

updated Civil Procedure Rules 65. 24 to 26 (Appendix B).

Orders against children and young people

Under the Crime and Disorder Act 1998, applications for ASBOs against young people aged 10 to 17, and in certain circumstances 18-year-olds, can be heard in the magistrates' court. As a result of the recent practice direction (the Magistrates' Courts (Anti-Social Behaviour Orders) Composition of Benches practice direction, February 2006), the justices constituting the court should normally be qualified to sit in the youth court unless to do so would result in a delayed hearing. Applications for orders are not heard in the youth court as a matter of course because of the civil status of the orders, although youth courts may make orders where appropriate on conviction.

Practitioners familiar with dealing with young people's cases will be aware of the restrictions on reporting that apply under the Children and Young Persons Act 1933. However, automatic reporting restrictions do not apply to stand-alone ASBOs as they are civil orders. In orders on conviction cases, the court does have discretion under section 39 of the Children and Young Persons Act 1933 to impose reporting restrictions. Reporting restrictions will always apply to the criminal proceedings on which the order on conviction is based but in all other cases, the presumption is that publicity will be allowed. See page 52 for detailed guidance on promoting awareness of orders.

A court making an ASBO does have the power to impose restrictions to protect the identity of a person under 18. But the imposition of reporting restrictions may restrict the effectiveness of the order if the effectiveness of the ASBO will largely depend on the wider community knowing the details. Please see the separate sections on publicity and on children and young people.

Breach of an order

Breach of an order is a criminal offence; criminal procedures and penalties apply. The standard of proof required is the criminal standard. Guilt must be established beyond reasonable doubt. Breach proceedings are heard in the magistrates' court and may be committed to the Crown Court. Such proceedings are the same irrespective of whether the order is a full or interim order made on application to the magistrates' court or the county court, or an order on conviction in criminal proceedings.

Expert prosecutors

A team of 14 anti-social behaviour expert prosecutors has been set up with funding from the Together campaign to support all Crown Prosecution Service (CPS) prosecutors dealing with anti-social behaviour-related cases. The team drives improvements in performance across the country.

The team:

- ³ promotes better partnership working between local prosecutors, the police, local authorities, registered social landlords and others involved in taking action against anti-social behaviour;
- * delivers training to prosecutors on the new powers to obtain orders on conviction;
- ³ provides advice to prosecutors on the full range of enforcement measures and key issues such as prosecution of ASBO breach; and
- * works with court clerks and magistrates in improving their response to anti-social behaviour.

In addition to the 14 specialist prosecutors, anti-social behaviour co-ordinators have now been appointed CPS-wide to ensure that there is a focus on anti-social behaviour issues in every CPS area. Their role is to drive this work forward. Further information can be obtained from Sarah Johnston at sarah.johnston@cps.gsi.gov.uk.

Standard ASBO form

A copy of the order form used by the magistrates' courts can be found at Appendix C.

Disposals

The maximum penalty for breach of an order is five years' imprisonment for an adult offender. A conditional discharge is not available for breach of an ASBO.

The full range of disposals of the youth court is available, and custody should only be considered as a last resort in cases of serious and persistent breach (if appropriate, breach may be dealt with by way of a final warning). Where custody is deemed by the court to be necessary, the maximum sentence for breach by children and young people is a detention and training order (DTO), which has a maximum term of 24 months - 12 months of which is custodial and 12 months is in the community. The DTO is available for 12 to 17-year-olds (although 12 to 14-year-olds must be persistent (criminal) offenders to be given a DTO). A 10 to 11-year-old can be given a community order for breach of an ASBO. The sentence given should be proportionate and reflect the impact of the anti-social behaviour. It must relate to all the relevant