

The terms of the order (the prohibitions)

the prohibitions imposed can be judged only on the facts of each case. Therefore, a number of common scenarios are included below for consideration. These are based on orders made by the courts, although facts and prohibitions have been altered to highlight specific issues. While these types of behaviour have been made the subject of orders, this should not imply that such behaviour will automatically be held to be subject to orders in the future.

Further examples of prohibitions can be found on the Crime Reduction website at www.crimereduction.gov.uk

The following are examples of prohibitions that were drawn up but were found to be too wide or poorly drafted:

- Not to be a passenger in or on any vehicle, while any other person is [sic] committing a criminal offence in England or Wales. (A breach could be occasioned by travelling in a bus, the driver of which, unknown to the subject of the order, was driving without a licence (*R (W) v Acton Magistrates' Court* [2005] EWHC 954 (Admin)).)
- Not to associate with any person or persons while such a person or persons is engaged in attempting or conspiring to commit any criminal offence in England or Wales. (A similar result to the above, in that he could be associating with someone who, unknown to him, was conspiring to commit an offence.)
- Entering any other car park, whether on payment or otherwise, within the counties of [...]. (This was considered to be too draconian as it would prevent the defendant from entering, even as a passenger, any car park in a supermarket (*R v McGrath* [2005] EWCA Crim 353).)
- Trespassing on any land belonging to any person, whether legal or natural, within those counties. (As above, in that any wrong turn onto someone else's property would risk custody.)
- Having in his possession in any public place any window hammer, screwdriver, torch or any tool or implement that could be used for the purpose of breaking into motor vehicles. (Unacceptably wide, as the meaning of 'any tool or implement' is impossible to ascertain.)
- Entering any land or building on the land that forms a part of educational premises, except as an enrolled pupil with the agreement of the head of the establishment or in the course of lawful employment. (It was held that the term 'educational premises' lacked clarity, for example it could have included teaching hospitals or premises where night classes were held. Also, there was a danger that the defendant might unwittingly breach the order if he played on playing fields associated with educational premises (*R v Boness* [2005] EWCA 2395).)
- In any public place, wearing, or having with you, anything that covers, or could be used to cover, the face or part of the face. This will include hooded clothing, balaclavas, masks or anything else that could be used to hide identity. (This was found to be too wide and a breach could occur by wearing a scarf or carrying a newspaper.)
- Doing anything that may cause damage. (Far too wide, as it may include the defendant scuffing his shoes.)
- Committing any criminal offence. (Taken with other prohibitions, the divisional court commented that this was very plainly too wide (*R (on application of W) v DPP* [2005] EWHC 1333 (Admin)).)

Further examples and consideration of prohibitions made for football-related violence may be found in the case of (*R v Boness* [2005] EWCA 2395).

Duration of an order

The minimum duration of an order is two years, which was set in order to give respite to communities from anti-social behaviour. There is no maximum period and an order may be made for an indefinite period. It is for the court to decide the duration of an order, but the applicant agency should propose a time period as part of its application.

The duration applied for should take into account the age of the recipient, any special conditions that might affect their behaviour, the severity of his or her anti-social behaviour, the length of time it has gone on for and the recipient's response to any previous measures to deal with the behaviour. A longer order will generally be appropriate in the case of more serious or persistent anti-social behaviour. Orders issued to children and young people should be reviewed annually and careful consideration must be given to the case for applying for such orders to last beyond two years.