

Anti-Social Behaviour Orders

An inspection of the operation and
effectiveness of ASBOs

October 2008





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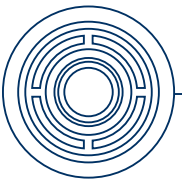
**An inspection of the operation
and effectiveness of ASBOs**

October 2008

Presented to the Houses of Parliament by the Secretary
of State for Northern Ireland under Section 49 (2) of
the Justice (Northern Ireland) Act 2002.

**Criminal Justice Inspection
Northern Ireland**
a better justice system for all

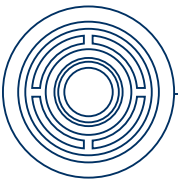






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List of abbreviations

ABC	Acceptable Behaviour Contract
APAC	Assisting People and Communities (NIACRO Project)
ASB	Anti-Social Behaviour
ASBO	Anti-Social Behaviour Order
CJI	Criminal Justice Inspection Northern Ireland
CJS	Criminal Justice System
CJO	Criminal Justice Organisation
CJR	Criminal Justice Review
CSB	Community Safety Branch (PSNI)
CSP	Community Safety Partnership
CST	Community Safety Team (Northern Ireland Housing Executive)
DCU	District Command Unit (PSNI)
DHSSPS	Department for Health, Social Services and Public Safety
DPP	District Policing Partnership
E&W	England and Wales
EQIA	Equality Impact Assessment
HMIC	Her Majesty's Inspectorate of Constabulary
IPPR	Institute for Public Policy Research
JJC	Juvenile Justice Centre
MSF	Most Similar Force
NI	Northern Ireland
NIACRO	Northern Ireland Association for the Care and Resettlement of Offenders
NICS	Northern Ireland Crime Survey
NICtS	Northern Ireland Court Service
NIO	Northern Ireland Office
NIO CSU	Northern Ireland Office Community Safety Unit
NIHRC	Northern Ireland Human Rights Commission
PBNI	Probation Board for Northern Ireland
PPS	Public Prosecution Service for Northern Ireland
PSNI	Police Service of Northern Ireland
PSR	Pre-Sentence Report
RM	Resident Magistrate
S.75	Section 75 (of the Northern Ireland Act)
VCS	Voluntary and Community Sector
YCO	Youth Conference Order
YJA	Youth Justice Agency



Chief Inspector's Foreword

Anti-Social Behaviour Orders (ASBOs) were introduced in Northern Ireland in 2004. The Police Service of Northern Ireland, the Northern Ireland Housing Executive and 26 District Councils were designated as the authorities with powers to apply for ASBOs.

The legislation was introduced amid much debate about the effectiveness and fairness of ASBOs. This inspection provided the first chance to look at how they have been used in Northern Ireland.

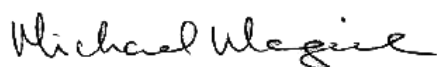
CJI Inspectors were assisted by consultants from DTZ, who had been contracted by the NIO to undertake an independent review of ASBOs, originally planned for 2006. The inspection removed the need for a separate study by the NIO but utilised the resources available from DTZ. We are grateful for DTZ's contribution.

CJI looked at the use of ASBOs in relation to the five main elements of its standard inspection framework: Openness, Partnership, Equality, Learning and Results, together with key issues such as the introduction of the legislation; the collection of evidence; the process of applying for ASBOs; the use of alternatives to ASBOs; and the treatment of perpetrators and of victims and witnesses.

Overall the inspection found that there had been a sensible approach to the introduction of ASBOs in Northern Ireland. The Orders have a role to play in tackling anti-social behaviour, but it goes without saying that they do not provide the whole answer. The agencies involved must work together and with other partners to develop the use of ASBOs while, at the same time, making full use of alternative methods of reducing anti-social behaviour, particularly where young people are concerned.

Inspectors will re-visit the agencies a year following publication of this report to assess progress against recommendations.

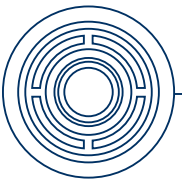
This inspection was led for CJI by Rachel Tupling. I would like, on her behalf, to thank all those whom she contacted in the course of the work, and in particular the staff and managers of the PSNI, Northern Ireland Housing Executive and District Councils, who gave Inspectors every assistance.



Dr. Michael Maguire
Chief Inspector of Criminal Justice
in Northern Ireland
October 2008

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Executive Summary

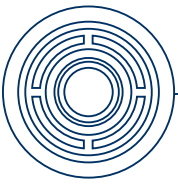
This report looks at how Anti-Social Behaviour Orders (ASBOs) have been introduced in Northern Ireland and how the three agencies authorised to make ASBO applications are undertaking their responsibilities. In general, it appears that there has been a sensible approach to the introduction of ASBOs in Northern Ireland. Overall the inspection found that ASBOs have a role to play in tackling anti-social behaviour but do not provide the full answer.

Up to the end of December 2007 ASBOs had been issued against 65 individuals in Northern Ireland. Whilst this is less than the ASBOs issued by similar local authority areas in England and Wales, the numbers are increasing in a similar pattern. It will be important to monitor developments to ensure that the use of ASBOs continues to be appropriate and to avoid the problems experienced in England and Wales. Some districts report a noticeably greater number of ASBOs than in other areas, but this appears to be related to the presence of dedicated proactive ASBO officers, rather than to the level of anti-social behaviour.

Just under half of these ASBOs had been issued against individuals under the age of 18 which is slightly less than the proportion issued against individuals aged under 18 in England and Wales. Careful monitoring of equality data should assist the agencies in developing strategies to ensure ASBOs are not used in a discriminatory manner. Although there have been similar proportions issued against young people in Northern Ireland as in England and Wales, this is much higher than in Scotland, where the use of Children's Hearings has led to alternative approaches being adopted in the vast majority of potential ASBO cases. Research into the feasibility and value of such a multi-agency panel would be beneficial.

Information obtained suggests that agencies are taking action against patterns of anti-social behaviour rather than one-off occurrences. This ensures that time is given for alternative approaches and that support for the individual is provided. The most frequently recorded incidents in the sample of ASBO case files were criminal damage/vandalism, assault/physical violence and intimidation/harassment. Whilst the majority of incidents appeared to be low level persistent anti-social behaviour which could be dealt with appropriately by use of an ASBO, caution should be taken in ensuring that criminal offences suitable for prosecution are dealt with by that route, rather than relying on ASBOs.

Inspectors found that although there had been great public interest in ASBOs there was a need for greater communication, education and partnership with communities in order to ensure the enthusiasm and support of the public is not lost and to ensure realistic expectations are held. Children's and young people's organisations have done excellent work in this area but there is a need for a more widespread approach.



Information sharing protocols have been signed between the Police Service of Northern Ireland (PSNI) and the Northern Ireland Housing Executive but not all Councils have signed up to the protocols. This should be addressed as a matter of urgency. Additionally, not all districts of each agency had a designated ASBO officer who attended the forums, although the Housing Executive were proactive in this area.

There were examples of good practice in relation to action taken by the partners to address anti-social behaviour which can be built upon. However concerns were raised that the use of ASBOs was determined at an operational level with a lack of strategic thinking around anti-social behaviour. There were some examples of other partners being involved in ASBO processes but this was not consistent across all areas; therefore there is a need for protocols to be put in place. Inspectors heard good examples of partners from the voluntary and community sector (VCS) providing support to those at risk of an ASBO.

Monitoring and collation of equality information in relation to Section 75 categories was being undertaken for all ASBOs issued against individuals. This has been positive to date but there is a need for more thorough monitoring and quality assurance to ensure reporting is accurate.

There had been some useful guidance and information provided when ASBO legislation was introduced but the issue of follow up training and guidance was raised as a requirement. Recognition of the role of an anti-social behaviour officer is vital to ensure staff have the appropriate skills, training, management support, are clear in their responsibilities and feel valued.

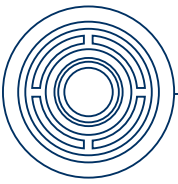
There is currently limited and conflicting information available regarding breaches, which makes it hard to use this information as a measure of effectiveness. There is a need to reinforce the necessity for accurate and timely data monitoring of breaches in order to address this and to raise awareness of PSNI response officers in regard to their responsibilities in this area. The lack of accurate breach information or collective information on outcomes, coupled with a lack of costing to date, makes it difficult to assess the effectiveness of ASBOs. Anecdotal evidence would suggest in some cases they are highly effective, but without a comprehensive data-set it is difficult to say with any certainty whether this is the case overall.

The agencies were generally taking a staged approach to ASBOs with good use being made of alternatives to ASBOs such as warning letters and Acceptable Behaviour Contracts (ABCs). However, the effectiveness of these measures had yet to be monitored or evaluated and their use was not being communicated effectively to the public. This may assist in maintaining the support of communities in tackling anti-social behaviour. Similarly anecdotal evidence suggests that alternatives are as effective, if not more effective, than ASBOs. The use of alternatives appears to be critical in assisting individuals to change their behaviour patterns and therefore should be developed and used as a precursor to ASBOs.



Recommendations

- Anti-social behaviour forums should review their community engagement processes to maintain and develop local communication with the wider public (paragraph 2.11).
- The remaining information sharing protocols should be signed between the PSNI, Housing Executive and local Councils as a matter of urgency and local forums should be set up between the three agencies and held on a regular basis to discuss issues of anti-social behaviour and how these can be addressed (paragraph 3.12).
- A protocol should be developed between the tripartite agencies and the PBNI and YJA to put methods in place to ensure that prohibitions in an ASBO do not contradict other conditions on an individual which may be taken before, or have already been taken before, a court (paragraph 3.16).
- Anti-social behaviour forums should seek to engage with their local partners; YJA, PBNI, Social Services trusts and Education and Library Boards, in order to develop appropriate methods of tackling anti-social behaviour (paragraph 3.17).
- The NIO CSU should continue to monitor Section 75 information in respect of ASBOs and take action as appropriate should evidence of adverse impact become apparent (paragraph 4.4).
- Research should be undertaken by the NIO CSU into the feasibility and value of setting up of a system of multi-agency panels to consider alternative action and support measures that would be provided alongside or instead of any ASBO issued against a young person (paragraph 4.24).
- Senior management in all agencies should reinforce with all staff the need for accurate and timely recording and monitoring of Section 75 information relating to ASBOs and that quality assurance mechanisms should be developed to ensure the accuracy of this data (paragraph 4.25).
- The tripartite agencies should ensure that a specified role in their respective organisation includes dealing with anti-social behaviour as a core function. The role will include liaison with all agencies involved in seeking to reduce anti-social behaviour. Each agency should develop and support this by ensuring:
 - where the organisation does not have a role description that includes responsibility for dealing with anti-social behaviour, then a specific role description that outlines responsibilities for dealing with anti-social behaviour should be created;
 - appropriate training and development is provided where required;
 - regular attendance at anti-social behaviour fora;
 - full involvement in anti-social behaviour reduction work;

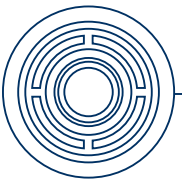


- promotion internally and with the local community of the respective organisations commitment to reduce anti-social behaviour (paragraph 5.10).
- The tripartite agencies should develop a mechanism for individually and collaboratively reviewing work undertaken in relation to ASBOs to date and sharing this best practice at both a strategic and operational level (paragraph 5.15).
- Senior management in the tripartite agencies should reinforce with all staff the need for accurate and timely monitoring and reporting of information relating to breaches of ASBOs and ensure that this data is centrally collated and used to assess effectiveness and opportunities for further learning (paragraph 6.15).
- Action should be taken by PSNI senior management to enhance the knowledge of PSNI officers in operational roles in relation to ASBOs in order to enable them to address breaches more effectively (paragraph 6.16).

Section

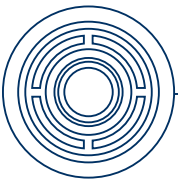


Inspection Report



Introduction

- 1.1 Anti-Social Behaviour Orders (ASBOs) were introduced in England and Wales under the Crime and Disorder Act 1998 as amended by the Police Reform Act 2002 and the Anti-Social Behaviour Act 2003 to meet a gap in dealing with persistent anti-social behaviour which was not always able to be adequately addressed by use of injunctions and evictions. The 1998 Act did not extend ASBOs to Northern Ireland because of the differences in local authorities' functions. Instead it was decided to monitor the development of ASBOs in England and Wales and consider the position in Northern Ireland in light of experience gained.
- 1.2 On 27 July 2004 the Anti-Social Behaviour (Northern Ireland) Order 2004 gave the relevant authorities, namely the PSNI, Northern Ireland Housing Executive and local Councils, powers to apply for an ASBO in respect of anyone aged 10 or over. An ASBO can be granted provided that the following condition is filled: *“that the person has acted in a manner that caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household as himself; and that such an order is necessary to protect relevant persons from further anti-social acts by him”*.
- 1.3 ASBOs are civil orders made by the magistrate's court acting in its civil capacity. As such, hearsay or professional evidence is acceptable; therefore it is not necessary for the individual or individuals who have been personally affected by the behaviour to give evidence in court. An individual with appropriate expertise, for example a police officer, can provide such evidence. This offers protection to those who may feel vulnerable due to being subject to anti-social behaviour or feel they may be subject to retaliation in the future and therefore reluctant to give evidence. Although ASBOs are civil orders there must be sufficient evidence to prove the instances of anti-social behaviour beyond reasonable doubt; R (McCann) v Manchester Crown Court (2002) UKHL 39 determined that the court must be satisfied to the criminal standard that the Respondent has acted in an anti-social manner.
- 1.4 The court may make an order that prohibits the defendant from doing anything described in the order. The prohibitions vary from general prohibitions such as 'refraining from acting in a manner that causes or is likely to cause harassment, alarm or distress to one or more persons' to



those relating more specifically to the anti-social behaviour undertaken, for example using foul, offensive or racial language or playing music loudly. Other prohibitions can relate to factors which are considered to be related to the instances of anti-social behaviour, such as being excluded from a specific area or being prevented from associating with named individuals. The order cannot be used to compel the individual to do anything; it is solely to prevent them from engaging in specific activities or behaviour.


- 1.5 ASBOs can be applied for in three forms; interim, on application and on conviction. Interim ASBOs can be granted where the main application has not been determined but where it is considered that there is an immediate need to protect the victims of the anti-social behaviour. The interim ASBO should be applied for at the same time as the summons is served for a 'full' ASBO on application and will remain in effect until it is superseded by the ASBO on application. An ASBO on application is made as a stand-alone application (i.e. not related to prosecution for a criminal offence) and can be taken to court by a representative of the relevant authority. An ASBO on conviction is applied for by the Public Prosecution Service (PPS) or can be made by the court when the individual has been convicted of a criminal offence in a Magistrates', Youth or Crown Court. An ASBO on conviction is still a civil order but can only be made in addition to a sentence or conditional discharge.

- 1.6 The minimum duration of an ASBO on application or ASBO on conviction is two years. Application can be made to discharge or vary the ASBO but early discharge can only be made with the agreement of the defendant and the relevant authority.

- 1.7 Article 5 of the Order contains a statutory requirement for the body making the application to consult with its counterpart agencies about whether the application should be made and about the proposed content of the application. As a result the Northern Ireland Office Community Safety Unit (NIO CSU) recommended in its guidance on ASBOs¹ that each of the PSNI District Command Units (DCUs), Housing Executive District Offices and local Councils nominate an ASBO co-ordination officer to undertake this statutory consultation. They recommended that co-operation between the agencies should take place at a strategic (regional) and an operational (district) level. Whilst the legislation states that consultation is required, it is not necessary to seek consent from each of the agencies. The guidance also recommended consulting with other relevant partner agencies such as the Youth Justice Agency (YJA), Probation Board for Northern Ireland (PBNI), Education and Library Boards or Health and Social Care Trusts, although this is not mandatory.

- 1.8 The NIO guidance also recommended that regular inter-agency meetings be held between the

1 Community Safety Unit (2004) *A Guide to Anti-Social Behaviour Orders*, Northern Ireland Office.

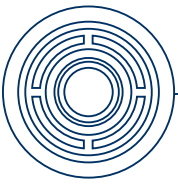


agencies and be used to share information to assist in reducing anti-social behaviour and to review and oversee progress in individual cases. The setting up and use of protocols to share information was advised in respect of this. An over-arching protocol between the PSNI and the Housing Executive already existed at the time the guidance was published and therefore it was recommended that this be extended with each of the 26 District Councils.

- 1.9 There are no automatic reporting restrictions on ASBOs but courts can direct that no details of the defendant be published in the media when the defendant is an individual under the age of 17 years. It is up to the discretion of the relevant agencies to make decisions about reporting to communities or individuals who have been subject to the anti-social behaviour in such situations, or indeed with adults subject to an ASBO.
- 1.10 Whilst the ASBO itself is a civil order, breach of an ASBO is a criminal offence. Cases of breach are heard in the Magistrates', Youth or Crown Court. The maximum penalty available on summary conviction is six months imprisonment or a fine of up to £5,000, or both. The maximum penalty on conviction for an adult on indictment is five years imprisonment, or an unlimited fine or both. For a young person the maximum penalty is a two year juvenile justice centre order and/or a fine.
- 1.11 The NIO guidance contains template forms for making ASBO applications but also to collect monitoring

information such as Section 75 data on defendants and information on breaches. Information on breaches, variations, appeals and discharges was requested to be sent to the NIO CSU for collation by a statistician.

- 1.12 The introduction of ASBOs also led to recommendations regarding the use of alternative strategies to address anti-social behaviour such as warning letters, Acceptable Behaviour Contracts (ABCs), Restorative Cautioning and informed warnings. Warning letters are used by the agency to advise the individual (and their parent if they are a child) that if the anti-social behaviour they have been involved in does not desist there is the potential that an ASBO will be sought and later to advise that action is being taken to seek an ASBO against them. An ABC is a written agreement between a person who has been involved in anti-social behaviour (and their parent if they are a child) and one (or more) of the partner bodies whose role it is to prevent such behaviour. Restorative Cautioning is an approach for dealing with someone under the age of 18 who has committed an offence, but who has been diverted away from prosecution by way of a caution delivered using a restorative framework. This provides an opportunity for the young person to gain a greater understanding of the impact of their behaviour and its consequences, and to help them take responsibility for their actions through meeting their actual victim. Similarly an informed warning is not a conviction but is delivered by a trained police facilitator and also involves a child/young person and



their parents/guardian. It is noted in the NIO guidance that these are not necessary as pre-cursors to an ASBO but can be used as early interventions. The Order introduced in Northern Ireland does not include other elements of legislation introduced in England and Wales to address anti-social behaviour such as parenting orders, fixed penalty notices for anti-social behaviour or dispersal orders.

1.13 ASBOs have been a source of debate and widespread public interest since the plans for their introduction. This is particularly the case in relation to the wide ranging list of behaviour which may lead to an ASBO, for example graffiti, drug dealing, excessive noise, verbal abuse

and prostitution, which spans both criminal and non-criminal behaviour. This has been criticised by some commentators as blurring the 'fundamental boundary' between the civil and criminal law². ASBOs were introduced in an attempt to address community and state concerns about the rising prevalence and impact of anti-social behaviour.

1.14 The 2006-07 Northern Ireland Crime Survey (NICS)³ asked respondents to rate how much of a problem various types of anti-social behaviour are in their local area. Findings show that 15% of respondents perceived a high level of anti-social behaviour in their local area, which is lower than the figure for the equivalent survey in England and Wales⁴ (18%) and a

Table 1: Types of anti-social behaviour perceived to be a very/fairly big problem (%) in the local area

	% of respondents reporting as a problem in NICS 2003-04	% of respondents reporting as a problem in NICS 2005	% of respondents reporting as a problem in NICS 2006-07
Abandoned or burnt-out cars	10%	8%	7%
Noisy neighbours	8%	10%	8%
Drunk or rowdy in public	24%	25%	23%
Drug using or dealing	31%	28%	26%
Teenagers hanging around	31%	29%	27%
Rubbish or litter	29%	28%	27%
Vandalism or graffiti	28%	26%	23%
High level of perceived ASB	21%	17%	15%

Source: Adapted from NICS 2006-07 & NICS 2005

2 Burney (2002) *Talking Tough, Acting Coy: Whatever Happened to Antisocial Behaviour Orders?* The Howard Journal, Vol 41(5) pp469-484.
 3 NIO (2008) *Perceptions of Crime: Findings from the 200-107 Northern Ireland Crime Survey Research and Statistical Bulletin 5/2008.*
 4 Home Office (2006) *Crime in England and Wales 2006-07* Home Office Statistical Bulletin 11/2007.



decrease from the 2005 NICS (17%)⁵. Table 1 shows the types of anti-social behaviour perceived to be a problem in people's local areas in 2006-07, 2005 and in 2003-04⁶.

1.15 Just over a quarter (27%) of all respondents to the NICS considered teenagers hanging around to be a problem which is similar to views expressed in England and Wales (with an equivalent number of 33%). The four most commonly cited anti-social behaviour problems have shown consistent decreases since the NICS 2003-04: people using or dealing drugs (31% to 26%); teenagers hanging around on streets (31% to 27%); rubbish or litter lying around (29% to 27%); and vandalism or graffiti (28% to 23%). These are statistically significant falls between 2005 and 2006-07 in the case of people using or dealing drugs and vandalism or graffiti. Although the proportions of adults who perceived noisy neighbours or loud parties and people being drunk or rowdy in public to have increased between 2003-04 and 2006-07 the figures overall still show a general consistency in response of the type of behaviour that people believe to be a problem.

1.16 The PSNI Policing Plan⁷ contains an objective to reduce the number of incidents of anti-social behaviour by 5%, but no specific objectives in relation to targets for ASBOs. The Housing Executive Corporate Plan⁸ states "*Where there is anti-social*

behaviour (often the actions of small numbers of people), we are determined to do all we can to investigate the background and to take preventative action for the future" but that "*While we can issue Anti-Social Behaviour Orders, we will try to resolve problems using other initiatives including mediation and anti-social behaviour contracts"*. Few District Councils make specific references to objectives or targets to reduce anti-social behaviour in their corporate plans or strategies. However within the draft corporate plan for Antrim Borough Council⁹ it is noted that a contributory measure to the planned outcome of 'A Safer Place to live, work, visit and invest' is the number of ASBOs. None of the agencies appear to have put in place targets for numbers of ASBOs, and rightly so, as the need for an ASBO should be determined on a case by case basis.

1.17 Table 2 shows the number and percentage of anti-social behaviour incidents recorded by the PSNI in 2006-07 compared to the number of ASBOs issued in each council area. As can be seen, in most areas, the percentage of ASBOs is similar to the percentage of anti-social behaviour incidents. It should be noted however that some incidents which are recorded as anti-social behaviour (under Home Office counting rules) may be dealt with by way of criminal process rather than an ASBO or an ASBO may be used for incidents which are not recorded as anti-social behaviour such as criminal damage.

5 NIO (2006) *Perceptions of Crime: Findings from the 2005 Northern Ireland Crime Survey* Research and Statistical Bulletin 9/2006.

6 NIO (2004) *Perceptions of Crime: Findings from the 2003-04 Northern Ireland Crime Survey* Research and Statistical Bulletin 6/2004.

7 Northern Ireland Policing Board and Police Service of Northern Ireland (2007) *Policing Plan 2007-2010*.

8 Northern Ireland Housing Executive (2007) *Corporate Plan and Business Plan*.

9 Antrim Borough Council (2006) *Draft Corporate Plan 2006-2010* (obtained from council website).



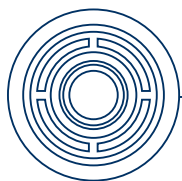


Table 2: Anti-Social Behaviour Incidents vs. ASBOs issued in Council Areas

Council Area	No. of Anti-Social Behaviour incidents	% of ASB incidents	No. of ASBOs issued	% of ASBOs issued
Antrim	2,529	2%	2	3.1%
Ards	3,679	4%	0	0.0%
Armagh	2,676	3%	0	0.0%
Ballymena	3,079	3%	13	20.0%
Ballymoney	1,417	1%	0	0.0%
Banbridge	1,944	2%	0	0.0%
Belfast	22,950	23%	15	23.1%
Carrickfergus	2,858	3%	0	0.0%
Castlereagh	3,658	4%	1	1.5%
Coleraine	4,411	4%	3	4.6%
Cookstown	1,722	2%	1	1.5%
Craigavon	4,228	4%	1	1.5%
Derry (Foyle)	6,804	7%	3	4.6%
Down	3,333	3%	3	4.6%
Dungannon (& South Tyrone)	2,937	3%	4	6.2%
Fermanagh	2,586	3%	4	6.2%
Larne	1,614	2%	1	1.5%
Limavady	2,245	2%	0	0.0%
Lisburn	5,000	5%	0	0.0%
Magherafelt	1,717	2%	1	1.5%
Moyle	1,001	1%	0	0.0%
Newry & Mourne	4,757	5%	4	6.2%
Newtownabbey	5,412	5%	5	7.7%
North Down	5,057	5%	4	6.2%
Omagh	2,599	3%	0	0.0%
Strabane	1,438	1%	0	0.0%
Total		101,651		65

Source: PSNI & Northern Ireland Neighbourhood Information Service

1.18 Information on the detailed methodology for this inspection is contained in Appendix 1. The inspection included two on-line surveys, a case file review of 31 ASBO case files and fieldwork with representatives from agencies and stakeholder organisations. The response rates to these two surveys were 67% and 22% respectively. The stakeholder views should therefore

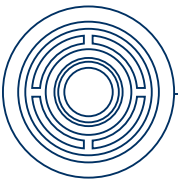
be treated with caution as this is not a large sample size. The details of those who contributed to the surveys are contained in Appendix 2. Section 75 information is contained in Appendix 3 and overall findings from the case file review are contained in Appendix 4. Relevant findings from the surveys, Section 75 data and case file review are contained within the main body of this report.

CHAPTER 2:

Openness



- 2.1 Inspectors found varying attitudes and approaches of the agencies to making information available to the public regarding the issuing of ASBOs. A number of interviewees expressed concerns that there may be issues regarding data protection and/or freedom of information legislation and so were reluctant to address the issue of publicity. Inspectors were advised that the PSNI are clear that they do not issue information to the press or in other public forums. They are concerned over human rights but this does create difficulties in gathering public support for helping to monitor behaviour and potential breaches.
- 2.2 Representatives from the Housing Executive advised Inspectors that they were more likely to make information available to the public and to encourage feedback on activity. This may well be because incidents which involve the Housing Executive are more likely to be localised and concern specific, often small communities such as a street or estate. Additionally behaviour which has led to ASBOs is likely to have occurred in small localised areas and been targeted at specific individuals or groups. This in turn means there is likely to be in general close relationships with Housing Executive staff who have specific responsibility for a designated area.
- 2.3 Inspectors found little evidence of consistency from local District Councils about the flow of information currently or in the future to the public regarding ASBOs that have been issued. Although the vast majority of Councils have yet to have an ASBO issued by a Court it is important that communication plans are in place prior to the situation occurring. There appears to be no consistent policy about information to victims and witnesses who, as members of the public, might help monitor behaviour or who may be directly affected by behaviour.
- 2.4 As ASBOs are a civil matter, for adult cases there are no restrictions in court and there are only restrictions for young people if specifically ordered by the Resident Magistrate (RM) and so information on ASBOs is accessible to the general public and to the media from the Court. This has resulted in one individual's name and photograph appearing in one newspaper with information regarding his ASBO and subsequent arrest for breach. This however is very much the exception to current practice.



2.5 A further concern covered in the agency and stakeholder surveys and raised by a number of organisations was that naming recipients of ASBOs, particularly young people, would make them vulnerable to attack from criminal elements who seek to control their communities unlawfully. Despite this being raised as an issue, no respondents to either the agency or stakeholder questionnaire or interviewees during the fieldwork phase reported being aware of specific threats. However it still remains a residual concern that a legal sanction might be used as the justification for an attack or threat against an individual and should be monitored.


2.6 Respondents to the initial surveys were asked what they believed the views of the community/public prior to the application for an ASBO in terms of how effective they anticipate the ASBO will be in reducing anti-social behaviour. A total of 46% of respondents to the agency survey thought the community views were 'positive' or 'very positive'; 15% thought they were 'neither positive nor negative'; while 27% thought community views were 'negative' or 'very negative'. In contrast, 18% of respondents to the stakeholder survey thought the community views were 'positive'; 27% thought they were 'neither positive nor negative'; and 45% thought community views were 'negative' or 'very negative'. Reasons provided as to why the community would view ASBOs to be positive included issues around believing they would reduce anti-

social behaviour, that several agencies can address anti-social behaviour and that they demonstrate action is being taken to address anti-social behaviour. Reasons provided as to why they would be viewed negatively included insufficient or negative publicity, high expectations which may not be met and lack of faith in their effectiveness.

2.7 As noted in a review of ASBOs in England and Wales for the Home Office¹⁰ "One possible pitfall associated with ASBOs is that enthusiasm and support can be built up within the community, only for it to be dissipated if they feel the order has not been successful. Fundamentally, if the order does not change the behaviour it is targeting, then it has failed". Inspectors were told by several interviewees that they believed ASBOs in Northern Ireland have increased public expectations and may also have decreased tolerance for other interventions or indeed tolerance levels in general. There was feeling that the high publicity surrounding the introduction of ASBOs had raised an expectation with the public at large that anti-social behaviour was being addressed.

2.8 A total of 36% of respondents to the stakeholder survey felt that prior to the application for an ASBO the community would have negative views in terms of how effective they anticipate that they would be in reducing anti-social behaviour, and 27% stated that these views would be neither positive nor negative. Similarly, 36% of respondents felt that the community would have negative

10 Campbell (2002) *A Review of Antisocial Behaviour Orders*, Research Study 236, Home Office: London.

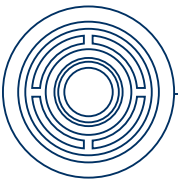


views and 36% would have neither positive nor negative views in terms of how effective they felt ASBOs were in reducing anti-social behaviour once it was obtained. For example, communities may have an expectation that there is no limit to their function and that ASBOs can be used for very minor perceived anti-social behaviour such as young people hanging around street corners; behaviour which in itself is not anti-social or threatening. In contrast, to this 39% of respondents to the stakeholder survey felt that prior to the application for an ASBO the community would have positive views in terms of how effective they anticipate that they would be in reducing anti-social behaviour. However, 31% of respondents felt that the community would have negative views and 31% would have neither positive nor negative views in terms of how effective they felt ASBOs were in reducing anti-social behaviour once it was obtained.

- 2.9 A further concern which was raised is that these issues may stop communities from taking responsibility for and intervening positively in changing behaviour or actions being taken by groups or individuals. It was felt that this may well erode the importance of communities in providing access to support and creating dialogue within the community itself to support rather than sanction those most vulnerable or marginalised in society.
- 2.10 The lack of subsequent publicity surrounding ASBOs could provide the public with the message that in reality, little is happening. Thus not only are the public not engaged in the

monitoring of ASBOs and the identification of breaches they may also be losing faith in the overall process.

- 2.11 As highlighted later in this report in Chapter 6, ASBOs are generally used as the last option for changing or managing behaviour. As these other alternatives (which are believed to be effective by both agency representatives, particularly the Housing Executive, and some stakeholders) are not being publicised, there is the potential for the entire process to be undermined by lack of faith of the public on whom this process has a large dependence. Inspectors therefore recommend that **anti-social behaviour forums should review their community engagement processes to maintain and develop local communication with the wider public.**
- 2.12 Stakeholders raised concerns that there was a lack of process of public 'education' about ASBOs and this meant that neither the public nor potential recipients were aware of the potential outcomes of an ASBO. This has particular issues for young people who may not see or understand the serious consequences of the process and in particular the consequences of a breach. This is particularly pertinent to those with low literacy skills. Additionally there are other associated issues. For example, if an individual either breaches an ABC or refuses to accept such a contract then the next stage may well be an ASBO with its potentially serious consequences. If all of this is not fully explained then




it is understandable that individuals might not take this process as seriously as they should. The responsibilities for this education does not of course lie solely with the tripartite agencies, it also lies with other areas of the justice system such as solicitors and courts.

2.13 Discussions with various organisations and a solicitor indicates that many young people do not take ASBOs seriously and so are likely to breach without knowing the full potential outcomes of their actions. Of the nine breaches noted in the 31 case files reviewed, six were by young people aged under 18 years (one aged 14, one aged 15, two aged 16, two aged 17) and the remaining three were by individuals aged 19 years. This lack of knowledge by young people has been addressed by, amongst others, Include Youth, via their Young Voices project, which has received much positive comment. The project has facilitated discussions about, amongst other topics, the issue of ASBOs with young people in the community and in the Juvenile Justice Centre (JJC) and has developed a leaflet outlining the issues around ASBOs for young people. This may have been better addressed as part of the implementation process rather than being left as a response at a later stage. It would be useful to build upon this good work which has already been done and has networks set up. It is clear therefore that there is a need for clear community education to ensure that ASBOs, and other anti-social behaviour strategies, and their potential consequences for individuals are understood by the community.

2.14 Inspectors were also told of concerns over individuals' rights to provide anonymous reports of behaviour which might provide evidence in support of an ASBO and subsequently behaviour which is in breach of an ASBO. 61% of respondents to the agency survey and 18% of respondents to the stakeholder survey indicated that they believed victims/witnesses of anti-social behaviour are 'unwilling' or 'very unwilling' to provide information in support of ASBO applications. Inspectors were told by some stakeholders that some Housing Executive staff do not appear to be clear about the potential for anonymity in the process and so cannot guide the public. Of the 31 case files 30 had been supported by evidence from professional witnesses and the same number had been supported by evidence from witnesses to the anti-social behaviour. This demonstrates the importance of witness evidence in taking ASBOs to court. Where individuals have gone to court some stakeholders would suggest that the ability to provide evidence anonymously has helped and supported them and their community to curtail behaviour but equally, there is evidence that individuals have been further targeted because they have given evidence.

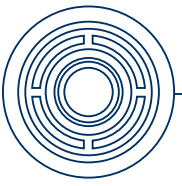
2.15 Recent media articles regarding an individual suffering from anti-social behaviour around her home and in the local housing estate illustrate this point. The articles covered retaliation on the individual suffered in response to evidence provided to support an ASBO. The individual has continually raised the issue of drug-dealing and



anti-social behaviour to the PSNI in her estate and near her home. An ASBO was duly issued which reduced the problem initially as the perpetrator was excluded from the general area. Since that point the situation exacerbated and the individual believes the drug-dealing is continuing and the perpetrator is in breach of the ASBO. This led to further action being taken against the individual. Whilst, in this incident the victim was happy to provide initial evidence, the high profile reporting of this could put off other members of the community from providing information in support of ASBOs unless they are assured of their anonymity and confidentiality. This individual also believes that the ASBO is not being enforced by PSNI and now feels she may have been better not getting involved. This, of course, is just the experience of one victim but it was difficult to obtain evidence of the views of others. Although attempts were made to engage with other victims of anti-social behaviour and those who had provided evidence in support of ASBOs, there appeared to be a reluctance to meet with Inspectors during the course of the inspection. This may be something which could benefit from further investigation.

accept this and tried to encourage victims to agree to provide named evidence and potentially attend court should the case be taken that far. Whilst concerns were raised by some stakeholders about the potential for malicious reporting if reports were allowed to be presented anonymously, this can be prevented by thorough investigation by the agency involved. It is necessary that agencies continue to encourage community members to provide evidence and should respect the confidentiality of these individuals where it is requested.

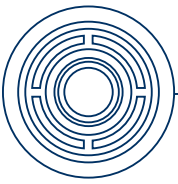
- 2.16 It is clearly set out in the NIO guidance that anonymous and hearsay evidence is admissible as evidence in support of an ASBO and unless an amendment is made to this the agencies should adhere to it. Some stakeholders who had made representations on behalf of victims felt that, on occasion, some Housing Executive staff were unwilling to



Partnership



- 3.1 The PSNI and Housing Executive information sharing agreement was signed in November 2004. Since then the PSNI and Housing Executive have been working with local Councils to include them in individual agreements. By the end of November 2007 the Housing Executive advised Inspectors that 11 (42%) of the 26 Councils had signed up to information sharing protocols, eight (31%) were currently in progress and seven (27%) were still to be targeted. This delay has hindered some Councils ability to engage with the PSNI and Housing Executive via an anti-social behaviour forum, although representatives from some local Councils are participating in forums regardless of this. The PSNI appointed a Sergeant from Community Safety Branch (CSB) to work within the Housing Executive on ASBOs and this individual worked closely with the Housing Executive Community Safety Manager on the roll out of the protocols and providing advice and guidance on ASBO issues.
- 3.2 Some staff from the Councils told Inspectors that they believed the delays were due to concerns at a strategic level within their organisations regarding the data protection implications of the information sharing protocols or because of a lack of ‘champions’ of anti-social behaviour at a senior level. Inspectors were told that issues were more likely in smaller council areas. Representatives from the PSNI and Housing Executive have been working hard to convince Councils of the merits of these arrangements. It is concerning that these issues have not been resolved within the three years since the legislation was introduced.
- 3.3 In general several stakeholders and representatives of the agencies felt that there was a lack of strategic approach to anti-social behaviour, both in Northern Ireland generally, and within some of the agencies involved in the ASBO process. The failure to include other measures included in the legislation in England and Wales, such as fixed penalty notices and parenting orders, was cited as an example of this. Some agency representatives expressed disappointment to Inspectors that the anti-social behaviour forums did not take a more strategic approach to addressing anti-social behaviour. One agency’s representatives stated that their forum discusses lists of cases rather than developing strategies to reduce anti-social behaviour in specific areas. Some stakeholders told Inspectors that problems lay in




the fact that ASBOs were only able to be targeted at individuals rather than at a community level. There is a difficulty here with an overlap with the Community Safety Partnerships (CSPs) which are meant to provide this strategic approach, rather than the forums which were not intended to provide this view.

- 3.4 In several areas however it was positive to find that the anti-social behaviour forums are operating on a regular basis, although the regularity, format and attendance appear to vary greatly from area to area. Inspectors were able to observe two forums (one urban and one rural) at which the three agencies were represented by at least one, but in the case of most agencies more than one, individual(s) with responsibility for the district area generally or anti-social behaviour issues specifically. In other areas however Inspectors were told that the forums took place infrequently, on an ad hoc basis or were convened (in person or by telephone) to discuss one agency's plans to seek an ASBO. In some areas Inspectors were told that there was no forum between the agencies or that representatives from the agencies were unsure whether there was a forum in their district.
- 3.5 In response to the agency survey, a very high proportion (85%) of respondents thought that partnership working between the tripartite agencies was either 'effective' or 'very effective'. 10% thought it was 'neither effective nor ineffective', while 5% thought it was either 'ineffective' or 'very ineffective'. In contrast 36% of stakeholder respondents thought that

partnership working was either 'effective' or 'very effective' but 36% did not know, which may reflect a need for more publicity in this area.

- 3.6 Other interviewees raised the issue of overlaps between the work of the anti-social behaviour forums and that of CSPs; on occasion the same individuals sat on both bodies and in some areas the anti-social behaviour forum was considered a sub-group of the CSP. In one Council area Inspectors were told that ASBOs are managed by the CSP as the small levels of anti-social behaviour in the district did not justify a formal structure such as a forum. Some interviewees questioned the need for both a CSP and an anti-social behaviour forum. One Council representative suggested that where the anti-social behaviour forum and CSP had been linked this had led to a decrease in 15% of anti-social behaviour. The Review of Public Administration will include a review of CSPs but it may be sensible in the meantime for each district to consider how the work of the CSP and the anti-social behaviour forum fits together and where overlaps occur. This would be particularly beneficial in terms of determining which of these groups would be responsible for taking a strategic approach to addressing anti-social behaviour, of which ASBOs would be only one method. It was initially intended that CSPs should take the strategic approach whereas forums should undertake the operational approach and therefore it may be useful for this to be clarified further to avoid overlaps.

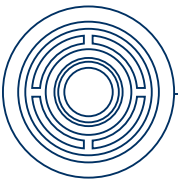


3.7 The general consensus from the tripartite agencies was that the PSNI has, in the main, taken the lead in the forums, although all parties do have an equal status and some forums are chaired by the agencies in rotation. The PSNI has applied for the vast majority of ASBOs (90.8% of all ASBOs by the end of December 2007) and usually PSNI ASBO officers hold the details of the individuals which the agencies are monitoring for anti-social behaviour incidents. Inspectors were told by most interviewees that this was appropriate as the PSNI have expertise in collating reports of incidents, file preparation skills necessary for ASBO applications and have the most resources to address anti-social behaviour. However, some stakeholders felt that this was not the case and that the PSNI should be prosecuting individuals for criminal offences using the methods already available to them rather than taking a civil action which could eventually lead to a criminal outcome. This was a consistent view from those stakeholders with an interest in children's rights and welfare.

3.8 Some PSNI officers commented that whilst they had taken the initiative regarding ASBOs and had been proactive in looking at ways to implement the legislation and work in partnership on the forums they felt that there was a lack of strategic and operational leadership from the PSNI. Inspectors found that in areas where there were no dedicated ASBO officers in the PSNI there was, on occasion, a lack of co-ordination or pro-activity in the setting up and effective running of the forums.

Inspectors found that there were inconsistencies as to which representatives from the PSNI attended the forums in some areas; for example in some policing districts the forums were attended by an Anti-Social Behaviour Officer of Constable or Sergeant rank whose specific role was to address anti-social behaviour by way of alternative strategies, partnership working and ASBOs. However elsewhere the Sector Inspector with geographical responsibility for the area attended but then passed on the responsibility for seeking an ASBO to another officer in the Sector and/or the Community Policing Team. This appeared to lead to a lack of consistency in dealing with ASBO issues.

3.9 Some of the staff from local Councils felt that they were unable to contribute fully to the work of the forums due to being hampered by lack of resources, lack of support from management and uncertainty over information sharing. Within Councils the responsibility for ASBOs fell to individuals in different departments varying from environmental health to enforcement or in some cases, to the CSP or to the DPP. For some individuals the work of the forum had been added to their existing role without extra resources or support which had caused difficulties. They also felt that the process was much more time consuming than had originally been anticipated, which hampered their efforts to work towards addressing anti-social behaviour. For these reasons some Council representatives reported withdrawing from



involvement from some issues in the forum they felt were not relevant to them. However some Council staff did feel that ASBOs had been added to their workload appropriately and with due cognisance of the nature of their current work and the role of the ASBO officer.

- 3.10 The Housing Executive Community Safety Team (CST) was very committed to the work of the anti-social behaviour forums and confirmed their dedication to working in partnership with the other two agencies. The role of the district CST is to provide a specialist resource for the Housing Offices in addition to the anti-social behaviour forums. Inspectors were told however that in some forums representatives from the Housing Executive had previously been uninterested in discussing anti-social behaviour in the meeting unless it involved a Housing Executive tenant. This is contrary to the corporate view of the Housing Executive.
- 3.11 There does not appear to have been any follow-up since introduction of the legislation and issuing of the guidance to ensure that all three agencies have appointed designated ASBO officers or that information sharing protocols are in place in each area. However the forums observed by Inspectors and the views of the representatives of the agencies who attended them demonstrated the overall effectiveness of the partnership working between the agencies. Where forums are set up with appropriate individuals sitting on them they appear to be highly successful in assisting the agencies to

share information and target resources appropriately rather than working in silos and potentially leading to duplication of effort. It was also commented that the forum ensures that agencies can justify their actions and Inspectors saw examples of forums discussing what alternative strategies could be undertaken before resorting to an ASBO. In addition Inspectors were told about other initiatives taken outside of the forums to address anti-social behaviour such as Council staff patrolling during the evenings at the weekends with the PSNI in some districts.

- 3.12 In light of the issues outlined above we recommend that **the remaining information sharing protocols should be signed between the PSNI, Housing Executive and local Councils as a matter of urgency and local forums should be set up between the three agencies and held on a regular basis to discuss issues of anti-social behaviour and how these can be addressed.**
- 3.13 There are also inconsistencies between the forums as to the involvement of partner agencies. The YJA were formally signed up to the information sharing protocols in September 2007 and all forums were notified by the Housing Executive that this had occurred. Inspectors were also told about plans to sign an overarching protocol between the Youth Justice Agency (YJA) and PSNI at a strategic level which are nearing completion. Some forums had brought in the YJA or demonstrated that they had consulted them during the course of their work. In other



areas the YJA were not involved at all and indeed some Council representatives had not heard of the agency.

3.14 Council staff from one district expressed their frustrations regarding attempts to involve representatives from the Health and Social Care Trust and the Education and Library Board. There were some examples of close work in other locations but this was exclusively on dealing with specific individuals. The PSNI are also engaged in work at a strategic level to develop formalised partnerships with health and social services and education agencies. At an operational level every child or young person who is recommended for an ASBO whether on application or conviction will be subject to a report to the Youth Diversion Officer. This officer notifies other agencies and seeks information that assists in reaching a decision around what action should be taken in relation to the person

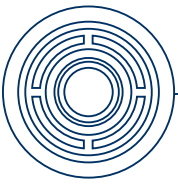
concerned. This is particularly important in the context of ASBOs as many young people who are involved in anti-social behaviour may also be known to other agencies who can provide vital information on the support they are being given or the issues that are affecting them. Some stakeholders expressed concerns that involvement of such agencies was discretionary for this reason.

3.15 The case file review also illustrates the need for partnership working between the tripartite agencies and other local partners. All individuals who subsequently were issued with an ASBO had been involved with at least one agency prior to the current issues arising, as can be seen in Table 3. For example, in 20 of the 31 case files the individuals had been in contact with the PSNI. It is therefore critical that this information is shared in order to work towards the most effective outcomes for the individuals, the agencies and the community.

Table 3: Agencies recorded as being involved with individuals subject to ASBO previously

	Number of individuals in case files involved with agency previously
PSNI	20 out of 31
Housing Executive	16 out of 31
Council	12 out of 31
Social Services	9 out of 31
YJA	4 out of 31
Education Board	2 out of 31
Community project/VCS	3 out of 31






3.16 The PBNI were generally positive about the introduction of ASBOs but also raised concerns about the lack of partnership working with their agencies, as the PBNI have no involvement with the forums. The main difficulty for the PBNI arises where an ASBO is applied for on conviction and the pre-sentence report (PSR) prepared by the PBNI may contradict with the prohibitions of the ASBO. For example, an offender may be required, as part of their sentence, to attend an alcohol programme to address their addictions which would probably be held in the local town or city centre. Should this same individual have been responsible for anti-social behaviour within this same town/city centre their ASBO may contain a prohibition excluding them from the area where the programme is being run; therefore attendance at the programme would lead to a breach. The PBNI felt that this issue could be easily rectified by open communication with the individual applying for the ASBO and therefore we recommend that **a protocol should be developed between the tripartite agencies and the PBNI and YJA to put methods in place to ensure that prohibitions in an ASBO do not contradict other conditions on an individual which may be taken before, or have already been taken before, a court.**

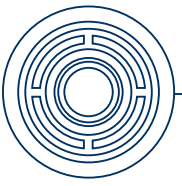
3.17 In light of the progress made to date it is clear that there has been effective partnership working between the agencies in general but that more needs to be done to progress more effective relationships

and information sharing. In the absence of these formal agreements being finalised and the variations in partnership working between individual forums so far, Inspectors recommend that **anti-social behaviour forums should seek to engage with their local partners; YJA, PBNI, Social Services trusts and Education and Library Boards, in order to develop appropriate methods of tackling anti-social behaviour.**

3.18 The VCS have also been involved in partnership working with regard to addressing anti-social behaviour. The Northern Ireland Association for the Care and Resettlement of Offenders (NIACRO) have been closely involved with the Housing Executive in providing the Assisting People and Communities (APAC) project. NIACRO's website (www.niacro.co.uk) outlines the project as: "*APAC helps people to deal with problems which may have led to difficulties with neighbours and the community.*" The project is offered through the Housing Executive as part of the ABC (Acceptable Behaviour Contract) process and has been invested in by Belfast City Council, but participation is voluntary and is independent of any action Housing Executive may take on the ABC. An APAC project worker meets with the participant, discusses the reasons for the difficulties and helps them plan a way forward. S/he will offer ongoing support and practical assistance to achieve this. APAC also offers help to those who have had to move because of their offending behaviour, and supports their families.



3.19 At the start of the project the Housing Executive anticipated that APAC would accept approximately 60 referrals a year. In November 2007 APAC was currently assisting in 23 cases. Initially the project was piloted in the Greater Belfast area and discussions are currently being held as regards to rolling it out across Northern Ireland. The project is funded through Supporting People Floating Support. Although APAC has not yet been formally evaluated both NIACRO and the Housing Executive believe it is proving to be successful. Inspectors would welcome such an evaluation to assess the contribution of this project.





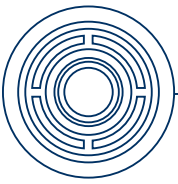
4.1 Section 75 and Schedule 9 to the Northern Ireland Act 1998 came into force on 1 January 2000 and placed a statutory obligation on public authorities in carrying out their various functions relating to Northern Ireland, to have due regard to the need to promote equality of opportunity between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation; between men and women generally; between persons with a disability and persons without; and between persons with dependants and persons without. The statutory obligations are implemented through Equality Schemes, approved by the Equality Commission, and by screening and carrying out Equality Impact Assessments (EQIAs) on policies.

4.2 The issue of equality has been a source of debate since the introduction of ASBOs. Stakeholders, particularly those from the VCS raised concerns that ASBOs would be discriminatory; predominantly having adverse impact against young males. When the ASBO legislation was introduced the NIO undertook an initial S.75 screening of the guidance

it had developed via its Equality Scheme but, despite concluding that the group most likely to be affected by ASBOs was young males, it determined that S.75 assessment was not required. The concerns of the stakeholders regarding this determination led to a complaint being lodged to the Equality Commission that the NIO, on introducing the ASBO legislation, did not discharge its S.75 obligations correctly.

4.3 Following the investigation by the Equality Commission it was reported in March 2006¹¹ that “the NIO failed to take account of evidence that the policy might have an adverse impact on young people and children and failed to carry out a full Equality Impact Assessment. The investigation also indicated that the NIO did not adequately consult on the decision not to carry out such an EQIA....The Commission has recommended that the NIO now undertake an EQIA of the ASBO policy in relation to its potential impact on children and young people”. In addition a request was made for a judicial review in June 2005 in relation to the first ASBO served on an adult in Northern Ireland in April 2005,

11 Equality Commission (2005) *Equality Focus*, Issue 4, September 2005.



which led to a standstill of ASBO applications whilst a decision was reached. The Commission's decision was found to be lawful in the ruling of the application for Judicial Review but also stated that the decision of the NIO not to undertake a full EQIA was also lawful. Therefore in reviewing the ruling to reject the application for Judicial Review the Government did not consider that the High Court's judgment requires them to move from their original position that an EQIA was not necessary. The Secretary of State determined that if the CJI inspection pointed to any unforeseen equality implications then it would be ensured that these would be carefully examined.


4.4 Some stakeholders raised concerns with Inspectors that, to date, despite the recommendation of the Equality Commission, an Equality Impact Assessment has not been undertaken by the NIO or by any of the agencies who have adopted the legislation and created their own policies in relation of ASBOs. These stakeholders felt a sense of helplessness in respect of the resources they had already used trying to get an Impact Assessment undertaken. Inspectors recommend that **the NIO CSU should continue to monitor Section 75 information in respect of ASBOs and take action as appropriate should evidence of adverse impact become apparent.**

4.5 The issues surrounding ASBOs against young people centre around concerns

that the legislation is contradictory to the Children's (NI) Order 1995 and the United Nations Convention on the Right of the Child. During the consultation process several stakeholders from the VCS commented that the ASBO legislation was inconsistent with the principles and duties of the Order, particularly in relation to protecting the welfare of children and taking all reasonable steps to reduce the need to bring criminal proceedings against children and young people and to encourage children and young people not to commit criminal offences.

4.6 The concerns raised with Inspectors by stakeholders included the fact that although ASBOs are civil legislation, a breach of an ASBO can lead to a criminal conviction. This is seen as criminalising people 'by the back door'. This is particularly relevant in cases involving young people due to the duty in the Children's (NI) Order 1995 to reduce the need to bring criminal proceedings against them. Koffman and Dingwall (2007)¹² also suggests that "*if a young offender is dealt with through the anti-social behaviour route, it enhances his or her chances of receiving a custodial sentence for any subsequent offences*". As a consequence of these concerns, organisations in Northern Ireland have taken various approaches to deal with the introduction of the legislation; from continuing to work towards having the legislation repealed to working to raise awareness of the legislation and campaign for the rights of those affected by it.

12 Koffman & Dingwall (2007) *The Diversion of Young Offenders: A Proportionate Response?*, Web Journal of Current Legal Issues, 2007, Issue 2, accessed at <http://webjcli.ncl.ac.uk>.



4.7 A recent report published by the Institute for Public Policy Research (IPPR)¹³ suggests the ‘ASBO culture’ can be a self-fulfilling prophecy when it comes to offending and may actually encourage youth crime, and suggests their use should be reviewed. The IPPR also suggests the need for assessment of all children (aged 13 - 18 years) before the use of an ASBO; the restriction of ASBOs to those aged over 12 years; the duration should only be between six months and two years; and the reformation of ASBO legislation to ensure tailored support services are provided to divert children from crime. Fortunately, to date in Northern Ireland, no ASBOs for longer than two years have been served on any individual aged 18 or less but as noted earlier, the provision of support rests with the decisions of the individuals involved in the ASBO forum or application.

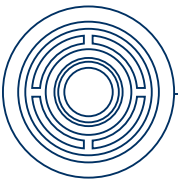
4.8 An evaluation of ASBOs undertaken for the Scottish Executive¹⁴ noted that a ‘Children’s Hearing’ is arranged before an ASBO is granted against a person under 16 years of age. This is a multi-agency panel which considers appropriate responses to juvenile anti-social behaviour that might be subject to an ASBO. In 2005-06, the first year of ASBO powers being available to address anti-social behaviour by young people (aged 12 to 15 years), 96 cases in respect of young people were considered and of these, only 4 ASBOs were issued. For the majority of cases, the panel

determined that alternative approaches (e.g. mandatory supervision, ABCs) are preferable. For this reason the authors assert that it is unlikely that the pattern of ASBO use in Scotland will become similar to that in England and Wales where ASBOs against young people account of a significant proportion of those issued.

4.9 A further issue raised by stakeholders from the VCS was that young people won’t understand or be able to remember the prohibitions of their ASBO and therefore will be highly likely to breach it. Inspectors were able to speak to young people who were subject to an ASBO. In the main Inspectors found that these young people could describe the prohibitions of their ASBO, although some could not remember them all, and all knew how long the ASBO was in place for. The prohibitions quoted by the young people were cross-referred with case file information and were found to be generally accurate. One young person did state however that he thought he was excluded from the town centre but wasn’t sure because when he entered the town centre and saw police officers no action was taken against him. On examination of his file it transpired that he was excluded from specific shops within the town centre, but not the town centre itself. Another young person thought one of the prohibitions in his ASBO related to not being with named individuals but this did not appear in the copy of the ASBO.

13 Margo (2008) *Make Me a Criminal: Preventing Youth Crime*, Institute for Public Policy Research.

14 Scottish Government (2007) *Use of Antisocial Behaviour Orders in Scotland*, DTZ and Heriot Watt University.




4.10 Young people also felt that some prohibitions were unfair particularly those which specified an 'exclusion zone'. One young person, a male aged 16 years, told Inspectors that the exclusion zone was in an area which covered the town centre but also bordered his house; therefore he could walk one way down the road without being in breach of his ASBO, but not the other. This caused him considerable inconvenience, for example preventing him from going to the local shop to buy a pint of milk. Staff in the JJC also informed Inspectors that his school was within the exclusion zone and therefore he was unable to attend school unless accompanied by his parent. This young person informed Inspectors that this prohibition was confusing as he had been given a map of the area but this did not have a line drawn on to indicate the area of the exclusion zone; instead a number of street names were listed. This led to confusion for the young person who was stopped by police in one of the prohibited streets but both he and his father were bewildered as to why this constituted a breach as they did not realise it was in the exclusion zone. As with the victims however it was difficult to identify individuals who wished to meet with Inspectors to discuss their ASBO and therefore this is another area which could benefit from additional research.

4.11 Prohibitions which contained some form of exclusion either in relation to area or curfew featured in 22 (68.8%) of the ASBO files reviewed and in 13 (81.3%) of the 16 ASBOs issued against young people aged

under 18. These issues emphasise the need for clarity in relation to prohibitions, particularly in relation to young people, with due consideration to the literacy skills or other circumstances pertaining to the individual, in order to assist them in understanding the prohibitions, reducing their anti-social behaviour and consequently avoiding breaches.

4.12 Concerns were also raised regarding inequality and inconsistency depending on the area of Northern Ireland the perpetrator of the anti-social behaviour was living in. For example representatives from the Housing Executive stated that in some areas graffiti would be considered a serious issue of anti-social behaviour, whereas in other areas depending on the level of anti-social behaviour, this would be considered minor. Therefore the social and economic factors of the area and the seriousness of the issues that the community and agencies had to cope with on a regular basis could determine the level and types of anti-social behaviour that led to an ASBO application.

4.13 Other socio-economic factors were also cited by stakeholders as potentially leading to unequal treatment of individuals, for example against students and members of the travelling community. Prior to the introduction of the legislation, The University of Ulster called on the Government to implement the legislation as soon as possible in order to assist in addressing the anti-social behaviour of students which leads to around 600 complaints a



year to the University. In March 2005 an article in a daily newspaper¹⁵ also called for ASBOs to be used against students who had ‘gone on the rampage’ during St Patrick’s Day celebrations. This has led to fears that students will be targeted with ASBOs, although, to date, this has not occurred.

4.14 Media interest was also sparked by the issuing of an ASBO by Larne Borough Council in June 2005, barring certain members of the Travelling Community from entering Larne. Although it was the Council that had issued the ASBO and not the Housing Executive, the Anti-Racism Network claimed the Housing Executive was “criminalising the Travelling Community” and “colluded in the order”¹⁶. The concerns over this ASBO led to protests being held outside the Housing Executive headquarters. This ASBO was taken as a result of anti-social behaviour by some members of the Travelling Community which included £20,000 worth of damage to a country park caravan site plus time spent cleaning up the litter, waste and refuse left at the site. A Traveller support representative also expressed concern that the damage could not be specifically linked to individuals and ASBOs were issued on those in the Travelling Community who could be identified regardless of whether or not they were proven to be the main perpetrators of anti-social behaviour. The ASBO application also declared there had been illegal encampments on the premises of local businesses

and Council property and intimidation and harassment of the owners of business properties.

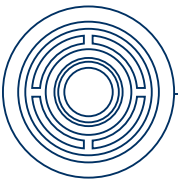
4.15 Other stakeholders also raised concerns about the knock-on effect of this and other ASBOs on members of the family of those who the ASBO was taken against, particularly children and young people. These concerns centred on the fact that the ASBO deprived other members of the family of a right to family life, education and other facilities in the community and also that they were exposed to racism as a result of the ASBO. This concern about the impact of an ASBO on an individual’s family was supported by the responses of the initial surveys, in which 11% of agency respondents and 18% of the stakeholder respondents were aware of an impact on the families of those receiving an ASBO. Those who expanded on this provided the following examples:

- *Curfew checks made regularly inconvenience the whole family, also as juveniles, parents have to be present when entering a certain area.*
- *Person not permitted Housing Executive property as result.*
- *Families can be under considerable pressure in the community where one member is subject to an ASBO.*

This demonstrates the need for careful consideration of action to be taken and prohibitions to be included in the case of ASBOs involving young people as defendants or family members of defendants.

15 Belfast Telegraph, *ASBO call after student rampage*, 15 March 2005.

16 BBC News Northern Ireland, *Travellers ‘criminalised by Asbo’*, 17 June 2005.




4.16 Representatives from the agencies were aware that the ASBO against the members of the Travelling Community could be perceived as racist, but felt it was justified as they believed the anti-social behaviour displayed was so unacceptable that an ASBO was the only method available. During the events which led to the application for an ASBO the Council had consulted with the Northern Ireland Human Rights Commission (NIHRC), Traveller Movement, the Equality Commission and the Housing Executive Travellers Unit. The NIHRC and Traveller Movement both commended the Council on their tolerant approach in dealing with the situation. In the initial media reports the Deputy Chief Executive from Housing Executive expressed disappointment that the Anti-Racism Network were unwilling to meet with him to explain the facts of the situation as the Housing Executive believed the protest was based on wrong information. The case file for this ASBO application shows the great lengths that the Council, Housing Executive and police had gone to in respect of negotiating with the members of the Travelling Community to move from or maintain the sites.

4.17 These concerns regarding inequality could be disproved, or alternatively confirmed, by publication of monitoring information regarding ASBOs. As noted elsewhere in this report, monitoring of ASBOs to date appears inconsistent and incomplete; however the agencies have been monitoring and collating S.75 information for each of the individuals who has been issued with

an ASBO. This information has been collected, as required by the Northern Ireland Act 1998, and as recommended in the NIO guidance, in relation to age, gender, religion, ethnic background, disability, marital status, dependents and sexual orientation. There appears however to have been little use of this information for either public consumption or for review and learning in the agencies. It would be beneficial for a communication strategy to be developed regarding the statistical data for ASBOs in order to determine when and how this data should be published.

4.18 There were also some concerns raised by PSNI representatives that there were variations in the ASBO process across Northern Ireland. For example Inspectors were told of instances where agency representatives had felt personal opinions on ASBOs had affected how applications were dealt with at court. Similar concerns were also raised by PSNI representatives with regard to how breaches were dealt with. For example some breaches of ASBO had been dealt with by way of Youth Conference Order (YCO) and one individual was remanded into custody to Hydebank Wood Young Offender Centre, whereas no action was taken against other defendants. Inspectors were also told that one individual had received 11 YCOs which was considered, by both the Police and the Youth Conference Service, to be excessive.

4.19 Magistrates Inspectors spoke to were supportive of ASBOs and suggested that they dealt with them fairly and



consistently. Inspectors were also told that in some areas positive and effective working relationships had been developed between the Magistrate, PSNI and PPS in respect of ASBO work. With regard to breaches, Inspectors were advised that these are dealt with on a case by case basis. Inspectors were told of an example where the severity of a breach which had come before the Court was taken into consideration when deciding on action to take; it was rightly considered inappropriate to impose a harsh punishment for a minor action. However, in such instances methods of communicating this are vitally important so that those working with ASBOs, and the community, do not lose faith in the value of reporting or addressing a breach.

4.20 The following provides a summary of statistical information on the S.75 data in relation to ASBOs recipients collected between the introduction of ASBOs and 31 December 2007. This information is based on the monitoring data collated by the PSNI CSB which includes ASBOs issued by the Courts in respect of applications made by all three agencies. A full breakdown of this data can be found in the tables in Appendix 2.

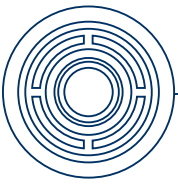
4.21 The majority of ASBO recipients were male and single. The majority of ASBOs were issued against individuals from a 'White' background with only two ASBOs being issued to individuals from a non-White ethnic

background. A slightly higher number of ASBOs have been issued against those from a Catholic background than a Protestant background; however, the religious background of over a quarter of ASBO recipients (29.2%) was not known. Additionally, the majority of ASBO recipients did not have any dependents, although again this information was not known for almost a quarter of individuals. There is no information available, apart from for two individuals as to how many dependents these individuals had. The majority of ASBO recipients did not have a disability, although again this information was not known for a fifth (20.0%) of individuals.

4.22 The minimum age for an individual at the time they were issued with an ASBO was 12 years and the maximum was 65 years, with the average age being 22.7 years. A slightly greater number of ASBO recipients were aged over 18 years (34, 52.3%) than under 18 years (30, 46.2%). When the data is broken down further it is apparent that a greater number of ASBO recipients were in the 15 - 17 years category than any other.

4.23 Table 4 compares this age data to the data collated by the Home Office for ASBOs in England and Wales. The table shows ASBO data for all CJS areas in England and Wales (the total number of ASBOs issued in England and Wales), the CJS areas of the Most Similar Forces (MSFs)¹⁷ to

17 For each police force Her Majesty's Inspectorate of Constabulary (HMIC) has determined a set of 'most similar forces' (MSFs), which have similar social and geographic characteristics to the force in question. The PSNI's MSFs are Greater Manchester, Merseyside, Northumbria, South Yorkshire and West Yorkshire.



the PSNI as determined by Her Majesty's Inspectorate of Constabulary (HMIC) and for Northern Ireland broken down by age. This shows that the percentage of ASBOs issued to young people under the age of 18 (46%) is slightly higher than the percentage issued across England and Wales (41%) as a whole but slightly lower than the percentage issued in the MSF areas (49%). All these figures are much higher than the percentage of ASBOs issued against young people in Scotland as mentioned earlier.


4.24 In light of the ongoing concerns regarding ASBOs against young people regarding the view that they could potentially lead those aged under 18 years into the criminal justice system if the order is breached, and the success of the use of Children's Hearings in Scotland in relation to ASBO issues, it is recommended that **research should be undertaken by the NIO CSU into the feasibility and value of setting up of a system of multi-agency panels to consider alternative action and support**

Table 4: Age data for ASBOs issued Northern Ireland vs. England and Wales

Criminal Justice System (CJS) Area	Total ASBOs issued*	No. ASBOs age 10 - 17	% of ASBOs age 10 - 17	No. ASBOs age 18+	% of ASBOs age 18+	No. ASBOs age unknown	% of ASBOs age unknown
Total E&W	9853	3997	41%	5547	56%	309	3%
Most Similar Forces							
Greater Manchester	1237	626	51%	573	46%	38	3%
Merseyside	308	151	49%	145	47%	12	4%
Northumbria	309	125	40%	172	56%	12	4%
South Yorkshire	248	110	44%	131	53%	7	3%
West Yorkshire	696	354	51%	335	48%	7	1%
Average E&W MSFs			49%		48%		3%
Northern Ireland	65	30	46%	34	52%	1	0%

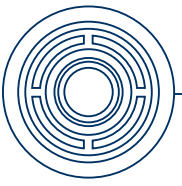
*Total issued for E&W is during the period April 99 - Dec 05 and for PSNI is July 04 - Dec 07.

Source: PSNI ASBO data and www.crimereduction.gov.uk.



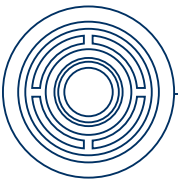
measures that would be provided alongside or instead of any ASBO issued against a young person.

- 4.25 There is a consistent pattern within this data of large numbers of unknown data in relation to religious background, dependents status, disability and sexual orientation. Whilst it is acknowledged that ASBO officers may not always feel comfortable asking about this information and/or defendants may not always wish to provide this information therefore it may be hard to obtain, it is very difficult to respond to question or criticism on an equality basis without relevant data. Inspectors therefore recommend that **senior management in all tripartite agencies should reinforce with all staff the need for accurate and timely recording and monitoring of data in relation to ASBOs applied for and granted, in particular relating to Section 75 categories, and that quality assurance mechanisms should be developed to ensure the accuracy of this data.**





- 5.1 In order to assist the introduction of the ASBO legislation into Northern Ireland the agencies provided various sources of information such as guidance documents, policies and training to those working with ASBOs. Almost half (45%) of the agency respondents and a third of stakeholder respondents (33%) rated the initial preparation processes prior to the introduction of ASBOs in Northern Ireland as 'very effective' or 'effective'. Over one-third (35%) of agency respondents and a quarter of stakeholders (25%) stated that the initial preparation processes were 'neither effective nor ineffective', while 16% of agency respondents and 17% of stakeholder respondents thought the preparation processes were either 'ineffective' or 'very ineffective'. The remaining respondents stated that they did not know. In addition 63% of agency respondents viewed the advice/guidance/resources provided to support ASBO processes (such as Northern Ireland Office guidance and local guidance within agencies) as 'useful' or 'very useful'. 22% perceived this advice to be 'neither useful nor not useful' and 9% thought it was 'not very useful' or 'not at all useful'.
- 5.2 During fieldwork interviews Inspectors were advised that the NIO, Housing Executive and PSNI each provided some familiarisation training. The NIO ran five multi-agency sessions across Northern Ireland in 2005, and two additional sessions specifically for Council staff. In 2006 they also ran a training session on tackling anti-social behaviour generally including using ASBOs. The PSNI CSB ran a conference in June 2007 to which it invited a representative from each of the 29 DCUs and members of the PPS Policy Section as delegates. At the PSNI conference the speakers included a specialist prosecutor from the Crown Prosecution Service in London and two officers from the Metropolitan Police who were very experienced in ASBO matters. Inspectors were told that the conference aimed to address issues that officers within the PSNI had raised during their involvement in ASBO work, such as what makes a good prohibition and the definition of harassment.
- 5.3 Feedback from the agency representatives was mixed about the value of these two sets of training provided by the NIO and the PSNI.




Some Council representatives felt that they had been given initial guidance at the NIO sessions but then left to their own devices and expressed a need to revisit the issue of training. Most Council staff felt they would benefit from further training and some specifically mentioned the need for training in relation to data protection, freedom of information, administration of the process and burden of proof.

5.4 PSNI officers are able to avail of information provided on the intranet regarding ASBOs, including a sample file. Support is provided by CSB regarding queries. Additionally the PSNI Service Procedure regarding ASBOs and ABCs sets out the PSNI's approach in relation to these issues and provides guidance for officers. PSNI officers' views were mixed on the subject of training. Some officers acknowledged that they had been given excellent support by the CSB Sergeant working within the Housing Executive to deal with ASBO issues, but felt that training provided was fragmented and not focussed on the operational side of ASBOs and did not encourage standardisation across Northern Ireland. In addition, PSNI officers felt that officers on the ground (i.e. response officers) had very limited knowledge of ASBOs which led to problems with identifying and addressing breaches. This was particularly a problem in areas where there was no nominated ASBO officer who could provide information to response and sector/neighbourhood officers and educate them within the District.

5.5 The Housing Executive CST informed Inspectors that training is provided for appropriate staff in relation to ASBOs and anti-social behaviour. The training is on different levels with general awareness for counter staff and more sophisticated training for managers and investigation officers. Modules relating to anti-social behaviour are included in the Housing Executive's yearly Learning and Development programme and in July 2004, five area-based Community Safety Officers were appointed, who are available to provide supplementary training to District Office staff when requested¹⁸. The Housing Executive have also produced comprehensive documentation to provide guidance to both the community (Northern Ireland Housing Executive *Statement of Policy and Procedures on Anti-Social Behaviour*) and staff (Northern Ireland Housing Executive *Anti-Social Behaviour Orders on Application Best Practice Guide*; Northern Ireland Housing Executive *Guidance on Acceptable Behaviour Contracts*).

5.6 Some Housing Executive staff however told Inspectors that whilst the initial training was good it did not prepare staff properly, in that their level of evidence gathering and presentation would not be at the same level of the police and remains below that required by the courts. There was also a feeling amongst some staff that they were being expected to take on a police role and they were unwilling to do so especially in the light of the continuing reluctance of some

¹⁸ Northern Ireland Housing Executive (2007) *Statement of Policy and Procedures on Anti-Social Behaviour*.



communities to use the statutory justice agencies to resolve issues.

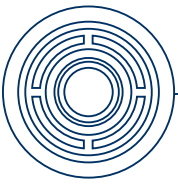
5.7 It is vital that there should be ongoing evaluation of the needs of staff in the various agencies in order to ensure consistency, identify issues and to implement further training/guidance as appropriate. There is limited evidence of this occurring to date. For example, in England and Wales in June 2000 – a year after the initial guidance on ASBOs was issued – a second set of guidance was drawn up and published jointly by the Home Office and the Local Government Association in consultation with other agencies¹⁹. This guidance followed on from the conclusions of an Action Group, which looked into best practice in the use of ASBOs. The second guidance document sets out best practice for drawing up local protocols and highlights areas of policy and practice which partnerships should consider. Inspectors were unclear as to whether there is any responsibility for this overall role in Northern Ireland across the three agencies. As a consequence any training in the different partnerships agencies does not appear to be shared or replicated. This means that organisations with larger resources are forging ahead of those with lesser resources in training and development. The most likely losers in this are the smaller councils who have neither resources nor key personnel to deliver training. This coupled with their lack of personnel to work on ASBOs/ABCs will make

them less likely to be full partners in planning and decision-making.

5.8 This information about the difficulties in relation to undertaking ASBO work is also demonstrated by the results of the agency survey. Respondents were asked to rate, in terms of easiness, the collation of evidence and submission of ASBO applications. 58% rated this as 'difficult' or 'very difficult'. One-quarter did not know. No respondents found the collation and submission of ASBO applications as 'easy'. Aspects of the process which were said to be difficult were administrative processes, seeking legal advice, collection of evidence from parties who do not wish to make a complaint/reluctant witnesses, inexperienced courts and lack of clarity/guidance on what should be included.

5.9 Some stakeholders also expressed concerns to Inspectors regarding the lack of training individuals in the agencies who had responsibility for ASBOs had received in relation to human and children's rights issues. They believed that although the PSNI, to a greater extent, and the Housing Executive, to a limited extent, had knowledge of human rights issues, the Councils were largely unaware of human rights issues and that none of the agencies had received training in children's rights issues. All PSNI Youth Diversion Officers receive training in children's rights and these officers make recommendations in cases that relate to children. In addition the PSNI Policy '*Policing with*

19 Campbell (2002) *A Review of Antisocial Behaviour Orders*, Research Study 236, Home Office: London.




Children and Young People' is available to all officers. The NIO does provide information and human rights on their website but no stakeholders or agency representatives made mention of this.

- 5.10 In light of the issues highlighted we recommend that **the tripartite agencies should ensure that a specified role in their respective organisation includes dealing with anti-social behaviour as a core function. The role will include liaison with all agencies involved in seeking to reduce anti-social behaviour. Each agency should develop and support this by ensuring:**
- **where the organisation does not have a role description that includes responsibility for dealing with anti-social behaviour, then a specific role description that outlines responsibilities for dealing with anti-social behaviour should be created;**
 - **appropriate training and development is provided where required;**
 - **regular attendance at anti-social behaviour fora;**
 - **full involvement in anti-social behaviour reduction work;**
 - **promotion internally and with the local community of the respective organisations commitment to reduce anti-social behaviour.**
- 5.11 The inconsistency and collation of monitoring data by several agencies, as explained elsewhere in this report, has implications for the ability of the agencies to undertake learning and

reflection in relation to ASBOs. This is particularly the case with a lack of comprehensive monitoring data regarding prohibitions, successful and unsuccessful applications made and breaches. In terms of prohibitions, Inspectors were told of occasions where some ASBO officers had given feedback to colleagues with regard to inappropriate prohibitions, such as prohibitions which described criminal activity (which should be addressed by prosecution rather than a civil order) or those which would be too general to be accepted by the Magistrate. One ASBO officer cited an area where some ASBOs had been refused in court and they believed this was due to the inexperience of the officers preparing the file.

- 5.12 Learning, from issues such as these, is important for the organisations as ASBO officers develop an understanding of how to draft prohibitions when the legislation is initially introduced. However this is currently occurring on an ad hoc basis in individual districts or between small groups of officers rather than having a central oversight. The NIO monitoring forms request information on prohibitions issued in each ASBO; however this monitoring has not been undertaken to date in all agencies. Inspectors were told that there is a danger of making the monitoring so onerous that those seeking ASBO applications would not provide information at all and Inspectors agree there is a fine balance to be struck.
- 5.13 In addition, only the Northern Ireland Court Service (NICtS) appears to collate information centrally on the



number of ASBO applications made in total, both those which are successful and unsuccessful. During the period from October 2006 to September 2007 the NICtS reports that in the adult courts, of the 27 ASBOs applied for, 23 were granted with four (14.8%) withdrawn or dismissed and in the youth courts, of 16 ASBOs applied for, 12 were granted and four (25%) were withdrawn or had no jurisdiction. Although it is not clear from the NICtS figures how many were dismissed versus withdrawn and therefore it is difficult to compare these figures directly comparable to the number of ASBOs refused by courts in England and Wales, comparing the two can provide a useful indication. The figures in Northern Ireland are higher than the figure of 4% for ASBOs refused in England and Wales between April 1999 and September 2001 as reported in the 2002 review for the Home Office²⁰. Inspectors were not made aware that this information was being used by the agencies to inform learning for example by monitoring the information to assess if the Courts are satisfied with the implementation and with the actual processes of application.

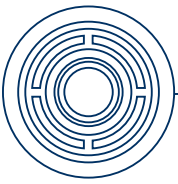
5.14 The central monitoring by PSNI CSB does not include the total number of ASBOs applied for; just those which are granted. Whilst this monitoring may be undertaken at a Council area/District level by local ASBO officers, there does not currently appear to be any central review or learning from those ASBO

applications which have been unsuccessful as to why this has occurred and how it can be avoided in the future.

5.15 Inspectors were also told that PSNI CSB potentially intended to run a second 'ASBO conference' to cover some of these issues and review the need for learning and further guidance. This was dependent on an analysis of need from the officers involved in ASBO work which was to take place at the beginning of 2008; six months after the initial conference. Additionally some Council representatives suggested that there was need for a Northern Ireland-wide conference to share best practice. The issues considered as difficult by agency respondents above could be used as a starting point for developing some form of follow on training. We recommend that **the tripartite agencies should develop a mechanism for individually and collaboratively reviewing work undertaken in relation to ASBOs to date and sharing this best practice at both a strategic and operational level.**

5.16 In addition some concerns were raised by agency representatives and stakeholders about the knowledge of legal professionals and members of the judiciary regarding ASBO legislation and associated legislation. The PPS were offered further training by the CPS but to date this has not been taken up. The Policy Section of the PPS produced and circulated an 'Evidence and Practice Note' which is a common mechanism for advising

20 Campbell (2002) *A Review of Antisocial Behaviour Orders*, Research Study 236, Home Office: London.



prosecutors of new legislation. The PPS commented that ASBOs form such a small proportion of their workload that further training was not considered necessary or practical.

- 5.17 The Judicial Studies Board confirmed that lay magistrates were provided with some training during their induction period because of the criminal issues involved in ASBOs on conviction when they may be sitting with a legally qualified magistrate. However, legally qualified magistrates were not provided with formal training but may have been able to seek information via current awareness briefings, as is usual with new or updated legislation where a need for information has been identified. Again stakeholders raised concerns in relation to lack of training for solicitors and magistrates in relation to human and children's rights issues. The Children's Law Centre and Include Youth had delivered a training workshop on children's rights to defence solicitors via the Law Society but had not been invited to replicate this for the PPS. They had also provided a briefing for lay magistrates during their induction but had not received feedback as to how useful this was.
- 5.18 The concerns raised with Inspectors included a lack of knowledge of the operation of ASBOs, for example at which point an ASBO on conviction could be issued and the appropriateness of prohibitions. PSNI officers expressed concerns to Inspectors that officers who take ASBOs to court know the legislation better than the prosecutors and

magistrates but are unable to provide advice to magistrates because of the necessary judicial independence. These issues cause frustration for PSNI officers who feel that they are not being supported by prosecutors. However Inspectors were also told of one Council area where the PSNI ASBO officer has excellent working relationships with both the prosecutor, who is usually responsible for ASBO applications in the area, and the Resident Magistrate.

- 5.19 Whilst there also does not appear to be any central collation of data regarding alternatives used (e.g. warning letters issued, ABCs in existence) within the PSNI, it is notable however that Inspectors were shown an 'ASBO Best Practice Guide' prepared by the PSNI CSB Sergeant. This guide provided information to Districts regarding innovations and successful activities to address anti-social behaviour in general; not just limited to ASBOs. This could be incorporated into whatever method for sharing best practice is adopted as suggested above.

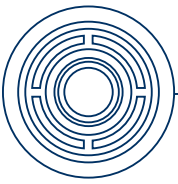
6.1 Between the introduction of the legislation and the end of December 2007 the PSNI data shows that a total of 65 ASBOs have been issued in Northern Ireland. Of these 59 (90.8%) were issued by the Court in respect of applications by the PSNI, two by the Housing Executive (3.1%) and four by local Councils (6.2%; one by Antrim Borough Council, one by Belfast City Council and two by Larne Borough Council). However individual collators of this information do not always appear to have consistent data. For example the NIO provided statistics to show 59 ASBOs had been issued by 28 November 2007, whereas the PSNI data shows 61. This may be due to delays in receiving the data but this should be monitored carefully. Similarly between October 2006 and September 2007 the Courts had recorded 35 ASBOs issued but the PSNI statistics indicate 27 during the same period.

6.2 Of the 65 ASBOs issued 13 (20.0%) are interim ASBOs, 20 (30.8%) ASBOs on application and 31 (47.7%) ASBOs on conviction. The type of one ASBO was not stated. This is reinforced by

comments by ASBO officers that ASBOs on conviction are easier to obtain. A recent *Police Review* article²¹ notes that research undertaken by the author suggests that one of the main reasons why the numbers of ASBOs issued in England and Wales is greater than in Scotland is that there has been a shift in emphasis in their use from those engaging in low level anti-social behaviour to persistent offenders who commit burglary, car crime and robbery. Alternatively the Scottish Government report²² showed that the majority of ASBO applications in Scotland focussed on addressing low level repeated anti-social behaviour. It is important however that in Northern Ireland the focus should remain on addressing this low-level anti-social behaviour and that the decision on which type of ASBO to seek should be based on the nature of the anti-social behaviour incidents and not just on the ease of application. However it is, of course, in line with the guidance to apply for an ASBO on conviction where the defendant is already being prosecuted for a criminal offence in order to reduce time and resources spent by all parties concerned.

21 Wain (2008) *Out of Order*, *Police Review*, 8 February 2008.

22 Scottish Government (2007) *Use of Antisocial Behaviour Orders in Scotland*, DTZ and Heriot Watt University.

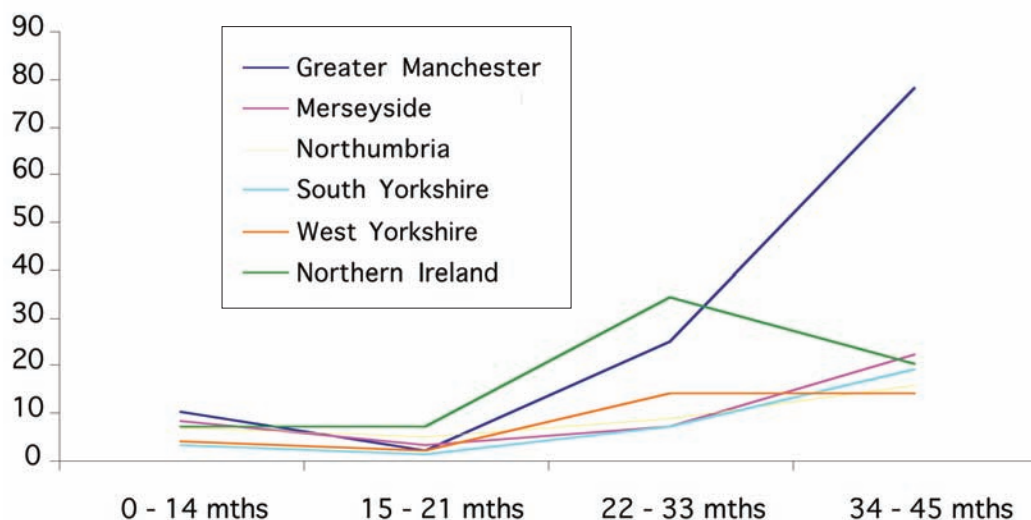


6.3 It is difficult to compare the number of ASBOs issued by Courts in Northern Ireland to those issued within the criminal justice system areas of HMIC MSFs to the PSNI as the initial monitoring periods undertaken by the Home Office do not follow a set pattern. However it is possible to undertake calculations of the number of ASBOs issued by the Court in respect of applications made by the PSNI versus the number issued in the MSF areas in the following time periods after the introduction of the legislation; 0 - 14 months, 15 - 21 months, 22 - 33 months, 34 - 45 months. This is demonstrated in Figure 1. It should be noted that the information for the PSNI for the final time period of 34 - 45 months only covers the period from May 2007 to January 2008 but will eventually also include February, March and April 2008.

As can be seen in Figure 1, despite commentary in the media and concerns raised by local politicians regarding a lack of uptake of ASBOs, slightly more ASBOs were issued in Northern Ireland up to the first 33 months since the legislation was introduced than the MSF areas. Currently however a similar number of ASBOs have been issued in Northern Ireland overall within the first 45 months as the MSF areas. This is of course subject to change depending on the number of ASBOs issued during the rest of the financial year.

6.4 As mentioned previously it is currently difficult to ascertain accurate information on the number of ASBOs and/or ABCs in Northern Ireland. The PSNI CSB data contains details of existing ASBOs but not of ASBO applications made. Therefore, for example, as well as being unclear

Figure 1: Comparison of number of ASBOs issued in Northern Ireland vs. ASBOs issued in MSF areas in England and Wales



Source: PSNI ASBO data and www.crimereduction.gov.uk

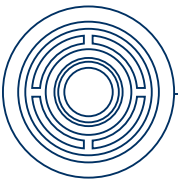
how many ASBOs have been applied for but refused by the RM or judge it is also unclear how many ASBOs were granted initially as interim and subsequently as full ASBOs.

- 6.5 Inspectors found staff within the districts of the agencies were unclear as to who has responsibility for collating and passing on local information to the NIO CSU or for what purpose this information is being used. The NIO CSU use this information for research and statistical purposes but agency staff appear unaware of this. Representatives from the tripartite agencies also appeared to be unclear about what information needs to be collected and collated and to whom this needs to be forwarded. Inspectors were therefore unclear as to the accuracy of the figures held within the criminal justice system. Even representatives from the agencies themselves indicate that they are not confident about data collection and accuracy. Monitoring was initially problematic in England and Wales with the review of ASBOs sparking a special data collection exercise being conducted in order to rectify under-counting and establish the true number of ASBOs granted²³. It may be necessary for a similar process to be undertaken in Northern Ireland should figures prove inaccurate but these issues should be addressed before the increasing number of ASBOs makes this more difficult.
- 6.6 Additionally it appears the process of 'ASBO counting' is different in

Northern Ireland than in England and Wales. In England and Wales statistics on interim ASBOs are not collated by the Home Office. In Northern Ireland the current monitoring by the PSNI appears to collate information on interim and on application/on conviction ASBOs together. This may lead to the result that comparisons between figures are not available or are inaccurate. Also in England and Wales each individual ASBO is classed as 'one ASBO'. This means, for example, that an individual who was subject to one ASBO initially and then subsequently a further ASBO would be counted as having two ASBOs. In Northern Ireland a situation is yet to occur where one individual has been issued with two on application/on conviction ASBOs but as the current counting method, particularly of the PSNI, appears to be based on number of individuals rather than number of ASBOs continuance with this method may lead to misinformation. Should this situation occur in future the counting method should reflect that of England and Wales to allow relevant comparisons to be made.

- 6.7 The case file review provided information on the nature of the anti-social behaviour which the ASBOs were used to stop, the frequency and times of the behaviour and the complainants in the ASBO applications. The most frequently recorded type of incident was 'other' (24 out of 31), then criminal damage/vandalism (19), assault/physical violence (18) and intimidation/harassment (17) all

23 Campbell (2002) *A Review of Antisocial Behaviour Orders*, Research Study 236, Home Office: London.



which were recorded in more than half the case files. Of those in the 'other' category the main two types of behaviour were theft/burglary (15) and possessing a weapon (6).

- 6.8 The number of types of incidents engaged in by the individuals ranged from one to eight incidents with an average of 4.6 incidents per individual. More than half the ASBO case files had recorded more than 16 incidents in support of the ASBO application. No ASBO files were based on just one incident which suggests that the agencies involved had determined that there was a pattern of anti-social behaviour before seeking an ASBO.
- 6.9 Over half of the incidents recorded in the case files occurred during the evenings both during the week and at weekends and almost a quarter of case files noted that incidents were happening at all times. Over half the case files recorded that the anti-social behaviour had been occurring for more than 12 months and over a quarter for more than six to 12 months. Only three case files recorded that the anti-social behaviour had been occurring for less than two weeks. This also indicates that the ASBOs which had been successfully obtained by the agencies were in respect of ongoing anti-social behaviour problems rather than one-off incidents.
- 6.10 Just over half of the case files had recorded anti-social behaviour incidents as occurring in residential areas near the perpetrator's home and in or near retail or other commercial property (16 out of 31). Over three-quarters of the ASBO

case files involved complaints from the police (24) and over half complaints from community members living in the residential area (16). In addition nearly half the case files contained complaints from a business person/retailer (14, 45.2%). Inspectors were not made aware of any work undertaken to assess the perceptions of the effectiveness of ASBOs of individuals who had been subject to the anti-social behaviour which led to the complaint. This would be beneficial in order to assess the value of ASBOs to the community.

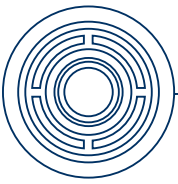
- 6.11 There is very limited data available on the numbers of breaches of ASBOs, their outcomes or alternate sentences or measures implemented in their place. The PSNI data suggests that 17 (26.2%) of ASBOs have been breached up to December 2007, ranging from one to 14 breaches. This would suggest approximately 42 breaches in total. The outcome of these breaches has been recorded as one or more of the following; additional/amended prohibitions (3), custodial sentence (4), community penalty (1), fine (1), suspended custodial sentence (1) and YCO (3) with one outcome pending. The NIO provided data in November 2007 that stated 11 ASBOs had been breached. This data illustrates the need for improved recording of breach data.
- 6.12 NICtS data regarding defendants disposed of in the period Oct 2006 to Dec 2007 that were charged with breach of ASBO, shows that 72 cases of breach of ASBO have been brought before the courts involving 108

charges of breach of ASBO. This of course does not include any breaches pre-October 2006 which suggests that the figure is likely to be much larger than that suggested by the PSNI figures. It should also be noted however that 16 of these cases were withdrawn and 10 dismissed which therefore can be concluded not to be substantiated breaches. Table 5 shows that the majority of these were dealt with by way of Youth Conference Order and then prison committal.

6.13 Anecdotal evidence would also suggest where imprisonment is being used for breach this is normally where other offences have also been committed. These contradicting sets of data do not help the flow of accurate information and thus it is impossible to collate information in any meaningful way to inform future planning and decision making. There was also a lack of information provided about the impact of the ASBO and breaches in the case files reviewed. Of the 31 files reviewed

Table 5: Types and numbers of orders made in response to Court appearance for breach of an ASBO

Type of order made	Number	%
Youth Conference Order	20	18.5%
Prison committal	18	16.7%
Withdrawn	16	14.8%
Dismissed	10	9.3%
Juvenile Justice Centre Order	9	8.3%
Monetary penalty	7	6.5%
Community Service Order	6	5.6%
Cracked trial (defendant dealt with)	5	4.6%
Legal aid deferred/reserved	3	2.8%
Probation Order	3	2.8%
Conditional discharge	2	1.9%
Default for every binding over order	2	1.9%
Suspended sentence - prison or YOC	2	1.9%
YOC committal	2	1.9%
Lesser/alternative charge substituted	1	0.9%
Disqualified from driving for set duration	1	0.9%
Vary/discharge anti-social behaviour order	1	0.9%
	108	



nine were noted as being breached within three months but the remaining 21 had no outcome noted (the final ASBO recipient moved house so the ASBO was no longer relevant).

6.14 50% of respondents to the agency survey and 64% of respondents to the stakeholder survey thought that it was 'very likely' or 'likely' that individuals subject to an ASBO would breach the prohibitions imposed on them. Reasons for the views on how likely a breach of ASBO provided included:


- *All ASBOs on conviction obtained by me thus far have been breached bar one;*
- *ASBO breached same day as granted.*
- *They have been breached but not as often as you would have expected;*
- *Stats provided to the NIO to date indicate that only nine persons out of 52 have been convicted of breaching their ASBO. However there may be some under-reporting.*

In addition, 44% of agency respondents and 55% of respondents to the stakeholder survey thought that it would be 'very likely' or 'likely' that an application for an ASBO against an individual(s) would lead to displacement of the anti-social behaviour to another area.

6.15 It would appear that there is not enough information available at this stage to measure the effectiveness of the ASBO scheme in terms of breaches. For example some interviewees saw a breach as an illustration that an ASBO has not worked. However other individuals told Inspectors that a breach should not be classed as a failure as it has

just illustrated that the person cannot address their anti-social behaviour and suggested that it then enables agencies to prevent further instances of anti-social behaviour. Inspectors recommend that **senior management in the tripartite agencies should reinforce with all staff the need for accurate and timely monitoring and reporting of information relating to breaches of ASBO and ensure that this data is centrally collated and used to assess effectiveness and opportunities for further learning.**

6.16 As noted earlier several of the PSNI divisions have a dedicated ASBO officer with responsibility for partnership work through the local forum, co-ordination of information and undertaking the preparation and processing of applications to the courts. Given that this responsibility is in the hands of dedicated officers it is not surprising that officers feel there is a lack of knowledge among operational response officers about the ASBO process. However this lack of awareness about the scheme is a source of some concern. Inspectors were told that officers appear to be unfamiliar with their powers and responsibilities in responding to and reporting of breaches. There have been reports of individuals receiving ASBOs who have been issued with prohibitions where the police are aware of the breaches and have taken no action. This raises the question as to whether officers are fully aware of the prohibitions or have knowledge of the appropriate action to take. If breaches are not responded to appropriately, public



confidence in ASBOs and indeed of the service may be undermined. Inspectors therefore recommend that **action should be taken by PSNI senior management to enhance the knowledge of PSNI officers in operational roles in relation to ASBOs in order to enable them to address breaches more effectively.**

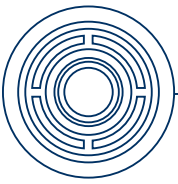
6.17 Delays are a source of frustration to both those involved in the ASBO process and to the community who wish to see anti-social behaviour in their area addressed. When asked how fast the process was of collating evidence, submitting the application to the court and having a decision made on whether to grant an ASBO, 80% of agency respondents thought that the process was 'fairly slow' or 'extremely slow'. 17% thought it was 'neither fast nor slow', while only 3% thought the process was 'fairly fast'. No respondents thought it 'very fast'. Reasons given for the relative slowness of the process included issues relating to the gathering of evidence, court process and lack of familiarity of those involved in the process.

6.18 In terms of the length of time taken to prepare the evidence for an ASBO application, respondents said that this would take anything from three to four working days (over a number of weeks) to three to four months. The time taken to submit the evidence and the time spent in the court process was reported to take anything between one day and 12 months. The time spent waiting for a

decision to be made by the court was reported to take anything from one day to several months. Inspectors were also informed that there have been delays for PSNI officers when processing ASBOs on application due to the legal checks undertaken internally by the organisation. Arrangements that are underway, to appoint Inspectors as District Prosecutors, who will be responsible for applying for ASBOs on application, should address this. PSNI representatives also raised concerns regarding delays with ASBOs on conviction. Inspectors were informed that some ASBOs are being applied for by the PPS and subsequently issued by the Court when the individual is sentenced, rather than at the point of conviction. This means there is a further delay in serving the ASBO and so the anti-social behaviour can continue between conviction and sentence. Delays such as these should be avoided where possible to avoid further frustrations to both officers and the public.

6.19 An additional rationale for avoiding issuing ASBOs is that they are a costly tool with the Chair of one Community Safety Partnership stating in 2005²⁴ that "*the expense may be too much for any of the public bodies involved to bear*". Inspectors were not provided with any indication that actual costs of an ASBO had been calculated to date. One Council representative estimated the cost at between £10,000 and £12,000. Housing Executive on the other hand estimate a cost of £2,500 (albeit

24 Belfast Telegraph, *Cost doubt on crime move*, 07 February 2005.



based on the two ASBOs which they have taken) although this is only estimated based on costs of hours spent by the Housing Executive's legal officers on actual case work and does not represent the total financial outlay in terms of evidence gathering, witness involvement etc. This compares favourably to the initial Home Office²⁵ identified average cost of £5,320 (£4,800 if the costs of breaches and appeals were excluded). However it is more similar to the average cost identified in a subsequent Home Office report²⁶ of £2,500 (excluding breach and appeal costs). This was felt to be lower than the initial costs due to the use of ASBOs on conviction, which were suggested to be substantially cheaper to obtain, and due to increased cost efficient procedures developed over time. The PSNI pointed out that any costing exercise would have to be undertaken as a collaborative piece of work with the involvement of all three agencies. The Home Office research on costs included the costs of work involved in preparing the case, attending the related problem-solving meetings and dealing with appeals and breaches. This research also noted a great difference in the costs incurred in each case, ranging from £380 in an area which let their partner agency do most of the ground work to £18,000 in an area which was highly involved in the whole process. The experience of Greater Manchester was noted as the most costly so far in which the case was taken to the Crown Court, the High Court and then the Court of

Appeal. Prior to this, a whole year of evidence gathering and multi-agency working had been conducted. Their overall costs have been estimated at £187,700. This, whilst an extreme example, demonstrates the need to tread carefully when deciding on an ASBO as the best course of action and not to see it as a 'cheap option'. There may be a need in future for the agencies in Northern Ireland to attempt to cost the ASBO process in order that its effectiveness can be compared to other approaches.

- 6.20 Inspectors were told by all agencies that alternatives to ASBOs are critical in reducing anti-social behaviour and ensure that it is addressed in a staged manner, with ASBOs often used as a last resort. The Home Office Research Study stated that *"Problem-solving often encourages an holistic approach to the problem behaviour, with ASBOs being used alongside other measures and interventions. Interventions included mediation, diversion activities, engaging key agencies and multi-agency co-ordination and co-operation. It can also involve changes to the local environment to deter anti-social behaviour and passing local by-laws such as prohibiting drinking alcohol in public places."*
- 6.21 When asked how much use has been made of alternatives to ASBOs (such as warning letters, Acceptable Behaviour Contracts (ABCs), restorative cautioning and informed warnings) in order to address anti-social behaviour, 71% of respondents to the agency survey felt that they

25 Campbell (2002) *A Review of Antisocial Behaviour Orders*, Research Study 236, Home Office: London.

26 Lemetti & Parkinson (2005) *The Cost of Anti-Social Behaviour Orders*, Home Office Summary Report: London.

had been used 'about the right amount'. In contrast 45% of respondents to the stakeholder survey felt that they had been used 'about the right amount', while 27% felt that they had not been used enough. This much lower proportion may reflect the lack of publicising undertaken by agencies into use of these alternatives.

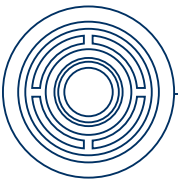
6.22 Table 6 shows the views of respondents to the agency and stakeholder surveys in relation to the alternative options available for dealing with anti-social behaviour and to ASBOs. The figures indicate a lack of knowledge regarding restorative cautioning and informed warnings by some respondents, which may be

because these options are primarily used by the police. Warning letters and ABCs were perceived to be 'very effective' or 'effective' by over half of the respondents to both the agency survey and the stakeholder survey.

6.23 The results show that a smaller number of agency respondents (39%) and stakeholder respondents (18%) indicated that ASBOs were 'very effective' or 'effective' than any other option (apart from Restorative Cautioning) and a larger number indicated that ASBOs were 'ineffective' or 'very ineffective' (25% of agency respondents and 27% of stakeholder respondents) than any other option. As not all agency representatives have had experience

Table 6: Agency and Stakeholder respondents' views on effectiveness of alternative measures and ASBOs

		Very effective/ effective	Neither effective nor ineffective	Ineffective/ Very ineffective	Don't know
Warning letters	Agencies	66%	15%	15%	5%
	Stakeholders	55%	18%	9%	18%
ABCs	Agencies	59%	12%	12%	17%
	Stakeholders	73%	0%	0%	27%
Restorative Cautioning	Agencies	31%	18%	10%	41%
	Stakeholders	36%	0%	0%	64%
Informed Warning	Agencies	43%	13%	15%	30%
	Stakeholders	27%	18%	0%	55%
ASBOs	Agencies	39%	22%	25%	17%
	Stakeholders	18%	36%	27%	18%



of applying for ASBOs the responses to that survey may be based on perceptions rather than actual experience.

6.24 Some comments made by respondents on the subject of the effectiveness of alternatives included:

- *“ABC’s allow for use of constructive diversionary schemes to tackle Anti-Social Behaviour.”*
- *“In partnership with Housing Executive warning letters have been sent out to tenants re young people from the household causing problems - these proved very useful.”*
- *“NIACRO provides services to support people to meet the requirements of ABCs and these initiatives should be given opportunity for evaluation. Other approaches as described above are positive and proactive and must be part of a continuum in addressing anti-social behaviour.”*

Alternatively some comments were made in relation to the ineffectiveness of these measures including:

- *“ASB Warning letters are ignored or used to enhance street cred.”*
- *“Not enough information, people are not aware of these alternatives, lack of usage in council area, therefore lack of profile.”*

Comments made in relation to ASBOs by agency respondents included:

- *“They are a last resort and where we have used them (once) it proved effective. However, in general, early intervention by this office by way of personal visits are the most effective ASB tool that we use.”*

Comments made in relation to ASBOs by stakeholder respondents included:

- *“We have direct involvement in cases where people have had ASBOs imposed in the past and where the circumstances of the anti-social behaviour continue unaddressed.”*
- *“In our experience, they have lacked any kind of enforcement..”*
- *“The police in particular have been proactive in enforcing breaches.”*

6.25 Findings such as these and a lack of knowledge from stakeholders regarding alternatives demonstrate that forum members should consider how best to accumulate and present the success of other forms of intervention. This will not only promote alternatives but also reassure individuals, communities and the wider public that their concerns are being addressed in a proactive effective manner. This could be achieved via community engagement processes as recommended earlier in this report.

6.26 Respondents to the agency survey were asked if they had ever been involved in a case of anti-social behaviour where they could have applied for an ASBO but were unwilling or reluctant to do so. The majority of respondents (65%) had never been in this situation but 23% said that they had been involved in such a situation. The following factors were provided as having affected respondents’ decision to not make one or more ASBO applications:



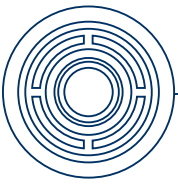
Believe other agency/agencies are better placed to make ASBO applications	66%
Insufficient evidence to progress specific application	54%
Reluctance of community/victim/witnesses to provide evidence	54%
Use of alternative methods of dealing with ASB	47%
Don't believe ASBOs are appropriate method of dealing with ASB	23%
Insufficient guidance/training provided initially	14%
Reluctance of other agencies to provide evidence/support	6%
Insufficient staff/resources	6%
Refusal of courts to serve an ASBO applied for previously	3%

6.27 These findings highlight the need for appropriate planning within forums as to the appropriate agency to apply for the ASBO, and reinforces how the use of alternative methods as negating the need to apply for an ASBO. The findings in relation to not believing ASBOs are an appropriate method of dealing with anti-social behaviour, insufficient guidance/training, reluctance of other agencies to provide evidence/support and insufficient staff/resources are all barriers to the ASBO process which, if not addressed, are unlikely to be overcome.

6.28 The Housing Executive have made a strong commitment to seek alternatives to ASBOs. A recent Housing Executive publication reports that “Over 70% of reported ASB ceases following initial interview and the issuing of a warning letter from the district office”²⁷. In the Housing Executive ASBO Best Practice Guidelines it is stated that the Housing Executive use ASBOs where injunction proceedings are not considered appropriate or unlikely to be effective. In addition they have a duty to try and maintain tenancies and so will promote proactive support and agreements to reach solutions. A further consideration is that if anti-social

27 Northern Ireland Housing Executive (2008) *Building Safer Communities: Community Safety Strategy 2008-2001 (draft)*, Housing Executive.





behaviour is not addressed in a timely manner, victims of that behaviour may request a transfer out of the estate or decide to terminate their tenancies. Such responses to un-actioned anti-social behaviour can carry both financial and social consequences for the Housing Executive. The Housing Executive therefore makes use of warning letters, ABCs and interviews with perpetrators, as well as mediation and their statutory powers, such as repossession and injunction.

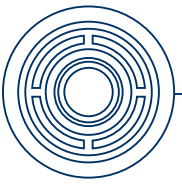
6.29 Council representatives also indicated to Inspectors that they recognise the value of ABCs and other interventions as more appropriate than ASBOs. In addition, councils also recognise that they have other powers which will often be more appropriate for dealing with anti-social behaviour, such as noise and environmental legislation.

6.30 It should also be noted that the actual delivery of ASBOs is being undertaken by all agencies through first class post. This is acceptable practice as part of the guidelines and in law and therefore the onus is on individuals to prove that they did not receive the Order in the event of them claiming they were unaware of the prohibitions. However, it is a concern that ASBOs may have been taken out without the person being aware of the result and so they may inadvertently breach conditions. Inspectors would therefore encourage ASBO officers, where possible to physically hand over the copy of the Order to the individual and, particularly in the case of young

people, explain its contents, or, if this is not possible, to send the Order via recorded delivery in order that receipt of the ASBO can be easily proved in the event of a breach. The Housing Executive operational procedure is to have the perpetrator wait until the court produces the final draft of the ASBO so that when they leave the court, they know exactly what prohibitions apply.

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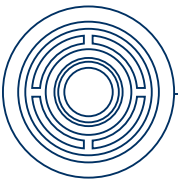
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Section



Appendices



Appendix 1: Methodology

This Inspection commenced in August 2007 and consisted of the following main elements:

- Research and data collection;
- Agency and Stakeholder consultation surveys;
- Fieldwork; and
- Report refinement.

Research and data collection


The preparation stage involved a review of all available documentation and statistics on ASBOs and more general information on anti-social behaviour. This included:

- Legislative documents and guidance regarding ASBOs;
- Documents submitted by organisations in respect of the consultation processes for the introduction and amendments to ASBO legislation;
- Guidance, policies and procedures on ASBOs and alternatives to ASBOs issued by the NIO Community Safety Unit and the tri-partite agencies;
- Information sharing protocols for the tri-partite agencies;
- Documentation regarding the Equality Commission's investigation into ASBOs;
- Business/corporate plans/strategies for the agencies;
- Research studies on ASBOs published in England and Wales and Scotland;
- Media and press articles regarding ASBO legislation and incidents;
- Statistical information on ASBOs issued in England and Wales;
- Statistical information on anti-social behaviour incidents; and
- Statistical information on ASBOs taken to court, issued and breached.

In addition, a selection of 31 ASBO case files from across Northern Ireland were examined.

Agency and Stakeholder consultation surveys

Prior to the commencement of this inspection two on-line surveys were undertaken, one for agencies representatives and one for stakeholders to give the large numbers of individuals involved or interested in this inspection an opportunity to contribute. Details regarding the contributors to this survey can be found in Appendix 2.



The following individuals or organisations were invited to complete the relevant survey regarding their experiences of ASBOs:

- PSNI ASBO officers/nominated representatives in each Council area;
- Housing Executive District Managers in each housing area;
- Council ASBO contacts;
- DPP Managers in each Council area;
- CSP Managers in each Council area;
- Stakeholder organisations (see list below) plus;
- Children in Northern Ireland;
- Community Relations Council;
- Committee on the Administration of Justice;
- Extern;
- Northern Ireland Human Rights Commission;
- Justice spokesperson for each political party;
- Northern Ireland Commissioner for Children and Young People;
- Queen's University Belfast;
- University of Ulster; and
- Victim Support Northern Ireland.

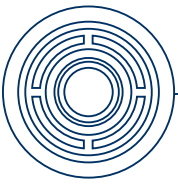
Analysis of this data was undertaken by DTZ.

Fieldwork

Interviews took place during November 2007. Inspectors conducted interviews with, and obtained written submissions from, a wide range of stakeholders and representatives from the three agencies across Northern Ireland. Many staff involved in the operational workings of the anti-social behaviour forums and ASBO applications were interviewed and Inspectors also spoke with managers from the Housing Executive and PSNI. Two anti-social behaviour forums were attended with permission of the agencies and Inspectors were impressed at the professional and efficient manner in which these were run.

The following individuals or organisations were interviewed about their experiences of ASBOs:

- PSNI (at strategic level x 3, at operational level x 14);
- Housing Executive (at strategic level x 1, at operational level x 14);
- Local Councils representatives at operational level from Antrim Borough Council, Ards Borough Council, Ballymena Borough Council, Castlereagh Borough Council, Coleraine Borough Council, Cookstown District Council, Fermanagh District Council, Magherafelt District Council, Newtownabbey Borough Council, Omagh District Council (all x 1), Larne Borough Council (x 2), Belfast City Council (x 3);
- Ballymena DPP;
- Banbridge DPP & CSP;
- Belfast DPP;
- Larne CSP;



- Moyle DPP;
- Newtownabbey DPP & CSP;
- Children's Law Centre;
- Community Restorative Justice Ireland;
- Equality Commission for Northern Ireland;
- Housing Rights Service;
- Include Youth;
- Northern Ireland Alternatives;
- NICtS;
- NIACRO;
- NIO CSU;
- PBNI;
- PPS;
- Resident Magistrates (x3);
- Office of Social Services; and
- YJA.

Inspectors also spoke to three individuals who were subject to an ASBO, a solicitor who represented a young person with an ASBO and a victim of anti-social behaviour who had provided evidence in support of ASBOs.

Report refinement

Draft reports were shared with the PSNI, Housing Executive and Councils for factual accuracy checking prior to sharing the report with interested organisations.



Appendix 2: Agency and Stakeholder consultation surveys and Case File Review

Agency Survey

The survey respondents are described in relation to the total number of respondents. Subsequent sections show percentages in relation to those who answered the question. Where percentages do not add to 100% exactly this is due to rounding up of numbers.

The agency survey was sent to 66²⁸ individuals from local Councils, the Housing Executive and the PSNI across all areas of Northern Ireland. Of these, 44 responded (a response rate of 67%). Respondents came from a wide range of areas in Northern Ireland; these have been grouped by area in the table below.

Table A2.1: Council Area of respondents to Agency Survey

	Number	%
Greater Belfast	14	32%
NE Antrim	5	11%
North	4	9%
North West	2	5%
South	2	5%
South East	7	16%
South West	1	2%
West	6	14%
No response	3	7%

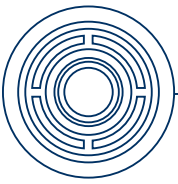
Survey respondents were from a variety of agencies as shown below.

Table A2.2: Organisation of respondents to Agency Survey

	Number	%
Council	11	25%
Housing Executive	20	45%
PSNI	10	23%
No response	3	7%

Seven of the Council respondents (16% of total respondents) stated that they worked in Environmental Health; respondents ranged from the Director of Environmental Health to Environmental Health Officers. Respondents who did not state their job title had responsibilities including investigating ASB and representing the Council on the ASB Liaison Group/Forum.

²⁸ This was the total number once delivery failures were taken into account.



Respondents from the Housing Executive were predominately District/Assistant District Managers (19 respondents accounting for 43% of total respondents). The majority did not provide a brief description of their role, those who did included: ASB co-ordination, investigating all ASB complaints, responsibility for ASB, Community Safety and Policy.

PSNI respondents were neighbourhood police officers, community safety officers, ASBO co-ordinators, community safety officers and sector Inspectors.

Stakeholder Survey

The stakeholder survey was sent by email to 49²⁹ individuals from stakeholder organisations such as Community Safety Partnerships and District Policing Partnerships across all areas of Northern Ireland. An invitation to take part in the survey was also sent by letter to 28 stakeholders. In total 17 (22%) responded to the survey. Two stakeholders also provided written submissions and one stated that they had no comment to make further than those which they made at the time of the consultation regarding the legislation. The 17 responses to the survey have been analysed together.

Respondents came from a wide range of areas in Northern Ireland; these have been grouped by area in the table below.

Table A2.3: Council Area of respondents to Stakeholder Survey

	Number	%
Greater Belfast	3	18%
NE Antrim	2	12%
North	2	12%
North West	0	0%
South	1	6%
South East	1	6%
South West	2	12%
West	2	12%
National	1	6%
No response	3	18%

²⁹ This was the total number once delivery failures were taken into account.

Survey respondents were from a variety of organisations as shown below.

Table A2.4: Organisation of respondents to Stakeholder Survey

	Number	%
Community Safety Partnerships	3	18%
District Policing Partnerships	5	30%
Councils	4	24%
Other	3	18%
No response	2	12%

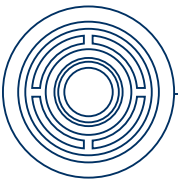
The ‘other’ respondents were NIACRO, Housing Rights Service and the Democratic Unionist Party.

It should be noted that, whilst these surveys provide an indication of the views of agency representatives and stakeholders, the response rates for both surveys are not particularly high in respect of the total populations and therefore these results should be treated with caution. The surveys do however provide a useful foundation on which to consider the views of those interviewed during the fieldwork. Selected extracts are included within this report in relation to specific findings. Further information on the surveys is available upon request.

Case File Review

A review was undertaken of 31 case files from a range of agencies and areas. The files were reviewed at the CJI offices using a standardised template and specific information was collated in relation to details of perpetrators, types of anti-social behaviour, contact with agencies prior to an ASBO application, prohibitions of ASBOs, breaches and subsequent action.

The majority of the ASBOs files were held by the PSNI (28 out of 31) with two files from a local Council and one from the Housing Executive. The age of the individuals against whom the ASBOs were issued ranged from 12 to 64 years, with five of these who were 17 years old. 27 of the individuals were male and five were female. Just over half of the individuals were living with parents (18).



There were a range of underlying problems experienced by these individuals as shown in the table below.

Table A2.5: Underlying problems recorded as experienced by ASBO recipients

	Number
Alcohol	15
Drugs	12
Learning difficulties	2
Mental health issues	2
School exclusion/absence	4
Other	5
None/Not known	10

Those in the 'other' category included unemployment, having a parent with mental health issues and being in ongoing contact with social services.



Appendix 3: Section 75 Data

The following tables report the data collated by the PSNI Community Safety Branch on the 65 ASBOs issued up to 31 December 2007 in relation to the Section 75 categories.

Table A3.1 shows that the majority of ASBOs have been issued against males.

Table A3.1: Sex of ASBO recipients

	Number	%
Female	8	12.3%
Male	57	87.7%

Table A3.2 shows that a slightly higher number of ASBOs have been issued against those from a Catholic background than a Protestant background; however the religious background of over a quarter of ASBO recipients (29.2%) was not known.

Table A3.2: Religious background of ASBO recipients

	Number	%
Catholic	25	38.5%
Protestant	21	32.3%
Not known	19	29.2%

Table A3.3 shows that the majority of ASBOs were issued against those from a 'White' background with only two ASBOs being issued to individuals from a non-White ethnic background.

Table A3.3: Ethnic background of ASBO recipients

	Number	%
Irish Traveller	2	3.1%
White	63	96.9%

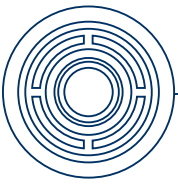


Table A3.4 shows that the majority of ASBO recipients were 'single'.

Table A3.4: Marital status of ASBO recipients

	Number	%
Married	4	6.2%
Separated	1	1.5%
Single	55	84.6%
Not known	5	7.7%

Table A3.5 shows that the majority of ASBO recipients did not have any dependents, although again this information was not known for almost a quarter of individuals. There is no information available, apart from for two individuals how many dependents these individuals had.

Table A3.5: Dependents status of ASBO recipients

	Number	%
Do not have dependents	44	67.7%
Have dependents	4	6.2%
Dependents status not known	17	26.2%

As shown in Table A3.6 below, the majority of ASBO recipients did not have a disability, although again this information was not known for a fifth (20.0%) of individuals. Of the five individuals who were recorded as having a disability, one of these were recorded as having a form of mental disability, one a mental and physical disability, one a history of depression and two as having alcoholism.

Table A3.6: Disability status ASBO recipients

	Number	%
Not recorded as having a disability	47	72.3%
Recorded as having a disability	5	7.7%
Not known	13	20.0%

Table A3.7 shows that over half the individuals subject to an ASBO were heterosexual, however the sexual orientation of the remaining individuals was not known.

Table A3.7: Sexual orientation of ASBO recipients

	Number	%
Heterosexual	38	58.5%
Not known	27	41.5%

The minimum age for an individual at the time they were issued with an ASBO was 12 years and the maximum was 65 years, with the average age being 22.7 years. A slightly greater number of ASBO recipients were aged over 18 years than under 18 years as can be seen in Table A3.8.

Table A3.8: Age of ASBO recipients (under 18 vs over 18)

	Number	%
Under 18 years	30	46.2%
Over 18 years	34	52.3%
Not known	1	1.5%

The age ranges of the ASBO recipients can be further broken down as can be seen in Table A3.9, which shows the age ranges. A greater number of ASBO recipients came under the 15 - 17 years category than any other.

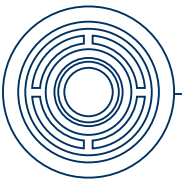


Table A3.9: Age of ASBO recipients

Age category	Number	%
12 - 14 years	6	9.2%
15 - 17 years	24	36.9%
18 - 20 years	18	27.7%
21 - 23 years	2	3.1%
24 - 26 years	1	1.5%
27 - 29 years	1	1.5%
30 - 32 years	2	3.1%
33 - 35 years	0	0.0%
36 - 38 years	0	0.0%
39 - 41 years	2	3.1%
42 - 44 years	3	4.6%
45 - 47 years	1	1.5%
48 - 51 years	2	3.1%
52 - 54 years	0	0.0%
55 - 57 years	0	0.0%
58 - 60 years	0	0.0%
61 - 63 years	0	0.0%
64 - 66 years	2	3.1%
Not known	1	1.5%

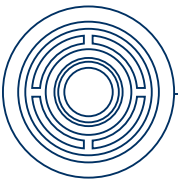
Appendix 4: Data on anti-social behaviour incidents from Case File Review

The following tables provide information on the anti-social behaviour incidents recorded in the case files which were reviewed during the fieldwork.

Out of the 31 case files reviewed, Table A4.1 indicates the types of anti-social behaviour displayed by the individual. The most frequently recorded type of incident was 'other' (24), then criminal damage/vandalism (19), assault/physical violence (18) and intimidation/harassment (17) all which were recorded in more than half the case files. Of those in the 'other' category the main two types of behaviour were theft/burglary (15) and possessing a weapon (6). The other types were abduction, rioting, threats, sexual offences, sleeping rough, drinking in a public place, breach of bail, illegal encampment, urinating in the street, handling stolen goods, arson, traffic nuisance and self harm. The number of types of incidents engaged in by the individuals ranged from one to eight incidents with an average of 4.6 incidents per individual.

Table A4.1: Types of Anti-Social Behaviour

	Number
Abandoned vehicles	2
Alcohol misuse/disorderly behaviour under influence of drink	13
Assault/physical violence	18
Criminal damage/vandalism	19
Drugs/substance misuse	9
Hoax calls	3
Intimidation/harassment	17
Neighbour nuisance	7
Noise	7
Rowdy behaviour (inc offensive language) when sober	12
Street begging	0
Vehicle nuisance	11
Other	24



As can be seen in Table A4.2 over half of the incidents recorded in the 31 case files occurred during the evenings both during the week and at weekends. Almost a quarter of case files noted that incidents were happening at all times.

Table A4.2: Times of day anti-social behaviour occurrences

	Number	%
Weekdays during school/working hours	14	45.2%
Weekdays during evening/overnight	18	58.1%
Weekend during daytime	10	32.3%
Weekend during evenings/overnight	17	54.8%
All times	7	22.6%

Table A4.3 below shows that more than half the ASBO case files had recorded more than 16 incidents in support of the ASBO application. No ASBO files were based on just one incident.

Table A4.3: Number of incidents recorded

	Number
One	0
Two - five	5
Six - ten	6
Eleven - fifteen	2
Sixteen or more	18

As shown in Table A4.4 over half the case files recorded that the anti-social behaviour had been occurring for more than 12 months and over a quarter for more than six to 12 months. Only three case files recorded that the anti-social behaviour had been occurring for less than two weeks.



Table A4.4: Length of time anti-social behaviour occurring

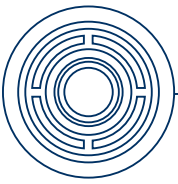
	Number	%
Less than two weeks	2	6%
Two weeks - less than one month	1	3.2%
One - less than three months	2	6.5%
Three - less than six months	2	6.5%
Six - less than 12 months	6	19.4%
12 months or more	18	58.1%

Just over half of the case files had recorded anti-social behaviour incidents as occurring in residential areas near the perpetrator's home and in or near retail or other commercial property (16). The incidents that had occurred in 'other' locations included by telephone, at a leisure centre, at a social work centre, at a children's home, at a residential home and at a church.

Table A4.5: Location of anti-social behaviour

	Number
In residential areas near perpetrator's home	16
In other residential areas	12
In/near educational facilities	2
In/near retail/other commercial property	16
In/near public areas	6
Other	6





As shown in Table A4.6 below over three-quarters of the ASBO case files involved complaints from the police (24) and over half complaints from community members living in the residential area (16). In addition nearly half the case files contained complaints from a business person/retailer (14). The one case file which recorded another type of complainant contained a community impact assessment.

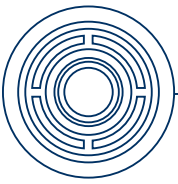
Table A4.6: Complainants about the anti-social behaviour

	Number	%
Community members living in residential area	16	51.6%
Community/youth/social worker	3	9.7%
Family members of perpetrator	2	6.5%
Education workers	2	6.5%
Business person/retailer	14	45.2%
Police	24	77.4%
Housing Executive	4	12.9%
Council workers	3	9.7%
Other public sector workers	3	9.7%
Other	1	3.2%

Section



Response to recommendations



A: Housing Executive Action Plan

- 1. Anti-social behaviour forums should review their community engagement processes to maintain and develop local communication with the wider public.**

The Housing Executive's Community Safety Strategy has identified the development of a Media Strategy in 2008-09 which will include community engagement and work of ASB Forums, dissemination of performance data to the general public and the publication to the media of outcomes of individual legal actions.

- 2. The remaining information sharing protocols should be signed between the PSNI, Housing Executive and local Councils as a matter of urgency and local forums should be set up between the three agencies and held on a regular basis to discuss issues of anti-social behaviour and how these can be addressed.**

One of our community safety objectives for 2008-09 is to have all protocols signed and ASB Forums in place by October 2008.

- 3. A protocol should be developed between the tripartite agencies and the PBNI and YJA to put methods in place to ensure that prohibitions in an ASBO do not contradict other conditions on an individual which may be taken before, or have already been taken before, a court.**


One of our community safety objectives for 2008-09 is to open discussions with representatives of PBNI with a view to incorporating them as a fifth signatory to the information sharing protocol, it is at this stage such an amendment could be made to the existing protocol which would meet this objective. Such a change will require the agreement of all five agencies.

- 4. Anti-social behaviour forums should seek to engage with their local partners; YJA, PBNI, Social Services Trusts and Education and Library Boards, in order to develop appropriate methods of tackling anti-social behaviour.**

The Housing Executive fully endorses this recommendation and will seek the support of the other signatories to the protocol to ensure that this recommendation is met. Our response to Recommendation 3 addresses part of this recommendation.

- 5. Research should be undertaken by the NIO CSU into the feasibility and value of setting up of a system of multi-agency panels to consider alternative action and support measures that would be provided alongside or instead of any ASBO issued against a young person.**

The Housing Executive would support this recommendation and will work with the CSU on delivery.

- 
- 6. Senior management in all agencies should reinforce with all staff the need for accurate and timely recording and monitoring of Section 75 information relating to ASBOs and that quality assurance mechanisms should be developed to ensure the accuracy of this data.**

During 2008-09 the Housing Executive will continue to roll out its programme of competency-based community safety training, part of which includes reinforcing the importance of gathering Section 75 data on all cases of ASB.

- 7. The tripartite agencies should ensure that a specified role in their respective organisation includes dealing with anti-social behaviour as a core function. The role will include liaison with all agencies involved in seeking to reduce anti-social behaviour. Each agency should develop and support this by ensuring:**
- **where the organisation does not have a role description that includes responsibility for dealing with anti-social behaviour, then a specific role description that outlines responsibilities for dealing with anti-social behaviour should be created;**
 - **appropriate training and development is provided where required;**
 - **regular attendance at anti-social behaviour fora;**
 - **full involvement in anti-social behaviour reduction work; and**
 - **promotion internally and with the local community of the respective organisations commitment to reduce anti-social behaviour.**

This recommendation has already been met within the Housing Executive who already have in post five Area Community Safety Officers whose job descriptions incorporate the duties set out in this recommendation.

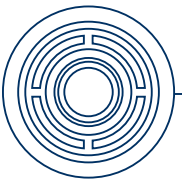
- 8. The tripartite agencies should develop a mechanism for individually and collaboratively reviewing work undertaken in relation to ASBOs to date and sharing this best practice at both a strategic and operational level.**

At a single agency level, the Housing Executive utilises its Community Safety Team for the collation of ASBO data and for the dissemination of best practice to its 35 district offices. An initiative is currently underway whereby a quarterly newsheet will be produced and circulated to all offices outlining best practice and recent developments in tackling ASB.

At a wider, strategic level, the Housing Executive will, in 2008-09, as part of the development of its Media Strategy, (see Recommendation 1) consider how best this recommendation can be developed and delivered via the 26 ASB Forums. Part of this process will involve consultation and agreement with all partner agencies.


- 9. Senior management in the tripartite agencies should reinforce with all staff the need for accurate and timely monitoring and reporting of information relating to breaches of ASBO and ensure that this data is centrally collated and used to assess effectiveness and opportunities for further learning.**

See Recommendation 6 - the Housing Executive will meet this recommendation through its Community Safety Team liaising with the Community Safety Unit of NIO in the provision and update of ASBO data.









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