

A TIERED APPROACH TO TACKLING YOUNG PEOPLE DRINKING ALCOHOL IN PUBLIC PLACES



Home Office

**The offence of persistently
possessing alcohol in a public place**

(SECTION 30 OF THE POLICING
AND CRIME ACT 2009)

PRACTICAL ADVICE

FIRST EDITION
JANUARY 2010

CONTENTS

Ministerial foreword	5
Section 1 – Summary and overview	6
• A summary of the offence	6
• The purpose of the offence within the tiered approach	6
• Why a tiered approach?	6
• Welfare and Safety of children	8
• Links to the Anti-social Behaviour Strategy	8
Section 2 – Stage 1: A one-off instance of public drinking	10
• The approach to a one-off instance of public drinking or possession	10
• Confiscation	10
• Recording of the first instance and how it links to the offence	11
• Reasonable excuse	12
• Directions to Leave	12
• Dispersal Orders	12
• Parents or guardians	12
• Parenting Programmes	12
• Safer Schools Partnerships	13
• Access to Treatment	13
Section 3 – Stage 2: A repeat instance of public drinking	14
• The approach to a repeat instance of public drinking or possession	14
• Confiscation of alcohol	14
• Acceptable Behaviour Contracts	14
• Anti-social Behaviour Orders	14
• Parenting Contracts	15
• Parenting Orders	15
• Family Intervention Projects	15

Section 4 – Stage 3: Persistent drinking in public places	16
• The approach to persistent instances of public drinking or possession	16
• Considerations to be taken into account before proceeding to prosecution	16
• Relevant place	16
• Maximum penalty	16
• Information sharing	16
Section 5: Tackling underage sales and supply of alcohol to young people	17
• Existing legislation and guidance that can be used to tackle underage sales	17
• Test purchasing	17
• The offence of persistent selling	17
• Mandatory Code	17

MINISTERIAL FOREWORD



There is continued concern about how much young people are drinking, particularly unsupervised drinking in public places which is commonly associated with anti-social behaviour and crime and disorder. Alcohol-related crime and disorder by young people is currently estimated to cost society a staggering £1 billion per year.

According to a schools survey, whilst the proportion of pupils who have never had an alcoholic drink has increased gradually in recent years, pupils who are drinking are drinking a lot. Those who drank alcohol in the last week had a mean intake of 14.6 units. The proportion drinking on the street, in a park or somewhere else is also continuing to rise reaching 34% in 2008.¹

We set out a series of actions to tackle this in the *Youth Alcohol Action Plan* in June 2008. Since then there has been good progress on a number of fronts.

The public perception of drunk or rowdy behaviour has fallen to 25% for the year ending September 2009 and perceptions of problems with teenagers hanging around from 31% to 28%.

More than 3,500 young people were successfully targeted by the summer 2009 crackdown on teenage binge drinking and 15,000 were signposted to positive activities and received treatment where necessary. As such many more young people have been helped to address the underlying causes of their drinking and anti-social behaviour and prevented from getting into trouble in the future. We continue to focus on this issue as a matter of

priority. Nonetheless, there is more to be done and that is why we are introducing a tiered approach to dealing with young people drinking alcohol in public places, and a new offence of persistently possessing alcohol in a public place.

Although the police can currently confiscate alcohol from any young person, losing your alcohol is not an effective deterrent for a young person nor does it address underlying behaviour. We believe that parents or guardians should be notified if their children are caught drinking in public places. If this fails and the young person re-offends, the rational underpinning their behaviour should be addressed through Acceptable Behaviour Contracts. If all these intervention measures fail then a young person would be eligible for prosecution as well as a range of treatment via the Youth Offending Teams. We also want to see parents or guardians taking responsibility for their child's drinking behaviour and are therefore encouraging wider use of Parenting Contracts and Orders and referrals to Family Interventions Projects.

These measures take into consideration the offender's public drinking frequency and the severity of the associated anti-social behaviour through the use of a tiered approach. The offence is being introduced only to deal with those young people who despite being caught by the police on numerous occasions continue to possess alcohol in public and as such should be viewed as a last resort.

The police must also be allowed to protect young people aged 11-15 who drink in public and so we have given them a power to return them to a place of safety where necessary.

¹ Diment E; Lee L; McManus S. (2008): *Smoking, Drinking and Drug Use Among Young People in England in 2008*. London: NCSR and NFER

Section 1

Summary and overview

This section sets out:

- A summary of the offence
- The purpose of the offence within the tiered approach
- Why a tiered approach?
- An illustration of the tiered approach
- The benefits of the tiered approach
- The aim of the offence
- Legislation
- That the offence will be most effective as part of focused multi-agency activity
- Welfare and safety of children
- Approach to seeking treatment

SUMMARY

This guidance explains the offence of persistently possessing alcohol in a public place as contained in Section 30 of the Policing and Crime Act 2009, which received Royal Assent on 13 November 2009.

Section 30 establishes a new offence of persistently possessing alcohol in a public place, making it illegal for a person under the age of 18 to be in possession of alcohol on 3 or more occasions within a period of 12 consecutive months. A person guilty of this offence is liable on summary conviction to a fine not exceeding level 2 (£500) on the standard scale.

However, this offence must be used in conjunction with Sections 29 of the 2009 Act, which amend the Confiscation of Alcohol (Young Persons) Act 1997 and the Violent Crime Reduction Act 2006 to enable a constable to confiscate alcohol from those under 18 years of age, and to ensure that the young person is required to give his or her name and address to the constable.

This offence constitutes the final and most serious part of the Government's tiered approach to tackling young

people drinking in public places and should be used to tackle the most persistent and problematic cases of public drinking.

PURPOSE OF THE OFFENCE WITHIN THE TIERED APPROACH

As set out in the *Youth Alcohol Action Plan* (June 2008) unsupervised drinking and possession of alcohol by young people under 18 is unacceptable. It can contribute to anti-social behaviour and crime and disorder that can cause a significant problem for the rest of a community.

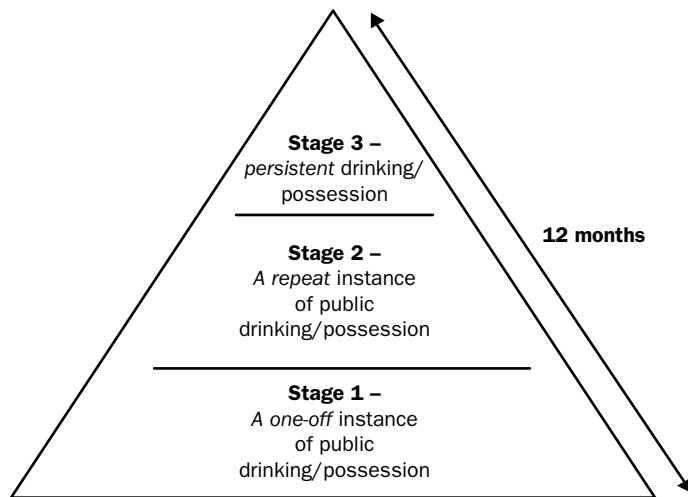
This guidance sets out the steps that should be taken to deter young people from drinking and possessing alcohol in public places, including engagement with the parents or guardians of the young person. A different response will be required depending on whether police are dealing with a one-off instance of public drinking, a repeat instance which may be linked to anti-social behaviour or persistent and problematic cases of public drinking. The new offence will only apply to this last group.

WHY A TIERED APPROACH?

A 2006 study² by the National Audit Office highlighted that two thirds of people stop committing anti-social behaviour after just one intervention, and nine out of ten stop after three. This means only a small minority go on to commit more crime or anti-social behaviour. Warning letters were very effective with young people with around 62 per cent of under 18 year olds receiving no further interventions. There is a clear case that a tiered approach works with young people and we are seeking to build on this in order to address the behaviour of young people drinking in public places.

² http://www.nao.org.uk/publications/0607/tackling_anti-social_behaviour.aspx

An overview of the tiered approach is given below:



- **Stage 1** – When dealing with a *one-off* instance (one occasion) of public drinking/possession by a young person, the alcohol should be confiscated. There is discretion to take that individual home or to a place of safety if the person is under 16. Alternatively, a Direction to Leave may be more appropriate. A letter should be sent to parents and copied to the Youth Offending Team for information. Where there are additional concerns about the extent of the young person's drinking, and/or their age, referral to targeted services for assessment via the Youth Offending Team would be appropriate.
- **Stage 2** – In tackling a *repeat* instance (a second occasion) of public drinking/possession an appropriate intervention (e.g. an Acceptable Behaviour Contract or even an Anti-Social Behaviour Order (ASBO) in a minority of very serious cases) should be sought for the young person. As with any escalation in the use of enforcement tools, support by treatment provision should be considered if necessary and appropriate. Young people should be referred into local targeted services through the Youth Offending Team or Targeted Youth Support.
- **Stage 3** – Young people who *persistently* drink or possess alcohol (three or more occasions within a 12 month period) in public places, may be prosecuted for the offence. It may also be appropriate to seek an ASBO on conviction if circumstances are serious enough to warrant it.

The benefits of this approach are that it provides an appropriate and proportionate response to the level of behaviour exhibited at each stage and ensures that action is taken to tackle those who repeatedly and persistently drink in public. It sets out clearly what the consequences are for a young person should they continue to *repeat* or *persist* in drinking alcohol in public places. The approach makes most effective use of a range of tools and powers in combating the issue and is consistent with the government's tiered approach to tackling anti-social behaviour through Targeted Youth Support.

The aim of Targeted Youth Support is to have the major partners across schools, youth justice services and positive activities, community safety and the police, and health services working routinely together to identify young people at risk early on and ensure that the right systems are in place to provide joined up support when it is needed.

For more information see: <http://www.dcsf.gov.uk/everychildmatters/Youth/targetedyouth/targetedyouthsupporttoolkit/tystoolkit/>

The aim of the offence is to reduce crime and disorder stemming from unsupervised and persistent drinking by young people in public places. By making it clear that there are penalties for young people who persist in drinking and causing serious problems for their communities, authorities should be better equipped to reduce the associated alcohol-related crime and disorder. Clarifying the consequences to young people, combined with effective early intervention and treatment provision at stages 1 and 2, should result in a reduction in drinking and the associated alcohol-related crime and disorder.

The Policing and Crime Act 2009 establishes the legislation required in order to enable this new approach to come into effect. Section 30 establishes an offence of persistently possessing alcohol in a public place. This makes it illegal for a person under the age of 18 to be in possession of alcohol on 3 or more occasions within a period of 12 consecutive months. Sections 29 and 30 amend existing legislation (the Confiscation of Alcohol (Young Persons) Act 1997 and the Violent Crime Reduction Act 2006) to enable the police to use

confiscation and directions to leave powers more effectively and to ensure that the requisite information is collected to enable prosecution.

Together this new legislation forms a coherent package to effectively deal with alcohol-related anti-social behaviour. These new powers all need to be used in conjunction with one another within the tiered approach and alongside other tools and powers such as Acceptable Behaviour Contracts and ASBOs. The use of enforcement tools needs to be combined with effective use of treatment provision and intervention programmes (e.g. Youth Inclusion Programmes, Youth Inclusion Support Panels and Safer schools Partnerships) as part of a multi-agency approach to tackle the problem. Parents, schools, police, community safety, Youth Offending Teams, youth services, positive activities, and health services all have a role to play to effectively address the problem and prevent escalation of public drinking behaviour.

It is important that a multi-agency approach is adopted at the outset as the young person may have other issues that need addressing. A multi-agency approach, through Targeted Youth Support services, will facilitate access to the appropriate treatment and services required to meet the individuals need. Information sharing protocols need to be in place between Youth Justice services and the police to ensure effective join-up of interventions. The Youth Justice Board and Department of Health have published some guidance on information sharing for youth justice issues which can be found using the following link: http://www.dh.gov.uk/dr_consum_dh/groups/dh_digitalassets/@dh/@en/documents/digitalasset/dh_084705.pdf

WELFARE AND SAFETY OF CHILDREN

In addition to the powers under the confiscation legislation (to take those under 16 home or to a place of safety), the police should also be mindful of their duties under the Children Act 2004 to safeguard and promote

the welfare of children. The police service contribution to safeguarding and promoting the welfare of children may include:

- Making referrals to the relevant service for a Common Assessment Framework (CAF) assessment of need where a child or young person is seen as vulnerable and potentially in need
- Using police powers to take children into protective custody where appropriate
- Using Operation Staysafe* to protect vulnerable children whose behaviour or whereabouts place them at risk of harm and street based teams to signpost young people to appropriate positive activities
- Working with partner agencies to divert children away from crime and/or away from sentences and into positive activities where appropriate;
- Working with partner agencies to educate children and young persons on issues such as substance misuse and the prevention of crime. This might involve working as part of a Safer Schools Partnership.
- Working closely with the Youth Offending Team, particularly the prevention team to ensure that a substance misuse issue is identified early and an appropriate referral is made.

LINKS TO ANTI-SOCIAL BEHAVIOUR STRATEGY

The Government's approach to tackling anti-social behaviour is tackling, not tolerating it. A range of tools and powers – ASBOs, premises closure orders and crack house closure orders to name a few- has been given to the police, local authorities and other agencies, and there has been considerable success in using them. A study by the National Audit Office in 2006 found that 65 per cent of people desisted from anti-social behaviour after the first intervention and 93 per cent after the third. Where individuals do persist in causing misery to local residents, agencies are taking robust action to deal with them.

* Operation Staysafe uses police patrols to protect vulnerable children. They identify young people who are out late at night, and who are at risk of becoming victims of crime, or of being drawn into criminal behaviour, and take them to a place of safety.

We are continuing to provide significant support for practitioners and the public. Access to information on anti-social behaviour services has been simplified. A quick postcode search on Directgov gives the public easy access to information on who is responsible for dealing with local problems and how to contact them.

Practitioners can call the anti-social behaviour ActionLine for expert advice on tackling specific problems. The number is 0870 220 2000. Building on this, the Government announced a further package of measures on 13 October 2009, backed up by funding. This included extending Victim Support services to all victims and witnesses of anti-social behaviour in magistrates' courts; stepping up action on ASBO breaches; ensuring that the public understand what they can expect from local services on anti-social behaviour; and working closely with the 62 Crime and Disorder Reduction Partnerships facing the highest perceptions of anti-social behaviour to support and challenge them in delivering solutions to local problems.

Section 2

Stage 1: A one-off instance of public drinking

This section covers issues such as:

- The approach to a one-off instance of public drinking/possession
- Confiscation
- Recording of the first instance and link to the offence
- Reasonable excuse
- Directions to Leave
- Dispersal Orders
- Parents or guardians
- Parenting Programmes
- Safer Schools Partnerships
- Access to treatment

THE APPROACH TO A ONE-OFF INSTANCE OF PUBLIC DRINKING

A one-off instance of public drinking or possession should be swiftly dealt with by the police with parents or guardian and the Youth Offending Team informed. Those caught should have their alcohol confiscated and their name and address should be taken down and kept.

The young person should be told that their behaviour is unacceptable and the consequences for continued drinking outlined to them. It should be made clear that they could be prosecuted for the offence of persistent possession if they are found with alcohol in public on two or more subsequent occasions. Reasonable steps should be taken to ensure that the young person understands this in order to help minimise the number of unintentional breaches. Where there is difficulty it might be appropriate to contact the parents or guardian to explain this.

If there is a concern that the young person is causing or likely to cause alcohol-related crime or disorder then a Direction to Leave should also be issued.

A letter should then be sent to the parents or guardian to inform them of the young person's behaviour and outline the consequences if the young person is found in possession of alcohol again. Relevant guidance and

information for young people and the parents or guardian should be included along with details of local treatment services to enable the parents or guardian to address the issue and seek further help and advice. It is envisaged that this will apply to the majority of young people drinking in public and should be enough to prevent a further occurrence of public drinking.

The letter should also be sent to the Youth Offending Team for information. They should consider whether any other interventions are appropriate or whether any further action needs to be taken at this stage.

CONFISCATION

The power to confiscate alcohol is being widely used by the police to tackle young people drinking in public places. The need to prove intent to consume has prevented the police from making the most effective use of this power in some instances. The Policing and Crime Act 2009 has amended the Confiscation of Alcohol (Young Persons) Act 1997 in order that the police no longer have to prove intent. This should enable this power to be used more widely.

Under Section 1 of the Confiscation of Alcohol (Young Persons) Act 1997 a constable

- May confiscate alcohol from a person in a public place if they reasonably suspect the person to be under 18 years of age
- Must record the name and address of persons whose alcohol has been confiscated
- May return persons reasonably suspected to be under the age of 16 and whose alcohol has been confiscated to their residence or to a place of safety

A constable may confiscate sealed and unsealed containers of alcohol from persons under 18 who consume and/or possess alcohol in public. Under Section 3 of the Confiscation of Alcohol (Young Persons) Act 1997, a person commits an offence under Section 1 if they refuse to comply with an officer's instruction to surrender alcohol in their possession or fail to state their correct name and address without a reasonable excuse.

It was already considered good practice to record the name and address of young persons whose alcohol had been confiscated. Additionally, more police force areas are making use of hand-held technological devices and so the information can be digitally recorded, making it more accessible to all force users of the system and assisting with intelligence gathering. The change to the legislation now makes it a requirement for the police to record the name and address of the young person whose alcohol they have confiscated, allowing them to inform parents or guardians and to have a consistent means of gathering evidence required for the offence.

This provides an objective and fair method of identifying young persons who have committed the offence of persistently possessing alcohol as all occasions where alcohol has been confiscated will be recorded. It will be clear therefore when a young person has been found in possession of alcohol on three occasions within 12 consecutive months and is liable for prosecution of this offence.

The police also have the power, as a result of the amendments to the legislation, to remove the young person to a place where they reside or a place of safety if the constable reasonably suspects they are under the age of 16. This power under Section 1 of the Confiscation of Alcohol (Young Persons) Act 1997 is a discretionary power. The police have discretion to return home, or to a place of safety, those young people that are vulnerable and they are concerned about.

It may not always be appropriate to return a young person to their place of residence but the implications of returning to a place of safety need to be carefully considered before any decision is taken. A place of safety can be a community home provided by a local authority or a controlled community home, hospital, surgery or any other suitable place if the occupier of that place is willing to temporarily receive that child. In the event of uncertainty as to whether somewhere is a place of safety then a police constable should check with a senior officer, social services or a safeguarding officer first.

The Government issued a new handbook for practitioners following the publication of the *Youth Crime Action Plan* (July 2008) which gives guidance on taking children to a place of safety as part of an Operation Staysafe initiative. This uses existing child protection legislation under Section 46 of the Children's Act 1989 to protect those at risk of significant harm.
<http://www.crimereduction.homeoffice.gov.uk/youth/ycap2009handbook.pdf>

Where an Operation Staysafe initiative is in place in the local area it may be appropriate to take a young person to a designated place of safety as part of this initiative. Children's services or a Youth Offending Team worker are then best placed to carry out a risk and needs assessment on that individual. The Youth Offending Team should also consider referral to a substance misuse specialist where appropriate. Wherever possible, parents or guardians should then be contacted to come and collect the young person, while multi-agency support should be called upon if necessary.

As a partner in the local Children's Trust arrangements it is the duty of the police to safeguard and promote the welfare of all children in their areas.

RECORDING OF THE FIRST INSTANCE AND HOW IT LINKS TO THE OFFENCE

The name and address of the young person should be recorded by the police and this will count as the first instance of being found in possession of alcohol in a public place. Evidence of confiscation is already recorded in some police force areas and this is considered good practice. Police can use their discretion as to how they record this information but many force areas already use hand-held technological devices which require information only to be entered once. For areas which straddle police force areas or are close to boundaries, we expect the police to share local intelligence and work in partnership to ensure that unsupervised drinking in public places by young people is effectively dealt with irrespective of where it occurs.

REASONABLE EXCUSE

Police discretion should be exercised in determining what constitutes a reasonable excuse. However, the types of situations that may be appropriate in this instance are:

- a young person is in possession of alcohol, in a public place, due to the nature of their employment.
- a young person is in possession of alcohol, in a public place, as they are assisting a family member to transport alcohol from one location to another
- a young person is in possession of alcohol, in a public place, as part of a wider group enjoying a family picnic

The above examples illustrate some of the occasions which could constitute a 'reasonable excuse' for a young person being found in possession of alcohol in a public place. However, the above examples are not intended to provide an exhaustive list and so police will need to make their own judgement depending on the individual circumstances.

DIRECTIONS TO LEAVE

Existing government guidance on giving Direction to Leave has been updated to take account of the changes brought about by the Policing and Crime Act 2009. This guidance entitled *Giving Directions to Individuals to Leave a Locality – Practical Advice* should be consulted, in particular the section on dealing with young people. Importantly, a Direction to Leave can now be issued to persons aged 10 to 15 as well as those aged 16 or over. It also allows the police to then take the young person home or to a place of safety if they reasonably suspect that they are under 16. This amendment is an important change and will allow the police to provide a more effective response to the alcohol-related disorder caused by groups of children of mixed ages who drink in public.

DISPERSAL ORDERS

If there are areas where members of the public have suffered intimidation, harassment, alarm or distress due to the presence of groups, and where anti-social behaviour is a significant and persistent problem, then consideration should be given to the use of powers under Part 4 of the Anti-social Behaviour Act 2003

rather than a Direction to Leave. These powers allow police to disperse groups of two or more people of any age and to remove a young person under 16 to their place of residence (if an authorisation has been given under the Act). Young people should then be signposted to relevant positive activities where appropriate and referred to Youth Offending Teams.

PARENTS OR GUARDIANS

Parents or guardians have a major influence over their children's drinking behaviour and attitude to alcohol. Parents or guardians should be informed where young people are found drinking in public. When doing this, police should provide access to information and advice on the legal position regarding young people and alcohol, along with wider information on the risks that alcohol poses to them. A full range of advice and information for parents or guardians can be found here <http://whyletdrinkdecide.direct.gov.uk/p1/>

Those parents or guardians who police consider would benefit from additional support should also be signposted to local parenting services where appropriate. Parenting interventions are designed to help parents or guardians improve their parenting skills, included skills needed to deal with problems early on and to address the behaviour that puts their child at risk of offending.

PARENTING PROGRAMMES

Parenting programmes provide parents or guardians with an opportunity to improve their skills in dealing with the behaviour that puts their child at risk of offending. They provide parents or guardians with one-to-one advice as well as practical support in handling the behaviour of their child, and help setting appropriate boundaries and improving communication. A parenting programme could be offered at the first sign of problems – perhaps when a warning about a child's behaviour is first given.

SAFER SCHOOLS PARTNERSHIPS

A Safer Schools Partnership is a formal agreement between a school or partnership of schools and the police to work together in order to keep young people safe, reduce crime and the fear of crime and improve behaviour in schools and their communities. This will involve a police officer or police community support

officer regularly working at a school or across a number of schools on a full or part-time basis. Issues with groups of young people drinking in public places might be successfully dealt with through this mechanism by highlighting to young people the unacceptable nature of the behaviour, and the consequences of being found in possession of alcohol on three or more occasions. You can find out more about Safer School Partnerships in the following guidance: <http://www.crimereduction.homeoffice.gov.uk/saferschools07.htm>

ACCESS TO TREATMENT

Support for young people who are misusing alcohol should be available in every local authority through a range of targeted services and specialist treatment. It is essential that enforcement agencies are aware of what is available locally and are able to engage the appropriate agencies in delivering the tiered approach set out in this guidance. While some young people will need specialist treatment for alcohol and drug misuse, initial links should be made with targeted services that can consider the full range of young people's needs and what specialist support may be appropriate.

Section 3

Stage 2: A repeat instance of public drinking

This section covers issues such as:

- The approach to a repeat instance of public drinking/possession
- Confiscation of alcohol
- Acceptable Behaviour Contracts
- Anti-social Behaviour Orders
- Parenting Contracts
- Parenting Orders
- Family Intervention Projects

THE APPROACH TO A REPEAT INSTANCE OF PUBLIC DRINKING

For an instance of repeated public drinking or possession of alcohol, the young person's alcohol will again be confiscated and this will be recorded.

Young people should be referred into local targeted services through the Youth Offending Team or Targeted Youth Support.

An appropriate intervention, proportionate to the behaviour exhibited, should be pursued e.g. an Acceptable Behaviour Contract (ABC), particularly where the young person's drinking is linked to other anti-social behaviour. Where there are more serious issues and the drinking and other anti-social behaviour(s) is causing, or is likely to cause, harassment, alarm or distress to others it may be more appropriate in a minority of cases to use an ASBO. Alternatively, it may be more appropriate to seek an ASBO on conviction for the offence (see stage 3). Appropriate interventions should also be pursued for parents or guardians such as Parenting Contracts and Orders particularly where a parents' behaviour is contributing to the young person's drinking. For young people involved in repeated drinking police should consider referral to treatment provision via the Youth Offending Team.

CONFISCATION OF ALCOHOL

Upon confiscating the alcohol the police officer should again record the evidence as under stage 1. Additionally, a note of the action pursued (i.e. the intervention) would be useful. If the young person is found in possession of alcohol a third time within a relatively short period it might be the case that insufficient time has elapsed for an intervention to be arranged. Police will need to use discretion when deciding whether to prosecute and should refer to the guidance under stage 3.

ACCEPTABLE BEHAVIOUR CONTRACTS

ABCs are voluntary agreements between the agency and the perpetrator of anti-social behaviour. Under the tiered approach the ABC should be used to stop drinking in public places and any other anti-social behaviour. The young person agrees not to carry out the particular anti-social actions and signs the contract. There is no penalty for breach but evidence of failure to honour the contract may be used as evidence in applying for an ASBO or in seeking prosecution for persistent possession. Along with the ABC it is important to offer support to help the young person tackle the cause of their anti-social behaviour. This should also be written into the contract and may include positive examples e.g. take part in a Youth Offending Team's diversionary activities. Home Office guidance on ABCs is available at <http://www.crimereduction.homeoffice.gov.uk/antisocialbehaviour/antisocialbehaviour058.htm>

ANTI-SOCIAL BEHAVIOUR ORDERS

An ASBO under this tiered approach might be considered for a minority of young people under this second stage, where there is evidence against a young person of other serious or multiple anti-social behaviour(s) which are causing harassment, alarm or distress to others, i.e., the issue is not solely about alcohol. An Individual Support Order (ISO) attached to the ASBO imposes positive conditions on the young person to address the underlying causes of the behaviour. The ISO may last up to six months and can require a young person to attend up to two sessions a week under the supervision of the Youth Offending Team. Alternatively, an ASBO could be used at the Stage 3 where it might be sought on conviction if circumstances

are serious enough to warrant it. Home Office guidance on ASBOs is available at <http://www.crimereduction.homeoffice.gov.uk/antisocialbehaviour/antisocialbehaviour55.htm>

PARENTING CONTRACTS

Parenting interventions should also take a tiered approach starting with voluntary engagement where possible. It might be appropriate to seek a Parenting Contract at this stage in order to seek parental agreement to securing an improvement in the child's behaviour. A Parenting Contract is a voluntary agreement negotiated between an agency and the parents or guardian of the child who is misbehaving or likely to become involved in/already involved in criminal conduct or anti-social behaviour. They can help in identifying and focusing on the issues behind the child's behaviour and in developing a productive relationship with parents or guardians to address these issues. A Parenting Contract might combine a parenting programme and specific requirements for the parent or guardian such as ensuring the child is home during certain hours. It may also reflect requirements agreed with a young person under an ABC. Further guidance is available at <http://www.homeoffice.gov.uk/documents/parenting-contracts-orders-072835.pdf?view=Binary>

PARENTING ORDERS

When the parents or guardian of the young person are unwilling to engage with voluntary measures a Parenting Order can be applied for through court. Generally, a Parenting Contract should be agreed before resorting to court for a Parenting Order but when an ASBO is made in relation to the young person, the courts must also consider making a Parenting Order. Any failure to adhere to the terms of the contract may be used in support of an application for a Parenting Order. An order will specify requirements for the parent or guardian to comply with, for example, attend counselling or guidance sessions for a period of up to three months. They may also have conditions imposed on them such as ensuring their child does not visit a particular place unsupervised or ensuring their child is at home at particular times. These conditions can last for a period up to 12 months. A parent or guardian can be prosecuted for failing to keep the requirements of the order. A Parenting Order is

a civil order but breach of the order is a criminal offence punishable by a fine of up to £1000.

FAMILY INTERVENTION PROJECTS

Where there are a numerous complaints about the behaviour of a family and the impact they are having on their local community it may be appropriate to seek a referral for a Family Intervention Project. They take a whole-family approach which considers the needs of the whole household and assesses the underlying problems driving the family's behaviour, in order to identify which services need to be involved. Projects use a twin-track approach, which includes help for families to address the causes of their behaviour, alongside supervision and enforcement tools to provide them with the incentives to change.

Section 4

Stage 3: Persistent drinking in public places

This section covers issues such as:

- The approach to persistent instances of public drinking/possession
- Considerations to be taken into account before proceeding to prosecution
- Relevant place
- Maximum penalty
- Information sharing

THE APPROACH TO PERSISTENT INSTANCES OF PUBLIC DRINKING

Young people who *persistently* drink or possess alcohol (on three or more occasions within a 12 month period) in public places, may be prosecuted for the new offence. It may, if circumstances are serious enough to warrant it, also be appropriate to seek an ASBO on conviction.

A person under the age of 18 is guilty of an offence if, without reasonable excuse, the person is in possession of alcohol in any relevant place on three or more occasions within a period of 12 consecutive months.

CONSIDERATIONS TO BE TAKEN INTO ACCOUNT BEFORE PROCEEDING TO PROSECUTION

Before taking forward a case police should consider

- Whether sufficient time has elapsed between the three (or more occasions) to allow for the actions to have been put into place under the first two stages of the approach.
- Whether the young person is involved in an intervention/programme of activity to address their behaviour, e.g. an ABC or Family Intervention Project and whether prosecution for the offence will impact on any improvement in behaviour
- Whether the young person has a history of previously unsuccessful interventions
- That the three (or more occasions) where they have been found in possession are all valid i.e. there is not a reasonable excuse for possession.

RELEVANT PLACE

A relevant place is defined by the legislation as:

- any public place, other than excluded premises, or
- any place, other than a public place, to which the person has unlawfully gained access.

A place is a public place if at the material time the public or any section of the public has access to it, on payment or otherwise, as of right or by virtue of express or implied permission. Excluded premises mean premises which may be used for the supply of alcohol (under Part 3 or 5 of the Licensing Act 2003) or club premises (under Part 4 of that Act).

MAXIMUM PENALTY

The maximum penalty for the offence is a level 2 fine (£500).

INFORMATION SHARING

We recognise that the vast majority of under 18s who consume alcohol in public are unlikely to easily and frequently commute from one police force area to the next to avoid prosecution for this offence. In all likelihood all instances of public drinking are likely to fall mainly within the same police force area. For areas which straddle police force areas or are close to boundaries, we expect the police to share local intelligence and work in partnership to ensure that problematic drinking by young people is effectively dealt with irrespective of the police force area in which it occurs.

Section 5

Tackling underage sales and supply of alcohol to young people

This section covers issues such as:

- Existing legislation and guidance that can be used to tackle underage sales
- Test purchasing
- The offence of persistent selling
- Mandatory Code

EXISTING LEGISLATION AND GUIDANCE

Existing legislation and guidance can be used to tackle underage sales and the supply of alcohol to children. Many young people obtain alcohol through adults purchasing it on their behalf. Where young people are caught drinking, questioning how they got their drinks could ultimately lead to a prosecution of individual purchasers and or licence holders. Negative publicity of such prosecutions may help less responsible individuals to resist requests by those under 18 to buy alcohol on their behalf. For further guidance see <http://www.crimereduction.homeoffice.gov.uk/drugsalcohol/drugsalcohol104a.pdf>

TEST PURCHASING

Test purchasing operations are normally undertaken jointly between police and trading standards officers to identify and gather evidence of:

- sales to underage people
- failure to comply with the law
- out-of-hours or unlicensed sales

Local Authorities Coordinators of Regulatory Services (LACORS) guidance is available at http://www.wirral.gov.uk/Minute/public/envreg080305rep1appendix1_26549.pdf

OFFENCE OF PERSISTENT SELLING

Under the Policing and Crime Act 2009 we have also amended the persistent sales offence under Section 147A of the Licensing Act 2003. It is now an offence to sell alcohol on two or more different occasions within a period of three consecutive months from the same

premises. The change reduces the number of occasions from three to two.

MANDATORY CODE

Earlier this month the government set out five mandatory conditions to tackle alcohol-related crime and disorder. These conditions will be included in all premises licences and club premises certificates and applied to all alcohol retailers to ensure consistent good practice and to crack down on problem premises. One of the conditions proposed will help to strengthen the current approach to tackling underage sales as all those who sell alcohol will have to have an age verification policy in place requiring them to check the ID of anyone who looks under 18. This condition will come into effect on the 1 October 2010 in order to give retailers time to prepare.

