

13. Variation and discharge of an order

Variation or discharge of an order, including an interim order, may be made on application to the court that originally made it. An application to vary or discharge an order made on conviction in criminal proceedings may be made to any magistrates' court within the same petty sessions areas as the court that made the order. The application can be made either by the original applicant in the case or the defendant. An order cannot be discharged within two years of its service without the consent of both parties. An order made on conviction cannot be discharged before the end of two years. Prohibitions, however, can be varied, removed or added within that initial two year period.

The procedure for variation or discharge is set out in the Magistrates' Courts (Anti-Social Behaviour Orders) Rules 2002, the Crown Court (Amendment) Rules 2002 and the Civil Procedure Rules. These are published separately from this guidance and are available on the crime reduction website at www.crimereduction.gov.uk

If the individual who is subject to the order asks for its variation or discharge, the agency that obtained the order needs to ensure that a considered response is given to the court. If it is decided that the lead agency should contest the application for variation or discharge, it should give the court its reasons, supported as appropriate by evidence gathered in the course of monitoring the effectiveness of the order. The magistrates' legal adviser will send details of the variation or discharge of any order to the local police force and local authority. The police should record any discharge or variation of the order on their computer system and arrange for any changes to be reflected in the Police National Computer record.