



**CLOSURE OF
PREMISES
ASSOCIATED WITH
PERSISTENT
DISORDER OR
NUISANCE
Brighton & Hove**

**PROTOCOL
March 2009**

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1. THE PURPOSE OF THIS DOCUMENT

1.1 Purpose:

The purpose of this partnership protocol is to;

- Provide clear and agreed guidance for key partner agency staff when considering use of the powers to close premises associated with persistent disorder or nuisance.
- Identify the key issues and stages in the 'Closure' process.

1.2 Aims and Objectives:

The aims and objectives of this partnership protocol are to;

- Achieve consistency in practice to ensure a rapid response from the relevant partner agencies and to set out clear procedures in relation to 'vulnerable' tenants/occupants.
- Enable partner agencies to act rapidly to prevent deterioration in quality of life for local residents and communities.

1.3 Partnership Responsibilities:

Key partners as identified at the beginning of this document, have between them a range of 'statutory' duties and functions to enable them to effectively tackle the problem of anti social behaviour in residential premises. In addition there are partners who may not be under a statutory duty, but who need to be consulted when these agencies are considering applying for a premises closure order.

The statutory duties as summarised;

- Prevention of crime & disorder
- Prevention of anti-social behaviour
- Homelessness duty
- Protection from nuisance and harassment
- Child protection and 'Child in need' duty
- Protection of vulnerable clients duty
- Protection of environment in a safe and clean city

2. WHAT IS A CLOSURE ORDER

2.1 Definition of Premises:

For the purposes of this Partnership Protocol, a 'premises associated with persistent disorder or persistent serious nuisance' has been defined as follows:

Any land or other place (whether enclosed or not); and 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

The premises can also be a subsection of a larger building such as a flat within a block or a room within a hostel or bed and breakfast.

The powers do cover licensed premises however it may be more appropriate for these premises to be dealt with under current licensing legislation.

2.2 Definition of 'Significant and Persistent Disorder or Persistent Serious Nuisance':

There is no legal definition of what constitutes significant and persistent disorder or persistent serious nuisance and it is for the courts to define these terms. However Home Office guidance provides a list of the types of problems that may constitute significant and persistent disorder or persistent serious nuisance; this list should be taken by partner agencies as a guide to the level of nuisance that is considered to be serious in the context of the legislation.

- 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 number 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.

2.3 The Legislation – Part 1A of the Anti Social Behaviour Act 2003 as amended by Part 8, Section 118 of the Criminal Justice and Immigration Act 2008:

The issuing of a closure notice can be authorised by a senior police officer of the rank of superintendent or above or the local authority. In order to assess the need for the notice they must have reasonable grounds for believing that

- a.) **At any time in the preceding three months a person has engaged in anti social behaviour in 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.**

The Police or local authority may authorise the issue of a closure notice providing they are satisfied that;

- a.) **The appropriate chief officer of police or the local authority for the area in which the premises is situated has been consulted**

and

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

2.4 The decision to issue a Closure Notice

The police or local authority ‘**should only authorise a Closure Notice once all other avenues have been pursued and have failed to stop the disorder in the premises**’. Therefore the authorising officer will need to ensure that the following has been taken 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 reoccupied 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 (ASBO's) that may be more suitable and achieve the same result, without the need for the implications that the closure power contains
- 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.

The authorising officer must ensure that all partner agencies have been involved in dealing with the underlying anti social behaviour from the beginning rather than just taking the approach of tackling the property itself. These agencies include among others the police, council housing management and RSL's, social services, youth offending team, education and mental health services.

The authorising officer is required to demonstrate that all other anti social behaviour tools and powers have been considered before making the decision to apply for a closure order this includes mediation, referrals to support services such as the family intervention project, acceptable behaviour contracts, parenting orders, ASBO's, tenancy enforcement, injunctions etc.

2.5 Evidence of disorder or serious nuisance:

Serious nuisance is often demonstrated by accounts from neighbours and/or professional witnesses of the distress caused to the community by the activities 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 and serious nuisance.

Evidence of disorder or serious nuisance in statements provided by residents/occupants affected by the behaviour as well as evidence obtained from professional witnesses can be used in proceedings brought by the Police or Local Authority. The partnership agencies need to be mindful of needs of witnesses who may suffer acts of recrimination from individuals associated with the behaviour.

2.6 Who has the legislative power to serve Closure Notice?:

The legislative power is with the Police and Local Authority. Upon an application by the Police or Local Authority to the Magistrates' Court a Closure Order is sought that can then be served on anyone identified as an interested party. However, in Brighton & Hove levels of partnership working are such that although the power to obtain Closure Notices is with the Police and Local Authority, other Partner agencies will play a vital role in the process.

A shared problem solving approach is a clear advantage in sharing resources, intelligence and pooling evidence to effectively tackle the problem and prevent it from re-occurring.

2.7 Evidence requirements:

The evidence requirements have to meet the threshold as set down by the legislation. (see section 2.3)

The police can collect evidence of nuisance, disorder and criminal offences made in and around the premises. While the council or RSL may be in a position to provide information regarding complaints received from residents and evidence from housing officers in the form of diary sheets and tenancy file history.

In this context a partnership approach to evidence gathering needs to be clear and unambiguous from the outset and with review timescales put in place with the close involvement of a solicitor.

Likely sources of evidence;

- resident diary sheets
- letters of complaint
- Council Housing tenancy file correspondence (if applicable)
- Registered Social Landlord or Housing Association file correspondence
- Environmental Health information, evidence and attendance at premises
- Police Offender profiles
- Police arrest history at premises
- Specific offender arrest history
- Witness statements
- Record of Police incident history in and around premises
- Map indicating incidents of anti-social behaviour, offences and complaints linked to the premises address

2.8 Practical arrangements:

Due to the very nature of serious anti social behaviour the community is likely to be extremely apprehensive about providing evidence to assist the 'Closure' process.

Having identified potential premises at an early stage, key local officers should agree a local strategy to tackle this and to reassure residents and the community that they are tackling the issue proactively. Partners need to be very clear with each other about potential difficulties and should agree to meet regularly and keep channels of communication open to ensure information sharing and the ability to react rapidly.

3. VULNERABLE OCCUPANTS

Key consideration must be given to vulnerable status at early planning stage.

3.1 Identifying vulnerability:

In Brighton & Hove there is fairly frequent incidence of anti social people becoming involved with a tenant or occupant and then over time the premises becomes associated with serious nuisance and other criminal activity. In

these circumstances the original tenant/occupant effectively loses control of their home and becomes a victim of circumstance. The perpetrators target vulnerable individuals they can manipulate through intimidation, threats of violence and actual violence. In a small number of cases there may be children living on such premises. It is essential that the Police or the Local Authority advise Social Services and other relevant agencies immediately if children or vulnerable adults are identified in the property.

- Vulnerable individuals in this circumstance are as much a victim as the wider community and if they meet certain criteria they should be treated as such.
- It is essential that robust contingency planning is put into place to ensure that homelessness is prevented for anyone who is vulnerable or has children.
- Criteria are set out below as a guide, but vulnerability should not be decided on the basis of how many criteria they meet it should be a multi agency decision based on individual circumstances.

3.2 Vulnerability guidelines:

These categories should be used to guide decision building process and establishing a profile of the case and vulnerable status.

Look not only at current status but to try to ascertain historical circumstance.

- Child Protection concerns, Duty & Assessment Team (D&AT) involvement
- Abusive relationship
- Domestic Violence
- Learning difficulties
- Physical disability
- Mental health concerns
- High support needs through floating support, Special Needs Housing Officer, key-worker or other
- Tenancy history (priority transfer history)
- Substance misuse

The above criteria is not an exhaustive list, but it can be used as a starting point when making the vulnerability assessment.

- A comprehensive and objective decision at the earliest stage will have a decisive impact on how to proceed with the case.

For example, it may become clear that the occupant has lost control of the premises and is regularly confronted with violence within the home. A priority transfer may be appropriate. Where a tenant is excluded from their secure tenancy they should be referred to the Local Authority Homeless Persons Unit where they will be assessed to establish whether or not there is a statutory duty for re-housing assistance. The Police and Local Authority officers involved in the process will need to immediately refer information to the Homeless Persons Unit to assist them in assessing the individual's status.

Where the Police have issued a closure notice in respect of privately owned/managed accommodation the tenant/occupant concerned should be referred to the Local Authority for appropriate advice and or assistance in respect of services that may be available to them including a referral to the Authority Homeless Persons Unit.

If in doubt, discuss with your line manager for guidance.

If the premises does not to the best of your knowledge involve any vulnerable clients, record and substantiate this decision and proceed. The Authority should consider issuing possession proceedings to recover the property following a closure notice in cases where the tenant is not vulnerable and is involved in the behaviour.

In cases involving a vulnerable tenant other action can be taken alongside a closure order in order to prevent further problems examples of this are:

- Assisting the tenant to surrender the original tenancy and be re-housed in alternative accommodation or supported accommodation.
- Tenant to sign an acceptable behaviour contract in new accommodation or on return to closed accommodation.
- A care / support package to be put in place by relevant service providers as soon as a new tenancy commences or they return to the closed property.

4. THE PROTOCOL IN ACTION

4.1 How to get started:

Prior to the protocol being put in place the lead officer in the case i.e. anti social behaviour (ASB) caseworker, ASB Housing Officer, RSL Housing Officer or Police Officer will have, in conjunction, with partner agencies attempted a series of interventions with the household concerned. This should include where appropriate referrals to support services and engagement with partner agencies such as social services, mental health services, substance misuse services, youth offending team, integrated youth support services and domestic abuse services. Interventions such as home visits, acceptable behaviour contracts, parenting contracts, warning letters, injunctions and ASBO's should have been considered or attempted.

If these interventions have been unsuccessful and serious and persistent nuisance continues and there is a build up of information provided by a wide range of sources then the protocol will be instigated.

Primarily, those providing the supporting intelligence will be one or more of the following:

- Sussex Police
- Registered Social Landlord
- Brighton & Hove Environmental Health Manager
- Council Housing Anti Social Behaviour Housing Officer

- Partnership Community Safety Team, Anti-social Behaviour Team Caseworker
- Social Work Manager

Following the decision by the lead officers that a Closure order is necessary the case will be referred to the ASB Co-ordinator.

Following the referral the ASB Co-ordinator will do the following

- Identify the relevant social landlord (with the assistance of the anti social behaviour team caseworkers)
- Contact the appropriate District Police Inspector and Housing Manager to discuss whether the Closure Protocol should be implemented.
- If the Closure Protocol is agreed the ASB Co-ordinator and District Inspector will dependent on timescales either add the property to the agenda for the monthly ASB Multi Agency Planning Meeting or call a separate planning meeting.
- Request an offender profile of any known residents and a profile of the disorder associated with the property from the ASB Co-ordinator for Sussex Police.
- Invite all relevant parties to the meeting and request that they bring the evidence that they have accumulated of disorder and details of the attempted interventions.

4.2 The Planning Meeting Objectives:

The Planning Meeting is an inter-agency meeting called to review whether a tenant should be targeted for intervention under the Protocol. The meeting will decide whether the tenant will be considered as 'Vulnerable' or 'Non-Vulnerable' for the purpose of the Protocol. The assessment will be based upon the information available to the partnership agencies. Normally, each agency should be prepared at the meeting to disclose the information, which would be necessary to take an informed decision. The Planning Meeting decision is not a fixed decision and the Protocol will allow this decision to be changed as the process develops.

The Planning Meeting will be an inter-agency meeting chaired by the ASB Co-ordinator or Police District Inspector. The meeting will consist of the lead managers from relevant services, the ASB Team solicitor and the Caseworkers / Officers directly working with the household.

The planning meeting should:

- Consider whether the closure is appropriate given the nature of the problem identified
- Consider whether there are alternative or more appropriate tools and powers which could be used to alleviate the nuisance

- Consider whether all alternative tools, powers and support services have been attempted or considered.
- Agree long term strategies for the resolution of the nuisance
- Look at how the proposed closure will effect vulnerable people
- Agree a strategy for protecting vulnerable people and preventing them from homelessness
- Obtain intelligence on property ownership / management where the property is not social housing.
- Ensure that the allocated caseworker informs those who may be subject to the closure order that it is being considered and the possible consequences for them.
- Provide advanced notification to homeless services or social services of the proposed action as it may place additional demands on their service.
- Agree the notification, which is required in the legislation, of the Chief Executive of Brighton & Hove City Council, relevant local authority department directors and local councillors who lead on relevant issues i.e. anti social behaviour, housing, children and young people.

If the decision of the meeting is that a closure order will not be applied for then the meeting will agree further actions for example:

- Where there is not enough evidence to proceed with a closure order an agreement will be made about how much evidence is required and who will monitor the situation in the future.
- Where the meeting decides that a closure order is not appropriate other interventions will be agreed within the meeting.

4.3 Consultation:

Section 11a 2-3 of the Anti Social Behaviour Act requires consultation between a police representative of superintendent level or above and one of the following local authority staff

- Anti Social Behaviour Co-ordinator
- Head of Community Safety
- Assistant Director of Public Safety
- Director of Environment or Adult Social Care & Housing
- Assistant Director of Housing
- Assistant Director of Housing Management

This consultation has to be documented on the certificate of consultation for closure of premises and should be undertaken prior to contact being made with the court. The signed certificate of consultation should be supplied to the solicitor handing the case.

5. THE LEGAL & COURT PROCESSES

5.1 The purpose of the Closure Notice:

The Closure Notice alerts those using the property including residents, the owner and any others with an interest who can be identified, of the intention to apply to the court for a Closure Order. It sends a clear message to the community that action is being taken against the premises, and informs those involved in nuisance that their activities will no longer be tolerated. It gives notice that impending closure of the premises is being sought and details of what this entails. The persons in these premises who are involved in the nuisance will have been previously warned of impending action, in an attempt to reform their behaviour and may have been the subject of other law enforcement activity before any notice is served. However it is still essential that when the Closure Notice is served persons in or associated with the premises understand its meaning and that even at this point they have a chance to reform the behaviour associated with the premises. The notice is intended to encourage those who are not habitually resident to leave, or they may be arrested.

5.2 Requirements for the serving of the Notice:

There is a requirement in the Act for the Police and Local Authority to take reasonable steps to identify those with an interest, control or responsibility or who live in the premises before the notice can be authorised.

The Police and Local Authority are not required to ensure that all such persons, who may have an interest in the premises and who may suffer financial loss as a result of the closure, are notified prior to the Notice being issued. The Act requires 'reasonable steps' to have been taken to identify such people. 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.

A closure notice once served must be in court within 48 hours therefore prior to the notice being served the Solicitor will need to contact the court to establish a date and time for the hearing.

Following authorisation 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. These persons should be easily identified by immediate enquiries to the tenant or those resident, or neighbours; or through local authority records.

The fixing of the Notice to the building, to each normal means of access to it and any outbuildings are also intended to ensure the closure is publicised to anyone with an interest.

5.3 The effect of the Notice:

It should be remembered that the Closure Notice in itself may on its own achieve the intended outcome of stopping the disorder and nuisance associated with the premises. For the initial 48-hour period before the Court considers the application it may provide immediate relief to the community.

It also creates offences, backed with the power of arrest, for any persons who do not habitually reside in the property who enter or remain in the premises. The intention is to encourage all those not properly resident to leave at this

point and relief to be obtained during the notice period. However it allows for the tenant to stay whilst they arrange alternative accommodation.

Some persons occupying the property may need alternative accommodation and may need to seek housing advice. These enquiries need to be directed to the Housing Advice Centre at Bartholomew House, Brighton and the Housing Options Duty Manager should be informed that the notice has been served and that these people will be approaching them for assistance.

5.4 The contents of the Notice:

The Closure Notice must contain the following information:

- A Closure Order is being sought and the address it is being sought on
- Only the owner or persons who are habitually resident at the premises may now enter the building, but no one else
- The date, time and place at which the Closure Order will be considered
- 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 occupier will be forced to find alternate accommodation.
- An explanation that any person who enters the premises who is not the owner or a person who is habitually resident there commits an offence and can be arrested.
- Information on relevant support and 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. Advice providers are likely to be the Housing Advice Centre or point of contact for applications for homeless persons, the Citizens Advice Bureaux and the Local Law Centre. Information on help with drug treatment options and leaving sex work exit options is also desirable.

5.5 Serving the Notice:

The notice must be served on all those with an interest in the property, including residents (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.

Identifying these persons need not delay the service of the Notice, for instance the electoral register or council tax records held by the local authority should identify the owner or occupier. If this simply identifies a letting agent, serving notice on them is acceptable.

Service of the Closure Notice can be effected by the affixing of the Notice to the premises, but effort should also be made to give a copy of the Notice to any interested persons. Posting a notice 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.

The closure notice may be served by a police officer or a representative of the local authority.

Entry to the property is not required to serve the Notice; it can be affixed outside or handed to the residents at the door with clear explanation of its nature and effect

It will be for the police and the relevant local authority to decide the level of joint working on the service of the Closure 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 representative.

5.6 Dealing with those in the premises:

Once served, those at a premises affected by the Closure Notice may well choose to leave voluntarily. Those who habitually reside there should be advised to seek alternative accommodation. If they have failed to do so themselves, they should be referred to the Closure Notice or the advice/support providers referred to in the Closure Notice, regarding help with accommodation, other support needs, and obtaining legal assistance. It may still be possible for those resident to change the way the premises are used. However it is an arrestable offence for a person who does not normally live at the premises or is not the owner to continue to reside at or enter the property during the Closure Notice period. If convicted the individual could be liable to imprisonment or a £5000 fine.

The extent to which this power of arrest is used is the decision of the district inspector based on an assessment of the likelihood of continued disorder or serious nuisance. The application of this power is useful if by it, those continuing to cause persistent nuisance, are removed from the house. If arrest serves this purpose it should be used. Use of the power may be appropriate as a tool in acting against persons identified through service of notice where intelligence suggests they have engagement in other criminal matters.

It is also an arrestable offence to obstruct a police officer serving the Closure Notice.

5.7 The Magistrates Hearing:

Prior to the service of the notice the ASB Solicitor will notify the court of the intention to apply for a closure order and agree with them the time date and location of the hearing which will then be included on the notice. Once the notice has been served the ASB Solicitor will issue an application to the magistrates court for a closure order.

Prior to the hearing the police and local authority in conjunction with the ASB Solicitor should ensure that the evidence to be presented is in good order and that support for community witnesses at the court is in place to enable them to give evidence.

At the court hearing the evidence should be presented by the police or a local authority employees and supported if appropriate by evidence from victims and witnesses.

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.

The court is asked to decide whether a closure order is necessary to prevent further serious disorder or nuisance and therefore it may wish to consider whether alternative methods are more appropriate and what other action might have been attempted. For this reason it is important that a history of the action that has been taken and considered against the premises and the residents is provided to the court.

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

The court is also asked to consider the implications on the tenant of the continued accruing of rent on the closed property. Dependent on their circumstances they may find themselves being responsible for rent on two properties. It is therefore important that the Police or Local Authority has liaised with housing and housing benefits officers on the options available for the tenant and the advice they should be given.

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.

5.8 Potential arguments in defence of closure:

The owner 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. The court can defer the making of the Order by adjournment for 14 days to allow those persons to prepare their case.

It is not the intention that all cases should be routinely adjourned. This would defeat the object of the power, which is speed. The court must decide whether an adjournment is needed. Anyone seeking an adjournment must demonstrate reasonable grounds why it is needed.

The court will wish to hear why the order should not be made. The Act does not specify what reasons there should be for not making the order. This will be for the court to decide in each case. Possible reasons include:

- The landlord, owner or tenant has just been appraised of the situation, and can demonstrate that effective action is being taken to deal with it; or -
- There is evidence that contradicts the evidence presented by the police, or evidence that cannot be presented at this time but which will be presented subsequently, thus presenting a case for adjournment

The court operates on a civil rather than a criminal standard of proof (i.e. balance of probabilities).

The court can of course decide that notwithstanding the owner or landlords contention that they will address the problem, that a closure order should still be made whilst they attempt to do so. If they can then subsequently demonstrate sooner than the specified order period that the problem has been successfully addressed then an application can be made for the order to be discharged.

Hence whilst the court has nominally three options, denial of the application, adjournment or closure. In practice the ability to vary the length of the order gives the court flexibility to deal with different circumstances where a shorter order may be appropriate, bring immediate relief whilst the landlord and police deal with the problem, but not leading to extended and costly closure.

The maximum length of an order is 3 months with possibility of further extension to not more than 6. The length of the order should reflect the circumstances above and the desire to bring the property back into management as quickly as possible.

5.9 Extensions:

The powers to extend a closure order for a further 3 months are expected to be used only on rare occasions. There are many disadvantages to leaving properties empty for extended periods and only when there are real concerns that the property will return to its former use should an extension be made.

If an extension is considered necessary then the lead officer needs to refer this matter to the ASB Multi Agency Planning Meeting so that the process of consultation can take place again. The procedure for the authorisation of the extension is the same as with the application and the tests are the same as for the original closure.

The application for an extension may be made at any time prior to the date on which the original order would have expired.

5.10 Appeals:

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.

An appeal may also be made by the Police or Local Authority against the refusal to grant or extend an order.

An appeal against the order or decision not to grant it must be brought to the Crown Court within 21 days, starting on the day on which the order or decision was made.

5.11 Discharge of a Closure Order:

It is important that the property remains empty for as short a time as possible therefore if the nuisance has been addressed satisfactorily before the end date of the closure order, for example where a tenant has surrendered their tenancy, an application should be made to the court to discharge the order. The court will wish to be reassured that the same pattern of behaviour will not reoccur and where a vulnerable person is due to return to the property the court may want to see that an adequate level of support is in place.

Those with a legal right to occupy (or those connected with) the premises or the owner may seek the discharge of the order themselves however the court should give careful consideration to the likelihood of the original problems returning. If the court is satisfied that the owner or landlord is capable and willing to get the problem under control then the order should be discharged.

6. POST HEARING TASKS

6.1 The effect of the Closure Order:

The closure order gives a power to close a property completely and remove access by any persons, even those with rights of abode or ownership, except where they are allowed to enter the property under the supervision or direction or permission of the police or the court. The order allows for a property to be sealed, closed, and removed from public use for the period of the order. The Closure Order comes into force immediately the court makes the order.

Breach of the Closure Order is an offence and persons can be arrested if they break it.

6.2 Enforcing a Closure Order:

As soon as a Closure Order is granted by the courts it should be enforced. This means 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 police can use reasonable force to enter and seal a property. This is to allow removal of defences that are often built into such premises and to seal the premises with the required temporary building work or shutters.

It may be that the service of the Notice did not involve entering the premises. The process of entering to enforce the Order should be treated with extreme

caution. Whilst 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. Authorised persons such as local authority workers, maintenance staff, utility persons or Housing Officers should not be present until any safety issues have been addressed and the property cleared.

6.3 Dealing with those still occupying the premises:

Those found contravening the Closure Order can be arrested if officers on the scene feel it is appropriate on the basis of the evidence available. Those inside or residing are likely to fall into these groups:

- The tenant/owner who may be involved in serious anti social behaviour but who may also be a vulnerable person, who may have social care and housing needs, related to substance misuse, mental health, age or some other cause
- Dependents of the tenant/owner, including children, all of whom will have 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.

These are only examples of persons likely to be found. The only persons who are able to enter the premises following the Closure Order are police officers or persons authorised by the chief police officer or the local authority for statutory purposes i.e. maintenance or those persons granted access by the court.

6.4 Immediate COMPULSORY notification to partners:

Once the Closure Order has been served as described above, telephone or e-mail notification should be made to key partners by the lead officer (i.e. ASB Caseworker, ASB Housing Officer, Police Officer) to the following;

- **Children, Families & Schools-Duty & Assessment Team where children are directly affected by the Closure Order.**
- **Homelessness Team and Housing Advice Centre.**
- **Local Council Housing Office.**
- **Emergency boarding up service to make the property secure**
- **ASB Co-ordinator**
- **Other agencies where appropriate i.e adult social services, learning disability team, mental health team**

When notifying the above key partners, you **MUST** provide the following details:

- **Address of premises**
- **Date of Closure Order served at property**
- **Name(s) of persons resident (legally or otherwise) and who will be displaced through Closure Notice enforcement.**

- **Highlighting any Child Protection Issues**
- **Potential intelligence in relation to displacement to other addresses.**

All appropriate contact details for partner agencies are available at the beginning of this document.

6.5 Securing the property:

Once the closure Order has been served and the property has no occupants within, it is necessary and appropriate that the premises are made secure as a matter of urgency.

Plans should be made to secure the property prior to the hearing so that they can be executed immediately to prevent any occupants regaining entry to the premises.

An emergency boarding or property securing company arrangement should be made. One of the best methods available in the city is Orbis Property Management who can supply and install metal screens to all windows and doors on the premises. The cost associated with this service is for initial fitting, followed by hire charge dependant on length of time in use and finally a further charge once screens are removed.

If the property is Council or RSL it is entirely reasonable that the cost should be borne by them as the landlord or owner of the premises.

If the property is privately owned or rented then it is entirely appropriate for the owner or landlord of the property to make comprehensive arrangements in partnership with the Police and key partner officers. However if the owner is unwilling to engage in this process then the Police or Local Authority will arrange for the property to be sealed. The Police or Local Authority may then apply to the magistrates court for costs against the owner for any expenses incurred in enforcing the closure order, we should notify all landlords of this position.

6.6 Breach of a Closure Order:

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 £5000, imprisonment for 51 weeks or both.

7. APPENDICES

Appendix A. Certain sensitive types of premises on which it may not be suitable to issue a Closure Notice.

The senior authorising officer must take into account the potential harm that may result in the closure of some types of properties and consider the overall social good in doing so. Whilst no specific types of premises are exempt from these powers, the appropriateness of their use in some circumstances should be considered. Ultimately it is for the court to decide whether the closure of any specific premises on a specific occasion is justified, but the authorising officer should also be mindful of the implications and whether other methods of control may be more appropriate.

These circumstances may include:

- Properties where closure cannot be effected without removing access to large numbers of persons who would be made homeless, have no right of re-housing, or would otherwise be caused harm through closure. Examples might include hostels with many residents (although not smaller units), bed and breakfast hotels and long term supported accommodation such as sheltered schemes.
- Hospitals
- Schools
- Children's homes
- Drug treatment services

The court is not asked to decide whether it is in the public good whether such premises are closed; simply whether the criteria for closure are met and the making of the order will prevent the occurrence. Hence the authorising officer making the decision must be mindful of the implications of closure when he seeks to apply the power to premises where many persons, many vulnerable, will be displaced, and which provide valuable services to many others. This risk must be balanced against the risk arising from allowing the behaviour to continue, and the other powers that may be available. It is likely however that in the vast majority of cases such behaviour will not occur in places of this type.

Appendix B. Senior Officer Checklist

Closure Notice Approval Check List for Senior Officer

- 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 of the closure notice (today)?
- Have other interventions been used or considered and rejected for good reasons?
- Have other options being considered or tried where possible?
- Have the police or local authority been consulted?
- Have all partner agencies been consulted?
- Has the evidence of this consultation being documented?
- Has this consultation involved an exchange of information and have their views been taken into account were desirable?
- Have those who live, control, own or have responsibility or an interest in the premises been identified?
- Have notices been prepared to serve on 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 person is considered an offence
 - Detail the effects of the closure order if issued by the court
 - Provide information on how to contact advice providers such as housing or legal advisors.
- Has the magistrates court been secured for no later than 48 hours after the intended date and time of service?
- Has the nature of the premises been considered?
- Have any vulnerable persons or children been identified and taken into account?
- Has the social good of a closure been considered?
- Has a risk assessment been carried out prior to entering the 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?

Appendix C. Procedure for pursuing a premises Closure Order

