

Applying for an interim order

Where there is an urgent need to protect the community, an application for an interim order may be made with the application for the main order. The appropriate form in the Magistrates' Courts (Anti-Social Behaviour Orders) Rules 2002 should be used. An application for an order without notice to the defendant may be made subject to agreement of the justices' clerk or other court clerk with delegated authority. The clerk shall grant leave for an application for an interim order to be made where they are satisfied that it is necessary.

The hearing for a without notice interim order will take place without the presence of the defendant. Where the hearing is made on notice, the defendant should be summoned to attend the hearing.

If an interim order is granted, the application for the main order (together with a summons giving a date for the defendant to attend court) should be served on the defendant in person as soon as practicable after the making of the interim order. The interim order will not take effect until it has been served on the defendant. If the interim order is not served on the defendant within seven days of being made, then it shall be set aside. The interim order shall cease to have effect if the application for an anti-social behaviour order is withdrawn or refused.

Make an application to the magistrates' court

An application for an ASBO is by complaint to the magistrates' court using the appropriate form in the Magistrates' Courts (Anti-Social Behaviour Orders) Rules 2002. The complaint must be made within six months from the time when the matter of the complaint (the behaviour) arose. A complaint may be made on the basis of one incident if sufficiently serious. Earlier incidents may be used as background information to support the case and show a pattern of behaviour. The application may be made to any magistrates' court. A summons together with the application, as set out in the Rules, should be either given to the defendant in person or sent by post to the last known address.

Draw up prohibitions

The order should be drafted in full, including its duration, and a court file prepared.

Process for an order made on conviction in criminal proceedings (in the magistrates' court or the Crown Court)

Since the case of *R v Wadmore and Foreman* [2006] EWCA Crim 686 Court of Appeal Criminal Division, the court should record on the face of the order its findings of fact in relation to the alleged anti-social behaviour.

Verdict

If found guilty of breaching the order, the offender is convicted or given a conditional discharge.

Criminal hearing

This is to establish guilt of criminal charge only.

Signal intention to seek an order

Prior to, or at the start of, the criminal stage or hearing, the police, Crown Prosecution Service or local authority involved in the case may advise the subject and court that an order will be sought on conviction. This is not a requirement; the issue can be raised for the first time post-conviction.

Draw up prohibitions

The police or other agency involved in the case may draw up the prohibitions necessary to protect the community from the subject's anti-social behaviour for consideration by the court post-conviction. This is not a requirement.

