

**Strengthening powers to
tackle anti-social behaviour**

Consultation paper

Home Office November 2006



Give respect Get respect

Contents

Foreword by the Prime Minister	2
Foreword by the Home Secretary	3
Chapter 1 Introduction	4
1.1 Government action to tackle anti-social behaviour	4
1.2 Understanding the causes of anti-social behaviour	4
1.3 Tackling the causes of anti-social behaviour: balancing support and challenge	5
1.4 The use of pre-court disposals	6
1.5 About this consultation paper	7
1.6 How these measures will apply to children and young people	8
1.7 Summary	8
Chapter 2 Proposals for new tools and measures to tackle anti-social behaviour and disorder	9
2.1 New front-line powers to deter and prevent anti-social behaviour	9
2.2 Deferred Penalty Notice for Disorder	11
2.3 Premises Closure Order	13
2.4 Summary	18
Chapter 3 Strengthening existing tools and measures	19
3.1 Remove conflicting police targets	19
3.2 Recognise on-street reparation in police performance measures	19
3.3 Stop issuing Penalty Notices to chaotic individuals	20
3.4 Increase financial penalties	21
3.5 Enforce byelaws through Penalty Notices	21
3.6 Deal with breaches of court orders summarily	21
3.7 Ensure that sanctions are enforced	22
3.8 Summary	24
Annex A About this consultation paper	25
Annex B Consultation criteria	26
B.1 The six consultation criteria	26
B.2 Consultation co-ordinator	26
Annex C Partial Regulatory Impact Assessments	27
C.1 New front-line preventative powers and Deferred Penalty Notice for Disorder	27
C.2 Premises Closure Order	33
Annex D Existing powers for tackling anti-social behaviour and disorder	42
D.1 Existing pre-court tools and measures	42
D.2 Existing court-related tools and measures	44
Annex E Partial Equality Impact Assessment	46
Annex F Offences for which a Penalty Notice for Disorder is currently a disposal option	54
Annex G List of acronyms	56
Annex H Consultation response form	57



Foreword by the Prime Minister

I outlined earlier this year the Government's plans to continue rebalancing the criminal justice system so the interests of the law-abiding majority are at its heart. Our goal is a simpler, swifter, fairer and more effective system which better protects communities and victims.

We've worked hard to put the right foundations in place. There has been investment in record numbers of police, the introduction of Neighbourhood Policing Teams and Community Support Officers, bold new measures to crackdown on anti-social behaviour and big cuts in delays in the youth justice system. All of this has helped contribute to a 33 per cent fall in crime since 1997. I have seen for myself right across the country that where the new powers to tackle anti-social behaviour have been used fully and effectively, they have transformed communities and put the decent majority back in control.

But, despite this progress, there is more to do. Gaps remain in what people expect from the criminal justice system and what they see it delivering. The price of living with daily verbal abuse from neighbours or dodging joy-riders in the street can seem much higher than the price paid by the perpetrators even when caught. The risk is that this undermines public confidence in justice which, in turn, helps create the climate where crime flourishes.

So although I know there will be some suggesting we have already gone too far, I am determined to press on with our reforms to rebalance the criminal justice system and create a modern culture of respect. This review aims to continue the debate on what more we can do.

A handwritten signature of Tony Blair in black ink, written in a cursive style. The signature is underlined with a single horizontal line.

Tony Blair
Prime Minister

Foreword by the Home Secretary



Tackling the disorder that can make people too afraid to leave their homes is central to Government's commitment to deal more smartly with different types of crime. It is a vital part of rebalancing the criminal justice system in favour of the law-abiding majority and of the Respect drive to address the underlying causes of anti-social behaviour.

We will be unremitting in tackling the problems on our streets swiftly and proportionately, in a way that sends out a clear signal to offenders that their behaviour will not be tolerated.

Make no mistake – together, we have made significant progress. Every day, across the country, steps are taken to bring immediate relief to communities and put a stop to unacceptable behaviour.

We have seen first hand how the lives of families and local communities can be transformed through the use of radical new powers. For example, the introduction of Anti-Social Behaviour Orders, Fixed Penalty Notices and Parenting Orders has changed the landscape and strengthened the ability of those on the front line to take action. And new measures announced earlier in the year in the Respect Action Plan seek to balance tough enforcement action with support to ensure that the underlying causes of anti-social behaviour are tackled and interventions effect a permanent change in behaviour.

These powers and new measures are already being used widely and effectively by the police and local authorities to nip unacceptable behaviour in the bud and to prevent it from escalating further.

And residents will testify to the impact this has had. Gangs have been dispersed, premises used for drug dealing have been closed and graffiti has been cleaned up. Our streets are safer and cleaner.

But we need to go further. Too many communities continue to endure unacceptable levels of intimidation, harassment and nuisance. We can and will do more to put a stop to this, so that people can live in peace in their neighbourhoods.

We have always taken a practitioner-led approach to tackling anti-social behaviour – they have told us what is needed, what works, helped to draft laws and we continue to listen to their feedback. The proposals in this paper are based on that feedback and we now want to consult more widely to empower police to nip anti-social behaviour in the bud early on through additional preventative powers, provide for the rapid resolution of community problems through deferred penalty notices, and how, as a last resort and for a limited period, police can pursue the closure of any premises at the centre of serious and persistent disorder.

This document sets out how far we've come, as well as new proposals on how we can increase the options of those at the sharp end to ensure fair action is taken quickly, while leaving the courts to deal with more serious and repeat offenders. I welcome your views.

A handwritten signature in black ink, appearing to read 'John Reid', with a horizontal line underneath.

John Reid

Chapter 1: Introduction

1.1 Government action to tackle anti-social behaviour

Tackling anti-social behaviour is a government-wide endeavour. Since the launch of the anti-social behaviour strategy in 2003, the expansion of services, new legislation and the introduction of new tools and powers have transformed the landscape. Anti-social behaviour co-ordinators now exist in every area. There are specialist prosecutors and dedicated courts, and neighbourhood policing is being introduced across England and Wales and, by April 2008, we will have a dedicated team in every area.

At a community level, the police, local authorities, Youth Offending Teams (YOTs) and social landlords have new and innovative powers at their disposal – and they are being widely used. Anti-Social Behaviour Orders (ASBOs), Anti-Social Behaviour Injunctions (ASBIs), Dispersal Orders, Fixed Penalty Notices (FPNs), Parenting Contracts and a suite of other measures are bringing relief to communities.¹ They are helping individuals address their behaviour and have shown how communities and agencies can come together to take back control of their neighbourhoods.

The Respect Action Plan,² published in January this year, broadened Government's approach to tackling anti-social behaviour, outlining how we will intensify efforts with a twin-track approach that balances effective enforcement with effective support. As well as redoubling the approach to anti-social behaviour by encouraging the full use of the range of enforcement powers available, measures in the Action Plan focused on tackling the root causes of disrespectful and anti-social behaviour – addressing poor parenting, rolling out interventions for the most challenging families, tackling poor attendance and behaviour inside and outside the classroom, public service visibility and accountability and the provision of constructive activities for children and young people.

As increasing levels of action are taken against anti-social behaviour, we have developed a greater insight into the problem and how it can be tackled. Building a culture of 'respect' is a key priority for this Government. At the heart of this is our belief in community, in mutually reinforcing rights and responsibilities, and that individuals can only thrive in the context of a strong, united society.

The focus of this consultation paper is on strengthening our response to challenging anti-social behaviour through the use of pre-court disposals, in particular via interventions such as Fixed Penalties or cautions, issued by police. The person involved can either accept the penalty or go to court. The Respect Action Plan and the report *Rebalancing the criminal justice system in favour of the law-abiding majority*,³ highlighted this as an area for further development. The proposals in this document respond to what practitioners, including front-line police officers and their professional leaders, have told us is required to strengthen our response to anti-social behaviour and disorder in a swift, proportionate and effective manner. The measures we are proposing will apply equally to adult and juvenile perpetrators of anti-social behaviour unless otherwise stated. However, it is our expectation that they will be used proportionately and appropriately, taking into consideration individual circumstances, as well as the needs of the community.

1.2 Understanding the causes of anti-social behaviour

Developing a robust, mature and coherent response to anti-social behaviour and disorder requires a proper understanding of the underlying causes of such behaviour. This is necessary to appreciate the importance of a multi-faceted response that supports individuals at an early and ongoing stage as a means for improving the quality of lives and preventing the escalation of problem and nuisance

1 Annex D provides details of existing tools and measures to tackle anti-social behaviour and disorder.

2 Accessible at: www.homeoffice.gov.uk/documents/respect-action-plan?view=Binary.

3 Home Office (2006) *Rebalancing the criminal justice system in favour of the law-abiding majority: Cutting crime, reducing reoffending and protecting the public*, accessible at: www.homeoffice.gov.uk/documents/CJS-review.pdf/CJS-review-english.pdf?view=Binary.

behaviour, while tackling and challenging unacceptable behaviour as it arises.

The causes of anti-social behaviour and disorder are difficult to identify. Many people feel that unprecedented economic growth has brought with it profound changes in society and values. Recent generations have grown up with levels of material wealth only dreamt of by previous generations. This has led to radical changes in our expectancies and our relationships with others. The role and influence of traditional institutions – such as churches, political parties and trade unions – have declined dramatically. Families too have changed, with an increase in single parent households, and a decline in the number of large extended families as fertility rates have fallen but life expectancy has risen.

Whatever the specific cause, we know there is a range of factors that are strongly associated with anti-social behaviour by individuals. They include:

- parenting – poor parenting skills, weak parent/child relationships and sometimes parental involvement in crime or anti-social behaviour;
- school – truancy and exclusion, and schools where poor behaviour is not challenged enough;
- community factors – living in deprived areas where there is disorder and neglect and peer involvement in anti-social behaviour; and
- individual factors – drug and alcohol misuse and early involvement in anti-social behaviour.

Our challenge is to identify and tackle these problems head on and at an early stage to nip problem/nuisance behaviour in the bud and prevent it from escalating into more serious disorder and crime.

1.3 Tackling the causes of anti-social behaviour: balancing support and challenge

The Respect Action Plan emphasises the importance of stable families and strong, cohesive communities for children, young people and adults. They provide the essential foundation within which individual potential is realised, quality of life maximised and our social and economic wellbeing secured.

We recognise that constructive and purposeful activities for all members of society – not just young people – promote mutual respect. They enable people to make valuable contributions to their communities and also provide a hook with which to engage those who might be on the edge of anti-social behaviour.

We also recognise the importance of identifying individuals at risk of problem behaviour early on and intervening in an appropriate manner. In this regard, Government has made substantial investment in targeted crime prevention programmes such as Youth Inclusion and Support Panels (YISPs) and Youth Inclusion Projects (YIPs). YISPs are multi-agency panels which offer packages of support to at-risk young people predominantly in the 8–13 age range, while YIPs are neighbourhood-based projects providing positive activities for young people at risk of crime and anti-social behaviour in the 13–16 age range. Both either provide parenting services themselves or refer parents of young people at risk to appropriate support services.

Such programmes provide both a viable alternative to penalties for problem and nuisance behaviour, and can also complement those penalties. Where a young person is involved in anti-social behaviour, referrals should be made to YIPs and YISPs which should aim to address that behaviour on a voluntary basis. Programmes provide ongoing support to young people and families but also challenge poor behaviour and help parents support boundary setting.

In addition, Government is delivering on a number of commitments on parenting designed to increase the quality, co-ordination and availability and take-up of parenting support. Government is providing up to £70 million to increase the availability of good quality parenting programmes, and these will be backed up with the use of Parenting Contracts and Orders where necessary.

Support and prevention are essential components of Government's broader strategy in addressing anti-social behaviour and disorder. But in the absence of a robust response to such behaviour when it arises, there will continue to be intractable problems with

the behaviour of some individuals and families – behaviour which can make life a misery for others, particularly in the most disadvantaged communities.

Tools and powers such as ASBOs and ASBIs have a proven track record in bringing much needed respite to victims of anti-social behaviour. The work to bear down on anti-social behaviour involves interventions in schools, in the home, on the street, and anywhere where problems arise and need to be dealt with. The preventative approach involves setting boundaries to behaviour that do no more than enforce the standards of the law-abiding majority, so that everyone can give, earn and enjoy respect, and live in peace with their neighbours.

There is a further role for statutory agencies in ensuring that these interventions effect long-term behavioural change. Alongside the challenge of changing behaviour, there needs to be support, particularly for those with drug/alcohol problems or whose anti-social behaviour stems from a lack of parenting skills. Parenting Orders, Individual Support Orders, Drug Intervention Orders and parenting courses all have a role to play. This is in addition to the work of agencies such as education, social services, YOTs and mental health and other services.

The right balance of support and challenge can help individuals turn round their lives (there are many examples highlighted within this document) and make a positive contribution to their communities. But not only does this benefit society, it helps the individual too by halting the slide into outright criminality that may start with unchallenged anti-social behaviour, or that can be hastened by a loss of tenancy or some other outcome that could have been avoided with early intervention. The proposals set out below will therefore relieve pressure on the criminal justice system.

1.4 The use of pre-court disposals

Government's twin-track approach to tackling anti-social behaviour and disorder requires that

swift, proportionate and effective action to challenge unacceptable behaviour goes hand in hand with work to support individuals and prevent such behaviour from arising. In recent years, we have established a range of pre-court disposals to do just that – most notably Fixed Penalty Notices (FPNs) and Penalty Notices for Disorder (PNDs) – to allow authority figures to deal with anti-social behaviour out of court. Such disposals work by challenging the behaviour of the individual (increasing the chances of being caught and being dealt with immediately and proportionately), but the visible punishment importantly also sends a signal to the wider community that the behaviour is being tackled and not tolerated.

There is emerging evidence that pre-court disposals help us to tackle anti-social behaviour and disorder in a manner that promotes an efficient justice system that reduces crime and inspires confidence.

For instance, the Alcohol Misuse Enforcement Campaign (AMEC) was designed to send a clear message that behaviour that contributes to alcohol-related violence and under-age drinking will not be tolerated. Since summer 2004, there have been four AMEC campaigns (the latest began in May 2006). The campaigns make robust use of PNDs for lower-level offences during police campaigns against alcohol-fuelled disorder. PNDs accounted for around 25 per cent of disposals, and were crucial in stopping problem behaviour from escalating. At Basic Command Unit (BCU) level, AMEC campaigns making extensive use of PNDs appear to have an effect on serious violent crime.

There is also evidence that the use of pre-court disposals has the capacity to deliver reductions in reoffending rates, with specific disposals proving particularly effective at reducing offending and reoffending by juveniles. For instance, an evaluation of 95 Acceptable Behaviour Contracts (ABCs) in Islington found they delivered an overall 30 per cent drop in anti-social behaviour by those on ABCs in the first six months of the contract.⁴

⁴ Bullock, K. and Jones, B. (2004) *Acceptable Behaviour Contracts: Addressing anti-social behaviour in the London Borough of Islington*, Home Office Report 02/04.

And research undertaken by Ipsos MORI⁵ indicates that pre-court disposals are favoured by an overwhelming majority of the public in response to specific acts of anti-social behaviour and disorder committed by young, first-time offenders. For instance, only 14 per cent of those surveyed suggested that court (as opposed to a reprimand, FPN, PND, ABC, apology and/or compensation) was the most appropriate way to deal with young offenders who had broken windows in disused properties. Similarly, just 21 per cent of those surveyed felt court was the most appropriate course of action against those caught vandalising bus shelters.

In summary, the use of pre-court disposals is associated with positive effects on anti-social behaviour and disorder, and on public confidence in the ability of the police and criminal justice system more broadly to respond to such behaviour appropriately. While not a sufficient response in isolation to the challenging nature of such behaviour, pre-court disposals – particularly when combined with other forms of swift, proportionate and effective action to challenge unacceptable behaviour – form an important part of the overall response to anti-social behaviour and disorder.

1.5 About this consultation paper

Based on feedback from communities and front-line workers, this consultation paper – as announced by the Home Secretary in the report *Rebalancing the criminal justice system in favour of the law-abiding majority*⁶ and the Respect Action Plan – proposes a supplementary range of measures that will further enhance our ability to tackle anti-social behaviour and provide a catalyst for a multi-agency approach to tackling the underlying causes of poor behaviour. At its heart, though, is the recognition that there must be boundaries and consequences for bad behaviour.

These measures have been developed to strengthen and enhance the ‘practitioner’s toolkit’ of options

for responding to anti-social behaviour and disorder. At present, this toolkit encompasses a range of options for a variety of anti-social behaviour and disorder, including informal verbal warning/advice, a Fixed Penalty (PND or FPN), or arrest and prosecution.⁷ The use of different disposal options will depend upon the practitioner’s judgement in relation to the specific circumstances of the incident to which they are responding. However, strengthening this toolkit – with a particular focus on the pre-court elements of it – is central to Government’s determination to rebalance the criminal justice system and to ensure that we have the capacity to tackle problems in our streets and communities as swiftly and effectively as possible. We want to strengthen the power of our neighbourhood police officers – the visible, front-line force in tackling anti-social behaviour – and we want to make it easier for local authorities to use the powers at their disposal in order to create a stronger, united front in tackling anti-social behaviour.

This paper sets out a range of measures that will:

- provide practitioners with the opportunity to prevent future anti-social behaviour and disorder, and resolve rapidly community problems, through the use of a Deferred PND with conditions on an individual’s behaviour;
- give police the powers to pursue the closure of any premises, regardless of tenure, which is at the centre of any serious, significant and persistent harm to local communities, as a last resort;
- improve the ability of the police to bring immediate relief to communities that are facing intimidation, harassment or nuisance through further consultation on possible additional preventative powers to impose temporary restrictions on an individual adult or juvenile; and
- ensure powers are used appropriately, so that children and young people and their parents get the support they need to effect a permanent

5 Ipsos MORI (2005) *The Respect Agenda 6 months on: How are we measuring up?*, accessible at: www.ipsos-mori.com/publications/rw/the-respect-agenda.pdf.

6 Accessible at: www.homeoffice.gov.uk/documents/CJS-review.pdf

7 Annex D sets out the full range of disposal options designed to both prevent and deter anti-social behaviour and disorder.

change in behaviour. And where behaviour is linked to alcohol or drug misuse, that practitioners consider, where possible, referring such people to support/treatment services.

We are seeking feedback on how we can ensure that these proposed powers will work to best effect. Government intends to put these powers on the statute book as soon as possible and we want to make sure that when they become available, they are used effectively and fairly.

1.6 How these measures will apply to children and young people

The proposals presented here will apply equally to children and young people as they do to adults. Specifically, the proposal related to a Deferred PND will cover all offenders currently covered by the existing PND scheme. That is, all individuals aged over 16 years and, subject to the evaluation and possible subsequent roll-out of the youth PND pilot scheme (discussed further in Chapter 3), children aged 10–15 years.

If the perpetrator is a child or young person, then the police would be required to draw to the attention of the parent(s) or guardian the issuance of the Penalty Notice, including the circumstances that necessitated it and the terms that the recipient has to adhere to. This should be at the earliest possible moment. The officer would also have to inform local agencies concerned with prevention, including, as appropriate, the local YOT and targeted youth support services commissioned by local authorities. Practitioners in each area should agree a local protocol for doing so.

1.7 Summary

Anti-social behaviour and disorder impose significant costs (both financial and emotional) on society, and the public attach a high level of importance to such disorder and tackling it at a local level.

Government has already introduced a range of measures to ensure that we bear down on those whose

behaviour has a disproportionate impact on the community through the use of tough enforcement powers alongside appropriate support provision.

However, we believe that the use of pre-court disposals as an alternative to prosecution for tackling anti-social behaviour and disorder can lead to improvements in public confidence and crime rates as well as potentially significant savings in police and court time and associated costs.

Consequently, this consultation paper looks to extend and strengthen the use of pre-court disposals, as well as extending existing powers to deal with premises at the centre of anti-social behaviour. We recognise that such powers can have a positive outcome both in terms of providing an effective and visible deterrent to anti-social behaviour and disorder, and representing a more efficient and proportionate response than pursuing prosecution.⁸

⁸ As set out in Home Office, Department for Constitutional Affairs and the Attorney General's Office (2006), *Delivering Simple, Speedy, Summary Justice*, accessible at: www.dca.gov.uk/publications/reports_reviews/delivery-simple-speedy.pdf.

Chapter 2:

Proposals for new tools and measures to tackle anti-social behaviour and disorder

This chapter sets out proposals to prevent and deter anti-social behaviour and disorder before it leads to more serious offending. These proposals are focused on the development of a coherent range of practical measures which leave practitioners such as the police and local authorities better equipped to challenge and tackle anti-social behaviour, recognising that if left unchecked, this behaviour can generate significant costs and harms for local communities and society in general.

Our proposals will strengthen the sanctions for those who are caught and provide opportunities for perpetrators to manage and change their behaviour. The proposals encompass measures designed to: provide for the rapid resolution of community problems through Deferred PNDs with conditions on an individual's behaviour; empower police with additional preventative powers to prevent an escalation of anti-social behaviour within a local community; and serve Closure Notices on dwellings that provide a base for ongoing anti-social behaviour and disorder. This will send a strong and visible message regarding unacceptable behaviour that will not be tolerated within local communities and neighbourhoods.

2.1 New front-line powers to deter and prevent anti-social behaviour

Current powers to prevent anti-social behaviour Anti-social behaviour is currently dealt with by a range of measures, from early non-statutory interventions such as warning letters, home visits and Acceptable Behaviour Contracts (ABCs), to more formal tools such as Anti-Social Behaviour Orders (ASBOs) and injunctions. Taking one example, ABCs are voluntary contracts given out by the police (predominantly to young offenders), which have proved highly effective in a number of cases – most usually where the offender more readily recognises the impact of his or her behaviour on others, and has an appreciation of the likely consequences for continuing to behave anti-socially. However, they are not effective in cases where the individual refuses to engage, and there are no formal consequences for breach, save escalation to other measures.

Powers in action – Acceptable Behaviour Contracts

In Cumbria, a small close of 15 local authority houses was at the centre of an increasing number of incidents of anti-social behaviour caused by one female resident and a number of youths. This was mainly directed at one individual family and included criminal damage such as smashed windows or broken garden fences, verbal and physical abuse, and threats and intimidation. Incidents were taking place two to three times per week, sometimes daily. The victims were intimidated and frightened, and even made ill by the fear and stress. This went on for around four months.

ABCs were drawn up by the police for the woman who was largely causing the anti-social behaviour and two of the youths who were directed by her. The ABCs included commitments for the perpetrators to stop causing damage, entering gardens or throwing any articles at houses, and not to cause harassment, alarm or distress.

The two youths signed ABCs and their parents were warned regarding their tenancy agreements. The adult refused the ABC and subsequently the police and housing officers pursued a court injunction. The victims were visited and encouraged to report all incidents, no matter how trivial, and other residents in the close were also visited and encouraged to report incidents.

The injunction offered immediate protection to the victims and other residents in the close. Since serving the injunction notice, there have been no further instances of anti-social behaviour and quality of life on the close has improved. Reports of youth-related disorder both at the house and within the close have stopped.

At the other end of the spectrum, ASBOs and injunctions given by the courts are effective tools for dealing with serious and persistent anti-social behaviour. This effectiveness derives in part from the serious consequences for breach. The full ASBO process can be time-consuming, although interim Orders can be obtained quickly, and without notice to the defendant, in circumstances where the needs of victims and witnesses warrant it. Because of the serious consequences for breach, which is a criminal offence, there are safeguards for the defendant throughout the process, including:

- in the application hearing, the need to prove, to the criminal standard, that anti-social behaviour has occurred;
- a criminal standard of proof in relation to breach proceedings;
- an opportunity for the defendant to have his or her case heard in court, at the application stage, and at any subsequent proceedings for breach;
- a mechanism to appeal against the Order (usually from the magistrates' to the Crown court), and against any subsequent conviction for breach;
- bespoke prohibitions tailored to specific findings of anti-social behaviour at the application stage;
- needs assessment and multi-agency consultation in advance of the application stage;
- a check by the court that the terms of the Order are understandable by its recipient; and
- the provision of court-ordered support services to help prevent breach.

These safeguards are necessary and proportionate to the possible penalties for breach and to the longevity and seriousness of the Order's restrictions on the defendant's liberty. Nonetheless, the preventative nature of the Order and the overriding need to protect the community mean that the non-punitive prohibitions require a criminal sanction for breach.

Powers in action – Anti-Social Behaviour Orders

A group of six young males and females, aged from 13 to 17 years, led by a 13-year-old girl and a 17-year-old male, began a 'reign of terror' for local residents in East Lancashire, which included criminal damage, intimidation, violence and harassment. The group targeted vulnerable victims, including people with learning difficulties, the elderly and those with mental health problems, many of whom became too frightened to leave their homes and were far too frightened to contact the police.

ABCs were issued in respect of the two ringleaders, which they breached almost immediately. The residents affected by the behaviour were informed of the issuing of the ABCs and they reported the breaches.

It was agreed that an ASBO would be applied for in respect of both the ringleaders, but it was acknowledged that other interventions needed to be put in place as well as enforcement. The interventions were based on a multi-agency approach and looked at drug and alcohol issues, with a dedicated drug worker from the Youth Offending Team (YOT) becoming involved. A support package was put in place to help the girl get back into school. Family support worked with the family to support the mother with the difficulties that she had, both as an individual and with her daughter.

The impact has been positive for the community. Having realised that they would be supported by the agencies involved, many residents were willing to stand up to the teenage group. The collaboration between agencies and the community resulted in some excellent exchanges of ideas and resources which allowed the multi-agency team to work closely with the female to fully identify and understand her needs and vulnerabilities. Practitioners who had succeeded in gaining her trust and respect worked with her

on an intensive basis to get her back into education and tackle her 'at-risk' behaviour. She has since spoken to friends who have been issued with ASBOs, advising them of the need to stick to them.

The ASBOs, along with other interventions, have resulted in the community now feeling confident that action will be taken. The feedback from the community is that the area is almost peaceful.

Proposed new front-line powers

ASBOs are, of course, just one tool for tackling anti-social behaviour. The boundary-setting and admonitory principles that underline them are attractive elements that could also be drawn on for use at the lower end of the anti-social behaviour spectrum (that is, for incidents where there is no long history of misbehaviour).

Police officers have asked for powers to take swift, preventative action against anti-social behaviour, where the offender's behaviour was not of the degree to merit an ASBO. Such a tool would also complement ongoing initiatives in the areas of neighbourhood policing and police workforce modernisation, aimed at empowering appropriately accredited police officers to solve local problems and bring an immediate improvement to the community.

The current options for the police in response to individual incidents of anti-social behaviour and disorder are to give an oral warning, asking offenders to disperse – often knowing that offenders will return to the area to commit the same offending behaviour shortly afterwards – or to take disproportionately punitive action that takes police officers off the street, thereby reducing levels of visible policing.

Some practitioners have suggested the need for additional powers that would provide front-line police with an immediate opportunity to prevent future disorder and bring about a speedy resolution of specific local problems. Such powers – for example, to require an individual to keep away from a particular area for a certain period of time – would be

at the discretion of a police officer, and could potentially have a strong deterrent effect on others.

Powers of this nature could be an appropriate solution where the relevant officer had reasonable grounds for believing that an individual's presence or behaviour had resulted in (or was likely to result in) a member of the public being harassed, intimidated, alarmed or distressed, and that the disposal was necessary to prevent such behaviour from recurring. It would go beyond the powers police currently have to disperse individuals, which currently can only be applied in areas that have already been designated as dispersal zones by the police and local authority, and can only be used to exclude an individual for 24 hours (although the dispersal area itself may be designated for six months).

We will consider further the case for additional preventative powers for front-line police to control anti-social individuals, including the legal framework that would be required.

Questions for consultation

- Do you believe that additional powers are required to strengthen the response of front-line police to prevent anti-social behaviour?
- Is it appropriate for the police to impose such conditions and, if so, what safeguards would be required?
- What would be an appropriate sanction for breaching such conditions?

2.2 Deferred Penalty Notice for Disorder

Penalty Notices for Disorder (PNDs) – financial penalties of £50 or £80 – can already be issued by the police for 25 different summary offences. By allowing the police officer to defer payment of the PND, we could provide practitioners with the opportunity to prevent future anti-social behaviour or disorder and provide the potential for the rapid resolution of community problems.

A Deferred PND would be an appropriate tool to use in circumstances in which an officer has established sufficient evidence to issue an immediate PND but the local community would obtain greater benefit from an offender adhering to the conditions of an ABC that prevents further anti-social behaviour.

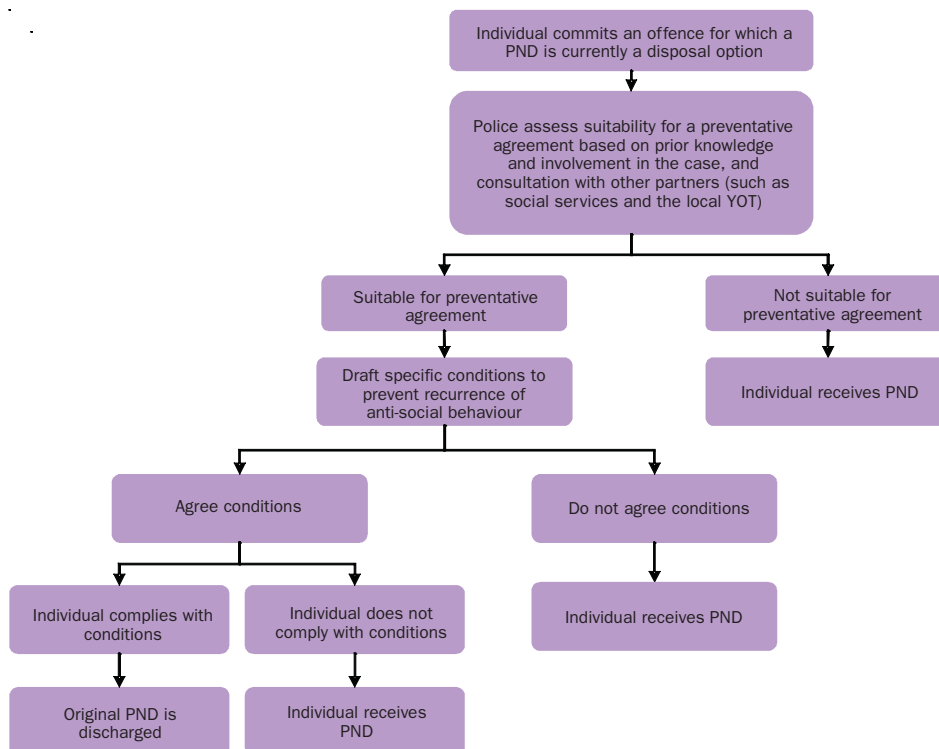
Where an offender commits an offence and it might be appropriate to issue a PND, the officer and an offender will agree a set of conditions that aim to nip the offending behaviour in the bud. This agreement will last for three to six months and payment of the PND for the original offence will be deferred for the period of the agreement. If the offender fulfils the agreement then the original offence can be discharged after the end of the relevant period with no payment required. Figure 1 represents this process.

If the agreement is not fulfilled, the PND could then be 'reactivated' for the original offence. As with all PNDs, the offender will then have 21 days in which

to decide whether to pay. However, an alternative option (which would have legislative implications) would be to strengthen the sanction for breach by proposing that, when a breach occurs and a PND is issued, then if the PND is not paid within 7 days the value is doubled, and if it is not paid after 14 days the value is trebled.

If the perpetrator is a child or young person, the police would have to draw the incident to the attention of the parent(s) or guardian and agree the ABC in their presence. The police officer would also have to inform local agencies concerned with prevention, including, as appropriate, the local YOT and targeted youth support services commissioned by local authorities. Practitioners in each area should agree a local protocol for this to take place. Where youths are aged between 10 and 15 years, agreement would be with the adult liable for payment of the PND in case of a breach.

Figure 1: Indicative model for issuing a Deferred PND



The prohibitions available for ABCs are wide-ranging and may include exclusion, non-association or curfew, to the extent necessary to prevent the offending behaviour. The ABC could include a requirement for some simple act of reparation, such as an apology to the victim or making good any physical damage done. The exact duration and use of conditions depend in practice on the nature of the offence and the proportionality of the conditions required. For prohibitions relating to exclusion, care would need to be taken not to include places of work, worship, school or essential services such as healthcare within the scope of the prohibitions.

The advantages of this scheme are its simplicity, its use of the existing PND framework and its cost-effectiveness (the scheme could be initiated with limited alterations/additions to existing PND forms). Limited additional training would be required and officers would possibly not need to be separately accredited. There would not be significant additional paperwork.

Questions for consultation

- Is the proposed length of the agreement (three to six months) appropriate?
- Is the safeguard of consent sufficient to ensure appropriate use of the power?
- How quickly could a decision whether or not to agree to comply with a Deferred PND be required?
- Is it preferable to defer the PND (based on the individual's compliance with the terms of the agreement), or issue the PND for the original offence and then subsequently discharge the PND once the individual has successfully complied with the agreement?
- Do you agree that the Deferred PND would be cost-effective?

2.3 Premises Closure Order

There are a number of existing powers in place to tackle a range of anti-social activity centred in and around a property. Specific closure powers are aimed at tackling properties where Class A drugs are supplied and used; where premises are causing a public noise nuisance; and where a public nuisance is being caused by noise coming from a licensed premises or where there is, or is likely to be, disorder in the vicinity of and related to a licensed premises.

Powers in action – crack house closure

Operation Maximus – undertaken by Sussex Police – targeted a property in multiple occupation which comprised 21 bedsits and was identified as being heavily involved in drug supply in Eastbourne. The property was associated with anti-social behaviour as well as drug-related crime and disorder and the police had received numerous complaints from the local community.

A three-month test-purchase operation, in addition to strong local community support, allowed the investigation to build a compelling picture against the premises and the key targets. The operation culminated in a three-day strike phase, involving the execution of 25 Misuse of Drugs Act warrants, 14 arrests for Class A drug supply and the property being made the subject of a crack house Closure Order.

Good partnership working meant the local Drug Action Team and housing department were involved in the planning stages of the operation and were on hand to provide the necessary support for tenants affected by the closure of the property. Positive local media coverage of the arrest phase and closure of the property reassured the community that action had been taken to tackle the nuisance and anti-social behaviour associated with the dealing of Class A drugs. Many local residents came out on to the streets to thank the police officers involved.

We know that crack house closures and licensing and disorder-related closures are working well and are welcomed by communities for bringing immediate relief to their neighbourhoods. Visible, accountable and speedy summary justice of this kind, with all the necessary court and judicial safeguards, shows that the needs of the law-abiding majority come first and is an example of a new balance between rights and due process.

However, it is clear that severe nuisance and anti-social behaviour centred in or around a property is not always related to the supply or use of Class A drugs or to licensed premises.

We are now proposing a new Premises Closure Order for England and Wales which builds on the existing crack house Closure Order by widening it to include other forms of anti-social behaviour. This will include: excessive noise and rowdy behaviour with frequent drunken parties; high numbers of people entering and leaving a premises at all times of the day or night; anti-social residents intimidating and threatening their neighbours; or criminals running illegal businesses from their properties.

This wider definition for the use of a Closure Order is currently applied in Scotland (as contained in the Anti-social Behaviour (Scotland) Act 2004) where two-thirds of their closures have tackled forms of anti-social behaviour other than Class A drugs.

We also know that anti-social behaviour is not confined to social housing. Community safety practitioners have already told us of problems around communal areas such as stairwells, disused changing rooms or telephone boxes.

We believe, therefore, that there is a need to tackle a wider range of anti-social behaviour centred in and around any kind of property or premises, and ensure that such interventions are tenure-neutral, applying equally to owner-occupiers and tenants.

This is a very powerful tool and should only be used as a last resort where other interventions have been used or considered and rejected for good reason and where implications, for example where there are children or vulnerable adults in the household, have been carefully considered.

A multi-agency approach involving police, the local authority – including adult and children's services as appropriate – health services, education, welfare and YOTs, must be taken to tackle the nuisance behaviour at the earliest opportunity using the full range of support and enforcement measures. We

would therefore expect to see the use of ASBOs and injunctions and offers of support before a closure is pursued, with the needs of all members of the household properly considered.

Where it is necessary to utilise a Closure Order, we will build robust guidelines for the consideration and operation of the closure process. The police and other agencies will be expected to show that consideration has been given to whether a closure is the most appropriate course of action. The needs of any vulnerable people in the household, including children and young people, will need to be considered. Their safety must not be compromised and a clear plan needs to be put in place to safeguard them and promote their welfare if the closure goes ahead. And a longer-term plan must also be put in place to deal with the underlying nuisance behaviour.

Effective consultation between multi-agency partners will be essential to the success of a Premises Closure Order, should one prove to be necessary. Agencies will need to work together, so the police will need to consult the local authority and other local agencies.

Clear and sensitive distinctions will need to be made for those who are ultimately targeted as part of the order. On the one hand, there will be a small, hard-core criminal element which needs to have their safe haven removed from use. But, we appreciate that on the other hand, there may be extremely vulnerable cases and the decision to pursue the closure must have careful and considered regard to the welfare of those caught up in the enforcement activity.

Existing crack house powers are currently being used alongside support measures and we envisage the same approach for the wider premises closure so that the order provides the opportunity for local agencies to co-ordinate and offer a level of support, which those subject to the closure may have previously refused. The closure should not therefore be used in isolation but rather as part of a more strategic and holistic response aimed at tackling the underlying causes of anti-social behaviour. It provides the catalyst to get people to engage with support.

This is the practical application of the Respect approach to challenge and support. It is essential that support provision is matched up to enforcement action if we are to put an end to serious nuisance behaviour rather than simply shifting it on and placing the burden elsewhere.

In terms of how the power will work, it will mirror the current crack house Closure Order which operates in two parts with the issuing of a Closure Notice that is then backed up by a Premises Closure Order from the court. This can be applied for as a stand-alone order.

Closure Notice

This would be authorised by an experienced police officer, not below the rank of superintendent, where:

- they have reasonable grounds for believing that at any time in the preceding three months a person has engaged in anti-social behaviour on the premises;
- the use of the premises is associated with the occurrence of relevant harm (defined as significant and persistent disorder or significant, persistent and serious nuisance to members of the public); and
- other interventions have been pursued.

The police and local authority must consult and consider views and must consider the impact of the possible closure on any vulnerable people (such as children) living in the property, before issuing a Premises Closure Notice.

The notice, when applied, would prohibit access to the premises by any person other than a person who habitually resides there or the owner of the premises. It indicates that a Closure Order is to be sought from the court.

The notice would allow the resident of the property to stay while they arrange alternative accommodation pending the court hearing. Anyone occupying the property should, as soon as possible, be informed of the availability of advice and information on homelessness and the prevention of homelessness

(which the local housing authority must ensure is available free of charge to everyone in the district) and of the availability of independent housing advice in the area.

Anyone not resident at the property would not be permitted to enter or remain in the premises, although owners may enter/remain in the property pending court proceedings. Breach of the notice would incur a sanction.

Closure Order

Police officers would then apply to the court for a closure order not later than 48 hours after issuing the notice. Officers would be required to demonstrate that persistent and serious disorder or serious nuisance is associated with the use of the premises and that the making of the order is necessary to prevent the occurrence of such relevant harm for the period of the order.

If granted, the order would allow for the property to be sealed, closed and removed from public use by

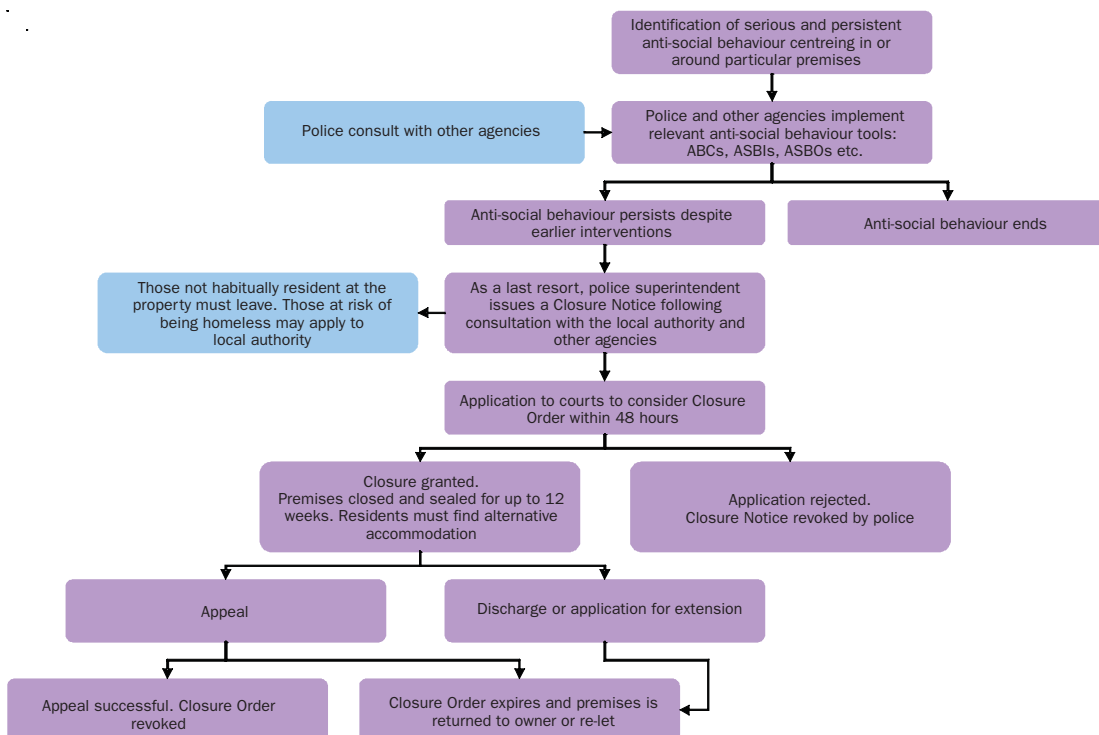
any person, even those with rights of residence or ownership (except where expressly allowed to do so by the police or court) for the period of the order. It would come in to force immediately after the court makes the order and be in place for 12 weeks. In exceptional circumstances, agencies would be able to apply to the court for a possible 12-week extension. Appeal procedures would apply to the issuing or the extension of the order and must be made within 21 days of the day when the order or decision appealed against was made.

Where some may have chosen to leave voluntarily after the issuing of the Closure Notice, the Premises Closure Order means that occupiers must leave the premises.

Following a risk assessment, the police would be able to use reasonable force to enter and seal a property if that proved to be necessary.

As with the crack house powers, the court will be able to consider and approve an order of costs

Figure 2: Model for pursuing a Premises Closure Order



against the owner for any expenses incurred in the enforcement of the closure. This may be appropriate for recovering the cost of boarding up and sealing a property. Costs should not be pursued from the owner if they have co-operated with local agencies in the lead up to and implementation of the Closure Order. Figure 2 summarises the key steps involved in pursuing a Premises Closure Order.

In order to maintain credibility and continue to offer protection to local residents, any breach of the premises closure measures must be backed up with powerful and effective sanctions. This is likely to be similar to the current sanctions for breach of crack house closures, i.e. a fine not exceeding level five or imprisonment not exceeding six months, or both.

As part of the multi-agency and long-term strategic approach to deal with the underlying anti-social behaviour (rather than simply the property), housing management teams should have been involved in any interventions from a very early stage. Sensible contingency planning should therefore be put in place to ensure that homelessness can be prevented for anyone who is vulnerable or has dependent children and would be affected by the Closure Order.

Local authorities have a duty to ensure that advice and information about homelessness and prevention of homelessness are available free of charge to everyone in their district. If someone applies to them for housing assistance, and the authority has reason to believe that person may be homeless or likely to become homeless within 28 days, the authority must make enquiries to satisfy themselves whether any duty is owed to them under the homelessness legislation. Where the authority is satisfied the applicant is eligible for assistance, unintentionally homeless and falls within a priority need group, the authority must ensure that suitable accommodation is available for them.

In cases where an applicant's homelessness is the result of a Closure Order, following nuisance behaviour and the refusal of offers of support and rehabilitation, the local authority may consider that the applicant has become homeless intentionally (because the

homelessness was the consequence of the person's deliberate behaviour). Where applicants are eligible for assistance and fall within a priority need group, but are intentionally homeless, the authority must ensure they are provided with advice and assistance to help them obtain accommodation for themselves and must ensure they have accommodation available for long enough to give applicants a reasonable opportunity to obtain accommodation.

The issuing of the Closure Order will not remove or alter rights of ownership for owner-occupiers or tenancy rights for those who rent from a private or social landlord. In accordance with those rights, a tenant will retain the right to return to the property following expiry of the Closure Order. They will also retain their obligations under the tenancy during the closure period (i.e. rent will continue to accrue during the closure period).

The Premises Closure Order is not an eviction tool, nor a fast track to eviction. It is about providing immediate respite to communities suffering from the misery caused by anti-social neighbours and providing a means with which to engage the perpetrator(s), tackle the underlying causes and put an end to their nuisance behaviour.

We believe that the wider definition for the implementation of the Closure Order will bring benefits to both the perpetrators and local communities. The closure sends a powerful message to local residents that anti-social behaviour is being tackled and dealt with by their local agencies.

But, importantly, it also provides an opportunity to reach those who have so far been hard to reach, bringing longer-lasting and sustainable benefit for the neighbours who have been suffering, for the agencies who have been dealing with them and for the perpetrator(s) themselves.

Questions for consultation

- Do you believe it would be useful to have this premises closure tool to deal with the broader issues of anti-social behaviour and disorder in your area?
- Do you agree that the premises closure tool should be a tool of last resort and part of a multi-agency approach to tackle both the immediate and longer-term effects of anti-social behaviour?
- Do you agree that the property should be closed and sealed for 12 weeks with the option of an application to court for an extension for a further 12 weeks in exceptional circumstances?
- We seek your views on any other operational aspect of the proposals, for example, whether this should solely be a police power.
- We will build robust safeguards to protect the needs of any children or vulnerable adults in the households, but should there be any other limits on the use of the power?

2.4 Summary

This chapter has set out a range of new measures that will enhance our ability to tackle problems that continue to degrade the quality of life in our communities. These measures will provide a catalyst for a multi-agency approach to tackle the underlying behaviour and to ensure that perpetrators accept offers of support designed to permanently change their behaviour. They will build on the measures we have already introduced to tackle anti-social behaviour.

Chapter 3: Strengthening existing tools and measures

Anti-social behaviour and disorder are significant problems that require swift, effective, proportionate and visible responses. Government's approach – as described in Chapter 1 and Annex D – is multi-faceted and seeks to prevent and deter anti-social behaviour from occurring in the first place, but where it does, we are determined that it should be tackled effectively, fairly and speedily.

Pre-court disposals constitute a vital component of the response to anti-social behaviour and disorder. This chapter sets out the steps that Government is taking to strengthen the use of pre-court disposals and to promote a credible framework of measures that empowers practitioners and communities, while preventing and deterring offending.

3.1 Remove conflicting police targets

Police are incentivised in a number of ways to improve their performance, including through the use of targets.

A number of Penalty Notices for Disorder (PNDs) issued by the police currently count towards the total number of 'offences brought to justice' (OBTJ), such as Section 5 public order, theft and criminal damage offences. However, these same offences also count towards recorded crime, and in the case of Section 5 public order offences, they count towards violent crime.

Section 5 public order offences – for which PNDs are a disposal option – capture offences that do not involve violence or any threat of violence (for example, urinating in a public place), but are nevertheless categorised as a 'violent crime'. This suggests that officers may be disincentivised to issue a PND in respect of a public order offence if, in doing so, it will lead to an apparent but misleading increase in violent crime.

The review of crime statistics⁹ has also highlighted this issue. In the interim such offences dealt with by PNDs have been removed from the performance assessment of police forces.¹⁰ The result should be an increase in the amount of anti-social behaviour that is challenged and responded to, and hence could lead to a corresponding increase in measures of police performance in bringing offences to justice.

3.2 Recognise on-street reparation in police performance measures

Informal and immediate on-street reparation is commonly undertaken by a number of practitioners as an effective means of resolving disputes and disorder in an appropriate and flexible manner. Government has previously highlighted the case for offenders who have committed anti-social behaviour and disorder to make reparations for the harms they have caused. *Delivering Simple, Speedy, Summary Justice*¹¹ noted that Government was working to develop effective reparative interventions for first misdemeanours by young people where a formal criminal justice response that forms part of an offender's criminal record and is declarable to employers would be disproportionate.

However, such informal responses do not count towards police targets, despite the 'offence' being resolved in a swift and effective manner, with a high degree of victim satisfaction.

If the outcome from the use of these disposal options was formally recognised in police performance measures, police would receive due recognition for responding to anti-social and nuisance behaviour through dispute resolution based on restorative justice principles and ensuring victim satisfaction. This formally-recognised disposal option could potentially be used for all minor offences, including those currently covered by the PND and youth PND schemes. For offences covered by the PND

9 The Statistics Commission published its findings on crime statistics on 4 September 2006 and the Home Secretary's review should be published later this year.

10 Nationally, the 'violent crime rate' fell by 1.3 per cent (2004/05–2005/06) once Section 5 offences were excluded (Police Performance Assessments 2005/06).

11 Home Office, Department for Constitutional Affairs and the Attorney General's Office (2006) *Delivering Simple, Speedy, Summary Justice*, accessible at: www.dca.gov.uk/publications/reports_reviews/delivery-simple-speedy.pdf.

scheme, immediate reparation would be used where appropriate reparation is possible and practical, or else a Fixed Penalty would be applied. This type of action could be used for people of any age, although offences of this kind are disproportionately committed by the young.

When someone is caught committing a minor offence, the officer would give the offender an opportunity to repair/redress the direct harm they caused, instead of giving them an informal warning on the street, a formal reprimand or a PND. This action could include apologising to the victim and/or cleaning up the mess they created. If the offender is a juvenile, they might also be taken to their place of residence and an appropriate adult (e.g. parent/guardian) spoken to about the offending behaviour and referred to local agencies concerned with prevention, including, as appropriate, the local Youth Offending Team (YOT) and targeted youth support services commissioned by local authorities.

For these offences, the use of a restorative engagement with the offender should not be more onerous to dispense than the alternative application of a PND. However, there would need to be appropriate safeguards in place, such as ensuring these disposals are recognised appropriately in police performance measures (for example, the count of OBTJ, for which police are currently incentivised, should only recognise immediate on-street reparation for **recorded** crimes, while indicators around neighbourhood policing/community safety should reflect on-street reparation for **non-recorded** crimes). Further safeguards will include obtaining the victim's agreement to the restorative justice approach (for which current Home Office guidance states is a requirement for a restorative justice process) and, where possible, indication of their satisfaction with the outcome. Otherwise, this disposal option would have the same requirements for use as PNDs.

Reporting and recording of offences while using this disposal option would feed into the officer's and police force's performance targets. As a result of this recording mechanism, repeat offenders could be punished with alternative (and potentially more onerous) sanctions, for example a PND, Conditional Caution or court.

Government recognises the benefits of utilising restorative justice principles as an informal dispute resolution tool in appropriate circumstances, and we will look to take steps to formally recognise such disposals via police performance measures.

3.3 Stop issuing Penalty Notices to chaotic individuals

Analysis has been undertaken to test payment levels of Penalty Notices against a number of offender characteristics, including age and gender, and whether the typical offender for this type of offence is 'highly rational', 'mixed' or 'chaotic'.

Analysis showed that the rationality of an offender¹² is a clear driver of payment of a Penalty Notice. Rational individuals, that is, those who have the ability to take responsibility for themselves, are more likely to comply with Penalty Notices, partly because of income or lifestyle factors but also because they are more aware that a Penalty Notice will automatically increase if it is unpaid. They take this into account when making a rational decision regarding compliance. Conversely, chaotic offenders are less likely to comply with Penalty Notices and hence alternatives to a Penalty Notice – such as a requirement to get assessed for substance misuse help – are likely to be more appropriate.

The police operational guidance on PNDs, issued under Section 6 of the Criminal Justice and Police Act 2001, includes guidelines on the issue of Penalty Notices for offences committed by 'chaotic'

12 The rationality of an offender was determined by looking at a typical offender profile for all offences – for example, someone selling alcohol to a minor is employed and has responsibilities so is likely to be rational (for example, able to take responsibility for their own actions) whereas someone committing retail theft is 85 per cent likely to be a drug user and to live a 'chaotic' lifestyle. Sources: 2005/06 PND data (Home Office); 2004/05 FPN data (Department for Environment, Food and Rural Affairs); Prime Minister's Strategy Unit analysis.

individuals. Specifically, in relation to those with a substance misuse problem, the advice states:

Officers should consider whether a suspect might have a substance addiction problem. In such circumstances a penalty notice may not be an appropriate response and another form of disposal should be considered and where possible, a referral made to an appropriate local scheme. For example, a drug treatment scheme.¹³

One option would be to use a Conditional Caution – for example, as part of the agreed response, drug-misusing offenders could agree to attendance at a drug rehabilitation scheme.

In addition, Government will review its guidance to ensure that these messages are clear and widely known among practitioners with responsibility for responding to ‘chaotic’ individuals and/or with the power to issue Penalty Notices.

3.4 Increase financial penalties

The Respect Action Plan¹⁴ detailed some of the benefits of using PNDs as a swift response to anti-social behaviour, particularly in town centres. It also set out Government’s intention to increase the penalty fine for a range of serious PND offences from £80 to £100, thereby sending a strong signal that the boundaries and consequences of unacceptable behaviour have shifted.

We will proceed with the commitment set out in the Respect Action Plan to increase the financial penalty to £100 for all higher-tier PND offences.

In addition, we intend to move two of the current list of lower-tier PND offences¹⁵ – throwing stones at trains and allowing consumption of alcohol on a licensed premises by a person under the age of 18 –

to the higher tier, reflecting a more appropriate response to what are regarded as more serious and visible public order offences.

3.5 Enforce byelaws through Penalty Notices

There are a wide number of byelaw offences across all Government departments which are often not enforced by the responsible local authority or other agencies. On those occasions when offences against byelaws are actually prosecuted, magistrates’ courts usually deal with them through fines, adding to the long delays and costs to the court system.

Government’s recent Local Government White Paper¹⁶ proposes to make it possible for councils to enforce some byelaws through Fixed Penalty Notices (FPNs) instead of imposing fines through magistrates’ courts. This will increase the effectiveness of byelaws as a means of enforcing standards of behaviour in public.

3.6 Deal with breaches of court orders summarily

At present, offenders who fail without reasonable excuse to comply with their Community Order become subject to breach action. The offender manager, or in law the ‘responsible officer’, must either issue a warning or start court proceedings for breach. No more than one warning may be issued per year: on the second unacceptable failure to comply, the offender must be returned to court. ‘Responsible officers’ at present may be officers of local probation boards, electronic monitoring contractors and officers in charge of attendance centres.

Once before the court, the case for breach must be proved to the criminal standard. If the offender denies the breach, adjournments for case preparation and

13 Home Office (2005) *Criminal Justice and Police Act 2001 (s.1–11), Penalty Notices for Disorder: Police Operational Guidance*, accessible at: http://police.homeoffice.gov.uk/news-and-publications/publication/operational-policing/pnd_guidance.pdf.

14 Accessible at: www.respect.gov.uk/content.aspx?id=7526.

15 Annex F sets out the range of offences for which a PND may be disposed.

16 Department for Communities and Local Government (2006) *Strong and prosperous communities: the Local Government White Paper*, accessible at: www.communities.gov.uk/index.asp?id=1503999.

pre-trial review are often required. If proved, the court must take one of a specified list of actions. It may make the requirements of the order more onerous or it may revoke the order and resentence for the original offence. Where there is wilful and persistent failure to comply, the court may revoke and resentence to imprisonment even where the original offence was not imprisonable or, where it did carry custody, the court may imprison the offender even if the offence was not serious enough to warrant such a sentence. Under the Criminal Justice Act 2003 the court may not, as it could under the previous legislation, do nothing or simply impose a fine.

Government believes that it may be possible for offender managers to deal with some instances of breach by increasing the offender's punishment without having to go back to court. This would save court time and should have the potential to speed up the breach process. The powers to vary the sentence would be within an envelope set by the sentencing court. The court imposing a Community Order would set out the maximum required for the offender to discharge the requirements imposed in the order, as well as a corresponding minimum. In between those limits it would be open to the offender manager to adjust the sentence according to the behaviour of the offender.

Government is currently consulting on such a scheme. Responses are invited through Government's sentencing consultation document.¹⁷

3.7 Ensure that sanctions are enforced

The following measures look to deter anti-social behaviour and disorder by ensuring that sanctions imposed upon offenders are followed up and enforced. Government believes these measures are vital in ensuring a credible and effective framework of responses to perpetrators of anti-social behaviour and disorder who do not comply with the sanctions imposed upon them. The aim is also to strengthen

the deterrent to those who look to cause harm, alarm and distress to our neighbourhoods and communities.

Reinforcing parental responsibility for their child's behaviour

Many local authorities are discouraged from issuing Penalty Notices to juveniles because of the difficulties faced in enforcing payment of the fine, should the juvenile not pay. Shifting the liability of payment to the parent would not only give the local authority more leverage in pursuing the fine, and would be likely to increase payment compliance levels, it would also send out a clear message that we expect parents to be responsible for their child's behaviour. Where appropriate, this would need to be linked to support for parents to ensure that any parenting issues are addressed, including where necessary through the use of Parenting Orders and contracts.

Penalty Notices for Disorder (PNDs)

The Respect Action Plan indicated that Government was piloting PNDs for under-16s, for which parents are liable for payment. This was identified as an opportunity to intervene early with a young person and their family to nip problems in the bud. The Respect Action Plan also indicated that Government would consider a national roll-out of this scheme.

The pilots for issuing PNDs to 10–15-year-olds are currently being evaluated. In line with assurances given in Parliament, no national roll-out will take place before that evaluation has been published and considered.

Fixed Penalty Notices (FPNs)

FPNs generally deal with environmental offences, such as litter, graffiti and dog fouling, and can be issued by local authority officers and, in a limited capacity, by police Community Support Officers and other accredited persons. FPNs can be issued to anyone over 10 years old and are penalties of £50 for most offences, but £100 for noise-related offences.

¹⁷ Home Office (2006) *Making Sentencing Clearer: A consultation and report of a review by the Home Secretary, Lord Chancellor and Attorney General*, accessible at: www.noms.homeoffice.gov.uk/news-publications-events/publications/consultations/Making_sentencing_clearer_consul?view=Binary.

To enhance community confidence in FPNs, they must be properly enforced and payment of the penalty must be obtained. The problems currently associated with enforcing payment of juvenile FPNs could be addressed by making parents responsible for paying FPNs issued to their children, particularly in the case of 10–15-year-olds, just as the youth PND pilot scheme allows. This would require primary legislation to change the arrangements for processing FPNs, so that unpaid tickets resulted in registration and enforcement, rather than prosecution. Making parents liable would underline the expectation that parents take responsibility for their child's behaviour.

Government will look at the options to achieve this, recognising that the number of different legislative authorities responsible for FPNs means that this could take some time to effect.

Improve the administration and co-ordination of Penalty Notices

Improving the manner in which Penalty Notices are administered and co-ordinated is a vital element in enforcement, which, in turn, is essential in providing a strong and credible deterrent for would-be offenders.

Government is taking a number of steps to strengthen the co-ordination and administration of summary fines. For instance, a new computer solution (PentiP) is being developed to process all FPNs and PNDs. This will provide, among other things, a national database of Penalty Notice recipients, to allow a much clearer assessment of how the schemes operate, and will allow repeat offenders to be identified. Government's vision is the efficient operation of all current and future Penalty Notice enforcement schemes seamlessly across the UK using the PentiP solution, with remote enforcement, graduated penalties, and repeat offender and other surcharges fully operational, such that the increases in system scope and efficiency result in a greater proportion of offenders being identified and penalised.

In addition, a recent Government review of the PND scheme looked to: identify best practice in the use of PNDs; develop consistency, better management and

control of the PND scheme; build confidence and reassurance in the use of PNDs as a disposal; and maximise the opportunities for increasing the numbers of OBTJ. A number of key actions are being taken forward to address the review's recommendations, which will help to achieve these aims.

Finally, Government will continue to consider ways to ensure that there is sufficient co-ordination across Government departments regarding proposals to create new offences, the maximum sentences for those offences, and any new fixed penalty schemes or extensions to existing schemes, plus proposed penalty amounts. This is necessary to ensure a coherent and co-ordinated approach to the use of the criminal justice system across Government – one which promotes best practice among departments.

Retain geographical variation in FPN levels

While PND rates are set centrally, FPN levels vary from council to council (although many are similar in practice), and it could be considered that standardising the level of FPNs would be more rational.

However, evidence on payment rates and the perceived confusion with FPNs set at different levels does not point strongly one way or another. For this reason, and the fact that local variation in FPN levels can be helpful in tailoring fines appropriately according to local incomes, Government intends to continue to allow local variation in the levels of FPNs.

Explore the geographical variation in Penalty Notice payment rates

It is estimated that if all local authorities/police force areas had as much success in collecting payment as the best performers, it could bring in additional revenue of around £8 million per annum – comprising additional fine revenues, reduced court costs for enforcing FPN payments and reduced collection costs – based on current fine issuance levels.

Government believes that further work needs to be undertaken to analyse the large geographical variation in administration methods and fine payment rates.

3.8 Summary

Government is taking a number of steps to further strengthen and enhance its framework of pre-court disposals for tackling anti-social behaviour and disorder. These include:

- improving the administration and payment rates of Penalty Notices;
- increasing the financial penalties associated with specific anti-social behaviour and disorder;
- detecting and punishing more byelaw offences through FPNs;
- removing conflicting police targets that hinder the appropriate issuance of Penalty Notices;
- dealing with some breaches of court orders summarily;
- underlining parental responsibility for children's behaviour by making parents liable for their children's Penalty Notices; and
- introducing a new punitive element (allowing for financial penalties and unpaid work to be attached) to the Conditional Caution scheme.

Such steps are necessary to promote a credible framework of measures that empowers practitioners and communities to respond to anti-social behaviour and disorder, while preventing and deterring individuals from engaging in such behaviour, which can impose significant harms on society.

Annex A: About this consultation paper

The information you send us may be passed to colleagues within the Home Office, the Government or related agencies.

Furthermore, information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes. These are primarily the Freedom of Information Act 2000, the Data Protection Act 1998 and the Environmental Information Regulations 2004.

If you want the information that you provide to be treated as confidential, please be aware that, under the Freedom of Information Act, there is a statutory Code of Practice with which public authorities must comply and which deals, among other things, with obligations of confidence. In view of this, it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information, we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

Please ensure that your response is marked clearly, if you wish your response and name to be kept confidential.

Confidential responses will be included in any statistical summary of numbers of comments received and views expressed.

The Department will process your personal data in accordance with the Data Protection Act – in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

In line with the consultation criteria set out at Annex B, a summary of the responses received will be published within three months of the closing date for this consultation, and will be made available on our website: www.homeoffice.gov.uk.

Please send your comments – supported by evidence wherever possible – by 6 February 2007 to:

Michael Carson
Anti-Social Behaviour Unit
Home Office
2 Marsham Street
London
SW1P 4DF

E-mail: TacklingASB@homeoffice.gsi.gov.uk

Further copies of this consultation paper can be obtained from this address or by telephoning the Anti-Social Behaviour Unit on 020 7035 4671.

It is also available online at:
www.homeoffice.gov.uk/documents/cons-asb-powers

If you require this document in another format, e.g. large print, Braille or on audiotape, please contact us at the above address.

Annex B:

Consultation criteria

This consultation follows the Cabinet Office Code of Practice on Consultation – the criteria for which are set below.

B.1 The six consultation criteria

1. Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.
2. Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.
3. Ensure that your consultation is clear, concise and widely accessible.
4. Give feedback regarding the responses received and how the consultation process influenced the policy.
5. Monitor your department's effectiveness at consultation, including through the use of a designated consultation co-ordinator.
6. Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.

The full code of practice is available at:
www.cabinet-office.gov.uk/regulation/Consultation.

B.2 Consultation co-ordinator

If you have any complaints or comments specifically about the consultation process only, you should contact the Home Office consultation co-ordinator, Bruce Bebbington, by e-mail at:
bruce.bebbington@homeoffice.gsi.gov.uk.

Alternatively, you may wish to write to:

Bruce Bebbington
Consultation Co-ordinator
Performance and Delivery Unit
Home Office
3rd Floor Seacole
2 Marsham Street
London
SW1P 4DF

Partial Regulatory Impact Assessments

C.1 New front-line preventative powers and Deferred Penalty Notice for Disorder

Objective

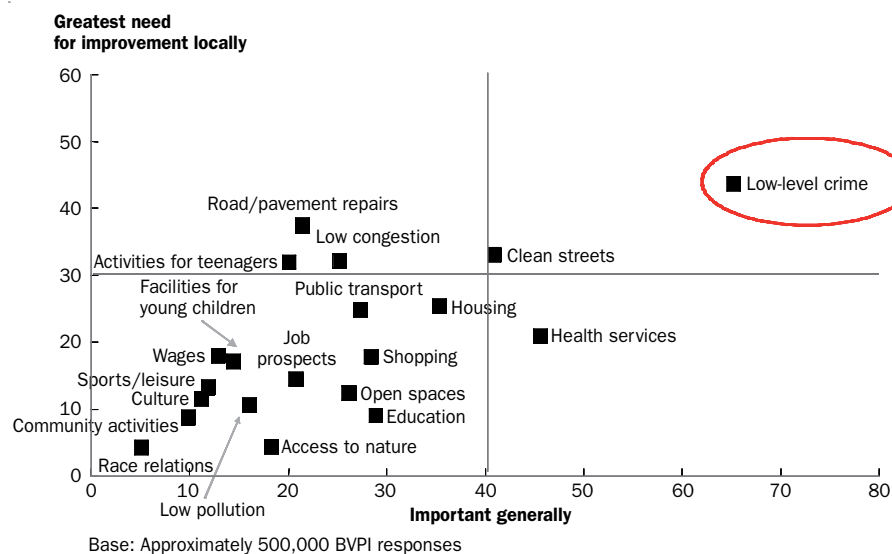
This proposal has the dual policy objectives of preventing instances of anti-social behaviour and disorder, and increasing public confidence in the criminal justice system's (CJS's) ability to deal effectively with these incidents. Government believes that the introduction of new front-line preventative powers and Deferred Penalty Notices for Disorder (PNDs) will prevent the escalation of these behaviours, and improve public satisfaction by improving the living conditions of communities previously subject to high levels of anti-social behaviour and disorder.

The scale and nature of the problem

Anti-social behaviour and disorder remain significant problems for society, and have a variety of associated harms. Comprehensive evidence on the scale of the impact is not available, but its significance has been illustrated by a range of studies.

- Seventy-five per cent of adults see anti-social behaviour as a problem and 17 per cent of adults – about 7 million people – see it as a big problem. Low-level crime is not only an important issue for most people, but it is also considered to be the local issue most in need of improvement, as shown in Figure 3 below.
- Experiences of problems with anti-social behaviour are also strongly related to fear of crime and the wider perceptions of the local community. Of those perceiving high levels of anti-social behaviour in their area, 25 per cent have a high level of worry about violent crime and 28 per cent are very worried about burglary, while only 9 per cent of those who do not perceive high levels of anti-social behaviour worry about violent crime or burglary. Multivariate modelling indicates that perceived levels of anti-social behaviour are the second strongest predictor of worry about violent crime after gender, and the strongest single predictor of worry about burglary.¹⁸
- A study in September 2003 conducted a day count of anti-social behaviour incidents in the UK.

Figure 3: Public perceptions of the importance of public services and their need for improvement locally (percentage of respondents)¹⁹



18 Wood, M. (2004) *Perceptions and experience of antisocial behaviour: findings from the 2003/2004 British Crime Survey*, Home Office Online Report 49/04.

19 MORI (2005) *What place for ASBOs in an era of Respect?*

In total, 66,107 reports of anti-social behaviour were recorded by agencies, which equates to an estimated annual cost to them of £3.4 billion a year. This estimate does not include the 'social' costs of anti-social behaviour or disorder suffered by victims and communities. Figure 4 provides detailed information on the cost to agencies per behaviour on a daily and annual basis.

Additional individual and community costs

- Councils and other agencies are less likely to provide amenities in high-crime areas because of maintenance costs and repairs. In addition, there tend to be fewer shops in high-crime areas, often due to higher insurance and security costs.²⁰

- Anti-social behaviour has significant consequences for organisations. The effects include small shops going out of business because they are unable to bear the costs of attacks on their staff and property. There is a disproportionate effect on Asian business owners, who suffer racial abuse and violence.²¹
- Crime and the fear of crime, particularly perceived or actual threats to personal safety, can have a negative impact on the number of people circulating around the neighbourhood. This may limit the amount of passing trade that a store might otherwise capture.
- Poor-quality environments caused by vandalism or graffiti also inhibit the vibrancy of commercial areas and can deter local people from using local shops as community-gathering places.²²

Figure 4: Estimated costs of anti-social behaviour and disorder

Behaviour	Daily reports	Estimated cost to agencies per day (000s)	Estimated cost to agencies per year (millions)
Litter/rubbish	10,686	£1,866	£466
Criminal damage/vandalism	7,855	£2,667	£667
Vehicle-related nuisance	7,782	£1,361	£340
Nuisance behaviour	7,660	£1,420	£355
Intimidation/harassment	5,415	£1,983	£496
Noise	5,374	£994	£249
Rowdy behaviour	5,339	£995	£249
Abandoned vehicles	4,994	£360	£90
Street drinking and begging	3,239	£504	£126
Drug/substance misuse and drug dealing	2,920	£527	£132
Animal-related problems	2,546	£458	£114
Hoax calls	1,286	£198	£49
Prostitution, kerb crawling, sexual acts	1,011	£167	£42
Total reports	66,107	£13,500	£3,375

20 Brand, S. and Price, R. (2000) *The Economic and Social Costs of Crime*, Home Office Research Study 217, London: Home Office.

21 Social Exclusion Unit (2000) *National Strategy for Neighbourhood Renewal – Report of Policy Action Team 8: Antisocial Behaviour*, accessible at: www.socialexclusionunit.gov.uk/publications/pat/pat8/index.htm.

22 Social Exclusion Unit (2000) *National Strategy for Neighbourhood Renewal – Report of Policy Action Team 13: Shops*, accessible at: www.doh.gov.uk.

Consultation

No formal public consultation has been carried out on additional front-line preventative powers or Deferred PND's to date; this Regulatory Impact Assessment accompanies a public consultation document which seeks view on these proposals. The Home Office has informally consulted with the police and other Government departments, and the policy has been developed to reflect their views.

Policy options

Government has introduced a range of powers to address the problem of anti-social behaviour and disorder. The 'do nothing' option in this context is therefore for practitioners to continue to use the existing range of tools. The current powers, which include an element of prevention, are set out below. The 'do nothing' option identifies a gap in the existing suite of powers; there is no power to tackle offences for which existing measures (such as Anti-Social Behaviour Orders (ASBOs)) are inappropriate in some circumstances. The alternative options – additional front-line preventative powers and Deferred PND's – seek to fill this gap by providing the police with additional preventative summary powers.

Option 1: Do nothing

The 'do nothing' option involves the police continuing to combat anti-social behaviour and disorder using their existing suite of powers. The most relevant of these are ASBOs, PND's, Acceptable Behaviour Contracts (ABCs) and dispersal areas.

ACCEPTABLE BEHAVIOUR CONTRACTS

ABCs are voluntary written agreements between anti-social behaviour offenders and their local authority, Youth Inclusion Support Panel, landlord or the police. They are interventions designed to engage offending individuals in recognising their behaviour and its negative effects on others, in order to prevent it in the future.

ABCs are usually used for young people but can also be used for adults. They consist of a list of anti-social acts that the offender agrees not to continue to do, and outline the consequences if the contract is

breached. Contracts usually last for six months but can be renewed if both parties agree. ABCs are voluntary contracts and are not legally binding, but can be cited in court as evidence in ASBO applications or in eviction or possession proceedings.

ABCs have proved highly effective in a number of cases – most usually where the offender more readily recognises the impact of their behaviour on others, and has an appreciation of the likely consequences of continuing to behave anti-socially. However, they are not effective in cases where the individual refuses to engage, and there are no formal consequences for breach, save escalation to other measures.

ANTI-SOCIAL BEHAVIOUR ORDERS

ASBOs were introduced in the Crime and Disorder Act 1998, and were subsequently amended and refined in the Police Reform Act 2002 and the Anti-Social Behaviour Act 2003.

ASBOs are:

- made by a civil court, either on conviction or as a standalone application;
- designed to prevent anti-social behaviour by named individuals by setting a series of prohibitions on their behaviour related to the risks identified by the courts;
- applied for by the police and partner agencies, within the context of the Crime and Disorder Reduction Partnerships' overall strategy for combating anti-social behaviour;
- imposed for a minimum of two years, although individual prohibitions can be varied within that time; and
- possibly preceded by an interim order if the case is urgent, which can be applied for without notice to the defendant if there is a strong risk of witness intimidation.

Section 30 of the Anti-Social Behaviour Act 2003 contains police powers to disperse groups of two or more people and to return to their place of residence young people under 16 who are unsupervised in public places after 9pm. The key points in relation to Section 30 are as follows.

- An order is imposed on the written authority of a police superintendent.
- There must be evidence of significant and persistent anti-social behaviour.
- The order cannot exceed six months.
- The order specifies an area, not an individual.
- The order must have the consent of the local authority (Section 31).
- There are publicity requirements before a restriction can be put in place (Section 31).

ASBOs and Section 30 orders are powerful pieces of legislation, but can be an overly complex response to specific incidents of anti-social behaviour. They cannot be used immediately by officers to prevent anti-social behaviour recurring, which restricts the officers' ability to adopt a problem-solving approach to anti-social behaviour.

There are other tools and powers available to deal with anti-social behaviour and disorder. These can be non-legislative and formal – such as a warning letter or Acceptable Behaviour Contract – or non-legislative and informal – such as an oral warning given on the spot. The offence of causing harassment, alarm or distress carries a level three fine under the Public Order Act 1986 (Section 5). A comprehensive list of tools and powers can be found on the TOGETHER website: www.together.gov.uk.

Option 2: Empower police with the ability to issue Deferred PNDs

DEFINITION

A Deferred PND would be an appropriate tool to use in circumstances where an officer has established sufficient evidence to issue an immediate PND but in which the local community would obtain greater benefit from an offender adhering to the conditions of an ABC that prevents further anti-social behaviour.

Where an offender commits an offence and it might be appropriate to issue a PND, the officer and an offender will agree a set of conditions that aim to nip the offending behaviour in the bud. This agreement will last for three to six months and payment of the PND for the original offence will be deferred for the period of the agreement. If the offender fulfils the

agreement, then the original offence can be discharged after the end of the relevant period with no payment required. Figure 5 represents this process.

If the agreement is not fulfilled, the PND could then be 'reactivated' for the original offence. As with all PNDs, the offender will then have 21 days in which to decide whether to pay. However, an alternative option (which would have legislative implications) would be to strengthen the sanction for breach by proposing that, when a breach occurs and a PND is issued, then if the PND is not paid within seven days the value is doubled, and if it is not paid after 14 days the value is trebled.

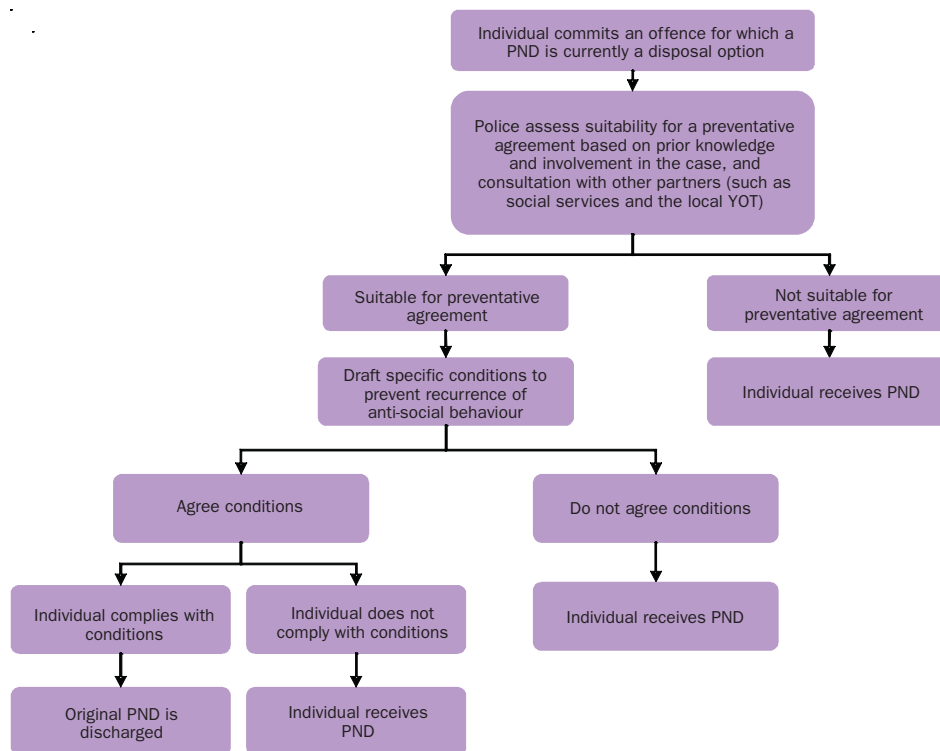
If the perpetrator is a child or young person, the police would have to draw the incident to the attention of the parent(s) or guardian and agree the ABC in their presence. The police officer would also have to inform local agencies concerned with prevention, including, as appropriate, the local Youth Offending Team (YOT) and targeted youth support services commissioned by local authorities. Practitioners in each area should agree a local protocol for this to take place. Where youths are aged between 10 and 15 years, agreement would be with the adult liable for payment of the PND in case of a breach.

The prohibitions available for ABCs are wide-ranging and may include exclusion, non-association or curfew, to the extent necessary to prevent the offending behaviour. The ABC could include a requirement for some simple act of reparation, such as an apology to the victim or making good any physical damage done. The exact duration and use of conditions depend in practice on the nature of the offence and the proportionality of the conditions required. As with other preventative measures, care would need to be taken not to include places of work or worship, schools or essential services such as healthcare facilities within the scope of the prohibitions.

SECTORS AND GROUPS AFFECTED

This proposal is not aimed at any specific sector or group. It is intended to be used against those engaging in anti-social behaviour and disorder.

Figure 5: Possible model for issuing a Deferred PND



It seeks to improve the quality of life of all those living in communities that face problems of this nature.

COSTS

Costs will be incurred by the police and wider CJS through the introduction and the use of these powers.

Training

Minor costs will be incurred by publicising these new powers to practitioners and developing guidance for their use. Some additional training might be required. Informal consultation with practitioners suggests that, as relevant partners already receive training in issuing PNDs and in constructing ABCs, information on Deferred PNDs could be easily cascaded through relevant training notices systems.

Use of powers

Issuing a Deferred PND will take up police time for administration and processing, but this is currently difficult to estimate with precision. The issuing of

on-the-spot PNDs might act as a useful comparator. The full cost of a PND, including compliance, enforcement and appeal costs, is estimated to be £91 per PND issued. This includes an estimated 1.1 hours of police time (using the time to issue an on-the-spot PND for comparison). At a cost of £26.69 per hour, this suggests a cost in terms of police time of £29.40 per Deferred PND issued. From consultation with practitioners, we expect these costs to be offset by time savings resulting from fewer future instances of anti-social behaviour and disorder.

However, one of the strengths of the Deferred PND approach is that it builds on existing activities – namely the administration and issuing of ABCs. Attaching a Deferred PND would be a relatively minor change to this process. We do not anticipate that officers will need to undertake much additional activity, and therefore the resource implications will not be significant.

Downstream costs to the CJS

The proposal provides offenders found to be committing anti-social behaviour with an opportunity to change their behaviour through the use of an ABC, instead of receiving a PND immediately. Those who breach the conditions as laid out in the ABC are issued with a traditional PND for the initial offence. Consequently, downstream costs to the CJS (in terms of dealing with breaches of the traditional PNDs) will be no different to what they are now. It is likely, however, that there will be an actual reduction in downstream CJS costs.

However, there is a possibility that there may be some net widening, and new offenders may be brought into the system, with consequent additional downstream costs to the CJS. We will monitor the use of the power to establish whether this takes place in practice.

BENEFITS

The primary aim of this new power is to prevent anti-social behaviour and disorder from occurring.

There are clear costs associated with these activities, borne both by the community (in having their lives affected by anti-social behaviour) and by the authorities (in responding to it). Attaching a Deferred PND to an ABC would improve the effectiveness of the tool in some circumstances, leading to a greater impact on anti-social behaviour.

Other non-quantifiable benefits include the following.

- There will be greater public confidence in the police's ability and willingness to deal effectively with anti-social behaviour and disorder.
- The scheme is likely to be simple and cost-effective to implement (it uses and combines existing PND and ABC frameworks).
- Limited additional training would be required and officers will probably not need to be separately accredited.
- There would not be significant additional paperwork.

- This power will enable police officers to respond immediately to prevent anti-social behaviour and disorder and to prevent escalation and recurrence.
- The use of Deferred PNDs will facilitate formal record keeping, promoting better information sharing between officers and potentially allowing this preventative activity to be incorporated within police performance measures.
- A Deferred PND will be less costly to impose than alternatives such as ASBOs.

SMALL BUSINESS IMPACT TEST

This policy will not impact on small businesses.

COMPETITION ASSESSMENT

This policy does not impact upon businesses and will not impact upon competition.

IMPLEMENTATION

This power will be introduced through secondary legislation and will apply to England and Wales. Guidance for its use will need to be provided at national level, but it will be the responsibility of local decision makers to decide the extent of use.

Potential further option: new front-line preventative powers

Some practitioners have suggested the need for additional powers that would provide front-line police with an immediate opportunity to prevent future disorder and bring about a speedy resolution of specific local problems. Such powers – for example, to require an individual to keep away from a particular area for a certain period of time – would be at the discretion of a police officer, and could potentially have a strong deterrent effect on others.

Powers of this nature could be an appropriate solution where the relevant officer had reasonable grounds for believing that an individual's presence or behaviour had resulted in (or was likely to result in) a member of the public being harassed, intimidated, alarmed or distressed, and that the disposal was necessary to prevent such behaviour from recurring. It would go beyond the powers police currently have to disperse individuals, which currently can only be applied in areas that have already been designated as

dispersal zones by the police and local authority, and can only be used to exclude an individual for 24 hours (although the dispersal area itself may be designated for six months).

We will consider further the case for additional preventative powers for front-line police to control anti-social individuals including the legal framework which would be required.

C.2 Premises Closure Order

The proposal

The introduction of a new Premises Closure Order in England and Wales to close and seal, for a set period, a property at the centre of serious and persistent anti-social behaviour, regardless of tenure.

Purpose and intended effect

Objective

This new order would provide agencies with a tool with which to tackle properties at the centre of serious and persistent anti-social behaviour. It provides an opportunity to act swiftly and decisively to control nuisance behaviour and offer some respite to suffering neighbours. It also provides an opportunity to engage the perpetrator(s) in support and rehabilitation that they have refused up until that point.

Background

Anti-social behaviour is the most visible sign of disrespect and is a major social justice issue. Almost one in three people living on a low income, in social housing or inner city estates perceive their area as suffering from high levels of anti-social behaviour. In contrast, one in 14 people use this description in wealthier areas.²³

Since the launch of the anti-social behaviour strategy in 2003, we have had considerable success and have encouraged agencies to remove barriers and take

action to tackle just this. The perception of anti-social behaviour has fallen and is now stable at 17 per cent.²⁴

But we know that people are still concerned that the values the majority hold dear are not shared by a selfish minority.

That is why the Respect drive is so important and it is why we published the Respect Action Plan²⁵ in January 2006 to outline how we intend to build on the success we have had by going broader, deeper and further to tackle its causes.

As a part of this challenge and support strategy, we are now seeking your views on a new Premises Closure Order to bring relief to those suffering at the hands of anti-social nuisance neighbours through the closure of any premises, regardless of tenure, which is causing significant, persistent and serious harm to local communities.

Rationale for government intervention

Government has already introduced a number of positive interventions to tackle the problems associated with anti-social behaviour. Specific closure powers are aimed at tackling properties where Class A drugs are supplied and used; where premises are causing a public noise nuisance; and where a public nuisance is being caused by noise coming from the premises or where there is, or is likely to be, disorder in the vicinity of and related to the premises.

Practitioners tell us that these interventions are working well to safeguard and protect the local community and encourage anti-social perpetrators to accept offers of support. The power has been used over 500 times between January 2004 when it was introduced and September 2005.²⁶ The experience of the use of crack house closure powers in Camden is that robust and effective use of the powers has led to a reduction in the number of crack houses within the

23 Upson, A. (2006) *Perceptions and experience of anti-social behaviour: Findings from the 2004/05 British Crime Survey*, Home Office Online Report 21/06.

24 Home Office Statistical Bulletin 12/06.

25 Respect Task Force (2006) *Respect Action Plan*.

26 Respect Task Force (March 2006) *Tackling Anti-Social Behaviour: the story so far and the move to Respect*.

area, meaning a reduction in the need for future enforcement: between January 2004 and January 2005, 17 crack house closures were required; 12 were required in the following year; and up to September 2006, only five have been necessary.

However, we know that severe nuisance and anti-social behaviour centred in or around a property is much broader and not always related to the supply or use of Class A drugs. Only one-third of the 20 closures in Scotland targeted drug-related activity.

We believe that a new power is needed to tackle other forms of anti-social behaviour, such as: excessive noise and rowdy behaviour with frequent drunken parties; high numbers of people entering and leaving a premises at all times of the day or night; anti-social residents intimidating and threatening their neighbours; or criminals running illegal businesses from their properties.

We also know that anti-social behaviour is not confined to social housing. Community safety practitioners have already told us of problems around communal areas such as stairwells, disused changing rooms or telephone boxes. And, of course, it is not solely the fault of anti-social tenants. While two-thirds of social landlords have had to initiate the process for possession orders for anti-social behaviour and more than one-third have implemented evictions on these grounds,²⁷ many occupiers have been able to get away with their bad behaviour because they own their property.

We believe, therefore, that there is a need to ensure that a wider range of anti-social behaviour centred in and around any kind of property or premises can be tackled, and further ensure that such interventions are tenure-neutral, applying equally to owner-occupiers and tenants.

Consultation

Early discussions with key anti-social behaviour and community safety practitioners have suggested that such a new power would be welcomed by them and their local communities. We also believe that it provides a focus for multi-agency offers of support for the perpetrator(s).

This partial Regulatory Impact Assessment accompanies a full consultation paper in which we are seeking views from a wider section of stakeholders and practitioners.

Public consultation

This is a powerful anti-social behaviour tool and, as such, we are canvassing views (particularly from key stakeholders) as to its potential last resort use among anti-social behaviour practitioners and the wider general public.

Within government

This proposal is also being discussed and considered across Government. A range of Government departments will consider the consultation responses.

Policy options

We believe that in response to the issues outlined above there are two options.

Option 1: Do nothing

We could continue to use the existing powers under the Anti-social Behaviour Act 2003 and the Licensing Act 2003. Crack house powers have been a success and local authorities and police are increasingly using new powers under the Licensing Act 2003.

But, as we have explained, we believe there is a strong rationale for further government intervention to plug the gap so as to be able to deal with a wider array of anti-social behaviour activity across the spectrum of owner-occupier, private rented and social

27 Hunter, C. and Nixon, J. (2001) *Social landlords' responses to neighbour nuisance and anti-social behaviour: from the negligible to the holistic?* Local Government Studies, 27 (4), pp. 89–104; Pawson, H., Flint, F., Scott, S. et al. (2005). *The Use of Possession Actions and Evictions by Social Landlords*, Office of the Deputy Prime Minister, accessible at: www.communities.gov.uk/index.asp?id=1153696.

tenants. Furthermore, early discussions with key practitioners have suggested that the new power would be a positive addition and would be welcomed by them and the public. We do not believe, therefore, that doing nothing is an appropriate response to those concerns but rather the new powers should complement existing powers.

Option 2: Legislate now for a new power

This partial Regulatory Impact Assessment accompanies a full consultation on a new proposal to enable the temporary closure and sealing of a property at the centre of serious and persistent anti-social behaviour as a last resort and when other interventions have been tested. Figure 6 summarises the key steps involved in pursuing such a closure.

The possible need for a new power has been expressed by individuals, communities and agencies who remain concerned over the havoc caused by known nuisance households where earlier interventions have failed. This proposal therefore builds on existing closure powers to tackle premises where Class A

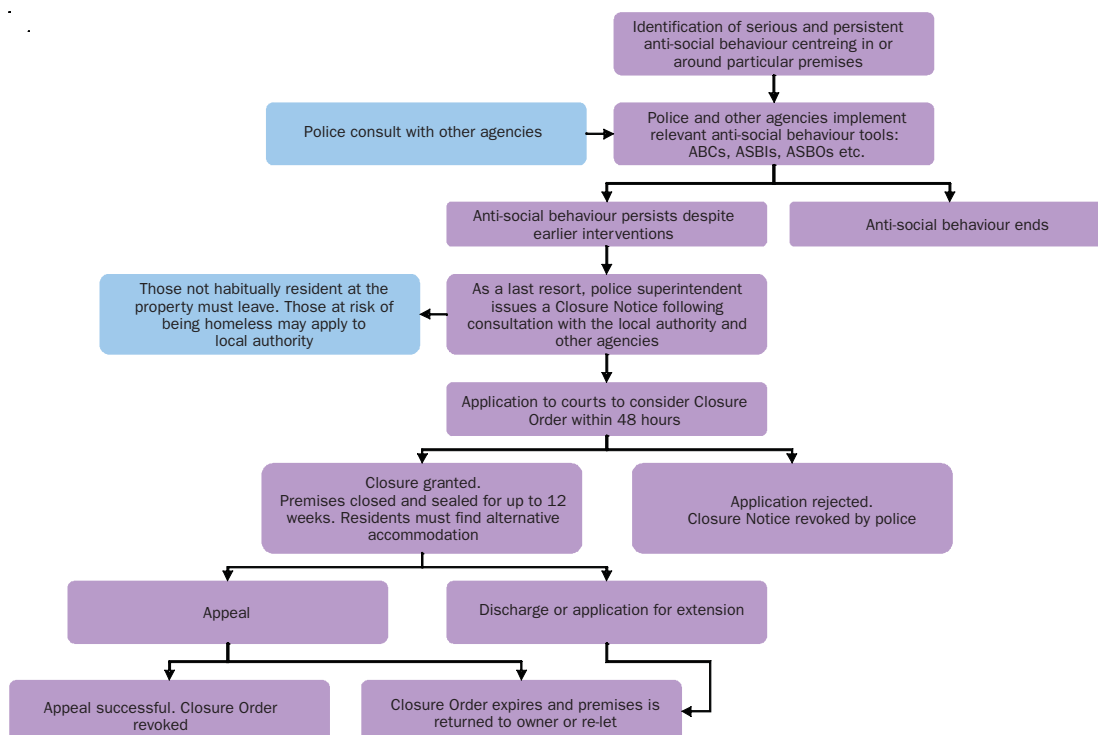
drugs are supplied and used and widens it to include other forms of anti-social behaviour. This is the approach already taken in Scotland as part of their Anti-social Behaviour (Scotland) Act 2004.

However, we are clear that this is not a fast track to eviction nor should it be used lightly. This is a very powerful tool and must only be used as a last resort where other interventions have been attempted.

A multi-agency approach involving police, the local authority – including adult and children’s services as appropriate – health services, education, welfare and YOTs, must be taken to tackle nuisance behaviour at the earliest opportunity using the full range of support and enforcement measures. We would therefore expect to see the use of ASBOs and injunctions and offers of support before a closure is pursued, with the needs of all members of the household properly considered.

Where it is necessary to utilise a Closure Order, we will build robust guidelines for the consideration and

Figure 6: Model for pursuing a Premises Closure Order



operation of the closure process. The police and other agencies will be expected to show that consideration has been given to whether a closure is the most appropriate course of action. The needs of any vulnerable people in the household, including children and young people, will need to be considered. Their safety must not be compromised and a clear plan needs to be put in place to safeguard them and promote their welfare if the closure goes ahead. And a longer-term plan must also be put in place to deal with the underlying nuisance behaviour.

Effective consultation between multi-agency partners will be essential to the success of a Premises Closure Order, should one prove to be necessary. Agencies will need to work together, so the police will need to consult the local authority and other local agencies. We have asked for views as part of the consultation on the operational aspects of the power, including whether it should only be available to the police.

If, following the outcome of the consultation, Government decides to introduce a new power, a full Regulatory Impact Assessment will be completed.

COSTS AND BENEFITS

Given that we have embarked on a consultation around the benefits of a potential new premises closure power, this partial Regulatory Impact Assessment will only consider the costs and benefits should the consultation lead to the introduction of such a tool.

The introduction of a new Premises Closure Order will impact on various groups, including the perpetrator(s), the wider neighbourhood and local public agencies.

Social costs and benefits

The Closure Order will provide a means with which to safeguard and protect the local community and also further encourage people to accept offers of support. We believe that the use of the power will send a positive signal that anti-social behaviour will

be tackled and not tolerated and that the protection of the wider community is paramount. This view is built on lessons learnt from Camden, which have shown us that robust and effective use of existing drug den powers has led to a reduction in the number of crack houses within the area, meaning a reduction in the need for enforcement.

- **Neighbourhoods and communities**

We know that there is a huge emotional impact on those suffering at the hands of nuisance neighbours. Analysis of perception and experiences highlights the emotional distress caused by living near nuisance neighbours. Ninety-six per cent of those suffering from noisy neighbours reported an emotional impact, which included annoyance, frustration, anger and worry, but some reported more serious emotional reactions, with a third (32 per cent) saying they experienced one or more of the following: shock, fear, stress, depression, anxiety or panic attacks and crying. Some 43 per cent experiencing problems with noisy neighbours kept windows and doors closed, while 27 per cent even considered moving away from the area.²⁸ This is even more significant when considering that one in seven report experiencing incidents of noisy neighbours, with one in six perceiving high levels of anti-social behaviour in their local area.

The British Crime Survey (BCS) shows that people living within low-income areas and 'council estates' perceive the highest levels of anti-social behaviour.

Therefore, the greatest impact of the Premises Closure Order will be felt by the neighbours, nearby residents and communities who will be provided with some respite from often longstanding nuisance.

Nineteen of the 20 orders made in Scotland have been issued on residential properties. The experience in Scotland has proved that closures are particularly effective and are very popular with local communities.

²⁸ Upson, A. (2006) *Perceptions and experience of anti-social behaviour: Findings from the 2004/05 British Crime Survey*, Home Office Online Report 21/06.

- **Perpetrators**

The Premises Closure Order will be used as a last resort intervention and will provide a further opportunity to engage perpetrators and encourage and cajole them to accept offers of support.

Clear and sensitive distinctions will need to be made in relation to those who are being targeted as part of the order. On the one hand, there will be a small, hard-core criminal element which needs to have its safe haven removed from use. But, we appreciate that on the other hand, there may be extremely vulnerable cases, including children. Their safety must not be compromised and the decision to pursue the closure needs to remain sensitive to both these cases and put in place measures to safeguard them and promote their welfare if the closure goes ahead. And a longer-term plan must also be put in place to deal with underlying nuisance behaviour.

Existing crack house powers are currently being used alongside support measures and we envisage the same approach for the wider premises closure so that the order provides the opportunity for local agencies to co-ordinate and offer a level of support which those subject to the closure may have previously refused. The closure should not therefore be used in isolation but rather as part of a more strategic and holistic response aimed at tackling the underlying causes of the anti-social behaviour. It provides the opportunity with which to encourage, cajole and coerce people to accept those offers of support.

This is the practical application of the Respect approach to challenge and support. It is essential that support provision is matched up to enforcement action if we are to put an end to serious nuisance behaviour rather than simply shifting it on and placing the burden elsewhere.

- **Health impact assessment**

We would expect that people with health issues will already be known to the health services. Any vulnerability issues will be considered by agencies

before taking a decision to pursue a closure and this will provide a further focus for agencies, including health and social services, to ensure that effective and appropriate support and treatment is being provided. Robust safeguards will be built in to the guidance to ensure that the measures are in place protect any vulnerable people and promote their welfare if the closure goes ahead. And a longer-term plan must also be put in place to deal with the underlying nuisance behaviour.

- **Rural proofing**

We are satisfied the proposals do not have any particular rural impacts.

- **Impact on charities and voluntary bodies**

It is, in our view, unlikely that charities will be targeted by this measure.

Economic costs and benefits

We know that the cost to public agencies of responding to reports of anti-social, is £3.4 billion a year.²⁹ Where agencies fail to tackle anti-social behaviour effectively, there are likely to be serious consequences which can lead to a spiral of decline. The provision of a new robust and effective tool aimed at tackling anti-social behaviour while also providing support and rehabilitation should mean that long-term savings can be made.

We will ensure that the new Premises Closure Order can only be used as a last resort where other interventions have failed and, as such, we only expect a very small number of closures to be necessary. At present, we do not have a clear indication of those numbers and will consider this further as the consultation progresses. However, we do not believe that there will be a significant increase in the number of closures; there were 514 crack house closures in England and Wales between January 2004 and September 2005 – an average of 23 a month. At this stage, we do not estimate more than 50 closures per year.

29 Whitehead, C. et al. (2003) *Economic and Social Costs of Anti-social Behaviour: A Review*, London School of Economics.

If the new power is introduced, we are aware that there will be some economic costs for local agencies but we believe that, as the extent of use of this power will be left to their discretion, the long-term benefits (in terms of reduced spending on anti-social behaviour and greater engagement of offenders in support) will outweigh those initial costs.

- **Police**

The cost to the police of pursuing existing drug den closure varies from force to force but information from some of our practitioners suggests it is in the region of £500–£2,700. This covers the time taken to carry out the visit/raid on the property to issue the Closure Notice, preparing for and presenting the court case and then enforcing and maintaining the order. We can expect that costs for the police for the wider Premises Closure Order will be in the same region. Estimating a maximum of 50 closures per year (as above), we estimate this total cost to be no more than £135,000. There will also be the cost of issuing appropriate guidance for police.

While there may be some small additional costs as highlighted, we are also clear that there could be some offsetting benefits. Following this consultation, the potential costs and benefits should become clearer. These will be incorporated into a full Regulatory Impact Assessment, should the proposal be pursued following this consultation.

- **Local authority**

The one-day count of reports of anti-social behaviour showed that local authorities received the majority of complaints (over a third).³⁰ A significant proportion of the annual cost of dealing with reports of anti-social behaviour of £3.4 billion is therefore the responsibility of the the local authority.

Closure Orders will render the occupants of the subject properties homeless for a short period unless they have other accommodation available to them. Some may choose to seek accommodation assistance from the local housing authority. Where homeless

people seek such help, the housing authority must provide advice and assistance to help them secure accommodation for themselves. Where the homeless person falls within a priority need group (for example, has dependent children or is vulnerable in some way) the authority has a duty to ensure that accommodation is available for them. If the person is homeless unintentionally, the duty to secure accommodation continues until a settled home becomes available for them. This is often referred to as the 'main homelessness duty', and may require the provision of temporary accommodation for a significant period. However, if the person is homeless intentionally, the duty to secure accommodation is limited to such period as will give the person a reasonable opportunity to find accommodation for themselves. It is estimated that, on average, the cost of discharging a main homelessness duty is around £9,000 per year. However, the number of Closure Orders is likely to be small and it is anticipated that most people made homeless as a result are likely to be adjudged by the local authority to have become homeless intentionally (as a consequence of their serious anti-social behaviour). It is, therefore, anticipated that the impact of Closure Orders on local housing authorities' costs in providing homelessness assistance will not be significant.

- **Local authority/registered social landlords**

Local authority and registered social landlord (RSL) groups have a particular duty to respond to the anti-social behaviour of their tenants (as it impacts on their housing management activities) and provide respite for their tenants and the wider community. One in five people live in social housing (eight million people) and social renters are almost twice as likely as those in owner-occupier or private rented accommodation to perceive high levels of anti-social behaviour (30 per cent, 15 per cent and 17 per cent respectively).³¹ Indications are that the majority of crack house closures are on such properties and, of the 20 closures in Scotland, 13 were managed by the local authority.

30 Home Office (2003) *One-day count* (conducted 10 September 2003).

31 Walker, A., Kerhaw, C. and Nicholas, S. (2006) *Crime in England and Wales*, Home Office Statistical Bulletin 12/06.

Practitioners have advised that securing the property after a crack house Closure Order varies across the country; the average figure seems to be in the region of £500, as a one-off cost. However, we are aware that some local authorities/RSLs attend and board up the property themselves meaning that costs are significantly reduced.

Those removed from properties under a Closure Order will still be liable for any rent owed during the period of closure. However, it is likely that some tenants, once removed, will cease paying rent. We would expect a number of those subject to a Closure Order to be in arrears anyhow. RSL rent levels for all sizes in England are currently, on average, £63.46 gross per week.

Any loss of rental income needs to be offset by the reduction in housing officer time and resources which would otherwise be spent on tackling the problem should the tenants remain in the property and continue to create a nuisance.

- **Private landlords**

Although indications are that the majority of current drug den closures are on local authority/RSL properties³² and 13 of the 20 closures in Scotland have been on local authority properties, it is acknowledged that anti-social behaviour is not just a problem which affects social housing but is also evident in the private rented and owner-occupier sector.

A survey of social landlords showed that nine out of ten (92 per cent) felt that neighbour nuisance and anti-social behaviour were significant problems in their own stock but also stated that there were similar problems occurring in the private housing sector. Half of the sample thought that anti-social behaviour was a medium to large problem among private tenants and four out of ten (43 per cent) stated that it was a problem among owner-occupiers living in mixed-tenure estates and adjacent estates.³³

We do not envisage a situation where a Closure Order would be served without all reasonable attempts having been made to engage the landlord and/or managing agent in implementing alternative approaches. The Premises Closure Order will only be aimed at closing down the properties of irresponsible landlords who have repeatedly failed or refused to engage with local agencies.

Tenants will retain their obligations under the tenancy during the closure period and, as such, they will continue to owe rent during the closure period. We do, however, acknowledge that there is potential for some loss of earnings for those irresponsible landlords who have failed to engage. The private rented average (means) rent per tenancy in 2004/05 was £117 per week, or £122 for assured shorthold and resident landlord lets. Of course, as with local authorities and RSLs, it is probable that private landlords may already be experiencing difficulties over rent payments.

- **Courts**

We know from discussions with court staff and practitioners that the current drug den Closure Orders require only short court hearings (20 minutes to a few hours). There is a similar picture in Scotland. The estimated cost of a short hearing in the magistrates' court is around £150. We do not believe that the small number of last-resort premises closures will add a significant cost or burden to the courts.

- **Local businesses**

The Anti-social Behaviour Act 2003 and the Licensing Act 2003 provide tools to close premises where there is a public noise nuisance and licensed premises associated with disorder. As with private landlords, we do not envisage a situation where a Closure Order would be served without all reasonable attempts having been made to engage the owner in implementing alternative approaches. The Premises Closure Order will only be aimed at closing down the properties of irresponsible owners who have repeatedly failed or refused to engage with local

32 Based on figures provided to the Respect Task Force by a small selection of anti-social behaviour practitioners.

33 As reported in Office of the Deputy Prime Minister (2003) *Tackling Anti-social Behaviour in Mixed Tenure Areas*.

agencies. Government only intends to target properties which have colluded with or failed to take reasonable steps in respect of anti-social behaviour.

We are aware of a number of cases where enforcement activity has protected the interests of the business and actually enabled them to regenerate. In Gainsborough Square, Bristol, takings for local businesses increased by 80 per cent following the introduction of a Dispersal Order. The order was lifted in early 2005 and the anti-social behaviour co-ordinator reports that the area has remained vibrant and safe.

To date, there have been 20 Closure Orders issued in Scotland. Only one has been issued on commercial premises – a massage parlour in Strathclyde which posed significant anti-social harms for local residents with constant visitors, kerb crawlers and harassment of female neighbours.

We therefore do not believe that there will be any additional significant burden to law-abiding businesses.

Environmental costs and benefits

A poor physical environment – litter, graffiti and abandoned cars – is associated with a fear of crime and neglect by authorities.

We know that one in six people perceive a high level of anti-social behaviour in their local area, which is underpinned by their experiences of anti-social behaviour and disorder. Two of the most frequently quoted signs of anti-social behaviour are rubbish or litter (perceived as a big problem by 30 per cent) and vandalism and graffiti (perceived to be a big problem by 29 per cent). The areas most closely affected by anti-social behaviour are those where people are living on a low income, in social housing or inner city estates, and anywhere falling within the 10 per cent most deprived wards in the country. Of those people experiencing vandalism and graffiti, 56 per

cent say that it has a high or medium negative impact on their quality of life.³⁴

According to a recent report³⁵ on fear of crime in England and Wales, high levels of perceived disorder in the local area is one of the key drivers for high levels of worry about crime in general, and also for how often people worry about crime. These high levels of fear of crime may lead people to withdraw from public spaces, contributing to a spiral of decline.

Public services need to respond quickly to such signals and counter the feeling that an area is neglected before problems multiply.

Tackling disorder through the use of tools, such as premises closure, can therefore act as a catalyst for increased environmental benefits where local agencies take action to improve the quality of the local environment.

SMALL BUSINESS IMPACT TEST

As outlined above, the Premises Closure Order will not directly impact on those businesses acting responsibly and within the law.

We therefore do not believe that there will be any additional burden to small firms, a view supported by the Small Business Service, which also added that this could prove to be beneficial to responsible and legitimate businesses by making the surrounding area safer and more attractive to visit.

COMPETITION ASSESSMENT

This proposal is likely to have little or no effect on competition.

ENFORCEMENT SANCTIONS AND MONITORING

If this policy is implemented the police, in close co-operation with the local authority, will enforce the tool.

34 Upson, A. (2006) *Perceptions and experience of anti-social behaviour: Findings from the 2004/05 British Crime Survey*, Home Office Online Report 21/06.

35 Allen, J. (2006) *Worry about crime in England and Wales: Findings from the 2003/04 and 2004/05 British Crime Surveys*, Home Office Online Report 15/06.

Annex C:
Partial Regulatory Impact Assessments

In order to maintain credibility and continue to offer protection to local residents, any breach of the premises closure measures must be backed up with powerful and effective sanctions. A sanction for the breach will be necessary to back up the court order, which will mirror existing sanctions for crack house closures, i.e. a fine not exceeding level five or imprisonment not exceeding six months, or both.

We will implement robust monitoring arrangements to review the use of this power if implemented.

Annex D:

Existing powers for tackling anti-social behaviour and disorder

Police, local authorities, Youth Offending Teams (YOTs) and landlords can tackle anti-social behaviour by adopting a range of measures outlined here. While anti-social behaviour is best tackled as part of an incremental approach, in some cases, depending on the nature of the behaviour and the impact on the community, it will be necessary to move to more formal action, through the courts, straight away.

There are many existing tools and powers available to tackle anti-social behaviour (the full list can be found on the TOGETHER website at: www.together.gov.uk/category.asp?c=495). Here we describe briefly some of the more well-known ones, some of which are mentioned in the main body of this consultation document.

D.1 Existing pre-court tools and measures

Power	What are they?	When should they be used?
Penalty Notices for Disorder (PNDs)	PNDs form part of the wider penalty notice scheme but deal specifically with disorderly behaviour, such as drunken or threatening behaviour, throwing fireworks, etc. The offender receives an immediate fine, which if paid will not be taken any further. If the fine is not paid, it is increased by one and a half times the level of the penalty. Unpaid fines are enforced through the courts in the normal way.	The full range of PNDs can be issued by uniformed police officers. Police Community Support Officers (PCSOs) with designated power and accredited persons can issue a more limited range of PNDs. They can be given to anyone aged 16 years and above. Penalties for each offence are set at either £50 or £80.
Fixed Penalty Notices (FPNs)	FPNs exist for littering, dog-fouling, graffiti and fly-posting. Also included in the system are FPNS for unauthorised distribution of free literature, abandoned vehicles, nuisance parking, offences in relation to waste receptacles and offences under dog control orders. If the penalty is not paid, the local authority can prosecute the perpetrator for the original offence.	FPNs can be issued by local authority authorised officers, and in many instances parish councils, PCSOs and accredited officers, waste collection authorities, and the Environment Agency. Penalties for these offences generally range between £50 and £80, with a default level of £75, but penalties for some waste offences are £300 and for noise from licensed premises is £500.
Warnings	Written or oral warnings set out clear standards of behaviour at an early stage. They reinforce the message that anti-social behaviour will not be tolerated. They should make clear that future unacceptable behaviour will be acted on, explaining how and in what timeframe. A note or record should be kept.	To be used at an early stage; that is, when behaviour is giving cause for concern, but is not sufficiently serious to warrant a contract.
Final Warning Scheme	<p>The Final Warning Scheme is a statutory scheme. The provisions are set out in Sections 65 and 66 of the Crime and Disorder Act 1998. It was implemented across England and Wales on 1 June 2000.</p> <p>Revised guidance on the operation of the scheme was published on 14 November 2002; a copy is on the Home Office website. Supplementary guidance in the form of a Home Office Circular was published in May 2006.</p> <p>To be eligible for a reprimand or final warning, the young person must have admitted the offence.</p> <p>Following a final warning, the police have a statutory duty to refer the young person to the local YOT. The YOT in turn must carry out an assessment of the young person and, in most cases, will provide an intervention programme aimed at tackling the causes of offending behaviour and preventing reoffending. These can include programmes such as anger management and drug rehabilitation. In addition, parents and victims have roles to play in helping the process along.</p>	<p>The scheme introduced a system of reprimands and final warnings for 10–17-year-old young offenders. Depending on the seriousness of the offence, a reprimand is normally given for a first offence and a final warning for a second offence. As the name implies, further offending following a final warning will normally lead to a criminal charge.</p> <p>A final warning goes much further than an old-style caution. It sends a clear signal that there will be firm action and early intervention to prevent further offending by young people.</p> <p>YOTs are responsible for delivering community-based interventions to make young offenders face up to their crimes and change their attitudes and behaviour.</p> <p>The scheme ensures that if a young person offends after a final warning, they are dealt with quickly and effectively by the courts.</p>

Annex D:
Existing powers for tackling anti-social behaviour and disorder

Power	What are they?	When should they be used?
Acceptable Behaviour Contracts (ABCs)	ABCs are non-statutory agreements between one or more local agency and an individual that outline what a perpetrator should or should not do. The terms of the contract should reflect the behaviour to be addressed and should not be too extensive. It should highlight the consequences of breaking the agreement. ABCs are often used with children and young people but could equally be used for adults.	To be used when a warning has been unsuccessful in addressing the problem and where conditions can be made to address the underlying causes of the anti-social behaviour in question.
Parenting contracts	Parenting contracts are voluntary agreements made between local agencies and parents, to set out what parents will do to address the anti-social behaviour of a child or children for whom they are responsible. This can include a requirement that the parents attend a parenting class, or that they ensure their child attends school regularly.	Schools and local education authorities (LEAs) can enter into a parenting contract with the parent(s) of a child who has truanted or been excluded from school. YOTs can use the tool to work with the parent(s) of a child who has engaged in or is likely to engage in criminal conduct or anti-social behaviour.
Community agreements	Community agreements are settlements reached between the residents of a community to resolve disputes. They are put in writing and each household or individual has a copy. The agreement is based on the wishes of the majority and clearly states how those involved would like life to be within their community. To be facilitated by independent and impartial mediators who can make confidential visits to each person.	To be used when there is conflict or unrest within a neighbourhood; this may be a block of flats, a street or a small community.
Conditional Cautions	<p>Conditional Cautions were introduced in the Criminal Justice Act 2003.</p> <p>A Conditional Caution enables the Crown Prosecution Service (CPS), in consultation with the police, to offer a caution with condition(s) attached.</p> <p>The offender must accept the Conditional Caution or can refuse and opt for a court hearing. If the conditions are not complied with, the offender can be prosecuted for the original offence. It will be for the CPS to decide whether a Conditional Caution is suitable and to identify appropriate conditions, although the police may take the lead in identifying cases they think would be suitable for a Conditional Caution.</p>	<p>It may be offered to an adult (aged 18 or over), where there is sufficient evidence to charge them with an offence which is admitted and where prosecution for that offence would otherwise be in the public interest.</p> <p>The offences are listed in guidance issued by the Director of Public Prosecutions and include criminal damage, theft, offences related to drug misuse and public order offences.</p> <p>The scheme is intended to divert lower-level offenders from court where the conditions can help to rehabilitate the offender or repair the damage caused by the offending.</p>
Dispersal of groups	A senior police officer, with the agreement of the local authority, can designate a dispersal area where there is a problem with groups causing intimidation. The decision to designate an area must be published in a local newspaper or by notices in the local area. Designations may last for up to six months and subsequent Dispersal Orders may last for 24 hours.	Dispersal powers should be used where there has been a persistent anti-social behaviour problem in a public space, such as a shopping arcade or a park where groups gather and intimidate and harass the public.

D.2 Existing court-related tools and measures

There is a range of interventions where it is necessary to take a case of anti-social behaviour to court. While anti-social behaviour is best tackled as part of an incremental approach, in some cases, depending on the nature of the behaviour and the impact on the community, it will be necessary to move to more formal action straight away.

Power	What are they?	When should they be used?
Anti-Social Behaviour Orders (ASBOs)	ASBOs are civil orders that protect the public from anti-social behaviour. They can be made on anyone aged 10 years or over who has behaved anti-socially in the last six months. They can be imposed from a minimum of two years to an unlimited maximum. Breach of the order is a criminal offence. Orders can be made stand alone, by order on conviction or as part of proceedings in the county court.	To be used when the behaviour of an identified individual or group of people caused, or was likely to cause, harassment, alarm or distress to one or more persons not of the same household and that this happened in the previous six months and where the use of the order will help prevent recurrence.
Anti-Social Behaviour Injunctions (ASBIs)	These are civil orders obtained from the county court that can control or remedy anti-social behaviour. An injunction can compel an adult over the age of 18 to do something and/or prevent a particular action or behaviour. In serious cases, the defendant can be excluded from a specified area. A breach is dealt with through civil proceedings and the court can impose a fine or commit the defendant to prison.	To be used when someone is committing anti-social behaviour, including noise nuisance, verbal abuse of staff, agents and/or tenants, causing nuisance to neighbours, untidy gardens and threats of violence or actual violence. They can provide immediate protection and be used before a problem escalates.
Parenting Orders	These can be made by a criminal court, family court or magistrates' court acting under civil jurisdiction when there has been a problem with a young person's behaviour. An order requires parents to attend a parenting programme and can specify other requirements, i.e. to ensure their child attends school. Non-compliance can lead to a level three fine (up to a maximum of £1,000) or any sentence available for a non-imprisonable offence.	The court must issue a Parenting Order in respect of a person under 16 when an ASBO has been issued, if it is satisfied that it is in the interests of preventing a repetition of the kind of behaviour that led to the ASBO, or on conviction or when a Referral Order has been issued, in the interests of preventing a further offence. The court may also issue a Parenting Order when a parent has been convicted for a child's truancy. Parenting Orders can also be applied for by YOTs when a child or young person has engaged in criminal or anti-social behaviour, or by LEAs when a child is excluded from school permanently or for two fixed periods for serious misbehaviour.
Child Safety Orders (CSOs)	These are civil orders available in the family proceedings court in respect of a child under 10 who has been engaging in anti-social behaviour. The CSO places the child under the supervision of a responsible officer from either a social services department or YOT, and requires the child to comply with specified requirements. There is no element of punishment. The requirements are designed to ensure the child receives appropriate care, protection and support and is subject to proper control.	The court can issue a CSO to last for up to 12 months when a child under 10 has engaged, or is likely to engage, in anti-social behaviour or has committed, or is likely to commit, an act that would be a criminal offence if he/she were over 10. The court can issue a Parenting Order alongside a CSO. This would typically require the parents to co-operate with support and exercise control over the child to ensure the child complies with the CSO's requirements.

Annex D:
Existing powers for tackling anti-social behaviour and disorder

Power	What are they?	When should they be used?
Parental Compensation Orders (PCOs)	PCOs are civil orders available from an adult magistrates' court, on application by a local authority, if a child has taken or damaged property in the course of anti-social behaviour or what would have been an offence if he/she were aged 10; and where it would be desirable in the interests of preventing a repetition of the behaviour in question. PCOs are being piloted in 10 local authority areas and will be examined as part of the Targeted Youth Support Pathfinder (TYSP) evaluation by the Department for Education and Skills.	PCOs should only be used when there is evidence that the voluntary reparative approach has failed and when their use would be desirable in the interests of preventing a repetition of the behaviour in question. Before issuing a PCO, the court will take into account the views of the victim and the likely effect of the order on the child's family circumstances. The parents' means will be taken into account before setting the level of compensation, which is limited to £5,000. The court has the same enforcement powers as it has to enforce a fine.
Individual Support Orders (ISOs)	ISOs can be attached to an ASBO on a young person and contain positive obligations designed to tackle the underlying causes of a young person's anti-social behaviour. They can last for up to six months and can require the young person to attend up to two sessions a week. The ISO is overseen by a responsible officer. Failure to comply is a criminal offence and can result in enforcement proceedings.	Where a magistrates' court is making an ASBO against a young person (between 10 and 17 years), it is obliged to make an ISO if the ISO would be desirable in the interests of preventing further anti-social behaviour and the individual is not already subject to one.
Drug Intervention Orders (IOs)	These are civil orders for drug misusers aged over 18, to force them to undergo drug treatment to tackle the root causes of their anti-social behaviour. Applied for in the magistrates' or county court, the order specifically outlines the activities the individual must undergo to stop anti-social behaviour caused by drug misuse.	The welfare of the defendant is not the only purpose of the order, but instead should be balanced with the community's need to be safe from anti-social behaviour.
Crack house Closure Orders	A senior police officer can issue a Closure Notice on premises that are being used for the production, supply or use of Class A drugs and are causing serious nuisance or disorder. The police apply to the court within 48 hours for a Closure Order, which can last for up to three months and can be extended for three months. The property is sealed and it is an offence to enter or remain on the property.	Crack house Closure Orders should be used when a property has been taken over by users and dealers of Class A drugs and serious nuisance and concern is caused to local residents.
Demotion Orders	Demotion Orders allow landlords to apply to the courts to reduce the security of tenure for tenants and can be a precursor to possession. Tenants lose a number of tenancy rights, including the right to buy and the right to exchange. Demoted tenancies last for a year.	To be used when a tenant, another resident or visitor to the tenant's home has behaved or threatened to behave in a way that is capable of causing nuisance or annoyance and affects the management of an area and/or using the premises for unlawful purposes.

Partial Equality Impact Assessment

Policy aims, objectives and projected outcomes

1. Proposed new front-line powers

Some practitioners have suggested the need for additional powers that would provide front-line police with an immediate opportunity to prevent future disorder and bring about a speedy resolution of specific local problems. Such powers – for example, to require an individual to keep away from a particular area for a certain period of time – would be at the discretion of a police officer, and could potentially have a strong deterrent effect on others.

Powers of this nature could be an appropriate solution where the relevant officer had reasonable grounds for believing that an individual's presence or behaviour had resulted in (or was likely to result in) a member of the public being harassed, intimidated, alarmed or distressed, and that the disposal was necessary to prevent such behaviour from recurring. It would go beyond the powers police currently have to disperse individuals, which currently can only be applied in areas that have already been designated as dispersal zones by the police and local authority, and can only be used to exclude an individual for 24 hours (although the dispersal area itself may be designated for six months).

We will consider further the case for additional preventative powers for front-line police to control anti-social individuals including the legal framework which would be required.

2. Deferred Penalty Notices for Disorder

A Deferred Penalty Notice for Disorder (PND) would be an appropriate tool to use in circumstances in which an officer had established sufficient evidence to issue an immediate PND, but the local community would obtain greater benefit from an offender adhering to the conditions of an Acceptable Behaviour Contract (ABC).

The officer and offender will agree the conditions of an ABC that will last for three to six months, and the PND for the original offence will be deferred for the period of the agreement. However, breach of the

conditions of the ABC will be punished with the issue of a PND for the original offence, and non-payment will result in registration of an unpaid fine. If the offender complies with the ABC then the original offence can be disposed of at the end of the relevant period.

If the perpetrator is a child or young person, the police would have to draw the incident to the attention of the parent(s) or guardian and agree the ABC in their presence. The police officer would also have to inform local agencies concerned with prevention, including, as appropriate, the local Youth Offending Team (YOT) and targeted youth support services commissioned by local authorities.

Practitioners in each area should agree a local protocol for this to take place. Where youths are aged between 10 and 15 years, agreement would be with the adult liable for payment of the PND in case of a breach.

3. Premises Closure Orders

Government is consulting on a new Premises Closure Order, which will enable the closure of properties at the centre of serious and persistent anti-social behaviour, for a set period, regardless of tenure.

This power already exists in Scotland, where it has been used on 20 occasions since implementation in October 2004. It also builds on the existing crack house closure powers in England and Wales, which have been widely welcomed and used across the country to bring rapid relief to communities: there have been 514 closures between January 2004, when it was introduced, and September 2005.

Closures are welcomed by communities for bringing immediate relief to their neighbourhoods. Visible, accountable and speedy summary justice of this kind, with all the necessary court and judicial safeguards, shows the needs of the law-abiding majority come first and is an example of a new balance between rights and due process.

However, anti-social behaviour in its widest sense remains a top priority for the public and it is clear that severe nuisance and anti-social behaviour centred

in or around a property is not always related to the supply or use of Class A drugs.

Therefore, the proposal for a new Closure Order builds on existing closure powers to tackle premises where Class A drugs are supplied and used and widens it to include other forms of anti-social behaviour, such as: excessive noise and rowdy behaviour with frequent drunken parties; high numbers of people entering and leaving premises at all times of the day or night; anti-social residents intimidating and threatening their neighbours; or criminals running illegal businesses from their properties.

This is a very powerful tool and we will build robust guidelines to ensure that it will only be used as a last resort where other interventions have been used or considered and where implications, for example for children or vulnerable adults in the household, have been carefully considered.

A multi-agency (police, local authority – including adult and children’s social care as appropriate – health services, social services, education welfare, YOTs) approach must be taken to tackle the nuisance behaviour at the earliest opportunity and nip problems in the bud. We would therefore expect to see the use of Anti-Social Behaviour Orders (ASBOs) and Anti-Social Behaviour Injunctions (ASBIs) and offers of support before a closure is pursued, with the needs of all members of the household properly considered.

Will the policy have an impact on national or local people/staff?

Yes – see below for details.

Are particular communities or groups likely to have different needs, experiences and/or attitudes in relation to the policy

Yes. An antipathy towards anti-social behaviour is universal, but the extent of the experience of it varies

according to demographic factors such as location, social class and age; which in their turn correlate with other factors such as sex, ethnicity and disability.

Are there any aspects of the policy that could contribute to equality or inequality?

Yes. The policy is designed to reduce levels of anti-social behaviour and provide a catalyst for tackling the underlying causes, which will promote community cohesion.

Could the aims of the policy be in conflict with equal opportunity, elimination of discrimination, promotion of good relations?

No. The benefits are universal for those living within the community as they will enjoy the benefit of living in a more safe, secure and cohesive community.

The Premises Closure Order will provide respite for the local community and will ensure a multi-agency focus to address the underlying causes of a perpetrator’s anti-social behaviour.

If this is an amendment of an existing policy, was the original policy impact assessed?

The Premises Closure Order builds on existing crack house closure legislation (Anti-Social Behaviour Act 2003); there was no separate race or equality impact assessment of this proposal at that time.

‘This policy was screened for impact on equalities on 10 November 2006. The following evidence has been considered. As a result of this screening, it has been decided that a full equality impact assessment is not required.’

Partial Equality Impact Assessment³⁶

Statistics and research

What relevant quantitative and qualitative data do you have in relation to this policy?³⁷

Among those perceiving problems in their local area, personal experience of those problems in the

36 A full Equality Impact Assessment will be completed following the external consultation.

37 Upson, A. (2006) *Perceptions and experience of anti-social behaviour: Findings from the 2004/05 British Crime Survey*, Home Office Online Report 21/06.

previous year was very common. The proportion of those perceiving problems who also had experience of them was:

- incidents with young people hanging around (94 per cent);
- noisy neighbours (73 per cent);
- drunk or rowdy behaviour (85 per cent);
- vandalism and graffiti (73 per cent); and
- drug use or dealing (43 per cent).

We know that there is a huge emotional impact on those suffering at the hands of nuisance neighbours. Analysis of perception and experiences highlights the emotional distress caused by living near nuisance neighbours. Ninety-six per cent of those suffering from noisy neighbours reported an emotional impact, which could range from annoyance, frustration, anger and worry but some reported more serious emotional reactions, with a third (32 per cent) saying they experienced one or more of the following: shock, fear, stress, depression, anxiety or panic attacks and crying. Forty-three per cent of those experiencing problems with noisy neighbours kept windows and doors closed and 27 per cent even considered moving away from the area. This is even more significant when considering that one in seven report experiencing incidents of noisy neighbours, and one in six perceive high levels of anti-social behaviour in their local area.

Equality target areas

Race

Findings from the British Crime Survey³⁸ indicate that almost one in three people living on a low income, in social housing or inner city estates, perceive their area to be suffering from high levels of anti-social behaviour. In contrast, in more wealthy areas one in 14 people use this description.

We know that around 70 per cent of ethnic minorities live in the 88 most deprived local authority areas. So it is likely that measures to tackle anti-social behaviour will be used more extensively in areas where ethnic minority people live. These tools could

therefore bring significant benefits to black and minority ethnic (BME) communities.

There is no evidence one way or another to conclude whether BMEs are more likely to be violators or victims of anti-social behaviour.

There are no data on the ethnicity of people currently the subject of Closure Notices and Orders.

There is some evidence that BME groups receive a disproportionate number of PNDs relative to their number in the overall population, but the ethnicity of recipients has not always been recorded. Four per cent of PNDs were for Asians (compared with 1.8 per cent in the general population) and 3 per cent for black people (compared with 1 per cent in the general population). Similarly, ethnic monitoring reveals that BME groups are disproportionately represented among those stopped and searched by the police. Black people are just over six times more likely and Asian people more than twice as likely to be stopped and searched in comparison with their white counterparts. The data may be relevant due to the proposal including a discretionary power. Mitigation in the form of active monitoring, supervision and accreditation are included in the proposal.

Asian males and, significantly, Asian females are less likely to be involved in anti-social behaviour or other problem behaviour. There were no significant differences to which other BME groups were involved in anti-social behaviour (Offending, Crime and Justice Survey, 2003).

In general, there is an over-representation of BME groups in the criminal justice system overall.

Disability

The impact of these proposed powers on people with a disability are unlikely to be significant. Safeguards will be built into the process to ensure that any vulnerability issues are considered when taking the decision to use the powers. Consideration will extend to disproportionate restrictions on social and physical

38 Ibid.

access due to the conditions attached to Deferred PNDs. There will be a requirement for agencies to have a plan in place to safeguard vulnerable persons (including those with a disability) and promote their welfare if they are resident in a building subject to a Premises Closure Order.

Gender

The study showed that for the types of anti-social behaviour considered, young people of both sexes (but especially males) were seen to be behaving anti-socially generally. Offending, Crime and Justice Survey figures show that men were more likely than women to have behaved anti-socially.

Gender identity

Not applicable.

Religion and belief

Not applicable.

Sexual orientation

Not applicable.

Age

Being a young person and living in an area with a high relative proportion of people aged 10–24 years are two of the top six risk factors for perceiving high levels of anti-social behaviour.

There will be a requirement for agencies to have a plan in place to safeguard vulnerable people (including children) and promote their welfare if they are resident in a building subject to a Premises Closure Order.

If the perpetrator is a child or young person, the police will have to notify the parent(s) or guardian. The police officer must also inform local agencies concerned with prevention, including, as appropriate, the local YOT and targeted youth support services commissioned by local authorities. Practitioners in each area should agree a local protocol for this to take place.

What research have you considered commissioning to fill any data gaps?

There is a need to monitor the use of these discretionary powers.

There is an expectation that monitoring would be part of the role held by a supervising officer in a similar way to the monitoring of stop and search powers under the Police and Criminal Evidence Act. Supervisors would monitor the use of the powers and should consider whether there is any evidence that they are being exercised on the basis of stereotyped images or inappropriate generalisations. Supervisors should satisfy themselves that the officers under their supervision are acting fully in accordance with relevant guidance when using the powers. Supervisors and senior officers with area/force-wide responsibility should also examine whether the records reveal any trends or patterns that give cause for concern, and if so take appropriate action to address this.

To promote confidence, records should be made available for scrutiny by representatives of the community.

Monitoring of factors such as ethnicity, gender and age can be built into the form-issuing and data-handling processes.

Other variables, including the impact on the local community, will need to be explored through research including fear of crime measures.

Who are the stakeholders, community groups, staff or customers for this policy area?

As anti-social behaviour is a universal phenomenon, its impact can be seen throughout society.

The premises closure power would be exercised by the police, but only as part of a multi-agency approach that may involve the local authority (including adult and children's social care as appropriate), health services, social services, education welfare and YOTs. The external consultation process will include consideration of whether the power should be available to officials other than police.

What are the overall trends and patterns in this qualitative and quantitative data?

Disproportionality; regional variations; different levels of access, experiences or needs; combined impacts.

The British Crime Survey findings report (www.homeoffice.gov.uk/rds/pdfs04/r252.pdf) sets these out in more detail, and in its turn takes data from *Perceptions and experience of antisocial behaviour: findings from the 2003/2004 British Crime Survey* by Martin Wood (Home Office Online Report 49/04).

The trend is for anti-social behaviour to be perceived more highly in poorer areas. Perception levels overall are decreasing, in line with the Home Office's Public Service Agreement target.

List the specific equality issues that may need to be addressed through consultation and further research?

Given that the use of these discretionary powers could be subjective, further research would need to look at any patterns in the use of powers that could impact differentially on different groups, and then determine whether or not that was justified in terms of objective need and the effect on the wider community.

Gathering evidence through community engagement

Internal stakeholder engagement: consulting and involving other government departments, staff, agencies and non-departmental public bodies

Does this policy affect the experiences of staff? How? What are their concerns?	
Staff	No impact
Staff networks and associations	No impact
Trade unions	No impact

How have you consulted, engaged and involved internal stakeholders in considering the impact of this proposal on other public policies and services?

This document was cleared for publication by the Anti-Social Behaviour (ASB) Cabinet Committee prior to external consultation.

The policy on Premises Closure Orders has already been cleared by the ASB Cabinet Committee and announced in the Respect Action Plan.

What positive and adverse impacts were identified by your internal consultees? Did they provide any examples?

The policy involves taking a proactive community- and victim-centred approach to tackling anti-social behaviour and providing a new tool to make enforcement easier and more efficient. Internal consultees indicated that the proposal would benefit all sectors of the community due to the potential for reduction in anti-social behaviour and behaviour that made members of a community fear such behaviour.

Internal consultees did not identify adverse impacts on equality issues other than the possibility of disproportionate use.

Factors taken into consideration in the policy development process included the impact on human rights and on the courts. The external consultation should highlight any issues that require further exploration.

Feed back the results of this internal consultation and use it as a basis for work on external consultation.

External consultation and involvement
 This will be informed by an external consultation exercise commencing in November 2006.

How did your engagement exercise highlight positive and negative impacts on different communities?
Voluntary organisations
Race
Faith
Disability rights
Gender
Gender identity
Sexual orientation
Age

Feed back the results of your community engagement (i.e. involvement and consultation) to all participants, including internal and external stakeholders.

Assessment and analysis

Does the Equality Impact Assessment show a potential for differential impact on any group(s) if this proposal is introduced? If it does, state briefly whether the impact is adverse or positive and in what equality areas.

The policy will have a positive impact on everyone, but particularly those living in our poorest communities, ethnic minorities and young people, who perceive the highest levels of anti-social behaviour.

What were the main findings of the engagement exercise and what weight should they carry?

Information will be available once the external consultation has been completed.

Does this policy have the potential to cause unlawful direct or indirect discrimination?

Does this policy have the potential to exclude certain groups of people from obtaining services, or limit their participation in any aspect of public life?
 No.

How does the policy promote equality of opportunity?

Because it tackles anti-social behaviour, the policy promotes collective efficacy and social cohesion, and improves the lives of those living in the poorest areas. It should support provision of an environment that can foster equality of opportunity.

How does your policy promote good relations? How does this policy make it possible for different groups to work together, build bridges between parallel communities, or remove barriers that isolate groups and individuals from engaging in civic society more generally?

By tackling anti-social behaviour and the fear of it, the policy has the potential to remove barriers to vulnerable sectors of the population feeling able to participate in civic life, including fear of entering certain areas, being outside after dark or travelling on foot.

How can the policy be revised, or additional measures be taken, in order for the policy to achieve its aims without risking any adverse impact?

The consultation exercise may provide ideas for further improvement and/or simplification. Monitoring arrangements and supervision by senior police officers will be key, as will the accreditation process through which police officers must go before being empowered to exercise this discretionary power.

Are there any concerns from data gathering, consultation and analysis that have not been taken on board?

No.

Ensuring access to information

How can you ensure that information used for this Equality Impact Assessment is readily available in the future?

Existing research, cited above, is freely available on the Home Office (Research, Development and Statistics Directorate) website. Any further updates will be posted there too, and disseminated to interested practitioners.

Full Equality Impact Assessments for this proposal will be published when completed, following feedback from external stakeholders obtained from the consultation process.

How will you ensure your stakeholders continue to be involved/engaged in shaping the development/delivery of this policy?

The external consultation will provide an opportunity for stakeholders to be involved in further refining the policy. Implementation will require primary legislation. This will provide opportunities for stakeholder involvement and close scrutiny.

The drafting and updating guidance will be carried out with stakeholder involvement including community groups and expert practitioners.

The monitoring of the use of the power should be open to public scrutiny.

How will you monitor this policy to ensure that the policy delivers the equality commitments required?

Monitoring of factors such as ethnicity, gender and age can be built into the form-issuing and data-handling processes. The monitoring information will be supervised by senior officers and open to scrutiny by representatives of the community.

Research should be undertaken to explore issues not picked up via routine monitoring, including the impact on the community.

Annex E:
Partial Equality Impact Assessment

Action plan

Recommendations	Responsibility	Actions required	Success indicators	Target date	What progress has been made?
Data collection	Home Office	Design forms to include monitoring data to include race, gender and age of those subject to the order; may involve multiple individuals in respect of the Closure Order.	Adaptation of IT systems to capture and report on data. Meets business needs without unreasonable increase in burden on front-line staff.	Post consultation (tbc).	Similar forms (e.g. PND, crack house closure) have been examined for adaptation.
Publication arrangements	Home Office	Place Equality Impact Assessment and subsequent research on Home Office website.	Documents appear on website.	Ongoing from start of implementation stage.	This Equality Impact Assessment has been drafted.
Monitoring and review arrangements	Home Office	Commission research and examine change in perceptions of anti-social behaviour identified in the current research programme.	Report published with credible findings and recommendations.	One year on from implementation date.	None to date, beyond initial planning.

Annex F:

Offences for which a Penalty Notice for Disorder is currently a disposal option

Upper tier £80

PND offence code	CCCJS code	Act	Description	Notifiable/recordable
DA01	CL67008	Section 5, Criminal Law Act 1967	Cause wasteful use of police time/wasting police time, give false report	Recordable
DA02	CA03007	Section 127(2), Communications Act 2003	Send false message/persistently use a public electronic communications network in order to cause annoyance, inconvenience or needless anxiety	Recordable
DA03	FS04009	Section 49, Fire and Rescue Services Act 2004	Knowingly give a false alarm to a person acting on behalf of a fire and rescue authority	Recordable
DA04	PU86107	Section 5, Public Order Act 1986	Use words/conduct likely to cause harassment, alarm or distress	Notifiable and recordable
DA05	EP75005	Section 80, Explosives Act 1875	Fire/throw firework(s)	Non-recordable
DA06	CJ67002	Section 91, Criminal Justice Act 1967	Drunk and disorderly in a public place	Recordable
DA11 ¹	CD71040	Section 1(1), Criminal Damage Act 1971	Destroy or damage property (under £500)	Notifiable and recordable
DA12 ¹	TH68010	Section 1, Theft Act 1968	Theft (retail under £200)	Notifiable and recordable
DA13 ²	FW04003	Fireworks Regulations 2004 under Section 11, Fireworks Act 2003	Breach of fireworks curfew (11pm–7am)	Recordable
DA14 ²	FW04002	Fireworks Regulations 2004 under Section 11, Fireworks Act 2003	Possession of a category 4 firework	Recordable
DA15 ²	FW04001	Fireworks Regulations 2004 under Section 11, Fireworks Act 2003	Possession by a person under 18 of an adult firework	Recordable
DA16 ³	LG03036	*Section 141, Licensing Act 2003 (c.17)	Sell or attempt to sell alcohol to a person who is drunk	Recordable (1/12/05)
DA17	LG03067	*Section 146(3), Licensing Act 2003	Supply of alcohol by or on behalf of a club to a person aged under 18	Recordable (1/12/05)
DA18 ³	LG03064	*Section 146(1), Licensing Act 2003	Sale of alcohol anywhere to a person under 18	Recordable (1/12/05)
DA19 ³	LG03081	*Section 149(3), Licensing Act 2003	Buy or attempt to buy alcohol on behalf of a person under 18	Recordable (1/12/05)
DA20	LG03083	*Section 149(4), Licensing Act 2003	Buy or attempt to buy alcohol for consumption on relevant premises by a person under 18	Recordable (1/12/05)
DA21 ¹	LG03088	*Section 151, Licensing Act 2003	Deliver alcohol to a person under 18 or allow such delivery	Recordable (1/12/05)

* New legislative reference with effect from 24 November 2005 on implementation of Licensing Act 2003.

¹ Offence added with effect from 1 November 2004.

² Offence added with effect from 11 October 2004.

³ Offence added with effect from 4 April 2005.

Annex F:

Offences for which a Penalty Notice for Disorder is currently a disposal option

Lower tier £50

PND offence code	CCCJS code	Act	Description	Notifiable/Recordable
DB03	BT49005	Section 55, British Transport Commission Act 1949	Trespass on a railway	Non-recordable
DB04	BT49006	Section 56, British Transport Commission Act 1949	Throw stones/matter/thing at a train	Non-recordable
DB05	LG72008	Section 12, Licensing Act 1872	Drunk in highway	Recordable
DB07	CJ01002	Section 12, Criminal Justice and Police Act 2001	Consume alcohol in designated public place, contrary to requirement by constable not to do so	Non-recordable
DB08	EP90046	Section 87(1) and (5), Environmental Protection Act 1990	Deposit and leave litter	Non-recordable
DB12 ¹	LG03085	*Section 150(1), Licensing Act 2003	Consumption of alcohol by a person under 18 on relevant premises	Recordable (1/12/05)
DB13 ¹	LG03086	*Section 150(2), Licensing Act 2003	Allow consumption of alcohol by a person under 18 on relevant premises	Recordable (1/12/05)
DB14 ³	LG03079	*Section 149(1), Licensing Act 2003 (c.17)	Buy or attempt to buy alcohol, by a person under 18	Recordable (1/12/05)

* New legislative reference with effect from 24 November 2005 on implementation of Licensing Act 2003.

¹ Offence added with effect from 1 November 2004.

² Offence added with effect from 11 October 2004.

³ Offence added with effect from 4 April 2005.

Annex G: **List of acronyms**

ABC	Acceptable Behaviour Contract
AMEC	Alcohol Misuse Enforcement Campaign
ASBO	Anti-Social Behaviour Order
BCU	Basic Command Unit
BME	Black and minority ethnic
CJS	Criminal justice system
CPS	Crown Prosecution Service
CRB	Criminal Records Bureau
FPN	Fixed Penalty Notice
OBTJ	Offence brought to justice
PCSO	Police Community Support Officer
PND	Penalty Notice for Disorder
RSL	Registered Social Landlord
TPO	Temporary Prevention Order
YOT	Youth Offending Team

Consultation response form

New front-line preventative powers

1. Do you believe that additional powers are required to strengthen the response of front-line police to prevent anti-social behaviour?

Yes

No

2. Is it appropriate for the police to impose such conditions and, if so, what safeguards would be required?

Yes

No

3. What would be an appropriate sanction for breaching such conditions?

General comments on tackling anti-social behaviour through new front-line preventative powers:

Deferred Penalty Notice for Disorder (PND)

4. Is the proposed length of the agreement (three to six months) appropriate?

Yes

No

5. Is the safeguard of consent sufficient to ensure appropriate use of the power?

Yes

No

6. How quickly could a decision whether or not to agree to comply with a Deferred PND be required?

7. Is it preferable to defer the PND (based on the individual's compliance with the terms of the agreement), or issue the PND for the original offence and then subsequently discharge the PND once the individual has successfully complied with the agreement?

8. Do you agree that the Deferred PND would be cost-effective?

Yes

No

General comments on Deferred PNDs:

Premises Closure Orders

9. Do you believe it would be useful to have this premises closure tool to deal with the broader issues of anti-social behaviour and disorder in your area?

Yes No

10. Do you agree that the premises closure tool should be a tool of last resort and part of a multi-agency approach to tackle both the immediate and longer-term effects of anti-social behaviour?

Yes No

11. Do you agree that the property should be closed and sealed for 12 weeks with the option of an application to court for an extension for a further 12 weeks in exceptional circumstances?

Yes No

12. We seek your views on any other operational aspect of the proposals, for example whether this should solely be a police power.

13. We will build robust safeguards to protect the needs of any children or vulnerable adults in the households, but should there be any other limits on the use of the power?

General comments on Premises Closure Orders:
