

restrictions have applied in cases for breach of ASBOs relating to children and young people, when dealing with the case the court will consider whether reporting restrictions were imposed when the original order was granted. As ASBOs are civil orders, reporting restrictions will not have applied (unless imposed by the court).

If reporting restrictions were imposed at the original ASBO hearing, then unless there has been a significant change in the intervening period, it is likely that the court will impose reporting restrictions at the hearing for the breach. If no reporting restrictions were imposed at the original ASBO hearing, it is still open to the court to impose reporting restrictions at the hearing of the breach case. If reporting restrictions are not imposed, publicity can be considered, taking into account all the matters that are relevant when considering publicising the ASBO itself.

### **Photographs**

A photograph of the subject of the ASBO will usually be required so that they can be identified. This is particularly necessary for older people or housebound witnesses who may not know the names of those causing a nuisance in the area. The photograph should be as recent as possible.

### **Distribution of publicity**

This should be primarily within the area(s) that suffered from the anti-social behaviour and that are covered by the terms of the order, including exclusion zones. People who have suffered from anti-social behaviour, for example residents, local businesses, shop staff, staff of local public services, particular groups or households should be the intended audience.

All orders should be recorded on the Police National Computer to assist enforcement.

This is particularly relevant where the order extends across England and Wales. It may be appropriate to extend publicity beyond the area where the anti-social behaviour was focused if there is a general term prohibiting harassment, alarm or distress in a wider area.

It may also be appropriate if there is a danger of displacement of the anti-social behaviour to distribute it just beyond the area covered by the order.

The timescale over which publicity is anticipated to occur should also be given due consideration and decisions recorded. It is important that publicity does not become out of date or irrelevant. Special attention needs to be paid to posters that are distributed to other organisations, as posters should not be left up when the need for them has expired.

It will usually be appropriate to issue publicity when a

full order is made, rather than an interim order.

However, exceptions can be made, for example where the antisocial behaviour is severe, where there has been extreme intimidation or where there is a delay between the making of the interim order and the outcome of the final hearing.

In the case of *Keating v Knowsley Metropolitan Borough Council* [2004] EWHC 1933 (Admin), the judge held that publicity could be used for interim orders. In these circumstances it should be stated in the publicity that the order is temporary and that a hearing for a 'full' order will follow, and distribution should be extremely localised.

### **Consideration of human rights**

Consideration of the human rights of the individual who is subject to the order and of the human rights of the public, including the victim(s) and potential victims, should be carried out. Appropriate and proportionate publicity is compliant with the human rights of the individual who is subject to the order. The *Stanley v Brent* case accepted that publicity was needed for effective enforcement of the order. Individuals do not welcome publicity and may view the effect of publicity as a punishment. However, a subjective assessment by the individual of the effect of publicity is irrelevant in determining the purpose of the publicity. Consideration of the human rights implications of publicity should be recorded.

### **Consideration of data protection**

Publicity is not contrary to the Data Protection Act 1998 as long as authorities are operating in accordance with the Act. There is an exemption in section 29 of the Act to the processing of personal data for the purposes of prevention or detection of crime. This means that personal data can be processed with a view to compliance with a statutory function, where the data has been obtained from a person who possessed it for the purposes of the prevention or detection of crime. This will be the case when considering publicising an ASBO.

### **Type of publicity**

No one directly involved in the case (witnesses and victims) should wait unnecessarily for information about an order. They should be informed immediately when an order is made. This is in addition to keeping them informed of progress throughout the court process and can be done by visits, letters and community meetings or by phone. Victims and witnesses may also be given a copy of the order. It is recommended that publicity be distributed to targeted households immediately after the order has been granted and by at least a week after the court date. Local people should be informed when variation or discharge of an order relevant to them is made.