

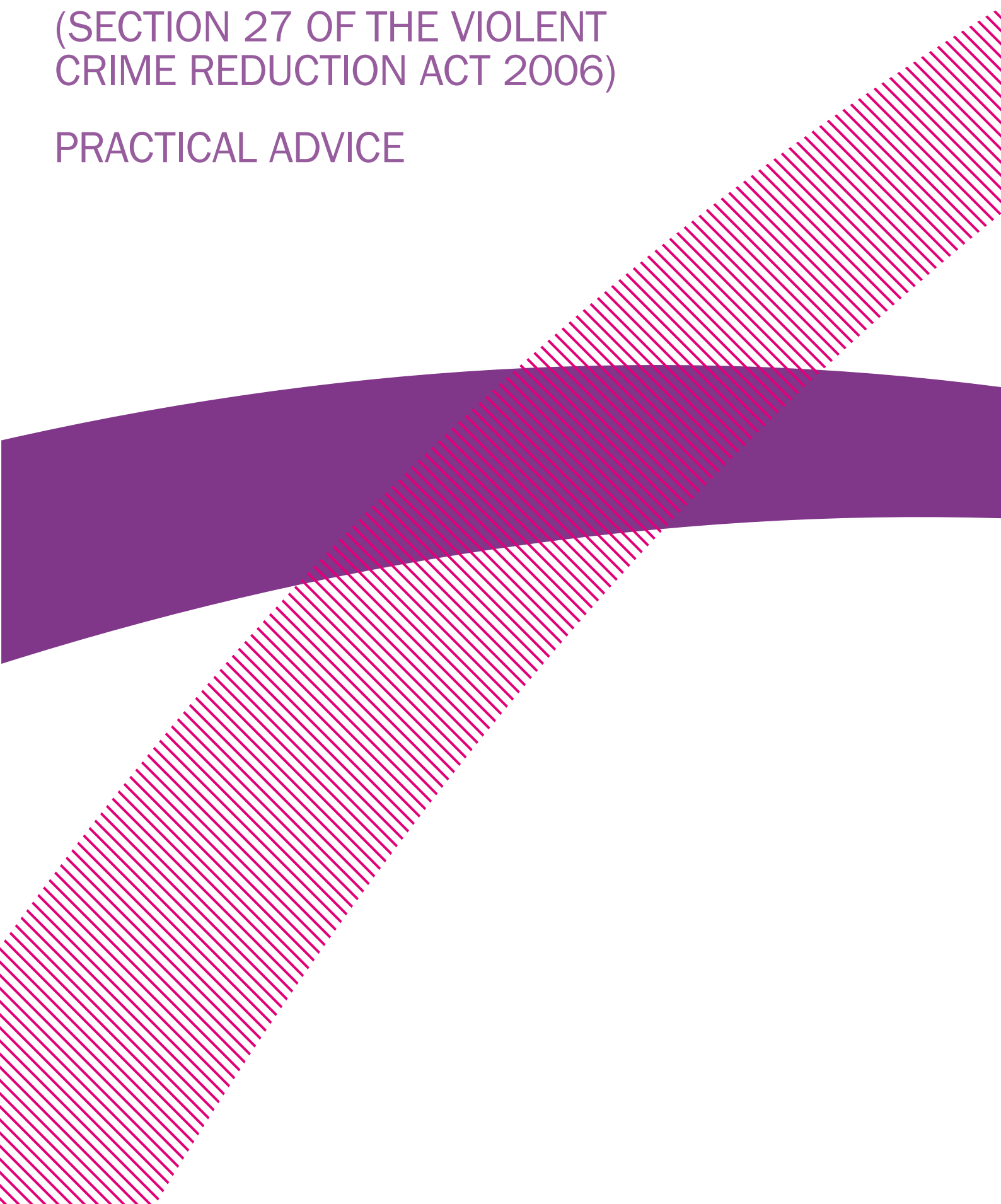
GIVING DIRECTIONS TO INDIVIDUALS TO LEAVE A LOCALITY



Home Office

(SECTION 27 OF THE VIOLENT
CRIME REDUCTION ACT 2006)

PRACTICAL ADVICE



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MINISTERIAL FOREWORD

We are all aware of the problems of alcohol-related crime or disorder, particularly those associated with the night-time economy, and how such problems can blight our communities. The new licensing structure introduced under the Licensing Act 2003 has provided the police and local authorities with greater powers to deal with those who abuse the licensing laws. However, I am sure all police forces recognise that there remains a need to target alcohol-related offenders and reduce the risk of alcohol misuse behaviour taking place.

We are therefore determined to ensure that the police have the necessary powers at their disposal to target those individuals who abuse, or intend to abuse, alcohol where it can lead to the problems of alcohol-related crime or disorder. So, in addition to the range of legislative powers and other tactical options that already exist to deal with or prevent such problems we have, through the Violent Crime Reduction Act 2006, introduced a new power to enable the police to issue an individual aged 16 or over with a direction to leave a locality. The direction prohibits their return to that locality for a period not exceeding 48 hours. The power is to be used where the presence of that person in that locality is likely to cause or contribute to the occurrence of alcohol-related crime or disorder in that locality and the direction is considered necessary to prevent or reduce the likelihood of such alcohol-related crime or disorder. The aim of the new power is to minimise the likelihood of alcohol-related crime or disorder arising and/or taking place.

This guidance is provided to support and assist the police who may be charged with the responsibility for using directions to leave. It is intended to help them make the most effective possible use of the new power. So, as well as providing a summary and overview of the new power, this guidance describes the power of direction and the test for using the power, and explains when giving a direction might be appropriate and where it would be inappropriate. It also sets out the procedure for issuing and recording a direction to leave.

We recognise that the use of the new power is unlikely to provide a single solution to preventing alcohol misuse behaviour. However, as part of our new alcohol strategy, *Safe. Sensible. Social. The next steps in the National Alcohol Strategy*, which we published on 5 June 2007, we will continue to promote a range of measures to reduce the problems of alcohol misuse.

We would therefore encourage the police to use this new power where they consider it would help reduce the likelihood of alcohol-related crime or disorder arising.



Vernon Coaker
Parliamentary Under-Secretary of State
August 2007

Section 1

Summary and overview

SUMMARY

This guidance explains the new power to give directions to individuals to leave a locality. This is where an individual's presence is likely to cause or contribute to the occurrence, repetition or continuance of alcohol-related crime or disorder in a locality and it is necessary to remove the individual from the locality for the purpose of removing or reducing the likelihood of there being such crime or disorder in the locality. The provisions are contained in section 27 of the Violent Crime Reduction Act 2006, which received Royal Assent on 8 November 2006.

PURPOSE OF THE NEW POWER

This section explains:

- that the aim of the new power is to minimise the likelihood of alcohol-related crime or disorder arising
- the benefits of the power as an early intervention tool
- that it could be used most effectively as part of focused multi-agency activity on tackling alcohol-related crime or disorder

The Violent Crime Reduction Act 2006 provides the police with a power to issue a direction to an individual aged 16 years or over who is in a public place to leave a locality. The direction will prohibit their return to that locality for a specified period not exceeding 48 hours. The power should be used proportionately, reasonably and with discretion in circumstances where it is considered necessary to prevent the likelihood of alcohol-related crime or disorder. The aim of the new power is therefore to minimise the likelihood of alcohol-related crime or disorder arising and/or taking place.

In tackling alcohol-related crime or disorder, or seeking to minimise the likelihood of it taking place, police tactics need to reflect local circumstances and priorities. But evidence, for example from previous alcohol misuse enforcement campaigns, suggests that addressing this issue can be effective when interventions are targeted at potentially troublesome individuals, particularly early in the evening prior to any escalation of drunken behaviour.

There is already an extensive range of powers and tools for the police and other partners to use to help address the problems of alcohol misuse. Crime and Disorder Reduction Partnerships are best placed to consider which interventions are most appropriate for dealing with the alcohol misuse problems in their area. However, this new police power to give a direction to leave a locality provides a further tool that should enable the police to target particular problem areas that need action or early intervention to reduce the likelihood of alcohol-related crime or disorder arising. Like many tools aimed at tackling this problem, they are less effective when used in isolation and are likely to be most effective when used as part of an integrated partnership response to reducing the likelihood of alcohol-related crime or disorder taking place.

This new power would not necessarily need to be used every evening of the week, but ideally should be part of focused multi-agency enforcement activity on tackling and preventing alcohol-related crime or disorder. In considering if it is appropriate to use this power it is important that the risk of displacing the potential problem, for example to a neighbouring area or transport facility, is taken into account.

Section 2

Powers of direction

This section covers issues such as:

- The power of the direction and the test to be applied
- Defining the locality
- When might a direction be appropriate?
- Directions to leave to groups
- Directions to leave from licensed premises
- When a direction should **not** be given
- Vulnerable individuals
- Displacement
- Enforcement
- Role of the alcohol industry
- Young people

POWER OF THE DIRECTION AND THE TEST TO BE APPLIED

There is no power to direct an individual to leave an area simply because they are there per se. However, the new power enables a constable in uniform to issue a direction to leave to an individual aged 16 or over who is in a public place where the constable believes that such a direction is necessary to remove or reduce the likelihood of there being alcohol-related crime or disorder in the locality. A decision on whether to issue a direction to leave rests with the constable. A direction must only be given when, in the constable's judgement, the presence of the individual in the locality is likely to cause or contribute to the occurrence, repetition or continuance in that locality of alcohol-related crime or disorder. **The detailed test for use of the power is set out at Annex B (refer also to section 27(2) of the Violent Crime Reduction Act 2006).** Reference to a constable in uniform in the Act, referred to as a constable in this guidance, means any person holding the office of constable and therefore a police officer of any rank.

This test requires the constable to exercise appropriate discretion and judgement in respect of any situation on a case-by-case basis. It is likely that in most circumstances

the individual who has received a direction to leave will have consumed alcohol, or they will have been directly linked to the likely cause of alcohol-related crime or disorder. A constable should only give a direction to leave if the individual receiving the direction is capable of understanding and complying with its terms.

The direction prohibits the individual from returning to that locality for a specified period not exceeding 48 hours. So it would not only be the immediate likelihood of alcohol-related crime or disorder that would have to be considered by the constable but the likelihood within a 48-hour period. However, the maximum 48-hour period should not be imposed as a matter of course or where a shorter ban would achieve the aim of preventing alcohol-related crime or disorder. A constable should therefore always consider the shortest period that would achieve the desired aims.

The powers under section 27 of the Violent Crime Reduction Act 2006 to give a direction to leave may only be used in relation to individuals aged 16 or over. The constable should take reasonable steps to confirm the age of an individual if there is any doubt whether or not the individual is aged 16. Where the individual produces reasonably convincing evidence or it is confirmed that they are under the age of 16, the power to give a direction to leave cannot be used. Refer also to the section in this guidance on young people for alternative action that can be taken for those under the age of 16.

DEFINING THE LOCALITY

A constable of any rank can decide on the locality in respect of which a direction to leave can be given and there is no requirement to formally designate a locality. (However, the locality must be clearly identified in writing when the direction is given.) In response to a spontaneous outbreak or threatened outbreak of alcohol-related crime or disorder the locality where the power may be used could, for example, be the area in or around particular licensed premises, a geographical area including one or more licensed premises, or any other area defined by the constable. However, in cases where the directions to leave may be given in anticipation of the likelihood of alcohol-related crime or disorder, it is recommended that a police officer with operational

responsibility for the area decides on the defined parameters of the locality. This could be decided by the Basic Command Unit commander, a superintendent or the duty officer (inspector).

The locality from which a person may be directed to leave could constitute the centre of a town or city or a particular area with a high density of licensed premises. It could equally be an area that is already the subject of a Designated Public Places Order (refer to sections 12–16 of the Criminal Justice and Police Act 2001 as amended by section 26 of the Violent Crime Reduction Act 2006). The direction power could also be used as part of the overall plan for policing temporary events.

In deciding on the size of the area from which directions to leave are to be given, it is important to consider practical issues such as ease of enforcement. Whatever the area decided on, it is important that the individual in receipt of the direction to leave is fully aware of the area that they are excluded from entering. That is why the legislation requires a direction to be in writing and to clearly identify the locality to which it relates.

[Note: Public space means a highway, or any place the public (or a section of the public) has access to, on payment or otherwise, as of right or by virtue of express or implied permission, and includes on public transport.]

WHEN MIGHT A DIRECTION BE APPROPRIATE?

As long as an individual is able to comply fully and understand its terms, there are various circumstances under which a direction to leave may be given to an individual because their behaviour is likely to lead to the occurrence, repetition or continuance of alcohol-related crime or disorder. While it is not intended to give an exhaustive list in this guidance some examples are as follows:

- Where an individual – or group of individuals – is in a public place and is causing a nuisance by being loud or troublesome. While no criminal activity or disorder may have taken place, the likelihood is that their continued presence is likely to lead to the occurrence of alcohol-related crime or disorder. A direction to leave may therefore be necessary for the purpose of

removing or reducing the likelihood of such crime or disorder from taking place.

- Where an individual – or group of individuals – in a public space who have been drinking alcohol are compliant but it is likely they will insist on continuing to drink and will become drunk. While no criminal activity has taken place, the likelihood of the behaviour of the individual(s) causing or contributing to the occurrence of alcohol-related crime or disorder is present. A direction to leave, provided the individual is able to understand its terms, may therefore be necessary for the purpose of removing or reducing the likelihood of such crime or disorder from taking place.
- There may be situations where a constable is asked to help expel disorderly individual(s) from a licensed premises, or to prevent individual(s) from entering such premises (refer also to section on directions to leave from licensed premises). In such circumstances, it may mean the likelihood of the behaviour of the individual(s) causing or contributing to the occurrence of alcohol-related crime or disorder is present. A direction to leave may therefore be necessary for the purpose of removing or reducing the likelihood of such crime or disorder from taking place.
- Where an individual is given a Penalty Notice for Disorder (PND) for an offence and the police officer is satisfied there is a likelihood of the individual's ongoing behaviour causing or contributing to the occurrence, repetition or continuance of alcohol-related crime or disorder, a direction to leave may also be appropriate. A direction to leave might therefore be given in parallel with, but separate from, the PND where it may be necessary for the purpose of removing or reducing the likelihood of any repetition or continuance of the alcohol-related crime or disorder from taking place.
- Where a group of individuals represent a likelihood of alcohol-related crime or disorder taking place. The behaviour of the lead individual(s) in the group may necessitate them being arrested or justify a PND. This may not apply to others in the group but, as their behaviour represents a likelihood of causing or contributing to the occurrence, repetition or continuance of alcohol-related crime or disorder,

a direction to leave may be necessary for these other group members for the purpose of removing or reducing the likelihood of such crime or disorder taking place.

In all circumstances, when using the direction to leave, the constable needs to ensure that an individual is capable of fully understanding the basis and terms of a direction to leave so the individual is capable of fully complying with its details. It might otherwise be appropriate to consider using powers of arrest for any suspected offences or calling an ambulance for an individual who is drunk and incapable.

DIRECTIONS TO LEAVE TO GROUPS

As the above examples suggest, there is nothing in section 27 of the Violent Crime Reduction Act 2006 that prevents directions to leave being given to more than one individual. If a group's behaviour represents a likelihood of causing or contributing to the occurrence, repetition or continuance of alcohol-related crime or disorder, directions to leave can be given to the group. However, a constable would need to give each member of the group a separate written direction to leave, recognising the need to avoid displacing potential problems arising from the group.

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.

DIRECTIONS TO LEAVE FROM LICENSED PREMISES

A police constable may give an individual a direction to leave from relevant premises (as defined in section 159 of the Licensing Act 2003) or once an individual has been expelled from relevant premises. Such relevant premises include:

- licensed premises (any premises in respect of which a premises licence has effect, which includes not just

premises selling alcohol but, for example, a concert hall, theatre or cinema);

- premises in respect of which there is in force a club premises certificate (for example a working men's or sports club); and
- premises which may be used for a permitted temporary activity by virtue of Part 5 of the Licensing Act 2003 (a place in respect of which a temporary event notice has been given authorising any licensable activities, for example a warehouse or open space used for a rave for less than 500 people).

In using the direction to leave in this way the constable would need to liaise with the staff of the premises and ensure that any action taken is consistent with the powers under section 143 of the Licensing Act 2003 on failure to leave licensed premises. Section 143 provides that a person who is drunk or disorderly commits an offence if he fails to leave relevant premises at the request either of a police constable or of certain other persons set out in section 143(2) of the Licensing Act 2003 (for example authorised members of staff or the licence holder). Section 143 also provides that a person who is drunk and disorderly commits an offence if he enters (or tries to enter) premises when asked not to do so by a police constable or other person set out in section 143(2) of the Licensing Act 2003. Section 143 provides that a police constable must help to expel drunk or disorderly individuals from relevant premises, or help to prevent them entering as the case may be, if requested to do so. As noted in the example referred to above, it may therefore be appropriate for the individual to be expelled from the relevant premises and then be given a direction to leave the locality.

Under section 89(2) of the Police Act 1996, any person who resists or wilfully obstructs a constable in the execution of his duty shall be guilty of an offence and liable on summary conviction to imprisonment or a fine or both.

WHEN A DIRECTION SHOULD NOT BE GIVEN

Section 27(4) of the Violent Crime Reduction Act 2006 sets out that a direction to leave may not be given if it prevents the individual from:

- having access to their home;
- having access to their place of work;
- having access to a place they need to attend to receive education, training or medical treatment; or
- having access to a place that they have been ordered to attend under any enactment or by a court or tribunal.

Although under no statutory obligation, a constable should also consider not giving a direction to leave that would prevent an individual taking a child to a place where they may receive medical treatment. For example a direction would not be appropriate if such medical treatment is likely to be urgently required. A direction to leave should also not be given if it prevents an individual attending their normal place of worship, in rare cases where it would prevent them from fulfilling any special dietary requirements, or where it would prevent them from taking their child to school. A direction to leave would not be appropriate for an individual who has difficulty understanding English, unless it is given by a multilingual constable in their language. Alternatively they should be provided with a translation of the requirement to leave in their own language.

Discretion should be applied in giving the direction to maximise the flexibility but also to minimise any abuse of the direction by the individual who is subject to the direction. Care should also be taken not to give a direction to leave to an individual that could make them vulnerable to an assault, robbery or other crime against the person.

VULNERABLE INDIVIDUALS

Directions to leave provide the police with the power to issue a direction to an individual aged 16 years or over who is in a public space to leave a locality. The power should be used proportionately, reasonably and with discretion and only if it is considered necessary to prevent the likelihood of alcohol-related crime or disorder. The aim of the new power is therefore to minimise the likelihood of alcohol-related crime or disorder arising and/or taking place.

Particular care must be exercised in the case of vulnerable individuals such as those suffering from drug or alcohol dependency, mental health problems or rough sleepers, or those whose communication skills are impaired or poor, as they may have difficulties in understanding, and therefore being able to comply with, a direction to leave. Individuals in these groups could be given a direction to leave if the test is satisfied, but given their likely vulnerability it may not always be appropriate. However, if a constable does decide to give the direction to leave to these individuals extra care should be taken to make the directions as clear and easily understood as possible.

DISPLACEMENT

Care should be taken to ensure that giving a direction to leave does not simply move a potential problem to another area. So the potential risks for displacement should be considered before the power is used. Care must be taken to ensure that the potential problem is not simply ‘relocated’ to a bus, railway or underground station for example.

If it is intended to use directions to leave in significant numbers as part of a large scale operation that could mean convergence of a crowd at a bus, railway or underground station then the British Transport Police should be consulted.

ENFORCEMENT

Enforcing a direction is essential if this new power is going to be effective at minimising the likelihood of alcohol-related crime or disorder. The ease of enforcing directions to leave should be a factor to consider before deciding on the size of the locality from which the powers are to be used.

To help in enforcement a constable can ask a **police** closed circuit television (CCTV) operator (or police mobile CCTV system, or video team) to photograph an individual who is being given a direction to leave. This may particularly be the case where photographic evidence is needed of a direction to leave being given for evidence for a prosecution. In addition to police operated mobile CCTV, ‘ICEFLO’ (immediate capture of evidence, for front-line officers), digital or Polaroid

camera equipment may be useful for areas that do not have fixed CCTV coverage. However, the individual **must** be informed that the photograph is being taken.

Section 27(7) of the Violent Crime Reduction Act 2006 amends the Police and Criminal Evidence Act 1984 (PACE) to enable photographs to be taken by the police without the consent of the individual who will be subject to the direction. Taking photos is strongly recommended as good practice in all cases where it is practically possible to do so as it may help in enforcing the direction. It may also be used as evidence that a direction was given.

The general rules governing the retention and use of photographs are governed by section 64A(4) of PACE and set out in PACE Code D.

It may assist in enforcing directions to leave if the police make reference to the directions that have been given as a standing agenda item for shift handover briefings, notice boards or intelligence bulletins.

ROLE OF THE ALCOHOL INDUSTRY

The alcohol industry does not have a statutory role to play in directions to leave. However, premises licence holders and door staff can seek to ensure that where they are told by the police about individuals who are given a direction to leave, those individuals are not allowed into licensed premises within the locality. The role of Pubwatches and other information sharing initiatives can also have a role to play in helping to ensure directions to leave are enforced where it is practical to do so.

The alcohol industry has made a public commitment, through the *Social Responsibility Standards for the Production and Sale of Alcoholic Drinks in the UK* published in November 2005, to work with partners such as the local licensee forums and Crime and Disorder Reduction Partnerships to examine and develop ways of minimising alcohol-related crime or disorder. These standards require companies to implement, where appropriate, adequate dispersal policies from licensed premises and to share information. Such policies should include arrangements for speedily sharing information throughout the trade, such as the identity of persons who have received a direction to leave.

YOUNG PEOPLE

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. The power to issue a direction to leave applies to those aged 16 years or over. When giving a direction to leave to an individual aged 16 or 17 the police should 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 (Common Assessment Framework) 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 when appropriate;
- working with partner agencies in the criminal justice system dealing with youth offenders to divert children away from crime and/or away from custodial sentences where it is felt that community-based sentencing is most appropriate; and
- working with partner agencies to educate children and young persons on issues such as substance misuse and the prevention of crime.

Those under the age of 16 can also represent a risk to the likelihood of alcohol-related crime or disorder arising. If that is the case the following tools can help address the problem:

- Making referrals under the Children Act 2004 to the relevant service for a common assessment (Common Assessment Framework) of need where a child or young person is seen as vulnerable and potentially in need of support and services.
- Acceptable behaviour contracts (ABCs), which are voluntary agreements between the agency and the perpetrator (of any age) of anti-social behaviour. The perpetrator agrees not to carry out 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 Anti-Social Behaviour Order (ASBO). Where the

perpetrator is a young person it is important to offer support to help them tackle the cause of their anti-social behaviour. The Home Office is currently preparing updated guidance on ABCs and it is expected to be issued in August 2007.

- An ASBO with a support intervention to help the perpetrator avoid breach. The latter may take the form of an individual support order, which must be considered by the court in every case where an ASBO is made against a 10–17-year-old. Home Office guidance on ASBOs is available on the Respect website (www.respect.gov.uk) and advises that they be used in a step by step approach. However, they can be used as a first resort if the behaviour is particularly serious. Where a young person (under 16) is showing continuous problematic or anti-social behaviour a referral should be made to the local Youth Offending Team (YOT). There is a range of prevention programmes available to target children or young people under the age of 18 who are at risk of involvement in offending or anti-social behaviour. A multi-agency approach and engagement with parents may be required, especially where there are multiple risk factors. These programmes include Youth Inclusion Programmes, Youth Inclusion Support Panels and parenting programmes.
- Using the powers under section 30 of the Anti-social Behaviour Act 2003 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 that Act).
- Using the alcohol (opened and sealed containers) confiscation powers under the Confiscation of Alcohol (Young Persons) Act 1997, which applies to those under the age of 18.
- Using the powers under the Criminal Justice and Police Act 2001, as amended by section 26 of the Violent Crime Reduction Act 2006, which enable local authorities to designate public areas through the introduction of a Designated Public Places Order. It is then an offence to drink alcohol after being required by a police officer not to do so.
- Using test purchasing operations in on- and off-licensed premises to reduce the level of alcohol sales to those under age.

Section 3

Procedure for issuing and recording the direction to leave

This section describes:

- Giving a direction in writing
- Length of ban
- Timing, manner and route of leaving
- Appeals and varying or withdrawing a direction
- Making a record of the direction and monitoring
- Requiring the name and address
- Refusing to comply with a direction
- Breach of a direction
- Chart on issuing a direction
- Forms for giving a direction

GIVING A DIRECTION IN WRITING

A direction to leave must be given to an individual in writing (refer to section 27(3) of the Violent Crime Reduction Act 2006) by a constable in uniform. While the direction can, and best practice suggests that it should, be explained orally, it must be given by a written notice. The written notice of a direction to leave must:

- identify to the individual the area or locality the individual must leave and set out clearly the relevant area or locality to which the individual is prohibited from returning. This may be by reference to place names such as streets or licensed premises, the use of a map showing an area, or any other means that clearly identifies the relevant locality; and
- specify the period for which the individual is prohibited from returning. This period should not exceed 48 hours. A 48-hour ban should not be imposed where a shorter ban would achieve the aim of preventing the likelihood of alcohol-related crime or disorder arising.

Written information should also be provided that includes the following points:

- what a direction to leave is and why it has been issued;
- what the effect is of being given a direction to leave;

- how the direction to leave can be challenged, how a direction to leave can be varied or withdrawn, and where you can do this;
- the implications of failing to comply with a direction to leave; and
- an explanation that a direction should not prevent the individual from having access to where they live, from attending work, from attending their place of education or training or from seeking medical treatment, or from having access to a place that they have been ordered to attend, for example by a court or tribunal.

If appropriate, a constable may also provide information about the risks of excessive alcohol consumption.

LENGTH OF BAN

The length of the ban would have to be considered by the constable on a case-by-case basis based on their own assessment of what risks the individual represents to the likelihood of alcohol-related crime or disorder arising in that locality. As previously noted, a 48-hour ban should not be imposed where a shorter ban would achieve the aim of preventing the likelihood of alcohol-related crime or disorder from taking place.

TIMING, MANNER AND ROUTE OF LEAVING

The constable can require the individual who is issued with a written direction to leave, to leave the locality in question either immediately – where that is practically possible, which may be dependent on the size of the locality – or by such a time as the constable specifies. The constable therefore should take account of the time that it might take for the individual to safely leave the specific locality, for example on foot or by public transport, when they are given a direction to leave. A constable can impose requirements as to the manner in which the individual leaves the locality, including a route based on the situation at the time of giving the direction. Consideration should therefore be given to ensuring that the individual given a direction to leave takes an appropriate and safe route, and, where appropriate, the most direct route possible.

APPEALS AND VARYING OR WITHDRAWING A DIRECTION

There is no route of appeal for an individual against the giving of a direction to leave. However, an individual can challenge whether the direction was properly made in the course of their defence if they are prosecuted for breach of a direction. A direction to leave can, however, be withdrawn or varied by any constable – but not varied to extend it for a period of more than 48 hours. Varying or withdrawing the direction can be undertaken at a police station or another suitable place as proposed by a constable. Individual police forces may want to establish effective procedures for dealing with requests to withdraw or vary a direction to leave in order to prevent the recipient approaching different police officers until their desired outcome is achieved.

A constable should provide the information referred to above so that an individual is **fully** aware of how the direction to leave can be varied or withdrawn should they so wish, for example, and of where they should go to enable this to be undertaken.

MAKING A RECORD OF THE DIRECTION AND MONITORING

The constable who gives the direction to leave must make a record of:

- the terms of the direction and the locality to which it relates;
- the individual to whom it is given;
- the time at which the direction is given; and
- the period during which that individual is required not to return to the locality.

Refer to section 27(5) of the Violent Crime Reduction Act 2006 for further details.

Details of the individuals dealt with under this new power **must** be recorded for the following reasons:

- evidential – in order to prove offences of failure to comply with the direction;
- intelligence – use of this power could be useful to inform local intelligence systems; and

- monitoring – the Race Relations Act 1976 requires that any activity that may result in direct or indirect discrimination, or indirect discrimination by way of victimisation on racial grounds, be monitored.

Each police force should determine how that information should be gathered and recorded.

Supervising officers must monitor the use of these powers – both decisions as to the locality in which the direction to leave power should be used and decisions at ground level to issue directions to leave to individuals. In the case of the latter, supervising officers must monitor the use of the power to consider whether there is any evidence that it is being exercised on the basis of stereotyped images or inappropriate generalisations. Supervisors must examine whether records of the directions reveal any trends or patterns that give cause for concern and, if so, take appropriate action to address this.

REQUIRING THE NAME AND ADDRESS

The Violent Crime Reduction Act 2006 does not provide a constable with a power to **require** the name and address of a person being given a direction to leave. However, under section 50 of the Police Reform Act 2002, if a constable has reason to believe that a person has been acting, or is acting, in an anti-social manner (within the meaning of section 1 of the Crime and Disorder Act 1998), they may require that person to give their name and address. Any person who fails to give their name and address when required to do so, or gives a false or inaccurate name or address, is guilty of an offence. [Note: section 50 excludes ‘is likely to cause or contribute to’.] Where relevant, this power may be used to seek the name and address of an individual being given a direction to leave. Where a constable is not satisfied that the person has provided satisfactory information concerning their name and address details, it is open to the constable to consider arresting the person in accordance with section 24 of PACE rather than issuing a direction to leave. Where no power to request the name and address of the person being given a direction to leave exists, the constable must inform the person of this when completing the direction to leave.

REFUSING TO COMPLY WITH A DIRECTION

An individual is guilty of an offence if they fail to comply with the direction to leave (refer to section 27(6) of the Violent Crime Reduction Act 2006).

Section 24 of PACE provides constables with the power of arrest for all criminal offences. This therefore enables a constable to arrest an individual who knowingly fails to comply with a direction to leave, subject to compliance with the necessity criteria set out in section 24(5) of PACE and PACE Code G.

BREACH OF A DIRECTION

Any individual who knowingly fails to comply with a direction to leave when it is given or breaches the direction during the period it applies for is liable, upon summary conviction, to a fine not exceeding level 4 on the standard scale (refer to section 27(6) of the Violent Crime Reduction Act 2006). However, there could be situations where someone has failed to comply with a direction, for example, because of an emergency situation or another similar justifiable reason. The constable would therefore need to take such factors into account before deciding what action should be taken.

CHART ON ISSUING A DIRECTION

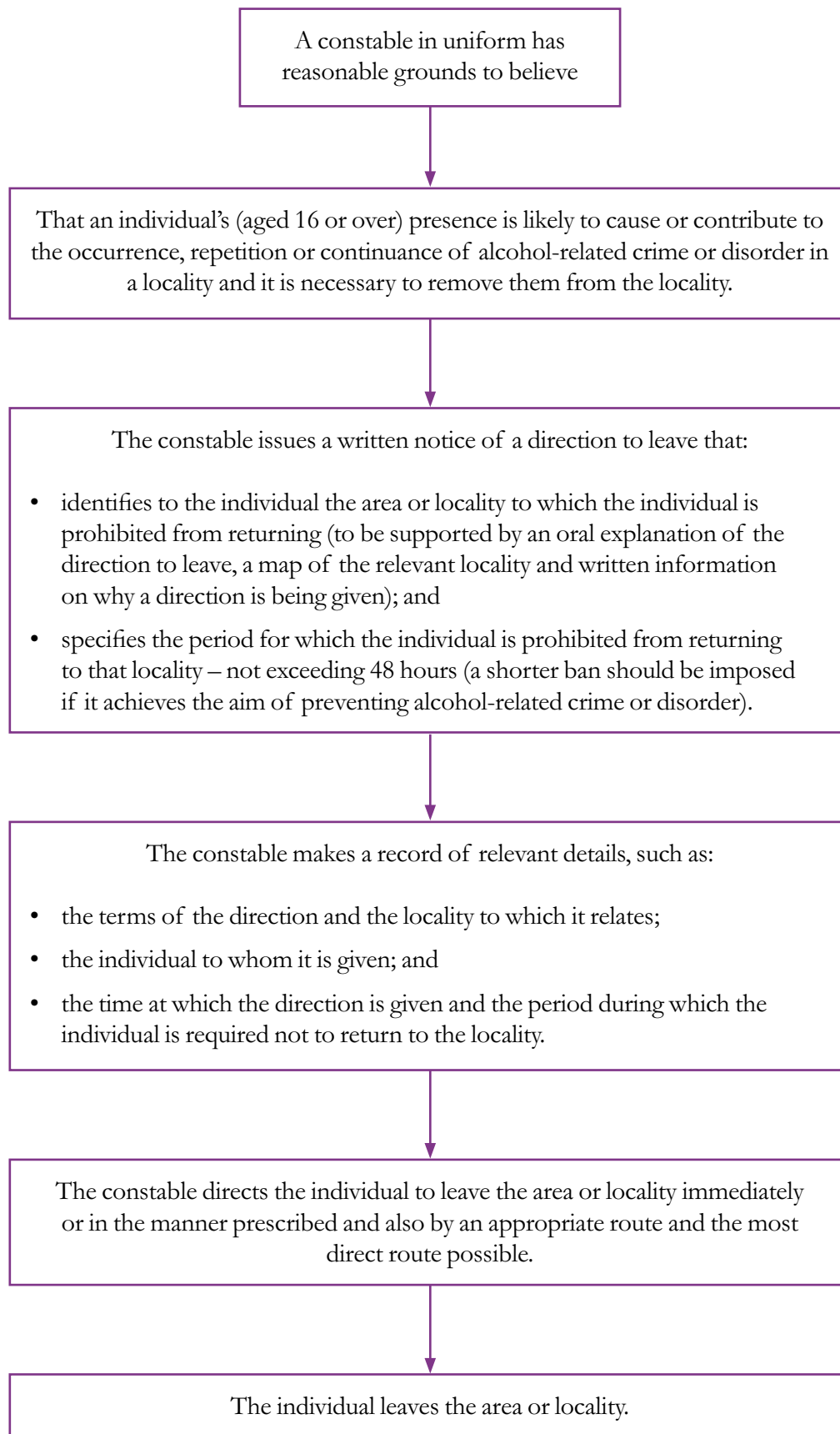
A chart briefly setting out the process of issuing a direction to leave is provided at Annex A.

FORMS FOR GIVING A DIRECTION

The design of the form for the written direction to leave notice that should be given to the individual will be a matter for each individual police force to determine. Where necessary, consideration should be given to adapting existing forms, for example the carbonised HO/RT1 form pads or the similar pads that relate to Stop and Search. However, the form should incorporate the requirements as set out under section 27(3) of the Violent Crime Reduction Act 2006 as briefly outlined in this guidance. An illustration of what a direction to leave form might contain is included at Annex C.

Annex A

ISSUING A DIRECTION TO LEAVE



Annex B

TEST FOR USING A DIRECTION TO LEAVE

Section 27(2) of the Violent Crime Reduction Act 2006 provides for an explicit test that applies when a constable in uniform decides to give a direction to leave. The test is:

- (a) that the presence of the individual in that locality is likely, in all the circumstances, to cause or to contribute to the occurrence of alcohol-related crime or disorder in that locality, or to cause or to contribute to a repetition or continuance there of such crime or disorder; and
- (b) that the giving of a direction to that individual is necessary for the purpose of removing or reducing the likelihood of there being such crime or disorder in that locality during the period for which the direction has effect or of there being a repetition or continuance in that locality during that period of such crime or disorder.

The test is designed to ensure that a direction to leave can only be given if the presence of an individual in the relevant locality is **likely**, in all the circumstances, to cause or contribute to the occurrence of alcohol-related crime or disorder in that locality, or to a repetition or continuance there of such crime or disorder. The constable in uniform also has to be satisfied that such a direction is therefore **necessary** for the purpose of **removing or reducing the likelihood** of there being such crime or disorder in that locality during the period for which the direction has effect, or of there being a repetition or continuance in that locality during that period of such crime or disorder.

The two elements of the test therefore jointly seek to ensure that a direction to leave should not be imposed by a constable in uniform unless it is absolutely necessary.

Annex C

EXAMPLE OF A DIRECTION TO LEAVE FORM

This is an illustrative example only, showing key information to be included in the form. It is not for use.

Date:/...../..... Time: hours minutes Section: Beat:

Street/location name:

First name(s): Last name:

Gender (M/F): Date of birth:

Address:

.....

.....

..... Postcode:

Self-defined ethnicity:

Location excluded from:

Map and written supporting information given to the offender (not compulsory)? Yes No

Required to leave locality:

Immediately

Within 15–30 minutes

Within 1 hour

Other

Excluded from locality for up to hours (not to exceed 48 hours) from the start time of this record (taking into account the time needed to leave the locality).

Most appropriate and direct route to be taken to leave the locality:

Officer completing/issuing: Name:

Rank/No./Station: Signature:

Copy of written direction to leave received

Map and written supporting information provided (if necessary)

Received (individual's signature):

