

Technical Document to accompany Anti-Social Behaviour Order Statistics: England and Wales 2013

Background

Purpose

Anti Social Behaviour Orders (ASBOs) are civil orders which protect the public from behaviour that causes or is likely to cause harassment, alarm or distress. An order contains conditions prohibiting a person from:

- threatening, intimidating or disruptive actions;
- spending time with specific people;
- visiting certain areas.

An ASBO is effective for a minimum of two years. The orders are not criminal sanctions and are not intended to punish the offender.

Origins

ASBOs were introduced by section 1 of the Crime and Disorder Act 1998 in England and Wales and have been available since April 1999. The powers to deal with anti-social behaviour were strengthened and extended by the Police Reform Act 2002, which introduced the power to make similar orders on conviction in criminal proceedings and in county court proceedings and the power to make interim orders.

How ASBOs are Issued

Applications for ASBOs are made to the magistrates' court by 'relevant authorities' which include local authorities, police, registered social landlords, housing action trusts or any other person or body specified by the order of the Secretary of State. A similar order can be applied for during related proceedings in the county court and can be requested on conviction of certain offences in the criminal courts. It remains a civil order irrespective of the issuing court.

Types of ASBOs

The number of ASBOs issued counted in this publication includes ASBOs issued following conviction at the Crown Court, ASBOs issued on application at the County Court and ASBOs issued at magistrates' courts when acting both in their civil capacity issuing ASBOs on application and their criminal capacity when issuing ASBOs following conviction for a criminal offence. These two different types of ASBO became available for courts to issue from 1 April 1999 and 2 December 2002 respectively.

Appeals

Defendants can appeal against an ASBO issued on application in the magistrates' court, or an Order on criminal conviction in that Court by appeal to the Crown Court. A post-conviction ASBO in the Crown Court can be appealed at the Criminal Court of Appeal. An appeal from the County Court is heard at the next tier i.e. District Judge - Circuit Judge; County Court appeals are limited to reviewing the decision of the lower Court, i.e. has the trial Judge erred in law or fact, or was there a serious procedural, or other irregularity? The outcome of an appeal is that the

ASBO is either upheld, varied in some way (e.g. the prohibitions amended), or discharged altogether.

Variations

An applicant or defendant can apply for an ASBO to be varied by a further court order in the case of ASBOs issued on application at a magistrates' or County Court. An offender issued an ASBO on conviction in criminal proceedings can apply for a variation under s1(C) (6) of the Crime & Disorder Act.

Individual Support Orders (ISOs)

Individual Support Orders are court orders only available for 10-17 year olds which can be attached to ASBOs made on application. ISOs impose positive conditions on the young person to address the underlying causes of the behaviour that led to their ASBO being issued. ISOs are available at magistrates' courts only for juveniles (aged 10-17) with ASBOs issued on application. Commencement date 1 May 2004.

Breaches of ASBOs

Although ASBOs are civil orders, breach of an ASBO is a criminal offence punishable by up to 5 years in prison (2 years in youth custody for young people).

Breach data produced by Justice Statistics Analytical Services only count those instances where the breach of the ASBO was proven in court to have occurred.

ASBOs may be breached in more than one year and multiple times during a particular year. The breach table in this publication counts all occasions on which a breach was proven in court to have occurred. Many ASBOs which are breached in a particular year will have been issued in a previous year.

Future Replacement of Anti Social Behaviour Orders with Civil Injunctions and the Criminal Behaviour Orders (CBOs)

The civil injunction and the criminal behaviour order (CBO) are two of the new powers that will be available to professionals to tackle anti-social behaviour. The new injunction and the CBO will replace ASBOs on application and ASBOs on conviction, respectively, when they are commenced under the Anti-social Behaviour, Crime and Policing Act 2014. These new powers will not only stop anti-social behaviour, but can include positive requirements to get individuals to address the underlying drivers of their behaviour.

Technical Notes

Published data on breaches of ASBOs compiled by the Ministry of Justice (MOJ) originate from two separate data sources:

- Data on ASBOs issued are reported to the MOJ by HM Courts & Tribunals Service via a management information system;
- ASBO breach data are returned directly to the MOJ from the case management systems used by magistrates' courts (LIBRA) and the Crown Court (CREST) in England and Wales.

In order to compute ASBO breach rates, data on ASBO breaches are matched with the data relating to ASBOs issued. The matching process uses the following data items relating to defendants to match ASBO breach occasions to corresponding records of ASBOs issued:

- Surname;
- Date of birth;
- Initial;
- Sex.

In addition to exact matches being returned, there is a manual process which applies a degree of fuzzy matching logic to compensate for variations between these data items in the data relating to ASBOs breaches, compared with the equivalent data items in the ASBOs issued data.

For example, slight differences in the spelling of the defendant's surname e.g. Moor and Moore and where digits in the date of birth field have been transposed, e.g. 13/12/1987 and 31/12/1987, or 13/12/1987 and 13/12/78 etc.

A total of 71% of the 8,926 ASBO breach occasions reported to the MOJ as occurring in 2010 were matched to a corresponding ASBO issued. The equivalent match rates for 2009 and 2008 were both 74%.

For ASBO breach data relating to 2011 onwards, an improved automated matching process utilising specialist fuzzy matching software was undertaken for the first time. This resulted in an improved match rate of 79% in 2011 and 84% in 2012.

In 2013 of the 6,911 occasions on which ASBOs were reported as having been proven in court to have been breached, a match with a record of the corresponding ASBO issued was found in over 90% of cases, with the unmatched breach occasions being discarded.