

The terms of each order should be tailored to the circumstances of the individual case.

Tackling prostitution and drug-related anti-social behaviour at Kings Cross

Issue

Kings Cross was one of the most infamous drug and vice hotspots in the country. For years the authorities had struggled to improve the area.

Approach

The anti-social behaviour partners meet to discuss individual cases and offer appropriate help, including housing and rehabilitation services. If the perpetrators of the anti-social behaviour fail either to engage or to change their behaviour, acceptable behaviour agreements (ABAs) are often used to bring to the offenders' attention the impact of their behaviour on the community.

Outcomes

This worked very well with only 4 out of 32 ABAs progressing to ASBO applications. But where the ASBO was deemed necessary by the partners, Camden police officers put together bundles of evidence, with Camden Council's legal team making the ASBO application. Impact statements were taken from local community activists and councillors to prove the need for the orders. Since then, having issued 45 ASBOs with prohibitions within the area, Kings Cross is completely unrecognisable from its previous image. The partners have also been successful in working with perpetrators to facilitate a significant sustainable change in behaviour. One crack cocaine addict recently wrote to the local paper apologising to the people of Kings Cross for his behaviour. Another went on to be a drugs worker in Brixton while a third is now working in the Home Counties and has had her ASBO discharged with the consent of the authorities.

Contact

Ian Walker

Email: ian.walker@camden.gov.uk

Legal definition of anti-social behaviour for the purpose of obtaining an order

Under section 1 of the Crime and Disorder Act 1998, the agency applying for an ASBO must show that:

- the defendant behaved in an anti-social manner; and
- an order is necessary for the protection of people from further anti-social behaviour by the defendant.

This is sometimes referred to as the 'two-stage test'.

Section 1(1) of the Act describes acting in an 'anti-social manner' as acting in 'a manner which causes or is likely to cause harassment, alarm or distress to one or more persons not of the same household' as the perpetrator. The wording is intentionally wide-ranging to allow for the orders to be used in a variety of circumstances.

The expression 'likely to cause' has the effect that someone other than a victim of the antisocial behaviour can give evidence of the likelihood of its occurring. This is intended specifically to enable the use of professionals as witnesses where those targeted by the behaviour feel unable to come forward, for example for fear of reprisals or intimidation.

Standard of proof

In the case of *McCann (R v Crown Court at Manchester ex parte McCann (FC) and Others (FC))*, the House of Lords, while confirming that ASBOs were civil orders, set out the law on the standard of proof as follows:

'they [magistrates] must in all cases under section 1 apply the criminal standard... it will be sufficient for the magistrates, when applying section 1(1)(a) to be sure that the defendant has acted in an anti-social manner, that is to say in a manner which caused or was likely to cause harassment, alarm, or distress to one or more persons not of the same household as himself: (Lord Steyn, paragraph 37)

This means that the criminal standard of proof applies to acts of anti-social behaviour alleged against the defendant,

However, Lord Steyn went on to explain:

'The inquiry under section 1(1)(b), namely that such an order is necessary to protect persons from further anti-social acts by him, does not involve a standard of proof: it is an exercise of judgement or evaluation.'

It should be noted that it is the effect or likely effect of the behaviour on other people that determines whether the behaviour is antisocial. The agency applying for the order does not have to prove an intention on the part of the defendant to cause harassment, alarm or distress.

Under section 1(5) of the 1998 Act, the Court will, however, disregard any behaviour shown to be reasonable in the circumstances.

The most common behaviour tackled by ASBOs is general loutish and unruly conduct such as verbal abuse, harassment, assault, graffiti and excessive noise. ASBOs have also been used to combat racial harassment, drunk and disorderly behaviour, throwing fireworks, vehicle vandalism and prostitution. Many other problems, for instance the misuse of air guns, could also lend themselves to this approach.

The wide range of anti-social behaviour that can be