

the same for all orders, including the interim order. Court proceedings should be swift and not fractured by unnecessary adjournments either during the proceedings or before sentencing.

Where the offender is found guilty of the breach, the court may take reports from the local authority or police and any applicant agency before sentencing. The court should also consider the original reasons for making the order. A copy of the original order as granted (including any maps and details of any prohibitions) can be put before the court as evidence that an order has been made without the need for a statement formally proving that an order was made (section 139 of the Serious Organised Crime and Police Act 2005).

The sentence given should be proportionate and reflect the impact of the behaviour complained of.

### **Breaches by children and young people**

Breach proceedings for children and young people will be dealt with in the youth court. Breach proceedings in the youth court are not subject to automatic reporting restrictions. The Serious Organised Crime and Police Act 2005 removed automatic reporting restrictions for children and young people convicted of a breach of an ASBO (section 341), and thus details about the perpetrator can be made public. The court may still impose reporting restrictions, particularly if they were put in place when the order was initially imposed in a civil court.

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### **175.**

#### **Simon Cordell's Skeleton Argument (2) Pdf**

##### ***Hreaches***

Under section 98 of the Magistrates' Courts Act 1980, evidence will be given on oath, except the evidence of a child under 14, which is given unsworn. Section 34 of the Children and Young Persons Act 1933 requires the attendance of a parent or legal guardian at court for any person under 16 years of age. The court will require information about the young person's background, home surroundings and family circumstances prior to sentence. This should be provided by the youth offending team or social services.

As with adults, community penalties are available, but a conditional discharge is not. In addition, the youth court should consider whether to make a parenting order, or whether the individual support order should be amended.

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### **176.**

#### **Simon Cordell's Skeleton Argument (2) Pdf**

Simon Cordell Skeleton Argument (3).pdf

##### **• Variation and discharge of an order**

Variation or discharge of an order, including an interim order, may be made on application to the court that originally made it. An application to vary or discharge an order made on conviction in criminal proceedings may be made to any magistrates' court within the same petty sessions areas as the court that made the order. The application can be made either by the original applicant in the case or the defendant. An order cannot be discharged within two years of its service without the consent of both parties. An order made on conviction cannot be discharged before the end of two years. Prohibitions, however, can be varied, removed or added within that initial two-year period.

The procedure for variation or discharge is set out in the Magistrates' Courts (Anti-Social behaviour Orders) Rules 2002, the Crown Court (Amendment) Rules 2002 and the Civil Procedure Rules. These are published separately from this guidance and are available on the crime reduction website at [www.crimereduction.gov.uk](http://www.crimereduction.gov.uk)

If the individual who is subject to the order asks for its variation or discharge, the agency that obtained the order needs to ensure that a considered response is given to the court. If it is