

SELECT COMMITTEE ON COMMUNITY SAFETY AND COMMUNITY SERVICES

Agenda Item No 10

12th June, 2008

Report of the Chief Executive

The Use of ASBOs in Dudley, and the Development of Alternative Measures to Tackle Anti- Social Behaviour.

Purpose of Report

1. To identify trends in the use of anti-social behaviour orders within Dudley alongside the development of a preventative agenda both nationally and locally.
2. To inform the Select Committee of the range of preventative actions being undertaken across the Community Safety partnership in response to identified cases of anti-social behaviour.

Background

3. The National Context

The approach of the Government to tackling anti-social behaviour is built around the triple track approach of enforcement, support and prevention, along with the “tiered” use of tools and powers. These tools and powers are well documented and range from written warnings and home visits, to Anti-Social Behaviour Orders.

More recently, the Respect Taskforce has been moved to the Department for communities and Local Government, and a new Youth Taskforce has been created, located within the Department of Children, Schools and Families. The Youth Taskforce has in recent months been the main driver of Governmental policy on anti-social behaviour.

Public pronouncements from the Children, Schools and Families Minister Ed Balls have indicated a shift in emphasis from the use of ASBOs and other legal enforcement measures to one of prevention and early intervention.

The “preventative agenda” essentially comprises strategies and actions to tackle the main root causes of anti-social behaviour. This is most frequently framed in terms of addressing poor parenting, along with the engagement and diversion of young people from anti-social activities.

Early intervention is related to preventive work but more specifically involves the use of more informal tools and powers. Acceptable Behaviour Contracts

are the probably the best known examples of this. The publication of three independent reports coincides with this development.

- Home Affairs Select Committee (2005)
- Audit Commission (May 2006)
- National Audit Office (December 2006)

The National Audit Office report in particular found that

- 65% of people desisted after the first intervention
- 85% of people desisted after the second intervention
- 93% of people desisted after the third intervention

The development of prevention and early intervention strategies are seen as being closely linked to the Government's Neighbourhood Policing plans and the Community Engagement Strategy.

Ministerial statements have in recent months have suggested that ASBOs may have been sought as a result of situations that have been allowed to deteriorate through missed opportunities to effectively intervene much earlier. Such pronouncements are made primarily with reference to the behaviour of young people. ASBOs have in recent months been the focus of intensifying debate, particularly around their high breach rate and reports- as yet, largely uncorroborated- that they are regarded by some young people as a "badge of honour".

Whilst ASBOs are still viewed as an important tool, particularly where other interventions have not worked or are highly unlikely to work, it is clear that they are no longer viewed by the Government as a "flagship" measure.

4. ASBOs in Dudley

General Background

Anti-Social Behaviour Orders (ASBOs) were introduced within the 1998 Crime and Disorder Act, and have been viewed by the Government as a key instrument for improving the quality of life for communities by way of tackling serious and entrenched anti- social behaviour from identified individuals.

Since 1998, successive Acts of Parliament (e.g. Police Reform Act 2002 Criminal Justice Act 2003, Anti-Social Behaviour Act 2003) have introduced variations to the types of Order that can be obtained, the procedures for applying for Orders, and the range of organisations who can apply. Though well documented in previous reports to Select Committee, the principal types of Anti-Social Behaviour Order are:

- **"Stand-alone ASBO"** – introduced by the 1998 Crime and Disorder Act. Requires consultation between Police and local authority. The vast majority in Dudley have been obtained from the Magistrates Courts following applications by Dudley MBC. These were for many years the

most popular and indeed the conventional form of ASBO, but are sought far less frequently now.

- **Orders obtained upon criminal conviction (CRASBO).**

These were introduced in 2002. They rapidly increased in use to become the most numerous type of ASBO in Dudley. It is usually the Police and CPS that would apply for such an Order, with the local authority influence usually- though not always- very minor. They are still the most commonly granted form of ASBO though their popularity has fallen very sharply in recent years.

- **ASBOs made by the County Court.**

These can be attached to a social landlord's possession proceedings, and were introduced by the Anti-Social Behaviour Act 2003. These are now the most popular form of ASBO sought by the Council, but represent a small proportion of the 129 ASBOs in the Borough.

- **Interim ASBOs**

An interim order can be made at the initial court hearing on the application for an ASBO in order to *provide immediate protection for the community* until the full hearing is held. An interim order can be made, with leave from the court clerk, without notice of proceedings being given to the defendant. There have been 11 granted in Dudley, all following applications by the local authority.

Within the last three years, cases heard before the Court of Appeal (most notably, Regina vs. Boness 2005) have resulted in rulings that have circumscribed the types of prohibitions that can be placed within the drafting of Orders. The principle that prohibitions are "necessary", "proportionate" and "tailored to the individual's behaviour" was strongly affirmed. Repetition of the criminal law within ASBOs was judged to an illegitimate use of powers, as was the use of ASBOs in order to pursue a more severe sentence for criminal offences.

The first seven years saw an increasing and accelerating use of ASBOs by local authorities, police forces and other partner agencies. This was reflected within Dudley. Between 1999 and 2006, 12,675 ASBO had been issued across England and Wales. However, over the last twelve months the number of ASBOs being issued nationally has fallen by 34%.

Within Dudley

4.1 There have within Dudley been several explicit and tacit justifications for the use of ASBOs for different cases.

a. Providing clear enforceable boundaries to help ASBO subjects modify and improve their behaviour.

b. To provide respite to identifiable victims or groups of residents in specific locations previously targeted by the subject. Usually, this is occurs through the use of **precursor** prohibitions excluding the subject from specific areas or from associating with or approaching named individuals.

- c. To ensure that the anti-social behaviour that warranted eviction from public housing is not re-visited on others from the subject's new address (or possibly, no address)
- d. To disrupt clearly identified patterns of criminal activity, making prevention, detection and apprehension of offenders easier.
- e. To augment the sentencing powers of the Courts for persistent offenders in criminal cases.

Table 1 shows that the use of ASBOs within Dudley peaked in 2005, falling sharply from 2006 onwards. The number of Police led Conviction- related ASBOs (CRASBOs) and Police referrals to the ASB Conference fell very sharply from 2006 onwards. Police CRASBOs represented over two thirds of all ASBOs granted in the year 2005/ 2006. A correlation with the Regina vs. Boness 2005 and other Court of Appeal judgements can be inferred. Argument 5 (above) appears to have held less sway from that point onwards.

Table 1.

Year	2000	2001	2002	2003	2004	2005	2006	2007	2008
Number	3	12	14	18	28	32	10	10	2 to date

The number of Police CRASBOs on young people (usually not processed through the ASB Case Conference) has not fallen so sharply as for “stand-alone” ASBO. **Fourteen** Police CRASBOs were obtained on young people over the last three years.

Concern has been expressed nationally about the high rate at which ASBOs have been breached. For the period, up to December 2006, nationally 49% of all ASBOs were breached (61% for young people, 43% for adults).

Information locally about breach rates is incomplete, but in July 2005, the breach rate was at 55%, rising to 80% for young people. It is probable that these high figures owe much to the West Midlands Police strategy at that time of targeting persistent criminals (young people and adults) with ASBOs.

The pattern in Dudley has been for a higher rate of breach than the national average, but for a lower repeat breach rate than both the national and regional average. Over 90% of Dudley adults with ASBOs had either not breached or breached only once. This compared with only half of the young people with ASBOs in Dudley. A significant minority (18%) of subjects were responsible for over half of the breaches, and over 65% of people breaching their ASBOs were classed as Persistent Young Offenders.

Whilst current information on local breaches is incomplete, there is strong evidence to suggest that the *compliance* rate for ASBO's obtained by the local

authority in the County Court, as part of possession proceedings, is very high. This would suggest that the Orders might have been effective in preventing the repetition of serious anti-social behaviour once a tenant has been evicted.

Equally, there are very few individuals who have been breached for violating their precursor conditions, but rather have been brought to justice through the breach of the general behavioural terms of their Order. This would suggest that the Orders had been effective in preventing the repeated victimisation and harassment of complainants in specific locations.

The number of young people being made subject to an ASBO as a result of a referral to the ASB Case Conference has fallen steeply over the last three years.

Only **six** young people have been through this process since May 2005. Of these, **four** were dealt with together in a single case in September 2005. There has been only **one** young person subsequently processed through this route.

There is clear evidence of a decline locally in the use of ASBOs. The preceding paragraphs however suggest that ASBO remain strong for ASBOs are an effective tool for giving respite to repeat victims and for preventing the export of bad behaviour by evicted tenants. Breaching of Orders is reduced if the prohibition is more specific and clear. Orders with very general prohibitions tend to be breached more readily. Even Orders containing both types of prohibition, tend to have their general prohibitions breached more commonly than the specific ones. It appears that the evidence is perhaps much more tenuous in respect of ASBOs being able to effect a more general improvement in behaviour (particularly amongst young offenders) The same holds for the probability of the offender receiving a lengthy custodial sentence for breaching an Order by committing a straightforward criminal offence (e.g. driving whilst disqualified); this has largely evaporated since 2006.

ASBOs have experienced some decline, and the target groups for local ASBOs have shifted over the years. ASBOs however remain as an important instrument in the "toolbox" of available measures, and there is some evidence that they can be effective in respect of addressing specific types of situation.

5. Preventative work in Dudley

There is an increasing emphasis on preventative work in tackling anti-social behaviour in Dudley, and also on co-ordinating early interventions across professional disciplines. Preventative work and early intervention are by no means new phenomena within Dudley.

The main strands of preventative work specifically around ASB are

- Early Intervention with young people
- Tenancy Sustainment
- Parenting Work

- Mediation

Much work that can be labelled “preventative” is undertaken by the universal services delivered by DMBC Directorates. Equally, a significant of similar work is delivered by the voluntary and community sectors. The Community Renewal Service often acts as a link between these, as well as helping link and focus the work of universal providers towards targeted locations, groups of young people and individuals. Examples include the Sledmere intervention scheme (which appeared in the national neighbourhood management news) and the coordinated youth action team in neighbourhood 17 (which includes the St Andrew's Residents Trust).

Early identification of issues with young people, followed by targeted and tailored intervention is a key plank of the partnership approach to tackling youth issues. Since late 2004, the ASB Protocol requires young people

- Aged 10-18,
- With no criminal convictions beyond a Reprimand,
- Not subject to any current intervention by the Youth Offending Service

to be referred to the Youth Inclusion and Support Panel (YISP). This is a multi agency body that meets with the family, proceeding to develop and implement an action plan that addresses the behaviour along with the underlying risk factors. The work has recently moved from being the responsibility of Dudley Children's Fund to the Youth Offending Service. Referrals are taken from many sources including West Midlands Police, Community Safety Team, DMBC Housing and schools.

Combining the YISP caseload with the “Circles” (a restorative justice project currently operating in DMBC children's homes, pupil referral units and schools) **92** cases were handled in the last year (2007 /2008). Of these **92, 28** received a parenting intervention by the YISP Parenting Worker (significantly exceeding the youth Offending Service target of 20%).

The Police have recently been very active in developing preventative programmes in partnership with the local authority and the voluntary sector. Youth4Em was developed initially by PC Gary Hall from Halesowen Police Station, and engaged young people, who might otherwise have attracted complaints from local residents'- often simply by virtue of their presence on the streets- in positive action in the community. Though its genesis was an encounter between police officers and a small group of teenagers in Halesowen, Youth4Em has developed into a group with an expressed aim of projecting a better image for local youth, operating a membership system and comprising of over 200 young people across Halesowen, Cradley, Quarry Bank and Kingswinford. The group worked with the police, youth service and Barnardo's to reduce tensions and anti-social behaviour in and around Huntingtree Park, Halesowen, leading to a dramatic reduction in reported incidents through the late winter and spring of 2007. Two members of the group won the national “Taking a Stand” award for their work within Youth4Em.

Within the Dudley North area, the Police have been engaging a number of 16-24 year olds with 12-week courses utilising the Princes Trust, and with the support of a local college. This has been highly successful. Similarly, the Fire Service have been successfully engaging young arsonists in an educational Fire Intervention and Reparation activity programme has led to the participants desisting from criminal activity and gaining nationally accredited Diplomas.

More recently, Reprimand Clinics have been developed in police stations across both north and south of the Borough. Reprimands, along with Final Warnings, were introduced within the 1998 Crime and Disorder Act to replace cautions (and particularly, repeat cautions) as a pre-Court disposal to be issued by the police to young people upon admission of guilt. Whilst a system of monitoring and intervention (albeit only if the young person agreed) has long been in place with Youth Offending Teams to support Final Warnings, no such provision has been in place for Reprimands. Whilst a number of young people receiving Reprimands did previously engage with the YISP, many did not. Reprimand Clinics essentially involve the young offender and parents being encouraged (sometimes including reminder visits by locals beat officers) to return to the police station two weeks or more after the issuing of the Reprimand. At this meeting, the young offender and parents are reminded of the need to stay within the law, and the circumstances leading to the Reprimand are revisited. The young person and family are often “sign-posted” towards appropriate support services where key circumstances and relevant risk factors are identified. Discussions are underway for the involvement of local authority partners in the Reprimand Clinics.

The evidence so far is that the voluntary take-up of this programme has been very high indeed. Early indications- for example from the reduction in the numbers of Final Warnings issued – seem to suggest that this initiative may be having an impact on checking many young people’s offending at an early stage.

There has been an increase in the number of Acceptable Behaviour Contracts agreed in recent months. Sixteen young people have agreed to ABCs over the last year, compared to eight for the previous two years. PCSOs and Neighbourhood Management staff have been crucial in monitoring compliance of these contracts. Less than a third breach, with the behaviour responsible for the breach generally much less serious than that which occasioned the original ABC. A warning letter or a re-interview usually follows and is generally sufficient.

Acceptable Behaviour Contracts will in the near future be closely aligned to the provision of targeted youth support. The Integrated and Targeted Youth Support Service, engaging all partners within the Dudley Children’s Trust which is now being rolled out across the borough will - by utilising Every Child Matters mechanisms such as the Common Assessment Framework (CAF), Lead Professional, “Team around the Child” etc.- be a key means of identifying and addressing problems at a much earlier stage, reducing the risk

of either duplication or individuals “falling through the net”. Integrated and Targeted Youth Support is likely to pull together early intervention and preventative work. It is likely to integrate elements of innovations and good practice into mainstream practice, and engage universal services in picking up on early concerns.

A key plank of the Government’s approach to ASB, and one that is rapidly being developed is work with parents. Dudley was successful in 2007 in its bid to the Respect Taskforce for a Senior Parenting Practitioner for one year. The Home Office has funded this post for a further two years, and Home Office funding for a second post has augmented the work. The Senior Parenting Practitioner in 2007 /2008 worked with 42 families.

Work with parents to tackle anti-social behaviour also occurs within the YISP (referred to earlier) and also within the Youth Offending Service. Out of a possible 472 cases (of young people on final warnings, community sentences and custody cases), 65 sets of parents received a parenting intervention. Re-offending rates amongst young offenders have been falling significantly over the last two years, and this may be one of the factors.

Dudley MBC Tenancy Sustainment Team has built up links with the Senior Parenting Practitioner over the last year. Its principal focus is that of resolving and rectifying issues that might otherwise lead to possession proceedings being sought. Tenancy Sustainment has become an acknowledged and respected influence in reducing ASB problems within the local authority-housing sector.

DMBC Housing’s Mediation Service (“Time to Talk) addresses ASB issues in the community, as well as family mediation. The last year saw the service handle 81 cases, of which roughly two-thirds were community mediation. The main types of issue were noise and neighbour related disputes. Satisfaction levels with the service continue to rise, with over two-thirds of respondents indicating satisfaction with the service provided.

Within Dudley, just as with young people, mechanisms are being developed which identify, prevent and respond early to ASB that might involve adults. PACT meetings are one such means, and all DMBC Housing officers attend these. Joint visits with the Police can provide a means of intercepting problems early. Introductory Tenancies are now universally in place for new tenants (other than those transferred from a secure tenancy), along with a process of explaining tenants’ responsibilities. Introductory Tenancies can be linked to the Tenancy Sustainment Service ensuring a more durable management of behaviour.

Overall

There is a declining use of ASBOs in Dudley. The use of early intervention and preventive measures is increasing. It is unclear at this stage that the two phenomena can be directly linked within Dudley. The fall in ASBOs began before any explicit emphasis on early intervention was made, and owed to

other reasons. Likewise, the growth in preventative work had gained an impetus irrespective of the level of ASBO applications. The preventative agenda is likely to take firmer root in Dudley, but it is equally likely that ASBOs will remain, for a residual but regular number of cases.

A strong case can be made from the Dudley experience as to the efficacy of ASBOs in terms of preventing repeat victimisation and witness intimidation. They remain a viable tool to provide protection for vulnerable victims and witnesses. Their value is however perhaps questionable in terms of being able to check the general level of offending from persistent criminals.

6. Finance

There are no direct financial implications arising from this report at this stage.

7. Law

Under Section 111 of the Local Government Act 1972 the Council is empowered to do anything which is calculated to facilitate, or is conducive to, or incidental to the discharge of its functions.

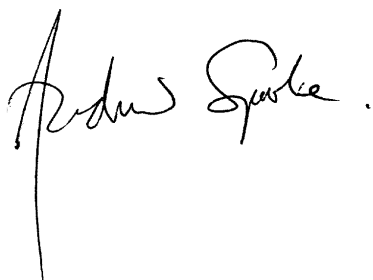
The 1998 Crime and Disorder Act places a statutory duty on the local authority to work with partner agencies, and to do all it reasonably can to reduce crime and disorder within its jurisdiction.

8. Equality Impact

This report is in accordance with the council's equality and diversity policy

9. Recommendation

It is recommended that the committee note the information contained in this report.



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Chief Executive

Contact Officer: Andy Winning
Telephone: 01384 814799
Email: andy.winning@dudley.gov.uk