

Antisocial Behaviour etc. (Scotland) [Act] 2004:
Guide to the Antisocial Behaviour etc.
(Scotland) Act 2004





**Antisocial Behaviour etc. (Scotland) [Act] 2004:
Guide to the Antisocial Behaviour etc.
(Scotland) Act 2004**

© Crown copyright 2004

ISBN: 0-7559-4318-X

Scottish Executive
St Andrew's House
Edinburgh
EH1 3DG

Produced for the Scottish Executive by Astron B37291 8/04

Published by the Scottish Executive, August, 2004

Further copies are available from
The Stationery Office Bookshop
71 Lothian Road
Edinburgh EH3 9AZ
Tel 0870 606 55 66

The text pages of this document are produced from 100% elemental chlorine-free, environmentally-preferred material and are 100% recyclable.

Ministerial Foreword

We all have a responsibility for tackling antisocial behaviour – the Scottish Executive, local agencies and local communities. But it is local communities and local agencies who are in the driving seat – they have a **key** part to play- supported by the Executive.



We want to galvanise local communities and local agencies to put a stop to antisocial behaviour. We are playing our part. We recognise that there is a lack of support for ordinary people affected by antisocial behaviour – this undermines their confidence which means that they will not report such behaviour when it happens or take a stand against it. People need to know what can practically be done (and in some cases cannot be done) if they are suffering from antisocial behaviour. They need to know who they should approach for help in particular situations and they need to feel confident to do this. This is why, as part of our communications strategy, we are telling the public what services are on offer and help they can expect from their local agencies.

We are also supporting local agencies to make sure they are in a position to respond to their local communities. The new Antisocial Behaviour etc (Scotland) Act 2004 gives practitioners new tools to get on with the job of tackling antisocial behaviour. We have also given substantial funding to every local authority across Scotland to provide services such as mediation, victim support and helplines for people suffering from antisocial behaviour.

The Executive has started a wider programme of practical support. This guide is just one part of that. It gives practitioners an overview of the contents of the Act and how it can be used to resolve antisocial behaviour. Over the coming months we are also providing even more help to ensure local agencies can use the new powers available to them. This will include:

- a series of practical “masterclasses” on different elements of the Act aimed at frontline, operational staff;
- a telephone AdviceLine for professionals working on antisocial behaviour to help them implement the new provisions in the Act; and
- a website for practitioners to showcase good practice.

We have provided a framework and we will continue to work to support local agencies. Now is the time for local agencies to take local action. Together we can make a real difference for the people we all serve. We need to eliminate the climate of hopelessness that has grown up around antisocial behaviour in so many of our communities. We need to encourage a sense of responsibility and confidence. We need to establish a culture of respect. Respect for our communities; respect for our neighbours; and respect for ourselves.

I urge you to ensure that we can effect real change on the ground and I hope this guide helps kick start the process.

A handwritten signature in cursive script that reads "Margaret Curran".

Margaret Curran, MSP
Minister for Communities

CONTENTS

Antisocial Behaviour Strategies - Part 1	1
Antisocial Behaviour Orders (ASBOs) - Part 2	2
Dispersal of Groups - Part 3	3
Closure of Premises - Part 4	4
Noise Nuisance - Part 5	5
The Environment - Part 6	6
Housing: Antisocial Behaviour Notices - Part 7	8
Housing: Registration of Private Landlords - Part 8	9
Parenting Orders - Part 9	10
Further Criminal Measures - Part 10	11
Fixed Penalty Notices - Part 11	13
Children's Hearings - Part 12	15
Miscellaneous and General - Part 13	16
Interpretation of Antisocial Behaviour	17
Antisocial Behaviour etc (Scotland) Act 2004 – Commencement Timetable	18
Abbreviations and Glossary	20

ANTISOCIAL BEHAVIOUR STRATEGIES (PART 1)

Local agencies - Councils, the police, the children's hearing system, the courts and registered social landlords - need to work together to tackle antisocial behaviour. But they also need to work closely with local people, because they are the ones that experience antisocial behaviour and they need to be involved in developing the solutions. Antisocial behaviour strategies, covering each Council area in Scotland, will provide the basis for promoting coordinated action to prevent and tackle antisocial behaviour in local communities.

- The Act requires every local authority, together with the relevant Chief Constable, to prepare, publish and review a strategy for dealing with antisocial behaviour in the Council area.
- The strategy will set out the extent and nature of the antisocial behaviour problems in the Council area; the services already available for preventing and tackling them (including for people under 16, victims and witnesses of antisocial behaviour and people requiring mediation to help solve neighbour disputes); the new services that the Council and other agencies will need to put in place to fill any gaps in provision, and how the Council and the police will coordinate their functions and exchange information.
- In preparing their strategies, local authorities are required to consult the Principal Reporter to the Children's Panel, registered social landlords (RSLs) and groups representing people affected by antisocial behaviour. Strategies will be expected to identify those areas within the Council's remit where antisocial behaviour problems are particularly prevalent and how the Council will engage with local people on an ongoing basis to tackle the problems.
- To monitor implementation of the strategies and ensure that relevant agencies are accountable, local authorities will be required to publish progress reports from time to time. A duty is being placed on the police, RSLs and the Children's Reporter to provide information required by the Council for these reports. The content and timing of these reports will be decided by Scottish Ministers.
- Finally, as well as requiring local authorities to consult RSLs, Section 3 gives Scottish Ministers the power to make regulations to require particular RSLs to participate in the preparation, review and revision of strategies. This power has been adopted because of the very varied nature of RSLs, some of which are very large, having received local authority stock, while others, for example in rural areas, may be managing relatively few properties. We would expect those RSLs that are the main or a major housing provider in the local authority area to be more closely involved in all aspects of the strategy than smaller ones.

ANTISOCIAL BEHAVIOUR ORDERS (ASBOs) (PART 2)

Antisocial Behaviour Orders (ASBOs) are preventative orders to protect victims of antisocial behaviour and the wider community from further acts of antisocial behaviour – that is behaviour that causes or is likely to cause alarm or distress. Breach of an order is a criminal offence.

ASBOs were introduced by the Crime and Disorder Act 1998 but were limited to persons aged 16 or over in Scotland. The provisions in the Antisocial Behaviour etc (Scotland) Act 2004 replace those in the 1998 Act as they relate to Scotland, and introduces a number of changes.

The key changes are:

ASBOs for under 16s

- Sheriffs can now grant an ASBO or interim ASBO against an individual aged 12 years or over, who is persistently engaged in antisocial behaviour, and where existing options are not working.
- Before a Sheriff can consider granting an ASBO to someone under 16 years, a children's hearing will be held. The Sheriff will consider the views and advice of the Principal Reporter to the children's hearing, before making the decision on whether to grant a full ASBO.
- When granting an ASBO against an under 16, Sheriffs will also have the power to grant a parenting order if it is decided that this will help prevent further antisocial behaviour.
- Where an ASBO is granted against an under 16, and this is breached, this will be a criminal offence and will be reported to the Procurator Fiscal. It will be for the Procurator Fiscal, in discussion with the Principal Reporter, to decide on what action should be taken according to the circumstances of each case. However, possible sanctions do not include imprisonment, which is an option for an ASBO against an adult.

Other changes to ASBOs

- When an ASBO or interim ASBO has been granted, copies of the Order must be given to both the offender and the local authority. Local authorities must maintain a record of these Orders and make this information available to relevant parties: e.g. the police, other local authorities.
- Any ASBO applied for is no longer limited to the boundaries of the local authority area, and can now cover other local authority areas.
- Breaching an ASBO is already a criminal offence. To enable the police to act immediately in such cases, there is now a statutory power of arrest.

DISPERSAL OF GROUPS (PART 3)

Everyone has the right to feel safe in their community. It is unacceptable for people to be afraid to leave their homes, to use public spaces, or go about their day to day business, because they feel intimidated by groups of people hanging about.

New powers will give the police an additional tool to deal with those who persist in antisocial behaviour in trouble spots to help bring relief to local communities.

- Part 3 creates a new power for a senior police officer to designate an area, in consultation with the local authority, where significant, persistent and serious antisocial behaviour has occurred and the presence or behaviour of groups is contributing to the problems.
- Before a senior police officer designates an area, an authorisation notice specifying the designated locality and date when the designation will begin and end must be drawn up. The senior officer may also consider that the powers should only be exercised on specified days or times within the overall period. That information should also be included in the authorisation notice. The notice must be published in a local newspaper and public notices which are clearly visible in the area. An area can be designated for up to but no longer than 3 months.
- In the designated area the police will have the power to disperse groups of two or more people or individuals within groups where their presence or behaviour is causing, or is likely to cause, alarm or distress to any member of the public. In deciding whether to use that power the constable has to be satisfied that by doing so the alarm and distress is likely to lessen. The police can require any person who does not live in the area to leave, and can also prohibit them from returning to the area for the next 24 hours.
- It is not an offence to be given a direction to disperse from the police. But if individuals refuse to abide by the constable's direction they will be committing an offence. In these circumstances, police can arrest without a warrant.

CLOSURE OF PREMISES (PART 4)

In some communities there are particular premises which are a constant focus for antisocial behaviour, for example drinking or drug dens. For those living nearby their lives are made a misery. They live in fear and have little or no respite day or night. The aim of this provision is to provide the police and courts with the power to seal off premises (residential and non-residential) and prohibit all access to them, for up to 3 months, in order to give the surrounding community relief.

- A senior police officer can authorise the service of a Closure Notice on premises if they have reasonable grounds for believing that a person has engaged in antisocial behaviour within the previous 3 month period on the premises; and in cases where the use of the premises is associated with the occurrence of significant, persistent and serious nuisance or disorder.
- Before a Notice is granted a number of procedural requirements must be met. These include consulting the local authority about the proposed closure, and taking reasonable steps to establish the identity of any person(s) who lives in, has responsibility for, or an interest in the premises.
- A constable will then serve a Closure Notice on the premises. This prohibits access to the premises by any person other than someone who lives there or by the owner of the premises. Failure to comply with this notice amounts to an offence.
- A Sheriff then has two court days to consider an application from the police for a Closure Order on the premises. The police have to make this application on the first court day after the day on which a Closure Notice is served on a premises. As part of the determination as to whether an Order should be granted, the Sheriff will take into consideration the ability of anyone living in the premises to find alternative accommodation and the vulnerability of anyone in the household who has not engaged in antisocial behaviour.
- Should a Closure Order be granted, the premises can be closed for a period of up to 3 months, with a possible extension of up to 6 months. If anyone remains within or enters the premises once the Order has been served, they would be guilty of an offence, which could result in a fine, imprisonment, or both.

NOISE NUISANCE (PART 5)

Persistent noise nuisance from a few can create misery for the many, impacting negatively on their quality of life. Part 5 of the Bill gives local authorities additional powers to deal swiftly with noise nuisance.

- Local authorities have the option to apply noise control provisions to specific areas and/or times. If the authority takes up the provisions it can do so 24 hours a day, 7 days a week.
- Officers of the local authority, or the police, are empowered to investigate any noise complaints. The maximum levels of noise permitted and the approved measuring devices will be determined by Scottish Ministers in Regulations.
- If an officer of the local authority considers that the noise coming from a domestic dwelling exceeds, or may have exceeded, the permitted noise level, they may issue a Warning Notice.
- If noise continues after this Warning Notice is served, a Fixed Penalty Notice of £100 can be issued. If this penalty is paid, then no further action is taken. However, if the fine is not paid within 28 days, local authorities will proceed with prosecution through the Procurator Fiscal's office. Local authorities keep the proceeds of notices issued.
- Powers have also been extended to allow local authority officers to obtain a warrant to seize any noise making equipment which is causing the noise.

THE ENVIRONMENT (PART 6)

One of the most visible forms of antisocial behaviour is disrespect for the environment. This affects the feeling of well-being of communities. If streets are littered, and public areas are covered in graffiti, this can contribute to an environment where crime takes hold, and people feel unsafe. The Act introduces measures for even greater use of Fixed Penalty Notices, both for littering and fly tipping, with the likelihood of being caught and fined a real deterrent to this type of behaviour.

Litter

- In addition to local authority employees, the police now also have the power to issue Fixed Penalty Notices for littering. This will increase the likelihood of litterers being penalised, especially out with local authority working hours.
- The officer no longer has to witness a litterer “caught in the act”, but can issue a Fixed Penalty Notice if there is reason to believe an offence has been committed. There is a maximum of £200 that can be set as a fixed penalty fine.
- The Scottish Ministers have a power to direct bodies which have a duty of litter clearance as to how they should carry out that duty.

Fly-tipping

- Because there is such a strong overlap with littering, Fixed Penalty Notices can now be issued for fly-tipping offences too. The fine is the same - £50, with Scottish Ministers able to vary this amount, up to a maximum of £200. Again, it is no longer necessary to catch the culprit in the act of fly-tipping, and a fine can be issued if for example the fly-tipper’s identity can be established from the items they have left. Local authority officers, officers of the Scottish Environment Protection Agency (SEPA), and the police have powers to issue Fixed Penalty Notices.

Graffiti

- Local authorities now have powers to issue graffiti removal notices to those responsible for street furniture, statutory transport and educational institutions. Where the graffiti is impacting on the health of the environment, or is offensive, local authorities can issue graffiti removal notices, requiring that the graffiti be removed within a specified time (at least 28 days). If it is not removed, the local authority can carry out this work and recover the cost from the owner.

Increased penalties

- Criminal offences may be tried in one of two ways – under summary or solemn procedure. Penalties available in summary proceedings for a range of environmental offences have now been increased. Offences such as: serious cases of fly-tipping, operating a large industrial plant (or landfill) in a way which would harm the environment, polluting the water environment or supply, discharging harmful matter to sewers; can all result in fines up to £40,000.

HOUSING: ANTISOCIAL BEHAVIOUR NOTICES (PART 7)

The aim of Parts 7 and 8 of the Act is to provide a means for ensuring that landlords take reasonable steps to manage or alleviate antisocial behaviour in relation to the properties they let. A landlord who does not take action when there is antisocial behaviour at a house which he or she lets is failing the wider community.

Part 7 deals with problems at individual houses. The Act gives the local authority powers to use against the landlord, in addition to any action that might be taken directly against the perpetrators of antisocial behaviour.

- The local authority will normally try to work with the landlord to improve management practices. However, the landlord may not respond. The local authority is able to serve a notice (called an “antisocial behaviour notice”) which specifies actions that the landlord must take within a given time.
- If the landlord does not comply with the notice he or she will be committing a criminal offence, and will be liable on conviction to a fine up to £5,000. The local authority will also be able to do any of the following:
 - i) It can charge to the landlord certain costs due to the landlord’s inactivity, which will be defined in regulations. If necessary it will pursue these costs as a debt in the normal way. For example the council might have to employ professional witnesses for ASBO proceedings when the landlord could reasonably have provided evidence.
 - ii) It can ask the Sheriff court for an order that no rent should be payable, stopping the landlord’s flow of income and acting as a cumulative encouragement for the landlord to take the required action.
 - iii) It can ask the Sheriff court for an order transferring the management control of the property to the local authority, so that it can deal with the antisocial behaviour problem itself.

HOUSING: REGISTRATION OF PRIVATE LANDLORDS (PART 8)

Part 8 of the Act deals with the letting of houses generally, in the private sector. The Act introduces a registration scheme, for local authorities to prepare and maintain a public register of all private landlords in their area. This will provide some basic information about the private rented sector. It also complements the measures to deal with individual landlords (which are outlined in part 7). Part 8 specifies that:

- Landlords, their agents and any properties he or she lets will be listed on a public register.
- The landlord must be judged a fit and proper person to let houses. In making this judgement, the local authority will consider, for example, any previous convictions, the landlord's track record on addressing antisocial behaviour, and any other material believed to be relevant.
- If a person fails the "fit and proper" test, their application for registration will be refused. Information which comes to light after a person is registered can lead to removal from the register. However, there is a right to appeal against these decisions.
- Once registered, the landlord has a duty to ensure that the information they have provided is kept up to date.
- A landlord who lets a property without being registered will be committing a criminal offence, the penalty for which will be a fine of up to £5,000. The local authority will also be able to serve a notice that no rent is payable by the occupier. Any Housing Benefit would cease as no rent would be payable. The landlord can appeal against the notice.

PARENTING ORDERS (PART 9)

Parenting Orders are being introduced to require parents who deliberately or recklessly fail their children – whether on welfare grounds or by failing to take reasonable steps to prevent their child from committing crime or antisocial behaviour. Parenting Orders are civil orders, but breaching the order is a criminal offence.

- Either the local authority or the Principal Reporter to the Children’s Panel can apply to the Sheriff Court to impose a Parenting Order. A Parenting Order can be applied for on two grounds:
 - i) The child has engaged in antisocial behaviour and the order is to prevent further antisocial behaviour.
 - ii) The child has engaged in criminal conduct and that the order is in the interests of preventing further criminal conduct.
- The court will consider the views of the child. It will also consider whether, and to what extent, the parent has taken voluntary steps to prevent the child from engaging in crime or antisocial behaviour.
- The Order will last for 12 months unless extended. As far as possible, the court will try to ensure that the requirements of the Order do not conflict with the parent’s religious beliefs, nor interfere with times they normally attend work. The Order will normally require the parent to attend counselling or guidance for a maximum of 3 months.
- Breach of an Order will be a criminal offence and will be punishable by a fine (not in excess of £1000). Where this fine is not paid, a court must impose a Supervised Attendance Order (SAO). Only when the SAO is not complied with, will the court have all sentencing powers – including imprisonment - available as options. The interests of the children of the family will always be considered in sentencing.

FURTHER CRIMINAL MEASURES (PART 10)

Antisocial behaviour orders (ASBOs)

In order to deal with antisocial behaviour in an effective and timely manner, courts have been given the power to make an ASBO immediately after a person has been found guilty of any criminal offence involving antisocial behaviour as, or as part of, the sentence imposed. The purpose of this is to protect the public from further acts of antisocial behaviour.

Community Reparation Orders

The Act provides for a new order for people aged 12 and over who are convicted in a Sheriff or District Court of an offence involving antisocial behaviour. The person would be required to work between 10-100 hours to give something back to the community they have damaged.

Restriction of Liberty Orders (RLOs)

The Act extends Restriction of Liberty Orders – which can be imposed in the criminal court – to persons aged under 16.

An offender given a RLO may be restricted to a specified place for up to 12 hours per day or restricted from a specified place for up to 24 hours per day, or both, for a maximum period of 12 months. Compliance with a RLO is monitored electronically.

If the person is under the age of 16, the court must obtain a report from the local authority, which details the support to be provided to him/her during the period of the RLO. The court will need to be satisfied that the local authority will provide services for the individual's support and rehabilitation before it can impose a RLO.

A RLO cannot be combined with a Drug Treatment and Testing Order in respect of those aged under 16 years. For those aged under 16 years, the court may only combine a RLO and a Probation Order.

Ban on sale of spray paint to under 16s

Preventing vandalism and graffiti is a key part of the strategy to promote safe, secure and attractive communities and tackle antisocial behaviour. Graffiti involving spray paint is particularly difficult and expensive to remove.

The Act makes it an offence to sell spray paint to under 16s. The maximum penalty for a person guilty of this is a fine, not exceeding £1000. It will also be an offence if retailers offering this product do not exhibit a warning notice to this effect.

Authorised local authority staff will also have powers of entry, inspection and seizure, to ensure this is enforced.

Vehicles used in manner causing alarm, distress or annoyance

The Act gives the police an additional tool to deal with those who cause alarm, distress or annoyance to members of the public through the antisocial use of vehicles on public roads or off-road.

- The police are given the power to stop and to seize and to remove motor vehicles. This can be done in two cases:
 - i) Where such vehicles are being or have been driven off-road.
 - ii) Where such vehicles are being or have been driven on the public road or other public place without due care and attention or reasonable consideration for other road users.
- A constable must also, in both of these instances, have reasonable grounds for believing that a motor vehicle is being, or has been used, in a manner which is likely to cause alarm, distress or annoyance to members of the public.
- It is an offence for a person to fail to stop a vehicle when required to do so by a police officer. The offence is punishable by a fine.

FIXED PENALTY NOTICES (PART 11)

Where antisocial behaviour has taken place, Ministers wish to ensure that swift, effective and fair responses are provided. Fixed penalty notices (FPNs) will help with this. Police can issue FPNs for a range of offences.

Statutory offences

The list of statutory offences for which FPNs can be issued in respect of ASB include:

- Riotous behaviour while drunk in licensed premises
- Refusing to leave licensed premises on being requested to do so
- Urinating and defecating in circumstances causing, or likely to cause, annoyance to any other person
- Being drunk and incapable in a public place
- Being drunk in a public place in charge of a child
- Persisting, to annoyance of others, in playing musical instruments, singing, playing radios, etc. on being required to stop
- Vandalism
- Consumption of alcohol in a designated place in contravention of a byelaw.

Common law offences of breach of the peace and malicious mischief are also included.

Operation of FPNs

- 28 days to challenge FPN or pay in full. The level of the FPN goes up by 50% if not paid or challenged by the end of that period.
- If FPN is challenged, police will submit a report to the Procurator Fiscal for consideration for prosecution.
- Increased penalty for non-compliance will be recoverable in the same manner as an unpaid fine imposed in the District Court by way of sentence in a criminal case.

Additional powers

The Act also provides:

- Order-making power to amend/add/remove FPN offences.
- Power for Ministers to specify the amount of the penalty by order. This will be subject to a maximum amount of level 2 on the standard scale (£500).

The FPN Scheme will be piloted and evaluated in Scotland before national implementation. Police, Clerks and Crown Office will be consulted on the development of a pilot scheme which will be take place in Tayside. The Lord Advocate will then issue guidance on how the scheme should operate both on a pilot basis and, subject to evaluation of the pilot, on a national basis.

CHILDREN'S HEARINGS (PART 12)

Supervision requirements: conditions restricting movement

Section 135 introduces a new power for children's hearings to impose conditions restricting movement if a young person meets the criteria for secure accommodation as set out under S. 70 (10) of the Children (Scotland) Act 1995. If a young person meets the secure criteria, children's hearings will then consider whether a secure authorisation or a condition restricting movement is the most appropriate disposal.

Supervision requirements: duties of local authorities

Section 136 clarifies that local authorities have a statutory duty to implement decisions of children's hearings contained in supervision requirements. It also empowers hearings to require the Reporter to apply for an Order from the sheriff court requiring a local authority in breach of its duty to perform that duty. The section also sets out the procedures to be observed.

Failure to provide education to excluded pupils

Section 137 gives the Reporter and a children's hearing power to refer the case of a child who has been excluded from school to Scottish Ministers if it appears that the local authority concerned has failed to comply with its duty under section 14(3) of the Education (Scotland) Act 1980 to provide education to a pupil excluded from school.

MISCELLANEOUS AND GENERAL (PART 13)

Disclosure and Sharing of Information

Effective management of antisocial behaviour requires effective sharing of information among the relevant agencies at a local level.

Section 139 of the Act makes provision on the disclosure to and sharing of information with a relevant authority for whom the disclosure of information is necessary or expedient for the purposes of any provision of the 2004 Act, or any other enactment the purpose of which is in connection with antisocial behaviour or its effects.

The main point is that section 139 provides that any person has the power to disclose information to a relevant authority where that is necessary or expedient for the purposes of any provision in the 2004 Act. Clearly this includes information exchange in relation to ASBO investigations, applications, breaches and other relevant matters. The relevant authority means a local authority, a Chief Constable, the Principal Reporter, a registered social landlord, and any authority administering housing benefit.

Section 139 also makes clear that where a person discloses information to a relevant authority under this section which is confidential, and where they inform the authority of the breach of that confidentiality on disclosing the information, the authority must respect that confidentiality.

Equal Opportunities

Section 140 provides that any person discharging a function by virtue of the 2004 Act shall do so in a manner that encourages equal opportunities and, in particular the observance of equal opportunity requirements, as defined in the Scotland Act.

"Equal opportunities" means the prevention, elimination or regulation of discrimination between persons on grounds of sex or marital status, on racial grounds, or on grounds of disability, age, sexual orientation, language or social origin, or of other personal attributes, including beliefs or opinions, such as religious beliefs or political opinions.

"Equal opportunity requirements" means the requirements of the law for the time being relating to equal opportunities.

Equal opportunities, includes the subject matter of—

- (a) the Equal Pay Act 1970,
- (b) the Sex Discrimination Act 1975,
- (c) the Race Relations Act 1976, and
- (d) the Disability Discrimination Act 1995.

INTERPRETATION OF ANTISOCIAL BEHAVIOUR

Section 143 of the Antisocial Behaviour (Scotland) Act 2004 sets out the interpretation of antisocial behaviour for the purposes of the Act (except Parts 7 and 8).

The legislation provides that a person engages 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 must involve conduct on at least two occasions.

The expression “likely to cause” has the effect that someone other than a victim of the antisocial behaviour can give evidence about whether behaviour is antisocial or not. This is intended specifically to enable the use of professionals as witnesses where those targeted by the behaviour feel unable to come forward, for example, for fear of reprisals or intimidation.

It is the effect or likely effect of the behaviour on other people that determines whether the behaviour is antisocial. The authority applying for the order does not have to prove intention on the part of the defendant to cause alarm or distress.

While an authority does not have to prove intention, it would not be appropriate to use the powers in the Act where an individual cannot understand the consequences of their actions. Where an individual has a disability or a medical or developmental condition, or it is suspected they may have such a condition, advice should be sought from medical experts on support which is available.

**ANTISOCIAL BEHAVIOUR ETC (SCOTLAND) ACT 2004 -
COMMENCEMENT TIMETABLE**

PART	SUBJECT	PLANNED COMMENCEMENT	FURTHER INFORMATION	CONTACT
1	ASB Strategies	Autumn 2004	Draft guidance published 9 July. Final guidance for commencement.	ASB Unit 0131 244 4919
2	ASBOs	Autumn 2004	Draft guidance published 9 July. Final guidance for commencement.	ASB Unit 0131 244 4919
3	Dispersal of groups	Autumn 2004	Draft guidance published 9 July. Final guidance for commencement.	Police Division 0131 244 2142
4	Closure of Premises	Autumn 2004	Draft guidance published 9 July. Final guidance for commencement.	Police Division 0131 244 2142
5	Noise nuisance	Autumn 2004	Draft guidance published 9 July. Final guidance for commencement.	Noise Team 0131 244 0393
6	Environmental offences	Autumn 2004		Waste Regulation 0131 244 1759
6	Graffiti removal	Autumn 2004	Draft guidance published 9 July. Final guidance for commencement.	Civic Governance 0131 244 7050
7	Housing: ASB notices	Summer 2005	Working Group established to plan implementation	Private Housing 0131 244 7952
8	Registration of private landlords	Autumn 2005	Working Group established to plan implementation	Private Housing 0131 244 7952
9	Parenting Orders	To be confirmed	Phased introduction	
10	ASBOs on conviction	Autumn 2004		ASB Unit 0131 244 4919
10	Community Reparation Orders	Autumn 2004 (NB: not in effect until regulations made)	Pilots in Inverness, Dundee and Greenock from January 2005	Community Justice 0131 244 5438

10	Restriction of Liberty Orders for u16s	Late 2004		Community Justice 0131 2443514
10	Ban on sale of spray paint to u16s	Autumn 2004	Guidance for commencement. Warning notices to be provided for retailers	ASB Unit 0131 244 4919
10	Seizure of vehicles	Autumn 2004 (NB: not in effect until regulations made)		Police Division 0131 244 2142
11	Fixed penalty notices	Autumn 2004 (NB: not in effect until regulations made)	Pilot in Tayside from January 2005	Police Division 0131 244 2142
12	Tagging through children's hearings	Phase 1 implementation from late 2004	Consultation on guidance in autumn	Youth Justice 0131 244 1676
12	Local authority accountability	Early 2005	Consultation on guidance in autumn	Youth Justice 0131 244 1676
13	Privacy of certain proceedings	Autumn 2004		ASB Unit 0131 244 4919
13	Disclosure and sharing of information	Autumn 2004	Guidance to be published for commencement.	ASB Unit 0131 244 4919
13	Equal opportunities	Autumn 2004		ASB Unit 0131 244 4919

ABBREVIATIONS AND GLOSSARY

ASB

Antisocial behaviour

ASBOs

Antisocial Behaviour Orders

Children's Hearings System

Scottish system for addressing the needs and behaviour of children and young people, usually under 16 but in some circumstances up to the age of 18, who are in need of care and protection or who have committed an offence.

CROs

Community Reparation Orders

FPNs

Fixed Penalty Notices

Reporter to the Children's Panel

The Reporter is a locally based official to whom all referrals must be made regarding children and young people who may be in need of compulsory measures of supervision. If, after investigation, the Reporter decides compulsory measures are necessary, the child is referred to a Children's Hearing. The Reporter is employed by the Scottish Children's Reporter's Administration (SCRA).

RLOs

Restriction of Liberty Orders

RSLs

Registered Social Landlords – housing associations; legally means a body registered in the register maintained under section 57 of the Housing (Scotland) Act 2001.

SCRA

The Scottish Children's Reporter's Administration is a Non-Departmental Public Body (NDPB) with the statutory function of managing the Reporter system (see above) and providing suitable accommodation for Children's Hearings.

SEPA

Scottish Environment Protection Agency

Secure accommodation

Secure accommodation is a residential placement where children and young people are confined to the accommodation and unable to leave, unless this is authorised. It is normally the Children's Panel which makes a secure authorisation but young people can also be sentenced through the courts to secure.

SAO

Supervised Attendance Order - alternative to imprisonment for fine default. It is a community based disposal that substitutes the unpaid portion of a fine for a number of hours specified by the courts.

© Crown copyright 2004
This document is also available on the Scottish Executive website:
www.scotland.gov.uk

Astron B37291 8/04

