

tackled by ASBOs and the ability to tailor the terms of the order to each specific case illustrates their flexibility. There have been cases where the chief executive of a company has been issued with an ASBO for anti-social behaviour committed by the company. This is because ASBOs must be issued against individuals and not against organisations. ASBOs may also be used, for example in the misuse of mini motors, where warnings and other measures have failed.

## Against whom can an order be made?

An order can be made against anyone aged 10 years or over who has acted in an anti-social manner, or is likely so to act, and where an order is needed to protect people and the wider community from further anti-social acts. A list of interventions available for children under 10 is at Appendix A.

The orders are tenure-neutral and can be used against perpetrators living in any type of housing (not just social housing). Because the order is specific to the person, if someone moves house, it still remains in force. ASBOs can be used to combat anti-social behaviour in a wide range of situations and settings.

They are highly relevant to misconduct in public spaces such as parks, shopping centres and transport hubs, but they are by no means confined to such areas.

Where groups of people are engaged in anti-social behaviour, a case needs to be made against each individual against whom an order is sought. However, the cases can be heard together by the court. Agencies have found that targeting ringleaders with orders is an effective deterrent to other members of the group.

When investigating complaints about antisocial behaviour, it is vital that agencies satisfy themselves that complaints are well founded. In particular, they should consider the possibility that complaints may have been motivated by discrimination, perhaps on racist grounds, or to further a pre-existing grudge. However, failing to act against instances of anti-social behaviour can lead to an escalation of the problem by increasing fear of crime or leading those subjected to the anti-social behaviour to retaliate. Nipping unacceptable behaviour in the bud is therefore the best option.

## Who can apply for an order?

Agencies able to apply for orders are referred to as 'relevant authorities' in the legislation (section 1(1A) of the Crime and Disorder Act 1998). These are:

- \* local authorities - by virtue of sections 1(A) and 1(12) of the 1998 Act, a local authority is, in England, the council of a county, district or London Borough, the Isle of Wight or the Isles of Scilly, or, in Wales, the council of a county or county borough;

<sup>3</sup> police forces, including the British Transport Police (BTP);

\* registered social landlords (RSLs), that is a body registered as a social landlord under section 1 of the Housing Act 1996; and

<sup>a</sup> Housing Action Trusts (HATs).

The Environment Agency and Transport for London are to be designated as relevant authorities in due course.

Local authorities and the police may apply for an order where they consider it necessary to protect persons in their area (relevant persons') from further anti-social behaviour irrespective of where the original anti-social behaviour took place. An order can be sought which provides protection not just to the relevant persons but also, where necessary, to any persons in England and Wales.

The BTP, RSLs and HATs are empowered to apply for orders by virtue of changes introduced under the Police Reform Act 2002, which enable these agencies to deal with their particular problems of anti-social behaviour in a more effective and timely manner. RSLs and HATs may apply for orders against non-residents as well as residents and should consider doing so where the anti-social behaviour of non-residents is affecting the quality of life for residents.

Applications from the BTP, RSLs or HATs must concern anti-social behaviour related to the premises for which they are responsible by persons who are on or in the vicinity of such premises or likely to be either on or in the vicinity of such premises.

The BTP, RSLs and HATs are required to consult both the local authority and local police force when applying for an order. The agencies are not compelled to use the power. The police or local authority may still apply for ASBOs on their behalf.

Under section 17 of the 1998 Act, the police and local authorities have a joint responsibility to develop and implement strategies for tackling anti-social behaviour and disorder in the local area. This responsibility is not changed in any way by allowing the BTP, RSLs and HATs to apply for orders.

## Which courts can make ASBOs?

ASBOs can be made by:

<sup>9</sup> magistrates' courts (acting in their civil capacity);

\* county courts (where the relevant authority or the person against whom the order is sought is a party to the proceedings and the non-party is joined to these proceedings);

• magistrates' courts (on conviction in criminal proceedings);

<sup>3</sup> the Crown Court (on conviction in criminal proceedings);