

which should accompany the defence. If the applicant is not a party to the principal proceedings, an application to be made a party and for the order must be made to the court in the same application notice.

### Orders made on conviction in criminal proceedings

After a defendant has been convicted of an offence, the prosecutor may make an application for an order. Alternatively, the court may make an order of its own volition.

Orders on conviction can be made by the magistrates' court, the youth court or the Crown court. The form of these orders is set out in the Magistrates' Court Rules and the Crown Court Rules. An order may be made only if the court sentences or conditionally discharges the offender for a relevant offence.

The Crown Prosecution Service usually requests the court to make an order on conviction, as there is no formal application process for this order. The court has to consider that:

- the offender has acted in an anti-social manner, that is 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 the offender; and
- an order is necessary to protect any persons in any place in England and Wales from further anti-social acts by him.

### Evidence

Evidence should explain to the court the context of the anti-social behaviour and its effect on other people. It can include:

- direct witness statements;

#### **The head of a noisy household gets an ASBO for ignoring repeated official warnings and threatening complaining neighbours and council officers**

##### **Issue**

In March 2004, neighbours of a house in Lowestoft were subjected to frequent and persistent loud music, resulting in 17 complaints over the course of a month. The perpetrator, who was a housing association tenant, had intimidated, threatened and verbally abused her neighbours, council officers and visitors.

##### **Approach**

A noise abatement notice was served on the perpetrator by environmental health officers under section 80 of the Environmental Protection Act 1990. Audio equipment was confiscated following breach of the noise abatement notice. During the confiscation, the perpetrator verbally abused the council officers.

After seven warning letters, two abatement notices and the confiscation of more than £1,000 of musical equipment, the council was still receiving complaints.

Failure to comply with an abatement notice without reasonable excuse is an offence, and the noisy neighbour was taken to court. The council consulted Suffolk Police and the

housing association and proposed terms for an order on conviction that achieved much more than the original abatement notice was capable of.

The magistrates granted the council's application for an order on conviction with the following prohibitions:

- not to play loud music that could be heard outside her dwelling; and
- not to verbally (or otherwise) abuse: employees or agents of the council; neighbours; or visitors to the neighbourhood.

##### **Outcome**

The order on conviction had several advantages over the noise abatement notice as an enforcement tool. It was easier to enforce as the evidence of experts such as environmental health officers to prove statutory noise nuisance would not be required. The order on conviction reduced the test of compliance to a simple (non-expert) factual observation of 'audibility' beyond the confines of the defendant's dwelling - a simple matter of observable fact that, say, a police officer could witness.