

28 February 2025

**Our Ref: FOI 666**

## **Request**

We received your request on 03 February 2025 for the following information:

*A copy of a tenancy agreement that is readily supplied to a new tenant of a council property in th BT81 area. This should be one that would have been supplied in the year 22/23.*

*The number of complaints for anti social behaviour recieved by the housing executive for properties located in the postcode BT81 7BS.*

*The number of evictions or eviction proceedings commenced between February 2021 and February 2025 in the BT81 area.*

*A copy of your anti social behaviour policy for tenants/how the housing executive uniformly deal with antisocial behaviour.*

*I would like you to provide the information in the following format: PDF*

Your request has been handled under the Freedom of Information Act 2000 (FOIA).

## **Our response**

We have had no complaints of ASB in this area during this time

Also there have been no evictions or eviction proceedings commenced during the specified time.

Tenancy Terms and Conditions can be found on our website by following this link [The Housing Executive - Tenancy conditions and advice](#)

Please see attached PDF of ASB policy as requested.

This concludes our response.

# Anti-Social Behaviour Manual

July 2024

## Contents

Policy Statement	9
<b>Chapter 1: Anti-Social Behaviour (ASB)</b>	<b>10</b>
1.0: Introduction	10
1.1: What is Anti-Social Behaviour?	10
Neighbour Disputes	10
Reports of Anti-Social Behaviour	11
1.2: Estate Management or ASB?	11
<b>Chapter 2: The Documentation</b>	<b>12</b>
2.0: Different Types of Documents	12
2.1: ASB Form	12
2.2: Incident Diary	18
Issuing an Incident Diary	18
Completing an Incident Diary	18
Incident Report Document	19
<b>Chapter 3: Roles and Responsibilities</b>	<b>20</b>
3.0: The Patch Manager	20
3.1: The Role of the Team Leader	20
3.2: The Role of the Assistant Area Manager	21
3.3: The Role of the Area Manager	21
<b>Chapter 4 Developing the Case</b>	<b>22</b>
4.0: Case Development Procedures	22
4.1: Where a member of staff is involved	22
4.2: Origin of Complaint	22
4.3: How a Complaint can be received	23
Anonymous Complaints	23
Complaint received by someone who wishes to remain anonymous	23
In person by the complainant	23
By telephone	23
By email, in writing or from a 3 <sup>rd</sup> party	24
4.4: Compliant Regarding a Leaseholder	24
4.5: Equity Sharing Properties	24
4.6: Registering and Acknowledging the Complaint	25
4.6: Interview Timescales	25
Complainant Timescales	25
Accused Timescales	25
4.7: Aim of the Interviews	25
4.8: Issues to consider regarding the interviews	26
Vulnerability of the accused and complainants	26
Hate Harassment	26
Hate Incident Practical Action (HIPA)	28
Additional issues when interviewing	28
4.9: The Complainant Interview	30

<b>4.10: The Risk Matrix for the Complainant</b>	<b>31</b>
Completing the matrix	32
<b>4.11: The Role of the Action Plan</b>	<b>37</b>
<b>4.12: The Accused Interview</b>	<b>38</b>
Information gathering prior to interview with accused	38
Procedure for Contacting the Accused	38
Conducting the Interview	39
<b>4.13: Post Interview</b>	<b>40</b>
Evidence Gathering	40
Monitoring	42
<b>4.14: Choosing the Way Forward</b>	<b>43</b>
Possible Outcomes after the interview with the accused	43
Options available	44
<b>4.15: Commencing Legal Action</b>	<b>46</b>
How to prepare the file for legal action	46
Schedule of Incidents	47
Monitoring the Case following start of Legal Action	47
Post-Court:	48
<b>4.16: Case Closure</b>	<b>49</b>
Reasons for Closure	49
Procedure for Closure	50
ASB Surveys	50
Re-opening a Closed Case	51
File Retention	51
<b>CHAPTER 5: ACCEPTABLE BEHAVIOUR CONTRACTS (ABCs)</b>	<b>52</b>
<b>5.0: What is an Acceptable Behaviour Contract</b>	<b>52</b>
<b>5.1: When should an ABC be considered</b>	<b>52</b>
Does the behaviour warrant an ABC	53
<b>5.2: The Role of Multi-Agency Working</b>	<b>54</b>
<b>5.3: The Meeting</b>	<b>54</b>
Who should be Present	55
ABC Letters Requesting Meeting	55
Procedures due to Age	55
<b>5.4: NIACRO and APAC</b>	<b>56</b>
What is APAC	56
Referral Process to the APAC Project	56
<b>5.5: The ABC Contract</b>	<b>57</b>
<b>5.6: The Interview Structure – Possible Format</b>	<b>57</b>
<b>5.7: After the Meeting</b>	<b>58</b>
<b>5.8: Failure to Attend</b>	<b>59</b>
<b>5.9: Monitoring the ABC</b>	<b>59</b>
<b>5.10: Breach of an ABC</b>	<b>60</b>
<b>5.11: End of an ABC</b>	<b>60</b>
End of ABC If APAC involved	60
<b>Chapter 6: Mediation</b>	<b>61</b>

6.0: Deciding if a Case is Suitable for Mediation	61
6.1: Mediation Available	61
6.2: NIA and CRJI	61
Referral to NIA or CRJI	61
Payment for NIA and CRJI mediation	62
6.3: Procedure for referral to TIDES Mediation	62
Referral Form	62
Mediation Meetings	63
Number of Mediators	63
Interpreter Services	63
Outcomes from Mediation	64
Payment for Mediation Services	64
<b>Chapter 7: Grounds for Possession of a Secure Tenancy</b>	<b>65</b>
7.0: Extended Grounds	65
7.1: The Legislation	66
7.2: The Implementation of the Legislation	67
Ground 2 (Part 1) - Conduct	67
Ground 2 (Part 2) - Conviction	68
Locality	69
Ground 2A - Domestic Violence	69
Ground 3 - Condition of Property	70
<b>Chapter 8: Possession Proceedings – Secure Tenant</b>	<b>71</b>
8.0: Procedural Guidelines	71
8.1: Commencement of Proceedings	71
Notice Seeking Possession (NSP)	71
Service of the Notice	72
Endorsement of the Notice	73
Confirmation of Service	73
Offer of Support after Service of NSP	73
8.2: After Service – Ejectment Civil Bill Stage	74
Undefended Case	74
Defended Case	74
8.3: The Decree for Possession	74
Absolute Decree for Possession	74
Decree with a Stay	75
Undertaking	75
8.4: Enforcement of Judgements Office (EJO)	75
Service Level Agreement Recovery of Possession (ASB)	75
EJO Cancellation Fees	75
<b>Chapter 9: Injunction Proceedings against ASB</b>	<b>76</b>
9.0: Grounds for Seeking an Injunction (2003 Order)	76
9.1: Injunctions against ASB (Housing (NI) Order 2003)	76
9.2: When will a court grant an injunction	77
The definition of harm (Article 27)	78

<b>Chapter 10: Introductory Tenancy</b>	<b>79</b>
<u>10.0: Background</u>	<u>79</u>
<u>10.1: Proceedings for Possession</u>	<u>80</u>
The Importance of Adherence to Procedural Guidelines	80
Judicial review proceedings	80
<u>10.2: Reasons for Seeking a NOP</u>	<u>81</u>
<u>10.3: Ending an Introductory Tenancy</u>	<u>81</u>
The Notice of Proceedings (NOP)	81
The Decision Making Officer	82
Preparation of the Notice of Proceedings (NOP)	82
Method of Service	83
The Right to a Review	83
<u>10.4: Effect of Possession Proceedings</u>	<u>83</u>
<u>10.5: Review Hearing</u>	<u>84</u>
Who can Request the Review and When	84
Acknowledgement of Request for Review	84
Review via an Oral Hearing	85
Review via an Exchange of Correspondence	85
Case File Preparation	85
<u>10.6: The Review Panel Hearing Guidelines</u>	<u>86</u>
Who can hear a Review	86
Responsibility of the Review Panel	86
Record keeping	87
The Right of the Introductory Tenant at an Oral Hearing	88
Presentation of the case by the Local Office	88
Postponement or adjournment of an oral hearing	88
New information supplied by Introductory Tenant	89
The Review Time-Table	89
The Decision of the Reviewing Officer	90
Review Hearing – Procedural Guidance	90
<u>10.7: Conduct and Order of the Review Hearing</u>	<u>91</u>
Introduction	91
Case Presentation	93
<u>10.8: Action after the Review Hearing</u>	<u>94</u>
Notification of Decision	94
Service of Decision Letter – Introductory Tenant	94
<u>10.9: Local Office Case Presentation at Hearing</u>	<u>95</u>
The Context of the Case	95
Procedural Compliance	95
The Anti-Social Behaviour	95
Local Office Response	96
Witnesses	96
Conclusion	96
<b>Chapter 11: Anti-Social Behaviour Orders (ASBOs)</b>	<b>97</b>
<u>11.0: Introduction</u>	<u>97</u>
<u>11.1: What are ASBOs?</u>	<u>97</u>
<u>11.2: Legal Definition of ASB for the Purposes of an ASBO</u>	<u>98</u>

Types of Behaviour for which ASBOs can be used	98
<b>11.3: Prohibitions</b>	<b>100</b>
Guidance on Prohibitions	100
The Criteria for Prohibitions	100
<b>11.4: Different Types of ASBOs</b>	<b>101</b>
1. Interim ASBO on Conviction	101
2. ASBO on Conviction	101
3. Interim ASBO on Application	102
4. ASBO on Application	102
<b>11.5: Applying for an ASBO</b>	<b>103</b>
Who can apply for an ASBO	103
When to Apply for an ASBO	103
<b>11.6: The definition of “relevant persons”</b>	<b>103</b>
Housing Executive	103
District Council	104
Chief Constable	104
<b>11.7: The Requirement of Consultation</b>	<b>104</b>
Why Consult	104
How to Consult	105
Possible outcomes of the consultation process	106
Identification of the Lead Agency	106
Non Statutory Consultation	106
<b>11.8: Time Limitations</b>	<b>107</b>
When can an application be made	107
The Duration of an Order	107
<b>11.9: Breach of an Anti-Social Behaviour Order</b>	<b>108</b>
Prosecution of a Breach of an Anti-Social Behaviour Order	108
Breach Proceedings Adults	108
Breach Proceedings Children	108
<b>11.10: Standard of Proof/Level of Evidence needed for ASBO</b>	<b>109</b>
Admissibility of Hearsay and Professional Evidence	109
Presenting Hearsay Evidence	109
Use of Hearsay Notices	110
The Standard of Proof - Civil or Criminal	110
Proving Necessity for an ASBO	110
<b>11.11: Difference between an ASBO &amp; an injunction</b>	<b>111</b>
When can ASBOs be used	111
Summary Table - Comparing and Contrasting Anti-Social Behaviour Orders and Injunctions	112
<b>11.12: Procedural Guidelines for ASBOs</b>	<b>113</b>
The Northern Ireland Housing Executive Process	113
Case Development	113
<b>11.13: The Importance of Evidence</b>	<b>113</b>
The Initial Complaint	113
The Evidence	114
Supporting Evidence	114
Time Restrictions	114
<b>11.14: When the NIHE should apply for an ASBO</b>	<b>115</b>
<b>11.15: Criteria to Support the Use of ASBOs by the Housing Executive</b>	<b>115</b>

<b><u>11.16: Stage 1 the Process</u></b>	<b><u>116</u></b>
Evidence Validation	116
Informal Remedies	117
<b><u>11.17: Stage 2 Consultation, File Preparation &amp; Risk Assessment</u></b>	<b><u>119</u></b>
Formal/Statutory Consultation	119
File Preparation	119
Risk Assessment to NIHE staff	120
<b><u>11.18: Stage 3 - Pre Court</u></b>	<b><u>122</u></b>
The Local Office	122
The Community Safety Team	122
Court Procedures	123
<b><u>11.19: Stage 4 – The Hearing</u></b>	<b><u>123</u></b>
<b><u>11.20: Stage 5 – Monitoring</u></b>	<b><u>123</u></b>
Local Office Functions	123
<b><u>11.21: Stage 6: Breach and Enforcement</u></b>	<b><u>124</u></b>
Local Office Functions	124
Procedures	124
<b><u>11.22: Guidance on Publicising ASBOs</u></b>	<b><u>125</u></b>
Issues to be addressed by the Housing Executive	125
The Objectives and Benefits of Publicity	125
The Decision to Publish	125
The Decision making process	126
Contents of Publicity	126
Distribution of Publicity	126
Type of Publicity	127
Consideration of Data Protection	127
<b><u>Chapter 12: The Witness</u></b>	<b><u>128</u></b>
<b><u>12.0: Introduction</u></b>	<b><u>128</u></b>
<b><u>12.1: Witness Development</u></b>	<b><u>128</u></b>
Maintain Contact	128
Explain the Process	129
Provide Information	129
Advise of Other Agencies	129
Victim and Witness Support Information Leaflet	129
<b><u>12.2: Prior to Court and During Hearing</u></b>	<b><u>130</u></b>
<b><u>12.3: Witness Expenses</u></b>	<b><u>130</u></b>
<b><u>Chapter 13: The Community Safety Team (CST)</u></b>	<b><u>131</u></b>
<b><u>13.0: Introduction</u></b>	<b><u>131</u></b>
<b><u>13.1: Initial Contact with CST</u></b>	<b><u>131</u></b>
<b><u>13.2: Formal Referral</u></b>	<b><u>131</u></b>
<b><u>Chapter 14: Reports</u></b>	<b><u>132</u></b>
<b><u>14.0: Introduction</u></b>	<b><u>132</u></b>
<b><u>14.1: Control of Reports</u></b>	<b><u>132</u></b>
<b><u>Appendix 1: ASB Categories</u></b>	<b><u>133</u></b>

<b><u>Appendix 2 ASB Form</u></b>	<b><u>134</u></b>
<b><u>Appendix 3: PSNI Information Sharing Protocol</u></b>	<b><u>150</u></b>
<b><u>Appendix 4: Council Information Sharing Protocol</u></b>	<b><u>154</u></b>
<b><u>Appendix 5: YJA Information Sharing Protocol</u></b>	<b><u>157</u></b>
<b><u>Appendix 6: Incident Diary</u></b>	<b><u>160</u></b>
<b><u>Appendix 7: Incident Report Document</u></b>	<b><u>165</u></b>
<b><u>Appendix 8: Flow Chart – Managing Cases of ASB</u></b>	<b><u>166</u></b>
<b><u>Appendix 9: Acknowledgement Letter</u></b>	<b><u>169</u></b>
<b><u>Appendix 10: Action Plan</u></b>	<b><u>170</u></b>
<b><u>Appendix 11: Action Plan Covering Letter</u></b>	<b><u>171</u></b>
<b><u>Appendix 12: Perpetrator to Attend Office</u></b>	<b><u>172</u></b>
<b><u>Appendix 13A: Introductory Tenant Warning Letter</u></b>	<b><u>173</u></b>
<b><u>Appendix 13B: Secure Tenant Warning Letter, Condition of Property</u></b>	<b><u>174</u></b>
<b><u>Appendix 13C: Secure Tenant, Warning Letter</u></b>	<b><u>175</u></b>
<b><u>Appendix 13D: Non NIHE Tenant, Warning Letter</u></b>	<b><u>176</u></b>
<b><u>Appendix 13E: Introductory tenant, Final Warning Letter</u></b>	<b><u>177</u></b>
<b><u>Appendix 13F: Secure Tenant Final Warning Letter, Condition of Property</u></b>	<b><u>178</u></b>
<b><u>Appendix 13G: Secure Tenant, Final Warning Letter</u></b>	<b><u>179</u></b>
<b><u>Appendix 14A: Closure Letter, No Breach of Tenancy</u></b>	<b><u>180</u></b>
<b><u>Appendix 14B: Closure letter complainant</u></b>	<b><u>181</u></b>
<b><u>Appendix 14C: Closure Letter, Unable to Substantiate, Complainant</u></b>	<b><u>182</u></b>
<b><u>Appendix 14D: Closure Letter, Situation improved, Complainant</u></b>	<b><u>183</u></b>
<b><u>Appendix 14E: Closure Letter, Accused</u></b>	<b><u>184</u></b>
<b><u>Appendix 14F: Closure Letter, Situation improved, Accused</u></b>	<b><u>185</u></b>
<b><u>Appendix 14G: Closure Letter, Unable to Substantiate, Accused</u></b>	<b><u>186</u></b>
<b><u>Appendix 15: Re-opening Case Letter</u></b>	<b><u>187</u></b>
<b><u>Appendix 16A: ABC Letter to 16-17 years of age</u></b>	<b><u>188</u></b>
<b><u>Appendix 16B: ABC Letter to Adult</u></b>	<b><u>189</u></b>
<b><u>Appendix 16C: ABC Letter to Parents requesting Meeting</u></b>	<b><u>190</u></b>
<b><u>Appendix 17: APAC Referral Form</u></b>	<b><u>191</u></b>
<b><u>Appendix 18: APAC Consent Form</u></b>	<b><u>194</u></b>
<b><u>Appendix 19: APAC Confirmation of referral to project</u></b>	<b><u>195</u></b>

<b><u>Appendix 20: ABC Contract Example</u></b>	<b><u>196</u></b>
<b><u>Appendix 21A, ABC Letter to 16-17 years of age, post ABC</u></b>	<b><u>200</u></b>
<b><u>Appendix 21B, ABC Letter to Adult, post ABC</u></b>	<b><u>201</u></b>
<b><u>Appendix 21C ABC Letter to Parents, post ABC</u></b>	<b><u>202</u></b>
<b><u>Appendix 22A: ABC Letter to 16-17 years of age, failure to attend</u></b>	<b><u>203</u></b>
<b><u>Appendix 22B: ABC Letter to Adult, failure to attend</u></b>	<b><u>204</u></b>
<b><u>Appendix 22C: ABC Letter to Parents, failure to attend</u></b>	<b><u>205</u></b>
<b><u>Appendix 23: Mediation Referral Form</u></b>	<b><u>206</u></b>
<b><u>Appendix 24: Conditions of Tenancy</u></b>	<b><u>207</u></b>
<b><u>Appendix 25: NSP and Notes</u></b>	<b><u>210</u></b>
<b><u>Appendix 26: Schedule of Incidents</u></b>	<b><u>214</u></b>
<b><u>Appendix 27A: NOP and Notes</u></b>	<b><u>215</u></b>
<b><u>Appendix 27B: NOP covering Letter</u></b>	<b><u>218</u></b>
<b><u>Appendix 27C: Leaflet Ending an Introductory Tenancy</u></b>	<b><u>219</u></b>
<b><u>Appendix 27D: Introductory Tenant – Review Request</u></b>	<b><u>208</u></b>
<b><u>Appendix 27E: Contents Page for Review Hearing File</u></b>	<b><u>210</u></b>
<b><u>Appendix 27F: Structure of Local Office’s Presentation</u></b>	<b><u>212</u></b>
<b><u>Appendix 28A: Sample Summons and Prohibitions for ASBO</u></b>	<b><u>214</u></b>
<b><u>Appendix 28B: ASBO Certificate of Consultation</u></b>	<b><u>218</u></b>
<b><u>Appendix 28C: ASBO Consultation Letter</u></b>	<b><u>219</u></b>
<b><u>Appendix 28D: List of alternative action to ASBO</u></b>	<b><u>220</u></b>
<b><u>Appendix 28E: ASBO Letter for 16-17 years of age advising ASBO being applied for</u></b>	<b><u>221</u></b>
<b><u>Appendix 28F: ASBO Letter to Parents for meeting Part 1</u></b>	<b><u>222</u></b>
<b><u>Appendix 28F: ASBO Letter to Parents for meeting Part 2</u></b>	<b><u>223</u></b>
<b><u>Appendix 28G: ASBO letter to 16 - 17 year old Did Not Attend</u></b>	<b><u>224</u></b>
<b><u>Appendix 28H: ASBO Warning letter to Adults</u></b>	<b><u>225</u></b>
<b><u>Appendix 28I: ASBO Letter to Social Services</u></b>	<b><u>226</u></b>
<b><u>Appendix 28J: ASBO - Risk Assessment Form</u></b>	<b><u>227</u></b>

## Policy Statement

The Northern Ireland Housing Executive acknowledges that every individual is entitled to live in peace within their neighbourhood and that to provide a quality housing service anti-social behaviour must be addressed effectively.

To address anti-social behaviour we will:

- Do more than is legally required under the conditions of tenancy.
- Quickly and formally acknowledge all reports of anti-social behaviour.
- Seek to investigate all reported instances of anti-social behaviour at Local Office level in a timely manner.
- Provide advice and support for an individual's own action.
- Identify and interview all interested parties.
- Establish inter-agency working where appropriate.
- Use legal action within the limitations of the legislation when all efforts at conciliation have failed. Action can include possession and eviction proceedings and/or injunction and committal proceedings.
- Endeavour to take action on behalf of Housing Executive tenants who are the victims of nuisance caused by non-Housing Executive tenants and Housing Executive tenants
- Seek to respond to instances of anti-social behaviour by Housing Executive tenants, whether the complainant is a tenant, private tenant or owner-occupier.
- In the context of re-housing, take full account of any anti-social behaviour carried out by the housing applicant or their household, to the extent that is legally permissible.

# Chapter 1: Anti-Social Behaviour (ASB)

## 1.0: Introduction

The Northern Ireland Housing Executive acknowledges in its policy statement on anti-social behaviour (ASB), that every individual is entitled to live in peace within their neighbourhood and that to provide a quality housing service, we must effectively address the problem of ASB.

As an organisation we must demonstrate to our current and prospective tenants, plus all other tenure groups resident in our estates, that we will endeavour to deal with ASB in an effective manner.

The procedures for dealing with incidents of anti-social behaviour are relatively uniform irrespective of the type of nuisance. This manual describes how to respond to reports of ASB and develop the case.

## 1.1: What is Anti-Social Behaviour?

### Neighbour Disputes

“Anti-social behaviour is when the behaviour of households or individuals in a neighbourhood adversely affects other people’s use and enjoyment of their home or neighbourhood. In its most extreme form, ASB can threaten the physical or mental health, or safety and security of individuals.”

When dealing with complaints of nuisance, it is important to remember that the behaviour of individuals is not solely regulated by law, but also by the concept of “reasonableness”. Residents have the right to live in their own way, providing their behaviour does not adversely impact on the lives of others.

Sometimes simply informing people that their behaviour is upsetting their neighbours may be sufficient to resolve the problem. Equally, a neighbour should be reasonably tolerant and understanding of variations in lifestyles. On occasions, people making complaints may need to be carefully reminded of this.

## Reports of Anti-Social Behaviour

In respect of any report of anti-social behaviour, it is necessary to distinguish between minor incidents of ASB and more the serious matters where legal action would be appropriate.

The following list provides examples of severe anti-social behaviour where legal proceedings would be appropriate:

- Violence or threat of violence
- Damage or a threat of damage to property
- Situations where there have been a substantial number of incidents including those of a minor nature which have continued despite warnings to the individual
- Harassment which is having a seriously detrimental effect on the victim or members of his/ her family.

The Housing Executive has 23 categories of complaint type and an alphabetical list of these can be found at [Appendix 1](#).

## 1.2: Estate Management or ASB?

If a complaint has been received it must be treated as ASB and therefore must be keyed onto HMS and investigated accordingly.

If there is no complainant but it has come to the attention of the local office that there is an issue that needs remedial action it should be treated as an Estate Management issue.

# Chapter 2: The Documentation

## 2.0: Different Types of Documents

The 2 documents that are used are the ASB Form on which all complaints should be recorded and the Incident Diary which is used when the case is of a more complex nature.

### 2.1: ASB Form

All complaints should be recorded using the ASB Form shown at [Appendix 2](#).

The form is a 16 page document and is completed accordingly.

**Page 1**      The ASB number which is generated when the case is registered on the HMS system and the name and the address of the accused and the name and address of the complainant

**Page 2**      Blank page

**Page 3**      This page has 3 statements

- Privacy Notice
- Your Information
- Sharing your information with other

These statements have to be read to the complainants by the Patch Manager or another Housing Executive Officer who then dates and signs the form. This is done when a complaint is received whether it is in person, over the phone, by letter or e-mail.

**Page 4**      The complainant details including:

- Name and address of the complainant
- National Insurance Number
- DOB and the age group they fall into
- Telephone number (this is very important for surveys once the case is closed)
- Tenure type
- Property type. Information should be provided in respect of the proximity of their property to the alleged accused's property.
- Household composition. Full details of everyone living in the complainant's home should be obtained.

- **Monitoring information.** This section provides the necessary questions to be asked by the Patch Manager to ensure the correct monitoring information is held, however the complainant does not have to answer these questions.

## Page 5

Details of interview with main complainant includes:

- The date the complaint was received and the date of the interview, (these 2 dates may be the same).

### The 7 Ws

- **What is the complaint/problem?** Ensure that the issue raised is the main one, clearly identify the problem
- **Who is causing the ASB?** This would include the name and address of all the individuals involved and if appropriate their relationship to the accused.
- **Who is affected?** This would include any additional witnesses who may give supporting evidence and will be useful if legal action is necessary. The Patch Manager should seek clarification from the complainant of any other individual or neighbour experiencing the ASB. Contact should be established with these individuals.
- **Where and when does it happen?** This would include details of the location i.e. inside or outside the house and specific dates and times. With regards to noise we need to establish for how long it lasts.
- **Why does it happen?** This is the complainant's view of why it is happening but it may help to identify a possible solution. The complainant may be able to provide some information about any vulnerabilities that the accused may have. This may provide the Patch Manager with a starting point from which to carry out investigations in establishing if there are any other agencies involved with the accused.
- **What effect has it had on the complainant?** In many cases of ASB the incidents will have had an adverse effect on the complainant and this should be detailed here, examples would be lack of sleep, being frightened, having to attend the doctor etc.

## Additional Questions on page 5

- Has the complainant requested rehousing as a result of the situation?
- Has the complainant approached the accused? They might be afraid and may not have spoken to them
- Has the ASB been reported to any other agency? In many situations, cases of ASB cannot be resolved by the Housing Executive working in isolation. The Patch Manager should confirm the extent of police involvement in the case and obtain the dates and times when they have been contacted by the complainant. If specific officers have been involved, ascertain their identity.

The police should be requested to confirm in writing the details of their involvement in a case which would include dates, times, types of incident and whether or not they attended and/or witnessed the incident. Any request for information from the PSNI should be made by the Patch Manager using the appropriate information Sharing Protocol ([Appendix 3](#)).

Any information that is requested from the council should be on their information sharing protocol at [Appendix 4](#) and the Youth Justice Agency on their information sharing protocol at [Appendix 5](#)

- Would the complainant consider mediation? Mediation works best if the two parties agree to meet face to face, however if this is not possible then shuttle mediation can take place and they don't have to meet. The Patch Manager should ensure that the complainant and the perpetrator are made fully aware of the need for both parties to participate fully in this process. Mediation is discussed further in [Chapter 6](#)
- Does the complainant feel vulnerable? If the complainant states that they feel vulnerable or a vulnerability was identified in the monitoring information, then the completion of the matrix should be offered. The matrix is explained in more detail in [Chapter 4](#)
- If appropriate is complainant agreeable to completion of the matrix? The matrix should only be completed if the complainant is agreeable.

## Page 6

**The Matrix**, this section details the questions that the complainant will be asked if they feel they are vulnerable or if a vulnerability was identified in the monitoring information. This is covered in greater detail in [Chapter 4](#)

**Page 7**      **The Matrix**, this is the referral section of the matrix and is covered in greater detail in [Chapter 4](#)

There are also 2 statements

**Consent to retain referral information:** Where a referral for support is being made to a third party, the Housing Executive must seek consent of the complainant to keep a copy of the actual referral form. The complainant **must** sign and date this so that a referral can be made and a copy of the referral form kept.

**Withdrawal of consent:** Complainants should be advised that they can withdraw their consent to a copy of their referral being kept and they do not have to provide a reason.

**Page 8**      **The Action Plan** should address all the problems identified during the interview and will include if incident diaries were issued and the date they will be collected. It will also detail the actions to be taken by the Patch Manager and the actions to be taken by the complainant and the date for the review. The action plan is discussed in more detail in [Chapter 4](#). A system copy of the Action Plan is to be issued to the complainant

**Page 9**      **Interview with the Accused.** This page can be detached and taken to the interview with the accused. This page is for recording the accused's details and includes:

- Name and address of the accused
- National Insurance Number
- DOB and the age group they fall into
- Telephone number
- Tenure type
- Property type. Information should be provided in respect of the proximity of their property to the complainant's property.
- Household composition. Full details of everyone living in the accused's home should be obtained.
- A check needs to be made to see if they have applied to buy their property
- A check needs to be made to see if they have made an application for housing or for a transfer
- Monitoring information. This section provides the necessary questions to be asked by the Patch Manager to ensure the correct monitoring information is held, however the accused does not have to answer these questions.

**Page 10      The Interview with the Accused.** This includes:

- Details and dates of no access for the interview
- Details of the interview
- Date of the interview
- Is there a counter allegation? If there is then a case has to be opened against the complainant and investigated in the usual way
- Would the accused consider mediation, this should record if mediation has been offered see, [Chapter 6](#) for further details on mediation

**Page 11      Vulnerability and referral consent**

**Vulnerability**

If a vulnerability has been identified then 3 more questions should be asked:

Are you engaging with a floating support provider?

Do you consent to being referred to a floating support provider?

Do you have a social worker and details of social worker?

The Patch Manager will need to consider other factors which may be contributing to the problem of neighbour nuisance and this includes vulnerability or groups with particular needs. All factors i.e. the existence of a mental health condition, addiction issues or a member of a minority ethnic community should be considered when deciding on an appropriate course of action. Every effort should be made to resolve the problem of neighbour nuisance involving an individual with particular needs, without recourse to legal action.

The Patch Manager will need to liaise with all agencies where potential exists for involvement with the household and verify the appropriateness and availability of support package or other forms of intervention/diversion. Vulnerability is also discussed in [Chapter 4](#).

**Consent**

**Consent to retain referral information:** Where a referral for support is being made to a third party, the Housing Executive must seek consent of the accused to keep a copy of the actual referral form. The accused **must** sign and date this so that a referral can be made and a copy of the referral form kept.

**Withdrawal of consent:** The accused should be advised that they can withdraw their consent to a copy of their referral being kept and they do not have to provide a reason.

**Page 12**      Notes page

**Page 13**      **Pre Legal Interventions** should be considered prior to legal action

- Was an ABC signed?
- Was an APAC referral made?
- Was a referral to mediation made?

**Pre Legal Checks.** These should be carried out before the file comes to CST for legal action. There cannot be 2 NSPs served on the same person, nor can there be 2 decrees obtained for the same person. If there already is an active NSP/NOP or decree please contact the Community Safety Team for advice.

Referral for legal action:

- Select preferred course of action –  
Injunction/NSP/NOP/ASBO/Advice
- Are the witnesses willing to attend court?
- When copying the file a map of the area and the signed tenancy agreement should be included
- Reason why legal action has been selected
- Signed off by the Patch Manager and dated

**Page 14**      Every case will be closed at some point after all investigations have been gathered. The Patch Manager will give details for closure, reason for closure, was the case resolved and signed off and dated by the Patch Manager

**Page 15**      Notes page

**Page 16**      This is a checklist reminder page to guide the Patch Manager through the ASB case

## 2.2: Incident Diary

The development of any case of anti-social behaviour is very much dependent upon the availability of good quality evidence. The incident diary shown at [Appendix 6](#) is one of the best means by which the complainant can maintain an accurate log of all events.

### Issuing an Incident Diary

- Prior to the issue of an incident diary the importance and role of the diary should be explained to the complainant.
- The complainant should be advised that the diary represents the individual's personal record of what they see and hear. It should not include details of events that other people have experienced. If other witnesses are involved in the case they should either complete their own incident diary or complete a witness report sheet at the back of the diary.
- The complainant should be shown how to complete the diary properly and the type of specific information which should be logged.
- To ensure that the diary is completed correctly, it will be necessary to arrange, with the complainant, times to review the contents of the diary.

**N.B: The Incident Diary may act as a filtering process, deterring those complainants who do not have a valid case.**

### Completing an Incident Diary

A new incident sheet in the diary should be completed for each separate incident. If a second incident occurs during the same day or night, a new incident sheet should be completed.

When issuing a diary the Patch Manager should refer the complainant to the 3 statements inside the front cover

- Privacy Notice
- Your Information
- Sharing your information with other

These statements have to be read to the complainant by the Patch Manager or another Housing Executive Officer who then dates and signs the form.

The diary must record all incidents. It should record:

- The date in full including the year.
- The time the nuisance started and ended.
- The location of where the incident occurred.
- The names of the individuals who committed the nuisance.
- A description of what happened and where the incident occurred. This should be specific and detailed. The complainant should be discouraged from providing a general summary of the incident.
- The identity of other witnesses, their names and addresses.
- Those agencies notified of the incident; for instance, the police, the council, social services, the Housing Executive, plus details on their response and actions.
- Other comments. This should include details on how the incident made the complainant feel or how it has affected them and their family members.

**N.B: Ensure that the complainant is aware of the need to continue to maintain and complete the incident diary prior to and after any court hearing.**

## Incident Report Document

When an ASB case is already open, any further reports of anti-social behaviour should be recorded by using an incident report document see [Appendix 7](#).

## Chapter 3: Roles and Responsibilities

When dealing with cases of ant-social behaviour different officers within the local office will have a different input, the main officers are

- Patch Manager
- Team Leader
- Assistant Area Manager
- Area Manager

### 3.0: The Patch Manager

The Patch Manager will be responsible for all aspects of the ASB case from initiation to completion, including prevention, intervention and support responses and the keying and updating of the ASB system throughout the case. In more serious cases of nuisance this will also include making the decision in relation to the issuing of statutory notices and documentation or any other action prior to the decision whether to issue legal proceedings for possession of a dwelling. This sign off on NSP and NOP is the Patch Mangers responsibility in line with Standing Orders.

If the file is for legal action, the complete ASB file should be photocopied and forwarded to the Community Safety Team. The original file and all original documents should remain in the local office as they will be required to be produced in court.

If after service of the NSP/NOP it is decided to commence legal proceedings this should be authorised by the Team Leader or above

### 3.1: The Role of the Team Leader

The Team Leader will make the decision in relation to the commencement and disposal of legal proceedings for possession of a dwelling. This is after the NSP/NOP has been served and prior to the service of the ejectment civil bill. The Team Leader will be responsible for attendance at ASB forums within their area.

## **3.2: The Role of the Assistant Area Manager**

The decision to seek an ASBO and an injunction for ASB has to be taken by a level 7 or above in Landlord Services.

## **3.3: The Role of the Area Manager**

The Area Manager will be the Reviewing Officer on the Reviewing Panel for Introductory Tenancies. This is detailed more in Chapter 10 Introductory Tenancy.

# Chapter 4 Developing the Case

## 4.0: Case Development Procedures

This Chapter outlines the procedure to be adopted on receipt of a complaint of anti-social behaviour and provides guidance on case development procedures. This is summarised in the flow chart Managing Cases of ASB in [Appendix 8](#)

### 4.1: Where a member of staff is involved

If a complaint of ASB is received by a Local Office and it has been determined that a member of staff of that Local Office is involved either directly or indirectly, as either the complainant or alleged accused, then the case should be referred in the first instance to the Assistant Area Manager.

Indirect involvement would be where a close relative of a staff member is defined as Husband / Wife / Partner / Son / Daughter / Foster Child / Brother / Sister / Step Brother / Step Sister / Son in Law / Daughter in Law / Father / Mother / Mother in Law / Father in Law / Step Son / Step Daughter / Step Parents / Sister in Law / Brother in Law / Uncle / Aunt / Nephew / Niece / Grandparent / Grandson / Granddaughter.

When the Assistant Area Manager has been advised of the complaint then the details will be forwarded to the Area Manager immediately. The case will then be allocated by the Area Manager to another office for investigation.

### 4.2: Origin of Complaint

A complaint can be received in writing or verbally. It does not have to come from the individual experiencing the anti-social behaviour. A family member, neighbour, political representative, police, council officer, social worker etc. may report the complaint initially. A written notification of the nuisance does not have to be received before the officers start to investigate.

## 4.3: How a Complaint can be received

### Anonymous Complaints

This is where the identity of the complainant is unknown, and this type of complaint should not be ignored. Many such complaints can be checked, for instance the physical condition of properties and gardens. Other forms of allegation may not be so easily substantiated and may need to be discussed with the line manager as to whether or not an investigation should commence. On no account should anonymous complaints against a particular individual be discussed with other neighbours.

Irrespective of whether or not any action is taken, the anonymous complaint should be kept on file as it may be beneficial should there be additional complaints in the future.

### Complaint received by someone who wishes to remain anonymous

In this case the complaint should be registered as a known complainant and the usual procedures should be followed, i.e. sending out an acknowledgement letter, agreeing an action plan, completion of the risk matrix and offering floating support if appropriate.

There should be a note put on the file that the complainant wishes to remain anonymous as this would have an impact if the case were to proceed to legal action.

### In person by the complainant

- The Patch Manager will interview the complainant and record all relevant information onto the ASB form
- The case should be registered on the HMS system and the appropriate acknowledgement letter/action plan sent to the complainant
- The Patch Manager will develop the case and carry out the necessary investigations.

### By telephone

- The Patch Manager will interview the complainant and record all relevant information onto the ASB form
- The case should be registered on the HMS system and the appropriate acknowledgement letter/action plan sent to the complainant

- If the Patch Manager has carried out a detailed interview on the phone, then they do not have to carry out the initial visit with the complainant but will be expected to make future contact with them to keep them up to date
- The Patch Manager will develop the case and carry out the necessary investigations.

### **By email, in writing or from a 3<sup>rd</sup> party**

- Complete the ASB form as far as possible
- The case should be registered on the HMS system and the appropriate acknowledgement letter/action plan sent out to the complainant, but not if the complainant is 3<sup>rd</sup> party
- Contact should be made with the complainant even if enough information has been gathered, so that the complainant knows what we intend to do with the complaint.

## **4.4: Compliant Regarding a Leaseholder**

- If the complaint is regarding a Housing Executive tenant the complaint should be keyed onto HMS and investigated accordingly
- If the complaint is regarding a leaseholder and the complainant is a Housing Executive tenant the complaint should be keyed onto HMS and investigated accordingly. If the perpetrator's address is not already on HMS, it will have to be added on via the IT Assist Portal
- If neither the complainant or the perpetrator are Housing Executive Tenants then advice should be sought from the Community Safety Team

## **4.5: Equity Sharing Properties**

On purchase of a property under Equity Sharing the secure tenancy comes to an end and in the event of any anti-social behaviour possession proceedings would not be relevant.

## 4.6: Registering and Acknowledging the Complaint

All initial reports of ASB should be registered and acknowledged (either with an acknowledgement letter or an action plan letter) on the HMS system with 3 days of the complaint being received. This will generate an ASB reference number and this number should be written on the ASB file. If the Patch Manager decides not to send out the acknowledgement letter at [Appendix 9](#) then the action plan letter must be sent out. This is discussed further in [Section 4.10](#).

## 4.6: Interview Timescales

### Complainant Timescales

If the complaint is not made in person or by phone, the Patch Manager should arrange to carry out a more in-depth interview with the complainant within 5 days of the complaint being received.

### Accused Timescales

The Patch Manager is to arrange to complete the interview within 3 weeks of receipt of the initial complaint.

## 4.7: Aim of the Interviews

The aim of the interviews with the complainant and the accused is to:

- Arrive at a real understanding of the problem.
- Identify a programme of action with which the complainant feels comfortable and which is achievable.
- Develop the complainant's confidence in continuing to work with the Housing Executive to find a lasting solution to the problem.
- To get both sides of the story

## 4.8: Issues to consider regarding the interviews

### Vulnerability of the accused and complainants

Every attempt should be made to address the problem of illness or vulnerability through the provision of support.

The Disability Discrimination Act 1995 prohibits discrimination against disabled persons. The Act specifies that a person discriminates against a disabled person if for any reason related to the person's disability; the person treats him less favourably than he would another person not similarly disabled and he cannot show that such treatment is justified.

The Act establishes the basis on which discrimination may be justified. It is only reasonable to justify discrimination if it is necessary to protect the health and safety of any person including the disabled person.

For instance, if the individual causing the nuisance/annoyance suffers from some form of vulnerability i.e. an addiction problem or a mental health condition it may be necessary for the Housing Executive to determine the extent to which the anti-social behaviour is consistent with their illness prior to any decision to initiate legal proceedings.

Eviction is not always appropriate when problems arise between a vulnerable tenant and neighbours. To assist the vulnerable tenant to remain in their home it may be necessary to liaise with the relevant care agencies to establish whether they are able to offer care or support services that might enable the tenant to remain.

Liaison with agencies would be of great importance in respect of individuals who at the commencement of the tenancy were in contact with other support agencies and for those who subsequently give cause for concern.

**The existence of vulnerability, however, does not necessarily preclude the Housing Executive from initiating legal proceedings, particularly in those cases where the individual concerned is unwilling to avail of any assistance.**

### Hate Harassment

When carrying out the interviews the Patch Manager needs to keep in mind hate harassment. This is any incident, which is perceived by the victim or any other person as being motivated by prejudice or hate and can take many forms including:

- **Physical attacks** – such as physical assault, damage to property, offensive graffiti, neighbour disputes and arson
- **Threat of attack** – including offensive letters, abusive or obscene telephone calls, groups hanging around to intimidate and unfounded, malicious complaints
- **Verbal abuse or insults** - offensive leaflets and posters, abusive gestures, dumping of rubbish outside homes or through letterboxes, and bullying at school or in the workplace

A hate crime is defined as “any criminal offence which is perceived, by the victim or any other person, to be motivated by a hostility or prejudice” based on the following categories:

<b>Disability</b>	This covers both physical and mental impairment which can lead to someone being more vulnerable in society
<b>Race</b>	Someone can be a victim of racist harassment because of their ethnic, national or cultural origins
<b>Gender Identity</b>	This is a person’s perception of having a particular gender, which may or may not correspond with their birth sex, i.e. Trans, non-binary etc.
<b>Sexual Orientation</b>	This is a person’s sexual identity or self-identification as being bisexual, heterosexual, homosexual, lesbian, pansexual, etc.
<b>Religion/Faith and Sectarianism</b>	<p>The term sectarian, whilst sometimes not clearly defined, is broadly understood to describe incidents by one individual or group against another on the basis of that individuals or group’s perceived religion or political opinion. These groups or individuals are generally regarded to be from within two main groups within Northern Ireland, i.e. Catholic or Protestant, Nationalist or Unionist, Loyalist or Republican.</p> <p>Incidents may also be perceived to be on the grounds of a particular person’s religion or faith but is not sectarian</p>

While ageism is not a hate crime it should be noted that Section 75 of the Northern Ireland Act 1998 requires the Housing Executive to promote equality between various sections of the population. This includes age and therefore ageism has been included within the hate crime categories

A list of agencies that the victim can be referred to is contained in the “Hate Harassment Toolkit”.

Hate harassment can be reported to the local office in person, phoning, or e-mailing. Complaints can also be made on the victim’s behalf by a relative, friend or representative. The ASB case should then be recorded on HMS as one of the hate harassment categories.

## Hate Incident Practical Action (HIPA)

The Patch Manager should also be aware of the HIPA Scheme when doing the ASB interviews and visits. This scheme is to help keep people in their homes if they have been a victim of hate harassment in the vicinity of their own home where the motivation of the attack is racist, homophobic, sectarian, transphobic, faith related or disability related. The hate incident **must** be reported to the PSNI where the Crime Prevention Officer can recommend work to be carried out to the property by the Housing Executive to make it more secure. This is available to all tenures.

## Additional issues when interviewing

- Do not take sides. Maintain a neutral position and remain objective. Do not make promises that may not be able to be delivered upon. During the initial investigations, be conciliatory and consider whether or not mediation may be appropriate. Remember the purpose of the interview is to improve the situation and not generate additional conflict.
- Prior to commencing the interview, remember that the complainant may well be demoralised, frightened and may want to keep as low a profile as possible.
- The complainant may not initially begin with the same objective as the Housing Executive. The demand may be for a quick fix solution, with total ownership of the problem passed over to the Housing Executive. Complainants should be encouraged to work with the Housing Executive.
- Best Practice indicates that the initial interview is not the appropriate stage for reference to be made to the possibility of the complainant attending court as a witness. It is only in the minority of cases that legal proceedings are initiated.
- If possible, let the complainant choose the location of the interview. It may not be appropriate for an officer to be seen calling at their home address. Arrangements should be made to conduct the interview in a location that is acceptable to the complainant if the complaint has not been made at the Local Office or on site. The Patch Manager should not call ad hoc with the complainant.
- When making arrangements to conduct the interview the Patch Manager should also determine if there are any particular needs in terms of access or if special

arrangements are required if the complainant or accused is visiting the Local Office. This may be for instance the use of language line.

- Ensure there is plenty of time to complete the interview. Always explain the procedure and tell the complainant what is required from them.
- If there is more than one witness/complainant, they can initially be spoken to as a group, but will have to be interviewed individually to ascertain exactly what each individual saw or heard.
- Endeavour to allow the witness to describe the incident in full, without interruption. However, ensure the complainant remains specific and avoids generalities. Take notes and always sign the notes with the date.
- If necessary ask the complainant to go over the details more slowly in order to obtain an accurate record of events and consistent answers. Endeavour to help the complainant remain focused.
- Talk to the Assistant Area Manager and the Team Leader and share the information. Do not become isolated when dealing with a case of ASB. If additional advice is needed, contact the Community Safety Team.

## 4.9: The Complainant Interview

Details of the interview are to be recorded on pages 2 and 3 of the ASB form and these are the main questions that should be used to obtain the necessary facts.

**I. What is the Problem?**

Ensure that the issue raised is the main one; clearly identify the problem.

**II. Who is affected?**

Confirm if the complainant is the only individual affected. Additional witnesses may have more supporting evidence and will be useful if legal action is necessary.

**III. Who is involved?**

Ensure the complainant provides full details of all individuals involved.

**IV. Where did/does the problem occur?**

Record details of the location of the incidents. This information is needed as evidence.

**V. When did/does the problem occur?**

Precise dates and times are essential if the case is to be developed.

**VI. Why does the problem occur?**

This will only be the complainant's point of view, but it may help to identify a possible solution. Is the nuisance unintentional or is it deliberate?

**VII. How does it affect the complainant/s?**

Ask the complainant to detail the impact on their quality of life and that of their family. Note that the tolerance levels of individuals will vary.

## 4.10: The Risk Matrix for the Complainant

The risk assessment matrix will enable Patch Managers to assess ASB victims with regards to vulnerability and risk. The risk assessment matrix will help in identifying both individuals who are suffering daily of high level anti-social behaviour and those who are less affected and well supported.

The matrix places an emphasis on how the person feels about the problem and how they perceive the level of intimidation, and will give Patch Managers an indication of the level of support that needs to be offered to the complainant to reduce the risk of harm.

Key factors to be constantly assessed are:

- Is the complainant indicating that the ASB is affecting themselves or their family?
- Are there any additional factors that need to be considered or further explored (disability, mental health issues)?
- What element of harm is being caused by the ASB?
- Are the incidents increasing?
- If known, does the perpetrator have a history of harassment/intimidation?

The level of support on offer, whether low medium or high level cases has to be communicated to the complainant at all stages of the process as this will provide both protection and reassurance.

**The most important outcome of the matrix is that it must lead to action, namely an investigation, protection and/or support for the complainant and a move against the perpetrator. Or it needs to justify why if no action is taken.**

## Completing the matrix

### 1. Assessing vulnerability on the matrix

The matrix allows the Patch Manager to assess the extent to which a vulnerable complainant is at risk of experiencing harm. It will allow the Patch Manager to:

- Identify the factors that are putting the complainant at risk
- Tailor the support that is offered based on these factors in order to reduce the risk of harm

### 2. When to use the matrix

In the ASB interview with the complainant there are 2 occasions, detailed below, when they will be asked about vulnerability. If **either** of these is a yes the complainant should be asked if they are agreeable to completing the matrix.

- In the monitoring information the complainant is asked about vulnerability and if any vulnerability is identified then the matrix should be used.
- In details of interview with the main complainant there is a question asking if the complainant feels vulnerable, if the answer is yes the matrix should be used

If however the complainant is not agreeable to completing the matrix then it should be noted on the file and the matrix must not be completed.

Under GDPR the complainant must sign the matrix form to give their consent to allow us to pass on their information to any floating support agencies. If they do not sign the form, the referral cannot be made

If more complainants come on board then a risk matrix should be completed if they answer yes to any of the 2 questions above and are agreeable to the matrix being completed.

### 3. How to use the matrix

- Go through the questions one by one and circle the answer. The complainant may already have given the answer previously when they were talking about the ASB.
- Once the questions are completed, the scores can be added up.
- The score will then guide the Patch Manager to determine if the complainant is at high, medium or low risk. High risk score 27+, medium risk 20-26, low risk up to 19.
- Given this rating, take appropriate action to reduce the risk of harassment/intimidation to the complainant.

Whilst the matrix and scorecard can be used when in front of the complainant, care should be taken **NOT** to add to the complainant's concerns by stating that they might be at risk.

Focus on the fact that the scorecard will help identify how best to support the complainant through involving whatever resources and relevant organisations that you may have locally.

#### 4. Questions on the matrix

The questions are broken down into 3 sections, History, Vulnerability and Support

##### **History**

**Question 1** - Other than this occasion, how often do you have problems?

- Daily
- Most days
- Most weeks
- Most months
- Only occasionally

**Question 2** – Do you think the current incident is linked to previous incidents?

- Yes
- No
- If so why

**Question 3** – Do you think the incidents are happening more often and/or are getting worse?

- Yes
- No

Questions 1-3 are self-explanatory.

**Question 4** – Do you know the offenders?

- They know each other well
- They are “known” to each other – **this would be where they know who each other are but would never have any contact with them**
- They do not know each other

**Question 5** – Does the accused (and their associates have a history of or reputation for intimidation or harassment?

- Accused or associates are currently harassing the complainant
- Accused or associates have harassed the complainant in the past
- Accused or associates have not harassed the complainant but have a history or reputation for harassment or violent behaviour – **This is relating to how the complainant feels and how relevant support can be given, so even if it is only hearsay if the complainant feels vulnerable due to this, then for the purposes of the matrix, they are.**
- Accused or associates have no history or reputation for harassment or intimidation

**Question 6** - Have you informed any other agencies about what has happened?

- Yes
- No

**If they answer yes then there will be no points allocated as they may already have some sort of support in place after reporting it. It still may not be enough but by completing the rest of the matrix it will become clear if they need additional support**

### **Vulnerability**

**Question 7** – Which of the following do you think that this incident deliberately targeted?

- You
- Your family
- Your community
- None

This question is self-explanatory

**Question 8** – Do you feel that this incident is associated with you faith, nationality, ethnicity, sexuality, gender or disability

- Yes – **This should be recorded as a hate crime category and depending on the circumstances the patch manager may discuss HIPA (Hate Incident practical Action – details on the NIHE website) with them or refer them to other agencies**
- No

**Question 9** – In addition to what has happened, do you feel that there is anything that is increasing your or your household's personal risk (e.g. because of personal circumstances)?

- Yes – **This could be where 2 families have fallen out or a member of the family has been convicted of a crime**
- No

**Question 10 – How affected do you feel by what has happened**

- Not at all
- Affected a little
- Moderately affected
- Affected a lot
- Extremely affected

This question is self-explanatory

### **Support**

**Question 11 – Has yours or anyone's health been affected as a result of this and any previous incidents?**

- Physical Health – **This could be lack of sleep and in the inability to function properly i.e. go to work**
- Mental Health – **This could be depression**

**The complainant could select both physical and mental if it was appropriate to them**

**Question 12 – Do you have a social work, health visitor or any other type of professional support?**

- No
- Yes

**The complainant would get points for having a social worker as people with vulnerabilities could have some sort of support**

**Question 13 – Do you have any friends and family to support you?**

- Complainant lives alone and is isolated
- Complainant is isolated from people who can offer support – **This would be where the complaint lives only with young children or where the complaint lives only with an adult they are caring for**
- Complainant has a few people to draw on for support
- Complainant has a close network of people to on for support

**Question 14 – Apart from any effect on you, do you think anyone else has been affected by what has happened?**

- Your family
- Local community

## 5. Types of Interventions

Examples of appropriate interventions might include:

**High level** risk interventions might include:

- PSNI – request police report, is victim/ witness / complainant in a high risk category
- Prepare case for escalation to Community Safety Team for consideration of legal remedies – e.g. NSP/ NOP/ Injunction
- Referral to Victim Support

**Medium level** risk interventions might include:

- Follow up by Patch Manager –Interview victims / witnesses and perpetrator(s). ABC, Mediation.
- Referral to APAC Floating support service or other appropriate support services
- Referral to Partner Agencies / ASB Forum
- Referral to Victim Support
- Referral to Community Safety Team
- Referral to PSNI

**Low level** risk interventions might include:

- Follow up by Patch Manager – interview victims / witnesses and perpetrator(s). ABC, Mediation.
- Referral to Victim Support
- Referral to APAC Floating Support Service or other appropriate support services

## 6. Signing the form

Under GDPR, the consent to retaining information **must** be signed by the person the matrix is being completed for.

.

## 4.11: The Role of the Action Plan

If an acknowledgement letter has not been sent out then the Patch Managers will have to issue the Action Plan ([Appendix 10](#)) along with the covering letter ([Appendix 11](#)). It is the printing of the covering letter that is the trigger for the competition of the 1<sup>st</sup> KPI, register and acknowledge within 3 days. A 2<sup>nd</sup> action plan covering letter should not be sent out as this will overwrite the original date that was already populated in the complainants tab and will have an adverse effect on the performance reports

An Action Plan is required in all cases where there is a follow up action required by the Patch Manager and/or complainant, irrespective of their complexity. The Action Plan identifies the way forward for both the complainant and the Housing Executive. It outlines the action that needs to be taken by all of the parties involved in the development of a particular case of anti-social behaviour.

When agreeing the Action Plan with the complainant, the Patch Manager should

- Address all the problems identified during the interview.
- Ensure that all parties are clear about their role and responsibilities. Although the Housing Executive may endeavour to resolve the problem, responsibility should not be taken away from the individuals who are making the complaint.
- Stress the essential role of the complainant in the keeping of records, the identification of additional witnesses, contacting the police, environmental health or even initiating their own legal action.
- Identify the problems and limitations likely to be experienced by the complainant and the Housing Executive in the development of the case. The Action plan should also be realistic as to the time period likely to be involved.
- Remain flexible and responsive to changes in the type, source, pattern, and severity of the nuisance.
- Establish dates to review the development/ progress of the case with the complainants on a regular basis. It is important that regular contact is maintained with the complainant or the case may simply be left to drift. If this occurs, case studies suggest that complainants lose confidence in the investigating authority.

In more complicated cases, it may include an agreement for the Patch Manager to visit the neighbours to obtain supporting evidence and the complainant agreeing to complete an Incident Diary. The Action Plan may also involve liaison with other agencies.

## 4.12: The Accused Interview

### Information gathering prior to interview with accused

The Patch Manager should, prior to any contact with the accused:

- Check for any previous history of the individual's or family's anti-social behaviour.
- Confirm the extent and nature of any vulnerability/ special needs which the accused may have which would necessitate the involvement of other support agencies. This information may have been provided by the complainant during their interview or may be available in the individual's House File or Housing Selection Scheme/ Transfer application form.
- Seek clarification/ confirmation of the anti-social behaviour from other neighbours or other parties i.e. police, district council identified by the complainant.
- Check for any current Housing Selection Scheme application or Transfer application.
- Check for any current House Sale application.
- Confirm tenure of the accused i.e. secure tenancy, Introductory Tenancy, owner occupied, private rental etc.

### Procedure for Contacting the Accused

- The first attempt to contact the accused should be via a home visit.
- If the individual is not available a no-access card should be left asking the individual to contact the Local Office by a specified date i.e. within 2 days.
- If there is no response within two days a letter should be issued arranging an appointment at the Local Office or at the individual's home ([Appendix 12](#))
- If the individual fails to respond, a second home visit should be attempted.

- If there is no response and the reports of nuisance continue and if the Housing Executive, after investigation, believes that there is substance to the complaint and that the complaint is reasonable, it would be appropriate for the individual to be advised in writing of the problem and what the Housing Executive expects them to do to remedy the situation. The individual should also be advised of what the Housing Executive intends to do should the ASB continue.
- It may not be appropriate for officers to make a home visit. In such circumstances it is acceptable to write to the individual and request that they contact the office to arrange an interview. If the individual fails to respond and the nuisance is still ongoing a further letter should be sent detailing the nature of the complaint stressing the importance of contacting the office to discuss the matter and detailing the possible consequences of the anti-social behaviour continuing.

**N.B The level of contact and/or attempted contact with the alleged accused will be determined by the severity and frequency of the incidents.**

## Conducting the Interview

- The file and associated documents should not be taken to the interview with the accused. This practice is to ensure that as far as is possible the identity of the complainant is protected. However page 6/7 can be detached and can be taken to the interview or notes can be taken and transcribed onto the ASB form at a later stage.
- The individual held responsible for the nuisance should be interviewed and given an opportunity to provide an account of the incidents.
- If the nuisance is the result of the behaviour of an individual other than the tenant/owner of the property, it may also be appropriate to discuss the matter with the individual concerned and fully explain the implications of their actions.
- The interview process should be as non-confrontational as possible. It is important to remember that the person may not be guilty of the behaviour.
- The Patch Manager should describe to the individual the nature of the allegations against them. Care should be taken in giving away information that may put the complainant at risk.
- The most important outcome of the interview is to get all the facts. For instance, their response to the allegations, the cause of the anti-social behaviour or the existence of any mitigating factors contributing to the anti-social behaviour.

- Once they have given their initial account, you can then ask more specific questions about discrepancies or counter allegations.
- The potential seriousness of the situation should be fully explained and the officer should describe the investigating process and the possible legal consequences, should the allegations be substantiated.
- When conducting the interview, the Patch Manager should advise the individual that the case will be fully investigated
- No warning letters should be issued to an individual or family in respect of any alleged anti-social behaviour prior to the interview with the complainant and prior to discussions with the accused and/ or attempts to contact same.

**N.B: Only in exceptional circumstances would it be appropriate to issue a warning letter or initiate court proceedings without any attempt of contact with the alleged accused**

- The Interview should be carried out with a colleague if it is considered appropriate.
- On completion of the interview the individual should be written to. It may or may not be appropriate, at this stage in the process, to address the possibility of legal proceedings.
- Keep detailed notes of all interviews and action taken including details of any no-access cards left.

## 4.13: Post Interview

### Evidence Gathering

The Patch Manager should investigate the complaint fully by:

- Interviewing all parties to the complaint, i.e. all complainants and the accused,
- Seeking ways of independently corroborating or refuting the allegations and be wary of simply accepting one person's word against another. It may be necessary to interview other witnesses or seek information from other agencies.

- Be aware that other agencies or individuals will offer verbal information which may include generalised statements rather than specific verifiable evidence capable of being scrutinised by the court. Caution should be exercised in relying on information which consists entirely of hearsay.
- Ask the person making the complaint to keep records of all incidents.
- Endeavour, if so desired, to protect the identity of the complainant. With this process the complainant is contacted and advised of all stages in the procedure / legal process and the issue of disclosure is discussed at the appropriate time.
- Ensure that the individual accused of the anti-social behaviour is afforded the opportunity to put their case. Individuals who are the subject of substantiated reports/ complaints should be given the opportunity to improve/ rectify unacceptable conduct.
- The Patch Manager should maintain the case file in such a way that it can be presented unedited to any person or body undertaking a review of the case work.
- The Patch Manager should keep a record of phone calls and interviews with all parties, whether they occur on site or in the office.
- When a case is already opened and there are further reports of nuisance it would be good practice that the details are recorded using the incident report document at Appendix 7
- Solid evidence is vital if legal action is to be initiated. At this stage, it will be necessary for the Housing Executive to demonstrate that:
  - (a) The action is responsible
  - (b) An attempt has been made to remedy the situation, prior to the commencement of legal action
  - (c) The accused has been fully advised of the complaints and afforded every opportunity to amend their behaviour or the behaviour of other residents or visitors to the property.

**N.B: Dependent upon the actual severity of the incidents it may be possible for the Housing Executive to commence legal proceedings without adhering to the necessity of formal warnings.**

- Success in court will be very much dependant on the quality of the evidence and documentation produced. For instance, a letter warning the accused that the continuation of the nuisance could result in legal action and ultimately, eviction, homelessness or committal, indicates to the court that the individual was made aware of the consequences of the nuisance continuing.
- Photographs can be of importance in certain cases; for instance, overgrown gardens, vandalism of the internal or external shell of the property. Photographs should be timed, dated and signed by the photographer.

## Monitoring

Monitoring is a vital element of all anti-social behaviour casework. It is the responsibility of the Patch Manager to:

- Continue to investigate incidents as appropriate
- Update the file in respect of ongoing incidents
- Arrange follow up meetings with the complainant to review the development /progress of the case as agreed in the action plan and to discuss the way forward
- If necessary review case progress with the Team Leader
- Ensure all cases are monitored and progressed to a conclusion

## 4.14: Choosing the Way Forward

When determining the most appropriate form of action the Local Office can discuss the case with the Community Safety Team if the case is of a complex nature and they will be able to provide advice, guidance and support in the development of a case and likewise in determining the most appropriate form of action that may be taken.

### Possible Outcomes after the interview with the accused

After interviewing the accused the Patch Manager/Team Leader has to decide on the way forward looking at the information that has been gleaned from interviews with the complainant and the accused and reports from other agencies.

Dependent upon the circumstances of the case and the outcome of any investigations, the Local Office may be faced with one of the scenarios detailed below.

#### 1. Denial of Allegations

If there is insufficient evidence and the Housing Executive is unable to substantiate the allegations, it may be appropriate to close the file. If the decision is to close the file the complainant should be advised in writing of the reason for closure. If the situation has been discussed with the accused he/she should also be advised of case closure.

#### 2. Counter Allegations

Frequently, when an individual is made aware of an allegation against them, they will make a complaint of their own. In this situation the existence of supporting evidence may be critical and every effort should be made to ascertain the truth of the matter. This may mean opening and recording a further case of ASB against the complainant and any such counter allegations should be investigated fully.

#### 3. Acceptance of Allegations

If the individual accepts that the allegations are true and supporting evidence is available, they should be advised to stop the anti-social behaviour and warned that should the nuisance continue the Housing Executive will initiate legal action. Legal action should only be referred to if the nature of the anti-social behaviour is such that legal proceedings could be sustained. The content of the interview should be confirmed in writing by a warning letter

## 4. Nuisance Stops

In determining the way forward and choosing the most appropriate form of action the main objective is to resolve the situation. In most instances prior to the commencement of legal action, the accused should be given the opportunity to stop the behaviour. If the nuisance stops at any stage in the investigation it may be appropriate to issue a letter advising that although the problem has seemingly been resolved the Housing Executive will continue to monitor the situation and no action will be taken at this stage. Both complainant and the accused should be advised of the decision

### Options available

Depending on the outcome of the interviews with the complainant and the accused there are various options available

#### 1. Warning Letters

Following the interview if sufficient evidence is available the individual who is alleged to be committing the anti-social behaviour should be written to. This letter will confirm the content of any discussions, the basis of the problem and what the Housing Executive expects them to do. The individual should also be advised of what the Housing Executive intends to do should the anti-social behaviour continue.

Standard warning letters for secure and introductory tenants are in the [Appendices 13A-13H](#)

A Warning Letter should only be issued after the interview with the accused, the exception to this being where there has been no response from the accused and the nuisance continues.

Should the case progress to a legal conclusion, the issue of a warning letter will have demonstrated to the Court that the accused has been given the opportunity to stop the behaviour.

In extreme situations it may be appropriate to initiate legal proceedings immediately without the issue of a warning letter.

#### 2. Acceptable Behaviour Contracts (ABCs)

An Acceptable Behaviour Contract is covered in Chapter 5 and represents an effective method of early intervention designed to get the individual/s involved in anti-social behaviour to acknowledge their behaviour, develop an understanding of its adverse impact on the community and to stop it.

The use of Acceptable Behaviour Contracts in addressing anti-social behaviour should not be underestimated and if, following investigations, the Local Office decides that the case is suitable for an ABC, then an ABC can be drawn up and if necessary the Local Office can contact the Community Safety Team for advice

### **3. Assisting People and Communities (APAC)**

The Housing Executive has developed alongside the Northern Ireland Association for the Care and Resettlement of Offenders (NIACRO) a programme called Assisting People and Communities project (APAC) and this offers support to an individual and this may help them stop their behaviour and adhere to the terms of the Contract. APAC can be offered with or without an ABC

### **4. Mediation**

Not all neighbour disputes result from criminal or serious anti-social behaviour. Many, instead, are caused by differences in lifestyle, misunderstandings, or mildly inconsiderate actions.

In recognition of this fact the Housing Executive offers a mediation service where it uses independent professional mediators in order to ensure an impartial and confidential service see Chapter 6 Mediation

### **5. Legal Action**

There are a number of legal remedies available

Possession Proceedings for a Secure Tenant – [Chapter 8](#)

Injunctions - [Chapter 9](#)

Introductory Tenancies - [Chapter 10](#)

ASBOs - [Chapter 11](#)

Advice and guidance can be sought from the Community Safety Team and all legal remedies must come through CST.

## 4.15: Commencing Legal Action

If all attempts at conciliation fail, and the anti-social behaviour continues, legal action may be the only way forward. If this is the case then the Patch Manager should make sure that the following steps have been looked at.

### How to prepare the file for legal action

The Patch Manager should ensure that there is enough evidence in the file and that it would be acceptable in court. The completed file is copied and sent up to the Community Safety Team. The following should be in the file:

- A completed copy of the ASB form
- Copies of all incident diaries/incident reports
- Copies of all reports, i.e. PSNI/Social Services/GP/Environmental Health
- Copies of all warning letters - There should be, other than in extreme circumstances, at least **one warning letter** on file prior to the commencement of legal action and evidence of either contact with the individual or attempts at contact.
- Details of offer of mediation
- Details of ABC
- Details of Floating Support for perpetrator and complainant (if appropriate)
- Checks to see if NSP has already been served for arrears
- Checks to see if there is already a decree for arrears
- Check if a HSS or Transfer application exists, review eligibility criteria
- A map of the area identifying the appropriate houses.
- Identify the most desirable outcome i.e. NSP/NOP, injunction or ASBO
- Ensure the complainant is in agreement with the commencement of legal proceedings and make sure that the complainant is aware of the need to continue to complete the incident diary, pending the court hearing.

- If it is condition of property, then photos showing this should be on the file and they should be dated. This is important as the judge will be able to see what the property looks like.

## Schedule of Incidents

The Community Safety Team will draw up the schedule of incidents from the complaints that have been received in the office. This is drawn up using the, who, what, where, when and for how long ([Appendix 25](#)). The schedule of incidents is served along with the NSP/NOP and is given to the judge when the case is in court and this is why it is important that the structure on appendix 25 is adhered to and that all the relevant information is captured on the NSP/NOP.

The name of the complainant should not appear on the schedule of incidents, although the description of the incident may mean that the perpetrator will know who the complainants are

## Monitoring the Case following start of Legal Action

- Ensure that the NSP/NOP is served in accordance with guidelines (detailed in [section 7.1, service of the notice](#)) and that the complainant is advised prior to service
- On the decision to progress to court, and prior to the issue of legal proceedings, e.g. Ejectment Civil Bill, discuss the issue of disclosure with the complainant.
- Continue to monitor the case, investigate incidents before and after any court hearing until the case is closed.
- Continue to liaise with the witness on a regular basis and advise the complainant of all developments in the case. The complainant should be advised of the need to continue to maintain incident diaries and be fully informed of all the stages in the legal process. **Their agreement has to be sought prior to the use of any evidence they may have provided and they should be provided with an explanation of the legal process and the issue of disclosure/discovery.**

## Post-Court:

- (a) After the court hearing, advise the complainant/witness in writing of the outcome. If an Injunction or Decree for Possession has been granted, advise the local police.
- (b) Continue to liaise with the complainant and if the nuisance persists, irrespective of the award of a decree for possession or an injunction, contact the Community Safety Team.
- (c) Advise the Area Manager/Regional Manager of any proposed eviction or possible committal proceedings.
- (d) If the perpetrator does not leave the property after a decree has been granted, contact the Community Safety Team so that proceeding can be started with EJO.

## 4.16: Case Closure

### Reasons for Closure

A case can be closed at various stages in the investigation, when:

1. It has been successfully resolved without using legal action; e.g. ASB ceases after initial interview with the accused /joint meeting with both parties.
2. It has been successfully resolved because of threatened legal action e.g. ASB ceases after warning letter or service of NSP/NOP
3. It has been successfully resolved through legal action.
4. It is inevitable that some cases will have to be closed even though the complainant may not be satisfied. This may occur when:
  - (a) The behaviour reported cannot be reasonably classed as a nuisance
  - (b) There is insufficient evidence to pursue the case
  - (c) The participants refuse to try an alternative approach such as mediation and legal action is inappropriate
  - (d) The complaint is mischievous.

It is important not to raise the complainant's expectations falsely. If there appears to be no rational base to the complaint, or investigations fail to verify the problem the decision may be made to close the case.

If following contact with the complainant, at least once every 4 weeks and no incidents have occurred then the complainant should be advised that the case will now be closed. (This is dependent upon the circumstances of the case)

If legal action has commenced, the case should be reviewed regularly for any further incidents of anti-social behaviour. Prior to a court hearing if it becomes apparent that the nuisance has stopped, discuss the change in circumstances with the Community Safety Team as soon as possible.

## Procedure for Closure

- Any complaint of anti-social behaviour received, must be investigated, monitored and progressed to its conclusion, and when the Patch Manager has determined that no further action can be taken on a case, it should be closed.
- The Patch Manager must also decide if the case has been successfully resolved or not.

**Closed resolved cases** refer to those cases where the ASB reported by the complainant(s) has ended or are no longer a cause for concern. Cases that have been investigated but no breach of tenancy or evidence of ASB is found, should also be recorded as closed resolved cases.

There should be evidence that ASB is 'no longer a cause for concern' before recording a case as successfully resolved. It is not sufficient to record a case as resolved if no further reports of ASB are received. Staff should be proactive in obtaining evidence that cases have been resolved by working with partner agencies to obtain evidence required.

A case that has not been successfully resolved should be closed if it is the patch manager's opinion that no further action is required or possible.

**Unresolved cases.** A case should be recorded as a closed unresolved case where no further reports of ASB are made within 3 months of the last report and there is no evidence that the ASB case has been resolved or no further action is taken at the complainant's request and no further action is possible.

- Confirm the decision to close the case in writing to complainant and, if appropriate, the other party. The closure letters are at [Appendix 14A-14G](#)

## ASB Surveys

Once the ASB case has been closed the Customer Service Unit (CSU) will conduct a survey on the closed case. The only cases that will be surveyed are those where the complaint was made by an individual. If the complainant was anonymous or made by an organisation (this includes HIPA) then it will not be included.

Once the survey is completed the local office will be able to see the results of the survey by doing a search for the case and clicking on the surveys tab at the top of the ASB case full details screen.

## Re-opening a Closed Case

A closed case of ASB can be re-opened when there is another incident reported as long as:

- It is the same complainant **and**
- It is the same complaint **and**
- It is less than 3 months since the case was closed.

Anonymous complaints do not meet the criteria for re-opening as set out above

Once a case has been re-opened a letter should be sent to the perpetrator stating that the case has been re-opened, a copy of this letter is at [Appendix 15](#)

## File Retention

All ASB files should be retained for 7 years from the date the file is closed.

# CHAPTER 5: ACCEPTABLE BEHAVIOUR CONTRACTS (ABCs)

## 5.0: What is an Acceptable Behaviour Contract

An ABC is a voluntary written agreement between an individual (who has been involved in ASB) and one or more agencies whose role it is to prevent such behaviour. This would include the PSNI, Local Councils, Housing Executive, Local Schools or Social Services; this is not an exhaustive list.

The individual has to be **10 years of age or over and can be from any tenure grouping. An ABC has no legal standing.** However, should the individual continue to act in an anti-social manner, the agreement may be used as evidence in subsequent legal action. A breached agreement would show that the individual is reluctant to change their behaviour and that it may be necessary for a court to enforce change.

The ABC is agreed and signed at a pre-arranged meeting with the individual and the lead agency/agencies. In circumstances where the person is 17 years of age or younger their parents / guardians must attend. This also applies in situations where there is a joint parenting role and the parents/guardians do not live at the same address.

The contract should specify the consequences of an individual's failure to maintain the agreement. ABCs can act as a deterrent when the individual and family members are aware that legal action such as possession proceedings or an ASBO may follow any breach.

The contract would normally **last for a period of 6 months**, but can be renewed if it is considered to be of benefit or is an incentive to the individual. Although the time period can be flexible, it should be a fair and proportionate response to the issues identified.

## 5.1: When should an ABC be considered

ABCs will not be a suitable form of intervention in all cases of anti-social behaviour. In situations where the anti-social behaviour is serious or criminal and is having a serious impact upon the community it may be prudent to proceed immediately with legal intervention.

**ABCs should not be viewed as a necessary pre-cursor to ASBO, Injunction or Possession Proceedings.**

## Does the behaviour warrant an ABC

Before initiating the ABC process the available evidence in respect of an individual's anti-social behaviour should be reviewed and the appropriateness of an ABC determined. **This should be carried out by the Local Office with help from the Community Safety Team.** Clarification should also be sought as to the extent of other agency involvement with the individual. This is particularly important in respect of young people.

The evidence will come from a variety of sources such as:-

- Complaints to the Housing Executive
- Complaints received by the police
- Police incident reports
- Information from schools in respect of attendance / exclusions
- Information from district councils

### **Examples of the Types of Behaviour ABCs have been used to address**

- Verbal abuse
- Graffiti
- Association in a group behaving in a threatening manner
- Noise nuisance – shouting, swearing, door slamming, playing loud music
- Harassment of neighbours / general public
- Entering commercial premises when barred
- Racial abuse
- Substance abuse
- Underage drinking, smoking
- Rubbish dumping
- School attendance
- Stone throwing
- Bullying
- Properties being used as drinking dens

Acceptable Behaviour Contracts are extremely flexible and can be used to address a wide range of anti-social behaviour. The contract should reflect the behaviour of the individual which is to be addressed and written in basic terms which the individual understands. The contract should clearly state the conditions the parties agree to abide by and the consequences if the contract is breached.

**N.B: Confirmation should be sought from the police in respect of any criminal charges under consideration in relation to the individual as this may influence whether or not the ABC can proceed and the role of the police as a signatory to the contract.**

## 5.2: The Role of Multi-Agency Working

The use of ABCs may help to reassure, in particular, those agencies dealing with young people that the Housing Executive's response to anti-social behaviour is proportionate and not purely focused on legal action.

Inter-agency working should facilitate

- The collection of evidence
- Monitoring of an individual's behaviour
- Availability of background information on an individual's circumstances
- The development of intervention/diversionary activities tailored to meet the specific needs of an individual and address the underlying causes of the behaviour

**N.B: Although the importance of inter-agency working during case development cannot be over emphasised, the circumstances of a particular case may dictate that the Housing Executive and the individual are the only signatories to the ABC.**

## 5.3: The Meeting

After consultation with any relevant agency/s, the individual and if appropriate parents/guardians, should all be contacted and invited to attend a meeting with the Housing Executive and any relevant agency.

Consideration should be given to the venue where the meeting is to be held. Best practice would indicate that the meeting should not be held in a police station as the ABC may be interpreted as part of a criminal process.

Always allow sufficient time for the meeting and keep attendance at the ABC meeting to those strictly necessary. Ensure that all officers attending the meeting wear name badges

Give consideration to the seating plan and ensure the meeting can take place in relative comfort. Try not to have barriers in place, creating an "us and them" situation.

Throughout the meeting someone should be taking notes.

## Who should be Present

Within the Housing Executive the responsible officer is the Patch Manager. Establish in advance of the meeting which other agencies, if any, may attend the meeting and ensure the ABC candidate is advised. Should the young person be in a care environment a representative from Social Services must be invited to attend the meeting.

Pre-meet with any other signatory to the contract and determine the procedure, the purpose of the meeting, the most appropriate course of action and the issues to be discussed. This meeting should not take place immediately before the interview with the individual as issues may arise which have to be addressed. In order for an ABC to be effective there should be agreement between the signatories on the type of action to be taken should the individual breach the terms of the contract.

Every effort should be made to ensure the same people are involved throughout the duration of the contract to ensure continuity for the individual concerned.

## ABC Letters Requesting Meeting

Standard ABC letters requesting a meeting are detailed in [Appendices 16A-16C](#) and the letters have to be accompanied by a schedule of incidents detailing the specific incidents the individual has allegedly been involved in.

The individuals should be afforded a reasonable time to respond to the request for a meeting. To ensure delivery, when possible, the letter should be delivered by hand; this removes the excuse of non-receipt.

Ensure that the standard letter is amended as necessary and that the content clearly identifies all parties who will be present at the meeting including any partner agency proposing to attend in conjunction with the Housing Executive.

## Procedures due to Age

The procedures in respect of young people aged 17 years of age or under differ from those in respect of individuals aged 18 years of age or over.

- If the individual be 16 or 17 years of age the parents/guardians and the young person should receive notification of the request for the meeting.
- If the individual is aged 15 years of age or under the correspondence in respect of the meeting should **only** be sent to the parents/guardians of the young person

## 5.4: NIACRO and APAC

Prior to the ABC meeting the Patch Manager should discuss the particulars of case with Northern Ireland Association for the Care and Resettlement of Offenders (NIACRO) liaison officer to determine suitability for referral to the APAC project should the individual agree. At this stage in the process there should be no exchange of personal data which would allow the individual to be identified.

### What is APAC

- Assisting People and Communities (APAC) is a NIACRO project helping people to identify and address the problems which may have led to their difficulties with neighbours and the community and is independent from the Housing Executive
- The individual's involvement is voluntary and any decision to use the service or not, will **not** have a negative impact on their involvement with the Housing Executive.
- The purpose of APAC is to help the individual to continue to live in their home and community.
- If the individual agrees to referral an APAC worker will contact them and arrange a meeting.
- APAC will work with the individual assess their needs and develop a plan to address the difficulties identified.

**The individual does not have to sign an ABC to avail of the APAC project.**

### Referral Process to the APAC Project

Once the individual has agreed to the APAC Project, the Patch Manager should forward all appropriate referral documents to the APAC liaison officer, which could include: – Referral Form, ([Appendix 17](#)), Consent Form ([Appendix 18](#)) and a copy of the signed ABC to the APAC liaison officer. The Patch Manager should liaise with the APAC Officer on a regular basis in respect of the intervention and diversionary work undertaken with the ABC candidate.

Upon receipt of the referral form the APAC liaison officer will make contact with the individual, initially by telephone within 5 working days to arrange a first meeting and will attempt to have the first meeting with the person who within 10 working days of receiving the referral.

The APAC confirmation document ([Appendix 19](#)), will be completed by the APAC Liaison Officer and forwarded to the Patch Manager as soon as is practicably possible after this

meeting. This may detail any proposed action that is to be taken, however this will only be given in general terms, and may not include specific details which would be considered a breach of confidentiality by the APAC project.

The purpose of this Confirmation of referral document is to advise the Patch Manager that the individual has started to engage with the APAC project.

If the APAC liaison officer has been unsuccessful in making contact with the individual within 10 working days of the referral, the liaison officer will contact the Patch Manager to advise of this, so that the Patch Manager can make contact with the individual to determine if they still wish to avail of the APAC project and let the APAC liaison officer know accordingly.

It is the responsibility of the Patch Manager to monitor the initial referral to the project. If no confirmation of the referral is received within 10 working days then the Patch Manager will make contact with APAC to determine the status and get an update

The Patch Manager will contact the APAC project worker to obtain an update of the case 3 months in to the contract

## **5.5: The ABC Contract**

Although a final version of the contract should not be prepared, prior to the meeting, a draft list of activities which may be included in the contract should be prepared. It is the responsibility of the Patch Manager to prepare the draft ABC with help from the Community Safety Team. The final version should develop as a result of the individual becoming engaged in the process.

Ensure arrangements are in place, outside of the meeting, to produce the final version of the contract as quickly as possible once all parties present have agreed to the content. Delay may result in frustration and refusal to sign. A sample of the contract is at [Appendix 20](#)

## **5.6: The Interview Structure – Possible Format**

- Thank everyone for coming and introduce everyone
- Explain the reason for the meeting (reported incidents of ASB)
- Give the family or individual time to respond
- Explain the consequences if the behaviour continues

- Explain an ABC and how they are monitored
- Explain and offer APAC
- Identify any involvement they may have with the statutory/voluntary sector
- Do not disclose details of the complainants
- Advise that the complainants **will not be informed** of the signing of the contract
- Advise that the Housing Executive will continue to monitor
- If an ABC is signed arrange a meeting for 4 weeks' time to review the situation
- Produce a typed version of the ABC as soon as possible for all parties to sign
- Give them a copy of the signed agreement
- Provide contact details of the lead officers to the individuals involved

## 5.7: After the Meeting

Write to all parties, thank them and confirm the outcome of the discussion. Include an additional copy of the ABC plus the date of the next meeting. The letters can be found at [Appendix 21A-21C](#)

If the meeting did not result in the signing of a contract the individual/parents should be written to and advised of the outcome of the meeting and in appropriate circumstances the Housing Executive's ability to pursue legal action should the unacceptable behaviour continue.

Write up the file and ensure the notes of the meeting are included.

When an ABC has been signed, the Local Office should ensure that the HMS system is updated.

A hard copy of the signed ABC should be forwarded to the Community Safety Team, Housing Centre

## 5.8: Failure to Attend

If the individual and or parents/guardians fail to attend they should be written to and advised of a revised date for a meeting. Should they fail to attend this subsequent meeting consideration may be given to immediate legal action if the anti-social behaviour is ongoing. Sample letters are included in the [Appendix 22A-22C](#)

**N.B: Dependent upon the severity of the behaviour it may not be appropriate to arrange a second meeting and the initiation of legal proceedings may be more fitting.**

If only the parents/guardians of the young person attend, a discussion should still take place with emphasis placed on the need for the young person to participate at a later date.

An interview with a young person should not proceed without the presence of a parent/guardian or other responsible adult e.g. social worker. By signing an ABC the young person will be, by implication, admitting to their involvement in the anti-social behaviour.

**A contract involving a young person would not normally proceed without the consent of the parents/guardians. Parents /guardians are required to give their consent and sign the agreement.**

## 5.9: Monitoring the ABC

Monitoring an ABC is an essential part of the process and is the primary responsibility of the Patch Manager. Regular contact with the witnesses should be maintained during the period specified in the contract to ensure information in respect of any breach is passed quickly to the initiating officer. **Do not provide complainants with details of the individuals on a contract.**

Regular contact with any partner agency i.e. the other signatory to the contract should be maintained in respect of the individual's behaviour. This may take the form of discussion at ASB Forums, where ABC has been a joint one with either PSNI and/or Council.

During a 6 month contract the Local Office should make contact with the individual and parents on at least two occasions to provide feedback. A written record of the meetings must be maintained. Do not wait until the individual is in breach of the contract before contact is established.

It is the responsibility of the Patch Manager to maintain regular contact with the NIACRO liaison officer in respect of the individual's adherence to the ABC.

## 5.10: Breach of an ABC

If there are any breaches of the terms of the contract, NIACRO should be notified immediately if a referral has been made to the APAC project. Irrespective of how minor the breach may be it must be responded to by the Housing Executive. An incident should not be allowed to occur without the Housing Executive establishing contact with the ABC candidate.

It is the responsibility of the Patch Manager and Team Leader to determine the form of response e.g. interviews the individual to reinforce the terms of the ABC. This could include seeking the individual's agreement for referral to APAC if previously withheld, sending a warning letter or initiate possession/injunction proceedings or ASBO proceedings. The form of response should be determined by the nature and seriousness of the breach. Ensure all incidents are recorded in the file.

## 5.11: End of an ABC

At the end of an ABC, where no further action has been necessary recognition should be given to the individual/family.

Either:

- i) Arrange a meeting with the individual/parents at the end of the contract period to acknowledge that the contract period has ended and thank them for keeping to the agreement.

or

- ii) Write to the individual and parents and acknowledge that the contract is now at an end and thank them for their contribution/adherence to the agreement.

### End of ABC If APAC involved

Two weeks prior to the ABC ending, the Patch Manager should make contact with the APAC project worker, to provide an update of the case and how the individual is engaging with APAC.

Where the individual is working with the APAC project it should be noted that the individual may continue working with APAC, even though the ABC has ended. APAC will provide confirmation when support from the project has come to an end to the Patch Manager.

## Chapter 6: Mediation

Using mediation not only helps neighbours reach agreement over their current dispute, but can also help them to establish a better channel of communication in order to avoid or address issues occurring in the future. It is a way of dealing with disputes that helps those involved to reach an agreement with which everyone can live.

### 6.0: Deciding if a Case is Suitable for Mediation

When a Local Office receives a complaint of anti-social behaviour, and following investigations it must decide if mediation is appropriate. **Not every dispute is suitable for mediation.**

Where, for example, the district has evidence of a serious breach of tenancy, where legal proceedings have commenced or criminal charges are outstanding, or where one or both parties suffers from serious mental health or alcohol problems, mediation is probably not the best option.

A face to face meeting of those in dispute is often the best and quickest way for mediation to happen. However, as many people do not wish to meet with those with whom they are in dispute, 'shuttle' mediation' can take place. This is where the mediator meets the parties separately. However both parties have to agree to the mediation.

### 6.1: Mediation Available

All offices can avail of the TIDES mediation and this is explained in 6.3, however there are some offices that can avail of mediation from Northern Ireland Alternatives (NIA) or Community Restorative Justice Ireland (CRJI).

### 6.2: NIA and CRJI

Many of the cases referred to NIA and CRJI are self-referrals, however the local offices can also refer cases to NIA and CRJI but they must also offer the Tides mediation so that the tenant can make the choice of who they wish their mediation provider to be.

#### Referral to NIA or CRJI

If a referral is being made the Local Office can phone through the referral to NIA or CRJI

## Payment for NIA and CRJI mediation

The local office does not have to pay for this service as it is paid through the Community Safety Team

## 6.3: Procedure for referral to TIDES Mediation

The mediation process is done by a mediation service provider, namely TIDES Training and Consultancy. TIDES are professional mediations and offer an impartial and confidential service. When the Patch Manager identifies a case for mediation they complete a referral form on HMS ([Appendix 23](#)) and forward to TIDES.

### Referral Form

- The referral form should include both parties' names, addresses and contact telephone numbers and the ASB reference number
- It should confirm that both parties have agreed to Mediation
- Details of the Dispute – this should give some background and summary details of the issues, if there are any known vulnerabilities that are pertinent to the mediation meeting these should be included.
- The name, email address and phone number of the Patch Manager should be included in case the Mediator needs to discuss the referral
- If any other Agency is involved their details should be included
- Any other relevant information should also be added if required

The referral form should be emailed to TIDES who have one nominated point of contact to manage the caseload and TIDES will then forward the case to the appropriate mediator.

TIDES are expected to attempt to contact the both parties referred for Mediation within 3 days of receiving the case. TIDES will also liaise with the Patch Manager if there are any queries about the referred case or they have been unable to get either of the parties in. TIDES are also expected to contact the Patch Manager, via email or phone, on a 2 weekly basis to keep them updated with the progress.

## Mediation Meetings

Mediation meetings usually take place in tenants' homes; if rooms are required elsewhere to facilitate a mediation case, TIDES should use local Housing Executive office facilities. **Only by exception** may TIDES book facilities to hold a mediation meeting elsewhere and agreement to do this must be sought in advance from the Patch Manager/Team Leader.

With the agreement of each party, the mediator can take some of the issues, opinions and wishes identified in these meetings to the other party in an attempt to find common ground. Those in dispute decide the terms of any agreements, not the mediators.

## Number of Mediators

Although NIHE will only be paying for 1 Mediator TIDES have advised they normally carry out Mediations using 2 Mediators, TIDES will advise tenants of this in their initial contact with them.

## Interpreter Services

If an interpreter is required for any mediation case TIDES will contact the NIHE Equality Unit directly to facilitate this. The process is as detailed.

- TIDES will send an e-mail to the contact in the NIHE Equality Unit detailing:
  - The name of the tenant,
  - Address where the mediation will take place,
  - Approximately how long the meeting will take,
  - What language is interpreter is required to speak
  - Contact number of the Mediator
- The Equality Unit require at least 1 weeks' notice to arrange the appropriate interpreter

## Outcomes from Mediation

When mediation is complete, TIDES will send a summary report to the Patch Manager advising them of the outcome of the mediation. Only details /agreement as agreed by the parties will be forwarded to the Patch Manager and Patch Managers should also be advised if cases are

- Resolved
- Situation Improved
- Not suitable for Mediation
- Mediation refused
- Mediation not continued

## Payment for Mediation Services

TIDES will send a copy of the summary report along with invoices for each case to the Community Safety Team.

# Chapter 7: Grounds for Possession of a Secure Tenancy

## 7.0: Extended Grounds

This section provides guidance on the grounds for possession of secure tenancies. The Housing (NI) Order 2003 extends the existing grounds for possession set out in Schedule 3 of the 1983 Order.

In particular the ground of nuisance to neighbours has been extended. Courts may now grant orders for possession on the basis of:

- i. Nuisance or annoyance caused by a tenant's visitors
- ii. Conduct "likely to cause" nuisance or annoyance
- iii. Nuisance or annoyance caused to a person residing, visiting or otherwise engaged in a lawful activity in the locality, and
- iv. A conviction for an indictable offence committed by the tenant, a person residing in the property or by visitors to the property
- v. The tenant or the tenant's partner has left the dwelling house because of violence or threats of violence committed by the other partner
- vi. The tenancy is found to have been granted on the basis of a false statement made knowingly or recklessly by the tenant or another party acting at the tenant's instigation

The legislation is supplemented by the nuisance clause incorporated in the Housing Executive's General Conditions of Tenancy.

## 7.1: The Legislation

Grounds for Possession of a Dwelling House let under a secure tenancy as detailed in the 1983 Order (NI) as substituted by the 2003 Order

### Ground 1

“Any rent lawfully due from the tenant has not been paid or any obligation of the tenancy has been broken or not performed.”

### Ground 2

“The tenant or a person residing in or visiting the dwelling house

- a) has been guilty of conduct causing or likely to cause a nuisance or annoyance to a person residing, visiting or otherwise engaging in a lawful activity in the locality, or
- b) has been convicted of
  - i) using the dwelling house or allowing it to be used for immoral or illegal purposes, or
  - ii) an indictable offence committed in, or in the locality of, the dwelling house.”

### Ground 2 A

“The dwelling house was occupied (whether alone or with others) by a married couple or a couple living together as husband and wife and:

- a) one or both of the partners is a tenant of the dwelling house,
- b) one partner has left because of violence or threats of violence by the other towards
  - i) that partner, or
  - ii) a member of the family of that partner who was residing with that partner immediately before the partner left, and
- c) The court is satisfied that the partner who has left is unlikely to return while the other continues to occupy the dwelling house”

### Ground 3

“The condition of the dwelling-house or of any of the common parts has deteriorated owing to acts of waste by, or the neglect or default of, the tenant or any person residing in the dwelling-house and, in the case of any act of waste by, or the neglect or default of, a person lodging with the tenant or a sub-tenant of his, the tenant has not taken such steps as he ought reasonably to have taken for the removal of the lodger or sub-tenant”

## 7.2: The Implementation of the Legislation

### Ground 2 (Part 1) - Conduct

**“The tenant or a person residing in or visiting the dwelling house “has been guilty of conduct causing or likely to cause nuisance or annoyance to a person residing, visiting or otherwise engaged in a lawful activity in the locality”**

The courts have discretion to decide if an individual's conduct amounts to nuisance or annoyance. The Housing Executive should treat any racial incident, sectarian harassment or harassment on the grounds of sexual orientation as 'nuisance or annoyance' as stipulated in Ground 2 Schedule 3 of the 2003 Order.

In addition Ground 2 in Schedule 3 of the 1983 Order now includes the phrase “conduct likely to cause nuisance or annoyance. It may not be necessary to prove actual nuisance which is continuing. Past conduct which caused a nuisance or which was likely to cause a nuisance may suffice. This should enable a third party rather than the victim of the behaviour to give evidence against the accused.

Ground 2 in Schedule 3 to the 1983 Order permits the courts to grant an order for possession on the basis of nuisance or annoyance caused by a person visiting a tenant's home. It would often be the case that the tenant has invited or encouraged the individual's presence in his/ her home or in the locality of the home and nuisance need not be to someone who actually lives in the locality, but can be to a person visiting the area or an individual engaged in a lawful activity i.e. a caretaker or a person completing repair/ maintenance work.

This should enable Housing Executive staff, police officers, and council officials to give evidence in court of the nuisance or annoyance they have personally experienced and may enable the Housing Executive to take action against individual tenants who are behaving in an unreasonable manner towards Housing Executive staff.

Officers from the statutory agencies may also be called as professional witnesses to give their opinion on matters within their professional experience and officers may also be called to prove complaints on behalf of persons who are unwilling to attend court.

While the tenant has a responsibility for the conduct of other members of their household and the conduct of visitors to the dwelling house, it does not make the tenant responsible merely because the act of nuisance or annoyance has occurred. The tenant may not be held responsible by a court if it was deemed unreasonable for the tenant to take steps to prevent it. Tenants should not necessarily be held responsible for the actions of unwelcome or unpredictable visitors.

Examples:

- a) Where possession proceedings are under consideration on the basis of nuisance or annoyance caused by visitors, a 'one-off' incident would not normally be sufficient to proceed. There should be clear evidence of persistent nuisance; for instance, noisy parties held on a regular basis. In extreme one-off incidents the Housing Executive may be able to proceed.
- b) Where a tenant is being harassed by an ex-partner. This can result in nuisance to neighbours plus the tenant. In such cases the tenant should not be held responsible for the actions of the visitor.

A distinct difference exists between anti-social behaviour which is deliberate and behaviour which is a result of illness or other form of vulnerability and every attempt should be made to address the problem of illness or vulnerability through the provision of support

## Ground 2 (Part 2) - Conviction

The tenant or a person residing in or visiting the dwelling has been **convicted** of:

- i) **using the dwelling house or allowing it to be used for immoral or illegal purposes, or**
- ii) **an indictable offence committed in, or in the locality of, the dwelling house."**

In order to utilise this ground it is essential that the dwelling has been used for the purpose of committing the offence. It is not sufficient for the dwelling to have nothing to do with the offence other than being merely the scene of the offence's commission.

Ground 2 Schedule 3 of the 1983 Order now covers convictions for indictable offences committed in or in the locality of the dwelling house by the tenant or a person residing with him or visiting him.

Indictable offences can be described as offences which are of a serious nature and some examples would be indecent assault, certain misuse of drug offences, possession of an offensive weapon, burglary, criminal damage and threats to kill. In order to determine if an offence is an Indictable Offence, details of the offence/s should be obtained from the PSNI and Certificates of Conviction obtained from the Court. These will then be looked at by the Legal Department who can confirm if the offence falls under the Indictable Offence category. In such circumstances it may be appropriate to seek possession if the offence has had a detrimental impact on the quality of life of persons residing in the locality.

Whether the conviction is considered to be sufficient to grant an order for possession would be a question to be determined by the judge at the hearing.

In a situation where possession is being sought on the basis of a conviction for an offence committed by a visitor to the dwelling it would, in all probability, be necessary to show that the tenant was implicated in the incident.

The inclusion of this ground strengthens the Housing Executive's powers to address the problem of drug dealing from Housing Executive properties. The ground also provides a mechanism to address drug dealing cases where the activity occurs in the communal parts of an estate rather than in the tenant's dwelling-house.

It would seem that this ground could be used where violent offences are carried out on Housing Executive estates and where there could be considerable distress experienced on the part of the victim and his/ her family should the convicted person and their family be allowed to remain in the area.

## Locality

The physical area of nuisance is no longer confined to the concept of neighbourhood or curtilage but is now extended to locality.

The Housing Executive can take action against a tenant even if nuisance occurs outside their home. Ground 2 in Schedule 3 to the 1983 Order now includes the clause 'nuisance caused in the locality of the dwelling-house'.

There is no specific physical measurement which constitutes the locality of a dwelling house. Whether incidents occur in the locality would be a question of fact to be determined by the judge at the hearing.

Case law in England suggests that 'locality' includes communal areas and walkways and may extend to areas such as shops and even parts of the locality that may not have the same landlord.

## Ground 2A - Domestic Violence

This covers situations where a partner has vacated the dwelling house as a result of violence/ threats of violence by the other partner. The violence/ threat of violence could be directed at the partner or at other family members living with the partner. This may allow the Housing Executive to address issues of under-occupation as it is likely that partners who leave because of domestic violence will take other members of the household with them.

In this respect, the court will not grant an order for possession on Ground 2A unless it is satisfied that the partner who has left is unlikely to return while the other remains in the dwelling house.

As in any case of anti-social behaviour it is of paramount importance that the safety of the partner who has left is given every consideration.

The decision to seek possession should be made in consultation and agreement with the partner who has left. It is not anticipated that the Housing Executive would seek possession of a property contrary to the wishes of the partner who has left, should the latter express reservations as to their safety on the commencement of proceedings.

This guidance should be read in conjunction with the Common Selection Scheme and Homelessness Guidelines.

### **Ground 3 - Condition of Property**

Anti-social behaviour may, in specific circumstances, extend beyond the normal interpretation of a neighbour dispute and the annoyance or nuisance which can arise from the conduct of an individual. It may develop from situations which would normally be viewed as Estate Management issues for example:

1. The physical condition of the property and/ or garden may be such that the dwelling can be classified as a nuisance
2. The operation of a business from a dwelling may result in the deterioration of the condition of the property
3. The keeping of an excessive number of animals in a dwelling may result in deterioration in the condition of the property.

The clauses that can be added to the NSP are found in the conditions of tenancy handbook and can be found in [Appendix 24](#)

# Chapter 8: Possession Proceedings – Secure Tenant

## 8.0: Procedural Guidelines

The Housing (Northern Ireland) Order 2003 amends the procedure for seeking an order for possession under the 1983 Order.

1. Proceedings for possession in cases of antisocial behaviour utilising Ground 2 may commence without the usual 4 week period of notice i.e. they may commence immediately on service of the Notice Seeking Possession (NSP) with the issue of the Ejectment Civil Bill (ECB)
2. The court may, if it considers it just and equitable, dispense with the requirement of the service of the NSP.
3. Should domestic violence be a ground for possession, the Housing Executive must serve a copy of the Notice Seeking Possession on any partner who left the property because of violence by the other partner or satisfy the court that it has taken all reasonable steps to serve a copy of the notice on the partner.

## 8.1: Commencement of Proceedings

Should the Housing Executive intend to seek an order for possession on grounds of anti-social behaviour, possession proceedings should commence as quickly as possible to reduce the impact of the anti-social behaviour.

A notice of seeking possession will advise that when grounds for possession stipulate Ground 2 (nuisance or annoyance) possession proceedings may commence immediately.

In some circumstances where the service of a NSP would cause undue delay the Housing Executive may now ask the court to waive the requirement to serve the notice, but this is likely only in exceptional or extreme cases.

### Notice Seeking Possession (NSP)

When the Patch Manager decides to progress a case for legal action, the ASB file has to be copied (along with the schedule of incidents) and sent up to the Community Safety Team.

The NSP and notes [Appendix 25](#) will be drawn up in the prescribed format and accompanied by a schedule of incidents [Appendix 26](#) detailing the particulars of the nuisance and annoyance to neighbours. When this has been approved by the legal team, this will then be e-mailed to the Patch Manager for service. The Patch Manager or above can sign the NSP

Joint Tenants - For a Notice to be valid it must identify all joint tenants. Where possible the notice should be served on all joint tenants and if this is not reasonably practicable or possible then service on one and copy to the other/s if possible would be acceptable.

The content of a notice in respect of a secure tenancy will differ from that for an Introductory Tenancy because of the particular procedural differences relating to introductory tenancies as detailed in Chapter 10.

## Service of the Notice

The Notice Seeking Possession and the Notice of Proceedings (in respect of an introductory tenant) should be served in accordance with the following guidelines.

Service of the Notice and accompanying documentation may be achieved by any of the following methods which are set out in order of preference – remember it must be served before the date specified in the Notice as the earliest commencement date for proceedings to be issued

1. By personal service
2. By registered post/recorded delivery – to obtain guaranteed delivery next day use “Special Delivery” service otherwise the first class registered post can take up to 15 days. It is important to note that in law, unless the contrary is shown, a document served by first class post is deemed to have been served on 7th business day after and excluding the day of posting and week end days. This has consequences for complying with the statutory time limits particularly in respect of Introductory Tenancies. Personal service is therefore preferable
3. By leaving it for the tenant with some person apparently over the age of 16 at the tenants usual or last known address or business.
4. If the tenant is no longer at his/her Housing Executive dwelling and it is not practicable after reasonable enquiry to ascertain his/her present whereabouts service may be achieved by addressing the notice, accompanied by supporting documentation, to him/her, as occupier, and insert through letterbox in envelope addressed to the tenant(s).

## Endorsement of the Notice

A copy of the notice must be endorsed as to the particulars of Service. Served notices remain valid for a period of 12 months after the date stated in paragraph 5 of the notice. Legal proceedings can be initiated at any time during this period.

## Confirmation of Service

When using Special Delivery/ Recorded Delivery it is essential that a check is made to confirm delivery. If no check is carried out the Local Office will not receive notification of non-delivery until 21 days after the failed attempt of delivery.

The check may be made the day after posting (after 1pm) via the Royal Mail website, Tracking Service. This will show if the Notice has been delivered. This may be printed off and is acceptable as proof of service. The Local Office should also retain a copy of the special delivery receipt on the anti-social behaviour file.

Following service and endorsement of the NSP/NOP a copy of this should be forwarded to the Community Safety Team. In addition the Local Office should confirm that they wish to proceed to Ejectment Civil Bill Stage if possession has not been given following service of the NSP/NOP.

## Offer of Support after Service of NSP

After issuing the NSP and before an instruction is given the legal department to commence proceedings (i.e. ejectment proceedings) by the Team Leader, the Team Leader should consider an offer of support to help the tenant and the household to address any behaviour relating to the grounds on which the Notice was issued.

The file should record consideration and decision – for example, it may be that previous and recent offers of help and support have been rejected or failed and that in those circumstances it is not considered appropriate to make any further offers. If a decision is made to make such an offer then consideration should be given as to whether to review the decision to seek a possession order and recorded.

## 8.2: After Service – Ejectment Civil Bill Stage

On service of the NSP (utilising Ground 2) the Ejectment Civil Bill (ECB) may be served immediately by the Housing Executive's solicitor. This affords the tenant a four week period to decide whether or not to defend the proceedings.

### Undefended Case

If at the end of the four week period there is no Notice of Intention to Defend, the Housing Executive's solicitor may request the case to be listed for hearing as an undefended case.

If an order for possession is granted at the hearing and the former Secure Tenant subsequently refuses to leave, the Decree is extracted and the case referred by the Housing Executive's solicitor to the Enforcement of Judgements' office for enforcement action.

### Defended Case

If a Notice of Intention to Defend is served within the relevant period then, after a period of 21 days from the service of the Notice of Intention to Defend, the Housing Executive may lodge a certificate of readiness, if the case is ready to be listed for hearing. The court then fixes a date for hearing the case as a defended matter. If a decree for possession is obtained the case will be referred to the Enforcement of Judgements Office for enforcement action, should the former secure tenant of the property not comply with the decree for possession.

## 8.3: The Decree for Possession

Following the award of a decree by the Court, it is the responsibility of the Local Office to ensure that where appropriate the tenancy is terminated and a Use and Occupation Account created if necessary. Further guidance on this can be obtained from the Arrears Manual.

Provided that the Housing Executive can prove the anti-social behaviour and the court considers it reasonable to do so, a Decree for Possession will be granted. There are a number of Decrees that the court can make, for example:

### Absolute Decree for Possession

The dwelling must be vacated immediately as the tenancy has been ended.

### **Decree with a Stay**

The Decree specifies that the dwelling must be vacated no later than a date specified in the Decree.

### **Undertaking**

An agreement made by the defendant to cease the conduct causing the nuisance or annoyance. Should the nuisance re-occur the Housing Executive reserves the right to return to court and seek possession of the property on the breach of the undertaking.

## **8.4: Enforcement of Judgements Office (EJO)**

If the tenant does not voluntarily leave the property after a decree has been obtained then the case will have to be referred to EJO for enforcement. The local office needs to contact the Community Safety Team in Headquarters to start the process. The process is detailed in the Service Level Agreement and a copy can be obtained from the Community Safety Team.

### **Service Level Agreement Recovery of Possession (ASB)**

The Service Level Agreement between the Northern Ireland Housing Executive and the Enforcement of Judgments Office specifically relates to cases being processed for recovery of possession due to anti-social behaviour. It sets out details of the service criteria together with the responsibilities and duties of the respective organisations. As part of the SLA a “Fast Track” system with agreed service standards is now in place for such possession cases.

### **EJO Cancellation Fees**

EJO apply a late cancellation fee to creditors when insufficient notice is given to postpone or cancel an eviction.

To avoid incurring these charges the decision to stop the eviction by management should be made before four days of the date of the scheduled eviction. Should NIHE be required to take this decision within the four day period then the debtor must be made aware that they will be liable for the charge. The charges must be added to the Recoverable Legal account

# **Chapter 9: Injunction Proceedings against ASB**

## **9.0: Grounds for Seeking an Injunction (2003 Order)**

An injunction is an order of the court which instructs a person to do or refrain from doing something and can be sought in the County Court or the High Court

An injunction may be sought if the circumstances are serious and warrant immediate court action. Whether to grant an injunction is at the discretion of the court. The granting of an injunction is not a certainty or a formality. The court will want to be satisfied that the incidents have occurred in the manner stated and that it is a proportionate remedy necessary to address the misbehaviour. It will always consider the human rights of both the complainants and also the protagonists.

In terms of best practice a request for an injunction should be an immediate reaction to recent serious incidents of anti-social behaviour. It would not normally be appropriate to request an injunction if the anti-social behaviour had been ongoing for an extended period of time and the frequency and nature of the incidents of anti-social behaviour have remained constant.

Injunction proceedings can be served whether or not a Notice Seeking Possession has been served. It is possible to issue injunction proceedings to prevent individuals from returning to areas from which they have been evicted.

## **9.1: Injunctions against ASB (Housing (NI) Order 2003)**

The 2003 Order now enables the Housing Executive to seek an injunction restraining any person from:

- a) Engaging in or threatening to engage in conduct causing or likely to cause a nuisance or annoyance to a person residing in, visiting or otherwise engaging in a lawful activity in residential premises or in the locality of such premises
- b) Using or threatening to use residential premises for immoral or illegal purposes
- c) Entering residential premises or being found in the locality of any such premises.

**N.B: Should the nuisance involve only owner- occupiers issues may exist in respect of the Housing Executive's ability to respond as the true ambit of the injunction proceedings is to protect Executive tenants from such behaviour.**

The power to obtain an injunction applies to residential premises held under Secure or Introductory Tenancies and temporary accommodation provided under Part II of the Housing (NI) Order 1988.

It should be noted that the prohibited behaviour described in a) and b) is similar to the behaviour which would be grounds for possession under Ground 2 in Schedule 3 in the Housing (NI) Order 1983.

To obtain an injunction there has to be a connection between the residential premises and the individual who seeks protection.

An injunction may be granted for a specified period or until varied or discharged.

An injunction may be varied or discharged by the court by application of either the Housing Executive or the individual concerned. Only in exceptional cases will the court grant an injunction without the person being afforded notice of the proceedings i.e. it is done on an "ex-parte" basis and only the Housing Executive appears. However, the courts are increasingly reluctant to hear such proceedings unless satisfied that such proceedings are warranted without the defendant being notified. In all cases an individual will always be granted the opportunity to make representations in respect of the injunction at a future court hearing.

An injunction is enforceable against the person to whom it is directed. A person who breaches the terms of an injunction will be held to be in contempt of court and will be subject to the penalty imposed by that court. A breach may result in imprisonment.

## **9.2: When will a court grant an injunction**

Article 26 (3) of the Housing (NI) Order 2003 stipulates that the court shall not grant an injunction unless it is of the opinion that there is a significant risk of harm to any person residing in, visiting or otherwise engaging in a lawful activity in residential premises to which the 2003 Order applies or in the locality of such premises.

## The definition of harm (Article 27)

In respect of a person who has reached 18 years of age, harm means ill treatment or the impairment of health either physical or mental.

In respect of a child i.e. any person under the age of 18 years, harm means ill treatment and includes sexual abuse and forms of ill treatment which are not physical, or the impairment of health or development.

In taking such cases documentary evidence will normally be required (such as a report from tenant's GP or hospital) which sets out the medical condition and ongoing effect the misbehaviour is having on the tenant's health.

# Chapter 10: Introductory Tenancy

## 10.0: Background

The Housing (Northern Ireland) Order 2003 allows the Housing Executive to elect to operate an Introductory Tenancy regime. The Housing Executive elected to implement Introductory Tenancies from April 2004.

Introductory Tenancies form part of the Housing Executive's strategy for addressing anti-social behaviour. They are intended to address the specific problem of anti-social behaviour and allow the Housing Executive to assess the suitability of an individual to hold a secure tenancy. They emphasise to the Introductory Tenant the importance of reasonable standards of behaviour and adherence to the conditions of tenancy and statutory obligations. It is envisaged that in the vast majority of cases an Introductory Tenancy will become a secure tenancy at the end of the twelve month trial period.

Possession proceedings for an Introductory Tenant differ from those of a Secure Tenant in that no grounds for possession have to be presented to the court. Where the Housing Executive has sought possession of a dwelling let under an Introductory Tenancy through proceedings, the court, having satisfied itself that the notice requirements as set out in Article 10 of the Housing (Northern Ireland) Order 2003 have been followed correctly, must grant possession of the dwelling to the Housing Executive. The court will therefore be unable to enquire into the adequacy or otherwise of the reasons for the decision to apply for an order for possession

However case law has now established that an introductory tenant is entitled to raise, as a defence to possession proceedings, Article 8 of the ECHR. This means that the court has the power to consider proportionality in the making of a possession order and in doing so will consider the personal circumstances of the tenant. The court will only have to consider proportionality of the making of the order for recovery of possession if it has been raised by the tenant as a defence to proceedings.

An Introductory Tenant will have the right to request a review by the Housing Executive of any decision to serve a Notice of Proceedings for Possession (NOP)

All investigations in response to a report of anti-social behaviour which involves an Introductory Tenancy must be actioned in accordance with the standard anti-social behaviour procedural guidelines. When reports of ASB are received in respect of an Introductory Tenant, the investigative approach adopted should be the same as for Secure Tenants see Chapter 8

## 10.1: Proceedings for Possession

### The Importance of Adherence to Procedural Guidelines

The Housing Executive can only terminate an Introductory Tenancy on grounds of anti-social behaviour by obtaining an order of the court for the possession of the dwelling house.

Possession proceedings for Introductory Tenancies differ to those of a Secure Tenancy. Proceedings in respect of a Secure Tenancy on grounds of anti-social behaviour are subject to a test of reasonableness. The court will only grant a decree for possession if it considers it reasonable to do so. In respect of an Introductory Tenancy the court has very limited discretion.

If the tenancy is an Introductory Tenancy, the court is obliged to grant the decree for the possession of the dwelling-house provided the Housing Executive has complied with the provisions detailed in Article 10 of the 2003 Order, i.e. an appropriate Notice of Proceedings for Possession has been served and that the period specified in the Notice has expired.

Adherence to the procedural guidelines is essential. As a result of the court's limited discretion in possession proceedings for an Introductory Tenancy, the Housing Executive has a responsibility to ensure that in seeking possession of an Introductory Tenancy it is acting reasonably. This means that the Housing Executive should make a balanced judgement having regard to its own interests as a landlord, the interests of the public and the interests of the Introductory Tenant and his/her household. The reasons for service of the Notice of Proceedings must be clearly evident on file and available to a reviewing officer. It is essential that a case file is completed in full, incorporating details of all interviews, telephone calls, copies of all correspondence etc.

The court can grant a short adjournment if it is satisfied that there is a real chance of an application for leave to apply for judicial review being granted, in respect of the decision of the Housing Executive to initiate proceedings.

### Judicial review proceedings

Such proceedings will look closely at the Housing Executive's decision making process for instance:

- a) Has the Housing Executive given adequate consideration to the views of the complainant and the accused?

- b) Has the Housing Executive provided a mechanism for an internal review of the decision if one was requested by the Introductory Tenant
- c) Were reviewing officers independent of the original decision making process and senior to those making the original decision?
- d) Has any form of procedural impropriety, such as a failure to observe a material statutory requirement, occurred?
- e) Has the Executive disregarded some material factor?
- f) Has the Executive exceeded its powers?
- g) Generally, was the Housing Executive's decision to end the Introductory Tenancy reasonable and rational on the basis of the evidence available to it?

## 10.2: Reasons for Seeking a NOP

The 2003 Housing Order does not require the Housing Executive to prove that any statutory grounds exist for seeking possession of an Introductory Tenancy. However, the Notice of Proceedings must state the reasons for seeking an order for possession and incorporate a schedule of incidents.

The reasons for seeking an order for possession of an Introductory Tenancy in respect of anti-social behaviour must relate to behaviour which would, if the Introductory Tenant had been a secure tenant fall within:

- i. Ground 2 of Schedule 3 to the 1983 Order;
- ii. Ground 3 of Schedule 3 to the 1983 Order.

## 10.3: Ending an Introductory Tenancy

### The Notice of Proceedings (NOP)

It may not be appropriate to serve a Notice of Proceedings on an Introductory Tenant if the duration of the Introductory Tenancy is in excess of ten months. Under such circumstances it is questionable as to whether or not proceedings could be issued prior to the tenancy transferring to one of a secure status.

Once the Housing Executive decides to terminate an Introductory Tenancy, a Notice of Proceedings for Possession must be served on the Introductory Tenant.

The Notice must:

- a) State that the court will be asked to make an order for the possession of the dwelling-house.
- b) Set out the reasons for the decision to make application for a possession order. As good practice, this should include a case history of the sequence of events.
- c) Specify a date after which possession proceedings for the property may commence. In very complex cases it may be appropriate to give a date on the notice which exceeds the 4 week notice. This however prolongs the process and extends the period before proceedings can be initiated.
- d) Advise the Introductory Tenant of the right to request a review of the decision to seek possession and of the time limits.
- e) Specify the date by which the review shall be completed and the Introductory Tenant notified of the result.
- f) Specify where the Introductory Tenant should take the Notice if he/ she requires help/ advice from independent agencies.

In line with good practice the Introductory Tenant should also be advised of the steps taken to resolve the nuisance.

## The Decision Making Officer

A Patch Manager can sign a NOP and once served the Team Leader will decide if the NOP is to be enforced by going to court.

## Preparation of the Notice of Proceedings (NOP)

Once the legal department has agreed the service of the NOP it will be e-mailed to the local office and in addition to the NOP and explanatory notes [Appendix 27A](#) the Introductory Tenant will receive:

- a) A schedule of Incidents [Appendix 24](#)
- b) Covering letter [Appendix 27B](#)

- c) Leaflet ending an Introductory Tenancy [Appendix 27C](#)
- d) Request for review application form [Appendix 27D](#)

It is vital that the Introductory Tenant is provided with details of their right to a review, how to request a review of the decision to terminate the tenancy and the date by which they must request a review. They should also be advised that there will be no further opportunity to put their case to the Housing Executive after the review period has expired.

## Method of Service

The Notice of Proceedings in respect of an Introductory Tenancy must be served in accordance with the guidelines for the service of a Notice Seeking Possession of a secure tenancy (see 8.1 Service of the Notice).

## The Right to a Review

If requested to do so the Housing Executive must review any decision to seek an Order for Possession of an Introductory Tenancy in accordance with the Introductory Tenants (Review) Regulations (NI). The Housing Executive cannot commence with the possession proceedings until the time period in the Notice has expired.

The Introductory Tenant must advise the Housing Executive within 14 days of receipt of the notice as to whether or not they wish their case to be reviewed.

The review must be concluded and the Introductory Tenant advised of the outcome before the earliest date specified in the notice as the date that proceedings may commence. If the decision is to confirm the original decision, they must be notified of the reasons for the decision.

The Introductory Tenant's only redress, if they are dissatisfied with a review decision, is to apply for a judicial review.

## 10.4: Effect of Possession Proceedings

Where the 12 month trial period ends and the Housing Executive has already initiated proceedings for the possession of the property i.e. the Ejectment Civil Bill has been served, the tenancy will remain an Introductory Tenancy until:

- a) The tenancy comes to an end on the date on which the Introductory Tenant is to give up possession in pursuance of the court order

- b) The proceedings are otherwise finally determined.

## 10.5: Review Hearing

The Housing (NI) Order, 2003, allows Introductory Tenants to request a review of the decision to seek an order for possession of their tenancy. The review process is to be in accordance with the regulations prescribed by the Introductory Tenant (Review) Regulations (NI) 2003.

It is the responsibility of the Housing Executive to provide the mechanism for an internal review of the decision.

The review procedure must be seen as fair and follow the correct procedures. If the decision of the review is to confirm the original decision to serve the Notice of Proceedings the Introductory Tenant's only available redress, if they are dissatisfied with the decision, is to apply for a judicial review

The County Court will be required to grant the order for possession in respect of the tenancy provided that the Housing Executive has complied with the notice requirement set out in Article 10 of the 2003 Order.

### Who can Request the Review and When

A review will only take place if it is requested by the introductory tenant or by the tenant's representative. The request need not be made in writing though it would be sensible to ensure it was recorded in writing. The request must be made within the statutory 14 day time limit i.e. it must be made before the end of the period of 14 days beginning with the day on which the Notice of Proceedings for Possession (NOP) is served. This period of time is proscribed in statute and cannot be extended.

### Acknowledgement of Request for Review

If the request is received in the Local Office, whether in writing or verbally, the Patch Manager/Team Leader should advise the Community Safety Team immediately. A copy of the correspondence or form should be scanned to the Community Safety Team.

The Community Safety Team will issue the tenant or his/her representative with an acknowledgement of their request for a review. It will then be necessary to establish whether the review request has been received within the 14 day deadline.

If the request has been received outside the 14 day deadline, the Patch Manager/Team Leader should still notify the Community Safety Team who will discuss the case with Legal Services.

## **Review via an Oral Hearing**

The Patch Manager/Team Leader will liaise with the Area Manager for a date and time that the review can take place.

If the tenant has requested a review by way of oral hearing, the Patch Manager/Team Leader must give the tenant notice of the date, time and place of the hearing, which must be not less than five days after the receipt of the request for a hearing. If the tenant has not been given such notice, the hearing may only proceed with the consent of the tenant or his representative. Article 6 Introductory Tenants (Review) Regulations (NI) 2003.

The Introductory Tenant and /or representative should also be provided in advance with a copy of the case file booklet.

## **Review via an Exchange of Correspondence**

If the review is not to be by way of oral hearing, the Introductory Tenant may make representation in writing. The Patch Manager/Team Leader must advise the Introductory Tenant of the date by which such representations must be received. The date shall not be earlier than 5 clear days after the Introductory Tenant receives this advice. The result of the review via an exchange of correspondence must be communicated to the tenant in writing within the statutory time frame.

The Introductory Tenant and /or representative should also be provided in advance with a copy of the case file booklet.

## **Case File Preparation**

The Community Safety Team will in conjunction with the Patch Manager/Team Leader prepare the file for the review hearing and redact where necessary. All the papers will be collated into the relevant sections of the booklet.

**N.B Guidelines in respect of the file content are detailed in the [Appendix 27E](#)**

The Reviewing Officer – Area Manager or above (Section 10.6) should be provided with the file on the case prior to the hearing. The file should incorporate all written items to be considered. The Introductory Tenant and /or representative should also be provided in advance with a copy. In order to protect witnesses it is acceptable, at this stage in the process, to erase the names and address of the complainants from the documentation included in the file.

The Patch Manager/Team Leader should continue to liaise with the Community Safety Team prior to the hearing and any additional information made available prior to the actual hearing, in respect of the case, should be forwarded to the Reviewing Officer.

If additional information become available prior to the hearing and time limitations are such that it is not practical to forward same to the Introductory Tenant and/or his representative the documentation may be provided to the Introductory Tenant at the commencement of the hearing.

## **10.6: The Review Panel Hearing Guidelines**

### **Who can hear a Review**

The Review Panel will consist of one or more senior officers. These officers are to be independent of the original decision to apply for an order for possession and will be senior to the person who made the original decision.

The Reviewing Officer may be any Area Manager (level 8). The officer must not have been involved in the decision to issue the Notice of Proceedings for Possession (NOP). In cases where the Area Manager has been involved in the decision making process any request for a review of the decision to terminate the tenancy must be dealt with by a Regional Manager or a Level 9 Landlord Services Officer.

### **Responsibility of the Review Panel**

The panel must consider the facts before it, and confine its deliberations to the matters that are relevant to the Housing Executive's decision which is under review. The panel will need to establish findings of fact that are not in dispute, resolve facts that are in dispute and relate these to the action that the Housing Executive proposes to take in respect of ending the Introductory Tenancy. The panel should not stray outside its areas of responsibility.

Where it appears that the behaviour of an Introductory Tenant would, if he/she were a secure tenant, be in breach of Ground 1, Ground 2 and/or Ground 3 in Schedule 3 to the 1983 Order the panel should be satisfied that:

1. The appropriate documentation has been completed correctly and procedural guidelines followed;
2. The Notice of Proceedings is not defective (it complies with Article 10 of the Housing (NI) Order 2003) and has been served in accordance with procedural guidelines;
3. There is clarity as to the facts of the case;
4. There have been clear attempts by the Housing Executive to resolve the nuisance where appropriate;
5. The Housing Executive endeavoured to ensure that any appropriate support which may have helped the Introductory Tenant to modify his/her behaviour was made available;
6. The Introductory Tenant was given every opportunity to amend their behaviour and comply with the conditions of tenancy/ legislation; in particular, the Introductory Tenant was advised that the tenancy was at risk if the offending behaviour did not cease;
7. All counter allegations have been properly investigated and appropriate action taken;
8. The Introductory Tenant has not modified his or her behaviour;
9. The decision to seek possession is appropriate and reasonably based on the evidence provided and the circumstances of the case.

## Record keeping

The review panel should maintain comprehensive notes of the hearing. These should include a written record of each side's case as presented at the hearing and be sufficient to identify the key issues of fact and the reasons for the decision. The notes should be sufficiently detailed to permit the court to easily assess the decision making process. These notes should be kept with the Case File. The Reviewing Officer should also complete the Reviewing Panel Form stating the Panel's decision and reasons.

## The Right of the Introductory Tenant at an Oral Hearing

### Introductory Tenants have a right to:

- Be heard and to be accompanied by another person (this may be a solicitor). The Introductory Tenant's representative will be afforded the same rights and powers at the hearing as that of the tenant.
- Call persons to give evidence.
- Put questions to any person who gives evidence at the hearing.
- Make representation in writing.

### Introductory Tenants do not have the right to:

- Request the presence of any individual who may have complained about the anti-social behaviour

## Presentation of the case by the Local Office

The case for the Housing Executive may be presented by the Assistant Area Manager or the Team Leader who can use hearsay evidence. At this stage in the proceedings there is no obligation on the part of the Housing Executive to disclose the identity of the complainant/s. Housing Executive officers who appear at the hearing may be cross examined. It is for the Reviewing Officer to decide how the questioning should be controlled in order to reach a proper assessment of the decision to seek possession of the property

**N.B: Guidelines are provided in the [Appendix 27F](#) in respect of the structure of the Local Office's presentation**

## Postponement or adjournment of an oral hearing

### 1. Absence of Introductory Tenant

If the Introductory Tenant, his/her representative or any person fails to appear at the hearing following proper notification, in accordance with regulation 6 of the Introductory Tenants (Review) Regulations (NI) 2003, of the date, time and place of the hearing, the Reviewing Officer may, in spite of this absence and having taken all the circumstances into

consideration (including any explanation offered for the absence), proceed with the hearing. Where the Introductory Tenant is able to demonstrate 'good cause' for his absence the reviewing officer may postpone the hearing and set a new date.

## **2. Absence of person hearing the review**

Where more than one person is conducting the review, any hearing may proceed in the absence of one of the persons who is to determine the review, but only with the consent of the Introductory Tenant or his representative.

## **3. Postponement**

An Introductory Tenant may apply to the Reviewing Officer requesting a postponement of the hearing. The Reviewing Officer may grant or refuse the application as he/she sees fit. However, a postponement would normally be granted if there appears to be good reason. If a request is refused, the Introductory Tenant should be advised of the reasons behind this decision.

## **4. Adjournment**

A hearing may be adjourned by the person hearing the review at any time during the process. This may be on the application of the Introductory Tenant, his representative or at the motion of the person hearing the review. If the hearing is adjourned part way through and after the adjournment the personnel of the review panel has changed, there should be a complete re-hearing of the case. This requirement does not apply where the hearing had been adjourned because the tenant or his representative failed to appear.

## **New information supplied by Introductory Tenant**

The reviewing officer's function is to establish fact and clarify any outstanding issues. In this respect only relevant submissions should be considered and where appropriate the panel should call for an adjournment. For example, to permit investigation of any new information that would affect the outcome of the review.

## **The Review Time-Table**

The Introductory Tenant must be advised in writing of the reviewing officer's decision and, if this confirms the original decision, the reasons for the decision and the proposed action of the Housing Executive. The review must be completed and the Introductory Tenant notified before the date specified in the Notice of Proceedings as the date after which proceedings for possession may commence.

**N.B: Should a review hearing be adjourned or postponed at the request of the Introductory Tenant or representative and as a result of this delay a decision cannot be issued within the time period specified by the legislation the Housing Executive will not be deemed to have acted contrary to the legislative requirements.**

## **The Decision of the Reviewing Officer**

The Reviewing Officer may:

- a) Uphold the decision to end the Introductory Tenancy and request that application be made to the court for an order for possession in respect of the Introductory Tenancy. The responsibility for continuing legal action will be referred back to the CST and appointed solicitor in liaison with the Local Office.
- b) Reverse the original decision to end the Introductory Tenancy and allow the Introductory Tenancy to continue until the end of the trial period.

## **Review Hearing – Procedural Guidance**

### **1. Administration**

Guidelines in respect of the administrative procedures to be adhered to prior to the actual hearing are detailed in Section 10. The reviewing officer may be supported throughout the hearing by another officer who has not had any input into the case. An additional officer may also be present to maintain an accurate record of proceedings.

### **2. The Independence of the Review Hearing**

The independence of the review hearing from the decision to end the Introductory Tenancy is vital. On no account should the presenting officer/s be invited into the hearing prior to the Introductory Tenant's arrival. Nor should the reviewing officer have any contact, in respect of the matter, with the Introductory Tenant or Local Office prior to the actual hearing.

## 10.7: Conduct and Order of the Review Hearing

The conduct of the hearing is entirely at the discretion of the reviewing officer. The only constraint is the Introductory Tenancy timetable:

- a) The review shall be carried out and the tenant notified of the decision within the period between the service of the notice and the date specified in the notice for the earliest commencement of proceedings.
- b) The review shall be carried out within such a period to allow the issue of proceedings before the date on which the tenancy is scheduled to become a secure tenancy.

**N.B: In cases subject to adjournment or postponement see Postponement or adjournment of an Oral Hearing see Section 10.6**

### Introduction

#### 1. Opening Remarks

The hearing should be opened with introductions and then followed by the reviewing officer's opening remarks which should include:

"I am a Housing Executive officer senior to the officer who made the decision to issue the Notice of Proceedings for Possession in respect of your Introductory Tenancy. I can confirm that I was not in any way involved in that decision. I am, therefore, independent of that decision and able to arrive at my own view of the decision without any undue influence being brought to bear on me.

This is a very serious matter and this hearing is extremely important. If there is anything you, as the introductory tenant of \_\_\_\_\_, do not understand or anything you wish me to consider, please make sure that you tell me."

#### 2. The Order of Proceedings

"I will now explain the order of proceedings for today's hearing. I will listen to the Assistant Area Manager/Team Leader of \_\_\_\_\_ Local Office and any witnesses they have brought here to-day. Any papers provided for my consideration are contained in the file you have been given. The documentation consists of notices and letters that have been sent to you in the past together with any other documentation which \_\_\_\_\_ (name of relevant Local Office) has relied upon in relation to the decision to serve the Notice of Proceedings.

On completion of the Local Office's case you can put questions to the presenting officer/s and any supporting witnesses. You will then have an opportunity to tell me your version of events, call any witnesses you have brought along, and if you have a representative he/she may make representations on your behalf. During the hearing I may ask such questions as I believe are necessary and relevant to determine the issues in this matter."

### 3. The Decision

"In respect of my duty to review the decision to serve the Notice of Proceedings for Possession I should explain that:

- a) If I decide to uphold the decision to serve the Notice of Proceedings for Possession, I will refer the case back to the Local Office and proceedings will be issued for the possession of your home and the matter will be referred to the court.
- b) If I decide not to uphold the decision to serve the Notice of Proceedings and there is no further conduct causing or likely to cause nuisance and annoyance to persons either residing, visiting or otherwise engaging in a lawful activity in the locality of your dwelling-house, then on the date one year after the start of your introductory tenancy it will automatically become a secure tenancy."

### 4. Expected Conduct

"At this stage I would like to advise that I expect all parties to conduct themselves with propriety and should I consider the behaviour of any individual to be inappropriate I can and will request that they leave the hearing."

It is the responsibility of the Reviewing Officer to control the extent and manner of any questioning.

**N.B: Should it be necessary for an individual to be asked to leave the proceedings the reviewing officer should adjourn and seek legal advice.**

### 5. Seek Clarification

"At this stage I would ask that all parties confirm that you have fully understood the contents of what I have said. Are there any other issues which require clarification before I proceed?"

## Case Presentation

### 1. Local Office Presentation

The reviewing officer should now request the Assistant Area Manager or Team Leader to present the case. Best practice would indicate that the presenting officer and the introductory tenant/representative be afforded a relatively free flow of their narrative. Should the reviewing officer require clarification of any points that are unclear this may be sought at the end of the submission.

**N.B: This is however a question of style and sometimes interruption will be necessary.**

### 2. Hearsay Evidence

It maybe that, to protect witnesses, the Local Office relies on hearsay evidence in the presentation of the case. Should this happen the reviewing officer will need to explain that hearsay evidence is acceptable but that the nature of the evidence will be taken into consideration in deciding what value or weight the reviewing officer is prepared to give it.

At this stage in the process there is no obligation on the Housing Executive to disclose the identity of the complainant or any other witness

### 3. Local Office Questioning

On the completion of the Local Office's case the reviewing officer should give the tenant/tenant's representative an opportunity to put questions to the Housing Executive Officer and any witnesses who have been called on behalf of the Housing Executive.

### 4. Introductory Tenant's Submission

After the presentation by the Local Office and following any questions by the reviewing officer, the introductory tenant should be asked to make their submission, to call any witnesses and for their comments on the allegations.

### 5. Conclusion

The opportunity to make a concluding submission should be given to both parties at the end of the oral evidence.

**N.B: The introductory tenant is not a professional advocate and should be afforded some leeway and assistance in expressing their comments on the allegations.**

## 6. Closure of Review Hearing

There is no requirement on the part of the reviewing officer to notify the parties of the decision prior to the closure of the hearing. It is in order to advise the parties that the matter will be given further consideration and they will be advised in writing of the decision before the date specified on the Notice of Proceedings as the earliest commencement date of proceedings. The review hearing should then be closed.

# 10.8: Action after the Review Hearing

## Notification of Decision

After the review is completed, the reviewing officer must notify the Introductory Tenant and Local Office, in writing of the decision. If the decision to take possession proceedings still stands, the reviewing officer must give the reason(s) for that decision.

## Service of Decision Letter – Introductory Tenant

Service of the decision letter in respect of the Introductory Tenant may be achieved by any of the methods set out below in order of preference:-

- By personal service
- By registered post/recorded delivery – to obtain guaranteed delivery next day use “Special Delivery” service otherwise the first class registered post can take up to 15 days. It is important to note that in law, unless the contrary is shown, a document served by first class post is deemed to have been served on the 7th business day after and excluding the day of posting and week-end days.

**N.B: This has consequences for complying with the statutory time limits as set out above. Personal service is therefore preferable.**

- If the introductory tenant is no longer at his/her Housing Executive address and it is not practicable after reasonable enquiry to ascertain his/her present whereabouts, it is acceptable to address the letter to him/her and fix copy of it to some conspicuous part of that dwelling. At the same time, another copy, if possible should be inserted through the letter box.

## 10.9: Local Office Case Presentation at Hearing

Throughout the presentation of the case by the Local Office reference should be made to the Review Hearing Case File and the supporting documentation contained within. There are certain areas that need to be addressed

### The Context of the Case

The presentation should initially establish the context within which the Introductory Tenant's anti-social behaviour takes place. Information provided should include the Introductory Tenant's tenancy commencement date and a description of the property type occupied.

Reference may also be made to the tenure characteristics, the demographics of the area plus the anti-social behaviour problems experienced. It may also be appropriate to detail the level of demand for /availability of accommodation in the area and how the Introductory Tenant's behaviour contributes to any problems e.g. rendering a block of flats difficult to let.

### Procedural Compliance

This will detail the date on which the NIHE issued the Notice of Proceedings, the method of service plus evidence as to the Introductory Tenant's receipt of the notice. Reference should also be made to the receipt of the request for the review by the Introductory Tenant and confirmation provided that the date of receipt fell within the statutory time limit.

### The Anti-Social Behaviour

This will detail when and how the NIHE was initially informed of the nuisance and advise of the type, frequency and severity of the reported anti-social behaviour. Reference should be made to the content of the Schedule of Incidents served on the Introductory Tenant with the Notice of Proceedings plus any additional incidents recorded as occurring after the service of the Notice of Proceedings and prior to the Review Hearing.

**N.B: Any incident referred to in the course of the Local Office's presentation must be detailed in the Review Hearing's Case File or provided separately to the Introductory Tenant at the hearing**

## Local Office Response

This section should provide evidence to the reviewing officer of the actions instigated at Local Office level to investigate the reports of anti-social behaviour and resolve the matter without recourse to legal action. Details of all warning letters issued, discussions with the introductory tenant in respect of their anti-social behaviour plus associated verbal warnings should be provided.

Details of other agency involvement in the case should be disclosed and information in respect of any intervention and support programmes provided.

**N.B: Evidence of all contact either directly or in writing, referred to during the review hearing, with the Introductory Tenant must be included in the Review Hearing's Case File.**

## Witnesses

The Local Office, following the presentation of their case, may choose to ask neighbours or statutory agency officers to present evidence to the review hearing as to their experience of the anti-social behaviour and/or the extent of their involvement with the introductory tenant.

**N.B: At this stage in the proceedings there is no obligation on the part of the NIHE to disclose the identity of the complainant/s should they choose not to attend the hearing.**

## Conclusion

Reference may be made, for instance, to the nature/frequency of the anti- social behaviour, the failure of the Introductory Tenant to respond to the intervention of the NIHE and other agencies, the impact of the anti-social behaviour on the community and the need to balance the interests of the Introductory Tenant with that of his/her neighbours.

# Chapter 11: Anti–Social Behaviour Orders (ASBOs)

## 11.0: Introduction

The Anti-Social Behaviour (Northern Ireland) Order 2004 came into operation on 25 August 2004 and enables the Executive to apply to the courts for an Anti-Social Behaviour Order (ASBO) on application having consulted the police and the relevant district council.

## 11.1: What are ASBOs?

- 1) Anti-social behaviour orders are civil orders made by the Magistrate's Court acting in its civil capacity. The court may make an order which prohibits the defendant from doing anything described in the order. They are intended to protect people in the community from further acts or conduct that would cause harassment, alarm or distress to one or more persons not of the same household as the individual. They represent an additional power afforded to the Housing Executive to address anti-social behaviour.
- 2) ASBOs are not intended to address what would be considered low level civil disputes between neighbours.
- 3) The Orders are preventative and once in place they will last for a minimum of two years although there are provisions for both parties to apply for orders to be varied or discharged.
- 4) An order is not intended to punish the offender it may however prohibit someone from continuing to act in an anti- social manner, prohibit association with others and prohibit an individual from entering defined areas. **An order does not impose positive requirements but only prohibitions.**
- 5) An ASBO is not a criminal conviction and does not form part of a criminal record. The order is designed to prevent the kind of behaviour that can ultimately lead to a criminal conviction.
- 6) Although ASBOs are civil orders and not criminal penalties, breach of an ASBO is a criminal offence which carries a maximum penalty of 5 years imprisonment on indictment and/or an unlimited fine.

- 7) ASBOs can be obtained in respect of any person aged 10yrs and upward and are not just for young people.

## 11.2: Legal Definition of ASB for the Purposes of an ASBO

- 1) For the purposes of obtaining an ASBO the definition is set out in Article 3 (1) of the Anti-Social Behaviour (Northern Ireland) Order 2004.
- 2) The order defines acting in an anti-social manner as conduct that caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household as the alleged accused.

Therefore, ASBOs may only be used provided the person(s) affected by the behaviour and the person who has behaved antisocially are not of the same household.

- 3) The types of anti-social behaviour this may include are not defined in the legislation. This allows the legal remedy of anti-social behaviour orders to be used in a variety of circumstances and to tackle a wide range of behaviour.

### Types of Behaviour for which ASBOs can be used

The following list provides examples of the type of anti-social behaviour which may be appropriate for an ASBO application. The list relates to the three relevant agencies.

The use of an ASBO is only possible where the behaviour in question causes or is likely to cause harassment, alarm or distress to other people. Generally the use of an ASBO is recommended when there is a pattern of behaviour of a serious nature, which cannot be dealt with easily or adequately by other remedies. However, one incident may be sufficient to merit an application for an order.

The wide range of anti-social behaviour that can be tackled by ASBOs and the ability to tailor the terms of the order to each specific case illustrates their flexibility.

The below list is not exhaustive but examples may include:

- Where there is a pattern of unruly behaviour by a small group of individuals on a housing estate or other area, who may dominate others and use damage to property

and fear of retaliation, possibly at unsociable hours, as a means of intimidating others.

- Where there are families or individuals whose anti-social behaviour, when challenged leads to verbal abuse, excessive noise, vandalism, threats, and graffiti. In this type of situation children may well be used as a means of directing the action against neighbouring families.
- Where there is behaviour which is either abusive towards or causes a nuisance to older people or towards other vulnerable persons causing them fear and distress
- Where there is serious and persistent bullying of children on an organised basis in public areas, on the way to or from school or within school grounds if normal school disciplinary procedures do not stop the behaviour
- Where normal noise nuisance powers have been shown to be ineffective or not considered to be appropriate
- Hate related incidents (Racial, Homophobic, Sectarian, Age or Disability)
- Vehicle Crime (Taking & Driving Away)
- Criminal Damage
- Throwing Missiles
- Town Centre begging
- Public Disturbances
- Fly posting, fly tipping, graffiti and litter
- Threats
- Harassing Specific Persons
- Drinking in prohibited public spaces (Parks, town centres etc)
- Misuse of fireworks

## 11.3: Prohibitions

### Guidance on Prohibitions

The court is able to make an order which prohibits the defendant from doing anything specified in the order. As part of the planning of an effective application the Housing Executive must consider what terms are suitable to request. There must be evidence in the body of the application to justify the prohibitions sought.

- 1) The ASBO legislation stipulates that the prohibitions imposed by the order should be those considered necessary for the purpose of protecting persons in a defined area or indeed the whole of Northern Ireland from further anti-social acts by the defendant.
- 2) The prohibitions should be reasonable, proportionate, realistic and practical. It is intended that the conditions be specific, for example in matters of time, if someone is being prohibited from an area at certain times, or when referring to exclusion from an area, the geographical boundaries should be made clear by the use of street names. Prohibitions may also cover acts which are pre-cursors to criminal acts, such as entering a shopping centre.
- 3) Although it is intended that the court will decide the prohibitions to be imposed by the order, the Housing Executive as the applicant agency should propose conditions which reflect the full extent of the defendant's anti-social behaviour. The Housing Executive may also propose an appropriate duration to the court. The duration of the order should be a reflection of the period of time deemed necessary to protect the community. The conditions should be such that they are not easily circumvented.

### The Criteria for Prohibitions

The prohibitions should be:

- Sufficiently extensive to cover the entire range of the individual's ASB
- Sufficient to protect all persons within a defined area from the ASB (as well as specific individuals). This could include a prohibition from approaching or harassing any witnesses involved in the court process.
- Contain a term to stop someone encouraging others to engage in ASB
- Reasonable, proportionate

- Realistic, practical
- Clear, concise, easy to understand
- Specific in respect of matters of time, areas of exclusion
- Of a format which makes it easy to determine and prosecute a breach

**N.B. Examples of prohibitions are detailed in the Summons – [Appendix 28A](#)**

## 11.4: Different Types of ASBOs

There are four types of ASBOs

### 1. Interim ASBO on Conviction

Article 4 of the 2005 Order inserts Article 6A into the 2004 Order to introduce an interim anti-social behaviour order on conviction. This allows for an order to be made to protect people from anti-social behaviour before a full antisocial behaviour order on conviction is made. An interim order may be requested in circumstances where there is a need to put an immediate stop to the anti-social behaviour pending the determination of the full order.

### 2. ASBO on Conviction

This Order is granted independently by a judge on conviction in criminal proceedings where the court is satisfied that the convicted individual has acted in an anti-social manner, namely in a manner that caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household as him/herself and that such an order is necessary.

No application by the relevant authorities is necessary. The ASBO may be made by the court either of its own motion or if asked for by the prosecution

This type of order is in addition to any sentence or conditional discharge a court may impose. The court may provide for the suspension of the requirements of the order during the defendant's period of detention with the prohibitions only coming into force on their release from custody.

### 3. Interim ASBO on Application

This type of Order can prohibit an individual from doing anything described in the Order and will usually be for a fixed period of time. Application is made to the Magistrates' Court in circumstances where the main application has not been determined and there is a need to obtain immediate relief from specific behaviour, to protect an individual/community i.e. urgent situation

The request for an interim order should be made at the same time as the submission of the application for a full order in situations where it may not be possible to present to the court the necessary evidence required for a full application.

An interim order can impose the same prohibitions as a full ASBO and has the same penalties for breach.

Where an order is granted it would normally be served personally on the defendant, as **it will not take effect until it is served.**

Application may be made by either the defendant or the applicant to have the Interim Orders either, varied, renewed or discharged. An Interim Order will cease to have effect on the determination of the main application for an ASBO.

The defendant may appeal to the County Court against the making of an Interim Order.

### 4. ASBO on Application

This is a stand-alone order, unrelated to other legal proceedings

It is intended that the court will determine the duration of the Order, although in statute the minimum duration is set at two years. The Application to vary or discharge the Order may be made by either party and may be made to the Magistrates' Court who made the original order. Application for an early discharge of the Order within the two year period will only be possible with the agreement of the relevant authority and the defendants

The defendant may appeal to the County Court against the making of an ASBO.

## 11.5: Applying for an ASBO

### Who can apply for an ASBO

An application for an order may be made by a relevant authority. A relevant authority is identified in the legislation as:

- a. the Northern Ireland Housing Executive
- b. A District Council
- c. the Chief Constable (PSNI) – who may direct that his functions under this order may be exercised by such police officers as specified in the direction

### When to Apply for an ASBO

An application for an order may be made by a relevant authority if it appears to that authority that specific conditions are fulfilled in respect of any person aged 10 years of age or over, namely:

- 1) “the person has acted, since the commencement date, in an anti-social manner, that is to say, in a manner that caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household as himself; and
- 2) that such an order is necessary to protect **relevant persons** from further anti-social acts by him”.

## 11.6: The definition of “relevant persons”

### Housing Executive

- (a) Persons who are residing in or who are otherwise on or likely to be on premises provided or managed by the Executive
- (b) Persons who are in the vicinity of or likely to be in the vicinity of such premises.

## District Council

- (a) Persons within the district of the council

## Chief Constable

- (a) Persons within the Police Service of Northern Ireland

# 11.7: The Requirement of Consultation

## Why Consult

- 1) Article 5 of the 2014 Order contains a statutory requirement for the organisation making the application for an ASBO to consult with the other relevant authorities before making application for an order:

The Housing Executive **shall** consult:

- (a) The council for the district in which the person in relation to whom the application is to be made resides or appears to reside: and
- (b) The Chief Constable” / the nominated ASBO co-ordination officer

The Chief Constable or district council **shall** consult -

- (a) The Housing Executive if the ASBO candidate resides or appears to reside on premises provided or managed by the Housing Executive.
- 2) To ensure that there is no conflicting action being taken in respect of the anti-social behaviour. In circumstances where criminal proceedings are underway in respect of the same behaviour care should be taken in any ASBO application. In these circumstances an ASBO on conviction may be appropriate, but where there is an immediate need to protect individuals an application for an interim order may be made. An interim order would not require use of the whole evidence prior to the criminal proceedings.
  - 3) Ensure that agencies are aware of the full facts relevant in a case.

- 4) Ensure that a complaint has not been made as a result of malice or discrimination
- 5) Consider agreed inter-agency criteria to support the use of ASBOs
- 6) Consider additional support which could be offered to the subject
- 7) Determine which agency should take the lead role

**NB: No agency has the power of veto in the consultation process. However, the proposals of the other agencies should be considered carefully before any decision is taken to proceed.**

The court will not grant an ASBO unless it is satisfied that the Executive has consulted with the PSNI and the relevant district council and will require documentary evidence of the statutory consultation. However, it is not necessary from the court's point of view for either of the other two relevant authorities to agree to support the application.

## How to Consult

The Housing Executive, police and district councils will each nominate an ASBO co-ordination officer. The function of the nominated officers will be to undertake the statutory consultation function. Within the Housing Executive the nominated officer will be the Assistant Area Manager or the Team Leader

Consultation may be by:

- 1) Anti-social Behaviour Forums – It is anticipated that during case discussions at anti-social behaviour forum meetings, individuals who are being considered by either agencies for an anti-social behaviour order will have been the subject for information exchange and development of the case. It is also expected that where appropriate a range of options including the use of support and diversionary activities will have been considered.
- 2) Telephone, to inform the relevant agencies of the intended application and to determine if they have any knowledge of the individual involved in the anti-social behaviour. The consultation by telephone should be followed up at a later date by each agency signing the consultation certificate. It is anticipated that this would only occur in exceptional circumstances when there is a need for a quick response.
- 3) A formal meeting to allow fuller discussion to take place. This would be the Housing Executive's preferred option given the complex nature of anti-social behaviour.

- 4) In the first instance the Housing Executive should consult with the relevant other authorities in the area where the anti-social behaviour occurred. Where it is identified that the defendant resides elsewhere consultation should also take place with the other partners in that area.
- 5) The court requires proof of consultation and this is done through the submission of a signed document which forms part of the application form for an ASBO. The document does not have to indicate whether or not there was agreement. The Certificate of Consultation is included in [Appendix 28B](#)

## Possible outcomes of the consultation process

- 1) Agreement not to proceed with the application, on the identification of other possible solutions.
- 2) Agreement that an ASBO application is in all probability the most, appropriate way to proceed but more evidence is necessary. The case to be reviewed again and a review date set.
- 3) Agreement to proceed with the application for an ASBO and lead agency identified
- 4) No agreement reached, but despite this the initiating agency intend to proceed

## Identification of the Lead Agency

In the majority of cases the agency which will make the application to the court for an ASBO will be the one which brought the case to the statutory consultation stage.

In line with best practice, prior to the formal consultation phase, the relevant agencies should have already been discussing the matter to identify all relevant information and potential solutions. These discussions will help identify the main cause for complaint in respect of the anti-social behaviour and provide clarity in determining the lead agency.

The lead agency will meet the full legal costs of the process

## Non Statutory Consultation

In addition to the statutory consultation required by the legislation the involvement of other statutory/voluntary sector agencies should be sought. These agencies may include

Education and Welfare, Youth Justice, Health and Social Services, Probation see [Appendix 28C](#) for consultation letter

These agencies will be aware of intervention and support programmes which may be appropriate in meeting the needs of the individual concerned.

**Adherence to the non-statutory consultation process is particularly important when young people (10-17 years) are involved.**

Should the other agencies and or defendant decline to engage in the process there should be no resultant delay in proceeding with the case.

## 11.8: Time Limitations

### When can an application be made

An application must be made within six months of the matter of the complaint (the behaviour) occurring (Magistrates Court (Northern Ireland) Order 1981 Article 78) This means that at least one incident of anti-social behaviour must have occurred in the six months previous to the application to the court. One incident of anti-social behaviour may be sufficient for an order to be made. Earlier incidents may be used as background information to support a case and show a pattern of behaviour.

Evidence does not have to be collected for a full six months.

### The Duration of an Order

- 1) It is intended that the court will decide the duration of the order, although the minimum duration is set at 2 years by statute. The applying agency may propose a time period reflecting the nature of the defendant's conduct and the period of time deemed necessary to protect the community. Parties to the making of the ASBO can vary the terms of the order for a variety of reasons. The defendant may wish to vary the terms to visit family members or attend addiction treatment units, the applicant may wish to request new terms in respect of an exclusion clause where the defendant has moved their anti-social behaviour to another area.
- 2) Application for an early discharge of the Order within the two years may be made. This will only be possible with the agreement of the relevant authority and the defendant.

## **11.9: Breach of an Anti-Social Behaviour Order**

Once gained, should the individual do anything which he/she is prohibited from doing by an anti-social behaviour order they shall be guilty of a criminal offence for which the normal procedures for the prosecution of a criminal offence will apply:-

### **Prosecution of a Breach of an Anti-Social Behaviour Order**

The police, Housing Executive or district council may bring a prosecution in respect of any breach. Proceedings may be brought by the Housing Executive if the order in question was made on the application of the Executive. However, in the majority of cases breaches will be prosecuted by the Director of Public Prosecutions, the Public Prosecution Service or police irrespective of the initiating agency.

### **Breach Proceedings Adults**

Breach proceedings relating to adults will be heard summarily in a Magistrate's Court and on indictment in the Crown Court. There is a maximum penalty in the Magistrates' Court of six months imprisonment and /or a fine not exceeding the statutory maximum of £5,000 or both. On conviction on indictment the maximum penalty for an adult is 5 years in prison or an unlimited fine or both.

### **Breach Proceedings Children**

Breach proceedings relating to children will be heard in the Youth Court and will include 17 year olds. There will be automatic reporting restrictions in the Youth Court. For any child under the age of 17 a parent or guardian will be required to accompany them to court. If the breach is proven the court must offer the defendant the opportunity to attend a youth conference. The youth conference, which victims may attend, will formulate an action plan which will incorporate reparation to be made by the child for the harm caused by the anti-social behaviour.

The maximum penalty for a young person is a two year juvenile justice centre order. This comprises 12 months in the juvenile justice centre and 12 months under supervision in the community.

## 11.10: Standard of Proof/Level of Evidence needed for ASBO

### Admissibility of Hearsay and Professional Evidence

The best form of evidence is from a lay witness who has directly witnessed and been affected by the incident.

ASBOs are civil orders and hearsay and professional evidence is admissible. This is where a person who directly witnessed the incident is not present in Court to state what they saw. Often in the context of cases of anti-social behaviour people are too frightened of retaliation. Hearsay evidence is always admissible and the court will consider what weight to give it in all the circumstances of the case

Should a witness not be prepared to attend court a “professional” witness e.g. statutory agency officers may provide evidence in court of events which have been related to them and which would illustrate that the behaviour in question would be likely to cause alarm or distress to any individual subjected to it. In order to provide more information to the court the professional witness can give direct evidence of the impact of the anti-social behaviour on that person e.g. “Witness A” visibly shook and cried when they related the incidents

A witness with the appropriate expertise (PSNI, NIHE, and Council Officers) may directly observe events and supply evidence of the incidents which would be likely to cause alarm or distress.

### Presenting Hearsay Evidence

This can take a number of forms:

- A statement from a direct named eye witness who signs the statement and gives details in it of why they will not attend court.
- An anonymous statement, setting out the reasons for non-attendance
- Direct evidence from a professional witness, citing what the witness has told them and why they will not attend Court.

The hearsay evidence should record specific events.

## Use of Hearsay Notices

These are used to put the defence on notice that hearsay will be used and to provide them with the opportunity to challenge that evidence before trial. If not served it does not make hearsay evidence inadmissible.

## The Standard of Proof - Civil or Criminal

This was considered in the case of R (on the application McCann and others) -v- Crown Court at Manchester 2002.

This was a challenge to the nature of the ASBO proceedings brought by a defendant in Manchester. It was argued that because of their nature of attaching criminal sanctions for breach, ASBOs should be regarded as criminal in nature.

The House of Lords set out the law on the standard of proof in respect of ASBOs in England and Wales.

- ASBOs are civil proceedings (hence hearsay is admissible)
- The standard of proof to establish the defendant had acted in an anti-social manner is the criminal one i.e. beyond reasonable doubt
- To establish if an Order is necessary to protect persons from further anti-social acts of the defendant does not involve a standard of proof, but is an exercise of judgment or evaluation

## Proving Necessity for an ASBO

This does not involve proving events to a set standard of proof but necessitates an evaluation of the likely recurrence of future anti-social behaviour.

The court will be attracted to a pattern of anti-social behaviour, the degree of challenges to that behaviour and the opportunities afforded or support made available to the defendant that have not been taken up.

Example, the defendant has a history of theft and burglary to feed an addiction problem. When under the influence of the addiction the individual would shout, abuse and threaten people. Multi-agency discussions identify the need for immediate action and an interim ASBO is sought, but support is offered to the individual. If the individual engages there is the possibility that the application for the full order may have to be put on hold. If they do not, all details of attempts to help should be recorded in witness statements and used in Court to justify the full Order and the associated prohibitions

## 11.11: Difference between an ASBO & an injunction

ASBOs are similar to injunctions against anti-social behaviour as detailed in Part II of the Housing (Northern Ireland) Order 2003. They prohibit individuals from doing certain things. However, ASBOs have the potential for much wider application and the penalty for breach of an ASBO is likely to be more stringent.

Anti-social behaviour orders and injunctions are useful tools. In many cases it will be possible to use either tool, the decision will be dependent on the circumstances of the case. An ASBO can be made against persons of all housing tenure types. They are not only for use in the locality of the social rented sector. ASBOs can also be used when a person is of no fixed abode.

### When can ASBOs be used

Unlike injunctions, ASBOs may be used in the following circumstances:

1. Where the individual concerned is under 18 years of age (but aged 10 or over)
2. Where it is necessary to prevent behaviour **other** than:
  - i. causing nuisance and annoyance in relation to the Executive's property
  - ii. using the Executive's property for illegal or immoral purposes
  - iii. entering or being found in the vicinity of the Executive's property
3. Where it is considered necessary to exclude an individual from certain areas

## Summary Table - Comparing and Contrasting Anti-Social Behaviour Orders and Injunctions

	<b>ASBO</b>	<b>Injunction</b>
<b>Standard of Proof</b>	Criminal Standard	Civil Standard
<b>Hearsay and Professional Witnesses admissible</b>	Yes	Yes
<b>Who can apply</b>	PSNI, NIHE District Council	NIHE
<b>Breach</b>	Arrestable Offence	N/A
<b>Penalty for Breach</b>	Criminal Offence Penalty – fine/imprisonment	Contempt of Court Penalty – fine/imprisonment
<b>Reporting</b>	No restrictions but restrictions in place for juveniles	No automatic restrictions
<b>Which Court</b>	Magistrate (Stand alone)	County Court High Court
<b>Immediate Protection</b>	Interim ASBO made with notice	Interim Injunction Made without Notice
<b>Age of Defendant</b>	10+	Invariably 18 years of age or over
<b>Duration</b>	Minimum of 2 years	Can be indefinite
<b>Geographical Extent</b>	Can extend to the whole of N.I. but locations must be specified	Specific location

Furthermore, the “significant risk of harm” test applicable to injunctions in respect of anti-social behaviour does not apply to ASBOs. In addition the actual breach of an ASBO is an

arrestable offence. The police may arrest an individual who breaches the terms of an ASBO without making application for a warrant.

## **11.12: Procedural Guidelines for ASBOs**

### **The Northern Ireland Housing Executive Process**

Anti-Social Behaviour Orders represent a legal option afforded to the Housing Executive to address anti-social behaviour in addition to the powers of possession and injunction contained within the 1983 and 2003 Housing (NI) Orders.

### **Case Development**

Chapter 4 details the procedures to be adopted when dealing with complaint/s of anti-social behaviour, irrespective of the form of action decided by the manager to address this.

An ASBO application is specific to an individual. In situations where more than one person is involved in the anti-social behaviour and ASBO proceedings are under consideration each individual will have their own separate Case File.

This section reviews the importance of evidence and establishes the threshold at which a decision to apply for an ASBO may be made by the Housing Executive.

ASBOs should not be immediately considered as the first and only option for dealing with anti-social behaviour and in many cases other means/solutions will have been tried prior to the ASBO application. However, there may be cases in which application for an ASBO will be the first and only option.

## **11.13: The Importance of Evidence**

### **The Initial Complaint**

As detailed in Chapter 4 Developing the Case, incidents of anti-social behaviour may come to the attention of the Housing Executive from a wide range of sources and it is important to carefully document evidence from an early stage.

In respect of any ASBO application the evidence will need to prove beyond reasonable doubt that the individual has acted in an anti-social manner and that an ASBO is necessary to protect others from further anti-social acts.

## The Evidence

In respect of ASBO proceedings the evidence should prove beyond reasonable doubt that;

- The defendant has acted in a specific way on specific dates and at specific places
- The acts caused or were likely to cause harassment alarm or distress to one or more persons not of the same household as the defendant.

## Supporting Evidence

Direct evidence or hearsay evidence may be used.

Evidence may include:

- a. Community Impact Statements
- b. Breach of an Acceptable Behaviour Contract
- c. Details of previous warnings
- d. Witness statements of officers who attended the incidents
- e. Witness statements of peoples affected by the behaviour
- f. Information from witness diaries
- g. Evidence of complaints recorded by the NIHE, the police, the council and other agencies
- h. Supporting statements or reports from other agencies, e.g. Probation reports, Education and Welfare
- i. Previous successful, relevant, civil proceedings, e.g. Possession Order
- j. Previous relevant convictions
- k. Video and or CCTV footage.

## Time Restrictions

The application for the ASBO must be made within six months of the actual behaviour occurring. There must be at least one incident of anti-social behaviour within the six months prior to the application to the court. Incidents occurring prior to the six month period may be used as background information.

## 11.14: When the NIHE should apply for an ASBO

- i. The Executive should consider applying for an ASBO where injunction proceedings against anti-social behaviour are not considered appropriate or are unlikely to be effective.
- ii. The Executive should be in a position to demonstrate that an ASBO is necessary to protect the public.
- iii. The Executive should be able to prove beyond reasonable doubt that the ASBO candidate has, during the last 6 months, been acting in an anti-social manner which has caused or is likely to cause harassment, alarm or distress to one or more persons not of the same household. Evidence does not have to be related to a full six month period.
- iv. The Executive should adopt a sense of proportion. Although certain behaviour (e.g. groups of youths congregating) will be perceived by some individuals as anti-social, it may not be appropriate to seek an ASBO in respect of every case.
- v. The Executive should endeavour to ensure that ASBOs are seen to be a credible deterrent to serious anti-social behaviour.
- vi. The Executive should only seek an ASBO where it has good reason to believe that the court will grant it.

## 11.15: Criteria to Support the Use of ASBOs by the Housing Executive

The following criteria should be applied by the Housing Executive when consideration is being given to seeking an ASBO.

- i. The incidents recorded are of a type appropriate for ASBO proceedings. Namely,
  - There is evidence that the subject has acted in a manner that caused or was likely to cause harassment alarm or distress to another person not of the same household in circumstances where there is no reasonable excuse for the conduct.
  - The incidents are affecting “relevant persons” as defined by the 2004 Order

- ii. The order is necessary for the protection of persons from further acts of anti-social behaviour by the subject.
- iii. The subject is 10 years of age or over
- iv. The subject has been involved in the anti-social behaviour complained of within six months of the date of application for the order. The number of incidents of anti-social behaviour used as a basis for seeking an ASBO will be dependent on the severity of the incidents recorded.

**N.B: A single serious incident may be sufficient to allow the Housing Executive to apply for an ASBO**

- v. Other interventions / actions have been considered inappropriate or have not succeeded in preventing the anti-social behaviour.

**N.B It is not necessary for other interventions to have been tried prior to making application for an ASBO**

- vi. Documented evidence exists regarding the subject and their anti-social behaviour i.e. police reports, witness statements, acceptable behaviour contracts, and statutory notices.
- vii. There is no conflicting action being taken in respect of the anti-social behaviour

## 11.16: Stage 1 the Process

### Evidence Validation

The Housing Executive should:

- 1) Seek to validate the existence of the particular anti-social behaviour and confirm that specific evidence exists which demonstrates that an identified individual has acted in a manner that has caused or was likely to cause harassment, alarm or distress to another relevant person/s not of the same household as himself.

**N.B: It is anticipated that the Local Office will refer the case to the Community Safety Team for advice and assistance once it becomes evident that the circumstances of case may justify legal proceedings**

The definition of relevant person/s for the Housing Executive is

- (a) Persons who are residing in or who are otherwise on or likely to be on premises provided or managed by the Executive
  - (b) Persons who are in the vicinity of or likely to be in the vicinity of such premises
- 2) Consult at a local level in an effort to determine the extent of the problem and to identify if any other individuals and or organisations are or have been involved with the individual concerned and whether they can supply supporting evidence.
  - 3) Confirm, on the basis of the available evidence as to the type and frequency of the anti-social behaviour, that an order may be appropriate for the protection of relevant person(s) from further acts of anti-social behaviour.
  - 4) Continue to collect evidence up to and following the ASBO application.

## Informal Remedies

### 1. Contact with the individual

Such action would incorporate discussions with the alleged accused, verbal and written warnings, voluntary agreements, Acceptable Behaviour Contracts, mediation. There should be clear evidence of all contact with the defendant on file.

**N.B: In extreme situations this may not be necessary, for instance when an Interim ASBO is sought.**

- i. Warning Letter – This letter should indicate to the individual the type of unacceptable behaviour they have been committing and the sanction that will apply should the anti-social behaviour continue. In respect of individuals aged 17 years of age and younger letters will be sent to the parents/guardians and to the young person if 16 years of age and over.

It may be appropriate to incorporate within the letter details in respect of other agencies that may offer advice and support to the individual to address their particular problems. This will be dependent upon the circumstances of the case.

Draft letters and the accompanying leaflet are included in the appendices.

- ii. Acceptable Behaviour Contracts (ABC's) - See Acceptable Behaviour Contracts [Chapter 5](#) – ABCs are a written agreement between an individual who is involved in anti-social behaviour and one or more local agencies whose role is to prevent such behaviour.

The contract specifies a list of anti-social acts in which the person has been involved and which they agree not to continue. It can also include, unlike ASBOs, positive requirements, for instance that the individual will agree to attend school.

The contract is not legally binding.

**N.B: The Community Safety Team will provide advice and guidance in respect of ABCs**

## **2. Intervention / Diversion / Prevention**

In appropriate cases attempt to involve other interested statutory and voluntary agencies i.e. Social Services, Education, Health Trusts, PBNI, Youth Justice Agency, PSNI, Local Councils. Consultation letters should be sent to the identified agencies and services with a potential interest in the individual and if appropriate a case conference organised e.g. Social Services, Education, Addiction Services, Mental Health, Probation, and Youth Justice Agency.

**N.B A draft consultation letter is included in the Appendix – [Appendix 28C: Consultation Letter – ASBOs](#)**

Consultation with other agencies is particularly important where young people and adults with some form of vulnerability are concerned. Such agencies may be able to provide further relevant information/evidence of interventions or services that have been engaged by the potential ASBO candidate and the impact of these interventions

**N.B: Should the identified agencies and / or the defendant fail to become engaged in the process this should not delay the ASBO application. This is not part of the statutory consultation between the three relevant authorities**

## **3. Monitoring**

Ensure that the effectiveness of any intervention or action programme is monitored and an assessment made as to whether or not the anti-social behaviour is continuing.

#### 4. Alternative Action

Ensure that as part of the informal process consideration is given to the appropriateness of other legislative remedies or non-statutory action when deciding upon the aptness of ASBO proceedings. Notes in respect of alternative action are incorporated in the [Appendix 28D](#)

**N.B An ASBO should not be used as a substitute for criminal proceedings where these are appropriate.**

## 11.17: Stage 2 Consultation, File Preparation & Risk Assessment

### Formal/Statutory Consultation

Ensure compliance with the statutory requirements and consult with the relevant authorities i.e. the police and district council on a formal basis. The Certificate of Consultation [Appendix 28B](#) should be completed by the designated officers within the PSNI and the District council.

### File Preparation

Ensure that the Anti-Social Behaviour Case File is completed in full and that the Assistant Area Manager/ Team Leader have completed the Legal Action Summary Report requesting ASBO proceedings.

In terms of evidence the Case File may incorporate:

- i. Statements of officers who have attended incidents
- ii. Incident Diaries - Continue to collect evidence and ensure that every contact with the defendant is recorded by all parties including residents who have agreed to complete Incident Diaries. Part of this process requires the Local Office to maintain regular contact with the witnesses in respect of evidence collection, case developments, the use of their evidence and their role in any court proceedings.
- iii. Evidence of relevant complaints recorded by the police, council, Housing Executive etc.
- iv. Statements of people affected by the anti-social behaviour
- v. CCTV/Video evidence
- vi. Details of all contact with the defendant including warning letters ([Appendix 28E-28I](#)), and notes detailing the content of any discussions.
- vii. Details in respect of previous relevant convictions/cautions /formal warnings

- viii. Details in respect of previous successful civil proceedings that are relevant e.g. order for possession in respect of similar behaviour.
- ix. Details of any previous Acceptable Behaviour Contracts
- x. Previous relevant arrests
- xi. Correspondence from other service providers involved with the individual.
- xi. Acceptance of Tenancy
- xii. Community Impact Statement - Compile a statement which provides the court with an understanding of the context within which the anti-social behaviour is taking place. The statement can describe the demographics of an area, tenure characteristics, level of housing demand, environmental / physical characteristics, geographical layout, the anti-social behaviour problems, the defendant's behaviour (in specific terms) and how the latter is contributing to the problems.

**N.B: It is not a requirement that the impact statement be formally produced as a written document. However, the Assistant Area Manager/ Assistant Area Manager will be asked to make a statement to the court outlining the above.**

- xiii. A completed Certificate of Consultation
- xiv. A map of the property/area

Forward a copy of the Case File to the Area Community Safety Officer including copies of all correspondence

## Risk Assessment to NIHE staff

### 1. Processing of ASBOs for Court Action and Risk Management

The Housing Executive has sought to evaluate the level of risk associated with the processing of an ASBO case. Consideration has been given to the following key activities with a view to minimising as far as is reasonably possible, the role and input of Local Office staff.

### 2. Information gathering/ ASB case formulation- Required Action

In processing a case of reported anti-social activity, the standardised procedures are already in place and are detailed in Chapters 2 and 3. Procedures only change when a case file has been finalised by a Patch Manager and submitted to his/her line manager for consideration. Consequently, at case preparation stage Patch Managers will not undertake any new or amended duties relating to ASBO activity.

### **3. Decision Making Officer – Required Action**

The Assistant Area Manager/ Team Leader will make the decision on the use of an ASBO. He/ she may consult with the Community Safety Team. The local office may choose to issue a warning letter to the individual advising them of our intention to proceed with an ASBO. When the ASBO option has been decided upon the case file will then be forwarded to the Community Safety Team for court processing. All processes up to magistrate's court hearing will be dealt with centrally.

### **4. Summons Serving- Required Action**

The summons to advise the individual of ASBO court action will be served by an independent summons server, thus excluding Local Office staff from that element of the process.

### **5. Court Witnessing- Required Action**

The Assistant Area Manager/ Team Leader or Patch Manager may be called upon to witness in the magistrates court to provide evidence, dependent upon case requirements.

### **6. Monitor and Breach of an ASBO- Required Action**

Once granted by the Magistrates Court, the Local Office will monitor the implementation of the ASBO. Should it be breached then the district must immediately advise the police who will contact the individual with a view of taking legal action. If a member of NIHE staff witnessed the breach, then they will be required to give evidence in court. At breach stage, hearsay evidence is inadmissible.

In advance of seeking an ASBO, the decision making officer should complete a Risk Management Assessment Form ([Appendix 28J](#)) for each case. Key sources of information to identify the level of risk would include the PSNI, Social Services.

## 11.18: Stage 3 - Pre Court

### The Local Office

The Local Office will:

- 1) Continue to liaise with all witnesses, maintain an accurate record of ongoing incidents of anti-social behaviour and ensure the witnesses are available at the court for the hearing.
- 2) Advise the Area Manager and Regional Manager of the potential ASBO application

### The Community Safety Team

CST will:

- Compile a schedule of incidents detailing specific complaints and ensure the content is regularly revised, in conjunction with the Local Office, to reflect any ongoing anti-social behaviour.
- Liaise with the Housing Executive's Legal Department and seek advice on the appropriateness of the case for ASBO proceedings and case development issues
- Request that a joint meeting be arranged with a representative from the Community Safety Team, the Local Office and the witnesses to discuss court procedures and the manner in which their evidence will be used. In some instances a representative from the Legal Department may attend.
- Draw up draft prohibitions, to be included in the order, for discussion with the Local Office and legal department.
- Address any issue in respect of reporting restrictions in conjunction with the legal department and Local Office.
- Determine in conjunction with the Local Office and information department a media strategy and ensure the latter is kept fully informed of all case developments.

**N.B: Section 11.22 provides guidelines on publicising ASBOs**

- Complete the ASBO Data Capture Forms and submit to the Community Safety Unit. (DOJ)

## Court Procedures

- 1) The Housing Executive will complete the summons and make an application to the Magistrate's Court in the County Division in which the anti-social behaviour is alleged to have occurred.
- 2) The Court Service will arrange service of the summons on the defendant. This will be by personal service or by first class post to the defendant's last known address.
- 3) In cases where the defendant is a young person a copy of the summons will be sent to his/her parents/ guardians or responsible person.

**N.B An example summons is included in the [Appendix 28A](#)**

### 11.19: Stage 4 – The Hearing

- 1) The Order may be made in the absence of the defendant at the court
- 2) The Court will endeavour to serve a copy of the order on the defendant following the hearing and prior to him/her leaving the court.
- 2) In circumstances where the defendant did not attend the hearing the court will serve a copy of the order on the defendant by first class post.

### 11.20: Stage 5 – Monitoring

#### Local Office Functions

- 1) Details of the ASBO to be forwarded immediately to the police and other relevant agencies for record purposes.
- 2) Complainants, witnesses and other relevant members of the community to be advised of the details of the ASBO.
- 3) Complainants, witnesses and affected community to be advised of need to continue to monitor defendants' behaviour and to report any breach immediately to the PSNI and the NIHE.

**N.B. Information can be provided to these sources whether or not the court imposed reporting restrictions. Any reporting restrictions imposed by the court relate only to the press and broadcast media.**

- 4) To liaise with Regional Manager and the Information Officer in determining the content of any area based publicity

## 11.21: Stage 6: Breach and Enforcement

### Local Office Functions

Breach of any prohibition specified in an ASBO, without reasonable excuse, is a criminal offence. It is anticipated that the Housing Executive will seek to ensure that an individual is prosecuted on a breach occurring.

The police will prosecute the majority of breaches irrespective of whether or not the breach is in respect of a PSNI, NIHE or Council ASBO. The Housing Executive may, however, prosecute a breach in respect of an NIHE ASBO.

### Procedures

On receipt of information relating to a possible breach the Local Office should:

- 1) Investigate the complaint and endeavour to substantiate the evidence.

**N.B: Breach proceedings are criminal and hearsay evidence is not admissible. Witnesses to a breach will be required to give direct evidence to the court if breach proceedings are to be initiated.**

- 2) Advise the CST of any potential breach, in order, to determine the appropriateness of breach proceedings and the role of the NIHE in any prosecution.
- 3) Liaise with the police to determine their role in any prosecution.

## 11.22: Guidance on Publicising ASBOs

The legislation does not impose automatic reporting restriction on ASBOs. However, in any proceedings in relation to an anti-social behaviour order against a child (anyone under 17) the court has the discretion to direct that no report should be published which reveals the name, address or school of the child or includes any particulars which may lead to the identification of the child. The court may also direct that no picture be published.

**In any application for an ASBO the Housing Executive should devise a local media/information strategy**

### Issues to be addressed by the Housing Executive

Information sharing, in respect of the details of an ASBO, with the witnesses and affected community is essential if the effective monitoring of a defendant's compliance with an ASBO is to be achieved and is permissible whether or not reporting restrictions have been imposed by the court Issues:

### The Objectives and Benefits of Publicity

**Enforcement** - Local people have the information they require in order to identify and report breaches.

**Confidence** – Witnesses know what action has been taken to protect them and local people are reassured that if they report anti-social behaviour, action will be taken by the NIHE

**Deterrent** – The accused is aware that a breach is likely to be reported as details are in the public domain. Publicity may also act as a deterrent to others who are causing a nuisance in the community.

### The Decision to Publish

- i) Each case should be assessed on its merit as to whether or not to publicise the details of an individual subject to an ASBO.
- ii) The decision to publish should strive to achieve a balance between the desired outcome of the publicity and the lowest level of intrusion into a person's privacy.
- iii) The decision should take into consideration the human rights of the public and the human rights of the individual against who the ASBO has been made.

## The Decision making process

- i) Decisions to publicise ASBOs are to be recorded on file i.e. the process adhered to prior to the production of the published document.
- ii) The decision making process should be completed early so as to avoid any delay in publicity following the granting of the order.

## Contents of Publicity

- i) The information disclosed should be proportionate to achieving the desired objective.
- ii) The contents should be factual, accurate and use appropriate language i.e. an ASBO does not mean an individual has been found guilty of a criminal offence.
- iii) The information disclosed should give consideration to the personal circumstances of the individual named on the Order and whether an individual is particularly vulnerable.
- iv) If the ASBO is made against a juvenile (a person under 18) and reporting restrictions have been imposed they must be scrupulously adhered to.

## Distribution of Publicity

- i) To be primarily within the area in which the anti-social behaviour is occurring.
- ii) To be directed at people who have suffered from the anti-social behaviour, for example residents, local businesses, shop staff, etc.
- iii) The timescale of the publicity should be renewed as it is important that publicity does not become out of date or irrelevant.
- iv) Publicity needs to be timely to ensure that the order can be enforced effectively.
- v) It would usually be appropriate to issue publicity when a full order is made rather than an interim order.

**N.B: Exceptions can be made, for example, where the anti-social behaviour is severe, extreme intimidation or where there is a significant delay between the making of the interim order and the final hearing.**

## Type of Publicity

The method of publicity can include the following:

- i) Local newspapers/television/radio media
- ii) Local leaflet drop
- iii) Local newsletter

## Consideration of Data Protection

- i) Publicity is not contrary to the Data Protection Act 1998 as long as the action is in accordance with the act.
- ii) Section 2q of the Act incorporates an exemption for the processing of personal data for the prevention or detection of crime. Personal data can be processed with a view to compliance with a statutory function.

# Chapter 12: The Witness

## 12.0: Introduction

The procedure for taking legal action is covered in, the “Legal Action” section of this manual. Every effort should be made to resolve complaints without having to resort to legal action, but there will obviously be occasions when the latter is the only viable option.

From the receipt of the initial complaint, ensure that the ASB case is developed in a manner which would facilitate court action.

The witness is a vital resource. Neighbours, their families and friends will, in the majority of cases, provide the main evidence for any court hearing. Ultimately, they are the best people to tell the court about the nuisance they have suffered and the impact it has had on the quality of their lives and that of their families.

The evidence collected must be admissible. Namely, in most cases it should be first hand i.e. the direct personal experiences of the witness. The evidence should be incident specific and detailed, based on the individual entries made in the incident diary.

In some situations, the witnesses may be reluctant to attend court as a result of fear, harassment, or intimidation. This does not necessarily prevent the Housing Executive from taking legal action. It may be possible to proceed with legal action using officers from the statutory agencies as witnesses. If this situation develops, the particular circumstances pertaining to the case should be discussed with the Community Safety Team.

## 12.1: Witness Development

In circumstances where the legal process has been explained to the complainant and they are willing to participate, best practice would indicate that there are certain actions we can take as a housing authority which will encourage the witnesses to play their role in the development of a case.

### Maintain Contact

Initiate and maintain regular contact with the witness. By demonstrating that the Housing Executive is keen to find a solution and by acting efficiently, the witness will be encouraged to become and remain part of the process. This should ensure that their role in the case is widened beyond that of simply complaining about the service the Housing Executive is providing.

## **Explain the Process**

Explain to the witnesses how a case is developed, and the legal options available. Emphasise the value of the information they have given and its significance in the development of the case.

## **Provide Information**

Make sure that witnesses are kept informed of the progress of the case. If legal action ensues, give them a timetable of when the various stages in the process will be reached. If there are any new developments, e.g. new evidence or court decisions, tell the witness immediately. If the case subsequently results in a court hearing, it is important that you explain what will happen, outlining the procedures of the court and seek their agreement to proceed.

## **Advise of Other Agencies**

Make the witness aware that there are a number of other agencies which may be able to offer advice and assistance, such as Victim Support, and Residents Associations.

## **Victim and Witness Support Information Leaflet**

The Patch Manager should give the witness the above leaflet and talk them through it.

## 12.2: Prior to Court and During Hearing

The Patch Manager will be offering support to witnesses in the following areas:

- Meeting with the witnesses prior to the court hearing if requested by the solicitor. Should a Witness Consultation with legal representation be required, the witnesses should be advised that they may have a friend or relative attend the consultation to provide moral support. However as a general rule, a person acting in his/her capacity as an advisor (be it a legal or housing or welfare) ("third party advisor") or as a political representative **will not be** permitted to be present at a consultation with the witness.
- Arranging viewing of the court prior to hearing if necessary
- Keeping witnesses fully briefed on the day of the court
- Making any special arrangement to ensure attendance e.g. to take account of disabilities, age, etc.
- Advising of transport arrangement in advance of hearing
- Act as companion and support during the court hearing including taking the witness for tea break and lunch where applicable.

## 12.3: Witness Expenses

All expenses attributable to attendance at Court by a witness in respect of anti-social behaviour will be processed through the Community Safety Team.

The following assistance is available

- Transport - This may include mileage, public transport or taxi fares. The taxi fares must be agreed by the local office prior to the hearing. Receipts are required
- Meals – This could include breakfast, lunch, tea/coffee. Receipts are required
- Loss of earnings - There is a claim form that has to be completed
- Childcare costs – This is for a registered childminder or day nursery and applies to children under 16. There is a claim form that has to be completed

The Patch Manager will ensure that where appropriate, receipts and expenses forms are completed and forwarded for payment to the Community Safety Team.

# Chapter 13: The Community Safety Team (CST)

## 13.0: Introduction

The Community Safety Team provides assistance, advice and support to Local Offices when dealing with cases of anti-social behaviour. However 'ownership' and responsibility for the development of the case remains with the Local Office.

**The Community Safety Team is responsible for the compilation of all NSPs, NOPs and the Review Process in respect of Introductory Tenancies.**

## 13.1: Initial Contact with CST

Contact with the Community Safety Team can be made at any stage of an investigation even at the time of the initial complaint. The Local office does not have to wait until legal action is being considered.

The Community Safety Team can:

- Give advice on how to progress the case, the gathering of evidence and supporting witnesses.
- Draw up the NSP/NOP and the schedule of incidents
- Produce the booklet for introductory review panel hearings
- Liaise with Legal Services with regards to cases that require legal action

## 13.2: Formal Referral

Formal referral of the case should occur once the District has made the decision to proceed with legal action.

The completed case including a copy of all associated documentation should be sent to the CST. (The original file should remain in the Local Office – a photocopy of the file should be forwarded to CST). At this stage the case will be reviewed and a decision taken as to the most appropriate form of legal action. Any decision will only be taken after full consultation with the Local Office.

# **Chapter 14: Reports**

## **14.0: Introduction**

The Community Safety Team has developed a number of reports that are available on data analytics. These reports are used to establish performance data for the purposes of benchmarking and for PRG and board update.

## **14.1: Control of Reports**

A member of the management team should print out the live and closed cases reports on the 1<sup>st</sup> working day of each month action, sign off and date. These reports are available through the inbox of the identified officers. The officers may also wish to transfer the documents to an appropriate location within the Meridio Fire Plan and declare reports as a record.

# Appendix 1: ASB Categories

## Anti-Social Behaviour Complaint types on HMS – Type of Nuisance

Ageism  
Alcohol or Substance Abuse  
Boundary Dispute  
Criminal Behaviour  
Damage to property  
Disability  
Domestic Violence  
Drugs  
Gardens  
Gender Identity  
Harassment  
Intimidation  
Noise  
Nuisance from business use  
Nuisance from vehicles  
Nuisance in a public place  
Pets & Animals  
Racism  
Religious/Faith  
Rubbish Dumping  
Sectarianism  
Sexual Orientation  
Verbal abuse

## Appendix 2 ASB Form

### Anti Social Behaviour Form

**Housing  
Executive**

ASB Number
Name of accused
Address of the accused
Name of complainant
Address of complainant



## ANTI-SOCIAL BEHAVIOUR

These statements are to be **READ** to the individual by the Patch Manager (or other NIHE Officer receiving the information) whether the individual is with you or not (eg on phone).

### PRIVACY NOTICE

The Housing Executive is committed to protecting your privacy and maintaining your trust and confidence in how we handle your personal information.

You can view our Privacy Notice at [www.nihe.gov.uk/privacy\\_notice](http://www.nihe.gov.uk/privacy_notice) or pick up a copy at any Housing Executive office or you can ask us to post or email a copy to you.

### YOUR INFORMATION

The Housing Executive is processing your complaint of anti-social behaviour. The Housing Executive is providing these services to you as part of our statutory functions. Processing your information is necessary for the performance of public tasks based on statutory functions under the Housing (Amendment) Act (Northern Ireland) 2016.

### SHARING YOUR INFORMATION WITH OTHERS

In processing your complaint of anti-social behaviour the Housing Executive may need to share the information you have provided with other departments within the Housing Executive and with relevant individuals, agencies and bodies e.g. PSNI.

For Housing Executive use only		
Signature of Patch Manager (or other NIHE Officer)		
Print name		
Date		

# DETAILS OF MAIN COMPLAINANT

Name		DOB	
Address		U16	35-49
		16-18	50-59
		19-24	60+
Tel	NINO No	25-34	Not known

Tenure Type (insert T/C date at secure and introductory)		Property Type	
Secure		Terrace	
Introductory		Semi-detached	
Private		Flat (state which floor)	
Owner Occupier		Maisonette	
		Detached	

Details of anyone living at complainant address	
Name	Age if known

It is Housing Executive policy to act fairly in the treatment of all households and individuals identified as participating in or experiencing anti-social behaviour regardless of their religious belief, racial grouping or political affiliations. It is therefore important that we register basic information on the composition of households for monitoring purposes.

## Monitoring Information for main complainant, please tick the most appropriate answer

Ethnic Origin					
White	Bangladeshi	Chinese	Indian	Irish Traveller	
Pakistani	Black African	Black Caribbean	Black other	Mixed ethnic	
Other ethnic	Portuguese	*Not known			

Religious Affiliation				Gender	
Catholic	Protestant	Other	None	Male	
				Female	

Vulnerability				
None	Addiction	Learning disability	Mental health	Communication difficulties
Physical disability	Sensory disability	Other Disability	Not known	

Household type				
1 adult	2 adults	3+ adults	Not known	
Small family <4	Large family 5+	Age 70 and over		

Sexual Orientation				
Gay/lesbian	Heterosexual	Bi-sexual	Other/not known	Not disclosed

Marital status				
Single	Married	Separated	Divorced	Widow/Widower
Co-habitee	Civil Partnership	CP Separated	CP legally dissolved	CP surviving partner

**DETAILS OF INTERVIEW WITH MAIN COMPLAINANT**

Date Complaint received	/	/	Date of interview	/	/
What is the complaint/problem?					
Who is causing the anti-social behaviour?					
Who is affected? (is it only the complainant or are other neighbours affected?)					
Where and when does it happen? (Include dates and specific times)					
Why does it happen?					
What effect has it had on the complainant?					
Has the complainant requested rehousing as a result of the ASB? Y/N					
Has the complainant approached the accused? Yes/No (provide details)					
Has the ASB been reported to any other agency?	PSNI		Council		Other

Would the complainant consider mediation?

Yes ☐ No ☐

Does the complainant feel vulnerable?

Yes ☐ No ☐

(ie where there is an adverse impact on their quality of life which would include risk of harm, deterioration of health, mental or emotional well-being or an inability to carry out normal day to day routine through fear and intimidation).

If complainant has identified a vulnerability in the monitoring information section or has answered yes to above question then completion of the matrix should be offered.

If appropriate is complainant agreeable to completion of matrix?

Yes ☐ No ☐

## RISK MATRIX

This matrix is designed to help you identify vulnerable complainants. All action taken as a result of your assessment should be discussed with the complainant to ensure it meets their needs.

HISTORY	1. Other than this occasion - how often do you have problems	5 Daily
		3 Most days
		2 Most weeks
		1 Most months
		0 Only occasionally
	2. Do you think the current incident is linked to previous incidents?	2 Yes
	0 No	
3. Do you think that incidents are happening more often and/or are getting worse? If so why?	2 Yes	
	0 No	
4. Do you know the offender/s?	2 They know each other well	
	1 They are known to each other	
	0 They do not know each other	
5. Does the accused (or their associates) have a history of or reputation for intimidation or harassment?	6 Accused or associates are currently harassing the complainant	
	4 Accused or associates have harassed the complainant in the past	
	2 Accused or associates have not harassed the complainant but have a history or reputation for harassment or violent behaviour	
	0 Accused or associates have no history or reputation for harassment or intimidation	
6. Have you informed any other agencies about what has happened? If yes are you happy for us to discuss this problem with them? Y / N	1 No	
	0 Yes	
VULNERABILITY	7. Which of the following do you think that this incident deliberately targeted?	4 You
		3 Your family
		1 Your community
		0 None
	8. Do you feel that this incident is associated with your faith, nationality, ethnicity, sexuality, gender or disability? (Circle which)	3 Yes
		0 No
9. In addition to what has happened, do you feel that there is anything that is increasing you or your household's personal risk (eg because of personal circumstances). Details:	3 Yes	
	0 No	
10. How affected do you feel by what has happened?	5 Extremely affected	
	3 Affected a lot	
	2 Moderately affected	
	1 Affected a little	
	0 Not at all	
SUPPORT	11. Has yours or anyone's health been affected as a result of this and any previous incidents? Details:	3 Physical health
		3 Mental health
		0 No one's health affected
	12. Do you have a social worker, health visitor or any other type of professional support? Details: Can we speak to them about this? Y / N	1 Yes
		0 No
	13. Do you have any friends and family to support you?	3 Complainant lives alone and is isolated
		3 Complainant is isolated from people who can offer support
		1 Complainant has a few people to draw on for support
	0 Complainant has close network of people to draw on for support	
14. Apart from any effect on you, do you think anyone else has been affected by what has happened? Details:	3 Your family	
	1 Local community	
	0 No one else	
TOTAL SCORE		

Low						Medium				High			
0	4	8	16	18	19	20	22	24	26	27	28	32	34+

Please tick the appropriate risk level

<input type="checkbox"/>	The high risk intervention may include contacting PSNI, victim support or the community safety team. This list is not exhaustive.
<input type="checkbox"/>	The medium risk intervention may include follow up by patch manager, referral to floating support, discussion at ASB forum, or referral to victim support. This list is not exhaustive.
<input type="checkbox"/>	The low risk intervention may include follow up by patch manager, referral to victim support, referral to APAC floating support or discussion at ASB forum. This list is not exhaustive.

#### CONSENT TO RETAIN REFERRAL INFORMATION

When the Housing Executive makes a support referral on your behalf to a third party we would like to retain a record of this information so that we can monitor your case and inform / assist you.

I / we consent / do not consent to the Housing Executive retaining a record of any support referral made to an external agency/ individual.

If consent is not given or is subsequently withdrawn we will not retain a record of any referrals made to a third party.

Complainant's Signature(s)		
Print name(s)		
Date		

#### WITHDRAWAL OF CONSENT

You can withdraw your consent to the Housing Executive retaining a record of a referral to a third party at any time by telephone at any Housing Executive office, by emailing [dataprotection@nihe.gov.uk](mailto:dataprotection@nihe.gov.uk) or by writing to:

Data Protection Officer  
Northern Ireland Housing Executive  
6th Floor,  
2 Adelaide Street  
BELFAST BT2 8PB

You do not need to explain why you are withdrawing your consent. We would, however, appreciate if you can identify the service/process you no longer consent to. This will enable staff to address your request accurately and promptly.

## Date of Interview

Date for review

8

# INTERVIEW WITH ACCUSED

Name		DOB	
Address		U16	35-49
		16-18	50-59
		19-24	60+
Tel	NINO No	25-34	Not known

Tenure Type (insert T/C date at secure and introductory)		Property Type	
Secure		Terrace	
Introductory		Semi-detached	
Private		Flat (state which floor)	
Owner Occupier		Maisonette	
		Detached	

Details of anyone living at accused's address	
Name	Age if known

Has a house sale application been made? (If Yes, enter a date) Yes ☐  No ☐

Has a HSS application/transfer been made? (If Yes, enter a date) Yes ☐  No ☐

It is Housing Executive policy to act fairly in the treatment of all households and individuals identified as participating in or experiencing anti-social behaviour regardless of their religious belief, racial grouping or political affiliations. It is therefore important that we register basic information on the composition of households for monitoring purposes.

## Monitoring Information for main accused, please tick the most appropriate answer

Ethnic Origin					
White	Bangladeshi	Chinese	Indian	Irish Traveller	
Pakistani	Black African	Black Caribbean	Black other	Mixed ethnic	
Other ethnic	Portuguese	*Not known			

Religious Affiliation					Gender
Catholic	Protestant	Other	None		Male
					Female

Vulnerability				
None	Addiction	Learning disability	Mental health	Communication difficulties
Physical disability	Sensory disability	Other Disability	Not known	

Household type				
1 adult	2 adults	3+ adults	Not known	
Small family <4	Large family 5+	Age 70 and over		

Sexual Orientation				
Gay/lesbian	Heterosexual	Bi-sexual	Other/not known	Not disclosed

Marital status				
Single	Married	Separated	Divorced	Widow/Widower
Co-habitee	Civil Partnership	CP Separated	CP legally dissolved	CP surviving partner

**INTERVIEW WITH ACCUSED**

Details and dates of no access

Details of interview

Date of the interview	/	/
-----------------------	---	---

Is there a counter allegation? Yes ☐ No ☐

--

Would the accused consider mediation? Yes ☐ No ☐

--

**If a vulnerability had been identified the following questions should be answered**

Are you engaging with a floating support provider?

Yes ☐ No ☐

Do you consent to being referred to a floating support provider?

Yes ☐ No ☐

Do you have a social worker?

Yes ☐ No ☐

Details of Social Worker/Floating Support Provider

----------------------

**CONSENT TO RETAIN REFERRAL INFORMATION**

When the Housing Executive makes a support referral on your behalf to a third party we would like to retain a record of this information so that we can monitor your case and inform / assist you.

I / we consent / do not consent to the Housing Executive retaining a record of any support referral made to an external agency/ individual.

If consent is not given or is subsequently withdrawn we will not retain a record of any referrals made to a third party.

Signature of interviewee		
Print name(s)		
Date		

**WITHDRAWAL OF CONSENT**

You can withdraw your consent to the Housing Executive retaining a record of a referral to a third party at any time by telephone at any Housing Executive office, by emailing [dataprotection@nihe.gov.uk](mailto:dataprotection@nihe.gov.uk) or by writing to: Data Protection Officer, Northern Ireland Housing Executive 6th Floor, 2 Adelaide Street BELFAST BT2 8PB

You do not need to explain why you are withdrawing your consent. We would, however, appreciate if you can identify the service/process you no longer consent to. This will enable staff to address your request accurately and promptly.

**NOTES**

**PRE LEGAL INTERVENTIONS**

Was an ABC signed? If yes, what was outcome

Yes ☐ No ☐

Was an APAC referral made? If yes, what was outcome

Yes ☐ No ☐

Was a mediation referral made?

Yes ☐ No ☐**PRE LEGAL CHECKS**

Has an NSP been served for arrears? If yes please give details

Yes ☐ No ☐

Has a decree already been obtained for arrears? If yes please give details

Yes ☐ No ☐**Referral to CST for legal action - select appropriate answer**

Injunction	<input type="checkbox"/>	NSP	<input type="checkbox"/>	NOP	<input type="checkbox"/>	ASBO	<input type="checkbox"/>	Advice	<input type="checkbox"/>
------------	--------------------------	-----	--------------------------	-----	--------------------------	------	--------------------------	--------	--------------------------

If case is being referred for legal action are the witnesses willing to attend court?

Yes ☐ No ☐*When copying the file to CST, please include map of the area and signed tenancy agreement*

Reason for this course of action

Signed (Patch Manager)

Date

## CLOSING CASE

Details for case closure

--

Select Reason for Closure

<input type="checkbox"/>	Insufficient evidence/unable to substantiate case/legal action not appropriate
<input type="checkbox"/>	Cannot reasonably be classed as nuisance
<input type="checkbox"/>	Complainant moved and unable to progress case
<input type="checkbox"/>	Accused moved voluntarily, without legal action(secure tenant)
<input type="checkbox"/>	Accused moved voluntarily, without legal action (introductory tenant)
<input type="checkbox"/>	Case closed after interview with accused (secure tenant)
<input type="checkbox"/>	Case closed after interview with accused (introductory tenant)
<input type="checkbox"/>	Case closed after warning letters (secure tenant)
<input type="checkbox"/>	Case closed after warning letters (introductory tenant)
<input type="checkbox"/>	Case closed following mediation
<input type="checkbox"/>	Case closed after Floating Support Referral
<input type="checkbox"/>	Case closed following service of NSP
<input type="checkbox"/>	Case closed following service of NOP
<input type="checkbox"/>	Case closed following legal action (Court)
<input type="checkbox"/>	Case closed following EJO
<input type="checkbox"/>	Other reason

Was the case resolved?

Yes ☐ No ☐

Signed (Patch Manager)	Date
------------------------	------

**NOTES**

**CHECKLIST REMINDER**

	Date	HMS updated
Complainant interviewed		
Matrix completed if appropriate		
Action Plan completed		
Incident Diaries offered		
Accused interviewed		
PSNI report requested		
Environmental Health report requested		
Warning letter issued		
Vulnerability checked for accused		
Floating support offered		
ABC offered		
APAC referral made		
Mediation offered		
Pre-legal checks complete		
Referral for Legal Action		

## Appendix 3: PSNI Information Sharing Protocol

### INFORMATION REQUEST PROFORMA

#### PART A: COMPLETE IN ALL CASES

Requesting Officer ..... Position .....

Organisation ..... Date .....

Address .....

.....

..... Postcode .....

Tel/Fax .....

E-mail .....

Subject:

Name ..... Date of Birth .....

Address .....

.....

..... Post Code .....

Previous Address

.....

.....

.....

Reason for Requesting Information:

Please complete details in relevant section(s) below

- (i) The NIHE are gathering evidence with a view to taking possession proceedings against a tenant / tenants under Section 28 and 29 of the Housing (NI) Order 1983.

.....

.....

.....

.....

.....

.....

.....

- (ii) The NIHE are gathering evidence with a view to seeking an injunction or repossession under Article 26 of the Housing (NI) Order 2003.

.....

.....

.....

.....

.....

.....

.....

- (iii) The NIHE are considering an applicant's eligibility for (i) homelessness assistance under Article 7(A) of the Housing (NI) Order 1988 or (ii) housing accommodation under Article 22(A) of the Housing (NI) Order 1981

.....

.....

.....

.....

.....

.....

.....

- (iv) The NIHE are considering an applicant's Homelessness priority need under Article 7 of the Housing (NI) Order 1988.

.....

.....

.....

.....

.....

[illegible]

**Information requested: Delete where necessary**

(v) Details of the following reports to the NIHE ..... Yes/No

[illegible]

[illegible]

**DECLARATION:** I am a designated officer as described in the information sharing protocol between the Police Service of Northern Ireland and the Northern Ireland Housing Executive. The information requested above is given for the reasons stated. I will not use or disclose the information for any other purposes.

Date \_\_\_\_\_ Signature \_\_\_\_\_

## Appendix 4: Council Information Sharing Protocol

### Information Request Pro forma

<b>Part A: COMPLETE IN ALL CASES</b>	
Requesting Officer.....	Position.....
Organisation.....	Date.....
Address.....	
.....Post Code.....	
Tel/ Fax.....	
E-Mail.....	
<b>Subject:</b>	
Name.....	Date of Birth.....
Address.....	
.....Post Code.....	
Previous Address.....	
.....	

### Reasons for Requesting Information:

Please complete details in relevant section below

- (1) The NIHE is gathering evidence with a view to taking appropriate action against the above named individual to further the objectives of prevention and detection of crime and anti-social behaviour.

**Reasons for Requesting Information:**

Please complete details in relevant section below

- (1) The NIHE is gathering evidence with a view to taking appropriate action against the above named individual to further the objectives of prevention and detection of crime and anti-social behaviour.

**PART B**

**Information requested: Delete where necessary**

(1) Relevant conviction.....Yes/ No

(2) Details of relevant contact with police.....Yes/ No

(3) Details of relevant complaints/ reports of incidents.....Yes/ No

(4) Confirmation of relevant threats.....Yes/ No

(5) Confirmation of Abatement Notice(s) served.....Yes/ No

(6) Environmental Health (Noise) reports/ call outs.....Yes/ No

(7) Any other relevant Council intervention(s).....Yes/No

(8) Any other relevant contact/ knowledge.....Yes/ No

**Please list details of incidents below:**

Date	Time	Incident Details
.....		
.....		
.....		
.....		

.....
.....
.....
.....
.....
.....
.....
Continuation sheet added Yes/NO

DECLARATION: I am a designated officer as described in the Tri Partite Information Sharing Protocol between the Police Service of Northern Ireland (PSNI), the Northern Ireland Housing Executive (NIHE) and >Council. The information requested above is given for the purposes stated.  
I will not use or disclose this information for any other purpose.

Name.....Position.....  
Date.....Signature.....

## Appendix 5: YJA Information Sharing Protocol

### Information Request Pro forma

Part A: COMPLETE IN ALL CASES	
Requesting Officer.....	Position.....
Organisation.....	Date.....
Address.....	
.....Post Code.....	
Tel/ Fax.....	
E-Mail.....	
Subject:	
Name.....	Date of Birth.....
Address.....	
.....Post Code.....	
Previous Address.....	
.....	

### Reasons for Requesting Information:

Please complete details in relevant section below

- (1) The NIHE is gathering evidence with a view to taking appropriate action against the above named individual to further the objectives of prevention and detection of crime and anti-social behaviour.

**PART B**

**Information requested: Delete where necessary**

- (1) Relevant conviction.....Yes/ No
- (2) Details of relevant contact with police..... Yes/ No
- (3) Details of relevant complaints/ reports of incidents..... Yes/ No
- (4) Confirmation of relevant threats.....Yes/ No
- (5) Confirmation of Abatement Notice(s) served.....Yes/ No
- (6) Environmental Health (Noise) reports/ call outs.....Yes/ No
- (7) Any other relevant Council intervention (s).....Yes/No
- (8) Any other relevant contact/ knowledge.....Yes/ No

**Please list details of incidents below:**

Date	Time	Incident Details
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....

.....
.....
.....
.....
.....
.....
.....
Continuation sheet added Yes/ No

DECLARATION: I am a designated officer as described in the Information Sharing Protocol between the Police Service of Northern Ireland (PSNI), the Northern Ireland Housing executive (NIHE), > Council and Youth Justice Agency (YJA). The information requested above is given for the purposes stated. I will not use or disclose this information for any other purpose.

Name.....Position.....  
Date.....Signature.....

## Appendix 6: Incident Diary

Anti-Social Behaviour		Housing Executive
<h1>Incident Diary</h1>		
<p>Your full name _____</p> <p>Your address _____ _____ _____</p> <p>Telephone _____ Mobile _____</p> <p>Email _____</p>		
<p>For Housing Executive use only</p> <p>First Complaint (date) ____/____/____ Diary issued (date) ____/____/____</p> <p>Diary number _____</p> <p>Review date ____/____/____      ____/____/____</p>		
<p><i>Any information provided on this form will be processed in accordance with the requirements of the Data Protection Act 1998</i></p>		

Many disputes between individuals can be sorted out amicably by simply approaching the other person and talking about the problem. However if this approach fails or someone's behaviour is particularly anti-social, the Housing Executive will endeavour to take action to resolve the matter. We can only act against people causing nuisance if we have evidence. You can help to gather this evidence by keeping a diary of everything that happens in relation to the nuisance. Your role is vital in the development of the case.

### The Diary

The majority of disputes can be resolved without resorting to legal action. However, if the dispute persists, it may be necessary to initiate legal action to ensure the nuisance stops. In order to proceed with legal action, we need a detailed account of every incident. This will form the basis of the evidence to be presented to the court. There are four simple rules that you should follow.

1. The diary is your own personal record of what you see or hear. Do not write down something that other people (including members of your family) have experienced. They must complete their own diary, or they may complete a Witness Report Sheet at the back of the Diary.
2. You should fill in the diary as soon as possible after the incident while events are still in your mind. Try to do it at the time of the particular incident or shortly afterwards.
3. A new incident sheet should be completed for each separate incident. If there is a second incident on the same day or night, start a new form. Put your signature and date at the bottom of each form (part 8).
4. It is important to write down everything you see and hear in as much detail as possible. It should be a word-for-word account of what happened as opposed to a general summary. The sample sheet illustrates the type of information required.

## Anti-Social Behaviour

## Incident sheet

This sheet is for one incident only. Always start a new form for each separate incident.

### 1. When did the incident happen?

Date of incident (if overnight write both dates, e.g. 17/18 April 2001)

Date 4/5th April 2001

Time: from 10.30 ~~am~~/pm until 04.00 am/~~pm~~

### 2. Where did it happen?

Put the address where the incident happened, not your own address.

12 Ansob Street

Outside or inside? outside

### 3. Who did it and who was involved? Provide the name(s) and addresses(es).

*Anne Boddy, 12 Ansob Street, Noel Boddy and other people visiting the house*

### 4. What happened?

*I was sitting in my living room watching TV and I heard shouting and yelling from outside the front of the house. I looked out the window and saw Noel Boddy of 12 Ansob Street shouting and banging the front door. At one point he shouted "Let me in you \*\*\*\*\* stupid cow." I then saw Anne Boddy open the front door. She shouted at him "Where the \*\*\*\* is your key, you drunken \*\*\*\*\*." They both went into the house and almost immediately the music was turned up really loud. After about 10 minutes more people arrived at the house, 2 men and a woman, and were let in by Anne. I could hear raised voices and loud music until 4 o'clock in the morning when it finally stopped.*

### 5. Were there any witnesses?

Did anyone else see or hear the incident? Yes/~~No~~ If, so provide their names(s) and addresses(es)

*My partner, Tim Rong, 10 Ansob Street*

Have they filled in their own incident diary sheet? Yes/~~No~~

### 6. Have you reported it? Yes/~~No~~ If yes, when and where did you make the report, and whom did you speak to?

*I phoned the police but did not want them to call with me. The music was turned down when they arrived but was turned up again as soon as they left.*

### 7. How has it affected you?

*This is the sort of thing that happens all the time (see previous incident sheets). Almost every weekend there are parties next door. My partner and I are very upset about the whole situation. I am now taking sleeping tablets because of the noise and the upset.*

### 8. Your Signature "I believe that the information I have given is a true description of what I saw and/or heard"

Signed \_\_\_\_\_ Date \_\_\_\_\_

## Anti-Social Behaviour

## Incident sheet

This sheet is for one incident only. Always start a new form for each separate incident.

1. When did the incident happen?

Date of incident (if overnight write both dates,  
e.g. 17/18 April 2001)

Date \_\_\_\_\_

Time: from \_\_\_\_\_ am/pm until \_\_\_\_\_ am/pm

2. Where did it happen?

Put the address where the incident  
happened, not your own address.

\_\_\_\_\_

Outside or inside? \_\_\_\_\_

3. Who did it and who was involved? Provide the name(s) and addresses(es).

4. What happened?

5. Were there any witnesses?

Did anyone else see or hear the incident? Yes/No If, so provide their names(s) and addresses(es)

Have they filled in their own incident diary sheet? Yes/No

6. Have you reported it? Yes/No If yes, when and where did you make the report, and whom did you speak to?

7. How has it affected you?

8. Your Signature "I believe that the information I have given is a true description of what I saw and/or heard"

Signed \_\_\_\_\_ Date \_\_\_\_\_

## Witness Report

1. Name and address of witness

---

Date     /    /    

Time From \_\_\_\_\_ am/pm Until \_\_\_\_\_ am/pm \_\_\_\_\_

---

4. Who did it or who was involved? Provide their names(s) and addresses(es)

8. Your Signature "I believe that the information I have given is a true description of what I saw and/or heard"

Signed \_\_\_\_\_ Date \_\_\_\_\_

# Appendix 7: Incident Report Document

OFFICE NAME (insert here)  
RECORD OF ANTI-SOCIAL BEHAVIOUR INCIDENT

FOR INTERNAL USE ONLY

*(This document to be completed when recording incidents of ASB reported at the Local Office, where a Case/complaint has already been registered)*

Date: \_\_\_\_\_ Complaint received: Phone call \_\_\_\_\_ Reception \_\_\_\_\_

Name of complainant \_\_\_\_\_

Address: \_\_\_\_\_

Tel No: \_\_\_\_\_

1. What is the complaint?

\_\_\_\_\_  
\_\_\_\_\_

2. When did the incident happen?

Date: \_\_\_\_\_

Time: from \_\_\_\_\_ am/pm until \_\_\_\_\_ am/pm

3. Where did the incident happen? (Details of location)

\_\_\_\_\_  
\_\_\_\_\_

4. Who did it and who was involved? Provide name/s and addresses

\_\_\_\_\_  
\_\_\_\_\_

5. Were there any other witnesses/ Did anyone else see or hear the incident? Yes/NO If yes provide details

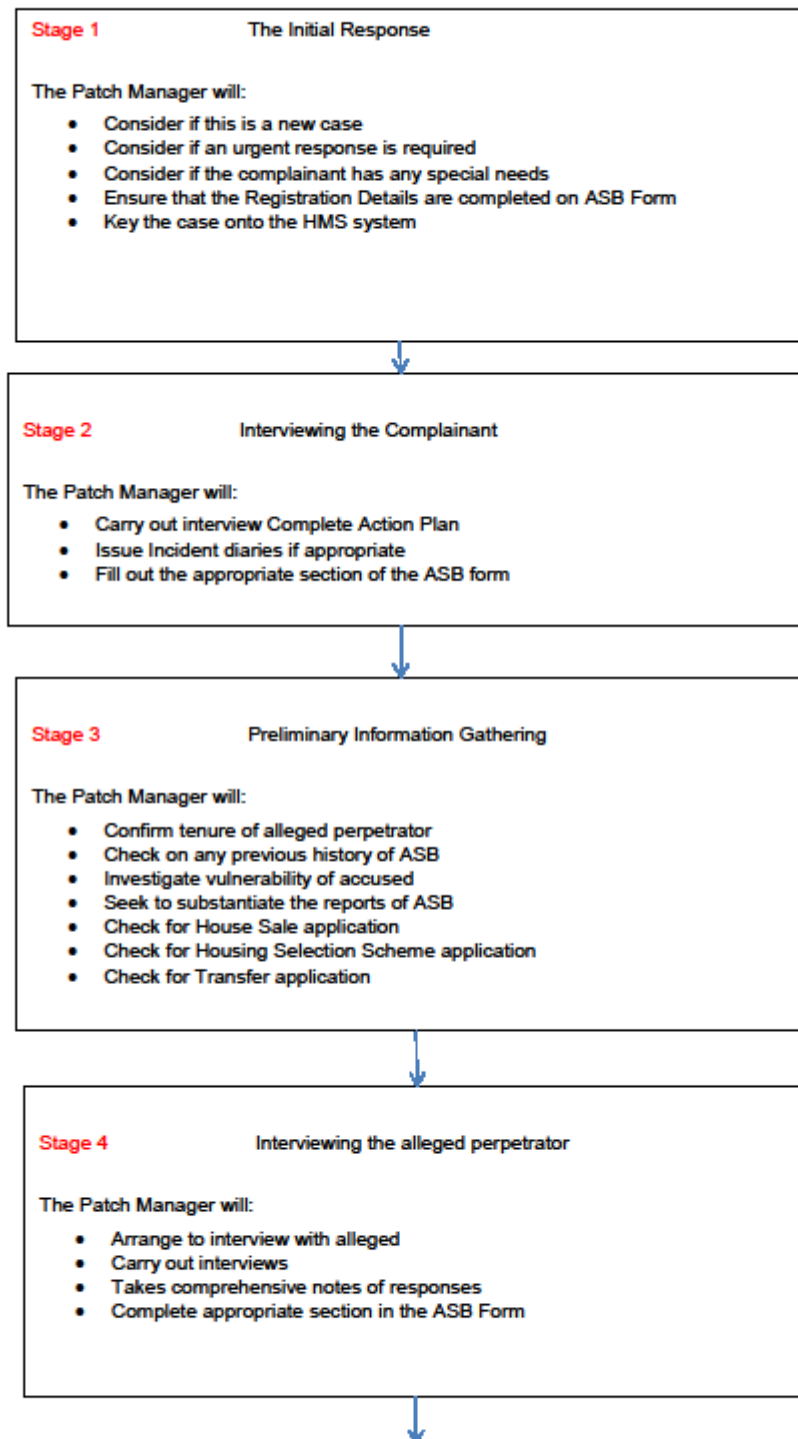
\_\_\_\_\_  
\_\_\_\_\_

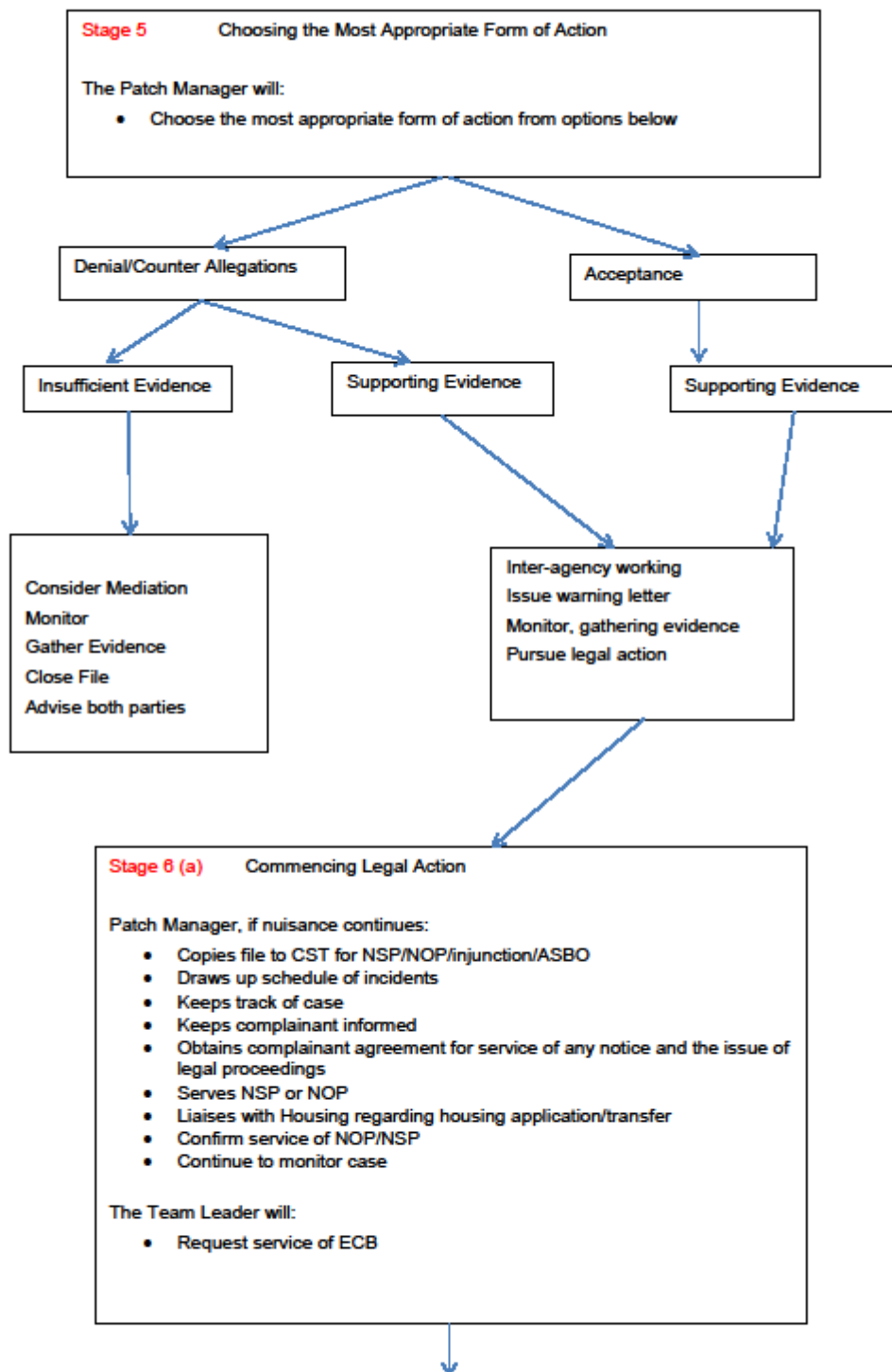
6. Has it been reported to the PSNI/Council/other agency? If yes provide details

\_\_\_\_\_  
\_\_\_\_\_

Complaint taken by: \_\_\_\_\_

## Appendix 8: Flow Chart – Managing Cases of ASB





**Stage 6(b)** Court Hearing and Post Court

Team Leader and Patch Manager to

- Attend court
- Ensure all witnesses are advised of time and date of hearing
- Advise local police of result of hearing
- Continue to liaise with complainant and monitor the situation before the hearing
- Contact CST if individual fails to comply with and Order for Possession or Injunction
- Advise Regional/Area Manager of any proposed eviction or possible committal proceedings
- Take appropriate action at an eviction, i.e. secure the dwelling



**Stage 7** Case Closure

- All cases to be progressed to conclusion and closed
- Add decision to close a case to be confirmed in writing with the complainant and where appropriate the other party
- All closed files are retained for 7 years

## Appendix 9: Acknowledgement Letter

Address of Local Office

---

Name and Address

---

Date:

Ref:

Dear

Thank you for your complaint of anti-social behaviour which was received on \_\_\_\_\_.

This complaint has now been passed to me to investigate and I will be in contact with you shortly to discuss this further.

In the meantime I would urge you to record any further incidents and I can be contacted on  
**INSERT PHONE NUMBER**

Yours sincerely  
PATCH MANAGER

## Appendix 10: Action Plan

<p>Date of Interview ____/____/____ Incident diaries issued Y/N</p> <p>Date for collection of diaries ____/____/____</p> <p>Action/investigations to be taken by Housing Executive (this should include any outcomes from the completion of the matrix)</p> <p>The Patch Manager agrees to</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>Action to be taken by complainant (this should include details of any other agencies to be contacted)</p> <p>The complainant agrees to</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>Date for review ____/____/____</p>
--

A system copy of the Action Plan is to be issued to the complainant

# Appendix 11: Action Plan Covering Letter

Address of Office

---

Complainant Address

---

Date:

Our ref:

Dear

Further to our interview on INSERT DATE regarding your complaint of nuisance behaviour, I enclose a copy of the Action Plan that was agreed with you.

As discussed this document sets out what the Housing Executive will do to investigate this complaint and what you have agreed to do, in order that we can try and stop the nuisance behaviour.

Should you wish to discuss this further please do not hesitate to contact me on INSERT TELEPHONE NUMBER.

Yours sincerely

Patch Manager

## Appendix 12: Perpetrator to Attend Office

Address of Office

---

Name and address of tenant

---

Date:

Ref:

Dear

The Housing Executive has received a complaint in relation to nuisance occurring at **INSERT ADDRESS**.

I would ask that you call into the local office on **INSERT DATE** at **INSERT TIME** to discuss this matter. If this appointment is unsuitable please contact me on **INSERT PHONE NUMBER** to arrange a more suitable time or to discuss the matter

Yours sincerely

**PATCH MANAGER**

# Appendix 13A: Introductory Tenant Warning Letter

Address of Office

---

Name and address of tenant

---

Date:

Ref:

Dear

## **Re: Report of Nuisance/ Anti-Social Behaviour**

The Housing Executive has received a number of complaints in relation to nuisance occurring at **INSERT ADDRESS/** in the locality of **INSERT LOCALITY**. This nuisance broadly consists of the following behaviour.

### **INSERT IN GENERAL TERMS DETAILS OF THE NUISANCE**

The purpose of this letter is to remind you of your obligation under your tenancy agreement not to behave, or allow others (those living at or visiting your house) to behave in such a way which causes or may cause a nuisance or annoyance to occupiers of any neighbouring premises.

The Housing Executive considers that you are in breach of this tenancy obligation because of the behaviour described above. Such a breach is a sufficient reason for the Housing Executive to be granted possession of your house.

It is important that you do not ignore this letter because of the serious consequences for your tenancy which may ultimately result in you losing your house. Alternatively, it may result in the Housing Executive applying for a court order to stop the relevant behaviour.

If there are any further incidents of nuisance, the Housing Executive will consider issuing legal proceedings for the court to make an order for possession of your house.

Yours sincerely

Patch Manager

# Appendix 13B: Secure Tenant Warning Letter, Condition of Property

Address of Office

---

Name and address of tenant

---

Date:

Ref:

Dear

## Re: Report of Nuisance

The Housing Executive has received a number of complaints in relation to nuisance occurring at **INSERT PROPERTY ADDRESS**. This relates to your failure to maintain your dwelling in a clean and tidy condition.

The purpose of this letter is to remind you of your obligation under your tenancy agreement not to behave, or allow others (those living at or visiting your house) to behave in such a way which causes or may cause a nuisance or annoyance to occupiers of any neighbouring premises.

The Housing Executive considers that you are in breach of this tenancy obligation because of the behaviour described above. Such a breach entitles the Housing Executive to seek possession of your house.

It is important that you do not ignore this letter because of the serious consequences for your tenancy which may ultimately result in you losing your house. Alternatively, it may result in the Housing Executive applying for a court order to stop the relevant behaviour.

If there are any further incidents of nuisance, the Housing Executive will have no choice but to consider issuing legal proceedings either for a court order to compel you to maintain your dwelling in a clean and tidy condition or to recover possession of your house.

Please note that if legal action is found to be necessary, the Housing Executive will make an application to the Court for the costs involved in taking the legal proceedings and this letter may be used as part of any such application.

Yours sincerely

Patch Manager

## Appendix 13C: Secure Tenant, Warning Letter

Address of Office

---

Name and address of tenant

---

Date:

Ref:

Dear

### **Re: Report of Nuisance/ Anti-Social Behaviour**

The Housing Executive has received a number of complaints in relation to nuisance occurring at **INSERT ADDRESS** / in the locality of **INSERT LOCALITY**. This nuisance broadly consists of the following behaviour.

### **INSERT IN GENERAL TERMS DETAILS OF THE NUISANCE**

The purpose of this letter is to remind you of your obligation under your tenancy agreement not to behave, or allow others (those living at or visiting your house) to behave in such a way which causes or may cause a nuisance or annoyance to occupiers of any neighbouring premises.

The Housing Executive considers that you are in breach of this tenancy obligation because of the behaviour described above. Such a breach entitles the Housing Executive to seek possession of your house.

It is important that you do not ignore this letter because of the serious consequences for your tenancy which may ultimately result in you losing your house. Alternatively, it may result in the Housing Executive applying for a court order to stop the relevant behaviour.

If there are any further incidents of nuisance, the Housing Executive will consider issuing legal proceedings either for a court order to stop any further unacceptable behaviour or to recover possession of your house.

Please note that if legal action is found to be necessary, the Housing Executive will make an application to the Court for the costs involved in taking the legal proceedings and this letter may be used as part of any such application.

Yours sincerely

Patch Manager

# Appendix 13D: Non NIHE Tenant, Warning Letter

Address of Office

---

Name and address of tenant

---

Date:

Ref

Dear

**Re: Report of Nuisance/Anti-social Behaviour**

The Housing Executive has received a number of complaints in relation to nuisance occurring at **ENTER ADDRESS**/in the locality of **ENTER LOCALITY (DELETE WHERE APPROPRIATE)**. This nuisance broadly consists of the following behaviour.

## **INSERT IN GENERAL TERMS DETAILS OF THE NUISANCE**

The purpose of this letter is to advise you that if there are any further incidents of nuisance, the Housing Executive may have no choice but to consider issuing legal proceedings for a court order to stop further unacceptable behaviour.

It is important that you do not ignore this letter because of the serious consequences, and should legal action be found to be necessary, the Housing Executive will make an application to the Court for the costs involved in taking the legal proceedings and this letter may be used as part of any such application

Yours sincerely

Patch Manager

# Appendix 13E: Introductory tenant, Final Warning Letter

Address of Office

---

Name and address of tenant

---

Date:

Ref:

Dear

**Re: Report of Nuisance/ Anti-Social Behaviour**

I refer to my previous correspondence dated **ENTER DATE OF PREVIOUS LETTER IF APPLICABLE**

Despite the previous warning the unacceptable behaviour has continued.

The purpose of this letter is to advise you that the Housing Executive is now considering serving a Notice of Proceedings for Possession, so that legal proceedings can be issued in respect of **INSERT ADDRESS** to take back possession of your house. The reasons for taking this legal action are:

- 1) That you are in breach of the nuisance to neighbours clause in your tenancy agreement and have ignored the previous warning letter.
- 2) The unacceptable behaviour described in the previous warning letter continues and is causing or likely to cause a nuisance or annoyance to a person(s) residing visiting or engaging in lawful activity in the locality of your dwelling house.

In the event of legal proceedings, the Housing Executive will make an application to the Court for the costs involved in taking the legal proceedings and this letter may be used as part of that application.

Yours sincerely

Patch Manager

# Appendix 13F: Secure Tenant Final Warning Letter, Condition of Property

Address of Office

---

Name and address of tenant

---

Date:

Ref:

Dear

**Re: Report of Nuisance**

I refer to my previous correspondence dated **INSERT DATE OF PREVIOUS LETTER IF APPROPRIATE**

Despite the previous warning, you are continuing to fail to maintain your dwelling in a clean and tidy condition.

The Housing Executive now intends to issue legal proceedings and seek a court order to compel you to maintain your dwelling in a clean and tidy condition or an Order for Possession from the court for **INSERT ADDRESS**. The reasons for taking this legal action are:

1. You continue to be in breach of your obligation under your tenancy agreement not to behave, or permit such behaviour in your dwelling house or within your neighbourhood which is or may be an annoyance or nuisance to the occupiers of any neighbouring premises, despite the previous warning letter setting out the serious consequences of such unacceptable behaviour.
2. The Housing Order (NI) 1983 stipulates the grounds on which the Housing Executive may seek possession of a dwelling let under a secure tenancy. The Housing Executive considers that Grounds 1, 2 and 3 of Schedule 3 which relate to, breach of tenancy, unacceptable behaviour and failure to maintain the dwelling house have been satisfied in this case by reason of the behaviour described in the previous correspondence.

In addition, the Housing Executive will make an application to the Court for the costs involved in taking the legal proceedings and this letter may be used as part of that application.

Yours sincerely

Patch Manager

# Appendix 13G: Secure Tenant, Final Warning Letter

Address of Office

---

Name and address of tenant

---

Date:

Ref:

Dear

## Re: Report of Nuisance/ Anti-Social Behaviour

I refer to my previous correspondence dated **INSERT DATE OF PREVIOUS LETTER**

Despite the previous warning the unacceptable behaviour has continued.

The purpose of this letter is to advise you that the Housing Executive is now considering seeking an Order for Possession from the court for **INSERT ADDRESS**. The reasons for taking this legal action are:

1. You continue to be in breach of your obligation under your tenancy agreement not to behave, or permit such behaviour in your dwelling house or within your neighbourhood which is or may be an annoyance or nuisance to the occupiers of any neighbouring premises, despite the previous warning letter setting out the serious consequences of such unacceptable behaviour.
2. The Housing Order (NI) 1983 stipulates the grounds on which the Housing Executive may seek possession of a dwelling let under a secure tenancy. The Housing Executive considers that Grounds 1 and 2 of Schedule 3 which relate to breach of tenancy and unacceptable behaviour have been satisfied in this case by reason of the behaviour described in previous correspondence.

In the event of legal proceedings, the Housing Executive will make an application to the Court for the costs involved in taking the legal proceedings and this letter may be used as part of that application.

Yours sincerely

Patch Manager

# Appendix 14A: Closure Letter, No Breach of Tenancy

Local Office Address

---

Name and Address

---

Date:

Ref:

Dear

I refer to the reports received by the Housing Executive in relation to nuisance/anti-social behaviour.

Following investigation of these reports by the Local Office, I would advise that the Housing Executive has been unable to identify any behaviour by your neighbour that would constitute a breach of tenancy on the grounds of anti-social behaviour

In these circumstances, I would propose to take no further action, however I will keep the case under review.

Please do not hesitate to contact this Office should the situation change, and I will ensure that reports of new incidents are fully investigated and if necessary the appropriate action will be taken.

Yours sincerely

Patch Manager

## Appendix 14B: Closure letter complainant

Local Office Address

---

Name and Address

---

Date:

Ref

Dear

With reference to your complaint of anti-social behaviour, I wish to inform you that all investigations have been carried out and that the case is now closed. The reason for the closure is **ENTER REASON HERE**.

Please do not hesitate to contact this office should the situation change, and I will ensure that reports of new incidents are fully investigated and if necessary the appropriate action taken.

Yours sincerely

Patch Manager

## Appendix 14C: Closure Letter, Unable to Substantiate, Complainant

Local Office Address

---

Name and Address

---

Date:

Ref:

Dear

I refer to the reports received by the Housing Executive in relation to nuisance/anti-social behaviour.

The Local Office has fully investigated the matter and I would advise that the Housing Executive has been unable to substantiate the reports of nuisance. In these circumstances, I would propose to take no further action at the present time, but will of course keep the matter under review.

Please do not hesitate to contact the Office should the situation change, and I will ensure that reports of new incidents are fully investigated and if necessary the appropriate action will be taken.

Yours sincerely

Patch Manager

## Appendix 14D: Closure Letter, Situation improved, Complainant

Local Office Address

---

Name and Address

---

Date:

Ref:

Dear

I refer to the reports received by the Housing Executive in relation to nuisance/anti-social behaviour.

Following involvement by the Local Office, it now appears that the situation has now improved. In these circumstances, I would propose to take no further action at the present time and the case has now been closed.

Please do not hesitate to contact this Office should the situation change, and I will ensure that reports of new incidents are fully investigated and if necessary the appropriate action will be taken.

Yours sincerely

Patch Manager

## Appendix 14E: Closure Letter, Accused

Local Office Address

---

Name and Address

---

Date:

Ref:

Dear

I refer to the complaint of alleged anti-social behaviour received by the Housing Executive against you. I wish to inform you that all investigations have been carried out and that the case is now closed.

Should the Local Office receive any further complaints of nuisance/anti-social behaviour caused by you, these will be fully investigated and if necessary the appropriate action will be taken.

Yours sincerely

Patch Manager

## Appendix 14F: Closure Letter, Situation improved, Accused

Local Office Address

---

Name and Address

---

Date:

Ref:

Dear

I refer to the reports received by the Housing Executive in relation to nuisance/anti-social behaviour.

Following involvement by the Local Office, it now appears that the situation has now improved. In these circumstances, I would propose to take no further action at the present time and the case has now been closed.

Should the Local Office receive any further complaints of nuisance/anti-social behaviour caused by you these will be fully investigated and if necessary the appropriate action will be taken.

Yours sincerely

Patch Manager

## Appendix 14G: Closure Letter, Unable to Substantiate, Accused

Local Office address

---

Name and Address

---

Date:

Ref:

Dear

I refer to the reports received by the Housing Executive in relation to nuisance/anti-social behaviour.

The Local Office has fully investigated the matter and I would advise that the Housing Executive has been unable to substantiate the reports of nuisance. In these circumstances, I would propose to take no further action at the present time.

Should the Local Office receive any further complaints of nuisance/anti-social behaviour caused by you, these will be fully investigated and if necessary the appropriate action will be taken,

Yours sincerely

Patch Manager

## Appendix 15: Re-opening Case Letter

Local Office address

---

Name and Address

---

Date:

Ref:

Dear

I refer to the closure letter sent to you on **INSERT DATE OF CLOSURE LETTER** and I am advising you that as we have now received further complaints of anti-social behaviour at your property and as a result we have re-opened the case.

I would appreciate it if you would contact me on **INSERT PHONE NUMBER** to discuss this further.

Yours sincerely

**Patch Manager**

# Appendix 16A: ABC Letter to 16-17 years of age

Address of Office

---

Name and address

---

Date:

Ref:

Dear

**Re: Anti-social behaviour within INSERT LOCATION**

The Housing Executive is concerned about your recent behaviour. It has been brought to the Housing Executive's attention that you have been involved in various acts of anti-social behaviour as detailed on the attached schedule.

The Housing Executive would prefer to resolve the matter amicably without a court order. In this regard, I would like to meet with you. The purpose of the meeting is to try to improve your behaviour so that there will be no necessity for any court orders.

In this regard I would request that you attend a meeting with your parents **ON INSERT DAY, TIME AND LOCATION OF MEETING** to discuss the matter further. I would strongly urge you to attend as it is in everyone's interest to discuss the current situation. If the above date and time are not convenient you can contact me at Tel: **INSERT PHONE NUMBER** and a more suitable time will be arranged. If the date and time is convenient would you please confirm your attendance? I would advise that a letter has been sent to your parents advising them of the current situation and asking them to attend the meeting.

I would ask you to note that failure to attend such a meeting may result in the Housing Executive applying to a court for an ASBO without further correspondence with you.

Yours sincerely

Patch Manager

**N.B. SHOULD A PARTNER AGENCY INTEND TO BE PRESENT AT THE INTERVIEW THIS SHOULD BE DETAILED IN THE LETTER (PLEASE DELETE THIS PARAGRAPH BEFORE SENDING)**

## Appendix 16B: ABC Letter to Adult

Address of Office

---

Name and Address

---

Date:

Ref:

Dear

**Re: Anti-social behaviour within INSERT LOCATION**

The Housing Executive is concerned about your recent behaviour. It has been brought to the Housing Executive's attention that you have been involved in various acts of anti-social behaviour as detailed on the attached schedule.

The Housing Executive would prefer to resolve the matter amicably without a court order. In this regard, I would like to meet with you. The purpose of the meeting is to try to improve your behaviour so that there will be no necessity for any court orders.

In this regard I would request that you attend a meeting on **INSERT, DATE, TIME AND LOCATION OF MEETING** to discuss the matter further. I would strongly urge you to attend as it is in everyone's interest to discuss the current situation. If the above date and time are not convenient you can contact me at Tel: **INSERT PHONE NUMBER** and a more suitable time will be arranged. If the date and time is convenient would you please confirm your attendance?

I would ask you to note that failure to attend such a meeting may result in the Housing Executive applying to a court for an ASBO without further correspondence with you.

Yours sincerely

Patch Manager

**N.B. SHOULD A PARTNER AGENCY INTEND TO BE PRESENT AT THE INTERVIEW THIS SHOULD BE DETAILED IN THE LETTER (PLEASE DELETE THIS PARAGRAPH BEFORE SENDING)**

# Appendix 16C: ABC Letter to Parents requesting Meeting

Address of Office

---

Name and address

---

Date:

Ref:

Dear

**Re: Anti-social behaviour within INSERT LOCATION**

The Housing Executive is concerned about the recent behaviour of your son/daughter **INSERT NAME OF SON/DAUGHTER**. It has been brought to the Housing Executive's attention that your son/daughter has been involved in various acts of anti-social behaviour as detailed on the attached schedule.

The Housing Executive would prefer to resolve the matter amicably without a court order. In this regard, I would like to meet with you. The purpose of the meeting is to try to improve your son's/daughter's behaviour so that there will be no necessity for any court orders.

In this regard I would request that you attend a meeting with your son/daughter **INSERT NAME OF SON/DAUGHTER** on **INSERT, DATE, TIME AND LOCATION OF MEETING** to discuss the matter further. I would strongly urge you to attend as it is in everyone's interest to discuss the current situation. If the above date and time are not convenient you can contact me at Tel: **INSERT PHONE NUMBER** and a more suitable time will be arranged. If the date and time is convenient would you please confirm your attendance?

I would ask you to note that failure to attend such a meeting may result in the Housing Executive applying to a court for an ASBO without further correspondence with you.

Yours sincerely

Patch Manager

**N.B. It may be that possession proceedings in respect of the parent's tenancy are under consideration and the letter should be amended to reflect this. Details on any partner agency should also be included (please delete this paragraph before sending)**

## Appendix 17: APAC Referral Form

---

### 1. Applicant

#### Personal Details:

Title \_\_\_\_\_ First Name (s) \_\_\_\_\_

Surname \_\_\_\_\_ Date of Birth \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

Contact Telephone - Home No \_\_\_\_\_ Mobile \_\_\_\_\_

School Attended \_\_\_\_\_ (if applicable)

Address \_\_\_\_\_

\_\_\_\_\_

---

### 2. Parents/Guardians (if applicable)

#### Personal Details:

Title \_\_\_\_\_ First Name (s) \_\_\_\_\_

Surname \_\_\_\_\_ Relationship to Applicant \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Contact Telephone – Home No \_\_\_\_\_ Mobile \_\_\_\_\_

---

### 3. Parents/Guardians (if applicable)

#### Personal Details:

Title \_\_\_\_\_ First Name (s) \_\_\_\_\_

Surname \_\_\_\_\_ Relationship to Applicant \_\_\_\_\_

Address \_\_\_\_\_

Contact Telephone – Home No \_\_\_\_\_ Mobile \_\_\_\_\_

---

---

4. Tenure of ABC candidate's home

Private rental

Parental NIHE dwelling

NIHE tenancy

Owner occupier

Parental privately owned.

---

5. Household Type Characteristics of ABC Candidate (detail composition of family)

---

---

---

---

6. ABC Details

Acceptable Behaviour Contract signed	Yes/No
ABC provided	Yes/No
Copy of Schedule of incidents Provided	Yes/No

---

7. Contact Agencies

Organisation	Address/Tel No.	Contact Officer
--------------	-----------------	-----------------

1.

2.

3.

---

## 8. Other Relevant Information

Signed..... (ABC Candidate)

Date .....

Signed..... Parent/Guardian

Date .....

Signed..... Parent / Guardian

Date .....

Signed ..... (NIHE officer)

Date .....

Position .....

Address .....

Signed .....

Date .....

Position .....

Address .....

---

## Appendix 18: APAC Consent Form

### Individual Consent to Personal Information Disclosure

**Referring Authority** –NIHE, District office address

**Relevant Organisation** - Northern Ireland Association for the Care and Resettlement of Offenders, Amelia House, 4 Amelia Street, Belfast BT2 7GS

I/We.....  
(Name of Person)

I/We.....  
(Name of parent/s/Guardians – where applicable) authorise the Northern Ireland Housing Executive to share personal/sensitive personal data relating to myself with NIACRO i.e. the relevant authority involved in this joint undertaking. The information shared will be limited to what is required for the purpose of the initial referral of my case by the Northern Ireland Housing Executive to NIACRO.

I/We have read and signed the referral form and understand that the personal data provided will not be used for any other purpose or further disclosed beyond those immediately involved in the joint undertaking without my consent.

I agree that the personal data may be retained by NIACRO for a period of time limited to the authorized purpose, after which it will be destroyed in a confidential manner.

Signed ..... Date .....

Signed ..... Parent/Guardian Date .....

(delete if not required)

Signed ..... Parent/Guardian Date .....

(delete if not required)

**N.B. Original of the completed form to be retained by NIHE and**

**One copy of the form to be forwarded to NIACRO**

## Appendix 19: APAC Confirmation of referral to project

To : > (Patch Manager, NIHE)

From: > (APAC Project Worker)

I confirm receipt of your referral to the project for the following individual:

Name :

Address:

I confirm initial contact made by phone on \_\_\_\_\_(insert date)

I confirm that 1<sup>st</sup> interview completed \_\_\_\_\_(insert date)

Proposed action plan agreed YES/NO

Details if appropriate: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**This form is to be completed and returned to the NIHE referring officer within 10 days of referral to project.**

## Appendix 20: ABC Contract Example

**THIS CONTRACT** is made on \_\_\_\_\_ (date)

**Between – Name and address of lead agency/agencies**

**AND**

**Name**\_\_\_\_\_

**Address**\_\_\_\_\_

**Post Code**\_\_\_\_\_

---

----- (name of ABC candidate)

**AGREES** the following in respect of his/her future conduct.

1. I will not enter any shop or commercial premises in the locality of Oldtown
2. I will not threaten to cause, attempt to cause or cause criminal damage to property or premises.
3. I will not throw anything at any building or person in the locality of Oldtown and Oldtown shops.
4. I will not associate with any of the following listed below in any place to which the public has access to;
5. I will not congregate and/or sit with ( name associates)

6. I will not light fires in the locality of Oldtown and Oldtown shops.
7. I will not drink or possess alcohol in public within the locality of Oldtown and Oldtown shops.
8. I will not be at Oldtown shops when drunk or under the influence of unlawful drugs, or for the incidental purpose of drinking alcohol or taking drugs
9. I will not use foul, offensive or racist language to any person.
10. I will not use or encourage others to use threatening, abusive or insulting words or behaviour in any place to which the public have access within the locality of Oldtown and Oldtown shops.
11. I will not cause harassment, alarm or distress, or behave in any way which is likely to cause harassment, alarm or distress to any person within the locality of Oldtown and Oldtown shops.

**IN ADDITION, (name of individual)** enters into a commitment with the Northern Ireland Housing Executive (**plus name of any partner agency**) not to act in a manner that causes or is likely to cause harassment alarm or distress to one or more persons not in the same household as himself.

**(Delete or amend as appropriate)**

To help **(name of individual)** maintain the Acceptable Behaviour Contract successfully the **(name of agency/s)** agree/s to provide the following:

**Examples:**

The **(name of agency/s)** agree/s to refer the case to APAC

The **(name of agency/s)** agree/s to meet on a fortnightly/monthly basis with **(name of ABC candidate)** to discuss any difficulties that **(name of ABC candidate)** has in maintaining the contract.

## **ACCEPTABLE BEHAVIOUR CONTRACT**

### **BREACH OF CONTRACT**

Should **(Name of ABC candidate)** do anything which he/she has agreed not to do under this contract which the Housing Executive **(plus name of any partner agency)** considers to amount to anti-social behaviour, the following courses of action may be taken: **(Delete as appropriate)**

1. The Housing Executive is likely to make application to the Magistrates Court for an Anti-Social Behaviour Order to prohibit him/her from acting in a manner likely to cause harassment, alarm or distress to one or more persons not of the same household.
2. The Housing Executive is likely to initiate possession proceedings in respect of **(address of property)**
3. The Housing Executive is likely to initiate injunction proceedings to prohibit him/her engaging in or threatening to engage in conduct causing or likely to cause a nuisance or annoyance to a person residing in, visiting or otherwise engaging in a lawful activity in residential premises or in the locality of such premises.

**FURTHER, (Name of ABC candidate)** acknowledges that:

1. Where an Anti-Social Behaviour Order is made by the court and breached he/she will be liable on conviction to term of imprisonment not exceeding 5 years or to a fine or both.

## DECLARATION

I confirm that I understand the meaning of this contract and that the consequences of any breach of the contract have been fully explained to me.

**Signed**

\_\_\_\_\_ **Date** \_\_\_\_\_

**Name** \_\_\_\_\_

**Signed** \_\_\_\_\_ **(parent/guardian)**

**Date** \_\_\_\_\_

**Name** \_\_\_\_\_

**Signed**

\_\_\_\_\_ **Date** \_\_\_\_\_

**Name** \_\_\_\_\_

**Organisation** \_\_\_\_\_

**Signed** \_\_\_\_\_ **Date** \_\_\_\_\_

**Name** \_\_\_\_\_

**Organisation** \_\_\_\_\_

# Appendix 21A, ABC Letter to 16-17 years of age, post ABC

Local Office Address

---

Name and Address

---

Date:

Ref:

Dear

**Re: Anti-social behaviour within INSERT ESTATE/AREA ETC**

Thank you for attending the meeting on INSERT DATE to discuss your behaviour.

I hope you felt the meeting gave you an opportunity to discuss your behaviour and its impact on other people in **IDENTIFY LOCATION**.

I am encouraged by your understanding of the consequences of the behaviour. The signing of the Acceptable Behaviour Contract shows that you understand the seriousness of the situation and that you are committed to change. The Acceptable Behaviour Contract you have signed will initially last for six months and will be subject to review.

As agreed at the meeting a referral has been made to APAC and you should be contacted within 5 working days from the receipt of the referral. **PLEASE DELETE PARAGRAPH IF THERE IS NO REFERRAL TO APAC**

I can confirm that the initial review meeting with you and your parents is arranged for insert **TIME, DATE AND LOCATION OF MEETING**. The situation in **IDENTIFY LOCATION** is being monitored. The review meeting will give us an opportunity to discuss your progress.

Should you fail to keep to the terms of the contract the Executive may consider the possibility of applying to the court for an Anti-Social Behaviour Order (an ASBO) **without further correspondence to you**.

It is hoped that this matter is now resolved and that a positive outcome has been achieved.

Yours sincerely

Patch Manager

# Appendix 21B, ABC Letter to Adult, post ABC

Local Office Address

---

Name and Address

---

Date:

Ref:

Dear

**Re: Anti-social behaviour within INSERT ESTATE/AREA ETC**

Thank you for attending the meeting on **INSERT DATE** to discuss your behaviour.

I hope you felt the meeting gave you an opportunity to discuss your behaviour and its impact on other people in **IDENTIFY LOCATION**.

I am encouraged by your understanding of the consequences of the behaviour. The signing of the Acceptable Behaviour Contract shows that you understand the seriousness of the situation and that you are committed to change. The Acceptable Behaviour Contract you have signed will initially last for six months and will be subject to review.

As agreed at the meeting a referral has been made to APAC and you should be contacted within 5 working days from the receipt of the referral. **PLEASE DELETE PARAGRAPH IF THERE IS NO REFERRAL TO APAC**

I can confirm that the initial review meeting is arranged for insert **TIME, DATE AND LOCATION OF MEETING**. The situation in **IDENTIFY LOCATION** is being monitored. The review meeting will give us an opportunity to discuss your progress.

Should you fail to keep to the terms of the contract the Executive may consider the possibility of applying to the court for an Anti-Social Behaviour Order (an ASBO) **without further correspondence to you**.

It is hoped that this matter is now resolved and that a positive outcome has been achieved.

Yours sincerely

Patch Manager

# Appendix 21C ABC Letter to Parents, post ABC

Local Office Address

---

Name and Address

---

Date:

Ref:

Dear

## **Re: Anti-social behaviour within INSERT ESTATE/AREA ETC**

Thank you for attending the meeting on INSERT DATE to discuss your son's/daughter's **(DELETE AS APPROPRIATE)** behaviour.

I hope you felt the meeting gave you an opportunity to discuss your son's/daughter behaviour and its impact on other people in **IDENTIFY LOCATION**.

I am encouraged by your son's/daughter's **(DELETE AS APPROPRIATE)** understanding of the consequences of the behaviour. The signing of the Acceptable Behaviour Contract shows that **INSERT SON'S/DAUGHTER'S NAME** understands the seriousness of the situation and is committed to change. The Acceptable Behaviour Contract will initially last for six months and will be subject to review.

As agreed at the meeting a referral has been made to APAC and you should be contacted within 5 working days from the receipt of the referral. **(PLEASE DELETE PARAGRAPH IF THERE IS NO REFERRAL TO APAC)**

I can confirm that the initial review meeting with you and **INSERT SON'S/DAUGHTER'S NAME** is arranged for **INSERT TIME, DATE AND LOCATION OF MEETING**. The situation is being monitored and the review meeting will give us an opportunity to discuss **INSERT SON'S/DAUGHTER'S NAME** progress.

Should **INSERT SON'S/DAUGHTER'S NAME** fail to keep to the terms of the contract the Executive may consider the possibility of applying to the court for an Anti-Social Behaviour Order (an ASBO) **without further correspondence to you. (IF APPROPRIATE INCLUDE POSSESSION PROCEEDINGS IN RESPECT OF THE PARENT'S TENANCY)**

It is hoped that this matter is now resolved and that a positive outcome has been achieved.

Yours sincerely

Patch Manager

# Appendix 22A: ABC Letter to 16-17 years of age, failure to attend

Local Office Address

---

Name and Address

---

Date:

Ref:

Dear

**Re: Anti-social behaviour within INSERT LOCATION**

I refer to my letter dated **INSERT DATE** inviting you to attend a meeting with your parents to discuss your behaviour. I am disappointed that you did not take up the opportunity afforded to resolve the matter.

However, a second meeting has been arranged for **INSERT DATE, TIME AND LOCATION OF MEETING** and I would strongly urge you to attend. Please advise me within the next 5 days if you are able to attend. I would also advise that an additional had been sent to your parents.

I must advise you that the Executive is continuing to monitor the levels of anti-social behaviour within INSERT LOCATION. *Should your involvement in the unacceptable behaviour in that locality continue the Executive may consider the possibility of applying to the court for an Anti-Social Behaviour Order (an ASBO) **without further correspondence to you.***

The attached leaflet outlines what an ASBO is and what its legal effect is.

Yours sincerely

Patch Manager

**N.B. DETAIL ANY PARTNER AGENCY SCHEDULED TO ATTEND THE MEETING  
(PLEASE DELETE BEFORE SENDING)**

# Appendix 22B: ABC Letter to Adult, failure to attend

Local Office Address

---

Name and Address

---

Date:

Ref:

Dear

**Re: Anti-social behaviour within INSERT LOCATION**

I refer to my letter dated INSERT DATE inviting you to attend a meeting to discuss your behaviour. I am disappointed that you did not take up the opportunity afforded to resolve the matter.

However, a second meeting has been arranged **FOR INSERT DATE, TIME AND LOCATION OF MEETING** and I would strongly urge you to attend. Please advise me within the next 5 days if you are able to attend. I would also advise that an additional had been sent to your parents.

I must advise you that the Executive is continuing to monitor the levels of anti-social behaviour within **INSERT LOCATION**. *Should your involvement in the unacceptable behaviour in that locality continue the Executive may consider the possibility of applying to the court for an Anti-Social Behaviour Order (an ASBO) **without further correspondence to you.***

The attached leaflet outlines what an ASBO is and what its legal effect is.

Yours sincerely

Patch Manager

**N.B. DETAIL ANY PARTNER AGENCY SCHEDULED TO ATTEND THE MEETING  
(PLEASE DELETE BEFORE SENDING)**

# Appendix 22C: ABC Letter to Parents, failure to attend

Local Office address

---

Name and Address

---

Date:

Ref:

Dear

**Re: Anti-social behaviour within INSERT LOCATION**

I refer to my letter dated **INSERT DATE** inviting you to attend a meeting with your son/daughter **INSERT NAME OF SON/DAUGHTER** to discuss his/her (**DELETE AS APPROPRIATE**) behaviour. I am disappointed that you did not take up the opportunity afforded to resolve the matter.

However, a second meeting has been arranged **FOR INSERT DATE, TIME AND LOCATION OF MEETING** and I would strongly urge you to attend. Please contact me within the next 5 days to advise if you are able to attend.

I must advise you that the Executive is continuing to monitor the levels of anti-social behaviour within **INSERT LOCATION**. *Should your son's/daughter's involvement in the nuisance behaviour in that locality continue the Executive may consider the possibility of applying to the court for an Anti-Social Behaviour Order (an ASBO) **without further correspondence to you.***

The attached leaflet outlines what an ASBO is and what its legal effect is.

Yours sincerely

Patch Manager

**N.B. IT MAY BE THAT POSSESSION PROCEEDING IN RESPECT OF THE PARENT'S TENANCY IS UNDER CONSIDERATION. IN THIS RESPECT THE LETTER SHOULD BE AMENDED TO REFLECT THIS. DETAILS ON ANY PARTNER AGENCY SHOULD ALSO BE INCLUDED IN THE LETTER (PLEASE DELETE THIS PARAGRAPH BEFORE SENDING)**

## Appendix 23: Mediation Referral Form

**Mediation**

**Services**

Local Office:

ASB Case No:

**1<sup>st</sup> Party Details**

Name:

Address:

Telephone No:

Agreed to Mediation -

**2<sup>nd</sup> Party Details**

Name:

Address:

Telephone No:

Agreed to Mediation -

**Brief Synopsis of Dispute (including any known vulnerability)**

**Details of Involvement of any Other Agency**

**Details of Interpreter Requirements**

**Name, Phone Number and email address of NIHE Officer Dealing with the Case**

# **Appendix 24: Conditions of Tenancy**

## **Conditions of Tenancy**

The Housing Executive's current Conditions of Tenancy stipulate that the tenant must:

### **Clause 1 (Rent)**

To pay the rent, rates and any other charges regularly and promptly when due

### **Clause 2 (Repairs and Maintenance)**

Maintain the dwelling in a clean and tidy condition, to make good any damage to the dwelling wilfully or negligently caused by the tenant or any other person lawfully living in or lawfully visiting the dwelling, to maintain and keep in repair anything which is a Tenant Responsibility and to comply with the provision of Schedule 3." (The 1983 Order)

### **Clause 3 (Use of Dwelling)**

To use the dwelling only as a private dwelling house

### **Clause 4 (Occupation)**

To occupy the dwelling as the only or principal home of the tenant

### **Clause 5 (Nuisance to Neighbours)**

Not to do or permit or suffer to be done in the dwelling or within the curtilage or neighbourhood of the dwelling, any act or thing which is or may be an annoyance or nuisance to the occupiers of any neighbouring or adjoining premises.

### **Clause 6 (Caravans etc.)**

Not to park or allow to be parked any caravan, boat, vehicle or other items or goods within the curtilage or neighbourhood of the dwelling in such a position or in such a manner as to cause a nuisance or annoyance to the occupiers of any neighbouring or adjoining premises.

### **Clause 7 (Gas)**

Not to store or permit or suffer to be stored any Liquid Petroleum Gas if the dwelling is a flat or a maisonette within a complex of four or more stories in height

### **Clause 8 (Gas)**

Not to store or permit or suffer to be stored any Liquid Petroleum Gas without the written permission of the Assistant Area Manager if the dwelling is any other type of flat with a shared access

**Clause 9 (Pets)**

Not to keep any domestic pets without the consent in writing of the District Manager (if the dwelling is a flat or maisonette).

**Clause 10 (Pets)**

Not to keep more than one domestic pet without the consent in writing of the District Manager (if the dwelling is not a flat or maisonette).

**Clause 11 (Planning and Building Control)**

Not to use or suffer or permit the dwelling to be used in any way contrary to the Planning (Northern Ireland) Orders, the Building Control Regulation or any amendment or replacement of such Orders or Regulations.

**Clause 12 (Planning and Building Control)**

Not to breach or permit or suffer any breach of;

- (a) The Planning (Northern Ireland) Orders or
- (b) The Building Control Regulations or
- (c) Any amendment or replacement of those Orders or Regulations

**Clause 13 (Structures)**

Not to erect or suffer or permit to be erected within the curtilage of the dwelling any dwelling any movable or immovable structure without the prior written consent of the District Manager except to the extent that this is permitted by Statute.

**Clause 14 (Keys)**

To pay for the replacement of any lost keys.

**Clause 15 (Assignments, Exchanges etc.)**

Not to assign, sub-let or otherwise part with possession of the dwelling or any part of it without prior written consent of the Assistant Area Manager, except to the extent that this is permitted by Statute.

**Clause 16 (Compensation for Damage)**

To pay to the Executive

- (a) The cost of remedying any loss or damage to the dwelling or fixtures therein to the extent that such loss or damage has been caused by the Tenant or any person lawfully living in or visiting the dwelling.
- (b) The cost of re-instatement if any unauthorised works have been carried out in respect of the dwelling

**Clause 17 (End of Tenancy)**

To deliver up the dwelling at the end of the tenancy in an acceptable condition with all additions (if any) and fixtures in good and tenantable repair (except to the extent that responsibility for such repair is placed upon the Executive by this agreement or otherwise) and in good decorative order and in a clean and tidy condition

**Clause 18 (Access)**

To permit persons authorised by the District Manager and the Executive's employees to enter the dwelling for the purposes of;

- (a) Viewing its condition; or
- (b) Reading, installing, servicing, improving or removing meters; or
- (c) Carrying out any works of repair; or
- (d) Carrying out any other works (whether of improvement alteration or otherwise)

**Clause 19 (Access)**

The Executive will normally (except in case of emergency)

- (a) Give at least 24 hours' notice before exercising any right of access conferred upon it by virtue of Clause 18 and
- (b) Not seek to exercise such a right of access at any time prior to 9.00am or after 6.00pm

## Appendix 25: NSP and Notes

### HOUSING (NORTHERN IRELAND) ORDER 1983, ARTICLE 28

Form \*\*\*

#### Notice of Seeking Possession of Secure Tenancy

THIS NOTICE IS THE FIRST STEP TOWARDS REQUIRING YOU TO GIVE UP POSSESSION OF YOUR DWELLING. YOU SHOULD READ IT, AND ALL THE NOTES, VERY CAREFULLY

1. To **INSERT NAME**
2. The Northern Ireland Housing Executive intends to apply to the Court for an order requiring you to give up possession of:

#### **INSERT ADDRESS**

3. Possession will be sought on ground(s) 1 and 2 of Part 1 of Schedule 3 to the Housing (Northern Ireland) Order 1983 which read(s):

#### **Ground 1**

“Any rent lawfully due from the tenant has not been paid or any obligation of the tenancy has been broken or not performed”.

#### **Ground 2**

“The tenant or a person residing in or visiting the dwelling house:

1. has been guilty of conduct causing or likely to cause a nuisance or annoyance to a person residing, visiting or otherwise engaging in a lawful activity in the locality, or
2. has been convicted of :
  - i) using the dwelling house or allowing it to be used for immoral or illegal purposes, or
  - ii) an indictable offence committed in or in the locality of the dwelling house.”

4. The reasons for taking this action are:

#### **Ground 1**

**INSERT NAME** is obliged by Clause 5 of Part 1 of the General Conditions of Tenancy “Not to do or permit or suffer to be done in the dwelling or within the curtilage or neighbourhood of the dwelling any act or thing which is or may be an annoyance or nuisance to the occupiers of any neighbouring or adjoining premises”.

In doing or permitting or suffering to be done the annoyance or nuisance described in Appendix 1 **INSERT NAME** has broken or not performed this obligation.

**Ground 2**

**INSERT NAME** or person (s) residing in or visiting the dwelling-house have been guilty of the conduct specified in Appendix 1.

**~~Cross out this paragraph if possession is being sought on ground 2 of Schedule 3 to the Housing (Northern Ireland) Order 1983 (whether or not possession is also sought on another ground)~~**

~~5. The court proceedings will not be begun until after~~

**Cross out this paragraph if possession is not being sought on ground 2 of Schedule 3 to the Housing (Northern Ireland) Order 1983**

6. Court proceedings for possession of the dwelling house may be begun immediately (see section 9 of the Notes at the end of this Notice).

The earliest date by which you can be required to give up possession of the dwelling house is

.....

Signed.....

On behalf of.....

Address.....  
.....  
.....

Tel no.....

Date.....

## **NOTES**

### *Grounds for possession*

1. If you have a secure tenancy under the Housing (Northern Ireland) Order 1983, you can only be required to leave your dwelling following an order of the Court on one or more of the grounds set out in Schedule 3 to that Order. Paragraph 3 of this Notice tells you on what grounds an order is sought against you and paragraph 4 gives the landlord's reasons for believing those grounds apply. If you do not agree that they apply, you will be able to argue your case at a hearing in Court.

### *Does the Court have to grant the landlord possession?*

2. Before the Court grants an order on any of the grounds 1 to 6 or 8 to 11 it must be satisfied that it is reasonable to require you to leave. This means that, if any of these grounds are mentioned in paragraph 3 of this Notice, you will be able to argue to the Court that it is not reasonable you should have to leave, even if you accept that the grounds do apply.

### *Suitable alternative accommodation*

3. Before the Court grants an order on any of the grounds 7 to 11 it must be satisfied that there will be suitable alternative accommodation for you when you have to leave. This means that the Court will have to decide that, in their opinion, there will be other accommodation which is reasonably suitable for the needs of you and your family, taking into account various factors such as the nearness of your place of work and the sort of housing that other people with similar needs are offered. Your new home will have to be let to you on another secure tenancy or a tenancy under the Rent (Northern Ireland) Order 1978 that will give you similar security. There is no requirement for suitable alternative accommodation where grounds 1 to 6 apply.
4. If your landlord is a registered housing association, and the Housing Executive gives a certificate that it will provide you with suitable accommodation, the Court has to accept the certificate.
5. Whatever grounds are set out in paragraph 3 of this Notice, the Court may allow any of the other grounds to be added at a later stage. If this is done, you will be told about it so you can argue about the new ground if you want to.

### *Time limits*

6. Except where possession is being sought on ground 2 (which relates to anti-social behaviour), court proceedings cannot be begun until after the date given in paragraph 5 of this Notice. The date given in paragraph 5 cannot be earlier than the date when your tenancy could have been brought to an end if it was not a secure tenancy. This means that, if you have a weekly or fortnightly tenancy, there should be at least 4 weeks between the date this Notice is given and the date in paragraph 5.
7. After the date in paragraph 5, court proceedings may be begun at once or at any time during the following twelve months. Once the twelve months is up the Notice will lapse and it will be necessary for a new Notice to be served before possession can be sought.
8. Where possession is sought on ground 2, Court proceedings may be begun at once or at any time during the following twelve months, although possession of your dwelling cannot be obtained until after the date given in paragraph 6 of this Notice. The date given in paragraph 6 cannot be earlier than the date when your tenancy could have been brought to an end if it was not a secure tenancy. This means that, if you have a weekly or fortnightly tenancy, there should be at least 4 weeks between the date this Notice is given and the date in paragraph 6.

#### *Landlord's offer of support*

9. Where the landlord is in a position to seek possession on ground 2, the landlord may offer support to help you and your household to address any behaviour relating to this ground. If you accept such an offer, the landlord may decide to review its decision to seek an order for possession. If you do not accept the landlord's offer of support, it is likely that the landlord will seek to have Court proceedings for possession of your home begun at once.

#### *Leaving without a Court order*

10. If you are willing to give up possession without a Court order, you should notify the person who signed the notice as soon as possible and specify a date on which your tenancy is to terminate. This date must be not less than four weeks from the date of notification.

#### *Further advice*

11. If you need advice about this Notice, and what you should do about it, take it as quickly as possible to a Citizen's Advice Bureau, the Housing Rights Service, the Law Centre or to a solicitor. You may be able to receive Legal Aid but this will depend on your circumstances.

## Appendix 26: Schedule of Incidents

**Mary Boyd**  
**1 Manual Street**  
**Belfast**  
**Co Antrim**  
**BT**

### **July 2014**

- 03/07/14 - 04/07/14 Between 11.00pm and 12.30am the sound of loud music and shouting shouting emanated 1 Manual Street.
- 17/07/14 Between 5.30pm and 11.00pm the sound of loud music emanated from 1 Manual Street. During this time all the windows were open in the property
- 18/07/14 Between 10.15pm and 11.00pm Mary Boyd, tenant of 1 Manual Street 6 visitors to her property, became involved in a loud and heated argument in her front garden. During this time Mary Boyd punched a young male and a physical fight ensued.
- 19/07/14- 20/07/14 Between 5.00pm and 2.00am the sound of loud music emanated from 1 Manual Street. During this time a visitor to the property was hanging out the bedroom window shouting "We can do what we want no-one will stop us".
- 22/07/14 - 23/07/14 Between 10.00pm and 6.00am the sound of loud music emanated from 1 Manual Street. During this time people were frequently running in and out of the back garden banging doors, screaming and shouting about getting "some skins".

### **August 2014**

- 02/08/14 - 03/08/14 Between 6.45pm and 1.45am the sound of loud music emanated from 1 Manual Street. During this time Mary Boyd and her visitors were shouting and arguing about money and "tabs" being missing, Mary Boyd shouted out the bedroom window at one of her visitors "some one of yous has stolen my joints of grass and when I find out who it is I'm going to kick their head in".
- 04/08/14 Between 9.00pm and midnight shouting and loud music emanated from 1 Manual Street. During this time Mary Boyd was hanging out her bedroom window calling neighbours "touts" as they walked past
- 05/08/14- 06/08/14 Between 8.00pm and 4.00am the sound of loud music emanated from 1 Manual Street.
- 09/08/14 Between 5.30 am and 9.00am Mary Boyd and her partner Joe Bloggs were shouting and arguing both inside and outside 1 Manual Street.

## Appendix 27A: NOP and Notes

### Notice of Proceedings for Possession of an Introductory Tenancy

---

**THIS NOTICE IS THE FIRST STEP TOWARDS REQUIRING YOU TO GIVE UP POSSESSION OF YOUR DWELLING. YOU SHOULD READ IT AND THE ATTACHED NOTES VERY CAREFULLY.**

HOUSING (NORTHERN IRELAND) ORDER, 2003, (Article 10)

---

#### NOTICE OF PROCEEDINGS FOR POSSESSION OF AN INTRODUCTORY TENANCY

---

1. To: [insert name and address]
2. The Northern Ireland Housing Executive intends to ask the Court for an Order for the possession of:

[insert address]

thus ending your introductory tenancy which commenced on [insert date].

3. Possession will be sought pursuant to the provisions of Part 2 Chapter 2 of the Housing (NI) Order, 2003. The reason(s) for applying for a possession order to terminate your introductory tenancy is/ are [insert summary of breach].

A Schedule of Incidents is attached – see appendix 1.

4. The Court Proceedings will not be begun until after [insert relevant date, i.e. a minimum of 35 days from service date (expiry date must be a Monday)].

5. You have the right to request the Housing Executive to hold a review of the decision to seek an order for possession. If you decide to seek such a review you must notify the Housing Executive before the end of 14 days from the day on which this Notice has been served on you.

6. Further Advice

If you need help or advice about this notice and what you should do about it, take it as soon as possible to a Citizens Advice Bureau, the Housing Rights Service, Law Centre or to a solicitor. You may be able to receive legal aid but this will be dependent on your personal circumstances.

The enclosed leaflet explains the review process and how to request a review. A review request form is enclosed. If you request a review it will be held and the decision notified to you before [insert the date as specified in paragraph 4, above].

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

Date: \_\_\_\_\_

## Notes for Notice of Proceedings for Possession of an Introductory Tenancy

### Grounds for Possession

- 1) If you have an introductory tenancy under the Housing (Northern Ireland) Order 2003, you can only be required to leave your dwelling following an order of the court. If you do not agree that the reasons why the Housing Executive is applying for a possession order apply, you have the right to request a review of the decision. The enclosed leaflet explains the process. Should you wish to contest the decision to end your tenancy complete the enclosed Introductory Tenant's Review Request Form.
- 2) Time limits  
Court proceedings cannot be begun until after the date when your tenancy could have been brought to an end. This means that if you have a weekly or fortnightly tenancy there should be at least 4 weeks between the date this notice was given and the date in paragraph 4 of the Notice of Proceeding for Possession. After the date in paragraph 4, and dependent upon the outcome of any review hearing, court proceedings may be begun at once or at any time prior to the end of the trial period of the Introductory Tenancy.
- 3) Does the court have to grant the landlord possession?  
The court will be required to grant the order for possession provided the Housing Executive has followed correctly the notice requirements set out in Article 10 of the Housing (NI) Order, 2003.
- 4) Leaving without a court order  
If you are willing to give up possession without a court order you should notify the person who signed the notice as soon as possible and specify a date on which your tenancy is to terminate. This date must be not less than four weeks from the date of notification.

## Appendix 27B: NOP covering Letter

[Address of Local Office]

[Name and Address]

Date:

**Our Ref:**

Dear

**Re: Notice of Proceedings for Possession**

I enclose by way of service a Notice of Proceedings for Possession of your Introductory Tenancy. The reasons for seeking recovery of your tenancy are detailed in the Notice at paragraph 3.

The Housing Executive has tried to resolve the problem by;

If you feel that the decision to end your tenancy is wrong you can ask for the decision to be reviewed by completing the attached form. Should you wish to request a review, the Review Request form should be completed and returned to the Housing Executive – see paragraph 5 of the Notice of Proceedings.

The enclosed leaflet explains the review procedure and you should read this carefully. If you do not request a review within the specified time period, the Housing Executive will issue legal proceedings after the date specified in paragraph 4 of the Notice of Proceedings and seek an order for possession.

Yours Sincerely,  
Patch Manager

## Appendix 27C: Leaflet Ending an Introductory Tenancy

Ending an

Introductory

Tenancy

on grounds of

Anti-Social Behaviour

## Terminating an Introductory Tenancy

You have received a Notice of Proceedings for Possession which states that the Housing Executive now intends to proceed to court and seek an order for possession of your home on grounds of antisocial behaviour.

As an Introductory Tenant you have the right to request a review of this decision. Should you wish to contest the decision to end your tenancy, please complete the enclosed Introductory Tenancy Review Request form, and return it to the address on the form.

**Your written request for a review must be received by the Housing Executive within 14 days of your receipt of the Notice of Proceedings for Possession.**

There will be no further opportunity to put your case to the Executive for consideration.

## The Review Process

You may choose to attend the review hearing in person or you may wish to make representation to the review panel in writing.

The Housing Executive will notify you at least five days before the review of the date, time and venue of the hearing.

If you have chosen to attend the review you have the right to:

- Be heard and to be accompanied by another person who may be a solicitor
- Call upon other parties to give evidence
- Put questions to any person who gives evidence at the hearing
- Make representations to the panel in writing

Senior Housing Executive officers will review the case. The officers will not have been involved in the original decision to terminate your tenancy.

## The Role of the Review Panel

### The Review Hearing

The Review panel will check that the Housing Executive has adhered to the correct legal procedures for ending your Introductory Tenancy and that the decision to terminate the tenancy is reasonable on the basis of the available evidence. You will receive notification of the review panel's decision.

All requests for a review should be forwarded to the address specified.

## Court Proceedings

If the review accepts that the original decision to terminate your introductory tenancy was correct the Housing Executive will apply to the court for an order for possession.

You will be advised of the date of the court hearing.

## After the Court Hearing

If the Housing Executive is granted an order for possession your Introductory Tenancy will be terminated and you will be asked to leave your home.

If you choose to remain in the property, the Housing Executive will proceed to have the court order enforced through the Enforcement of Judgements Office.

## Eligibility for housing

If the Housing Executive is granted an order for possession of your home, you may be considered ineligible for housing assistance in the future.

# Appendix 27D: Introductory Tenant – Review Request

## Introductory Tenancy – Review Request Form

### Request for a Review of the Decision to Terminate your Introductory Tenancy

Please read the enclosed leaflet before completing the form. It is important to note that the Housing Executive must receive your request for a review within 14 days of receipt of the Notice of Proceedings. Failure to do so will result in your request for a review hearing being denied.

1. Tenant Names: \_\_\_\_\_

2. Address:

---

---

---

---

3. Please state your reasons for requesting a review:

---

---

---

---

---

---

---

---

4. Please indicate whether you would wish to

a) Put your case in writing \_\_\_\_\_

or

b) Attend the hearing and present your case in person \_\_\_\_\_

5. If you intend to attend an oral hearing, will anyone represent you? Yes/ No

6. Name and address of person who will represent you:

---

---

---

7. Please provide names/ addresses of any persons you intend to call as witnesses

Name and Address

---

---

8. Any written representations you wish to make should be submitted to the Housing Executive at the address below.

9. Signed \_\_\_\_\_ Date \_\_\_\_\_

This form should be returned to  
INSERT ADDRESS

# Appendix 27E: Contents Page for Review Hearing File

Introductory Tenancy Review Hearing:

Location

Date / Time

Introductory Tenant

Name

Address

**Associated Correspondence** (all documents position in file should be specified in respect of Relevant Section/Item)

1. Signed acceptance of Tenancy  
Tenancy Agreement signed (date) with a tenancy commencement date of (date)  
(Section \*\*, Item \*\*)
2. Copy of Notice of Proceedings for Possession  
Notice of Proceedings Issued (date if issue) (Section \*\* Item \*\*), copy of attached Schedule of Incidents, copy of covering letter
3. Confirmation of Service of Proceedings  
To detail type of service e.g. personal service, service via special delivery. To include copy of dispatch receipt and confirmation of service details if applicable.
4. Copy of Request for Review Hearing  
Completed Review Request form received (date) requesting an oral review hearing or hearing via correspondence. Detail tenant's representative, if any.
5. Copy of correspondence confirming date, time, location of review hearing  
Letter dated ----- sent by NIHE to ----- solicitors/introductory tenant acknowledging receipt of request for review hearing.  
  
Letter dated ----- sent by NIHE to ----- confirming date, time and location of review hearing

## **Review Hearing File - Contents Page (cont)**

Relevant Extracts from the Housing Executive's Local Office File – to be listed in date order

1. Copy of no access card left by the NIHE Patch Manager on 12.02.04 at 22 Any Street.
2. Copy of warning letter dated 20.02.04 from NIHE to Mr.Any regarding nuisance and noise emanating from 22 Any Street.
3. File note dated 02.03.04 in respect of interview with Patch Manager and Mr. Any regarding complaint and verbal warning issued regarding nuisance.
4. Copy of letter dated 14.03.04 from the Environmental Health Department, Any District Council to Mr. Any regarding receipt of a complaint regarding excessive noise emanating from 22 Any Street.
5. Photographs of front and rear aspect of the dwelling 22 Any Street, dated 18.03.04
6. Copy of map showing Any Street
7. File note dated 01.04.04 detailing outcome of contact between Mr. Kidd and NIHE Mediation Service.
8. E-mail dated 06.04.04 from \_\_\_\_\_ (Area Maintenance Manager) to \_\_\_\_\_ (Team Leader) detailing the findings of an inspection of the property 22 Any Street by \_\_\_\_\_.
9. Copy of note taken by \_\_\_\_\_ (Team Leader) on 12.04.04 at time of interview with neighbours of Mr. Any.
10. Copy of petition dated 16.04.04 received by \_\_\_\_\_ Local Office 21.04.04.
11. Copy correspondence from the PSNI reports dated:
  - i) 20.04.04
  - ii) 28.04.04
12. Copy of updated Schedule of Incidents incorporating incidents recorded following the service of the Notice of Proceedings.

# Appendix 27F: Structure of Local Office's Presentation

## Guidelines in respect of Case Presentation by Local Office - At Introductory Tenancy Review Hearing

### Areas to Be Addressed

NB. Throughout the presentation of the case reference should be made to the Review Hearing File and the supporting documentation contained within.

#### Context

- Tenancy commencement date (Acceptance of Tenancy) 24/05/04 – Section \*\* Item \*\*
  - Type of property – refer to pictures (Section \*\*)
  - Tenure of area
  - Characteristics of area – settled, degree of anti-social behaviour
2. Procedures
- Notice of Proceedings issued by NIHE - date  
received - date  
type of service – evidence of service  
(Section \*\*)
  - Request for review received Insert date (Section \*\*)
3. Specify when NIHE became aware of the problem, date of first complaint

Explain nature of the ongoing nuisance – noise, shouting, drinking, attracting other individuals to flat etc.

Refer to the Schedule of Incidents – ongoing nature of the complaints prior to and after the service of the Notice of Proceedings.

4. Detail the extent to which the district investigated the allegations and attempted to resolve the problem

Refer to specific

- Discussions with introductory tenant in respect of the ASB and the associated verbal warnings (Section \*\*)
- Warning letters – detail content (Section \*\*)
- Service of the Notice of Proceedings

Emphasise the continuation of the ASB after the Service of the Notice –

Refer to Updated schedule of incidents (Section \*\* item \*\*)

5. Mediation (Section \*\*)

Explain how the NIHE had hoped to resolve the problem via mediation

Detail the Introductory Tenants response and outcome of the process

6. Conclusion

Explain:

- possession proceedings initiated only as an action of last resort
- not a decision taken lightly by the district
- district had endeavoured to balance the interests of the introductory tenant with that of his neighbours but had been obliged to come to the conclusion that possession was the only available option given the continuation of the nuisance.

Issues Should They Arise

Anonymity of complainants - no obligation on the part of the NIHE to disclose the identity of the complainants at this stage of the possession proceedings. (Disclosure should only be requested in any case once the Ejectment Civil Bill has been issued and a notice of intent to defend lodged with the courts)

Supporting Evidence from other agencies – to determine usefulness

# Appendix 28A: Sample Summons and Prohibitions for ASBO

## SCHEDULE

### FORM 1

#### ANTI-SOCIAL BEHAVIOUR (NORTHERN IRELAND) ORDER 2004

#### MAGISTRATES' COURTS (ANTI-SOCIAL BEHAVIOUR ORDERS) RULES (NORTHERN IRELAND) 2004

(Article 3, Rule 2(1))

#### **Summons on complaint for anti-social behaviour order**

of Northern Ireland Housing Executive      Petty Sessions District of Belfast  
2 Adelaide Street  
Belfast, BT2 8PB

Complainant

of Paula Body      County Court Division of Belfast  
1 Anybody Street  
Belfast

Defendant

WHEREAS a complaint has been made before me in respect of an application for an anti-social behaviour order under Article 3 of the Anti-social Behaviour Order (Northern Ireland) Order 2004 to the following effect, viz –

- (a) That you, the above-named defendant between the dates of 3 July 2006 and 9 August 2006 inclusive, at and in the locality 1 Anybody Street, Belfast, acted in an anti-social manner, that is to say, in a manner that caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household as yourself, namely, in the manner as set out and described in the attached schedule; and

- (b) That an anti-social behaviour order is necessary to protect relevant persons from further anti-social acts by you, and accordingly application is made for an anti-social behaviour order containing the following prohibition(s):
- (i) You must not play music at a loud volume 1 Anywhere Street
  - (ii) You must not create a loud noise by shouting, swearing or arguing 1 Anywhere Street or in the area indicated on the attached map and outlined in red.
  - (iii) You must not cause, permit or suffer 1 Anywhere Street to be used by others as a place to play loud music, or to create loud noise by shouting, swearing or arguing.
  - (iv) You must not have or permit more than three visitors to be in the premises at 1 Anywhere Street, Belfast at any time.
  - (v) You must not cause, permit or allow, assault of, or fights with any person in 1 Anywhere Street, Belfast or in the area indicated on the attached map and outlined in red.
  - (vi) You must not engage in, encourage or allow, harassment of, or intimidation of any person at 1 Anywhere Street, Belfast or in the area indicated on the attached map and outlined in red.
  - (vii) You must not associate with Jim Body and/or Joe Bloggs at 1 Anywhere Street, Belfast or in the area indicated on the attached map and outlined in red.

The complainant has, in accordance with Article 5 of the 2004 Order, consulted with the following relevant authorities, namely:

- Belfast City Council
- The Chief Constable of the Police Service in Northern Ireland

Accordingly application is made for an anti-social behaviour order under Article 3 of the 2004 Order.

THIS IS TO COMMAND YOU to appear as a defendant at the hearing of the said application at (place) on (date) at (time) before a magistrates' court for the said petty session's district.

This            day of            2006

Justice of the Peace

[Resident Magistrate]

To:    Paula Body  
         1 Anywhere Street  
         Belfast

**Note:**

Where the court is satisfied that this summons was served on you within what appears to the court to be a reasonable time before the hearing or adjourned hearing and you fail to appear, the court may issue a warrant for your arrest or proceed in your absence.

If an anti-social behaviour is made against you and if, without reasonable excuse, you do anything you are prohibited from doing by such an order, you shall be liable on conviction to imprisonment for a term not exceeding five years, or to a fine, or both.

## Example of Prohibitions

- Using foul, offensive or racist language to any person;
- assaulting, threatening or intimidating any person;
- threatening to cause, attempting to cause or causing criminal damage to property or premises;
- using or encouraging others to use threatening, abusive or insulting words or behaviour in any place to which the public have access within (X);
- offensive behaviour by words or acts in the presence of residents of and/or visitors in the [specified] area, for example, but not limited to, throwing litter and urinating in public;
- throwing anything at any building or person in [named area] or encouraging others to do so;
- drinking or possessing alcohol in public within [named place];
- buying or trying to buy alcohol from any establishment selling off sales;
- associating with any of the following listed below in any place to which the public has access within (X) [Name individuals, dates of birth];
- congregating and/or sitting with [named people] on the steps leading to and/or the basement area of [named];
- being under the influence of alcohol in (X) [state public location];
- drinking alcohol in any public street or place [state location];
- being at [named] when drunk or under the influence of unlawful drugs, or for the incidental purpose of drinking alcohol or taking drugs;
- remaining on any shop, commercial or hospital premises [state locations] if asked to leave by staff;
- being at [named airport] unless a genuine airline passenger;
- remaining on any private land or in any building or part of a building when asked to leave [by];
- entering any shop or commercial premises from which he has been barred [state which premises];
- carrying weapons in a public place [state type(s) of weapon];
- soliciting or loitering in any [named] road, street, public place for the purposes of prostitution;
- committing any lewd or obscene act in any public place [specify what acts];
- using the public footpath alongside (X) school which extends between (Y) and (Z);
- driving any motor vehicle or being carried in/or on a motor vehicle which is not licensed, taxed or insured by that driver;
- spitting at or near residents of and visitors of (X);
- causing harassment, alarm or distress, or behaving in any way which is likely to cause harassment, alarm or distress to any person within the premises of [named place];
- using words, behaviour or gestures that are rude or offensive or indecent or obscene, or encouraging others to do so;
- associating with persons engaging in such behaviour; or acting or encouraging others to act in an anti-social manner that causes or is likely to cause harassment, alarm or distress

# Appendix 28B: ASBO Certificate of Consultation

Housing Executive

ANTI-SOCIAL BEHAVIOUR (NORTHERN IRELAND)  
ORDER 2004

## Certificate of Consultation

### Anti-Social Behaviour Order (on application)

Subject Name:

Date of Birth:

Address:

---

I confirm that I am the officer with delegated authority for the Council/PSNI\*. I certify that I have been consulted in connection with an application for an anti-social behaviour order (on application) in respect of the above subject:

Name

Position

Organisation:

Signature

Date

\*delete as appropriate

---

## Appendix 28C: ASBO Consultation Letter

[Name of Agency  
And Address]

---

**Date**

**Our Ref**

Dear

The Northern Ireland Housing Executive is considering the possibility of applying for an Anti-Social Behaviour Order in respect of the alleged persistent anti-social behaviour of -----  
----- in the vicinity of ----- estate.

As you may know the power to apply for this Order derives from The Anti-Social Behaviour (Northern Ireland) Order 2004. Under the 2004 Order there is a duty placed on the Housing Executive prior to the initiation of proceedings to ensure there has been full consultation with the police and the relevant district council before any decision is taken as to whether an ASBO should be applied for.

In addition to the formal consultation process required by the statute the Housing Executive would now wish to advise your department of the proposals.

In this respect I would like to invite you or a representative from your department to a forthcoming case conference where this case will be discussed. I would therefore be grateful if you would bring along any relevant information which may assist in determining whether ASBO action is appropriate at this point in time.

Should you wish to discuss this matter prior to the conference please contact -----

Thank you in anticipation of your assistance

Yours sincerely  
Patch Manager

## **Appendix 28D: List of alternative action to ASBO**

Other legislative options /diversionary activities should be considered when determining whether an ASBO is the most appropriate course of action.

### **a) District Council Powers**

- The Pollution Control and Local Government (NI) Order - Noise, illegal dumping, abandoned cars
- The Noise Act 1998 - adopted by Belfast City Council
- The Litter (NI) Order 1994
- The Local Government Miscellaneous Provisions Orders – Fly posting/ graffiti
- The Waste and Contaminated Land (NI) Order 1997 - Dumping
- The Street Trading (NI) Order 2001 – Illegal street trading
- The Rent (NI) Order 1978 – Issues in private rented housing i.e. harassment of tenants by landlords
- Council Byelaws – Drinking in designated public places, regulation of parks etc.

Enforcement action on breach of the legislation may include statutory notices, fixed penalty fines and prosecutions.

### **b) Police Powers**

- Criminal Prosecution
- Anti-social behaviour Warning Letter
- Acceptable Behaviour Contracts – ABCs
- Youth Diversion
- Adult Diversion

### **c) Social Services Action**

- The Children (NI) Order 1995

### **d) Northern Ireland Housing Executive**

- Injunctions
- Possession Proceedings
- Mediation
- Introductory Tenancies
- Anti-Social Behaviour Warning Letters
- Acceptable Behaviour Contracts – ABCs
- Housing Selection Scheme/Homelessness – Eligibility

## Appendix 28E: ASBO Letter for 16-17 years of age advising ASBO being applied for

---

Insert name  
AND ADDRESS]

---

Date:

**Our Ref:**

Dear INSERT NAME

The Housing Executive has received a number of complaints in relation to your behaviour, and the behaviour of your visitors **(delete where applicable)** at **INSERT ADDRESS OR LOCALITY**. The complaints relate **INSERT BEHAVIOUR WHICH MAY BE** mainly to **loud music, partying, arguing, shouting and fighting, which frequently happens from evening to early morning**.

The Housing Executive is satisfied that your behaviour has caused, and is likely to cause harassment, alarm and distress to persons not of the same household as yourself and that an Anti- Social Behaviour Order (ASBO) is necessary to protect such persons from further anti-social acts by you.

You will recall that at a meeting on **INSERT DATE** (which was also attended by your mother/father), **(DELETE AS APPLICABLE)** with a representative from the PSNI and the NIHE, that you were warned that such behaviour must stop. You subsequently signed an ABC (Acceptable Behaviour Contract) on **INSERT DATE** which you broke shortly afterwards. **(delete if n/a)**

In view of your continued anti-social behaviour the Executive now intends to apply to the court for an ASBO. I enclose a document outlining what an ASBO is and what its legal effects are. Basically, an ASBO can prohibit you from doing specified anti-social acts and behaviour and can also prohibit you from associating with certain persons. These orders can last for a minimum of 2 years and breach of such an order can result in imprisonment.

Given the seriousness of this matter, this letter has been copied to your parents **(AMEND IF NECESSARY)**.

Yours sincerely

Patch Manager

# Appendix 28F: ASBO Letter to Parents for meeting Part 1

[Click here and type recipient's address]

---

Date:

**Our Ref:**

Dear [Click here and type recipient's name]

**Re: Anti-social behaviour within [insert Location/Area]**

The Housing Executive is concerned about the recent behaviour of your **Son/Daughter** \_\_\_\_\_. It has been brought to the Housing Executive's attention that your son/daughter has been involved in various acts of anti-social behaviour as detailed in the attached scheduled. As a result of these acts, the Executive is considering the possibility of applying to the court for an Anti-Social Behaviour Order (an ASBO). The attached document outlines what an ASBO is and what its legal effect is.

However, the Housing Executive would prefer to resolve the matter amicably without a court order. In this regard, it would like to meet with you and your **son/daughter**. The purpose of the meeting is to try to improve your son's behaviour so that there will be no necessity for any court orders.

In this regard I would request that you attend a meeting with your **Son/Daughter** on \_\_\_\_\_ day \_\_\_\_\_ date \_\_\_\_\_ time \_\_\_\_\_ location to discuss the matter further. I would strongly urge you to attend as it is very much in everyone's interest to discuss the current situation. If the above date and time are not convenient for you please contact me at Tel: \_\_\_\_\_ and a more suitable time will be arranged. If the date and time is convenient would you please confirm your attendance?

I would ask you to note that failure to attend such a meeting may result in the Executive applying to the court for an ASBO, without further correspondence with you.

Yours sincerely

Patch Manager

## Appendix 28F: ASBO Letter to Parents for meeting Part 2

[Address of Local Office]

---

[Name  
And Address]

---

Date:

**Our Ref:**

Dear

**Re: Anti-social behaviour within [insert Locality/Area].**

The Housing Executive is concerned about your recent behaviour. It has been brought to the Housing Executive's attention that you have been involved in various acts of anti-social behaviour as detailed on the attached schedule. As a result of these acts, the Housing Executive is considering the possibility of applying to the court for an Anti-Social Behaviour Order (an ASBO). The attached leaflet outlines what an ASBO is and what its legal effect is.

However, the Executive would prefer to resolve the matter amicably without a court order. In this regard, I would like to meet with you. The purpose of the meeting is to try to improve your behaviour so that there will be no necessity for any court orders.

In this regard I would request that you attend a meeting with your parents on \_\_\_\_\_ day \_\_\_\_\_ date \_\_\_\_\_ time \_\_\_\_\_ location to discuss the matter further. I would strongly urge you to attend as it is very much in everyone's interest to discuss the current situation. If the above date and time are not convenient for you please contact me at Tel: \_\_\_\_\_ and a more suitable time will be arranged. If the date and time is convenient would you please confirm your attendance? I would advise that a letter has been sent to your parents advising them of the current situation and asking them to attend the meeting.

I would ask you to note that failure to attend such a meeting may result in the Executive applying to a court for an ASBO, without further correspondence with you. Given the circumstances of this matter, this letter has been copied to your parents/guardian.

Yours sincerely  
Patch Manager

## Appendix 28G: ASBO letter to 16 - 17 year old Did Not Attend

[Address of Local Office]

---

Name

And Address

---

Date

**Our Ref:**

Dear

**Re: Anti-social behaviour within Locality/Area**

I refer to my letter dated (**INSERT DATE**) inviting you to attend a meeting with your parents to discuss your behaviour. I am disappointed that you did not take up the opportunity afforded to resolve the matter.

I must advise you that the Executive is continuing to monitor the levels of anti-social behaviour within [**INSERT LOCATION/AREA**]. Should your involvement in unacceptable behaviour in that vicinity continue the Executive may consider the possibility of applying to the court for an Anti-Social Behaviour Order (an ASBO) **without further correspondence to you.**

The attached leaflet outlines what an ASBO is and what its legal effect is.

Yours sincerely

Patch Manager

## Appendix 28H: ASBO Warning letter to Adults

[Address of Local Office]

---

Name

And Address

---

Date:

**Our Ref:**

Dear

**Anti-Social Behaviour Order (ASBO)**

You have been identified as being involved in anti-social behaviour in the **INSERT AREA**

Specifically, it is alleged you have been involved in:

- **List the allegations e.g.**
- Spitting
- Verbal and Racist abuse
- Vandalism of Properties
- Arson . . . . etc

This type of behaviour has caused, or is likely to cause harassment, alarm and distress to other members of the community.

**You are formally warned that this behaviour will not be tolerated and must stop immediately.** Should you fail to heed this warning, we will not hesitate to apply to the courts for an ASBO or take other legal action against you. / We are applying for an ASBO to order you to stop this behaviour. **[Delete as appropriate]**.

An ASBO could exclude you from certain areas; stop you from associating with other known trouble makers, congregating in groups or travelling in any motor vehicle.

**These orders last for a minimum of two years. Breach of such an order carries a maximum penalty of up to five years in prison.**

**This is an extremely serious situation and you are strongly recommended to see legal advice on receiving this letter.**

Yours sincerely

Patch Manager

## Appendix 28I: ASBO Letter to Social Services

[Address of Local Office]

---

[Name  
And Address]

---

Date:

**Our Ref:**

Dear

I am writing to advise that the Northern Ireland Housing Executive is considering the possibility of applying for an Anti-Social Behaviour Order in response to the alleged persistent anti-social behaviour of **INSERT NAME** in the vicinity of **INSERT AREA/LOCATION**

An Anti-social Behaviour Order (ASBO) is an order of the court which prohibits an individual from engaging in further acts on anti-social behaviour and application may be made in respect of any person aged 10 years and upward.

**Insert Name** is a **Insert Age** old child and we have already written to **his/her** parents in respect of the situation and requested them to attend a meeting in conjunction with **INSERT OTHER AGENCIES IF APPROPRIATE OR DELATE** in an attempt to improve the situation and resolve the matter voluntarily without the necessity for any court order.

Should **INSERT NAME** be involved with your department or if you wish to discuss the your potential role in this case I would welcome your comments.

Yours sincerely

Patch Manager

## Appendix 28J: ASBO - Risk Assessment Form

### Applicant Details

Name					
Address					
Tel.no					
D.O.B.		Gender		Ethnicity	

### List of Previous Convictions

Date	Offence Details

Current Offending Behaviour	
Previous	
No History	

### Risk of Harm

Context of Risk(s) Identified	
Mental Health	
Drugs	
Alcohol	
Violence	

	Staff	Public	Witness	Others
High				
Medium				
Low				

Signed:

Date: