

*Managing the application process*

to an application being made but rather that they should be told of the intended application and given the opportunity to comment. This should ensure at the very minimum that actions taken by each agency regarding the same individual do not conflict.

While no agency has a veto over another agency's application for an order, the expectation is that any reservations or alternative proposals should be discussed carefully against the background of the overriding need to bring the anti-social behaviour to a speedy end. Again, the case conference procedure is designed to ensure that this happens.

A signed document of consultation is all that is required by the court. This should not indicate whether the party consulted was or was not in agreement. This is not required by the legislation. Supporting statements or reports from partner agencies should be provided separately.

The changes introduced by the Police Reform Act 2002 reduce bureaucracy by removing the need for applying agencies to consult with every local authority and police service whose areas are included in the order.

In addition to the consultation requirements set out above, it may be helpful for police forces to contact the BTP, which may hold information on the anti-social behaviour of the subject. The availability of this information may assist the evidence-gathering process for an order. The BTP holds a national database of offenders committing summary offences (these include railway-specific summary offences as well as those included in Home Office counting rules).

Police forces can request a search on a particular offender, in writing, from the Force Crime Registrar, British Transport Police, Force Headquarters, 15 Tavistock Place, London WC1H 9SJ.

## Collection of evidence

When applying for an order, the lead agency will be required to gather evidence to prove its case beyond reasonable doubt. This evidence can include hearsay evidence. Further advice on hearsay evidence is provided later in the guidance.

The evidence in support of an application for an order should prove:

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

The court then needs to evaluate whether an order is necessary to protect persons from further anti-social acts by the defendant. This is not a test to which a standard of proof will be applied. Instead, it is an assessment of future risk. The applicant can present evidence or argument to assist the court in making this evaluation. Witness evidence need not prove that they were alarmed or distressed themselves, but only that the behaviour they witnessed was likely to produce such an effect on others. As hearsay evidence is allowed, it may be given by 'professional witnesses' - officers of public agencies whose job it is to prevent anti-social behaviour. Since civil rules apply to these orders, it is unnecessary to disclose the names of the witnesses.

Experience has shown that elaborate court files are not normally required or advantageous. Where the anti-social behaviour has been persistent, agencies should focus on a few well-documented cases. A large volume of evidence and/or a large number of witnesses creates its own problems. There is more material for the defence to contest and timetabling issues may increase delays in the process.

Agencies applying for orders should strike a balance and focus on what is most relevant and necessary to provide sufficient evidence for the court to arrive at a clear understanding of the matter.

Evidence may include:

- breach of an ABC;
- witness statements of officers who attended incidents;
- witness statements of people affected by the behaviour;
- evidence of complaints recorded by the police, housing providers or other agencies;