

circumstances, such as the number of breaches and how the breach relates to the finding of anti-social behaviour. Proceedings should be swift and not fractured by unnecessary adjournments either during the proceedings or before sentencing. Information on how to handle breaches of ASBOs by young people is contained in page 26 of the anti-social behaviour guidance issued by the Youth Justice Board, Home Office and Association of Chief Police Officers.⁴

The leading precedent for the approach on sentencing on this point is *R v Lamb* [2005] EWCA Crim 2487. In this judgment the court drew the distinction between a breach that represents further anti-social behaviour and those that are merely breaches of the terms of an order, for instance, as in that case, not to enter a particular metro system. Differing from earlier decisions - in particular from the case of *R v Morrison* [2005] EWCA Crim 2237 - the court held that the orders are properly designed to protect the public from frequent and distressing repeated misbehaviour.

In the case of *Morrison*, it was determined that if the breach amounted to a specific criminal offence that carried a particular penalty, the sentence for breach of the ASBO could not be greater than that.

As the court in *Lamb* pointed out, this would merely encourage people to commit criminal offences rather than breach their ASBOs in other ways. The court has therefore laid down a series of steps for consideration prior to the imposition of a sentence.

Where a breach does not involve harassment, alarm or distress, a community order may be considered to assist the defendant to learn to live with the terms of the ASBO. This is entirely consistent with the guideline on breach proceedings issued by the Sentencing Guidelines Council, where it is pointed out that custody should be used as a last resort, and the primary purpose of breach proceedings should be to ensure that the order itself is observed.

However, *Lamb* confirmed that where there is a persistent breach without harassment, alarm or distress, it may become necessary to impose custody to preserve the authority of the court. In those circumstances, the sentence should be as short as possible, and in *Lamb* the individual sentences were reduced to two months in custody. However, where the new breach amounts to further harassment, alarm or distress, then the court thought orders of eight months, on a guilty plea, were appropriate, applying *R v Braxton* [2005] 1 CR APP R (S) 36,1? v *Tripp* [2005]

⁴ Youth Justice Board, Home Office and Association of Chief Police Officers (2006) *Antisocial Behaviour: A guide to the role of Youth Offending Teams in dealing with antisocial behaviour*. This can be downloaded at

www.youth-justice-board.gov.uk/Publications/Scripts/prodView.asp?idproduct=212&ep=