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Implementing Anti-social Behaviour Orders: messages for practitioners

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Anti-social Behaviour Orders (ASBOs) were introduced under the Crime and Disorder Act 1998. They have been available to the police and local authorities since April 1999, and may be used against any person aged 10 or over who has acted in an anti-social manner. Currently, ASBOs are not being used consistently between agencies and areas, some finding them effective and efficient, whereas others have found them problematic and too difficult to use. This is a summary of the key practical messages from the Home Office review of ASBOs, and details the processes whereby agencies are successfully using ASBOs.

Key points

- Areas should draw up simple, streamlined protocols designed with their local area in mind. This should be designed to help practitioners on the ground deal with anti-social behaviour problems quickly, easily and successfully.
- Some form of partnership working is desirable and can result in real benefits such as improved relationships, spreading costs and producing creative solutions. However, it should not be allowed to delay the process.
- Strategic support and commitment from within the lead agency are essential for ASBOs to work successfully.
- The work of agencies' solicitors is often crucial as they develop experience over time, and can give detailed advice on the process, evidence and legal matters.
- Problem-solving can target the causes of anti-social behaviour and is often effective without the final step of applying for an ASBO being necessary.
- Fostering a good working relationship with the courts, through consultation and training, can help mutual understanding.
- After an order is granted, continued close working with partner agencies and the community is essential to sustain public confidence and ensure the problem behaviour does not escalate.
- There is evidence of fear and intimidation amongst witnesses. To combat this, strategies must be developed to minimise intimidation and support witnesses.
- Ultimately, the measure of success will be whether the anti-social behaviour stops. This focus should be maintained throughout the process.

Anti-social Behaviour Orders (ASBOs) are civil orders that were designed to deter anti-social behaviour and prevent the escalation of such behaviour without having to resort to criminal sanctions, although a breach does give rise to criminal proceedings and penalties. They were designed to complement existing measures to combat anti-social behaviour and are only one in a range of measures available to local authorities and the police.

The review

A review of the first two years of operation evaluated the effectiveness of ASBOs in dealing with anti-social behaviour and identified best practice in how they were being used. It also looked at the concerns of practitioners, considered how the orders worked in practice and offered suggestions about improvements that could be made.

Information was drawn from a range of sources including: Home Office statistics; a sample of case files; interviews with local authority and police representatives, internal solicitors, magistrates, court clerks and witnesses.

ASBO use

ASBOs have been used successfully in a number of areas throughout the country, both to stop existing anti-social behaviour and as a deterrent to future acts. Between April 1999 and September 2001 a total of 466 ASBOs were granted, the majority on men (84%), and those 21 years of age and under (74%).

However, the use of ASBOs was not consistent between areas and agencies – some had not considered their use at all, while others had experienced problems, discouraging them from considering further applications.

Used successfully, practitioners indicated that a number of positive outcomes could flow from the use of ASBOs (see below).

Advantages in the use of ASBOs

- a reduction in the anti-social behaviour targeted
- reduced criminal offending by those involved
- reduced anti-social behaviour amongst the associates of those given the ASBO
- a deterrent for those committing or considering committing anti-social behaviour in the future
- increased public confidence in the partner agencies, their commitment to their community and their ability to deal with anti-social behaviour
- improved relationships between partner agencies, the community and the local press
- improved quality of life of the community
- empowering the community to report and take action to deal with their anti-social behaviour problems
- an increased likelihood of successfully dealing with anti-social behaviour in the future through increased community confidence and practitioner experience.

However, in some areas there has been a number of problem issues associated with the process of obtaining an ASBO (see below).

Problems associated with ASBO use

- unnecessary bureaucracy and red-tape associated with applying for an ASBO
- excessive delays at all stages of the application process
- poor relationships between partner agencies
- poor relationships between partner agencies, the Crown Prosecution Service and the courts
- the costs associated with applying for an ASBO
- difficulties enforcing the order
- inconsistencies in the sentencing of breaches.

Areas that have successfully used ASBOs have developed a number of different strategies to overcome such potential obstacles.

Combating bureaucracy and delays

The claim that there is excessive bureaucracy involved in applying for ASBOs was not made in every area investigated: some areas have managed to organise their local protocols and procedures to streamline the process as much as possible. In the areas visited, complaints about bureaucracy tended to revolve around the delays this causes rather than the actual process itself. Most acknowledged that applications that involve the courts will necessarily have complex legal processes and standards that must be adhered to, although there was some evidence of agencies gathering and preparing excessive information.

In practice, there were a number of steps that could be taken to minimise both the bureaucracy and delays associated with the application (see page 3).

The relationships between partner agencies

The need for consultation and partnerships has been interpreted in different ways according to local conditions and arrangements. This has led to a number of different models of partnerships working (see page 3).

Ideally some form of partnership working is desirable, although each of these models has resulted in successful ASBOs. Productive partnership working, however, has resulted in real benefits, covering much more than ASBOs: bringing agencies closer together, spreading the cost of ASBOs and producing creative solutions to anti-social behaviour problems. Others have argued that partnership working results in frustration and delays. In practice, the model used will depend on the local environment and which arrangement will deal with the anti-social behaviour as efficiently and effectively as possible.

Minimising bureaucracy and delays

- It may not always be practical or feasible to follow each step of the 2000 guidance (Home Office, 2000). Areas where the process has been streamlined often had simple protocols, drawn up with their local area in mind, and were designed to help the practitioners on the ground deal with anti-social behaviour problems quickly, easily and successfully.
- One successful strategy was to break down the process into clear, manageable sections. These were easy to follow for those unfamiliar with the process and ensured that practitioners were not put off by the complexity of the project as a whole.
- Some felt that setting timeframes for each stage of the application kept the process focused. This often committed statutory and non-statutory partner agencies to arranging problem-solving meetings within a short time and ensured the process was not permitted to continue indefinitely.
- Releasing key staff so that they can concentrate on the ASBO process can result in evidence gathering being conducted quickly and efficiently.
- It is not necessary for the police or the local authority to collect all the evidence. Other agencies, such as Neighbourhood Wardens and station staff have been successful in some areas. Collecting evidence through contemporaneous witness diaries has also proven very effective in court.
- Deciding not to engage in problem-solving in more serious cases can be used effectively. In this way serious cases can be fast-tracked, getting the case to court quickly, and minimising the time the community remain vulnerable.
- A helpful tip was to prepare a sufficient case, rather than a perfect case.

Different partnership models

- **Single agency led:** either the local authority or the police take the lead and the passive partner agency has little to do with the process except for a cursory consultation. Successful ASBOs can be applied for with this approach, but the burden of resources falls completely on the lead agency.
- **Dual-led:** where both agencies take ASBOs forward, but independently. This splits the resources evenly between the agencies, and has varying degrees of consultation depending on the relationship between partners.
- **True-partnership:** where all agencies have a close working relationship, share resources and expertise.
- **Multi-agency unit:** a unit is set up specifically to deal with anti-social behaviour and includes seconded representatives from all relevant agencies. This can be resource intensive, but can deal with cases speedily and benefits from experience gained over time.

Commitment within agencies to reducing anti-social behaviour

Irrespective of the success of the partnership, commitment to the process and the input of key players within each organisation is essential. Agencies successfully using ASBOs generally had a good deal of support from within their agency (see below).

Support from within agencies

- There must be organisational commitment to the ASBO process within the lead agency. Otherwise, there are often problems on the ground, regardless of the commitment of the officers.
- Line managers should empower their staff to deal with problems and give them the time they need to liaise and develop cases.
- Lead officers should be able to take ownership of problem situations and follow them through to their conclusion using whatever tools may be appropriate, including ASBOs.
- The work of agencies' solicitors is essential. They are often the most experienced at dealing with ASBOs and give detailed advice on the process and the evidence needed. The review suggested that, without their support and advice, ASBO applications could be severely delayed or abandoned.

Adopting a problem-solving approach

Dealing with anti-social behaviour is often problematic. The review revealed that in many cases other initiatives had been attempted and proved unsuccessful: one in eight given an ASBO had previously been evicted, and many had long criminal histories, including periods in custody. In addition, many had mitigating factors including drug and alcohol problems and difficulties with education and schooling. In such cases, problem-solving has often helped deal with the causes of the anti-social behaviour, without the need to take the final step of securing an ASBO.

Problem-solving encourages a holistic approach to the problem behaviour, with ASBOs being used alongside other measures and interventions (see page 4).

It must be noted that some agencies have found problem-solving problematic – over-consultation can lead to lengthy processes, as can unco-operative partners. Again, tight local protocols committing partner agencies to action within set timeframes may help these difficulties. Depending on the local environment, different strategies will need to be developed in different areas.

Problem-solving – good practice

- Problem-solving meetings can be held either in response to a particular problem or at set time-intervals. There are pros and cons to each approach, but a regular meeting has the advantage of creating an inclusive forum for all agencies including non-statutory agencies, a timeframe for action and a forum where cases and progress can be regularly monitored.
- Problem-solving can involve a number of interventions including mediation, diversionary activities, engaging key agencies and multi-agency co-ordination and co-operation. It can also involve changes to the local environment to deter anti-social behaviour and passing local by-laws such as those prohibiting drinking alcohol in public places.
- Acceptable Behaviour Contracts (ABCs) or ‘challenge meetings’ were often found to be successful early interventions. These have been welcomed as a way of challenging anti-social behaviour with less cost and effort, leaving ASBOs available for more serious and intractable cases.
- Some areas clearly state the stages of escalation from the role of assisting, supporting and monitoring, to verbal and written warnings, to ABCs and finally ASBOs. The threat of an ASBO is often very successful.
- It can be difficult to communicate the results of problem-solving to the local community, who may continue to feel that little is being done. A communications strategy to inform and engage the local community is therefore important.

Taking the application to court

The 1999 guidance states that delays in the court process should be kept to a minimum, with adjournments only in exceptional circumstances. However, in more than a half of cases (56%) there were three or more hearings before a decision was made. It took, on average, 13 weeks from the date of application to the granting of the ASBO.

These delays caused great frustration and were often due to:

- a lack of preparation by the respondent
- delays securing civil legal aid
- a number of early hearings agreeing preliminary issues.

There also remains some confusion in the courts about the standard of proof required, and in response many areas have prepared evidence to a higher standard than is necessary to avoid disappointment in court (although only 4% of applications have been refused).

The court process – good practice

- Most areas produce strong case files for court, averaging 21 witness statements.
- Strategies to overcome challenges to witness evidence include ensuring witness statements corroborate each other and are supported by other forms of evidence including photographs, video footage, incident diaries, letters, newspaper articles, and PNC and intelligence printouts.
- It is generally agreed that despite problems with witness vulnerability, full disclosure at the time of serving the papers is most appropriate.
- Most found it best for there to be at least a few lay witnesses willing to give evidence in court, although some courts have granted ASBOs on the basis of hearsay or video evidence alone.
- Delays were minimised in some courts by: forewarning the courts of the application; the use of pre-trial reviews; and a robust approach by magistrates to adjournments.
- Some partnerships found it beneficial to offer training on ASBOs to their local courts and to feed information about their anti-social behaviour strategies to the courts through their local Court User Groups.

Differences in the rate of ASBO use were sometimes related to partners’ relationship with the courts. Areas that were high users of ASBOs were more likely to report a good relationship, whereas areas with a problematic relationship or where there had been a number of appeals were often less satisfied with the court process.

The cost of ASBOs

The average cost of an ASBO was £5,350 in total, including the staffing costs of preparing the case, attending problem-solving meetings and dealing with appeals and breaches. The cost of the application alone was £4,800.

Areas satisfied that ASBOs can reduce anti-social behaviour considered the order cost-effective, saving costs such as staffing, repairs, legal costs and insurance claims. Reduced anti-social behaviour may also result in local authorities and Registered Social Landlords (RSLs) having fewer vacant properties on their estates. A number of agencies pointed out that work such as evidence gathering and attending incidents are tasks that the local authority and the police are already involved in. Therefore, much of the staffing is not actually an additional cost, but expenditure that would be incurred anyway.

Reducing costs

- The majority of costs in ASBO applications are staffing costs. Streamlining the application should also reduce the associated costs.
- Partnership working allows for costs to be shared between agencies. Staffing costs should also be minimised by utilising the expertise from each agency.
- Cases presented in court by agencies' solicitors can save the expense of external solicitors or barristers.

The cost benefits associated with ASBOs are not limited to partner agencies: improvements to the local economy as a result of decreased levels of anti-social behaviour should not be underestimated.

Enforcing the order

For an ASBO to be successful, partner agencies must continue to work closely together even after the order has been granted. If the order is not enforced, the problem behaviour can escalate and public confidence diminish. From a sample of 40 ASBOs that were followed-up, 36% had been breached and taken to court within nine months of the order being granted.

Reasons for failure to enforce the order include:

- a lack of police priority
- a lack of resources
- inconsistent attitudes to breaches within partner agencies.

However, the strong message sent by applying for and obtaining an ASBO needs to be maintained.

There is a perception that breaches are not being treated seriously by the courts. However, data from the Home Office's Courts Proceedings Database indicate that this is not necessarily the case: over half of those sentenced in court for breach in 2000 received a custodial sentence. It is therefore important both to monitor the outcome of ASBOs and to communicate the results.

Some areas have complained that once a breach is taken to court they are not informed about the progress of the case. This is important where areas have a strong case-management approach and are committed to keeping the witnesses and victims informed. The Crown Prosecution Service should be involved more closely in all cases and at an earlier stage, to ensure a productive working relationship, especially with local authorities.

Attitudes of witnesses

Many witnesses viewed ASBOs quite positively, as they felt that something was being done to combat what they previously thought an intractable problem. However, there was evidence of fear and intimidation amongst witnesses, resulting in an under-reporting of the behaviour before the ASBO was applied for and an unwillingness to co-operate with the ASBO process. See the box below for successful measures to protect witnesses.

Ways of limiting witness intimidation

- enlisting witnesses from people working, rather than living, near the problem
- using a large number of witnesses to support each other through the process
- providing witness support packages
- giving additional security to witnesses.

When there is no other option than a local resident giving evidence, a number of support measures can be used – listed in the box below.

Ways of successfully supporting witnesses

- a letter in the summons warning the perpetrator to stay away from witnesses
- highlighting new powers under section 48 and 49 of the Criminal Justice and Police Act 2001 which protects witnesses in civil cases
- ensuring a higher police presence in the area
- giving witnesses the mobile telephone number of a named police officer
- giving witnesses a mobile telephone
- arranging visits from Neighbourhood Wardens at pre-arranged times
- arranging phone calls from the local authority at pre-arranged times
- installing security cameras in witnesses' homes
- installing surveillance cameras in the area
- offering panic alarms for more vulnerable witnesses
- offering to move witnesses to alternative accommodation (if they are local authority or Registered Social Landlord tenants).

It is also important to provide aftercare for witnesses who have been involved in the process, to ensure they continue to be protected and so that they understand the order and know what constitutes a breach. This ensures community benefits won as a result of the ASBO can be maintained, and enforcing the order can be made easier.

Changing anti-social behaviour

Areas have developed a number of strategies to ensure ASBOs are a success, that is, that they change the behaviour they are targeting (see across).

Conclusion

The overall opinion in the areas visited was generally positive. When used effectively, ASBOs have been successful in curbing unruly behaviour, have helped rebuild the quality of life in communities and cemented good relationships both between partner agencies and between these agencies and the community. Reservations focused on:

- delays
- excessive bureaucracy
- poor relationships with one of the links in the ASBO chain – the local authority, the police or the courts.

Developing strategies to overcome these potential obstacles can help ensure a more simple progression of the case.

ASBOs are one of many ways of tackling anti-social behaviour and will be appropriate in a proportion of cases, especially those where the individual's behaviour is relatively severe, and unlikely to change through other means. In such circumstances, ASBOs should be used efficiently, without undue delay and in a way that is tailored to the local environment.

Strategies to ensure changes in behaviour

- The appropriate people in the group are targeted, either by submitting each member of the group to a 'threshold' test, or by targeting the ringleader(s) of the group, in an attempt to curb the behaviour of the whole group.
- The wording of the Order is carefully considered to ensure both proportionality and conditions that will change the behaviour. Careful thought also needs to be given to the nature of the conditions so they cannot be easily circumvented.
- Inserting more general, local authority-wide conditions prohibiting behaviour which is likely to cause harassment, alarm and distress can help ensure the behaviour is not simply displaced.
- Using the local press to ensure the community knows the individual and the conditions of the order is often a cost-effective strategy to ensure success.
- Monitoring past-orders and anti-social behaviour in general is an important method of feeding back to partnerships which aspects of the order have been successful and what changes need to be made to their strategy in the future.

Methodological Note

Information in the review was drawn from a range of sources including: statistics collected by the Home Office; information from a sample of case files collected from nine areas throughout the country; interviews in 14 areas with local authority and police representatives, the relevant internal solicitor, magistrates, clerks and witnesses; a costing questionnaire on the hours and costs involved in applying and enforcing an ASBO and a follow-up of cases to see if and how ASBOs had been breached.

The main report (see Campbell, 2002 below) deals with issues surrounding the methodology in more depth. It also covers each topic discussed here in more detail and includes more general information, discussions and recommendations.

References

Home Office (1999) *Anti-Social Behaviour Orders: Guidance*. London: Home Office.

Home Office (2000) *Anti-Social Behaviour Orders: Guidance on drawing up local ASBO protocol*. London: Home Office.

For a more detailed report see *A review of Anti-social Behaviour Orders* by Siobhan Campbell (2002). Home Office Research Study No. 236. London: Home Office. Copies are available from the Communication Development Unit.

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