

Safer Haringey

**Crime and Disorder
Information Sharing Protocol**

Revised document

Foreword:

It is the legal duty of all staff in Partner Organisations to share information that may help prevent or detect crime or disorder. This duty is set out in the terms of the Crime and Disorder Act. The effective and timely sharing of information is essential to deliver high quality services focussed on the needs of the individual. In Haringey, we encourage a culture where information is shared with confidence as part of routine service delivery.

This Information Sharing Protocol (ISP) explains the terms under which partner organisations have agreed to share information and the practical steps that need to be taken to ensure compliance with those terms. Partner Organisations are fully committed to share information and have agreed to comply with the procedures as set out in this protocol.

The absence of a protocol should not prevent sharing information. If you need to share information outside of the terms of this protocol or with agencies that are not party to this protocol you should follow the guidance as outlined in Haringey's *Simple Guide to Sharing Information*, Appendix G.

The guiding rule is: if you need to share information in order to protect someone from harm or criminal activity, you must do so.

An information sharing guide for practitioners accompanies this protocol. The guide should be given to all relevant staff.

CONTENTS PAGE

Sections:

1. Purpose
2. Background
3. Types of information
 - Personal information
 - Depersonalised information
 - Non-personal information
4. Consent
5. Sharing information without consent
 - Legitimate purpose
 - Public interest
6. Requesting Information under this protocol
7. Disclosing information under this protocol
8. Data Protection
 - Fair processing
 - Retention periods
 - Data quality
 - Security
 - Subject Access Request
9. Freedom of Information
10. Review & Audit
11. Key legislation
 - Crime and Disorder Act 1998
 - Homelessness Act 2002, Housing Act 1985 & 1996

List of Appendices

- A. Parties to the protocol
- B. Designated Liaison Officers
- C. Glossary of terms
- D. Information Exchange Forms - 'Request/Disclosure' and 'Consent' forms
- E. Depersonalised Information Indices
- F. Additional legislation relating to this protocol
- G. Simple Guide to information sharing
- H. Caldicott principles
- I. Prosecuting - Procedural Protocol

Document Control

Version	Date	Author	Comments	Approval
1.0		Stephen Cornell	Initial draft	
1.1	03/10/03	Stephen Cornell	Revisions to indemnity	
1.2	08/10/03	Stephen Cornell	Report to Management Board	Management Board
1.2	21/10/03	Stephen Cornell	Report to Council Executive	Council Executive
1.3	01/12/04	Oscar Ramudo	Initial draft of CD-ASB ISP	Partners
1.4	12/01/05	Oscar Ramudo	Consultation and comments incorporated	Partners
1.5	04/06/05	Oscar Ramudo	Final Draft	Partners
7.0	1/9/09	Leo Kearse/ Richard Kaufman	Revised Protocol	Partners
10.0	24/09/09	Anita Hunt/Richard Kaufman	Revised Protocol	Partners

This protocol will be reviewed annually – please refer to Section 10 of this document (Review and Audit).

Any significant amendments to this protocol made before the review date stated above will need to be approved in principle by all Partner Organisations and will only be effective until the review date. All significant amendments will need to be endorsed by the Partner Organisations at the review date.

1 Purpose of this Protocol

- 1.1 This Information Sharing Protocol (ISP) is an agreement between Partner Organisations (see appendix A for a list of parties to this protocol) specifically to facilitate and govern sharing of information (including photographs) relating to the prevention, detection and reduction of Crime and Disorder.
- 1.2 The purpose of this protocol is to facilitate the exchange of information in order to develop and implement the following:
- 1.3 To comply with the statutory duty on chief police officers and local authorities under the Crime and Disorder Act 1998 to work together to develop and implement a strategy and tactics for crime reduction, including:
 - Information sharing between the Partner Organisations for the purpose of tackling Anti-Social Behaviour.
 - Information sharing between the Partner Organisations for the purpose of implementing the Government's Prolific and Other Priority Offender Strategy.
 - Applications for Information by a Local Authority or Housing Association, for the purposes of considering applying for a possession order in order to evict a tenant.
 - Applications for Information by a Local Authority or Housing Association, for the purposes of determining an application for persons made homeless by threat of violence or harassment.
- 1.4 For the purposes of this protocol, an individual may be referred to as a patient, client or data subject.
- 1.5 ISPs are not required before front-line practitioners can share information about an individual. By itself, the lack of an ISP must never be a reason for not sharing information that could help a practitioner deliver services to an individual.

2 Background

2.1 The sharing of personal information between organisations is vital to ensure co-ordinated and seamless provision of services that are protective and supportive. Public bodies require administrative powers to share information for specific purposes, and these powers will most often be provided by a statutory gateway, to provide the lawful basis for disclosure.

2.2 Crime and Disorder Act 1998

2.2.1 This protocol is recommended to the relevant authorities (see appendix A), as described in the Crime and Disorder Act 1998, as the vehicle to share information to tackle crime and disorder.

2.2.2 Section 115 of the Crime and Disorder Act 1998 provides the lawful power for anyone to disclose information to a relevant authority – the police, police authority, local authority, probation committee or health authority, or to any persons acting on their behalf – where this is necessary or expedient for the purposes of a provision of the Act.

2.2.3 The signatories to this Protocol are persons/organisations that have been invited by the responsible authorities represented on Haringey's Crime and Disorder Reduction Partnership to participate in the exercise of the obligations set out in Section 6 of the Crime and Disorder Act 1998.

2.2.4 Section 115 does not, however, override the need to disclose in a proper manner, taking into account other statutory and common law constraints on disclosure, including data protection, human rights and the common law. This Protocol puts in place sound arrangements for information sharing, so as to be clear about the process involved and the type of information to be shared to ensure compliance with data protection legislation.

2.3 Homelessness Act 2002

2.3.1 Section 184 of the Housing Act 1996 states that Partner Organisations may make 'such enquires as are necessary' to establish whether parties applying as homeless persons for re-housing are eligible. Section 10 of the Homelessness Act 2002, extends the 'priority groups' for re-housing to include those who have been made homeless by being the subject of violence, the threat of violence or harassment. This entitles relevant housing authorities and associations to request from the Metropolitan Police information to establish the applicant's eligibility for re-housing.

2.4 Health Act 1999 & National Health Service and Community Care Act 1990

2.4.1 When sharing information under this Protocol with any Health Service body the following Acts should be considered, they facilitate information sharing for the purposes of exercising NHS functions:

- a. Health Act 1999 and associated Regulations, NHS Bodies and Local Authorities Partnership Arrangements Regulations 2000. They allow NHS bodies and local authorities to enter into partnership arrangements in relation to the exercise of any NHS functions if the partnership arrangements are likely to lead to an improvement in the way in which those functions are exercised.
- b. National Health Service and Community Care Act 1990 provides that when a local authority is assessing the need for any type of community care and it appears that there may be a need for health or housing provision, the local authority shall notify the appropriate PCT, Health Authority or housing department and invite them to assist.

3 Types of information

3.1 Personal information

- 3.1.1 The Data Protection Act 1998 defines 'personal information' as information relating to a living individual who can be identified either from that information or from that information in conjunction with other information that is in, or is likely to come into, the possession of the data controller.
- 3.1.2 A person's full name is an obvious likely identifier; but other information such as a customer reference number, address, photograph or CCTV image could also identify them.
- 3.1.3 The definition of personal information is technology neutral; it does not matter how the information is stored (e.g. on a computer database, paper filing system, microfiche, portable memory stick).
- 3.1.4 Where it is necessary for information to be shared, personal information will be shared only on a need-to-know basis.
- 3.1.5 Any duty of confidentiality will be respected unless there is an overriding 'public interest' to disclose the information and if there is a 'legitimate purpose' to sharing (see section 5). Where the disclosure would breach client confidentiality the request should be referred to a designated manager - unless exceptional circumstances apply, e.g. where there is a need for urgent medical treatment. Managers should have access to a source of advice and support on information sharing issues. This may be a Caldicott Guardian.
- 3.1.6 **The reasons for breaching client confidentiality must be fully recorded and clearly referenced to the evidence and information on which the decision is based. This must include details of any third parties and details of all the information/evidence they have been given.**

3.2 Depersonalised information

- 3.2.1 Depersonalised information encompasses any information that does not and cannot be used to establish the identity of a living person, having had all identifiers removed.
- 3.2.2 Partner Organisations accept that there are no legal restrictions on the exchange of depersonalised information, although a duty of confidence may apply in certain circumstances, or a copyright, contractual or other legal restriction may prevent the information being disclosed to Partner Organisations.
- 3.2.3 Information shared between Partner Organisations should be limited for the purposes of the enquiry. If the purpose of this protocol can be achieved using depersonalised information, then this should be the

preferred method used by officers. For example, in assessing crime hotspots geographic information that does not identify living individuals might be used for strategic planning purposes.

3.2.4 Partner Organisations recognise that great care must be taken when depersonalising information and that the Information Commissioner has stated that even a post-code or address can reveal the identity of an individual. Partner Organisations are also aware that it may be possible for an individual's identity to be revealed by comparing several sets of depersonalised data.

3.2.5 The partners to this Protocol agree to share depersonalised information from the indices listed at appendix E (and any other indices as is deemed appropriate by all Partner Organisations). This is not an exhaustive list.

3.3 Non-personal information

3.3.1 Partner Organisations understand that non-personal information is information that does not, nor has ever, referred to individuals.

4 Consent

4.1 Many issues surrounding the disclosure of personal information can be avoided if the consent of the individual has been sought and obtained. Obtaining consent remains a matter of good practice and in circumstances where it is appropriate and possible, informed consent should be sought. (There is a 'Consent Form' at appendix D of this protocol that can be used if signed consent has not already been obtained as part of the assessment or referral process). Consent lasts as long as required - unless it is withdrawn. Individuals have the right to withdraw consent after they have given it.

4.2 Practitioners should encourage clients to see information sharing (and giving their consent to share their personal information) in a positive light, as something which makes it easier for them to receive the services that they need.

4.3 In many cases the aims for which information is shared under this protocol might be prejudiced if Partner Organisations were to seek consent. In such cases, the disclosing agency must consider possible grounds to override the consent issue. It is possible to disclose without consent if it is in the 'public interest'.

5 Sharing information without consent

5.1 Practitioners should not seek consent when they are required by law to share information through a statutory duty or by a court order. Consent should also not be sought if doing so would:

- place a person (the individual, family member, staff or a third party) at increased risk of significant harm if a child, or serious harm if an adult; or
- prejudice the prevention, detection or prosecution of a serious crime; or
- lead to an unjustified delay in making enquiries about allegations of significant harm to a child, or serious harm to an adult.

5.2 If consent has not been sought, or sought and withheld, the agency must consider if there is a 'legitimate purpose' for sharing the information and if it is in the 'public interest' to share.

5.3 Legitimate Purpose

5.3.1 Partner Organisations understand the 'Legitimate Purpose' criteria to include:

- Preventing significant harm to a child or serious harm to an adult;
- Providing urgent medical treatment to an individual
- Implementing any of the following Acts: Crime and Disorder Act 1998, Homelessness Act 2002, Housing Act 1985 & 1996 Act

5.4 Public Interest

5.4.1 Partner Organisations understand the 'Public Interest' criteria to include:

- Administration of justice
- Maintaining of public safety
- Apprehension of offenders
- Prevention of crime and disorder
- Detection of crime
- Protection of vulnerable members of the community

5.5 When considering whether disclosure is in the public interest, the rights and interests of the individual must be taken into account. A fair balance between the public interest and the rights of the individual must be ensured.

6 Requesting Information under this protocol

6.1 Where staff have reasonable cause to believe that an individual may be at risk of suffering significant harm or serious harm, they should always consider referring their concerns to social services or to the local police force – in line with the local policies and procedures. In some situations staff may be unsure whether ‘a concern’ that an individual may be at risk of suffering significant harm constitutes ‘a reasonable cause to believe’. In these situations, the concern must not be ignored. When in doubt, staff should always talk to a lead person on safeguarding to help them decide what to do – for example: their manager or an experienced and trusted colleague. If those officers are in doubt, then they should speak to a Caldicott Guardian. Staff should try to protect the identity of the individual (wherever possible), until they have established a reasonable cause for their belief.

6.2 Designated Officers

6.2.1 In order to ensure that information is exchanged in the most efficient, effective and secure manner, the Partner Organisations will select and appoint Designated Liaison Officers (DLO) (see appendix A). All Partner Organisations are responsible for ensuring that this list is kept up-to-date. The DLO should provide an out of office hours contact if available. Any changes must be communicated to Haringey Council’s Community Safety Team DLO.

6.2.2 If a Partner Organisation has a Data Protection / Information Sharing Coordinator that oversees all information sharing issues, the DLO will liaise with them where appropriate.

6.2.3 DLOs will assume responsibility for:

- Providing guidance and answering all queries relating to this Protocol, via phone, fax, e-mails or letters as appropriate and in accordance with each organisation’s information handling policies
- Chasing up enquiries if not responded to within ten working days
- Informing Haringey Council’s Community Safety Team (safercommunities@haringey.gov.uk) if there is a change in contact details for the Designated Liaison Officer or if the organisation changes its name, e.g. one RSL merges with another.
- Obtaining feedback on the result of cases for which information was requested (optional)
- Monitoring and auditing all incoming and outgoing requests and disclosures. Keep a record of information requested and disclosed

- Sending out a questionnaire to each organisation requesting information to monitor the speed and efficiency of the Information Sharing process (optional)

6.3 Staff Requesting Information

- 6.3.1 An officer requesting information from another Partner Organisation should submit the inquiry through a Designated Officer.
- 6.3.2 Where appropriate, the requesting officer must also supply the Partner Organisation with evidence of the client's consent (see section 4 on 'Consent').
- 6.3.3 The request must be in writing and on the 'Request/Disclosure Form' attached to this protocol at appendix D.
- 6.3.4 The request must be transmitted in a secure way.
- 6.3.5 The requesting officer must also save a copy of the request on the client's record.
- 6.3.6 Routine exchanges of information, such as a monthly extract of recorded crimes should be requested formally (and agreed by the supplying partner) on one form. There is no need to submit a separate form for each occurrence. Such procedure is subject to a continued review by participating Partner Organisations and by a further formal request form every 9 months if de-personalised or non-personal or 6 months if personal.

7 Disclosing Information under this protocol

- 7.1 Officers responding to a request for information must always consider the safety and welfare of the client when making decisions on whether to share information about them. For example, where there is concern that an individual maybe harmed, then the individual's safety and welfare must be the overriding consideration.
- 7.2 Designated Liaison Officers receiving requests for information under this protocol must ensure that the requesting officer has supplied a complete 'Request/Disclosure' form (attached at appendix D) and, where appropriate, evidence of the client's consent (for more details on 'Consent' see section 4).
- 7.3 A reply to the request for information must be made within ten working days.
- 7.4 Officers disclosing information must also ensure that any information disclosed is:
 - necessary for the purpose for which they are sharing it;

- accurate and up-to-date;
 - depersonalised (where appropriate);
 - shared only with those people who need to see it; and
 - transferred securely.
- 7.5 When the Metropolitan Police disclose any information under this protocol, it must be in line with the Government Protective Marking System (GPMS) and marked as RESTRICTED
- 7.6 The disclosing officer must complete the appropriate section of the 'Request/Disclosure' Form and save it in line with service procedures.

8 Data Protection

8.1 Data Protection Act

- 8.1.1 Partner Organisations agree to comply at all times with data protection legislation and other legal requirements relating to confidentiality.

8.2 Fair Processing

- 8.2.1 The Data Protection Act 1998 requires that when personal information is collected from a data subject, they are told what it will be used for and who the information will be shared with. When collecting information from clients, staff in partner organisations should explain:

- What is done with the information;
- The reason why professionals are capturing it; *and*
- Who the information can be routinely shared with

- 8.2.2 Partner Organisations will ensure that their 'Fair Processing Notices' are kept up-to-date and provide an accurate explanation of the information sharing activities that are being undertaken.

8.3 Retention Periods

- 8.3.1 All partner organisations who are party to this protocol will put in place policies and procedures governing the retention and destruction of records containing personal information retained within their systems.

- 8.3.2 As a general rule, partner organisations agree that personal information that has been shared will be destroyed once it no longer is of relevance to the initial inquiry.

8.4 Data Quality

8.4.1 Information discovered to be inaccurate or inadequate for the purpose will be notified to the data owner. The data owner will be responsible for correcting the data and notifying all other recipients in writing, quoting the reference from and date of the original 'Request/Disclosure Form'.

8.5 Security

8.5.1 Personal information will be kept securely within a computer system or otherwise physically secure with appropriate levels of staff access in line with party organisations' information security policies and procedures. These policies and procedures should be based on national standards and guidance

8.5.2 Staff in Partner Organisations involved in information sharing under this protocol must:

- Be fully aware of their responsibilities under the protocol mentioned above, together with the Data Protection Act and Duty of Confidentiality.
- Use information only for the purpose stated in the original request for information.
- First obtain consent from the disclosing organisation, if they wish to pass the information onto a third party. (In a high risk situation involving safeguarding, this may not always be a reasonable requirement. In emergencies, the public interest disclosure is a sufficient exemption to override this requirement).
- Store hard copies of the request/disclosure and consent forms in a lockable container when not in use, and a clear desk policy implemented.
- If the information is held electronically, access must be restricted only to persons with a genuine 'need to know' the information.
- Once this information is no longer required, it MUST be returned to the Designated Liaison Officer for destruction. Only the minimum amount of personal information should be retained which is necessary to achieve the specific objective under the Crime and Disorder Act 1998 / Housing Acts 1985/1996 or Homelessness Act 2002.

8.5.3 Each Partner Organisation is responsible for ensuring that the appropriate staff are adequately trained in respect of all matters covered by this protocol. All temporary and agency staff will be appropriately briefed on their responsibilities as part of their induction.

8.6 Subject Access Requests

8.6.1 The Data Protection Act gives people the right to apply to an organisation that holds personal information about them for access to that information. The exercise of this right is referred to as a subject access request. People may exercise this right on their own behalf or through a representative. Where people do not have the mental capacity to make a request on their own behalf, because they are too young or for some other reason, their parent or person with Power of Attorney may make the request on their behalf. All partner organisations that are party to this protocol will put in place procedures for handling requests for personal information.

8.6.2 The right of subject access applies to all personal information held by an organisation about that data subject regardless of whether or not that organisation is the “owner” or “source” of the information. The information must be disclosed to the data subject unless one of the exemptions in the Data Protection Act applies. It may be appropriate for the organisation that has received the subject access request to consult with the source of the information they hold to discuss whether the information is subject to an exemption.

9 Freedom of Information

9.1 The Freedom of Information Act 2000 (FOI) enables any member of the public to apply for access to information held by bodies across the public sector. The Act provides a general right of access to information held by public authorities in the course of carrying out their public functions, subject to some exemptions. This right does not extend to personal information, which is largely exempt from the Freedom of Information Act.

9.2 Partner Organisations will ensure that this protocol is included in their Publication Scheme.

10 Review and Audit

10.1 The protocol will be reviewed by the Partner Organisations annually.

10.2 The review is to be undertaken jointly by officers agreed by the Partner Organisations unless agreed by the Partner Organisation for a single Partner Organisation to undertake the review. This work will be coordinated by the Community Safety Team (CST), Haringey Council. At each review date the CST will pull together a review group made up of

parties to the Protocol, and identify operational problems, new legislation and highlight any proposed amendments to be agreed.

10.3 Partner Organisations may audit compliance with this protocol.

10.4 Partner Organisations agree to assist other Partner Organisations during the audit process as long as reasonable notice is given in writing detailing the scope of the audit process and they do not object.

10.5 Designated Liaison Officers in the Partner Organisations will be expected to provide records of the information exchanges under this protocol and copies of the completed 'Request/Disclosure' forms to officers conducting the audit of this protocol.

11 Key Legislation

The key pieces of legislation that relate to this ISP are:

11.1 Crime and Disorder Act 1998

11.1.1 Disclosure may be made despite a duty of confidentiality where there is an overriding public interest, for example to prevent or detect crime, disorder, anti-social behaviour, annoyance/ nuisance, dwellings being used for immoral or illegal purposes.

11.1.2 The exchange of personal information post conviction will be subject to the same presumption of confidentiality. However, the administration of justice and the prevention of crime are in the public interest and will provide the grounds upon which a disclosure can be justified. Care must be exercised in the disclosure of conviction data. In this case it must support action under the Crime and Disorder Act and a Designated Officer must ensure that the information is accurate and relevant to an enquiry before it is released.

11.2 Homelessness Act 2002, Housing Act 1985 & 1996

11.2.1 Disclosure of information to the Partner Organisation will be on a case-by-case basis. The information disclosed will be expressly limited to (please refer to 2.2.10 for relevant sections of the Act):

- a. A summary of all visits to the premises as a result of relevant complaints or otherwise;
- b. A summary of any relevant incidents witnessed by Partner Organisation representatives;
- c. Details of any criminal conviction of the applicant involving relevant incidents. The offender and offences must be directly linked to reasons for the application to the relevant authority for housing or nominee. For example, if the applicant is applying for assistance for the reason of being forced into homelessness by threat of

violence, any offence of violence that party has committed, or has had committed against them, may be relevant to the assessment of eligibility for re-housing.

or

Details of any relevant criminal conviction of persons residing at the property. The offender and offences must be directly linked to the property, i.e., offences committed at the relevant property, or in the vicinity thereof, and care must also be taken to ensure that "spent" convictions, within the meaning of the Rehabilitation of Offenders Act, are not disclosed.

- 11.3 The Metropolitan Police's Designated Officer must ensure that any information on, validated previous convictions is accurate and up to date before disclosing any such information.

List of Appendices

- A. Parties to the protocol
- B. Glossary of terms
- C. Information Exchange Forms - 'Request/Disclosure' and 'Consent' forms
- D. Depersonalised Information Indices
- E. Additional legislation relating to this protocol
- F. Simple Guide to information sharing
- G. Caldicott principles
- H. Prosecuting - Procedural Protocol

Appendix A - Signatures

Organisation	Signature	Date
A2 Dominion Group	Name: Ola Loremikan Title: Regional Housing Manager (London Region)	
ARHAG Housing Association Ltd	Name: Joyce Oyebanjo Title: Housing Operations Manager	
British Transport Police	Name: David Dickason Title: Chief Inspector	
Bringing Unity Back Into the Community (BUBIC)	Name: Kelvin O'Mard Title: Project Manager	
Christian Action Housing Association	Name: Ian Martin Title: Director of Housing and Community Services	
Circle 33 Housing Group	Name: John McFarlane Title: Group Director of Customer Services	
Crown Prosecution Service		

Family Housing Association

Name: Sarah Maclaren

Title: District Crown
Prosecutor

Genesis Housing Association

Name: Jennie Anderson

Title: Regional Housing
Manager

Great Ormond Street Hospital

Name: Peter Doherty

Title: Head of Housing
Services

Habinteg Housing Association

Name: Dr Jane Collins

Title: Chief Executive

Haringey Council

Name: Verena Harbourne

Title: Regional Operations
Manager (South)

Haringey Council

Name: Dr Ita O'Donovan

Title: Chief Executive

HM Revenue and Customs

Name: Claire Kober

Title: Leader

Homes for Haringey

Name: John Whyte

Title: Regional Manager
London

Hornsey Housing Trust

Name: Paul Bridge

Title: Chief Executive

Innisfree Housing Association

Name: Andrew Billany

Title: Chief Executive

Kelsey Housing Association

Name: Clare Winstanley

Title: Chief Executive

Ladybur Housing Association

Name: Andrew Fellows

Title: Chief Executive

London & Quadrant Housing Trust

Name: David Meade

Title: Housing Manager

London Fire Brigade	Name: Steve Yianni Title: Group Director North Thames Region
London Probation Service	Name: John Brown Title: Borough Commander
Mental Health Trust	Name: Sean Walker Title: Assistant Chief Officer (Haringey) Name: Lee Bojtor Title: Director, Haringey Mental Health Services
Metropolitan Housing Association	
Metropolitan Police Service	Name: Neil Mawson Title: Director North Thames
Mosaic Homes	Name: Dave Grant Title: Borough Commander
Newlon Housing Trust	Name: Sandra Fawcett Title: Director of Housing Services

NHS Haringey

Name: Sunita Parbhakar

Title: Assistant Director

Novas Group

Name: Tracey Baldwin

Title: Chief Executive

Patchwork Housing Association

Name: Elizabeth Heaton

Title: Dependency Worker

Peabody Housing Trust

Name: Katina Lytra

Title: Support Services Team
Manager

Presentation

Name: Leanne Donald-
Whitney

Title: Group Director North
Thames Region

Sanctuary Housing

Name: Joe Joseph

Title: Group Director North
Thames Region

Name: Rebecca Hopewell

Servite Houses

Title: Director

Shian Housing Association

Name: John Mensah

Title: Regional Development
Director

St Mungos

Name: Oluremi Omokorede

Title:

Teachers Housing Association

Name: David Devoy

Title: Regional Director

Ujima Housing Group

Name: Jill Greer

Title: Housing Services
Manager

Victim Support

Name: Asif Choudri

Title: Deputy Director of
Housing

Name: Tessa Newton

Title: Acting Borough
Manager

Appendix B: Glossary

Caldicott Guardian is a person with responsibility for policies that safeguard the confidentiality of patient information.

Confidential is information that has a degree of sensitivity and value and is subject to a duty of confidence.

Consent is when someone accepts or agrees to something that somebody else proposes. For consent to be legal and proper, the person consenting needs to have sufficient mental capacity to understand the implications and ramifications of his or her actions.

Designated Liaison Officer – is the lead officer in each Partner Organisation responsible for information exchanges in relation to this Protocol (see section 6.2 of this Protocol).

Information Sharing Protocol (ISP) - is a signed agreement between two or more partner organisations relating to a specified information sharing activity. An ISP explains the terms under which the organisations have agreed to share information and the practical steps that need to be taken to ensure compliance with those terms.

Practitioner is the generic term used in this guidance to cover everyone who works with children and young people.

Public interest is the interests of the community as a whole, or a group within the community or individuals.

Serious harm for the purposes of this guidance can be either physical or mental trauma to an adult.

Significant harm – there are no absolute criteria on which to rely when judging what constitutes significant harm. Consideration of the severity of ill treatment may include the degree and the extent of physical harm, the duration and frequency of abuse and neglect, the extent of premeditation, and the presence or degree of threat, coercion, sadism, and bizarre or unusual elements.

Well-being has a legal definition based on the five *Every Child Matters* outcomes; the achievement of these outcomes is in part dependent upon the effective work to safeguard and promote the welfare of children, young people and families.

Appendix C- Information Exchange Forms

Crime and Disorder Information Sharing Protocol

The following information has been supplied in accordance to Haringey's Crime and Disorder Information Sharing Protocol.

The following provisions **MUST** be applied in accordance to the Protocol above:

- You should be fully aware of your responsibilities under the Protocol mentioned above, together with the Data Protection Act and Duty of Confidentiality.
- Information shared under the terms of this protocol must only be used for the purpose stated in the original request for information.
- Information cannot be passed to a third party for any purpose other than those mentioned in section 29(1) of the Data Protection Act 1998 (DPA), without obtaining consent from the disclosing organisation. If you do wish to pass the information onto a third party, you **MUST** first obtain consent from the disclosing organisation via the designated liaison officer.
- These forms **MUST** be stored in a lockable container when not in use, and a clear desk policy implemented.
- If the information is held electronically, these forms **MUST** be placed within a folder with a secure password and access restricted only to persons with a genuine 'need to know' the information.
- Once this information is no longer required, it **MUST** be returned to the Designated Liaison Officer (DLO) for destruction.

Crime and Disorder Information Sharing Protocol Request/Disclosure Form

Requesting Officer's Ref:

Disclosing Officer's Ref:

PART A – INFORMATION REQUESTED - (to be completed by requesting officer)

Information requested by:

Name:

Position:

Organisation/Department:

Address:

Contact phone number:

Email address:

Information requested:

Describe the information required and the circumstance that have led to this request being made, including any names, addresses and dates of birth and state whether they are a victim, informant, witness suspect or convicted offender.

Name:

Address:

DOB(ddmmyyyy):

Date information is required by (ddmmyyyy):

If urgent, please state reason:

If a VIW or CO¹, has consent been obtained and included at Part B of this form?

If not a VIW or CO, or no consent has been obtained, is it in the public interest to disclose?

Please state reason for public interest:

¹ Victim, Informant, Witness or Convicted Offender

Under which piece of legislation: (please tick)

- Crime and Disorder Act
- | | | | |
|--------------------------------|--------------------------|--------------------------------------|--------------------------|
| S115- Crime Reduction Strategy | <input type="checkbox"/> | S17 – Crime Reduction | <input type="checkbox"/> |
| S1 – ASB | <input type="checkbox"/> | S2 – Sex Offender Orders | <input type="checkbox"/> |
| S8 – Parenting Order | <input type="checkbox"/> | S11 – Child Safety Order | <input type="checkbox"/> |
| S15 – Local Curfew Orders | <input type="checkbox"/> | Ss28-33 – Racially Aggravated Crimes | <input type="checkbox"/> |
- Housing Act S84 – application for possession order
- Homelessness Act S10 – application for re-housing
- Other (please state)

Signature of requesting officer:

Date:

PART B - INFORMATION DISCLOSED – (to be completed by disclosing officer)

Date request received:

Disclosure Agreed: Yes No

Reason for declining request (if applicable):

Information attached to this form Yes No

Information disclosed

(Continue on a separate sheet if necessary, and remember to attach any additional sheets to this form)

Information disclosed by:

Name:	
Position:	
Organisation:	

Department::	
Address:	
Contact phone number:	
Email address:	

Information disclosed to:

Name:

Organisation/Department::

Contact phone number:

Delivery method (please mark as appropriate): Post Email Fax Other

Signature of disclosing officer: _____ Date supplied: _____

Crime and Disorder Information Sharing Protocol- Consent Form

Requesting Officer's Ref:	
Disclosing Officer's Ref:	

Please provide the relevant information below:

Is this information about you?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
If 'No', who is the information about?		
Name:		
Address:		
DOB (ddmmyyyy)		
Are you acting as: Parent/Guardian/Carer Other (please describe)		

Have the reasons for requesting consent been explained to you?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
--	------------------------------	-----------------------------

I give:	
consent to disclose to:	

Information to which this consent applies:

Personal information and any relevant information, for the purposes of:

Your Name:			
Address:			
DOB (ddmmyyyy):			

Signature:			
Date (ddmmyyyy):			

Witnessed by requesting officer:

Name:			
Position:			
Signature:			
Date (ddmmyyyy):			

Appendix D - Depersonalised Information Indices

Police:

- MPS crime statistics;
- Local crime information (CRIS data);
- Calls for police assistance (CAD data).

Local Authorities (and registered social landlords as appropriate):

- Criminal damage and graffiti removal;
- Derelict and empty property;
- Emergency out of hours calls;
- Nuisance families and resident complaints;
- Racial, homophobic and domestic violence incidents and other forms of hate crimes;
- Re-housed homeless, victims, offenders;
- Turnover of tenants;
- Vandalism to estate lighting;
- All night cafes;
- Alcohol and entertainment licences;
- Noise levels and nuisance neighbours;
- Elderly resident locations;
- Families on benefit;
- Vulnerable persons;
- Children involved in crime;
- People undertaking drug and substance misuse treatment;
- Population data and property values;
- Leisure, youth and playground facilities;
- School exclusions.

Health:

- Accident and Emergency admissions;
- Registered alcoholics and drug users;
- Vulnerable persons;
- Ambulance control and dispatch calls;
- Mentally disordered people;
- Substance misuse.

Probation:

- Offender profiles;
- Children at risk.

London Fire Brigade:

- Fires;
- Any duty under the Fire and Rescue Services Act 2004.

Appendix E - Additional legislation relating to this protocol

The principles and procedures embodied in this protocol are underpinned by the following legislation not outlined in the 'Key Legislation' section of this protocol:

- European Convention on Human Rights (given effect via the Human Rights Act 1998)
- Data Protection Act 1998
- Freedom of Information Act 2000
- Housing Act 1985
- Housing Act 1996
- Human Rights Act 1998
- Common law duty of confidence
- Rehabilitation and Offenders Act 1974
- Criminal Procedures and Investigations Act 1996
- Crime and Disorder Act 1998
- Youth Justice and Criminal Evidence Act 1999
- Immigration and Asylum Act 1999
- Criminal Justice and Court Services Act 2000
- Regulation of Investigatory Powers Act (RIPA) 2000
- Anti Social Behaviour Act 2003
- Criminal Justice Act 2003
- Prevention of Terrorism Act 2005
- Crime and Disorder Regulations 2007
- The Local Government Act 2000
- Policing and Crime Act 2009

Non-legislation includes;

- Caldicott Guidelines
- Local codes or standards relating to confidentiality

Appendix F: Simple Guide to information sharing

Information sharing with consent

If you have the person's consent, then it is ok to share personal information about them. Obtaining explicit consent for information sharing is best practice in most situations but it is not always possible or appropriate to do so.

Information sharing protocols

An Information Sharing Protocol (ISP) is a signed agreement between two or more organisations relating to a specified information sharing activity. An ISP explains the terms under which the organisations have agreed to share information and the practical steps that need to be taken to ensure compliance with those terms. If there is an ISP applicable to your information sharing situation, you must follow that. ISPs are not required for information sharing. The absence of an ISP should not prevent sharing information.

The Golden Rules² for information sharing

Where you are considering sharing information and you do not have the person's consent and there is not an information sharing protocol in place to govern that exchange of information; following the golden rules should ensure that you strike the correct balance between protecting people's privacy and ensuring that fellow practitioners have the information they need to deliver services.

- 1. Remember that the Data Protection Act is not a barrier to sharing information** but provides a framework to ensure that personal information about living persons is shared appropriately.
- 2. Be open and honest** with the person from the outset about why, what, how and with whom information will, or could be shared, and seek their agreement, unless it is unsafe or inappropriate to do so.
- 3. Seek advice** if you are in any doubt, without disclosing the identity of the person where possible.
- 4. Share with consent where appropriate** and, where possible, respect the wishes of those who do not consent to share confidential information. You may still share information without consent if, in your judgement, that lack of consent

² The Golden Rules have been copied from "Information Sharing: Guidance for practitioners and managers" published by the Department for Children, Schools and Families, and Communities and Local Government.

can be overridden in the public interest. You will need to base your judgement on the facts of the case.

5. Consider safety and well-being: Base your information sharing decisions on considerations of the safety and well-being of the person and others who may be affected by their actions.

6. Necessary, proportionate, relevant, accurate, timely and secure: Ensure that the information you share is necessary for the purpose for which you are sharing it, is shared only with those people who need to have it, is accurate and up-to-date, is shared in a timely fashion, and is shared securely.

7. Keep a record of your decision and the reasons for it – whether it is to share information or not. If you decide to share, then record what you have shared, with whom and for what purpose.

Appendix G - Caldicott principles

1. Justify the purpose(s)

Every proposed use or transfer of identifiable information within or from an organisation should be clearly defined and scrutinised, with continuing uses regularly reviewed, by an appropriate guardian.

2. Don't use identifiable information unless it is absolutely necessary

Identifiable information items should not be included unless it is essential for the specified purpose(s) of that flow. The need for subjects to be identified should be considered at each stage of satisfying the purpose(s).

3. Use the minimum necessary identifiable information

Where use of identifiable information is considered to be essential, the inclusion of each individual item of information should be considered and justified so that the minimum amount of identifiable information is transferred or accessible as is necessary for a given function to be carried out.

4. Access to identifiable information should be on a strict need-to-know basis

Only those individuals who need access to identifiable information should have access to it, and they should only have access to the information items that they need to see. This may mean introducing access controls or splitting information flows where one information flow is used for several purposes.

5. Everyone with access to identifiable information should be aware of their responsibilities

Action should be taken to ensure that those handling identifiable information are made fully aware of their responsibilities and obligations to respect confidentiality.

6. Understand and comply with the law

Every use of identifiable information must be lawful. Someone in each organisation handling information should be responsible for ensuring that the organisation complies with legal requirements.

Appendix H - Prosecuting Procedures Protocol

Joint Agency Protocol

Anti-Social Behaviour Orders (S1(c) Crime and Disorder Act) and Breaches of Anti-Social Behaviour Orders.

This Protocol is intended to guide the signatories, in order for applications to be made before criminal courts under S1(c) Crime and Disorder Act 1998. It is issued in conjunction with the Crown Prosecution Service (CPS) Guidance on Anti-Social Behaviour Orders (ASBOs) issued April 2004. Although the CPS will take primacy in the prosecution, it is acknowledged that other agencies will have an interest in the supporting evidence supplied, and in the enforcement of any orders that result. The Protocol also covers cases where any ASBO has been breached.

The Protocol covers the offences committed within the geographical region of the London Borough of Haringey.

The signatories are:

Metropolitan Police.....(Borough Commander)
Crown Prosecution Service.....(Borough Crown Prosecutor)
Crown Prosecution Service.....(District Crown Prosecutor)
London Borough of Haringey.....(Borough Solicitor)

Background

Purpose of Protocol

To ensure that applications for S1(c) ASBOs are made and enforced in appropriate cases.

To reduce the level of Anti-Social Behaviour (ASB) in the London Borough of Haringey and increase public confidence in the criminal justice system.

Nothing in this agreement affects the existing liaison and consultation framework concerning applications for “stand alone” ASBOs made under S1 Crime and Disorder Act. However, it is acknowledged that the CPS will have an interest in such orders, both in terms of offering supporting evidence emanating from previous court proceedings and in respect of their statutory duty to prosecute any breach offence initiated by arrest. The use of S1(c) orders is intended to complement procedures dealing with “stand alone” orders.

Liaison and Consultation

All requests for orders on conviction will be dealt with under this procedure.

Officers will not approach prosecutors or the Court direct, to seek such orders. An officer has no right of audience to make the application and any application made by the CPS is subject to the Code for Crown Prosecutors and should be reviewed before the relevant Court date.

Personnel

Each agency will nominate a lead officer in the field of ASB. This individual should be familiar with the practice and procedure of ASBOs.

In the case of the CPS one lawyer will be nominated for each Team; that lawyer will be trained in the theory and practice of ASBOs. All permanent Duty Prosecutors in Charge Centres will also be trained to the same standard. The Unit ASBO lawyer will be a first point of contact within the CPS for outside agencies wishing to discuss ASBO cases, and will offer guidance and advice to colleagues on such cases. He or she is NOT expected to act as the reviewing lawyer in all cases where an ASBO is under consideration.

For a list of current Police and CPS Liaison see the end of this Appendix.

Case Review

Assessing a case for suitability for an ASBO

Any consideration of a potential S1(c) application must be made internally before inter-agency liaison is commenced.

An arresting officer or Officer In Charge (OIC) who feels that his defendant may be suitable for a Post-Conviction ASBO should initially raise the matter with his CJU QA / CPU Sergeant, who, if he concurs that an application is appropriate, will then contact the CPS Duty Prosecutor or Unit ASBO lawyer.

If the CJU QA / CPU Sergeant approves an application an MG13 Application Notice (including suggested Prohibitions), together with any additional evidence (over and above the evidence which supports the suggested Charge) should be prepared and sent to the Duty Prosecutor with the MG13.

The Duty prosecutor should then make an early assessment of the circumstances of the case, including the additional evidence and consider if an ASBO should be applied for, and, if so, what Prohibitions should be sought, taking into account the police submissions on the MG13.

Short-Form Assessment Procedure (Custody Cases only)

It is recognised that if a prisoner is in Custody awaiting charge and is not to be granted bail prior to his first Court appearance, it may not be possible to present

the full package of additional evidence to the Duty Prosecutor at or before point of charge. In such cases the following threshold test should apply.

The arresting officers / OIC should still consult the CJU QA / CPU Sergeants, and if they consider the case to be appropriate it may go forward to the Duty Prosecutor with an MG13 only. In such cases the MG13 must be endorsed by the CJU QA / CPU sergeant as suitable for this expedited procedure. It will then be open to the Duty Prosecutor to review the necessity for the application, If the need for an application is accepted, the usual form NFR/1 to Court and Defence may be prepared and served in the normal way, amended to state that further evidence will follow.

If a case is accepted via this procedure, the OIC / CJU QA / CPU Sergeant will supply the relevant additional evidence to the CPS within seven days. This time period may not be extended – if the evidence is not available within this timescale, the case would be more appropriately dealt with by way of a “stand alone” ASBO.

If in such a case the defendant indicates a Guilty plea to the substantive charge at the first Court appearance, The CPS will actively seek an adjournment of the sentencing hearing to allow the preparation of the relevant package of evidence to support the ASBO application. The OIC and Prosecutor should be in a position to give the Court an accurate time estimate for a contested application.

It must be emphasised that this procedure applies ONLY to cases where the suspect is not suitable for bail. If the subject is suitable for bail, and the full evidential package is not available, he should be bailed to return to the police station for charge to allow preparation of the ASBO application prior to charge.

Late Consideration of Application

It is accepted that information may come to light in the investigation and preparation of any criminal case, which is not apparent at point of charge, which may lead to that case being considered an appropriate vehicle for a S1(c) application. In such a situation, the CJU QA / CPU Sergeant should seek early consultation with the Unit ASBO Lawyer.

All proposed applications will be considered on their merits. However, the further the case has progressed the less likely it will be that a S1(c) application will be considered suitable. It is hard to imagine any set of circumstances where an application would become appropriate after the substantive charge has been proved.

The best practice remains that an application is considered at point of charge.

It must be emphasised that no case will be considered for an ASBO unless an MG13 has been provided.

The Assessment Tests

There must be current or pending criminal proceedings for a relevant offence for there to be jurisdiction to apply for a S1(c) order. If at any point the criminal proceedings are withdrawn, dismissed, or the accused is acquitted, the jurisdiction for S1(c) is lost.

If there is an urgent need to protect the community, it may be more appropriate that the S1 method be followed with an interim application being made, either notice or ex-parte (S1(d)).

It will be Borough Policy that in all cases where the charge is burglary, robbery or drug supply or where the offender is a Prolific and Priority Offender (PPO), there will be a presumption that an application is made unless there are substantial mitigating circumstances.

Where an ASBO is sought against a young person aged 16 or under, unless there has been a consultation with the Youth Offending Service, the “stand alone” ASBO procedure is in principle more appropriate. This is because the “stand alone” process has in-built requirements to enable consultation with other agencies such as Education and Social Services, who may have statutory duties to intervene and carry out assessments to address the behaviour in different ways. It may also result in more appropriate ways of addressing the behaviour than resort to a court order in suitable cases. That is not to say that post conviction applications will not be considered for such offenders, but a high degree of inter-agency consultation will need to be evidenced for such cases to be taken forward.

Broadly speaking, if wide prohibitions are sought, covering a variety of behaviour that is not easily identifiable from the conviction history alone, the appropriate course of action is that the Local Authority or Police Solicitors apply for a stand alone ASBO under section 1 of the Crime and Disorder Act 1998. In those applications, evidence of the defendant’s behaviour can be introduced whether the same resulted in criminal convictions or not, provided that the behaviour is recent and relevant to the ASBO sought. Such “stand alone” applications would be preferable if the application will involve a large amount of evidence from Local Authority officers and expert witnesses, and the subject’s criminal history is negligible.

However if an ASBO target is someone who regularly offends, and the facts and record of their offending will be the main basis for an application for an ASBO, then the matter would of course be best handled by the CPS as a S1(c) application.

At the end of the consideration process, the CPS should have reached a decision about the appropriate method of application, based on the protocol

document. Prosecutors are encouraged to identify appropriate cases and to invite police to provide further evidence to support an application. Ultimately, the decision whether to proceed with S1(c) remains with the CPS. Once a decision has been made, it should be reported to the appropriate person in each relevant agency in accordance with agreed lines of communication.

Third Party Initiation

Any other agency which might wish the CPS to make an application for a S1(c) order must make a referral through the local Anti-Social Behaviour Action Team.

While the CPS is a willing participant in multi-agency working to address ASB, their ability to act depends on the existence of criminal charges against the perpetrator. The information flow to support such charges comes from the police.

Disagreement and Dispute Resolution

AS proficiency and expertise in the use of ASBOs spreads throughout the Metropolitan Police and the CPS, it is not anticipated that there will be many occasions when an agreement cannot be reached as to whether or not an application should be made for an order. It is expected that CPS ASBO lawyers and Duty Prosecutors will develop good working relationships with CJU QA / CPU Sergeants.

However in the event of intractable disagreement, the case in question should be referred to the ASB prosecutor for London at Ludgate Hill, who will make the final decision. This must be a decision reached by the CPS, as it is the statutory responsibility of the CPS to seek orders on conviction, and not that of the police.

In cases where the CPS does not accept that a S1(c) application is appropriate, the case may be referred to Metropolitan Police solicitors to consider a “stand alone” ASBO. The Duty Prosecutor should also endorse the MG13 with his reasons for rejecting the application to assist such future consideration.

Actions when an Application is Agreed

Documents to be prepared: Application Notice to Court and Defendant

Draft Order

If the Duty Prosecutor, or any other reviewing lawyer, agrees that an application should be made, he should prepare copies of the draft order, which should be attached to the case file. He should also prepare an Application Notice, which should list any additional evidence to be relied upon. This document will contain a Hearsay Notice.

With the approval of the CPS Borough ASBO Lawyer, Draft Orders may be prepared and submitted by CJU QA / CPU Sergeants.

Evidential Preparation

The OIC will prepare an MG13 outlining the behaviour underlying the application, any maps and PNC print, detailed antecedents in accordance with Association of Chief Police Officers (ACPO) Guidance. The MG13 will also record that the officer has checked with the Local Authority (ASBAT) records or representative to determine whether any proceedings are current or imminent for a “stand alone” ASBO.

These documents should be kept together under separate cover on the prosecution file to ensure that the prosecutor does not refer to them as part of the prosecution case concerning the substantive charge.

What Prohibitions Should an Order Contain?

ACPO Guidance states that the order:

Only imposes prohibitions and not positive requirements

Covers the range of anti-social acts committed by the defendant

Relates to the acts complained on

Is realistic, reasonable and proportionate

Is clear, concise and easy to understand

Is specific about time and place

Is specific when referring to exclusion from an area, include street names and clear boundaries

(Always do this by reference to a map)

Is in terms, which make it easy to determine and prove a breach

SHOULD NOT CONFLICT WITH ANY OTHER Court orders

The CPS endorses this guidance.

The Prosecution Process

Principle

While the application is of course for a civil order ancillary to sentence, it should be conducted in a professional manner similar to the prosecution of the substantive offence.

Service of papers

The Crown Prosecution Service will serve upon the Court and the Defendant (or his legal representative) a copy of the Application Notice, including Hearsay Notice, a copy of the Draft Order, and the full evidential package at the same time as Advance Information is served for the substantive charge. In cases where the full service of these documents is not possible at this stage – see paragraphs 7 and 8 above – a basic Application Notice alone will be served and the CPS will undertake serve the outstanding documentation:

In cases where acceptable Guilty pleas have been entered, or in cases which will proceed to trial in the Magistrates Court, within eight days.

In cases which are committed to the Crown Court, no later than the date of PDH.

In cases sent to the Crown Court under S51 Crime and Disorder Act 1998, within twenty-eight days.

The same documents may also be served on the Probation Service once the defendant has been convicted; however in the case of Youth Offenders, the YOS should be served with copies at the first appearance.

Post Conviction Procedure

Upon the defendant's conviction for the substantive offence, the prosecutor will then draw the Court's attention to the Application Notice. If the defendant does not challenge the application or any evidence called to support it, the Court may proceed to consider the ASBO there and then.

However if the defendant contests any of the evidence, the prosecutor should then ask the Court to adjourn not only the ASBO application but also the entire sentencing exercise – as there is no power to remand a defendant to appear for the ASBO application. The prosecutor should be able to give the Court a realistic estimate of the duration of the contested hearing.

The Court will allow sufficient time for evidence adduced by both prosecution and defence to be heard, either on the date a requirement for a contested hearing is notified or on some future date.

Preparation for the Hearing

When a date is fixed the CPS lawyer dealing with the case in Court should ensure that the contested hearing is entered in the Unit Diary and that the case file is referred to the Unit ASBO lawyer. The CPS Unit Head must then ensure that a lawyer trained in ASBO work is available to conduct the application hearing. The case must be reviewed to ensure that all relevant applications have been made and that the evidence it is proposed to rely upon in the hearing has been served in advance on both defence and Court.

It should be made quite clear to the defence that as the ASBO is a civil order, the CPIA does not apply. Disclosure of evidence is a voluntary exercise by the CPS which is undertaken as good practice to ensure the smooth progress of the Application hearing.

Orders at the Court's volition

If the Court indicates it may wish to exercise powers to impose an Order under S1(c) in a case where the prosecution has not made an application, the CPS will

seek a short adjournment so that the CJU QA / CPU Sergeant can be contacted to provide any information which may assist the Court in drafting Prohibitions.

Applications for S1(c) Orders in the Crown Court

At least 14 days prior to the hearing of the application the prosecution will provide the Court and the defence with a time estimate for the application.

At least 7 days prior to the hearing the defence will advise the Court and the prosecution whether or not the hearing is contested and whether or not the time estimate is agreed.

Where a defendant indicates that he will dispute the application, if necessary, the Crown Court will adjourn the sentencing hearing to allow evidence to be called by the prosecution or the defence.

The Court will serve the defendant and supply the CPS with a copy of the Order.

Where the Crown Court decides of its own volition to make an ASBO it will invite representations from the prosecution and defence.

Standing Consultation

Rationale and Representation

The CPS should be in regular contact with the ASBAT. There is no statutory requirement for the police or prosecution to consult with the Local Authority before a request is made for an order on conviction (S1E(1)). However, it is necessary to check police records and with the Local Authority that there is no existing ASBO on the defendant and that no such proceedings are being contemplated, before the defendant is put forward for an order on conviction.

However the constitution of such groups varies from area to area. The CPS representative should not be party to any discussion (indeed should not be present during any discussion), which may give rise to disclosure issues during criminal proceedings. In areas where detailed case histories are considered at ASBAT, it may be more appropriate for those groups simply to refer case files to the CPS for consideration after the full debate.

Identification and Prosecution of Breaches

The power to prosecute breaches lies with both the CPS and the original applicant for any "stand alone" ASBO. However the CPS has a statutory function under the Prosecution of Offenders Act to prosecute any breach charges arising out of an arrest.

While it would not be the intention of the CPS to remove from another agency its statutory powers, the presumption should be that breach offences are

prosecuted by the CPS. It is the only prosecuting authority with representatives at every Court every day and therefore will be best placed to deal with any issues arising out of the non-attendance of defendants granted bail.

Should there arise a case where the Local Authority is in a position to put information before the Court more expeditiously or efficiently than the CPS, the authority to prosecute may be passed to them by the Borough Crown prosecutor.

The case file submitted to the Duty Prosecutor for consideration of charge must contain a copy of the original ASBO and any map, together with the statements needed to prove the breach. It should also contain, if available, details of the ASB leading up to the Order having been made. This might come in the form of a statement from the police or local authority.

Given that identification may be an issue, especially in the case of “stand alone” ASBOs, it will be good practice for the defendant to be interviewed as to whether he accepts himself to be subject to an ASBO.

*The Unit lawyer for the Wood Green Prosecution Unit CJU is Nana Owusuh
In the case of the London Borough of Haringey the nominated individual is
Angela Tryfonos
In the case of the Metropolitan police, the nominated individual will be Sgts
Pugh and Warboys*

