PART 1A ANTI-SOCIAL BEHAVIOUR ACT 2003:
NOTES OF GUIDANCE

CLOSURE ORDERS: PREMISES
ASSOCIATED WITH PERSISTENT
DISORDER OR NUISANCE
## Contents

Ministerial foreword

1. Introduction

2. Closure powers – general principles
   2.1 Intention of the closure powers

3. Definition of terms
   3.1 Significant and persistent disorder or persistent serious nuisance
   3.2 The meaning of consultation for the purposes of the Act
   3.3 The definition of premises
   3.4 The definition of relevant advice providers
   3.5 The definition of relevant period
   3.6 Those with an interest in the premises
   3.7 The definition of owner
   3.8 Premises to which this provision does not apply

4. The Closure Notice explained
   4.1 The purpose of a Closure Notice
   4.2 Requirements for serving a Closure Notice
   4.3 The effect of a Closure Notice

5. The decision to issue a Closure Notice
   5.1 How a decision to issue a Closure Notice should be authorised
   5.2 Consideration of other potential powers

6. Serving and enforcing a Closure Notice
   6.1 Timing the serving of a Closure Notice
   6.2 Contents of the Closure Notice
   6.3 Whom the Closure Notice should be served on
   6.4 Serving a Closure Notice
   6.5 Dealing with those in the premises
   6.6 The welfare of those to be removed from a closed premises
   6.7 Non-compliance of a Closure Notice

Page

1

2

4

4

5

5

6

7

7

7

7

8

8

8

8

9

9

10

13

13

13

14

14

15
Annex A  Checklist for closures 31
Annex B  Model for pursuing a Premises Closure Order 32
Annex C  Part 8 of the Criminal Justice and Immigration Act 33
Tackling anti-social behaviour has been a top priority for this Government since 1997. We have worked unstintingly to protect communities and have forged partnerships with practitioners, to give them the powers they need and to remove barriers to taking action. We have introduced a wide range of measures to bear down on anti-social behaviour, from simple voluntary contracts to crack house closure powers. Though we know there is more to be done, we do know we are going in the right direction. Perception of high levels of anti-social behaviour has fallen significantly from its peak of 21% in 2002/03 to 16% in 2008.

The National Audit Office report in 2006 highlighted just how effective new tools and powers have proved, with 93% of perpetrators ceasing to commit anti-social behaviour after three interventions. Our challenge now is to focus efforts on tackling those hardcore, persistent offenders that refuse to co-operate and cause the most damage to society. The new Premises Closure Order is one of the tools designed for just that purpose. Modelled on the Closure of Premises Order that is used in connection with the production of drugs, this new power will enable police forces and/or local authorities to take action on premises that cause significant and persistent disorder, or serious nuisance to the local community.

When severe nuisance and anti-social behaviour occur in residential areas, it undermines people’s sense of personal safety and their faith in order, right at the point where it matters most – in and around their homes. In some communities there are particular premises that are a constant focus for severe anti-social behaviour, making the lives of those living nearby a misery, and the existing remedies are not working. No one should have to put up with this. And no one should think that they can get away with it either. The exceptional feature of this new Closure Order is that it will apply to all tenure types, so that those in privately owned or rented accommodation will no longer be able to hide from the law if they cause serious nuisance to their neighbours. Our expectation is that even the threat of such an Order will prove a sufficient deterrent to force unruly people to behave with greater consideration for their neighbours, and mean that the Order is only enforced in severe cases of last resort. Taking action against such unruly neighbours will help build public confidence and make people feel safer in their homes and communities.

We are committed to continuing to build on the excellent progress made across the country, working with the police and local authorities to tackle the problems on the ground and to deal with the root causes through intervention and prevention.

I am delighted to introduce this statutory guidance to practitioners on the use of premises closure powers, which I hope will give practitioners and communities greater ammunition against those who pose a threat to the enjoyment of their neighbourhood.

I hope this new power will provide reassurance to the public and also make clear to offenders that persistent anti-social behaviour in and around any premises, in any neighbourhood, will not be tolerated.

Jacqui Smith, Secretary of State for the Home Department

November 2008
1.1 Section 118 of the Criminal Justice and Immigration Act 2008, hereafter referred to as the Act, introduced new powers for the courts to close, on a temporary basis, premises associated with significant and persistent disorder or persistent serious nuisance. Schedule 20 inserts a new Part 1A into the Anti-Social Behaviour Act 2003 (c.38) that makes provision about the issue of Closure Notices and the making of Closure Orders in respect of premises associated with persistent disorder or nuisance. 
This tool is similar in nature to the pre-existing crack house closure power. The intention of this provision is to empower police officers and local authorities to take action against premises that cause significant and persistent disorder or persistent serious nuisance to a community.

1.2 Premises Closure Orders are tenure neutral. These powers are designed to allow police forces and local authorities, working in consultation with each other, to take rapid and effective action against activity that causes great harm to communities. It is an order of last resort and should only be pursued after the full range of appropriate anti-social behaviour interventions have been tried without success. Used with the proper safeguards and with judicial oversight, this measure will send out a powerful message that communities should not, and will not, be expected to tolerate significant and persistent anti-social behaviour. Importantly, it will also provide a further opportunity to engage perpetrators and encourage and cajole them to accept offers of support.

1.3 The action to close a property should not be taken by one agency in isolation. Police and local authorities are required to consult each other before any decision is taken. Persistent serious anti-social behaviour has a negative impact on community life and regeneration, so it is essential that support interventions are used with enforcement measures, and that the problem is tackled holistically rather than by simply shifting the burden elsewhere. These powers present a real opportunity for multi-agency partners to act swiftly and decisively to control these problems.

1.4 This guidance relates to the provisions contained in Part 1A of the Anti-Social Behaviour Act 2003 as amended by Part 8, Section 118, Schedule 20 (Premises Closure Orders) of the Criminal Justice and Immigration Act 2008, and is designed to help those who are responsible for the exercise of these powers to:
• use the powers effectively and efficiently;
• see the use of the powers in the broader context of tackling anti-social behaviour; and
• understand the implications of the powers as they relate to affected persons and the communities in which they occur.

The Act received Royal Assent on 8 May 2008 and can be accessed at: www.opsi.gov.uk/acts/acts2008/ukpga_20080004_en_37

1.5 This guidance is designed principally for:
• the courts;
• the police; and
• local authorities.

1.6 This guidance is issued by the Home Office to assist with the use of these powers and has been written by the Anti-Social Behaviour and Crime Prevention Unit in collaboration with the Department of Communities and Local Government, the Association of Police Officers and the Ministry of Justice. We are grateful for the contribution to the guidance from colleagues across the Home Office, other Government departments, various police forces and the numerous practitioners who have provided advice and allowed us to use examples of their work.

1.7 A person discharging a function to which this guidance relates must have regard to it in discharging the function.
For further information or advice on certain aspects of the powers, please contact:

Norah Kugblenu
Anti-Social Behaviour and Crime Prevention Unit
Crime and Drug Strategy Directorate
Home Office
Peel Building
2 Marsham Street
London SW1P 4DF
2. Closure powers – general principles

2.1 Intention of the closure powers

2.1.1 The approach to closure of premises under Part 1A of the Anti-Social Behaviour Act 2003, as amended by the Criminal Justice Act 2008, should be set within the overall context of the statutory duty applying to police forces and local authorities to participate in the creation of a local authority anti-social behaviour strategy under Part 1 Sections 5 and 6 of the Crime and Disorder Act 1998 (as amended by the Police Reform Act 2002). This guidance is directly relevant to local housing authorities, registered social landlords (RSLs) and housing advice providers, each of whom may be affected by an application for an order.

2.1.2 The premises closure powers provide a useful tool for managing significant and persistent disorder and persistent serious nuisance to a community in the most severe cases of anti-social behaviour, should all other remedies prove unsuccessful. The powers give the police and local authorities an opportunity to act swiftly and decisively to control nuisance behaviour, and offer some respite to suffering neighbours as well as encouraging visitors and business back into the area.

2.1.3 These powers build on measures already available to confront anti-social behaviour, and they provide a catalyst for a multi-agency approach to tackling the underlying behaviour and ensuring that perpetrators accept offers of support designed to permanently change their behaviour.

2.1.4 The powers contained in the Act can be utilised in relation to any type of premises where there is persistent and serious nuisance or disorder, and will provide an opportunity to contact those who have so far been hard to reach.

2.1.5 The use of the Closure Order will also send a positive signal that anti-social behaviour will be tackled and not tolerated across all housing and property tenures, and that the protection of the wider community is paramount. Since the Closure Order is tenure neutral it also applies to owner-occupier properties. Sites such as licensed premises, warehouses and businesses can be closed if they are subject to an order (see Section 3.3).

Closure would clearly have a dramatic impact on the viability of a business, especially a small one, and hence be useful as a very effective incentive to reform, where this is necessary.

2.1.6 The closure powers should not be used as an eviction tool, or as a fast track to eviction. The purpose of the powers is to provide immediate respite to communities suffering from the misery caused by anti-social neighbours and to provide a means with which to engage the perpetrator(s), tackle the underlying causes and put an end to nuisance behaviour.

2.1.7 These powers, although very powerful tools in dealing with persistent disorder, should only be used as a last resort, where other interventions have been used or considered and rejected for good reason, and where implications, for example, for children or vulnerable adults in the premises, have been carefully considered.

2.1.8 Agencies are under duties to safeguard and protect the welfare of children under the Children Act 2004. Consideration of the rights of the individuals subject to a Closure Order and of the rights of the community, including the victim(s) and potential victims, should be carried out and recorded.
3. Definition of terms

3.1 Significant and persistent disorder or persistent serious nuisance

3.1.1 It is up to the courts to define these terms as there is no formal legal definition. In all cases of the use of these powers, it is necessary to demonstrate that persistent and significant disorder or persistent serious nuisance is associated with the premises. When a superintendent (‘authorising officer’) or the local authority assesses the need for the issue of a Closure Notice, he or she has to have reasonable grounds for believing that:

- at any time in the preceding three months a person has engaged in anti-social behaviour on the premises; and
- that the use of the premises is associated with significant and persistent disorder or persistent serious nuisance to members of the public.

3.1.2 The type of problems that may constitute significant and persistent disorder or persistent serious nuisance to members of the public in relation to the premises are outlined below. The following suggestions should act as a guideline on the level of nuisance in and around the premises to be considered serious in this context:

- Intimidating and threatening behaviour towards residents.
- A significant increase in crime in the immediate area surrounding the premises.
- The discharge of a firearm in, or adjacent to, the premises.
- Significant problems with prostitution or sexual acts being committed in the vicinity of the premises.
- Violent offences and crime being committed on or in the vicinity of the premises.
- Serious disorder associated with alcohol abuse, for example in and around drinking dens.
- High numbers of people entering and leaving the premises at all times of the day or night and the resultant disruption they cause to residents.
- Noise (constant/intrusive) – excessive noise at all hours associated with visitors to the property.

3.1.3 Persistent serious nuisance is often demonstrated by accounts from neighbours, local authority employees or the police of the distress caused to the community associated with the use of the premises. The accounts should provide an objective basis for an assessment of the gravity of the problem. The accurate recording of events over time will also be very important to prove the sustained and intrusive nature of the disorder or nuisance.

3.2 The meaning of consultation for the purposes of the Act

3.2.1 The Act places an obligation on the police and the local authority for the area in which the premises are situated to consult each other before serving a Closure Notice. The local authority in England will be a district council, a London borough council, a county council (for an area where there is no district council), the Common Council of the City of London (in its capacity as a local authority) or the Council of the Isles of Scilly. In Wales, the local authority will be either a county council or a county borough council. The police or local authority may also wish to consult the relevant RSL where they own or manage the premises.

3.2.2 For both the local authority and the RSL, the appropriate point of notification is the office of the chief executive or director of housing in the local authority. The chief executive must ensure that all the relevant interests within the authority are involved in the consultation, for example with housing benefit officers and social work issues regarding children. The point of notification for the police is the appropriate chief officer for the area. Local arrangements should dictate a reasonable time period in which this consultation should take place.

3.2.3 The purpose of the consultation is to seek the views of the police or local authority and to consider them. It is imperative that the local authority and police are consulted before a Closure Order is sought.
3.3 The definition of premises

3.3.1 The Act defines ‘premises’ as including: (a) any land or other place (whether enclosed or not); and (b) any outbuildings that are used as part of the premises. Any of the following are therefore included:

- Houses
- Flats
- Apartments
- Sheds
- Common areas adjacent to houses/flats
- Garages
- Factories
- Shops
- Pubs
- Clubs
- Public buildings
- Community centres or halls
- Car parks.

3.3.2 In practice, any type of structure or place where disorder or serious nuisance is occurring is covered. This includes licensed premises and, while such persistent disorder or nuisance associated with pubs and clubs is more suited to being tackled under the licensing system, they should not be excluded from these provisions where the anti-social behaviour meets the criteria for a Closure Notice to be considered. Upon commencement of the provisions, no types of property will be exempted from closure.

3.3.3 The power can be used in definable areas of a path, field or other land. However, the difficulty in securing premises or areas mean that the power is unlikely to be appropriate in such locations. Partners should have a strategy in place to deal with a situation where anti-social behaviour moves from one premises to another. It may even mean that other remedies should be considered.

3.2.4 Consultation should take place as early as possible as this provides the advantage of involving the local authority and the police together, or an RSL, in the following ways. They can:

- discuss whether the closure is appropriate given the nature of the problem identified;
- agree longer-term strategies;
- place checks and balances on one another by questioning each other's role;
- notify the local authority or police of the impending action with a view to co-ordination where necessary;
- consider the peripheral factors related to the closure and how others will be affected (e.g. vulnerable people);
- obtain additional intelligence on property ownership and the residents relating to the serious disturbance; and
- ensure that those who face a Closure Order are properly informed and that advice is provided by organisations to the evicted residents (for example, legal advice and homelessness advice).

3.2.5 Through the consultation, notification can be given to the relevant RSL and to other local authority services, such as the social work and housing services, that may need advance warning of potential demands on their resources. The local authority may often have a dedicated service or contractor essential to the process of securing and sealing the premises subject to a Closure Order. These services may not be available outside of regular hours.

3.2.6 The context for consultation:

There should be arrangements in place for the overall strategic management of such premises between the local authority and the police. Such collaborative working should form part of an overall anti-social behaviour strategy required under the Crime and Disorder Act 1998.
3.3.4 The premises can also be a sub-section of a larger building, such as a flat within a block or a room within a hostel or bed and breakfast. In these cases, the room will be closed but access will be maintained to the rest of the building. Thus the power of closure can be used flexibly depending on the needs of the individual case.

3.4 The definition of relevant advice providers

3.4.1 ‘Relevant advice providers’ means the names and contact details of persons and organisations in the area that provide advice about housing and legal matters.

3.5 The definition of relevant period

3.5.1 The ‘relevant period’ is a period of three months, ending with the day on which the authorising officer or the local authority considers whether to authorise the issue of a Closure Notice.

3.6 Those with an interest in the premises

3.6.1 The definition of ‘those with an interest in the premises’ will include those with a legal or equitable interest in the property.

3.6.2 Failure to serve a notice, order or summons on a person with an interest cannot in any way invalidate the proceedings of the court if reasonable steps have been taken to identify them. However, such a person can raise the matter on appeal to the Crown Court (see Section 11.2 of this guidance).

3.7 The definition of owner

3.7.1 The ‘owner’, in relation to premises, means a person who is for the time being entitled to dispose of the freehold of the premises, whether in possession or in reversion (apart from a mortgage not in possession); or a person who holds or is entitled to the rents and profits of the premises under a lease that (when granted) was for a term of not less than three years.

3.8 Premises to which this provision does not apply

3.8.1 This relates to the premises that are exempt from the Act. At the time of commencement of the legislation, there were no properties exempted from the Act. Exemptions can however be made by regulations of the Secretary of State for the Home Department.
4. The Closure Notice explained

4.1 The purpose of a Closure Notice

4.1.1 The purpose of a Closure Notice is to prevent significant and persistent disorder or persistent serious nuisance of certain groups within communities and to act as a neighbourhood management tool. This tool is not to be used as a fast track to eviction or as a first port of call for difficult scenarios.

4.1.2 The Closure Notice alerts those using the property, resident(s), the owner and any others with an interest who can be identified, of the intention to apply to the court for a Closure Order. This sends a clear message to the local community that action is being taken against the premises, and it informs those who live in or frequent the premises that their activities will no longer be tolerated. It gives notice that closure of the premises is being sought and provides details of what this entails.

4.1.3 A Closure Notice should not be used as a threat. Once a notice is issued, an order must be sought within 48 hours whether behaviour improves or not. This should not come as a surprise to anyone with an interest in the property, as persons in these premises should have been previously warned of impending action in an attempt to reform their behaviour.

4.2 Requirements for serving a Closure Notice

4.2.1 There is a requirement in the Act for the police or local authority to take reasonable steps to identify those with an interest in, control of, or responsibility for the premises and those who live on the premises, before the Closure Notice can be authorised. Where possible, consultation with relevant agencies should have involved discussions and the exchange of information relating to the identification of these persons.

4.2.2 The police or local authority are required under the Act to take ‘reasonable steps’ to ensure that all such persons are identified prior to the notice being issued. It may be the case that all such persons are difficult to trace and the delay required to identify them would remove the benefits of the power. However, the Closure Notice must be served on any such person who is identifiable at the property or who appears to have an interest or to be affected by potential closure, who can be easily identified by immediate enquiries to the tenant or those resident, or neighbours, or through local authority records. The fixing of the Closure Notice to the building is also intended to ensure that the closure is publicised to anyone with an interest. The notice is required to be fixed at a prominent place on the premises, at each place of access and on any outbuildings.

4.3 The effect of a Closure Notice

4.3.1 It should be remembered that a Closure Notice in itself may achieve the intended outcome of stopping the persistent disorder and nuisance. However, the local authority or police are obliged to pursue a Closure Order after the notice is served. For this reason, Closure Notices should be considered as part of strategic and tactical action against anti-social behaviour at a senior level.

4.3.2 The Closure Notice creates offences for any persons who do not habitually reside in, or own, the property to enter or remain in the premises. ‘Habitually resident’ in this context should be taken to mean anyone for whom the premises are their main or only residence. The intention is to encourage all those for whom the premises are not their main or only residence to leave at this point, and to provide relief during the notice period.

4.3.3 The Closure Notice takes into consideration that residents will need to find alternative accommodation if the court decides to grant a Closure Order. Local housing authorities will therefore need to ensure that advice and information about alternative accommodation options are made available to anyone in the premises likely to face homelessness as a result of closure.

4.3.4 In all cases where closure of premises is contemplated, it is imperative that the impact of closure on all residents and those with an interest in the property is established at an early stage. If the closure proceeds, the local housing authority should ensure that, so far as possible, homelessness is prevented among all those for whom the premises are their main or only residence.
5. The decision to issue a Closure Notice

5.1 How a decision to issue a Closure Notice should be authorised

5.1.1. The decision to use these powers must be taken by a senior police officer of superintendent rank or above (the authorising officer), or a local authority.

5.1.2 When the authorising officer or local authority is assessing the requirement of a Closure Notice, they must have reasonable grounds for believing that:
- at any time during the relevant period a person has engaged in anti-social behaviour on the premises; and
- the use of the premises is associated with significant and persistent disorder or persistent serious nuisance to members of the public.

5.1.3 To authorise service of the Closure Notice the authorising officer or the local authority must be satisfied of the following:
- The appropriate chief officer of police or the local authority for the area in which the premises are situated has been consulted.
- Reasonable steps have been taken to establish the identity of any person who lives on, has control of, has responsibility for or an interest in the premises.

5.1.4 This legislation deals with problematic premises and not individuals, thus in making this decision the authorising officer or local authority should take into account:
- whether the proposed actions will have the intended impact on the problem at hand;
- the suitability of the powers with all their implications;
- the evidence about the level of disorder, nuisance and anti-social behaviour associated with the premises;
- how this action is to be followed up, ensuring that the premises do not become re-occupied for similar purposes, and how the closure can be followed up as part of the anti-social behaviour strategy for the area;
- the views of the relevant local authority or police;
- any other powers – such as Anti-Social Behaviour Orders (ASBOs) – that may be more suitable or achieve the same result, without the need for the implications that the Closure Power contains; and
- the availability of other powers, and supportive interventions, that can be used alongside the closure power to support the overall aim of reduction of nuisance.

5.1.5 The authorising officer or local authority should only authorise a Closure Notice once all other avenues have been pursued and have failed to stop the disorder created within the premises.

5.1.6 A Closure Notice should be authorised in writing. But where written consent is not immediately possible, oral authorisation is sufficient as long as it is confirmed shortly afterwards in writing and, in any case, before the court hearing.

5.1.7 As part of a multi-agency and long-term strategic approach to dealing with underlying anti-social behaviour (rather than simply the property itself), the police, housing management teams, the local authority (including adult and children services) education providers, welfare and youth offending teams, should be involved in any interventions from a very early stage to tackle the nuisance behaviour at the earliest opportunity. The full range of support and enforcement measures should be considered. It is essential that robust contingency planning is put in place – to ensure that homelessness can be prevented for anyone who is vulnerable or has dependent children that would lose their home as a result of the Closure Order. Their safety should not be compromised, and measures should be put in place in advance to safeguard these groups and promote their welfare should the closure go ahead.

5.1.8 It is imperative that the authorising officer or local authority approving a Closure Notice consult with each other. This is to ensure that housing benefits continue to be paid so that residents (who retain their rental obligations throughout the closure period) can continue to pay their rent.
5.1.9 Local housing authorities have a legal duty to ensure that advice and information about homelessness and prevention of homelessness are available free of charge to everyone in their district. If someone applies to them for housing assistance and the authority has reason to believe that the person may be homeless or likely to be homeless within 28 days, the authority must make enquiries to satisfy themselves whether any duty is owed to that person under the homelessness legislation. Where the authority is satisfied that the person is eligible for assistance, is unintentionally homeless and falls within a priority need group, the authority must ensure that suitable accommodation is available for them.

5.1.10 In cases where a person’s homelessness is the result of a Closure Order following nuisance behaviour and he or she has refused offers of support and rehabilitation, the local authority may decide that the applicant has become homeless intentionally (because the homelessness was the consequence of the person’s deliberate behaviour).

5.1.11 Where people are eligible for assistance and fall within a priority need group, but are intentionally homeless, the authority must ensure that they are provided with advice and assistance to help them obtain accommodation – the authority must also ensure that applicants have lodgings available for long enough to give them a reasonable opportunity to obtain accommodation. Local housing authorities are referred to the Homelessness Code of Guidance for Local Authorities that, among other things, includes guidance on eligibility, priority need, and becoming homeless intentionally. It is available at: www.communities.gov.uk.

5.2 Consideration of other potential powers

5.2.1 There are a variety of other anti-social behaviour powers, such as Acceptable Behaviour Contracts, injunctions, Parenting Contracts, enforcement of tenancy and ASBOs, that may be suitable for dealing with situations of this type. The authorising officer or local authority is required to demonstrate that he or she has considered all of these options before authorising the issue of a Closure Notice.

5.2.2 While no specific types of premises are exempt from these powers, the appropriateness of their use in some circumstances should be considered. The authorising officer should be mindful of the implications and whether other methods of control may be more appropriate. These circumstances may include hospitals, schools and children’s homes.

5.2.3 Where the premises are registered children’s homes or where the inhabitants of the property are vulnerable persons, practitioners should remind providers of care about their duty to run the premises in accordance with the relevant regulations and national minimum standards. For example, providers of care for children’s homes have a duty to run it in accordance with the relevant regulations and minimum standards, which include dealing with behaviour management policy.\(^1\)

5.2.4 Effective defence of communities depends on all agencies – including housing organisations, social services, education authorities, the police, youth services – accepting that the promotion of safe and orderly neighbourhoods is a priority, and working together to agree a response to unacceptable behaviour.

5.2.5 Relevant agencies are bound to act in compliance with the European Convention on Human Rights and should consider the needs of any vulnerable persons and children, before the issuing of a Closure Notice.

---

\(^1\) Children’s homes are registered and regulated by the Chief Inspector of Education, Children’s Services and Skills (whose office is known as Ofsted). A provider applies to Ofsted for registration, and the application can be refused, granted or granted with certain conditions attached. The homes are inspected by Ofsted twice a year. Ofsted has the power to take enforcement action against a children’s home that is failing to comply with regulations and/or national minimum standards. That action includes the power to cancel registration (the home remains open during the course of any appeal against the decision to cancel) and the power to seek an emergency closure of a home through a magistrates’ court, which has immediate effect.
Case study: Multi-agency and long-term strategic approach to deal with underlying anti-social behaviour

Issue
Serious complaints of nuisance due to a single female, living in a three-bedroom property owned by the council with her two daughters, aged 14 and 18. Waverley Borough Council had been receiving serious complaints of nuisance at this address since the summer of 2007. The tenant was discovered to be using Class A drugs, injecting heroin. Her 18-year-old daughter and daughter’s boyfriend were also users of heroin. The property had several dogs belonging to the family that added to nuisance by barking at all hours of day and night. Additional problems were caused by dumped cars, rubbish, drugs paraphernalia, bypass of utility supplies, debt, non-school attendance, and visitors and transient persons staying at the address at various times.

Approach
The tenant was asked to sign an undertaking not to allow her home to be used for the use of or supply of drugs, not to have visitors after 10pm and to ensure that only she and her daughters resided there. A Notice of Seeking Possession was also served.

The family were added to the local community incident action group and, as a result, regular visits to the address by the anti-social behaviour officer and an Alcohol Drugs Advisory Service outreach worker began. The tenant and older daughter were referred to a drug and alcohol service provider and began a methadone programme, and the younger daughter was referred to youth outreach support.

Child Protection referrals were made in respect of the 14-year-old and a network meeting was held at the school in relation to non-attendance. A parenting worker and social worker were allocated and an alternative learning programme was adopted for the younger child. All the dogs were also removed except for an alsatian, which the tenant insisted on keeping.

Two anti-social behaviour injunctions were obtained, preventing the older daughter’s boyfriend – a known user and dealer of heroin – from entering the area of the property, and also preventing another known visitor (suspected of theft from the address) from being there.

Work took place fairly successfully for a few months and, as a result of the injunctions, the older daughter moved out. Agencies then worked with the mother and remaining daughter and the mother stopped her heroin use altogether. However, by December 2007 residents were reporting continual nuisance and activity at the address, and breaches of the injunctions. In December 2007, a meeting was held with residents at the local police station and their concerns were reported back to the family. Some improvement occurred thereafter.

By January 2008, the elder daughter had decided to move back home and the situation deteriorated. A network meeting was held with all the agencies involved with the family and it was clearly explained to them that if they engaged with services they would be relocated to a different area. If they refused to comply, they faced eviction and other enforcement action as necessary. Shortly after this, it became apparent that the mother had reverted to using heroin.

A decision was made to commence possession proceedings, following reports received that the tenant, and one of the males with an injunction excluding him from the area, were arrested for being drunk and incapable and for shoplifting. There was a discussion with an anti-social behaviour/prolific and other priority offender (ASB/PPO) manager (Surrey Police) who looked at the incident and discovered that a suspicious vehicle with five passengers had been followed to the address in the past few days, where officers had then entered the address and seen a crack pipe on the coffee table.
Case study: Multi-agency and long-term strategic approach to deal with underlying anti-social behaviour (continued)

It was then suggested that a crack house Closure Order be considered to relieve the pressure in the community caused by the tenant and her visitors to the address. A meeting was held with residents and all agencies involved with the tenant, and risk assessment was carried out for the use of the council’s dog warden to restrain the family dog during a search of premises. Kennels were on standby in case the owner was arrested and the dog needed accommodating.

An appointment was made for the tenant and her daughters with homelessness officers at the local housing authority, and a special leaflet was produced with housing advice to give to any other occupant who sought homelessness assistance, following the serving of the Closure Notice.

A Police Child Protection unit was informed of the planned operation and concerns about the welfare of the 14-year-old. Arrangements were made for a child protection officer to attend the address when the Closure Notice was served. The contractor was alerted that the property would need securing on successfully obtaining the order. Window sizes were given and provisional times set for applying steel shutters to the property.

Housing Support was contacted to see if they could offer support to the tenant once the Closure Notice had been served. The tenant would need to remove any possessions needed once the property was closed, disconnect appliances and redirect post, etc.

The Closure Notice was served by a neighbourhood sergeant and advice was given to those occupants not habitually resident to leave. The tenant was also given advice about legal and tenancy issues and others were asked if they had alternative accommodation to go to. A Closure Notice was placed on the property.

A Closure Order was then applied for and granted within 24 hours and police attended the address for contractors to secure the property. The Closure Order and a ‘Closed due to drugs’ sign was placed on the front of the property. The 14-year-old was arrested for theft and was later taken into care by the local authority.

Outcome
Reassurance was given to neighbours by door knocking and delivering information postcards.

Contact
Jo Grimshaw
ASB/PPO Manager
Waverley
Tel: 0845 125 2222 (ext 10755)
6. Serving and enforcing a Closure Notice

The Act sets out a requirement for the police or local authority to take reasonable steps to identify all such persons who may have an interest in, control or responsibility for the premises or who live in the premises, before the Closure Notice can be authorised. The police or local authority are not required to ensure that all such individuals are notified, merely to notify those that they have identified after taking reasonable steps.

6.1. Timing the serving of a Closure Notice

6.1.1 Prior to serving a Closure Notice, a series of interventions should be tried to give households plenty of warning that a closure is imminent. This will give the residents an opportunity to reform their behaviour, therefore removing the possible need for closure.

6.1.2 Once a Closure Notice is served, an application must be heard by magistrates within 48 hours of it being served. Contacting the courts prior to serving the notice will ensure that this requirement is met without causing undue difficulty.

6.2 Contents of the Closure Notice

6.2.1 The Closure Notice must contain the information below. It must:

- give notice that the application will be made under Section 11B of the Anti-Social Behaviour Act 2003 (Closure Order);\(^2\)
- give the location/address of premises to which it relates;
- state that any person who does enter the premises who is not the owner or habitually resident there commits an offence;
- specify the date, time and place at which an application for a Closure Order will be considered (must be in place when issuing Closure Notice);
- provide an explanation of what will happen should a Closure Order be granted – in particular that there will be no further entry to the premises and it will be totally sealed. If the premises are residential then the residents will be forced to find alternative accommodation;
- provide information on relevant advice providers who will be able to assist in relation to housing and legal matters. This will depend on the particular arrangements in place for the area, and should be agreed with the relevant local authority as part of the consultation. Relevant advice providers would include the local Housing Advice Centre or point of contact for applications for homelessness assistance, the Citizens Advice Bureau and the local Law Centre; and
- include such matters about the application as may be prescribed in rules of court.

6.2.2 It is good practice to involve more than one officer, to ensure that the Closure Notice contains all of the necessary information before it is signed. Also, a checklist should be in place for confirming that all the steps have been taken. These additional checks will help to ensure the validity of the Closure Notice and minimise the potential for delays at court.

6.3 Whom the Closure Notice should be served on

6.3.1 The notice must, where reasonably identified, be served on all those with an interest in the property, including:

- residents (those who may not be tenants but who live there nonetheless);
- the tenant and their dependants at the property;
- the owner or their representative; and
- persons affected through access to their property.

---

\(^2\) Criminal Justice and Immigration Act 2008, Chapter 4, Part 8: Anti-Social Behaviour, Section 118, Schedule 20: Closure orders: premises associated with persistent disorder or nuisance, part 11A (5).
6.3.2 Identifying these persons need not delay the serving of the notice as long as the authorising officer is satisfied that reasonable steps have been taken to identify them before the Closure Notice is served. Normal police information resources and information requests from the local authority in the area in which the premises is situated should identify the owner or occupier. As in all such circumstances, partnership working and identification of routes of co-operation lead to the best exchange of information. If this information simply identifies a letting agent, serving notice on them is acceptable. Service of the Closure Notice can be put in effect by affixing the notice to the premises, but efforts should also be made to give a copy of the notice to any interested persons. Sending a notice by post is not desirable, due to the speed and effects of the notice. However, if the owner or letting agent identified is not local, posting the notice may be considered sufficient as the only practicable means.

6.4 Serving a Closure Notice

6.4.1 A Closure Notice must be served by:
- a constable if it was authorised by the authorising officer; or
- an employee of the local authority if it was authorised by the authority.

6.4.2 When serving the notice, the constable or local authority employee does not need to enter the property and can serve it effectively by fixing a copy of the notice to at least one prominent place on the premises; to a normal means of access to the premises; or to any outbuildings that appear to the server of the notice to be used with, or as part of, the premises. Or it may be handed to at least one person who appears to the server of the notice to have control of, or responsibility for, the premises, to persons previously identified and to any other person appearing to the server of the notice to have an interest in the premises. A power of entry is attached to it.

6.4.3 It will be for the police and the relevant local authority to decide the level of joint working on the service of the notice. In some areas, where it is considered safe to do so, it may be appropriate for the police to be accompanied by the relevant local authority or RSL officer.

6.4.4 The police or the local authority must then apply to the magistrates’ court within 48 hours for a Closure Order.

6.5 Dealing with those in the premises

6.5.1 Once the notice has been served, those at a premises affected by it may choose to leave voluntarily. Those who habitually reside there should be advised to seek alternative accommodation. If they have failed to do so, they should be referred to the notice or the advice providers referred to in the notice regarding help with accommodation. Practitioners should make it clear that it will be an offence for persons who do not normally live at the premises, or who are not the owners, to continue to reside within the premises.

6.6 The welfare of those to be removed from a closed premises

6.6.1 There will be heightened concerns when the closure of a premises that may be home to a family, and especially children, is sought. As in any other operational setting, officers or local authority employees must be alert to their responsibilities in terms of any child’s welfare when dealing with such cases. Where a child is found in circumstances where there is reason to believe that his or her welfare is at risk, officers must follow relevant procedures in relation to child protection.
6.6.2 In all cases relating to the closure of premises it is essential that early contact is made with social services as well as the relevant homelessness, education and housing officials in the local authority, in order to establish the potential effects of that closure and, where closure proceeds, to mitigate those effects. Contact should be made with the relevant officials as soon as possible to draw the attention of the local housing authorities to the possible need to prevent homelessness.

6.7 Non-compliance of a Closure Notice

6.7.1 Section 11D creates offences of remaining in or entering a property subject to a Closure Notice or Order without reasonable excuse, or of obstructing a constable or authorised person carrying out certain functions under these provisions. The maximum penalty is a fine of £5,000, imprisonment for 51 weeks, or both.
7. The magistrates’ court

7.1 Time limits

7.1.1 Once a notice has been issued, an application for a Closure Order must be made to the magistrates’ court by the police or local authority within 48 hours.

7.1.2 The maximum length of a Closure Order is three months, with the possibility of an extension but to total no more than six months. The length of the Order should reflect the nature of disorder and the desire to bring the property back into management as quickly as possible.

7.1.3 An application must be made by:
- a constable if the issue of the Closure Notice was authorised by the authorising officer; or
- the local authority if the issue of the Closure Notice was authorised by the authority.

7.2 The hearing

7.2.1 To issue a Closure Order the court must be satisfied that:
- a person has engaged in anti-social behaviour on the premises in respect of which the Closure Notice was issued;
- the use of the premises is associated with significant and persistent disorder or persistent serious nuisance to members of the public; and
- an order is necessary to prevent further such disorder or nuisance for the period specified in the order.

7.2.2 The court is asked to decide whether the Closure Order is necessary to prevent the occurrence of significant and persistent disorder or persistent serious nuisance. The court may, therefore, wish to consider whether alternative methods would be more appropriate, and what other action might have been attempted. This is why the history of action and considered action against the premises and its occupants is important. It is not a requirement for the court to have evidence that these other methods have been tried first and exhausted, nor need they have been tried, but the court may feel that other powers will be more likely to achieve control, and will prevent serious nuisance or disorder more effectively.

7.2.3 The court may also, in determining whether to make a Closure Order, have regard to:
- the ability of any person who habitually resides in the premises to find alternative accommodation; and
- any vulnerability of that person.

7.2.4 Prior to the hearing, the police should ensure that the evidence to be presented is in good order. Support for community witnesses at the court may be necessary to enable them to give evidence. Guidance on supporting victims and witnesses in anti-social behaviour cases is available on the Respect website at: www.respect.gov.uk.

7.2.5 At the court hearing the evidence should be presented by the police or a local authority employee and supported, if appropriate, by evidence from the victims and witnesses, to establish the grounds for believing that the premises are associated with disorder or serious nuisance.

7.2.6 The court is not asked to decide on the relative merits of applying the power to certain types of premises rather than others. The court is simply asked to decide whether the use of the power in the specific circumstances involved is necessary to prevent the occurrence of the behaviour.

7.3 Dealing with the arguments presented against closure

7.3.1 The owner or occupier of the premises, a person who has control or responsibility for the premises and any other person who has an interest in the premises may contest the application to make an order.

7.3.2 The court will wish to hear why the order should not be made. Possible reasons include the following:
- The landlord, owner or tenant has just been apprised of the situation, and can demonstrate that effective action is already being taken to deal with it.
17 Closure Orders: Premises associated with persistent disorder or nuisance

• There is evidence that contradicts the evidence presented by the police, or there is evidence that cannot be presented at this time but which will be presented subsequently, thus presenting a case for adjournment.

7.3.3 The Act states that the magistrates’ court must be satisfied that a person has engaged in anti-social behaviour on the premises; that the premises are associated with significant and persistent disorder or persistent serious nuisance to members of the public; or that the making of the order is necessary to prevent the occurrence of such disorder or nuisance.

7.4 Dealing with arguments for adjournment

7.4.1 The court can defer the hearing of the application for the Order by adjournment for not more than 14 days, to allow those persons to prepare their case. This allows those who wish to oppose the application for an order to prepare their case. The court may order that a Closure Notice continues in effect until the end of the period of adjournment. It should be made clear by the court at the time of any adjournment whether the Notice continues to take effect or not.

7.4.2 It is not intended that all cases should be routinely adjourned, because this would defeat a key objective of the power, which is speed. The court must decide whether an adjournment is needed.

7.5 Disclosure

7.5.1 Closure Order proceedings must be conducted in the interests of fairness and in accordance with relevant legislation. It should also be remembered that the legislative intention is that applications for Closure Orders should be dealt with speedily. Accordingly:

• Police or local authorities should normally serve identified interested parties with all the information they need for the hearing at the same time as they serve the Closure Notice (if this is operationally possible). This will allow such parties to have had sight of the documents for sufficient time for the hearing to be completed ideally at the first hearing and otherwise within 16 days of the serving of the Closure Notice.

• Measures to protect live and hearsay witnesses should be in place before a Closure Notice is served, if considered appropriate by the investigating officer.

• In contested cases it is not generally sufficient for documents to be disclosed for the first time at the effective hearing. However, this may be acceptable in appropriate instances, at the discretion of the magistrates’ court.

• Where the police or local authority have not served the evidence on which they intend to rely in advance of the first hearing, it should generally be served a minimum of seven days before the adjourned hearing. However, circumstances may vary: a shorter adjournment may have been given, and the length of any adjournment remains at the magistrates’ discretion.
7.6.3 If the police or local authority are relying on oral evidence to a police officer or other professional, then that person should give direct evidence of what was said and of the circumstances under which the allegations were made.

7.6.4 The court is likely to give less weight to anonymous hearsay evidence than to credible direct evidence given in court.

7.6.5 Consideration should be given to putting forward other types of evidence in support of the application, in addition to or instead of anonymous hearsay – for example CCTV, surveillance footage, observation point log books and any other records.

7.6.1 Hearsay evidence is admissible, as these are civil proceedings. Anonymous hearsay evidence is also admissible. However, specific justification should be given in respect of each witness as to their reasons for remaining unidentified; for example, detailed reasons for their fear of reprisal.

7.6.2 A full witness statement with the identity of the witness redacted is the best form of anonymous hearsay evidence.
8. The Closure Order explained

8.1 Effects of a Closure Order

8.1.1 The Closure Order gives a power to close a property completely or partially and to prevent access by any persons – even those with rights of abode or ownership.

8.1.2 A Closure Order comes into force immediately after the court makes the order.

8.1.3 **A Closure Order is limited to a maximum term of three months.** The length of any order should reflect the type of behaviour associated with the premises and should be designed to bring the property back into a managed state as quickly as possible.

8.1.4 The issuing of the Closure Order does not remove or alter rights of ownership for owner-occupiers or tenancy rights for those who rent from a private or social landlord. In accordance with those rights, a tenant will retain the right to return to the property following expiry of the Closure Order. They will also retain their obligations under the tenancy during the closure period (i.e. rent will continue to accrue during the closure period).

8.1.5 Breach of the Closure Order is an offence. A person guilty of an offence is liable on summary conviction to imprisonment for a period not exceeding 51 weeks, a fine of £5,000, or both.

8.2 Enforcing a Closure Order

8.2.1 As soon as a Closure Order is made, a constable or any other person authorised by the chief police officer for the area in which the premises are situated, or a person authorised by the local authority, may enter the property and secure it against entry by any other person, using reasonable force if necessary. This means that the premises in question can be cleared of all persons present – including residents and those with an interest in the property who may have remained after the service of the Closure Notice. The authorised persons may also enter the premises at any time to carry out essential maintenance or repairs. Only the police may act in respect of police applications, and the local authority in respect of their applications.

8.2.2 Where a constable or any other person authorised by the chief police officer for the area in which the premises are situated, or a person authorised by the local authority, seeks to enter the premises on behalf of the owner, occupier or other person in charge of the premises, he or she must produce evidence of his or her identity and authority before entering the premises.

8.2.3 The process of entering to enforce the Closure Order should be treated with extreme caution. While in many cases the occupants will already have left, in others they may be resistant to leaving. Therefore the operation should be undertaken following a risk assessment, and authorised persons such as local authority workers, maintenance staff, workers from utility companies or housing officers should not be present until any safety issues have been addressed and the property cleared.

8.2.4 Where a vulnerable person has been preyed upon and has been unable to exercise control over their property, a Closure Order should form part of a planned resettlement move.
Case study: Closure of a property inhabited by a vulnerable adult

Issue
A property in Blackburn, owned by Twin Valley Homes and tenanted by a vulnerable adult who uses a wheelchair, was the target of anti-social behaviour. Social services were involved with the tenant and had previously provided her with a care package.

Over a number of months, several complaints of anti-social behaviour were received by the local housing association surrounding the activity of visitors to the property. On investigation, it became clear that the visitors to the property were individuals who were well-known to the police. The number of visitors to the property increased over time.

Approach
Because of the individuals frequenting the property, social services had no option but to withdraw the care services, due to the risks posed to staff. As such, the tenant became reliant on the anti-social visitors to provide a minimum amount of care.

Multi-agency meetings were held to try and address the issue. During these meetings, support staff from the housing association informed the group that the care packages provided by social services, which totalled in excess of £7,000, had been withdrawn. It was thought by the people attending the meeting that there was a possibility of mental health issues. An assessment was undertaken which stated that the tenant was able to make a decision when sober, but that this was not often the case. Alternative accommodation had been discussed with the tenant but her answer was dependent on her physical and mental state at the time.

The housing association served a Notice of Seeking Possession due to the anti-social behaviour, although part of the order stated that the housing association would be prepared to re-house her elsewhere in the borough. The timeframe for this process would have been at least three months. The situation was exacerbated by an assault on the tenant by one of her visitors.

There were regular calls to the property by the police, who found evidence of drug use, and individuals were arrested at the property. The tenant made a statement to the police stating that she was intimidated and frightened by the visitors. She also confirmed that there was drug use in the property and that they had ‘borrowed’ money from her. The visitors were using her bed, leaving her to sleep on the settee, and were also eating the meals provided by meals on wheels.

Due to concerns over the tenant’s safety, a telephone call was made to social services regarding temporary accommodation over a weekend.

To address the situation quickly, the group decided to have a look at the possibility of a Closure Order on the property justified by the Class A drug use by the visitors. Evidence of this activity had been witnessed by officers from the housing association and collected by the police.

Outcome
The court granted a Closure Order in conjunction with the following measures:

- The tenant was re-housed in alternative accommodation in a sheltered complex away from the town centre.
8.3 Dealing with those still occupying the premises

8.3.1 Those inside the premises or residing there are likely to fall into the following groups:

- The tenant/owner, who may be involved in serious anti-social behaviour, but who may also be a vulnerable person with social care and housing needs related to mental health, age or some other cause.
- Dependants of the owner/tenant, including children, all of whom will have a housing need, and some of whom may have welfare needs that require action and support from the local authority.
- Residents who happen to be there, some of whom may have nowhere to go and may have particular health needs.

8.3.2 These are only examples of the different kinds of people who are likely to be found. No one else can enter the premises following closure apart from police officers or persons authorised by the chief police officer or local authority for statutory purposes (e.g. maintenance, etc.), or those persons granted access by the court.

8.4 Breach of a Closure Order

8.4.1 Section 11D of the Act creates offences of remaining in or entering a property that is subject to a Closure Notice or Closure Order without reasonable excuse or of obstructing a constable or authorised person carrying out certain functions under these provisions. The maximum penalty for breaching a Closure Order is a fine of £5,000, imprisonment for 51 weeks, or both.
9. Management of a Closure Order

9.1 Issues during closure

9.1.1 It is important that, following the closure, the empty premises do not cause greater problems than before the Closure Order was made, such as crime and vandalism or through being taken over illegally – including by persons who were displaced originally. Premises should continue to be monitored and the sealing maintained in good order.

9.1.2 If the building is subject to further anti-social behaviour, it will not be possible to obtain another Closure Order as the last order will still apply. Therefore when sealing the property the task should be done carefully, in order to ensure that the building will not be taken over or become a target for further anti-social behaviour.

9.1.3 The power to close premises can be a rewarding experience for communities and this is because the information supplied by the local community against the anti-social behaviour within the premises results in a direct act by the authorities to quash the disorder. It is important to maintain the lack of anti-social behaviour associated with the premises and to instil trust into the community. This can be achieved through further collaboration between organisations and further liaising by police with local authorities.

9.1.4 The authorising officer or local authority may wish, following consultation, to have the Closure Order discharged prior to its expiry date. This is desirable when the problems associated with the premises have been addressed. It should be stressed that no property should remain empty longer than is necessary, and where the property can be brought back under managerial control an application should be made for the order to be discharged. For example, if a tenant agreed to immediately give up their tenancy as a result of the order, then the property could be brought back under management control, allowing the order to be discharged in the minimum of time.

9.2 Special considerations for non-residential premises

9.2.1 Premises such as licensed premises, warehouses and business premises, for example, can be closed if subject to a Closure Order. Closure would have a dramatic effect on the viability of a business, especially a small one, and can therefore be used as a very effective incentive to reform where this is necessary.

Case study: Closure of a nightclub in Plymouth

Issue
A nightclub (the Dance Academy) had become the subject of a five-month operation to investigate the extent of the supply of Class A drugs, particularly MDMA (ecstasy), within the premises. Intelligence indicated that the management (including the owner) and staff were at best ‘turning a blind eye’ and at worst, actually facilitating what was effectively overt dealing within the club and even in the queue waiting to get into the club. Several known dealers were regular attendees of the club. Also, the prevalence of incidents of violence and drug activity was being commented upon even by regular club-goers themselves on the club’s website.

Approach
140 police officers, plus immigration officers, environmental health officers and one parental control contract and anti-social behaviour lawyer entered the club to execute a Misuse of Drugs Act warrant and serve a Closure Notice. As a result of an announced temporary ‘amnesty’, drugs were left on the floor in virtually every part of the club. This included bags of tablets, tablets in wraps of three and powder. There were almost three times more ecstasy tablets recovered than there were actual club-goers present. Two members of staff alone were in possession between them of 160 ecstasy tablets. A Closure Notice was subsequently served on the licensee informing him of the hearing date and time.
Case study: Closure of a nightclub in Plymouth (continued)

The Dance Academy has its own website on which clubbers can post messages. This was accessed and several of those messages were used as evidence of the problems within the club. They spoke of the intimidating atmosphere, the increased drug activity and incidents of violence and how the situation was getting worse over time. Those messages were a welcome source of authentic inside information.

At Plymouth Crown Court the owner of the Dance Academy, the club’s DJ and the general manager, were each found guilty of one count of allowing the sale of Class A drugs in the former club, and have been told that they face a lengthy prison sentence after being found guilty of allowing the ‘rampant’ sale of ecstasy in the club.

Outcome
The Dance Academy was shut to the public and Plymouth City Council’s licensing sub-committee considered the future of the grade II-listed building. The result has been reassurance and physical security for the community. This has led to a reduction of anti-social behaviour in the area.

Contact
Susan Kane
Team Leader, Anti-Social Behaviour Unit
Tel: 01752 307065
10.1 Section 11G of the Anti-Social Behaviour Act 1998 (as amended by Schedule 20 of the Criminal Justice and Immigration Act 2008) allows a court to make an order concerning access to any part of a building or structure in which closed premises are situated, where that part itself is not affected by a Closure Order. Thus, a person who occupies or owns such a part of a building or structure may apply to the court for an order enabling him or her to retain the access to that part that he or she had before the closure order took effect (particularly if the Closure Order had rendered access to his or her part of the building or structure more difficult or impossible). The court may exercise its discretion and make such an order as it thinks appropriate.

10.2 A person who has a reasonable excuse for entering the building does not commit an offence; for example, a person granted access by the court or a ‘relevant person’. Relevant persons include police officers, workmen who are conducting work on the building in order to close it to the public and local authority officials.
11. Extensions, appeals against and discharging of Closure Orders

11.1 Extension

11.1.1 It is not expected that the extension of a Closure Order beyond three months will be a routine occurrence. There are many disadvantages to leaving properties empty for extended periods and few advantages. Only where there are real concerns that the property will return to its former use should an extension be made.

11.1.2 Where an extension is necessary, the relevant agency should engage in the same consultation process as in the application for a Closure Notice. Only an order which is still in force can be extended. The application for an extension may be made at any time prior to the date on which the original order would have expired.

11.1.3 Only a senior police officer or the local authority may seek the extension of the order. The application may be made by a constable or local authority employee. As with Closure Notices, the application must first be authorised by a senior officer after consultation with the relevant local authority, and tests are the same as those for the issue of a Closure Notice. Where this route is taken, it should only be used where more time is needed to change the nature of the premises or to allow proceedings (for example for its compulsory purchase) to be completed. Where the police or local authority had involved the relevant social landlord in the issue of the Closure Notice, they may wish to involve them again at this stage.

11.1.4 In the case of unoccupied buildings that are not occupied, that have been taken over illegally then closed by order and that otherwise stand empty, there may be a risk that once they are unsealed, the illegal occupants will return. This is a decision for the court to make, but continuing emptiness through extension on the basis that there is a risk they may return to their former use is not productive. Good housing management will help premises to return to productive use. The owners should be asked to show what would happen once the property is unsealed. It may be necessary to commence compulsory purchase proceedings as soon as possible if these premises continue to pose risks of criminal activity.

11.1.5 The relevant agency can make an application to the magistrates’ court to extend the Closure Order for a further period, with the total period of closure not exceeding six months.

11.2 Appeal

11.2.1 The Act entitles any persons on whom a Closure Notice was served, as well as any person who has an interest in the premises but on whom the Closure Notice was not served, to appeal against the making or extension of a Closure Order.

11.2.2 An appeal may also be brought either by a police constable or by a local authority against the refusal to make or extend an order.

11.2.3 An appeal against an order or decision must be brought to the Crown Court within 21 days, starting on the day on which the order or decision was made.

11.2.4 The Crown Court, in hearing an appeal, will judge each case on its merits. The Act does not define the grounds on which an appeal will be granted, only that the court must make an appropriate order. It may be the case that the appeal case rests on the basis that the problem is now under control rather than that the Control Order should never have been made. The court shall have to decide on the basis of such factors as:

- the case made by the police or local authority for the Closure Order to continue and the evidence presented that continuance of the Order is required to prevent reoccurrence of disorder or serious nuisance;
- the evidence that the problem is now under control; and
- the arguments that the original decision was wrong.
11.3 Discharge of a Closure Order

11.3.1 The police or local authority may wish to have the order discharged before the period expires. This is completely desirable where the problem has been satisfactorily addressed. In relation to discharge, the court must decide that the Closure Order is no longer necessary to prevent the occurrence of persistent and serious disorder or serious nuisance. Wherever early discharge is possible it should be encouraged. Where, for example, the tenant voluntarily surrenders the tenancy immediately, the property can be brought back into management almost straight away and the Closure Order can be discharged more quickly. Other occupants with other housing status (such as licensees) may have their rights to occupation of the property taken away where this is felt to be appropriate, and again the property can be brought back into management more quickly and the order revoked.

11.3.2 The court may wish to be reassured that the owner or landlord is prepared and able to provide the level of support needed to ensure that the same pattern does not reoccur before discharging the order. In cases involving vulnerable persons, the court will wish to be satisfied that the right level of support will be available to any vulnerable persons before revocation is considered, in order to prevent events reoccurring. Such re-letting will require strong co-operation between the police, the local authority and the landlord depending on the circumstances. It may be that the original tenant wishes to return to the premises, but this will have to be thought through very carefully and the person offered considerable support. This is a matter for the court to consider in conjunction with the housing body, as discharge in these circumstances may be ill-advised without necessary support and good housing management practice.

11.3.3 However, where those with a legal right to occupy (or those connected with) the premises seek the discharge of the order themselves, careful consideration must be given to the likelihood of the original problems returning and to what other solutions are being pursued by the police or local authority to control the behaviour that led to those problems.

11.3.4 In the case of private landlords or owners, the court will need to have many of the same reassurances, and in particular evidence that the private landlord will try to manage the situation more firmly. Only if the court is satisfied with their capability and willingness to get the problem under control should the order be discharged. Where the court has grounds for believing that the landlord was culpably involved in the original behaviour, discharge of the order should rarely be granted.
12. Costs and financial compensation

12.1 Reimbursement of costs (Closure Orders)

12.1.1 A police authority or a local authority may apply to the magistrates’ court for costs against the owner for any expenses incurred by the police or local authority in enforcing the Closure Order. This may be appropriate for recovering costs, for example the cost of clearing, boarding up or maintaining the premises, but would be inappropriate if the landlord had fully co-operated with the police or the local authority.

12.1.2 In order to recover these costs, applications must be made to the courts within three months of expiry of the Closure Order (starting with the day the order ceases to have effect) detailing their expenses.

12.1.3 The application must be served on:
- the police authority for the area in which the premises are situated, if the application is made by the local authority;
- the local authority if the application is made by a policy authority; and
- the owner of the premises.

12.1.4 On application, the court may make an order for reimbursement (in full or in part) by the owner of the premises of the expenditure as it thinks appropriate.

12.1.5 If the court decides that the owner of the premises is liable for these costs, then appropriate costs can be awarded to the owner by the police or local authority. Consideration of the costs and compensation issues should be made when drawing up local protocols on use of the powers.

12.2 Exemption from liability (Closure Notices and Orders)

12.2.1 Section 11I of the Anti-Social Behaviour Act 2003 (as amended) creates a partial exemption from liability in damages for the police and local authority in carrying out their functions in relation to premises closure powers.

12.2.2 Any acts in bad faith or acts that are in breach of the police or local authority’s duties as public authorities to exercise their functions in accordance with the European Convention on Human Rights are not exempted from liability under this provision.

12.3 Compensation (Closure Notices and Orders)

12.3.1 Persons who incur loss as a result of a Closure Notice or Order can apply for compensation to the magistrates’ court that considered the application for an order (or the Crown Court if the order was made or extended by that court on appeal).

12.3.2 The application must be made no later than the end of three months, starting with whenever is the later of:
- the day of the court’s decision not to make an order;
- the day on which the Crown Court dismissed an appeal against a decision not to make an order; or
- when the order ceases to have effect.

12.3.3 However, this ability to claim compensation has been carefully drafted so that, while we do not wish to impose an extra burden upon the private rented sector, it is also impossible for those persons involved in the anti-social behaviour to gain compensation. In particular, the owner or occupier of the premises must demonstrate that they took ‘reasonable steps’ to prevent the unacceptable use of the premises.

12.3.4 Reasonable steps might include:
- evicting, or otherwise controlling the behaviour of, any persons involved in such behaviour where those persons are their tenant or associates of their tenant;
- securing the property if such persons have been removed;
- co-operating with the police; and
- demonstrating good standards of tenant management, such as an understanding of the needs of tenants, securing references where possible and visiting the property regularly.
12.3.5 The court has discretion in deciding whether it is appropriate to make an order for compensation from central funds. It is not required to have demonstrable proof of the applicant’s engagement in the behaviour before refusing to grant them compensation. The court is simply asked to be satisfied that any person applying for compensation is not connected to the anti-social behaviour and took reasonable steps, and that in all circumstances it is appropriate to order compensation.
13. Miscellaneous

13.1 How this action must be seen in the wider context

13.1.1 While at the simplest level this guidance is about the specific way in which these powers should be used, in practice their use needs to be set in the context of the wider need to address significant and persistent disorder or persistent serious nuisance across all housing and property tenures, and to engage perpetrators in support and rehabilitation.

13.2 Partnership working

13.2.1 Anti-social behaviour has to be tackled in partnership, because no single agency can tackle such a complex issue in isolation. It is essential that such partnerships demonstrate a strong leadership and they convey a firm message that anti-social behaviour will be tackled and not tolerated. Successful partnership allows the development of sustainable solutions to anti-social behaviour by adopting a problem-solving approach and sharing information, and enables a ‘can do’ approach that is communicated to the community.

13.2.2 The Crime and Disorder Act 1998 (as amended by the Police and Justice Act 2006) enshrined in statute the concept of partnership working to prevent and reduce crime, disorder and anti-social behaviour – local authorities, the police, police authorities, the National Probation Service, fire and rescue services and health services must all work together. There are also a number of other partnerships that have a role to play in tackling anti-social behaviour. Some of these are focused on young people.

13.2.3 The Audit Commission has produced a report that considers how local agencies responsible for community safety can work better with local people to make neighbourhoods safer and improve the perception of public safety. This can be viewed at: www.audit-commission.gov.uk/neighbourhoodcrime/index.asp.

13.3 Setting up monitoring systems

13.3.1 Careful consideration should be given to how the use of these powers and their impact monitored. While there is no central monitoring system in place to monitor the use of the powers, local arrangements should be considered that enable police, local authorities, partnerships and others involved in reviewing the use of the powers to consider how improvements can be made to increase effectiveness.

13.4 Publicity

13.4.1 Carrying out a Closure Order is a very public demonstration to a community that action will be taken to counter anti-social behaviour and bring relief to a community. This will not only encourage the community to come forward and report incidents, it also sends out a message that anti-social behaviour will be tackled, not tolerated. When using these powers, police and local authorities need to give careful thought to how best to publicise their actions in order to maximise the communities’ renewed willingness to engage once they have benefited from premises being closed in their neighbourhood. It should also be noted that there may be occasions when such publicity is not good and would need to be avoided.

13.5 Sharing best practice

13.5.1 As this tool is similar in nature to the pre-existing crack house closure power, before using this power for the first time it may be useful to contact an experienced practitioner to discuss their knowledge and experience, or arrange a training and discussion event where the local need for use of such powers can be explored. An experienced practitioner from another area can illustrate their use of the powers and what they achieved in their area.
13.5.2 In organising such an event, it is important to ensure that every link in the delivery chain is involved, including courts, social services and housing, instead of just concentrating on enforcement and the local authority. Where such events have been held, they have proven to be a great step towards ensuring that the powers are used as part of a coherent approach to tackling significant and persistent disorder or persistent serious nuisance to a community, and have encouraged delivery through effective partnership.

13.6 Protocols

13.6.1 There are real advantages to developing systems and protocols between the police, local authorities and social landlords before the issue of a Closure Notice, in order to cope with the possible displacement from the closure. Such protocols are actively encouraged and should cover a range of issues such as determining what information should be included on the Closure Notice itself; advice to those affected by the notice; practical arrangements for managing situations of this type; processes for safeguarding the welfare of affected children and other vulnerable persons; early exchange of information and clear systems for dealing with possible homelessness and housing issues; and access to any legal advice that might be needed.

13.6.2 The local housing authority should be informed of the service of the Closure Order. This will provide the local authority with an opportunity to take steps at an early stage to assist any residents affected by the Closure Order who may need alternative accommodation.

13.6.3 The following are the areas in which the local authority may be involved:
- housing advice services including homelessness assistance and housing benefit
- building maintenance to assess the condition of the premises
- securing the premises with metal window blinds, secure doors and any other measures necessary to prevent further access to the premises
- local authority Supporting People programmes
- tenancy management
- removal of possessions to future addresses.

13.6.4 The landlord will also need to decide what to do in relation to any tenancy agreement or other rights of abode any person residing at the property may have. When an order is made it has no impact on ownership or tenancy or other rights to the property. If a landlord wishes to obtain possession of the premises or otherwise recover it to be re-allocated to another occupant, they will need to follow the appropriate procedures (including obtaining a court order) in each case.

13.6.5 A tenant who intends to return to the property after the Closure Order has expired may, depending on the circumstances, find that he or she is liable for rent on two properties for a period, but is able to obtain housing benefit for only one property's rent. This may mean financial vulnerability with an impact on the tenant and on other household members, including children. The potential for this to happen will be one of the factors that the magistrates’ court must take into account in considering an application for a Closure Order. It is therefore important that the police or local authority liaise with housing and housing benefit officers of the local authority on the options available to the tenant and the consequences of those options, and on the advice that should be given.
This checklist provides a guide to the key issues for consideration throughout the closure process. Consideration should also be given to maintaining a database with full contact details of all the individuals involved and the agencies they represent.

- Has an individual been identified to champion closures?
- Are all key partners engaged?
- Are additional partners engaged?
- Is there persistent and significant disorder or persistent nuisance from the premises?
- Has a person engaged in ASB on the premises in the three-month period ending with authorisation?
- Have other interventions been used or considered and rejected for good reason?
- Have other options been considered or tried where possible?
- Have the police or local authority been consulted?
- Has evidence of this been appropriately collated?
- Has this involved an exchange of information and have their views been taken into account where desirable?
- Have those who live, control, own or have responsibility or an interest in the premises been identified?
- Have notices been prepared to be served upon them?
- Does the Closure Notice contain the information required by the Act?
  - Give notice of the application for a Closure Order.
  - State the date, time and place where this will be heard.
  - Inform all persons that access to the premises by those other than the habitual resident or owner is prohibited.
  - Explain that access by any other persons is considered an offence.
  - Detail the effects of a Closure Order if issued by the court.
- Provide information on how to contact advice providers such as housing or legal advisors or organisations.
  - Has a magistrates’ court hearing been secured for no later than 48 hours after the intended date and time of service?
  - Has appropriate back-up been provided and have other policing tactics to be used alongside this action been considered?
  - Has the nature of the premises been considered?
  - Have any vulnerable persons or children been identified and taken into account?
  - Have the appropriate services been notified of the potential demand upon them by these groups?
  - Has the social good of closure been considered?
  - Has the Secretary of State granted any exemption to certain types of premises?
  - If so, does the premises fall within that exemption?
  - Has a risk assessment been carried out prior to entering premises to enforce a Closure Order?
  - Have arrangements been made for the secure sealing of the premises and the isolation of utilities?
  - Have appropriate structures been put in place to ensure that witnesses can be contacted for the case and will be kept informed of developments?
  - Is there a plan to follow up the closure with renewed efforts to combat persistent disorder in the area?
ANNEX B: Model for Pursuing a Premises Closure Order

Identification of serious and persistent anti-social behaviour centring on or taking place around particular premises

Police and/or LAs consult with other agencies

Police and other agencies implement relevant anti-social behaviour tools such as ABCs, ASBs, ASBOs

Anti-social behaviour persists despite earlier interventions

Those not habitually resident at the property must leave. Those at risk of being homeless may apply to local authority

As a last resort, Closure Notice issued by local authority or police superintendent after consulting other agencies

Application to courts to consider Closure Order within 48 hours

Anti-social behaviour ends

Application rejected. Closure Notice revoked by police

Closure granted. Premises closed and sealed for up to 12 weeks. Residents must find alternative accommodation

Appeal

Appeal successful. Closure Order revoked

Discharge or application for extension

Closure Order expires and premises is returned to owner or re-let

Successful
Closure Orders: Premises associated with persistent disorder or nuisance

After Part 1 of the Anti-social Behaviour Act 2003 (c. 38) (premises where drugs used unlawfully) insert the following Part.

Part 1A Premises associated with persistent disorder or nuisance

11A Part 1A closure notice

(1) This section applies to premises if a police officer not below the rank of superintendent (“the authorising officer”) or the local authority has reasonable grounds for believing—

(a) that at any time during the relevant period a person has engaged in anti-social behaviour on the premises; and

(b) that the use of the premises is associated with significant and persistent disorder or persistent serious nuisance to members of the public.

(2) The authorising officer may authorise the issue of a Part 1A closure notice in respect of the premises if the officer is satisfied—

(a) that the local authority has been consulted; and

(b) that reasonable steps have been taken to establish the identity of any person who lives on the premises or who has control of or responsibility for, or an interest in, the premises.

(3) The local authority may authorise the issue of a Part 1A closure notice in respect of the premises if it is satisfied—

(a) that the appropriate chief officer has been consulted; and

(b) that reasonable steps have been taken to establish the identity of any person who lives on the premises or who has control of or responsibility for, or an interest in, the premises.

(4) An authorisation under subsection (2) or (3) may be given orally or in writing, but if it is given orally the authorising officer or local authority (as the case may be) must confirm it in writing as soon as it is practicable.

(5) A Part 1A closure notice must—

(a) give notice that an application will be made under section 11B for the closure of the premises;

(b) state that access to the premises by any person other than a person who habitually resides in the premises or the owner of the premises is prohibited;

(c) specify the date and time when, and the place at which, the application will be heard;

(d) explain the effects of an order made in pursuance of section 11B;

(e) state that failure to comply with the notice amounts to an offence; and

(f) give information about relevant advice providers.

(6) A Part 1A closure notice must be served by—

(a) a constable if its issue was authorised by the authorising officer; or

(b) an employee of the local authority if its issue was authorised by the authority.

(7) Service is effected by—

(a) fixing a copy of the notice to at least one prominent place on the premises;

(b) fixing a copy of the notice to each normal means of access to the premises;

(c) fixing a copy of the notice to any outbuildings which appear to the server of the notice to be used with or as part of the premises;

(d) giving a copy of the notice to at least one person who appears to the server of the notice to have control of or responsibility for the premises; and

(e) giving a copy of the notice to the persons identified in pursuance of subsection (2)(b) or (3)(b) (as the case may be) and to any other person appearing to the server of the notice to be a person of a description mentioned in that provision.
(8) The Part 1A closure notice must also be served on any person who occupies any other part of the building or other structure in which the premises are situated if the server of the notice reasonably believes, at the time of serving the notice under subsection (7), that the person's access to the other part of the building or structure will be impeded if a Part 1A closure order is made under section 11B.

(9) A person acting under subsection (7) may enter any premises, using reasonable force if necessary, for the purposes of complying with subsection (7)(a).

(10) The Secretary of State may by regulations specify premises or descriptions of premises to which this section does not apply.

(11) In this section—

• “information about relevant advice providers” means information about the names of, and means of contacting, persons and organisations in the area that provide advice about housing and legal matters;

• “the relevant period” means the period of 3 months ending with the day on which the authorising officer or the local authority (as the case may be) considers whether to authorise the issue of a Part 1A closure notice in respect of the premises.

11B Part 1A closure order

(1) If a Part 1A closure notice has been issued under section 11A an application must be made under this section to a magistrates’ court for the making of a Part 1A closure order.

(2) An application under subsection (1) must be made by—

(a) a constable if the issue of the Part 1A closure notice was authorised by the authorising officer; or

(b) the local authority if the issue of the Part 1A closure notice was authorised by the authority.

(3) The application must be heard by the magistrates’ court not later than 48 hours after the notice was served in pursuance of section 11A(7)(a).

(4) The magistrates’ court may make a Part 1A closure order if and only if it is satisfied that each of the following paragraphs applies—

(a) a person has engaged in anti-social behaviour on the premises in respect of which the Part 1A closure notice was issued;

(b) the use of the premises is associated with significant and persistent disorder or persistent serious nuisance to members of the public;

(c) the making of the order is necessary to prevent the occurrence of such disorder or nuisance for the period specified in the order.

(5) A Part 1A closure order is an order that the premises in respect of which the order is made are closed to all persons for such period (not exceeding 3 months) as is specified in the order.

(6) But the order may include such provision as the court thinks appropriate relating to access to any part of the building or structure of which the premises form part.

(7) The magistrates’ court may adjourn the hearing on the application for a period of not more than 14 days to enable—

(a) the occupier of the premises,

(b) the person who has control of or responsibility for the premises, or

(c) any other person with an interest in the premises, to show why a Part 1A closure order should not be made.

(8) If the magistrates’ court adjourns the hearing under subsection (7) it may order that the Part 1A closure notice continues in effect until the end of the period of the adjournment.

(9) A Part 1A closure order may be made in respect of the whole or any part of the premises in respect of which the Part 1A closure notice was issued.

11C Part 1A closure order: enforcement

(1) This section applies if a magistrates’ court makes an order under section 11B.
(2) A relevant person may—

(a) enter the premises in respect of which the order is made; and

(b) do anything reasonably necessary to secure the premises against entry by any person.

(3) A person acting under subsection (2) may use reasonable force.

(4) But a relevant person seeking to enter the premises for the purposes of subsection (2) must, if required to do so by or on behalf of the owner, occupier or other person in charge of the premises, produce evidence of his identity and authority before entering the premises.

(5) A relevant person may also enter the premises at any time while the order has effect for the purpose of carrying out essential maintenance of or repairs to the premises.

(6) In this section “a relevant person”—

(a) in relation to premises in respect of which a police Part 1A closure order has effect, means a constable or a person authorised by the appropriate chief officer;

(b) in relation to premises in respect of which a local authority Part 1A closure order has effect, means a person authorised by the local authority.

11D Closure of premises associated with persistent disorder or nuisance: offences

(1) A person who remains on or enters premises in contravention of a Part 1A closure notice commits an offence.

(2) A person who—

(a) obstructs a person acting under section 11A(7) or 11C(2),

(b) remains on closed premises, or

(c) enters closed premises,

commits an offence.

(3) A person guilty of an offence under this section is liable on summary conviction—

(a) to imprisonment for a period not exceeding 51 weeks, or

(b) to a fine not exceeding level 5 on the standard scale,

or to both.

(4) A person who has a reasonable excuse for entering or being on the premises does not commit an offence under subsection (1) or (2)(b) or (c) (as the case may be).

(5) In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003, the reference in subsection (3)(a) to 51 weeks is to be read as a reference to 6 months.

11E Part 1A closure order: extension and discharge

(1) At any time before the end of the period for which a Part 1A closure order is made or extended, a complaint may be made by—

(a) a constable if the order is a police Part 1A closure order, or

(b) the local authority if the order is a local authority Part 1A closure order,

to a justice of the peace for an extension or further extension of the period for which the order has effect.

(2) A complaint may not be made under subsection (1) in relation to a police Part 1A closure order unless the complaint is authorised by a police officer not below the rank of superintendent—

(a) who has reasonable grounds for believing that it is necessary to extend the period for which the order has effect for the purpose of preventing the occurrence of significant and persistent disorder or persistent serious nuisance to members of the public; and

(b) who is satisfied that the local authority has been consulted about the intention to make the complaint.
(3) A complaint may not be made under subsection (1) in relation to a local authority Part 1A closure order unless the local authority—

(a) has reasonable grounds for believing that it is necessary to extend the period for which the order has effect for the purpose of preventing the occurrence of significant and persistent disorder or persistent serious nuisance to members of the public; and

(b) is satisfied that the appropriate chief officer has been consulted about the intention to make the complaint.

(4) If a complaint is made to a justice of the peace under subsection (1), the justice may issue a summons directed to—

(a) any person on whom the Part 1A closure notice relating to the closed premises was served under subsection (7)(d) or (e) or (8) of section 11A, or

(b) any other person who appears to the justice to have an interest in the closed premises but on whom the Part 1A closure notice was not served, requiring such person to appear before the magistrates’ court to answer to the complaint.

(5) If the court is satisfied that the order is necessary to prevent the occurrence of significant and persistent disorder or persistent serious nuisance to members of the public for a further period, it may make an order extending the period for which the Part 1A closure order has effect by a period not exceeding 3 months.

(6) But a Part 1A closure order must not have effect for more than 6 months.

(7) Any of the following persons may make a complaint to a justice of the peace for an order that a Part 1A closure order is discharged—

(a) a constable if the Part 1A closure order is a police Part 1A closure order;

(b) the local authority if the Part 1A closure order is a local authority Part 1A closure order;

(c) a person on whom the Part 1A closure notice relating to the closed premises was served under subsection (7)(d) or (e) or (8) of section 11A; and

(d) a person who has an interest in the closed premises but on whom the Part 1A closure notice was not served.

(8) If a complaint is made under subsection (7)—

(a) in relation to a police Part 1A closure order, by a person other than a constable, or

(b) in relation to a local authority Part 1A closure order, by a person other than the local authority, the justice may issue a summons directed to such constable as the justice thinks appropriate or to the local authority (as the case may be) requiring the constable or authority to appear before the magistrates’ court to answer to the complaint.

(9) The court may not make an order discharging a Part 1A closure order unless it is satisfied that the Part 1A closure order is no longer necessary to prevent the occurrence of significant and persistent disorder or persistent serious nuisance to members of the public.

(10) If a summons is issued in accordance with subsection (4) or (8), a notice stating the date, time and place at which the complaint will be heard must be served on—

(a) if the summons is issued under subsection (4), the persons to whom it is directed;

(b) if the summons is issued under subsection (8), the persons mentioned in subsection (7)(c) and (d) (other than the complainant);

(c) if the complaint relates to a police Part 1A closure order, such constable as the justice thinks appropriate (unless a constable is the complainant);

(d) if the complaint relates to a local authority Part 1A closure order, the local authority (unless it is the complainant).

11F Part 1A closure order: appeals

(1) This section applies to—

(a) an order under section 11B or 11E;

(b) a decision by a court not to make an order under either of those sections.
Closure Orders: Premises associated with persistent disorder or nuisance

37

(b) the local authority;
(c) any person on whom the Part 1A closure notice relating to the closed premises was served under subsection (7)(d) or (e) or (8) of section 11A; and
(d) any person who has an interest in the closed premises but on whom the Part 1A closure notice was not served.

(4) On an application under this section the court may make such order as it thinks appropriate in relation to access to any part of a building or structure in which closed premises are situated.

(5) It is immaterial whether any provision has been made as mentioned in section 11B(6).

11H Part 1A closure order: reimbursement of costs
(1) A police authority or a local authority which incurs expenditure for the purpose of clearing, securing or maintaining the premises in respect of which a Part 1A closure order has effect may apply to the court which made the order for an order under this section.

(2) On an application under this section the court may make such order as it thinks appropriate in the circumstances for the reimbursement (in full or in part) by the owner of the premises of the expenditure mentioned in subsection (1).

(3) But an application for an order under this section must not be entertained unless it is made before the end of the period of 3 months starting with the day the Part 1A closure order ceases to have effect.

(4) An application under this section must be served on—
(a) the police authority for the area in which the premises are situated if the application is made by the local authority;
(b) the local authority if the application is made by a police authority; and
(c) the owner of the premises.

(2) An appeal against an order or decision to which this section applies must be brought to the Crown Court before the end of the period of 21 days beginning with the day on which the order or decision is made.

(3) An appeal against an order under section 11B or 11E(5) may be brought by—

(a) a person on whom the Part 1A closure notice relating to the closed premises was served under section 11A(7)(d) or (e); or
(b) a person who has an interest in the closed premises but on whom the Part 1A closure notice was not served.

(4) An appeal against the decision of a court not to make such an order may be brought by—

(a) a constable if the Part 1A closure order is (or, if made, would have been) a police Part 1A closure order; or
(b) the local authority if the Part 1A closure order is (or, if made, would have been) a local authority Part 1A closure order.

(5) On an appeal under this section the Crown Court may make such order as it thinks appropriate.

11G Part 1A closure order: access to other premises
(1) This section applies to any person who occupies or owns any part of a building or structure—

(a) in which closed premises are situated; and
(b) in respect of which the Part 1A closure order does not have effect.

(2) A person to whom this section applies may, at any time while a Part 1A closure order has effect, apply to—

(a) the magistrates’ court in respect of an order made under section 11B or 11E; or
(b) the Crown Court in respect of an order made under section 11F.

(3) If an application is made under this section notice of the date, time and place of the hearing to consider the application must be given to—

(a) such constable as the court thinks appropriate;
11I Part 1A closure notice or order: exemption from liability
(1) A constable is not liable for relevant damages in respect of anything done or omitted to be done by the constable in the performance or purported performance of functions under this Part.
(2) A chief officer of police who has direction or control of a constable is not liable for relevant damages in respect of anything done or omitted to be done by the constable in the performance or purported performance of functions under this Part.
(3) Neither a local authority nor an employee of a local authority is liable for relevant damages in respect of anything done or omitted to be done by or on behalf of the authority in the performance or purported performance of functions under this Part.
(4) Subsections (1) to (3) do not apply—
   (a) if the act or omission is shown to have been in bad faith;
   (b) so as to prevent an award of damages made in respect of an act or omission on the ground that the act or omission was unlawful by virtue of section 6(1) of the Human Rights Act 1998.
(5) This section does not affect any other exemption from liability for damages (whether at common law or otherwise).
(6) In this section “relevant damages” means damages in proceedings for judicial review or for the tort of negligence or misfeasance in public office.

11J Part 1A closure notices and orders: compensation
(1) This section applies to any person who incurs financial loss in consequence of—
   (a) the issue of a Part 1A closure notice; or
   (b) a Part 1A closure order having effect.
(2) A person to whom this section applies may apply to—
   (a) the magistrates’ court which considered the application for a Part 1A closure order;
   (b) the Crown Court if the Part 1A closure order was made or extended by an order made by that Court on an appeal under section 11F.
(3) An application under this section must not be entertained unless it is made not later than the end of the period of 3 months starting with whichever is the later of—
   (a) the day the court decides not to make a Part 1A closure order;
   (b) the day the Crown Court dismisses an appeal against a decision not to make a Part 1A closure order;
   (c) the day the Part 1A closure order ceases to have effect.
(4) On an application under this section the court may order the payment of compensation out of central funds if it is satisfied—
   (a) that the person is not associated with such use of the premises as is mentioned in section 11A(1)(b);
   (b) if the person is the owner or occupier of the premises, that the person took reasonable steps to prevent such use of the premises;
   (c) that the person has incurred financial loss as mentioned in subsection (1); and
   (d) having regard to all the circumstances it is appropriate to order payment of compensation in respect of that loss.
(5) In this section “central funds” has the same meaning as in enactments providing for the payment of costs.

11K Guidance
(1) The Secretary of State may issue guidance relating to the discharge of any functions under or for the purposes of this Part.
(2) A person discharging a function to which guidance under this section relates must have regard to the guidance in discharging the function.
11L Interpretation

(1) This section applies for the purposes of this Part.

(2) “Anti-social behaviour” means behaviour by a person which causes or is likely to cause harassment, alarm or distress to one or more other persons not of the same household as the person.

(3) “The appropriate chief officer”, in relation to—
   (a) any premises, or
   (b) a Part 1A closure order relating to any premises,
means the chief officer of police for the area in which the premises are situated.

(4) “Closed premises” means premises in respect of which a Part 1A closure order has effect.

(5) “Local authority”, in relation to England, means—
   (a) a district council;
   (b) a London borough council;
   (c) a county council for an area for which there is no district council;
   (d) the Common Council of the City of London in its capacity as a local authority;
   (e) the Council of the Isles of Scilly.

(6) “Local authority”, in relation to Wales, means—
   (a) a county council;
   (b) a county borough council.

(7) References to the local authority in relation to—
   (a) any premises;
   (b) a Part 1A closure notice relating to any premises;
   (c) a Part 1A closure order relating to any premises;
are references to the local authority for the area in which the premises are situated.

(8) “A local authority Part 1A closure order” means a Part 1A closure order made or extended on the application of the local authority.

(9) “The owner”, in relation to premises, means—
   (a) a person who is for the time being entitled to dispose of the fee simple in the premises, whether in possession or in reversion (apart from a mortgagee not in possession); or
   (b) a person who holds or is entitled to the rents and profits of the premises under a lease which (when granted) was for a term of not less than 3 years.

(10) “A Part 1A closure notice” means a notice issued under section 11A.

(11) “A Part 1A closure order” means—
   (a) an order made under section 11B;
   (b) an order extended under section 11E;
   (c) an order made or extended under section 11F which has the like effect as an order made or extended under section 11B or 11E (as the case may be).

(12) “A police Part 1A closure order” means a Part 1A closure order made or extended on the application of a constable.

(13) “Premises” includes—
   (a) any land or other place (whether enclosed or not);
   (b) any outbuildings which are or are used as part of premises.