

Disclosure of information should always be necessary and proportionate to achieving the desired aim(s). When identifying the aim(s), decision-makers should acknowledge, in those cases where it is relevant, the 'social pressing need' for effective enforcement of an order that prohibits anti-social behaviour to protect the community. In effect, this is a consideration of the human rights of the wider community, including past and potential victims. The decision-maker should recognise and acknowledge that for publicity to achieve its aim, it might engage the human rights of the individual who is subject to the order and potentially those of his or her family. Publicity should be proportionate to ensure that any interference is kept to a minimum. For example, if the legitimate aim is enforcement of the order then personal information, such as the terms of the order, the identity of the individual (including a photograph) and how to report any breach of the terms should normally be included. Usually the consideration of the effect of publicity on family members should not deter decision-makers from the stated aim of publicising the order. However, consideration of the impact of publicity on vulnerable family members should be made and recorded. The defendant and his or her

180.

Simon Cordell's Skeleton Argument (2) Pdf

Promoting a wariness of orders

family should be warned of the intention to publish details.

What publicity should look like; are the contents proportionate?

The contents of the publicity should also be considered and decisions about them recorded.

Disclosure of information should always be proportionate to achieving the desired aim. The contents of publicity should include factual and accurate material.

The content and tone of the publicity should be considered carefully. Information must be based on facts, and appropriate language used: for example, the order itself does not mean that an individual has been found guilty of a criminal offence, Words such as 'criminal' and 'crime' to describe the individual and their behaviour must be used with care and only when appropriate. If the anti-social behaviour was, as a matter of fact, also criminal, then it is permissible to describe it as criminal. Breach of an order is an offence and should be described as such. Publicity should be consistent with the character of the order itself: that is, a civil prohibition (rather than a criminal order) restricting anti-social behaviour (which may be criminal but need not be).

It would be prudent to rehearse the facts of the case and agree on appropriate language to use. Some consideration should be given to the personal circumstances of individuals named on the order when deciding whether to include them in any publicity leaflet, particularly if they are under 18. However, any arguments for not including their names must be balanced with the need to enable those who receive the leaflet to be able to identify a breach.

Details of conditions of non-association named on the order, particularly where those named are also subject to orders or have a recent history of anti-social behaviour, can be included in publicity. Even in cases where the named individuals with whom association is prohibited are not subject to an ASBO it will usually be appropriate to name them once some consideration has been given to their personal circumstances.

Type of information to include in publicity

The type of personal information that might be included in any publicity would be:

the name of the individual; and/or

a description; and/or

the age; and/or

a photograph; and/or

his/her address.