

Tackling ASB – A holistic approach



The Old Approach

Before the Government's 'Respect' and 'Together' initiatives came into being, the standard operating procedure when tackling ASB was to obtain the cure-all ASBO. These orders were introduced in 1998 in the Crime and Disorder Act, although it was some time before the first ASBO was granted to an RSL.

Although initially, it appeared that ASBOs on their own were resulting in improvements; evidence now suggests ASBOs have lost their impact and are frequently breached. For this reason, other interventions should be considered at the same time as applying for an ASBO.

An opinion poll published in June 2005 found that although the majority of people were in favour of the use of ASBOs, over a third felt that they were insufficient in their form at the time.

New Ideas on the Block

Public perception of the ineffectiveness of ASBOs as a sole intervention, in addition to the fact that perpetrators continue to breach orders led the Government and other stakeholders to consider other types of intervention that can help protect communities.

The Respect Agenda embodies the principle of using a multi-tiered approach to dealing with ASB and combining support with intervention and legislation / practice has brought about the creation of the following interventions:

- ❖ Acceptable Behaviour Contracts / Agreements (ABCs or ABAs)
- ❖ 'Crack House' Closure Orders
- ❖ Family Intervention Projects
- ❖ Fixed Penalty Notices
- ❖ Individual Support Orders
- ❖ Noise Abatement Notices
- ❖ Parenting Contracts and Parenting Orders
- ❖ Tenancy Demotion

Acceptable Behaviour Contracts (ABCs)

These are written contracts that are made between individuals and local agencies. They are voluntary and, despite not having a statutory basis, they have been used effectively in tackling ASB issues at the level of individuals. Usually, they are most effectively used with minors but can also be used against adults. An ABC should detail the expected future behaviour of the individual and the actions that the agency will take if they fail to observe the terms of the agreement.

Crack House Closure Orders

The Anti-Social Behaviour Act 2003 made a provision for properties being used by drug users and drug dealers to be closed. A Closure Notice can be made by a senior police officer and must apply for a Closure Order within 48 hours. These orders last for up to three months and the property will be sealed.

Family Intervention Projects

Family Intervention Projects (FIPs) were first introduced in 2003 with 6 Local Authorities, Housing Associations and Charities setting up Projects in the North West of England. Their purpose is to help 'difficult' families re-integrate into society by addressing the needs of each of the family members and of the family as a group with regard to social services, health, education, criminal justice etc.

One of the key elements of providing the service is to have a lead key worker presence that works with the family and basically refuses to go away. A further element of the FIP projects is that they are based on written contracts agreed by the family members and the service providers about the sorts of interventions that will take place, at what intervals and what the desired outcomes are. FIPs can operate as 'outreach' projects where agencies work with families in their homes or as residential projects when families have been evicted.

Fixed Penalty Notices & Penalty Notices for Disorder

Fixed Penalty Notices are generally used to address environmental offences such as litter, graffiti and dog fouling. They can be issued by local authority officers and in certain circumstances by police community support officers and other accredited persons.

FPNs apply to anyone over 10 years old and are usually for £50 except in the case of noise-related offences in which case the fine is £100.

Penalty Notices for Disorder were introduced in 2001 and are used for more serious offences, like throwing fireworks or being drunk and disorderly. They can be issued to persons over the age of 16 by the police, and again, in certain cases by community support officers and other accredited persons.

PNDs are for either £50 or £80 depending on the severity of the behaviour.

Individual Support Order (ISO)

ISOs were introduced under the Criminal Justice Act 2003 for under-18s who had been given ASBOs in order to offer further protection to communities. This is achieved by giving further support to the young person in order to improve behaviour. In the magistrates' court, it is expected that where an ASBO is made against a young person between 10 and 17 years an ISO be made if it is in the interest of preventing further anti-social behaviour and the young person is not already subject to an ISO.

Noise Abatement Notices (NAN)

Noise nuisance is one of the most common forms of anti-social behaviour and it is the responsibility of local authorities to protect communities from excessive noise. In most cases, it is standard procedure to informally resolve issues of noise nuisance, however, a Noise Abatement Notice or NAN, can be used against the person responsible or against the owner of the property. If the person fails to comply with the NAN, they can be fined up to £5000 (plus £500 per day the noise continues) or the local authority can 'abate' the noise themselves and remove any equipment that has been used to make the noise.

Parenting Contracts and Parenting Orders

The Crime and Disorder Act introduced parenting orders and the theme was further developed in the Criminal Justice Act 2003.

The key difference between these two remedies is that contracts are voluntary and orders are made by the courts. In a parenting contract, the parent(s) enter into an agreement with local agencies and work together to tackle the anti-social behaviour of children. Local agencies can include local authorities, youth offending teams and schools.

Parenting orders on the other hand, can be made in a criminal court, family court or magistrates' court acting under civil jurisdiction and their purpose is to tackle the nuisance behaviour of under-16-year olds. To obtain an order, a application has to made that can have its basis in the following:

- ❖ A Child Safety Order or Sex Offender Order has been made in respect of the child
- ❖ An LEA making an application in respect of a child excluded from school on behavioural grounds
- ❖ The Youth Offending Team making an application where a child or young person has been engaged in criminal activity or ASB
- ❖ In the case that a Referral Order is made or where a Youth Offender panel refers a parent back for not attending panel meetings

Parenting orders impose requirements on parents (or guardians) to ensure that children attend guidance or counselling programmes or attend school.

In some cases, for example if an ASBO is in place against a child/young person or if they have been convicted of an offence, the court **must** make a

parenting order or state why this has not been done. Penalties for failing to comply include a fine of up to £1000 or any non-custodial sentence.

Tenancy Demotion

A tenancy demotion is where a Landlord applies to the court to end a secure or assured tenancy and to replace it with a less-secure form of tenure. In most cases, a demoted tenancy lasts for 12 months and should give the tenant plenty of time to change his (or her) behaviour but it can be extended if the court feels more time is needed. If the tenant's behaviour changes for the better, the tenancy reverts to its original form at the end of the demotion. If not, the landlord can make an application for possession. Despite certain reluctance in using demotion, the Government's Respect taskforce believe that more Social Landlords (and the courts) should consider demotion as a viable remedy.

Conclusions

What is clear is that the Government no longer feels that the ASBO is the cure-all remedy to ending nuisance behaviour and is encouraging those that have to address anti-social behaviour to develop a holistic approach and cooperate with other agencies.

The number of tools available to landlords has increased in the last 4 years and the courts are expected to sanction a number of responses to dealing with the problem of ASB.

If you would like to find out more about the above matters or discuss the strategies your organisation can develop in tackling ASB please contact us.