

Annex A

ASBOs are a powerful tool for protecting victims and stopping anti-social behaviour. Much effort goes into getting the ASBO by the agencies involved - drawing up prohibitions, ensuring that the evidence is sufficient, and supporting victims and witnesses to come forward and give evidence.

However, securing an ASBO is not the end of the story. To maintain the confidence of victims and wider community once an ASBO is secured, it is vital that there is ongoing monitoring of compliance, support for victims and that the ASBO is actively managed to ensure that any reported breaches can be swiftly enforced.

This overview document describes key actions that each agency should undertake to ensure that the ASB and ASBO breach process is effectively managed.

This checklist at annex A is available online at www.asb.homeoffice.gsi.gov.uk

ASBO Overview

The ASBO process, from application onwards, has to be properly managed and coordinated in order for it to be successful. This overview document highlights the minimum set of activities which should be undertaken by agencies to ensure that ASBOs and ASBO breach is effectively managed. Failure to adhere to the key points outlined as being crucial to the process could lead to an unsuccessful breach prosecution and by extension a lack of public confidence in the CJS.

Partnership working: All LCJB and CSP partner agencies need to understand their own role and the role of other agencies at each stage of the ASBO process.

Case management: End to end arrangements should be in place to ensure clear ownership of cases, robust case preparation processes, and effective communication and information sharing between agencies.

Promoting awareness of ASBOs and breach convictions: Publicising orders and convictions is important for building public confidence in the police and other agencies. Publicising ASBOs enables the community to play a role in reporting breaches – and should be the norm rather than the exception.

Prosecution of breaches: swift action should be taken to trigger criminal investigations and present clear evidence in the case file against the breach offence.

ASBO process – A checklist for good practice

Applying for an ASBO



- **The applicant agency should act as first point of contact** and lead ongoing case management.
- Applicant agency should **draft clear, specific and enforceable prohibitions**.
- For children under 16, a **parenting order** should be applied for or parenting support action put in place.
- Clear plans for **supporting victims and witnesses** should be arranged. It is important that victims are supported throughout the process and that they hear first about developments in their case.

Getting an ASBO



- Lead agency should **inform victims & witnesses** of application outcome, relevant prohibitions and arrangements for any further support required.
- **Lead agency should inform relevant partner agencies** of outcomes and clarify responsibilities for ongoing management.
- An **ASBO summary sheet** detailing background and impact of the anti-social behaviour must be kept with the ASBO case file – this should provide context from which to assess implication of breach.
- Lead agency should ensure that the **facts as to the anti-social behaviour leading to the imposition of the order are recorded** on the ASBO.
- A **copy of the order** together with the summary sheet should be kept on file with the police.
- Details of **ASBO and including prohibitions should be recorded on PNC**.
- There should be **publicity** to those affected by the anti-social behaviour and the local community demonstrating the outcomes of prosecution. Publicity should be the norm.

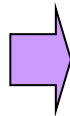
ASBO process – A checklist for good practice (continued)

Breach



- A **criminal investigation** must take place when an incident of breach is reported to police.
- Whilst the public may report breaches to a number of agencies, it is then the **responsibility of that agency** (e.g. housing authority, registered social landlord) **to pass on the report to the police**. The agency should also pass on any relevant background case information.
- Where a number of breaches occur, agencies should meet to discuss action needed to **improve community protection**.
- Police should ensure that the **breach file contains a copy of the original ASBO**. If this is not included, they should seek a copy from the lead agency.
- **Police should notify lead agencies** of any breaches that are reported.
- At breach **victims should be notified, and support services offered**.
- **The breach file should be presented to the prosecuting authority** and should contain relevant Victim Personal Statements, and other contextual information.

Prosecuting breach



- There is a strong **public interest in prosecuting breaches**.
- The prosecutor should ensure that a **copy of the original order and a summary sheet** is on the prosecution file together with any additional supporting information which may be necessary on a case by case basis.
- Where there is sufficient evidence to prove an offence of breach in addition to another substantive offence it is **good practice to charge both offences**.
- CPS may obtain from the applicant authority **additional evidence for the breach hearing** relating to the prohibitions imposed and the likely impact of breaching those prohibitions.

ASBO process – A checklist for good practice (continued)

Sentencing



- **Contextual information and evidence** should be brought to the attention of the court (e.g. Victim Personal Statements, Community Impact Statements, summary sheets)
- Where breach of an ASBO is a **first criminal offence by a youth** then a final warning may be appropriate. Where there has been a breach of an ASBO on conviction, it suggests that disposals to prevent re-offending, such as reprimands, final warnings and conditional cautions have not been effective.
- The prosecutor should draw to the court's attention to the **Sentencing Guidelines Council's Breach of an Anti-Social Behaviour Order: Definitive Guidelines (December 2008)**
- **Maximum penalties:**
 - Adult: On conviction on indictment, a fine of up to £5000 and/or a sentence of up to five years imprisonment, dependant upon the court
 - Youth: a detention and training order. Maximum term of 24 months (12 months custodial and 12 months in the community)
 - Children aged 10 & 11: Can only be given a community order for breach

Post sentencing



- **Victims should be informed** of outcome of breach case and any ongoing support available
- **Lead agency should inform all relevant partner agencies** involved of the outcome of breach cases.
- There should be **regular case review** by the lead agency and in **youth cases, a one year review** to assess progress and decide whether the Order should be varied.
- Lead agency should **publicise the breach conviction** in order to demonstrate that breach is taken seriously. This should be the norm rather the exception.