

ASBOs - ANTI-SOCIAL AND UNFAIR

Anti-social behaviour initiatives and talk of Respect are big on the government's agenda. As the group ASBO Concern notes, "ASBOs are a punitive measure that can criminalise people for behaviour that is not criminal. ASBOs are imposed under civil law, and can be made solely on the basis of hearsay evidence - even though breach of an ASBO can result in a jail sentence."

Of particular concern is that 45% of all ASBOs have been served on under 18s. For young people, being labelled a 'criminal' can only have detrimental effects on self-identity and on family and community relations. 46% of all young people breaching their ASBOs have received immediate custody (1999-2004). There is provision under the legislation to "name and shame" people with ASBOs, including children; this goes against the usual practice of protecting the identities of young people in civil and criminal cases.

ASBOs are being used inappropriately against people with mental health problems, medical conditions such as ADHD, Asperger's Syndrome and most recently against a child with Tourettes syndrome. They are also used against vulnerable citizens such as Andrew White, a 43-year-old homeless man who breached his anti-social behaviour order by sitting on the bottom steps of a fire escape behind a derelict building. For that, he spent three weeks in prison.

An application for an ASBO (Anti-Social Behaviour Order) can be made to a magistrate by police forces (including the British Transport Police), local authorities, housing action trusts and registered social landlords. There are also interim ASBOs, which may be made pending a full hearing, county court ASBOs, where other county court proceedings are underway; and "CRASBOs", which may be served along with a criminal conviction. The ASBO is, nevertheless, still a civil order with a lower burden of proof than required in criminal cases. All ASBOs last for a minimum period of two years.

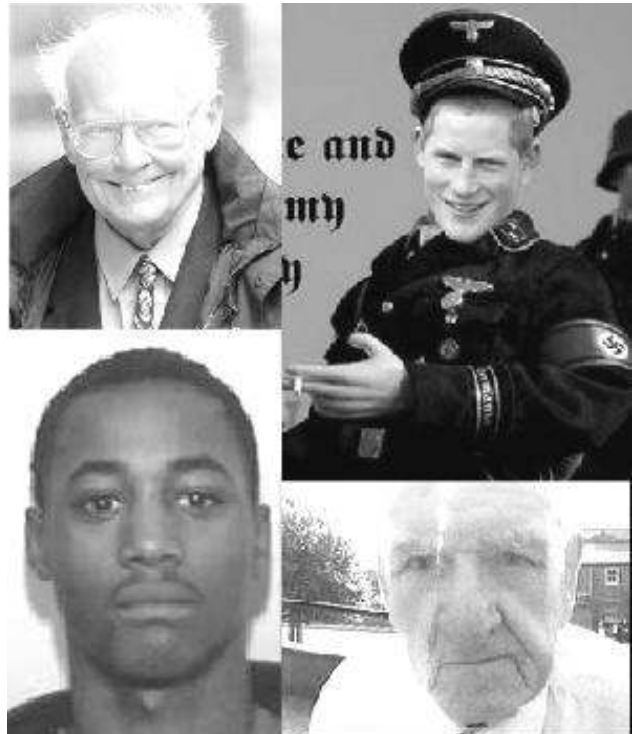
While not denying the consequences that anti-social behaviour can have on people's quality of life, there are alternative strategies to dealing with it without criminalising people. Often the provision of spaces to play and of appropriate activities and services reduces "anti-social behaviour". For more persistent "offenders" alternative methods, which build up self-esteem as well as work and training opportunities, have been highly effective.

As with any new government expression we must also question what "anti-social behaviour" means. The official definition: "behaviour which causes or is likely to cause harassment, alarm or distress to one or more people who are not in the same household as the perpetrator" is vague enough to allow endless subjective interpretations. It has been used as an excuse to increase the surveillance and control of working class communities and impose particular sets of values which serve to create divisions within neighbourhoods rather than provide constructive activities. The label "anti-social behaviour" is a way of blaming and criminalising those people least served by a capitalist system and is a sideshow which avoids looking at the structural, underlying causes of such behaviour.

Between April 1999 and December 2004, the 166 ASBOs issued in Wales represented 3.5% of the England/Wales total, with only 12 issued in Wrexham, an average of just over 2 per year. However, according to a Wrexham police spokesperson, a further 26 ASBOs have been issued in the last 9 months alone; this is a huge and worrying increase. I was also informed that all but 9 of the 38 Wrexham ASBOs are CRASBOs, issued along with criminal convictions. No-one has yet been named and shamed in the Wrexham area; there have been a couple of occasions when the police have requested this, but the committee that adjudicates on such matters decided otherwise.

The Select Committee on Welsh Affairs, chaired by Martyn Jones, MP for Clwyd South, dealt with ASBOs in its Fourth Report, March 2005. The Report notes that ASBOs have been little used in Wales; the figures above indicate that this is changing, and rapidly. The Committee, which is made up of Welsh MsP, does acknowledge issues such as difficulties with definitions; the use of criminal punishment for non-criminal behaviour; the lowering of the burden of proof and so on, but with startling lack of logic decides that ASBOs and associated measures are a good thing overall. "We welcome the government's initiatives to tackle Anti-Social Behaviour", says the Report, and even goes so far as to recommend that magistrates and members of the judiciary should receive "guidance and training" so that they don't refuse requests for ASBOs.

SPOT THE ODD ONE OUT



Which of these four doesn't have an ASBO?

Which do you think is the least anti-social of these behaviours: sunbathing in a see-through thong, playing football in the street, dressing up as a Nazi or being sarcastic to neighbours?

Have a look on page 7 to see if you guessed right.

DISPERSAL ORDERS ARE NO SOLUTION

Another part of the government's anti-social strategy is even more worrying than ASBOs - the introduction of dispersal orders gives police the power to disperse two or more people who *may* harass, intimidate or upset members of the public and, until a recent court case made it illegal, the power to escort young people (aged 16 and under) home after 9pm, just for being out. Where I live, the dispersal area includes the town centre, the park and leisure centre. These are areas of public space, open to all, and these new dispersal powers will have a significant impact on young people's opportunities to gather, play and socialise in such spaces.

Socialising in small groups is a natural part of growing up and it is safer for young people to be in groups than alone. The new dispersal measures pose children as a menace, which has negative implications for community relations between younger and older people and on children's sense of belonging to their community. The recent dispersal order is also a matter for concern because it is based on the mere suspicion that people *may* do something and as such can be used against people doing *nothing* wrong. Such powers leave the way open for discrimination. Laws which rely upon police guesswork to pre-empt 'bad' behaviour are bad laws.

These orders are also unnecessary because laws already exist to deal with criminal and violent behaviour and there is welfare legislation to protect children who may be at risk. Dispersal orders promote fear of adolescents and instead of offering a community solution, they serve to punish individual children and criminalise their (non-

criminal) behaviour. Finally, although the new powers are being promoted as increasing public safety this is a questionable claim. If a group of people is causing problems, dispersal just moves trouble to another area, more than likely an area which has less policing and surveillance than the town centre and which may also be more remote, less well-lit and more dangerous for young people. While the 'curfew' aspect which allowed the police to use force to remove any children under 16 (for no reason whatsoever) is now illegal, curfew notices are still being displayed. I have protested about this to my local council and police, but they say they will continue to remove children until being told otherwise by central government. There have been two dispersal notices served in Wrexham, in Brynteg and Acton. Neither are still in force, but Wrexham police said that they would in principle still take under 16s home from a dispersal area if deemed to be behaving anti-socially.

I suggest that if anyone knows of children being escorted home under dispersal powers, they get in touch with a civil rights group such as Liberty. It is now illegal for the police to behave in this anti-social way. In a climate in which our freedoms and civil liberties are being eroded daily, we need to look after those few we have left

Useful web links

Asbo Concern: www.asboconcern.org.uk

Asbo Watch:

www.statewatch.org/asbo/ASBOWatch.html

Liberty "Your Rights": www.yourrights.org.uk

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