



**POLICE
SCOTLAND**

Keeping people safe

POILEAS ALBA

Antisocial Behaviour Standard Operating Procedure

Notice:

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This SOP provides clear direction and procedural instruction to provide a consistency of response in accordance with force policy, however it is recognised that policing is a dynamic profession and the standard response may not be appropriate in every circumstance. In every situation, your decisions and actions should be supported by the National Decision Model and based on the values and ethics of Police Scotland. You may be expected to provide a clear and reasonable rationale for any decision or action which you take.

Owning Department:	SCD – Safer Communities
Version Number:	9.00 (Publication Scheme)
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1. Purpose / Scope

This Standard Operating Procedure (SOP) supports the Police Service of Scotland, hereafter referred to as Police Scotland, Policy for Antisocial Behaviour.

2. Definitions

Antisocial Behaviour: the Anti-Social Behaviour etc. (Scotland) Act 2004 provides the legal **definition** of **antisocial behaviour** as: - "a person engages in **antisocial behaviour** if they act in a manner that causes or is likely to cause alarm and distress or pursues a course of conduct which causes or is likely to cause alarm and distress to at least one person who is not of the same household".

Significant Antisocial Behaviour: what constitutes **significant antisocial behaviour** is not defined formally in the Antisocial Behaviour etc. (Scotland) Act 2004. For the purposes of this SOP, the word significant is taken to mean "of considerable effect or importance".

A group: two (or more) people who are clearly associated with each other whether because of their physical closeness or through speaking to each other or by their actions. While there is no clear test, it will be for police officers to reasonably judge whether a group of two or more persons.

3. Contract, Orders and Notices

Type	Summary of Action
Acceptable Behaviour Contract (ABC)	<ul style="list-style-type: none">• Method of Early Intervention.• Clear indication that their behaviour is unacceptable.• Taken out by Local Authority / Registered Social Landlord (RSL).• Written contract between person and Relevant Agencies (Police, Social Services, Housing, etc.).• Voluntary agreement which has no legal status, however legal action may follow should behaviour continue i.e. Antisocial Behaviour Order (ASBO).
Interim Antisocial Behaviour Order (Interim ASBO) Antisocial Behaviour etc. Act 2004 Sets out the interpretation of Antisocial Behaviour	<ul style="list-style-type: none">• Provides immediate protection from Antisocial Behaviour (ASB).• Prohibits subject engaging in any conduct prescribed within this order.• Can be granted at the initial court hearing (held in advance of the full hearing) if Sheriff is satisfied that subject has engaged in ASB and Interim ASBO is necessary to prevent conduct from continuing.• If breached: Subject to the same criminal

<p>Section 143 Breach of an ASBO Section 9(1)</p>	<p>charge and power of arrest as is applicable to a full ASBO.</p>
<p>Antisocial Behaviour Order (ASBO)</p> <p>Antisocial Behaviour etc. Act 2004</p> <p>Part 2 Antisocial Behaviour Orders</p> <p>Interpretation of Antisocial Behaviour Section 143</p> <p>Breach of an ASBO Section 9(1)</p>	<ul style="list-style-type: none"> • Civil order. • Applications accepted from Local Authority and Registered Social Landlords to a Sheriff. • Details conditions that prohibit subject from acting or pursuing a particular course of conduct, deemed as antisocial, that caused or was likely to cause alarm or distress. • Minimum age a person may be subject to an ASBO in Scotland is 12 years of age. • Can be made against persons of all housing tenure i.e. owner occupiers, private sector tenants, and tenants of public sector and Registered Social Landlords. • Can be used to protect any person within the area of the authority applying for it. • Original copy is retained by the relevant Local Authority. • Copy sent to Regional Police Headquarters covering Local Authority area and will be held at the Records Department for updating Police National Computer (PNC).
<p>Post-Conviction Antisocial Behaviour Order</p>	<ul style="list-style-type: none"> • Matter for District / Sheriff Court when sentencing a person found guilty of a criminal offence. • Court needs to be satisfied (balance of probabilities) that: <ul style="list-style-type: none"> ➢ Person had committed offence. ➢ Specified person is at least 12 years of age when offence committed. ➢ Offence involves ASB and person must have acted in a manner / pursued a course of conduct that causes / likely to cause alarm or distress. ➢ It is necessary to grant an ASBO to protect persons from further ASB by offender. • Antisocial Behaviour Policy. • Case Reporting SOP.
<p>Closure Notice</p> <p>Antisocial Behaviour etc. Act 2004</p>	<ul style="list-style-type: none"> • Power to implement Notices lie with an officer of or above the rank of Superintendent (including acting or temporary Superintendents). • A Closure Notice (Force Form 010-003) should be given to all those identified people with an

<p>Closure of Premises full requirements at Part 4</p> <p>Defines relevant harm in relation to closure notice Section 40</p>	<p>interest in the premises, including:</p> <ul style="list-style-type: none"> ➤ Tenants and their dependants. ➤ Owners or their representatives. ➤ Residents. ➤ Persons affected by access to the premises. <ul style="list-style-type: none"> • Signifies that a clear course of action is being taken against the premises to those who reside in, or frequent, the premises and indulge in significant and persistent antisocial behaviour. <p>A laminated copy will be securely fixed to each normal means of access to the premises and to any outbuildings.</p>
<p>Closure Order</p>	<ul style="list-style-type: none"> • Power to apply for a Closure Order lie with an officer of or above the rank of Superintendent (including acting or temporary Superintendents). • A Closure Order (Force Form 010-004) should be completed and submitted to the relevant Sheriff Court for consideration on the next court day after the Closure Notice is served. However a Sheriff may also consider a late application if there is genuine cause for delay. • Grants police the power to close premises completely and remove all access by any persons, even those with rights of abode or ownership, by working in consultation with the Local Authority. • Breach of a Closure Order is an offence and persons can be arrested without warrant if they enter / remain within the building. • A Closure Order is limited to a maximum term of three months, but can be extended (the total period of closure not exceeding six months). • Length of any order should reflect the type of behaviour associated with the premises and should be designed to bring the premises back into a managed state as quickly as possible. • No premises should remain empty longer than is necessary. • Scottish Government Code of Guidance on Homelessness. • Scottish Government Guidance on Closure of Premises.
<p>Dispersal Order</p> <p>Antisocial Behaviour etc. Act 2004</p>	<ul style="list-style-type: none"> • Power to implement the dispersal provisions lies with an officer of or above the rank of Superintendent (including acting or temporary Superintendents).

<p>Dispersal of Groups Part 3</p> <p>Dispersal powers granted to a Constable for enforcing a Dispersal Zone. Section 21</p> <p>Provides a Constable may arrest without warrant for Section 21</p>	<ul style="list-style-type: none"> • To be effective it must be used as part of the area's Antisocial Behaviour Strategy and the area / locality must be clearly defined. • The authorising senior officer shall consult with the relevant Local Authority and publicise the detail of the Order in the relevant locality. • Maximum period for designation of an area at any one time is three months - The possibility of further authorisations after this period exists if required. The period chosen should be in direct correlation to the problem that exists. • No powers granted to authorise Police Officers to conduct a search on any person unless reasonable grounds are established under existing statutory powers of search. • Section 21 of the Act contains the dispersal powers granted to a Constable, which are directions: <ul style="list-style-type: none"> ➤ Requiring persons to disperse. ➤ Requiring persons to leave the locality or part thereof. ➤ Prohibiting persons from returning to the locality for a specified period (not exceeding 24 hours). ➤ Requiring dispersal immediately or at a time specified by the officer. ➤ Requiring dispersal in any such way as may be specified. ➤ Persons who are to be dispersed that live in the area of the dispersal zone, may still be required to disperse however they cannot be required to leave the locality of their home. • Exceptions to a dispersal order: <ul style="list-style-type: none"> ➤ Group of persons engaged in conduct lawful under Section 220, Trade Union and Labour Relations (Consolidation) Act 1992. or ➤ Persons who are taking part in a procession in respect of which written notice has been given as per Section 63(2) (as amended by Section 71 Police, Public Order and Criminal Justice (Scotland) Act 2006) and Section 63(3), Civic Government (Scotland) Act 1982. • Care and Welfare of Persons in Police Custody SOP. • Scottish Government Guidance on Dispersal of Groups.
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<p>Antisocial Behaviour Seizure of Vehicles</p> <p>Antisocial Behaviour etc. Act 2004</p> <p>Antisocial Behaviour Strategies Part 1</p> <p>Further Criminal Measures i.e. Seizure of Vehicles Part 10</p> <p>Power to stop & seize a vehicle Section 126</p> <p>Fixed Penalty Notices Part 11</p>	<ul style="list-style-type: none"> • Should form part of the local Antisocial Behaviour Strategy. • Where a Constable (in uniform) has reasonable grounds for believing the motor vehicle is being / or has been used on any occasion in a manner which: <ul style="list-style-type: none"> ➢ Contravenes Section 3 or 34 of Road Traffic Act 1988; and ➢ Is causing or likely to cause, alarm, distress or annoyance to members of the public. • Constable will give a verbal warning to driver and keeper (where different) and thereafter issue a Seizure of Vehicles Warning Notice (Force Form 010-008) as soon as reasonably practical after the verbal warning by handing to them personally, leaving it at their usual or last known address, or by sending it by registered post within 48 hours. • A crime report must be raised, fully outlining the circumstances and disposed of as detected due to warning notice being issued. Full details of the vehicle and driver must be noted on the PNC regarding the Seizure of Vehicles Warning Notice. If a warning notice is issued, a fixed penalty notice cannot be issued and report to Procurator Fiscal cannot be submitted. • Evidence of antisocial behaviour could come from a wide range of sources i.e. members of the public, Police Officers, Neighbourhood / Community wardens, Community Safety Partnerships, Housing Officers, Social Work Officers or CCTV footage. • A vehicle cannot be seized unless a second similar incident within a 12 month period takes place from date of warning involving the same person or same vehicle. <ul style="list-style-type: none"> ➢ A Constable in uniform can seize and remove the vehicle being driven / involved (Section 126(3) of the Road Traffic Act 1988). ➢ Issue a Vehicle Seizure Notice to driver (Force Form 010-009(A)), registered keeper (Force Form 010-009(B)) and retain a Police copy (Force Form 010-009(C)). ➢ Report submitted to the Procurator Fiscal, noting the Seizure of Vehicles Warning
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	<p>Notice and Vehicle Seizure Notice details in the remarks section and submitting a copy of both as case-related documents.</p> <ul style="list-style-type: none"> ➤ When completing paperwork from Vehicle Recovery Operator mark reason for seizure as ASBO. • The original Seizure of Vehicles Warning Notice: <ul style="list-style-type: none"> ➤ Doesn't have to be given by the same Constable who is carrying out the seizure; ➤ Is valid for a person who thereafter commits a similar offence in a different vehicle. ➤ Is valid for a vehicle which is thereafter found in similar circumstances but with a different driver. ➤ Will remain live for a period of 12 months, regardless of the number of times the vehicle is seized. • If vehicle has been recently purchased and driver / registered keeper is unaware of previous warning, another Seizure of Vehicles Warning Notice must be issued. • If the registered keeper of the vehicle can demonstrate that, when the vehicle was seized, they were not the person using the vehicle at the time and <ul style="list-style-type: none"> ➤ Did not know of the use of the vehicle in the manner that led to its seizure. ➤ Had not given consent to its use in that manner. ➤ Could not have taken reasonable steps to prevent its use in that manner. <p>The Contract Vehicle Recovery Scheme will contact the originating Officer to carry out enquiries to prove / disprove the information provided by the registered keeper.</p> <ul style="list-style-type: none"> • Case Reporting SOP.
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4. Roles and Responsibilities

Role	Responsibilities
Operational Officers / Reporting Officers	ASBOs: <ul style="list-style-type: none"> • Be aware of all live ASBOs in their respective area

<p>Defines a public place Section 25(1)</p> <p>Antisocial Behaviour etc. Act 2004</p> <p>Antisocial Behaviour Strategies Part 1</p> <p>Give Senior Police Officer's the power to authorise a Closure Notice. Section 26(1)</p> <p>Defines relevant harm in relation to a Closure Notice. Section 40</p> <p>Offence for any person who do not habitually reside in the property to enter or remain in contravention of a Closure Notice. Section 37(1)(a)</p>	<ul style="list-style-type: none"> • When submitting a report to the Procurator Fiscal regarding ASB, must include: <ul style="list-style-type: none"> ➢ Background details about the incident. ➢ Previous analogous crimes. ➢ Impact on the community / victim, to allow a post-conviction ASBO to be considered. <p>Enforcing a Dispersal Zone:</p> <ul style="list-style-type: none"> • Required to specify which part of Section 21(3) was initially used to disperse the accused / offender in report to Procurator Fiscal. <p>Closure Notice</p> <ul style="list-style-type: none"> • Must take reasonable steps to identify all persons who may have an interest, control or responsibility, or who live in the premises before the Notice can be authorised. • May use reasonable force to enter and secure premises. • Scottish Government Guidance on Dispersal of Groups.
<p>Relevant Officer Officer of or above the rank of Superintendent (including acting or temporary Superintendent)</p> <p>Requires the relevant Police Officer to publicise their authorisation regarding use of dispersal powers prior to coming into effect. Section 20(1)</p> <p>Dispersal powers granted to a Constable for enforcing a Dispersal</p>	<p>Dispersal Orders:</p> <ul style="list-style-type: none"> • Has the power to implement the dispersal provisions • Must ensure that both conditions outlined in Section 19(1) Antisocial Behaviour etc. (Scotland) Act 2004 are fulfilled. • Will take full account of views expressed by both the Local Authority and the Community prior to making a final decision on dispersal. • Seek legal advice regarding the proposal. • Must enter into formal consultation with an Officer of equivalent rank if the proposed area of dispersal borders a separate Policing division / Local Authority area. • Once decision is made, forward on a Dispersal of Groups - Authorisation (Force Form 010-006) or apply in writing to notify the Local Authority.

<p>Section 40</p>	<p>Closure Notice, i.e. how many interested parties were identified, who has been served with the Notice, how and when were the Notices served, were Notices placed in conspicuous places around the premises and who served the Notice.</p> <ul style="list-style-type: none"> ➤ How has the situation developed since the Closure Notice was placed on the premises. ➤ Photograph(s) of the premises. • Must ensure details of the Closure Order are placed on WebStorm. • Must ensure proper and authorised officers on behalf of Local Authorities and police officers are aware of their powers in relation to the closure (consider use of Aide Memoires and Maps). • Must ensure Local Authority workers, maintenance staff, utility persons or Housing Officers have been informed of the Closure Order. • Must consult with the Local Authority in order to have the premises sealed and secured by Local Authority staff. • Must carry out a risk assessment on the premises prior to any operation to enter and clear: <ul style="list-style-type: none"> ➤ Authorised persons such as local authority workers, maintenance staff, utility persons or Housing Officers should not be present until any safety issues have been addressed. • Must ensure premises subject to a Closure Order are monitored for illegal entry and that sealing is maintained in a good order. <ul style="list-style-type: none"> ➤ No re-application for another order to re-close the premises is necessary, should the premises be breached. • Can apply for an extension: <ul style="list-style-type: none"> ➤ Must be made at least three weeks prior to the expiry date of original Order. ➤ Application to Extend a Closure Order (Force Form 010-011) must be used. ➤ Once complete, no further extensions will be granted. • May rescind order following consultation with Local Authority. <ul style="list-style-type: none"> ➤ Application for Revocation of Closure Order (Force Form 010-005) must be submitted to a Sheriff via the Legal Services Department for scrutiny.
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Local Police Commander	<ul style="list-style-type: none">• Will cause the interrogation of all existing data systems and provide all relevant findings relation to ASB to the Local Authority / RSL.
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5. Key Contacts

For further advice and assistance, please contact: Violence, Prevention and Licensing Coordination Unit:

Information has been removed due to its content being exempt in terms of the Freedom of Information (Scotland) Act 2002, Section 35, Law Enforcement.

Compliance Record

Equality and Human Rights Impact Assessment (EqHRIA): Date Completed / Reviewed:	30/06/2021
Information Management Compliant:	Yes
Health and Safety Compliant:	Yes
Publication Scheme Compliant:	Yes

Version Control Table

Version	History of Amendments	Approval Date
1.00	Initial Approved Version	08/04/2013
2.00	Full cyclical review applying updated Police Scotland template and formatting standards. All legacy appendices and forms replaced with national Police Scotland forms.	02/05/2017
3.00	Under the direction of DCC Gywnne the amendments noted in this SOP are in relation to grammatical changes only from the wording 'police office' to 'police station'.	06/07/2017
4.00	Updated guidance in respect of s126 – s127 Antisocial Behaviour etc. (Scotland) Act 2004 in light of Scottish Crime Recording Standards.	31/01/2018
5.00	Updated minor change to para 7.4	05/03/2018
6.00	Updated to reflect changes in data protection legislation and to include the department 'PNC Bureau' within section 17.13.	24/05/2018
7.00	Section 7.5 & 7.6 Amended to reflect changes in the Criminal Justice (Scotland) Act 2016 in relation to the holding of persons in police custody.	14/11/2018
8.00	Content fully revised, rationalised and reformatted in line with the new SOP Review Guiding Principles.	19/10/2020
9.00	Minor update only – amendment to contact e-mail address within Section 5.	30/06/2021