

Applying to the courts

orders in magistrates' courts are set out in the Magistrates' Courts Act 1980.

The application, under section 1(3) of the Crime and Disorder Act 1998, should be made to the magistrates' court whose area includes the local government area or police area where people need to be protected from the anti-social behaviour.

The lead officer in charge of the case should ensure that all the evidence and witnesses are available at the hearing, including evidence in support of any need for the court to make an immediate order.

Under section 98 of the Magistrates' Courts Act 1980, evidence will be given on oath. Any magistrate or judge may hear the case.

Where a defendant fails to attend a hearing, the applicant may, after substantiating the complaint on oath, apply to the court to issue a warrant for the defendant's arrest. Various provisions for adjournment, non-attendance at court and the issue of a warrant for arrest are contained in sections 54 to 57 of the Magistrates' Courts Act 1980.

County court

An application for an order in the county court must be made in accordance with the procedure set out in the Practice Direction at Appendix B.

Where the applicant is the claimant in the principal proceedings, the application for the order should be included in the claim form. Where the applicant is the defendant in the principal proceedings, the application should be made by way of an application notice,

How to prepare a court file for an application

A file to support the application for an order should be prepared by the lead agency or the solicitor acting on their behalf. A minimum of eight identical court bundles will be required as follows:

- three for the magistrates;
- one for the legal adviser;
- one for the applicant's solicitor;
- one for the defence solicitor;
- one for the defendant; and
- one for the witness box.

The files are in loose-leaf format (in an A4 ring binder) and should be indexed and paginated.

The index and contents should include, as appropriate:

- the summons for the order, together with proof of service;
- the application for the order (in the format provided by the Magistrates' Court (Anti-Social Behaviour Orders) Rules 2002);
- the defendant's details;
- the defendant's previous convictions;
- the defendant's acceptable behaviour contract (ABC) agreements;
- a summary of the incidents being relied upon by the applicant;

- a map and description of the exclusion area;
- an association chart (showing relationships and connections where the alleged anti-social behaviour is by a group of people);
- documentation of statutory consultations;
- supporting statements from any multi-agency consultation;
- a statement from the officer in the case;
- any other statements obtained;
- hearsay notices;
- a draft order for approval by the court; and
- a home circumstances report where the subject of the order is a child or young person (if necessary and completed).

The bundle should be prepared and served on the solicitor for the defendant as soon as the summons is served. The applicant's solicitor should attempt to have the contents of the bundle agreed prior to any pre-trial review. Disclosure should be transparent and complete.

Contact

Niamh Noone, Lancashire Constabulary
Email: niamh.noone@lancashire.police.uk
Telephone: 01772 412919