

R. v DEAN BONESS AND OTHERS

Because an ASBO must obviously be precise and capable of being understood by the offender, a court should ask itself before making an order: "Are the terms of this order clear so that the offender will know precisely what it is that he is prohibited from doing?"

The Home Office in a 2002 publication entitled "A Guide to Anti-Social Behaviour Orders and Acceptable Behaviour Contracts" gave examples of the types of anti-social behaviour which the Home Office considered could be tackled by ASBOs. The list (which does not purport to be exhaustive) comprises: harassment of residents or passers-by, verbal abuse, criminal damage, vandalism, noise nuisance, writing graffiti, engaging in threatening behaviour in large groups, racial abuse, smoking or drinking alcohol while under age, substance misuse, joyriding, begging, prostitution, kerb-crawling, throwing missiles, assault and vehicle crime.

Home Office guidance suggests that prohibitions, should amongst other things:

- be reasonable and proportionate; be realistic and practical;
- be in terms which make it easy to determine and prosecute a breach.

In the report of the working group set up under Thomas L.J. there is a section which identifies elements of best practice adopted within the courts when dealing with the terms of an ASBO. Included amongst these elements are:

- the prohibition should be capable of being easily understood by the defendant;
- the condition should be enforceable in the sense that it should allow a breach to be readily identified and capable of being proved;
- exclusion zones should be clearly delineated with the use of clearly marked maps;
- individuals whom the defendant is prohibited from contacting or associating with should be clearly identified;
- in the case of a foreign national, consideration should be given to the need for the order to be translated.

The report of the working group also provides examples of general prohibitions imposed by the courts which in their view were specific and enforceable and could be incorporated in ASBOs in order to protect persons from a wide range of anti-social behaviour. These include conditions prohibiting the offender from:

- living anywhere other than a specified address without the permission of a nominated person;
- entering an area edged in red on the attached map including both footways of any road which forms the boundary area;
- visiting a named individual unless accompanied by a parent or legal guardian;
- associating with a named individual in a public place;
- leaving his home between certain hours except in the case of emergency etc.

24 An order made under s. 1C takes effect on the day on which it was made, but the court may provide in any such order that such requirements of the order as it may specify shall, during any period when the offender is detained in legal custody, be suspended until his release from that custody (s. 1C(5)). In *P* the Court observed that where custodial sentences in excess of a few months were passed and offenders were liable to be released on licence (and therefore subject to recall) the circumstances in which there would be a demonstrable necessity to make a suspended anti-social behaviour order, to