle behaviour which cumulatively causes considerable alarm and distress to the community. This may consist of several 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 applied for against persons of all housing tenure types i.e. owners, private sector tenants of social housing.

Currently, RSLs and Police Scotland through the ASBU can apply to the court for an ASBO against any person (whether he or she is an RSL tenant), and is over the age of 12 years, and 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 most cases.

Prior to the 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.

“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.)”

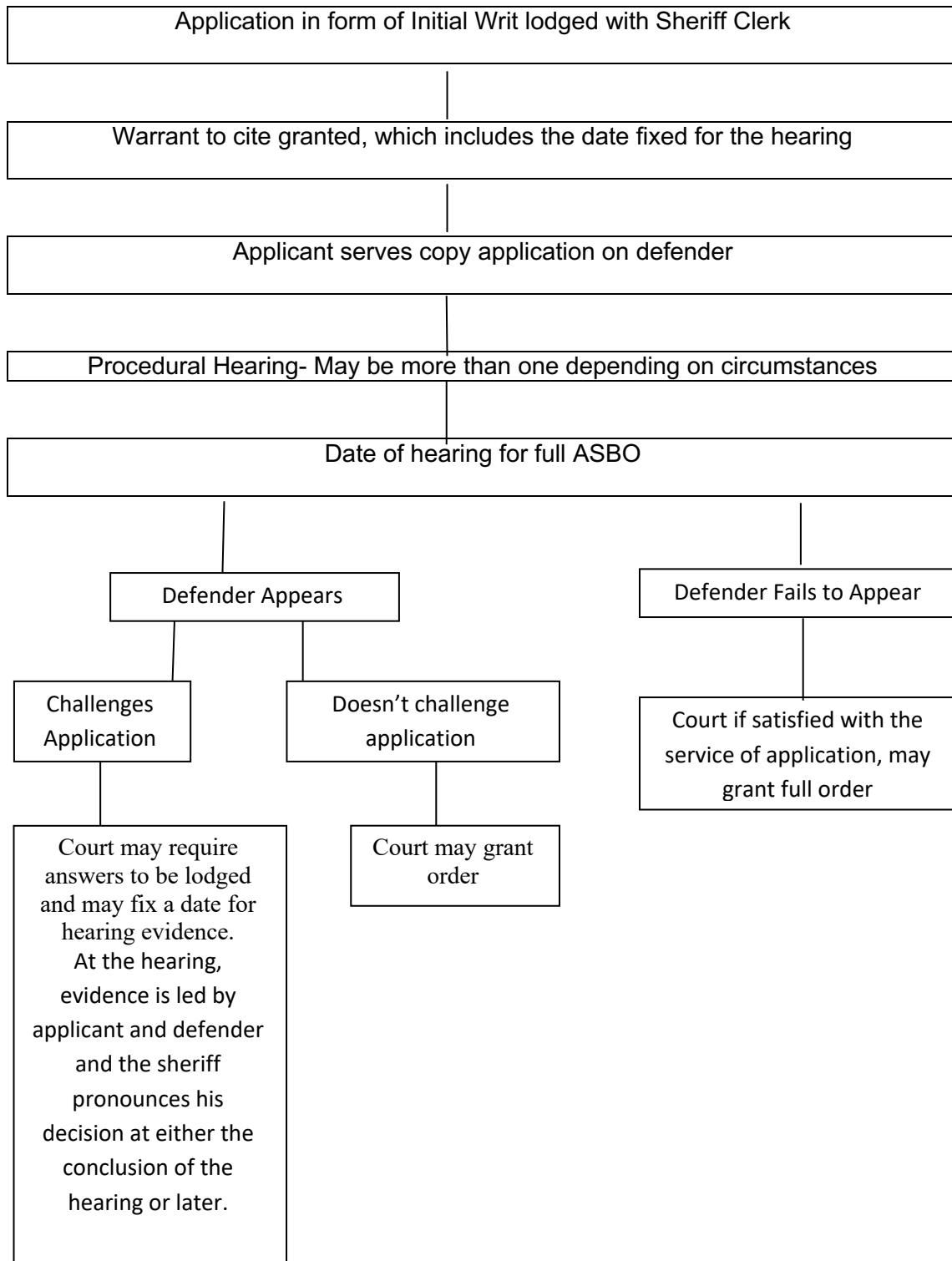
An application for an ASBO will be made to Scottish Borders Council Legal Services who will seek it by summary application to the relevant court in relation to where the antisocial behaviour is alleged to have taken place. If granted, the clerk of the court making the ASBO shall give a copy of it to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

If an individual is subject to an ASBO and has moved house, the ASBU in consultation with the RSL will consider if the ASBO should be revoked. ASBO's relate to the protection of a specific community and therefore cannot be transferred if the individual moves, If the order is made for Borders area, 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 ISO. Details of the ASBO will be placed on the Command-and-Control system and on PNC. This will contain a brief description of the nature of the ASBO of the relevant Division. For that to happen there are three documents that are required:

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

Section 14



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 an incident) and Orders will be granted, if 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 on a person who has been convicted at a Criminal Court of an Antisocial Behaviour type of Crime such as - Breach of the Peace, Vandalism, Assault etc.

Breaches of ASBO

To prove that either a Civil, Interim or CRASBO has been breached the evidence required to prove a breach reverts 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 Antisocial Behaviour Orders, 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 allows a criminal court to impose an Antisocial Behaviour Order as a/part of a sentencing option, on conviction. This provides that a court may impose an Antisocial Behaviour Order 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 antisocial Behaviour Orders 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 on 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.

Section 14

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 Antisocial behaviour the recipient had been involved in at their new address, or to cover their new town of residence.

If an individual moves away from the area, consideration should be given as to whether 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 Antisocial behaviour. 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 part of the act is available on the Scottish Government website.



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 third edition of the P&P, research into how this can be better achieved in conjunction with the Justice Team and Education will be explored further as progress since the last edition has been somewhat limited.

We have introduced mid-point reviews for ABC's. 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. During this edition of the P&P we will introduce this.

It may be that when the contracts come to an end, 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 looked at with a view to offering ongoing support at that point.

It is highly likely that this section will be further developed in the future.



SECTION 16

Other Powers



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

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 act 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 antisocial behaviour 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 antisocial behaviour 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

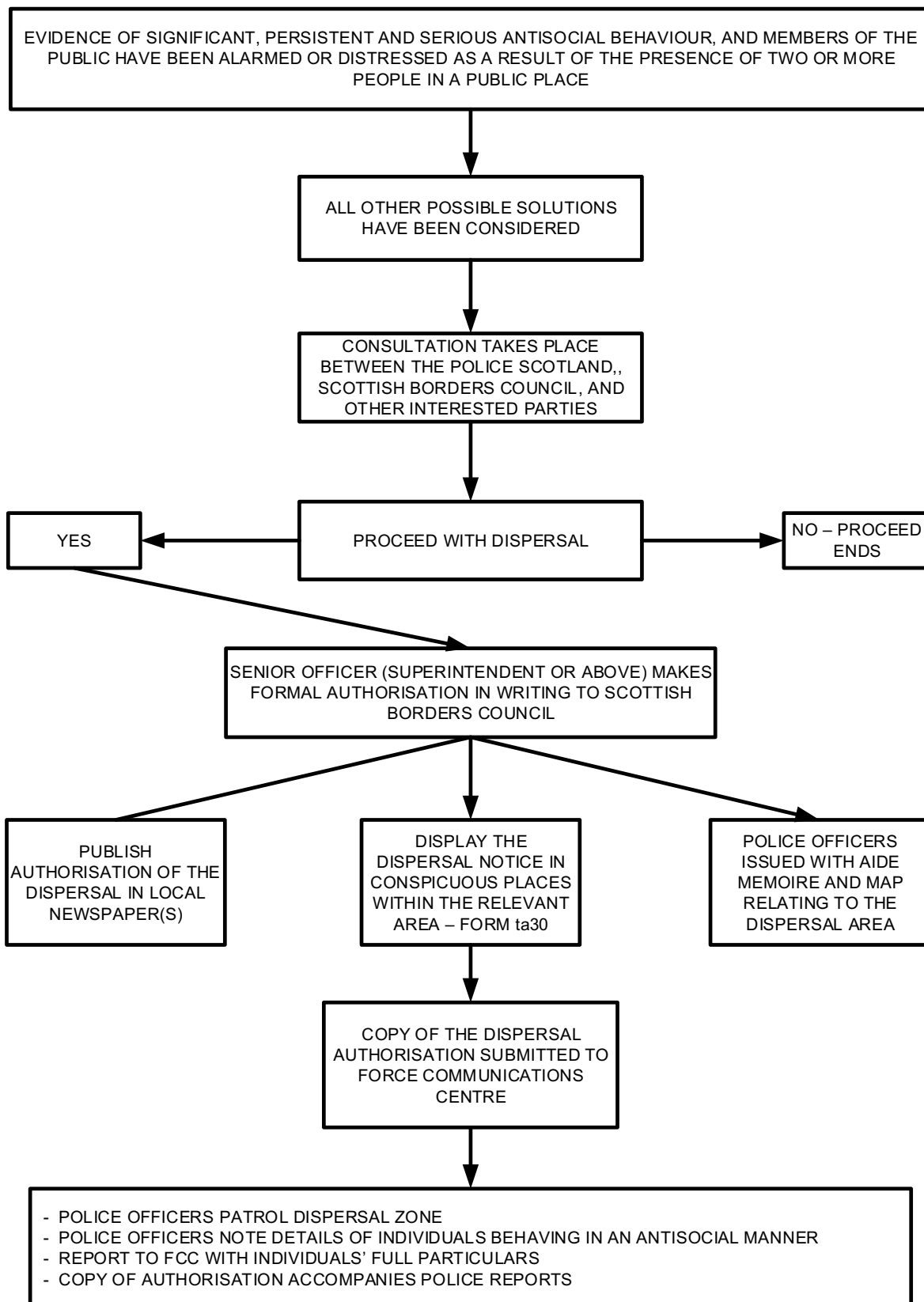
Responsibilities of Operational Officers

- 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 Superintend

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”.

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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 antisocial behaviour 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

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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.

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- 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) 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.
- b) Provide housing advice, including access to Homelessness Services and benefit advice;
- c) Provide appropriate staff to assess the condition of the premises;
- d) Commission the securing of metal window blinds, secure doors and any other measures necessary to prevent further access to the premises;
- e) 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 - Closure Order

A Closure Order prohibits access to all persons for a period not exceeding 3 months. (The period can be extended to a maximum of 6 months.)

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

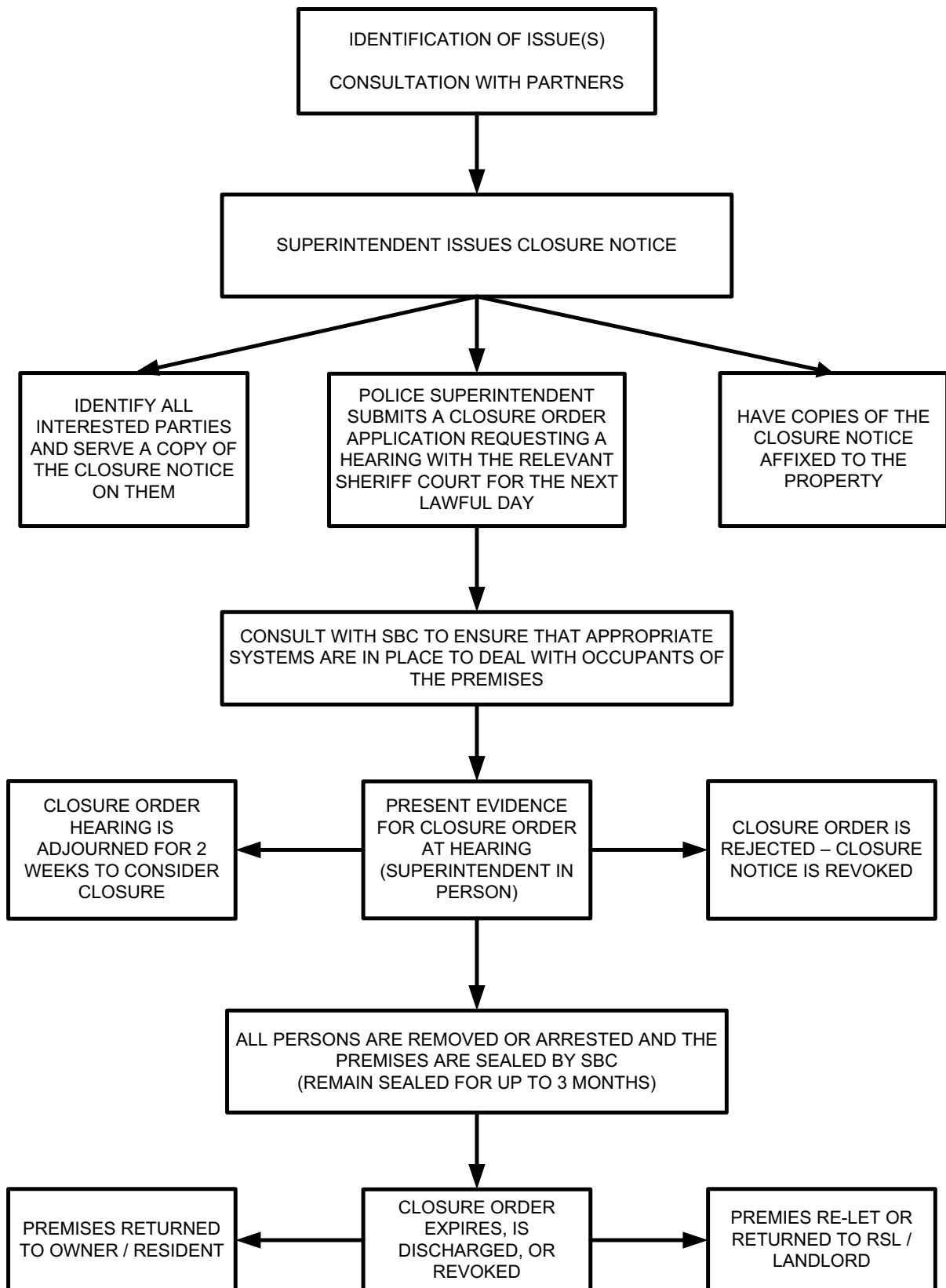
- Is there persistent and serious disorder or serious nuisance associated with the premises?
- Has evidence of this behaviour been properly collated?
- Is this within 3 months of the authorisation of the Closure Notice (today)?
- Has the Local Authority been consulted?
- Has this involved an exchange 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?

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- 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? Vis:
 - 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

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 8 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

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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 the 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 Lothian and Borders 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 Scottish Borders Council has planned 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 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.

If a party wilfully refuses to comply with a specific implement order, the court can issue a warrant for imprisonment for contempt of court.

This could be used where eviction proceedings were not an option or the case has not reached that threshold.

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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.

This option is also open to members of the public.

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 antisocial behaviour 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.



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. Advice can be provided to the dog owner on ways of reducing dog barking by the Dog Education officer.

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 and use the report it icon.



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 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 opinion 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.

Mental Health is wide ranging and complex, whilst the ASB Partnership would have to rely on relevant professionals for assistance and guidance, it should not detract from our duty to the wider community and if someone is in mainstream accommodation, the duties and responsibilities to ensure that tenancy is managed like we would expect any other tenancy. Neighbours have the right to the same protection, ensuring they are safe and have the right to peace and quiet like all other neighbours.



SECTION 19

Noise



NOISE MONITORING PROTOCOL

1.0 INTRODUCTION

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 section 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 antisocial 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 Environmental Health
- To make referrals for Subjective Noise Tests (SNT) to Environmental Health
- To communicate between Environmental Health, RSLs and clients on progress or problems associated with noise monitoring referrals
- To receive and consider reports from Environmental Health on findings from noise monitoring carried out

The specific role of Environmental Health in the noise referral process is:

- To receive noise monitoring referrals via ASBU and determine suitability for monitoring or subjective noise tests
- To install noise monitoring equipment (NME) into the properties of those allegedly being subjected to excessive noise, or arrange for a subjective noise test to be carried out
- To analyse the recordings made by the complainant during the noise monitoring period
- To provide the ASBU and RSLs with advice and recommendations based on the noise levels that have been recorded and assessed or from the results of a subjective noise test
- 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 Environmental Health 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.

- 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 section 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 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 Environmental Health case officer.

3.0 INITIAL CASE ASSESSMENT

3.1 Initial Screening

The case officer will carry out an initial screening assessment of the information received from the ASBU. At this point, the case officer may be of the opinion that the case is not suitable for monitoring or that a SNT may be more appropriate.

In such cases, the case officer will discuss this opinion with the ASBU and relevant RSL and an agreed course of action will be taken.

Where a SNT is deemed appropriate, the ASBU will take the lead in arranging a suitable time for the test with the property residents and Environmental Health. This test will usually require two officers from Environmental Health and two officers from ASBU. Environmental Health will lead the test and report back to ASBU with the findings. The purpose of a SNT is to assess whether there is significant noise transfer of activities associated with reasonable use of a property.

3.2 Regulation of Investigatory Powers (Scotland) Act Compliance

The case officer will also check and confirm that the occupier of the 'source' property has been informed to ensure that RIPSAs guidance has been followed in so much as a letter is sent to the address that is alleged to be causing the disturbance.

If a copy of the noise letter (See Section 20) is not contained within the information received, the case officer will inform the ASBU by email and the case will be closed on Uniform until the documentation is received.

At least one Diary Sheet should accompany the request (where possible).

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 must 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 Environmental Health.

The client will be contacted by the case officer 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 case officer will make two attempts to contact the client by telephone or email, to agree an installation date.

Where these attempts have been unsuccessful, the case officer will contact the ASBU to arrange for a third and final attempt to contact the client.

On the third and final attempt, if the case officer 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

Environmental Health has 3 Sound Level Meters used for carrying out ASB noise monitoring.

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 are 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.

The cost of calibration and maintenance shall be shared equally by the ASBU, RSLs and Environmental Health.

5.2 Installation Procedure

The NME is installed in a property for a period of 7 days. The recorded data may be at risk of corruption if left for longer.

The case officer 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 case officer will confirm the date and time for the NME to be uplifted.

5.3 Uplift Procedure

The case officer will uplift the NME on the agreed date and time. The case officer may, in certain circumstances, decide to reset the equipment to record for an additional 7 days if the previous week was not considered representative and there is no other demand for the equipment. If there is demand for the equipment, the case can be added again to the waiting list after discussion with ASBU.

If no recordings have been made by the client and further monitoring is not required, the case officer will inform the ASBU by email and the case will be closed.

6.0 ANALYSING RECORDINGS

The case officer 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 case officer. 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 retained by Environmental Health, for a period of longer than 3 years from the date that the file was created.

10.0 COMPLAINTS

Where a business or individual is unhappy with the service that has been provided, Environmental Health will follow Scottish Borders Council's Complaints Handling Procedure to ensure a consistent and satisfactory response.

All formal complaints will be investigated and responded to by the ASBU in liaison with Environmental Health 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 – Please be aware that this information will be shared with other agencies and may be used in any legal proceeding. You can be cited as a witness in any court action	Ave. Level (L _{Aeq})	Prevailing level (L _{Aeq})

Comments

Conclusion:

Officer:

Date:

**Scottish Borders Council
Environmental Health
Noise 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

Procedural Issues

Comment

Conclusion/Action



SECTION 20

Appendices and Annexes and Templates



Appendix 1 - Noise Letter

Name & Address for Letter

Please ask for: Name of Officer

Our Ref: Noise

Your Ref:

E-Mail:

Date:

WE HAVE RECEIVED A COMPLAINT AND HAVE A DUTY TO INVESTIGATE

Please be advised that we have recently received a complaint about **alleged** antisocial noise coming from your property.

We will make enquiries into the **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 recording equipment.

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

Yours sincerely

Tel: 0800 028 5711

Antisocial Behaviour Incident Diary Sheet (IDS)

Please see the ADVICE NOTE which gives guidance on what we consider when receiving reports of antisocial behaviour. Do this BEFORE you start completing this sheet.

It is important for you to know that this incident diary sheet will help us gather evidence. We may share this information with other agencies involved. The information you provide on the IDS can 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.**

If the antisocial behaviour you are experiencing is due to conflict with neighbours, our officers are also accredited Mediation Officers who can offer assistance and support.

YOUR DETAILS:

Name: _____
Address: _____
Postcode: _____
Telephone: _____
Email: _____

WHO IS YOUR COMPLAINT 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 & Mediation Service
Langlee Community Centre
Galashiels
TD1 2LP

Tel: 0800 028 5711 email: asbu@scotborders.gov.uk

Record as accurately as you can (and within the boxes provided) as close to the time that 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:			
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):					

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 CONTACT DETAILS**

Agencies that may be able to help and assist you:

Mediation: Contacted through the ASBU – 0800 028 5711 – email asbu@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. 0800 160 1985
<https://victimsupportscot>

Breathing Space: Use this service if you are feeling low/anxious or stressed. 0800 83 85 87
<https://www.breathingspace.scot>

We are With You: Use this service if you feel that you need advice because your drug or alcohol use is causing you concern.
<https://wearewithyou.org.uk>

There are many other organisation/charities that can help you deal with stressful situations, we have listed the most common for our service.

ADVICE NOTE

The legislation states that a person is involved in antisocial behaviour if they:

- **act in a way that causes or is likely to cause alarm or distress to anyone; or**
- **Behave in a way that causes or is likely to cause alarm and distress to at least one person not of the same household as them.**

In this definition 'conduct' would include verbal abuse, and a course of conduct must be a repeat basis.

The Antisocial Behaviour Unit cannot deal with all matters that you may consider a nuisance or distressing. Some examples of these include:

- Noise from children playing
- Personal differences/family disputes
- Disagreements about parking
- Civil disputes such as boundary issues
- People coming and going from property
- One-off incidents
- Living or domestic noises, includes:
 - Banging doors
 - Conversation heard through walls or floors
 - Neighbours walking around their home
 - Noises travelling through ceilings or walls due to poor insulation or laminate flooring
 - Normal domestic activity such as vacuuming or using washing machines
 - Normal vehicle noise

FOR OFFICE USE ONLY

Name of organisation/department receiving this diary sheet:

Name of person who received 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: _____ **Times:** **No.**

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) _____

No Time Given

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"/> Logged <input type="checkbox"/> Copy to RSL <input type="checkbox"/> Author Contacted <input type="checkbox"/> Update ASBAT

The Occupier

Please ask for: Antisocial Behaviour Unit

Our Ref: PHL

Your Ref:

E-Mail: asbu@scotborders.gcsx.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 the distress this can cause. If there are further calls or Police attention to 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, 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 antisocial 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 contact 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

Antisocial Behaviour Unit, Langlee Community Centre, Marigold Drive, Galashiels TD1 2LP

ENTER NAME & 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 by groups or individuals.

Acting on information we have received through our partnership about your possible involvement in antisocial behaviour, we are writing to inform you that we will investigate 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 contact us on the number below.

If your antisocial behaviour is due to conflict with neighbours, we have a Mediation Service. 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

ENTER NAME & ADDRESS

Please ask for: ENTER NAME

Our Ref: F2F

Your Ref:

E-Mail: asbu@scotborders.gcsx.gov.uk

Date:

FACE TO FACE MULTI- AGENCY MEETING - ANTISOCIAL BEHAVIOUR

This letter is to inform you that the Antisocial Behaviour Unit (ASBU) of Scottish Borders Council, along with other agencies involved in tackling Antisocial Behaviour within the Scottish Borders, have concerns about your pattern of antisocial behaviour.

As a result of your reported behaviour, we request 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 contacting 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

ASBU

FACE TO FACE MEETING SUMMARY SHEET

Client Name:		Address			
Place and date of F2F:					
Present:					
Lead Person:		Sheet:		of:	

Narrative Report

--

ENTER NAME AND ADDRESS

Please ask for: Antisocial Behaviour Unit

Our Ref: ABC

Your Ref:

E-Mail: asbu@@scotborders.gcsx.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 concerns about your 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 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 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

Antisocial Behaviour Unit, Langlee Community Centre, Marigold Drive, Galashiels TD1 2LP 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 passageways). 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 & Other Agencies



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 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.

ENTER NAME & ADDRESS

Please ask for: Antisocial Behaviour Unit
Our Ref: ASBO Application
Your Ref:
E-Mail: asbu@scotborders.gcsx.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 for an Antisocial Behaviour Order (ASBO).

This is because of a series of reports in respect of your antisocial behaviour. We feel that in this situation, 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 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

ANTSOCIAL BEHAVIOUR AUDIT TRAIL (ASBAT)

NAME: _____
DOB: _____

Check List (Interventions) to be entered in the audit trail:
 CGM Decisions, Landlord actions, Mediation, RIPSA and Party
 House Letters

BACKGROUND – Date

DATE	TYPE/REF	DETAILS	INITIALS
		Taken on at CGM (Date) – list all details of previous interventions carried out, check list at base of audit trail	
		This is NOT an exact replication of how an ASBAT looks but most of the format is correct, for information only	

**Scottish Borders Council
Regulatory Services**

Reference No:

Dog Control Notice

Section 1(1) of the Control of Dogs (Scotland) Act 2010 (“the Act”)

To:		Date of birth (optional), address and postcode of person to whom notice applies	
------------	--	--	--

On _____ it came to my attention that (in the manner described below) the dog described below is not being kept under control effectively and consistently, and its behaviour has given rise to alarm or apprehensiveness on the part of a person which is, in all the circumstances, reasonable. I believe this warrants the serving of a dog control notice under section 1(1) of the Act which requires you to bring and keep this dog under control.

Description of circumstances, including specific location if appropriate, and reason(s) why dog is considered to have been out of control:–	Description of dog (including type/breed, sex, any identification marks and the name commonly referred to, if known):–

I, XXXXX, as an “authorised officer” (as described in section 1(6) of the Act which is detailed below), in accordance with section 2 of the Act, require you as the “proper person” (as described in section 1(5) of the Act which is detailed on the next page) in relation to the dog detailed in this notice to take the following steps:

Steps required to be taken by you:-

Under sections 1 and 2 of the Act:

1. You are required to bring and keep the dog described in this notice under control.
2. You must comply with this notice to the satisfaction of the local authority.
3. You must notify the local authority if you change your name or address.
4. You or an “entrusted person” must be present and in charge of the dog whenever it is in a place to which the public have access. An “entrusted person” (as defined in section 2(3) of the Act) is a person who is at least 16 years of age, has been entrusted by you with charge of the dog, has been made aware of the requirements of this notice by you and is willing and able to comply with those requirements.
5. Within 14 days after the date on which this notice is served you must arrange for an electronic transponder (microchip) to be implanted in the dog by an appropriately qualified person as a means of indentifying you and the dog or satisfy the local authority that such a transponder was implanted in the dog before the notice was served. If the dog has not been implanted with an electronic transponder when you receive this notice, you must inform your local authority once the transponder has been implanted and advise who implanted it. If the dog already has a transponder fitted but the details are incorrect then steps must be taken to rectify this and inform the local authority when this has been completed.
6. You are also required to take the following steps to the satisfaction of the local authority by the date specified (if any) for the purpose of bringing and keeping the dog under control:-

Step	Additional instruction	If appropriate, select date by which the step is to be taken by

Effect of failure to comply with notice

Under section 5 of the Act, **it is an offence to fail to comply with a dog control notice**. If you are prosecuted, you may be liable to pay a fine of up to £1,000. The court may also make an order disqualifying you from owning or keeping a dog during such a period as the court thinks fit. If the court considers that the dog is dangerous, it may make an order for the dog’s destruction.

<p>Right to appeal this notice</p> <p>Section 3(1) of the Act provides that you can appeal against a dog control notice or against a term of such a notice. The appeal must be made by summary application to the sheriff. However, where a dog control notice has been issued because of court proceedings where a court has ordered that you should be subject to a dog control notice (under sections 5(4) or 9(3) of the Act), no such appeal is available.</p> <p>To lodge an appeal, the initial writ must be lodged with the sheriff clerk within 21 days after the date of service of this notice.</p> <p>Selkirk Sheriff Court, Sheriff Court House, Ettrick Terrace, SELKIRK, TD7 4LE Telephone: 01750 21269</p>
<p>Section 3(2) of the Act gives the sheriff the power to suspend the effect of the dog control notice or of any term of the notice, if you apply for this, pending the appeal being determined.</p>
<p>Section 3(3) of the Act sets out the powers of the sheriff on appeal. The sheriff may uphold or discharge the notice or the term appealed against. The sheriff may also discharge or vary any term of the notice. Section 3(4) of the Act allows the court to specify steps to be taken by you which are in addition to those included in the notice.</p>

<p>How to apply to the local authority to have this notice discharged or varied</p> <p>Under section 7 of the Act, you can apply at any time in writing to your local authority to have the dog control notice discharged or varied. You must detail the grounds on which the application is based. The grounds for discharge are set out in section 7(3) of the Act.</p> <p>The local authority can also decide to discharge the dog control notice or, with your agreement, amend the terms of a dog control notice under section 6 of the Act.</p>
<p>Effect of a continued failure to keep a dog under control</p> <p>Section 9 of the Act provides that where it appears to an authorised officer that a dog is out of control and dangerous and serving a dog control notice (or a further dog control notice) would be inappropriate, the local authority may apply to the court for an order to destroy the dog. Where the court makes an order for the dog's destruction, it may also disqualify the dog's owner from owning or keeping a dog for a specified period.</p>

Under section 4 of the Act, a local authority has a duty to monitor the effectiveness of, and to enforce, dog control notices served by an authorised officer. As an authorised officer, I intend to undertake ongoing monitoring of the dog control notice to assess whether the steps specified have been complied with and are effective in bringing the dog described in this notice under control.

Signed:–	<p>Official Address and Contact Telephone Number:– Scottish Borders Council Regulatory Services Council Headquarters Newtown St.Boswells TD6 0FA Tel: 0300 100 1800</p>
Print Name:–	
This notice is served on:	
This is the date on which this notice comes into effect.	

THE CONTROL OF DOGS (SCOTLAND) ACT 2010

Section 1 – Serving of dog control notice

(1) If—

(a) it comes to the attention of an authorised officer that a dog has, on at least one occasion after this section has come into force, been out of control, the officer may serve on the proper person a written notice (to be known as a “dog control notice”) requiring the person to bring and keep the dog under control,

(b) a court makes a requirement under section 5(4) or a case is remitted under section 9(3), an authorised officer is to serve such a notice (or as the case may be a further such notice) on the proper person.

(2) It is immaterial, for the purposes of subsection (1)(a), that on the occasion in question (or as the case may be on either, any or all of those occasions) some person other than the proper person was in charge of the dog.

(3) For the purposes of this Act, a dog is out of control if—

(a) it is not being kept under control effectively and consistently (by whatever means) by the proper person,

(b) its behaviour gives rise to—

(i) alarm, or

(ii) apprehensiveness, on the part of any individual, and

(c) the individual's alarm or apprehensiveness is, in all the circumstances, reasonable.

(4) the apprehensiveness mentioned in subsection (3)(b)(ii) may be as to (any or all)—

(a) the individual's own safety,

(b) the safety of some other person, or

(c) the safety of an animal other than the dog in question.

(5) In this Act, references to the “proper person”, in relation to any dog, are to—

(a) its owner (or, if its owner has not attained the age of 16 years, a person who has parental responsibilities in relation to its owner), or

(b) if either—

(i) it is not apparent, after reasonable inquiry, to the authorised officer who the dog's owner (or the person having parental responsibilities in relation to its owner) is, or

(ii) it appears to the authorised officer that the circumstances are such that it would not be reasonable to serve a dog control notice on the dog's owner (or on the person having such parental responsibilities),

any person who has attained the age of 16 years and who appears to the authorised officer to have day-to-day charge of the dog.

(6) In this Act references to an “authorised officer” are to an officer appointed for the purposes of this Act by a local authority; and each local authority must appoint at least one such officer.

(7) In appointing any person to be such an officer a local authority are to satisfy themselves that the person is skilled in the control of dogs and has the capacity to instruct and advise others in matters relating to the control of dogs.

(8) A dog control notice is not to relate to more than one dog.



Antisocial Behaviour – Disclosure of Information

Request to Police Service of Scotland for Disclosure of Information relating to Antisocial Behaviour in accordance with Section 139 Antisocial Behaviour etc. (Scotland) Act (2004)

From:			
Nominated Officer		Tel. No.	
Agency		Fax No.	N/A
Contact Name		Ref. No.	N/A
Email Address			

To:			
Superintendent / Designated Officer	Chief Inspector/ISO Scottish Borders		
Police Service of Scotland			
Division	J Division	Station	
Email Address	LothianScotBordersScotBordersASB@Scotland.police.uk		

1. As a result of the incident(s) / information in respect of the named individual(s) noted overleaf is considering the following action. (*Delete as appropriate)

(Tick Relevant Box)

- (a) Ongoing investigation to establish the level / nature of Antisocial Behaviour taking place. **(only tick this box if requesting information in relation to specific incident(s) of antisocial behaviour with a view to taking further action in respect of sub-sections b-f)**
- (b) Implementing an Acceptable Behaviour Contract (ABC) or serving an unacceptable Behaviour Notice (UBN).
- (c) Making an application for an Antisocial Behaviour Order (or interim order) in terms of the Antisocial Behaviour etc. (Scotland) Act 2004.
- (d) Initiating proceedings for repossession of a house on the grounds of antisocial behaviour.
- (e) Initiating proceedings for repossession of a house on the grounds of a conviction for using or allowing a house to be used for illegal or immoral purposes.
- (f) Initiating proceedings for repossession of a house on the grounds of a conviction for an offence punishable by imprisonment.

OFFICIAL SENSITIVE: POLICE AND PARTNERS

2. It is understood that the following person(s) may have been involved in the following incidents(s), which relate to Antisocial Behaviour.

For proposed action under 1(b) and (c) a separate 010-013 Disclosure Request is required for each person.

For proposed actions under 1(c), (d) and (e) list all the members of the household.

Where a person is unknown, write 'unknown'.

Name(s)	DOB (or Approx. Age)	Address (indicate if unknown, c/o, temp, unconfirmed)

3. Relevant Incidents

Date(s) of Incidents	Address / Area where incident occurred	Nature of Incident (include person(s) involved and if police attended)

4. Other Relevant Information (i.e. non-specific allegations of noise, nuisance, drug activity)

OFFICIAL SENSITIVE: POLICE AND PARTNERS

5. Information Required

Relevant information is sought from: dd/mm/yyyy to dd/mm/yyyy

(Insert inclusive dates not to exceed a 12-month period)

To include;

A summary of all relevant incidents and pending cases during the above period including any police involvement in the incidents and information listed in Sections 3 and 4. Any 'Unknown' person(s) should be identified if this information is known to the police.

Details of any unspent criminal conviction(s), and other relevant information including community intelligence, which relate to Antisocial Behaviour and could support the behaviour complained of to allow repossession or Antisocial Behaviour Order investigation or proceedings to commence.

THE ABOVE NOTED INFORMATION IN RELATION TO UNSPENT CRIMINAL CONVICTIONS AND COMMUNITY INTELLIGENCE WILL NOT BE PROVIDED IN RESPECT OF INFORMATION SOUGHT AS PER SECTION 1(A) ABOVE.

It is acknowledged that Police Services of Scotland reserves the right to withhold any information, which may prejudice the rights of third parties.

UNDERTAKES AND AGREES TO USE THE INFORMATION SOUGHT IN ACCORDANCE WITH THE JOINT PROTOCOL ON INFORMATION SHARING.

Nominated Officer	
Name (in capitals)	
Date	



Antisocial Behaviour – Disclosure of Information

Disclosure of Information from Police Service of Scotland in accordance with Section 139 Antisocial Behaviour etc. (Scotland) Act 2004

From:			
Chief Inspector / Area Commander		Chief Inspector Designated Officer - Information & Statistics Officer	
Police Service of Scotland			
Division	Local Area Commander Support Unit, Langlee Centre, Scottish Borders, J Division	Station	
Email Address	LothianScotBordersScotBordersASB@Scotland.police.uk		
ASB Disclosure Officer Telephone No.		0300 425 1446	

To:			
Nominated Officer		Tel. No.	0
Agency		Ref No.	URN: Mi12/Mi13 Ref:
Contact Name			
Email			

Our records have been checked in relation to the person(s) and / or incident(s) / information specified in your Request for Disclosure of Information dated N/A Ref. No. N/A

1. The results of that search are as follows (tick as appropriate)	
(a) Relevant Incidents(s) and Crime Report(s), where no police report has been submitted. (Refer to Appendix)	<input type="checkbox"/>
(b) Pending Cases. (Refer to Appendix B)	<input type="checkbox"/>
(c) Unspent Previous Convictions, relevant to Antisocial Behaviour. (Refer to Appendix C)	<input type="checkbox"/>
(d) Other relevant information. (Refer to Appendix D)	<input type="checkbox"/>
(e) Police Service of Scotland do not hold any relevant information on the person(s) / incidents contained in your request.	<input type="checkbox"/>

2. Chief Inspector / Area Commander
The enclosed is a record of the relevant information held on the person(s) on the undernoted date.

OFFICIAL SENSITIVE: POLICE AND PARTNERS

Signed	Designated Officer - Information & Statistics Officer
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Name		Date	dd/mm/yyyy
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OFFICIAL SENSITIVE: POLICE AND PARTNERS

Appendix B (b) Pending cases. Reported offence is Sub-Judice

Police Incident No.	Summary of Evidence (including charges libelled and omitting 3 rd parties)	Police Report No.

OFFICIAL SENSITIVE: POLICE AND PARTNERS

Appendix C (c) Unspent Previous Convictions, relevant to the Antisocial Behaviour			
Person(s) involved	Date of Offence	Convicted Offence(s)	Date of Conviction

OFFICIAL SENSITIVE: POLICE AND PARTNERS

Appendix D (d) Other relevant information

Name & Address for Letter

**Please ask
for:**

Name of Officer

Our Ref:

Antisocial Behaviour

Your Ref:

E-Mail:

Date:

WE HAVE RECEIVED A COMPLAINT AND HAVE A DUTY TO INVESTIGATE

Please be advised that we have recently received a complaint about **alleged** antisocial behaviour about you.

We will make enquiries into the **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 recording equipment.

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

Yours sincerely

Tel: 0800 028 5711



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

Antisocial Behaviour Unit Communication Form



Affix Addressograph

Date & Time of Incident	
Adverse Event Number	
Where did the incident occur?	
Has a check been made with Mental Health to ensure there are no current MH problems that may contribute to behaviour?	

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

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:
Health & Safety Lead Advisor, PMAV Training Unit, BGH

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

Mr
ADDRESS

Date
Your Ref
Our Ref JD/KA

DRAFT LETTER NOT STARTED YET

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)

Dear

It has been reported that during your recent admission to Borders General Hospital (EG 30th June 2017) you behaved in an antisocial manner (list what they have done). Because of this, other patients on the ward were left in a state of fear and alarm.

This behaviour is unacceptable and has resulted in the matter being reported and has been discussed with Police Scotland and the Antisocial Behaviour Unit (ASBU) of Scottish Borders Council. It has been agreed that on this occasion NHS Borders will send this warning letter regarding your behaviour.

NHS Borders works in partnership with Police Scotland and the ASBU, incidents of unacceptable behaviour will not be tolerated. If there are further reported incidents of antisocial behaviour towards staff, patients, relatives, or the public, within any NHS Borders premises, details will be shared with the Antisocial Behaviour Unit and Police Scotland. This may result in further action which could include an application for an Antisocial Behaviour Order and/or formal charges by Police Scotland.

Yours sincerely

ENTER NAME
Chief Executive



Section 20 Overview

This section lists all the templates that are available to use. It needs to be kept in mind that we have made these templates as generic as we can and they can be adapted to suit as required.

They have been templated primarily for the ASBU use but there are some slight variations from the actual ones that are generated from the database.

It is important that as much of the template as possible is adhered to so that the clients/recipients of letters are not confused by significant variations.

There is no adaptations to made to the Police Forms.

You can get this document on audio CD, in large print, and various other formats by contacting us at the address below. In addition, contact the address below for information on language translations, additional copies, or to arrange for an officer to meet with you to explain any areas of the publication that you would like clarified.

ANTISOCIAL BEHAVIOUR UNIT

Scottish Borders Council | Langlee Community Centre | Marigold Drive

GALASHIELS | TD1 2LP

tel: 0800 028 5711 | email: safertools@scotborders.gov.uk

