

2. Taking a strategic approach

Orders can only work properly when they are based on partnership in action. They are powerful instruments, and they will be at their most effective when all the agencies confronted by an individual's anti-social behaviour collaborate to make the best possible use of them.

Orders made on conviction in criminal proceedings

Criminal courts – the magistrates' court, the Crown Court and the youth court – can make orders against an individual who has been convicted of a criminal offence, and this is known as an 'order on conviction' (sometimes also called a 'CRASBO'). Some county courts are currently trialling stand-alone ASBO cases for children and young people until the end of September 2006. These are not proceedings on conviction.

The order on conviction is considered at a civil hearing after the verdict. It is not part of the sentence the offender receives for the criminal offence.

The order will be granted on the basis of the evidence presented to the court during the criminal proceedings and any additional evidence provided to the court after the verdict, although it is possible for the order to be granted on the basis of the criminal proceedings alone. There is a statutory requirement for a conviction to be for an offence committed after the date on which the insertion of the relevant provisions by the Police Reform Act took effect.

The court may make an order on conviction either on its own initiative or following an application by the prosecutor (see section 1C(3) of the Crime and Disorder Act 1998). Alternatively, the order can be requested by the police or local authority, who may make representations to the court in support of the request. Orders on

conviction cannot be made if there is a deferred sentence for the relevant offence.

The court may adjourn the proceedings following conviction to allow an application for an order on conviction to be made. By virtue of section 1D(1)(b) of the 1998 Act (inserted by the Serious Organised Crime and Police Act 2005), the court may also make an interim order.

The order on conviction is a civil order and has the same effect as an ASBO made on application – it contains prohibitions rather than penalties and is made in civil proceedings. It is similar to the football banning order on conviction in that it is a civil order made following a criminal procedure.²

If the offender is detained in custody, the court may make provision for requirements of the order on conviction to become effective on their release. For this period the order takes effect immediately but its terms are suspended until release.

Where is an ASBO valid?

Before the changes introduced by the Police Reform Act 2002, the conditions an order could impose extended only to the applicant's area and adjoining areas. An order can now extend across any defined area within England and Wales.³

The power to make an order over a wide area is for use where there is reason to believe that the person concerned may move or has already moved. It goes some way to addressing the problem of offenders moving to other areas and continuing the behaviour.

An order covering a wider area could address problems such as ticket touting at different train stations or anti-social behaviour on trains, and could help deal with the minority

² Section 1C(2) of the Crime and Disorder Act 1998 states that the court may make an order which prohibits the offender from doing anything described in the order. Section 14A of the Football Spectators Act 1989 places a duty on the court to impose a football banning order if a person is convicted of a relevant offence or to state in open court why such an order has not been made.

³ The geographical area which an order may cover is indicated by section 1(6) for ASBOs and orders made in county court proceedings; and by section 1C(2)(b) for orders made on conviction in criminal proceedings.