

Anecdotal feedback from practitioners suggests that most of these initial fears seem to be largely unfounded. Of the 124 Orders made to date, only 3 per cent have been returned to Court for breach and most of these attracted only small fines. Experience in one English city suggests that re-offending rates have been surprisingly low. Of the 33 young people subject to a Parenting Order, most of whom were persistent offenders in their mid teens, nearly half (45%) had not re-offended during the course of the pilot study, which lasted 18 months. Of those who had re-offended, about a third were engaged in less serious offending and parents themselves, whilst initially hostile, have gone on to find the experience beneficial and even enjoyable. To quote one mother:

"The (parenting order) has educated me and it made me educate the kids. Since then, everything has worked with me and my son. Slowly but surely, I feel as if we're getting somewhere."

However 124 Orders is not many and until the detailed findings from the pilot evaluation are known (probably by the beginning of next year), we must reserve our judgement on how effective this new measure might be.

The Anti-Social Behaviour Order

The **fourth** way in which the legislation changes the notion of criminal responsibility is through the **increasing use of civil measures, such as** the Anti-Social Behaviour Order (ASBO). The Order is intended to stop individuals from, for example, persistently intimidating their neighbours through threats or violence, engaging in racial abuse or participating in unruly behaviour in public places. **Breaching an anti-social behaviour order constitutes a criminal offence.**

In surveys which ask people what the main problems are in their local neighbourhoods, it is often such forms of sub-criminal behaviour which concern

them the most. Since an ASBO is a civil order, allowing hearsay evidence from 'professional' witnesses (e.g. a council employee or a police officer) can **help to** prevent witness intimidation or retribution. It applies to adults as well as young people, but **has largely been used for those under the age of 18.** The maximum sentence for breach of an ASBO is 2 years imprisonment for a juvenile and five years for an adult.

Concern has been expressed that ASBOs conflate civil and criminal law, relying as they do on the lesser civil standard of proof based on a balance of probabilities, rather than the tougher criminal test of guilt, which must be beyond reasonable doubt. In practice, the ASBO has largely arisen because the criminal law is unable to deal with specific kinds of behaviour which cause 'harassment, alarm or distress', but 'civil rights concerns have been raised. What constitutes anti-social behaviour is still largely undefined with excessive noise, failure to control children or complaining vigorously to neighbours all potential triggers for an ASBO.

Like the Parenting Order, only very few ASBOs have been passed (less than 100). Local councils say they are both time consuming and expensive to apply for and in practice, because a breach of an ASBO can result in imprisonment, magistrates are not allowing orders to be passed on the basis of hearsay evidence. This is somewhat inconsistent, since they are quite content to do so for certain kinds of injunctions (e.g. from victims who are being molested), which if breached, can also lead to imprisonment.

The use of ASBOs to tackle what is perceived to be essentially criminal behaviour seems to be confusing the boundaries between civil and criminal matters and some local councils are devising alternative methods, such as Acceptable Behaviour Contracts, to tackle anti-social behaviour. The contract runs for six months and is used to prohibit offences such as racial harassment or abuse, graffiti and vandalism. They take only days (rather than months) to set up and whilst not