

offending team (YOT). The YOT should arrange for action to be taken by an appropriate agency (for example social services) to ensure that the young person understands the seriousness of the order. It should also consider the provision of appropriate support programmes to help avoid a breach of the order by diverting the offender from the behaviour that led to it, although such programmes cannot, as the law currently stands, be a condition of the order.

Enforcing the order

The obtaining of the order is not the end of the process. The order must be monitored and enforced properly.

Partnership working after the order is made should include information exchange to ensure early warning of problems and clarification of who should do what to safeguard witnesses, as well as what other action should be taken to challenge the perpetrator in such cases.

It is essential that breaches of an order, appeals against the sentence and any other actions relating to the management of the case are reported to the agency responsible for the management of the case.

One-year review of juveniles'

ASBOs

Orders issued to young people should be reviewed each year, given young people's continually changing circumstances, to help ensure that they are receiving the support they need in order to prevent breach. The review should be administrative rather than judicial and should be undertaken by the team that decided upon the initial application. Where practicable, the YOT should provide the group with an assessment of the young person. Depending upon progress towards improved behaviour, possible outcomes will include an application to discharge the order or a strengthening of the prohibitions. Applications to vary or discharge the order will have to be made to the court in the usual way the overriding considerations remain the safety and needs of the community, and the review would have to incorporate the community's views on the order's effectiveness.

Agencies need to be alert to the prospect that this should become a statutory requirement in the near future. Adopting this as best practice now will enable them to achieve compliance more readily.

Police National Computer (PNC)

Recording of orders on the PNC will enable police forces to enforce breaches effectively. Local

arrangements should be made for orders to be placed on the PNC so that police officers are in a position to access usable data to identify those who are subject to an order. Conditions of the order should be appended clearly along with the identity of the case officer so that the necessary action can be taken in case of a breach (which is an arrestable offence).

Magistrates' court (acting in its civil capacity) and orders on conviction in criminal proceedings

Section 4 of the Crime and Disorder Act 1998 provides the offender with the right of appeal against the making of a stand-alone ASBO. Section 108 of the Magistrates' Courts Act 1980 provides a right of appeal against an on-conviction order. An appeal in both cases is to the Crown Court. Rules 74 and 75 of the Magistrates' Courts Rules 1981 and 6 to 11 of the Crown Court Rules 1982 apply to appeals against orders. Both parties may provide additional evidence. By virtue of section 79(3) of the Supreme Court Act 1981, an appeal is by way of a re-hearing of the case. In determining an appeal, the Crown Court should have before it a copy of the original application for an order (if applicable), the full order and the notice of appeal. The lead agency should ensure that copies are sent to the court.

Notice of appeal must be given in writing to the designated officer of the court and the applicant body within 21 days of the order (Crown Court Rules 1982, rule 7). But the Crown Court has the discretion to give leave to appeal out of time (rule 7(5)). The agency that brought the initial application should take charge of defending any appeal against the order. It should also lead in action to guard against witness intimidation.

The Crown Court may vary the order or make a new order. Any order made by the Crown Court on appeal shall be treated for the purpose of any later application for variation or discharge as if it were the original magistrates' court order, unless it is an order directing that the application be re-heard by the magistrates' court.

Although on hearing an appeal it is open to the Crown Court to make any incidental order, for example to suspend the operation of a prohibition pending the outcome of the appeal where this appears to the Crown Court to be just, there is no provision for automatic stay of an order pending appeal. The order remains in force pending the outcome of the appeal, and breach is a criminal offence even if the appeal subsequently succeeds.

An appeal against the ruling of the Crown Court is to the High Court by way of case stated under section 28