drinking under age and assault. While the proceedings and the making of the order itself can curb behaviour, the extent to which the order succeeds also depends on the prohibitions imposed, which in turn require effective wording.

It is good practice for the applicant to provide a draft of the prohibitions sought, but the final wording of the order will be a matter for the court. Problems have arisen when prohibitions have been drafted too widely or in such ways that enforcement is made difficult, if not impossible. Guidance and general principles on drafting prohibitions have come from legislation, case law and shared best practice. The following section draws together these principles and provides suggestions and comments for consideration.

There is now a requirement for the court to set out its findings of fact in relation to anti-social behaviour on the face of the order, following the cases of Wadmore and Foreman.

Effective prohibitions

If the conditions for making an order are met, the court may make an order which prohibits the defendant from doing anything described in the order (section 1(4) Crime and Disorder Act 1998 (CDA)). The facts leading to the order should be recorded and the court should provide its reasons for making the order (*C v Sunderland Youth Court* [2003] EWHC 2385).

The effect of the order should be explained to the defendant and the exact terms pronounced in open court. Most courts now have a practice of serving the defendant with a copy of the court order before he or she leaves court and may also require his or her acknowledgement. The order should set out in full the anti-social behaviour in relation to which the order was made (*R v Shane Tony P* [2004] EWCA Crim 287).

Once the court has decided that the order is necessary to protect persons from further anti-social acts by the defendant, the court must then consider what prohibitions are appropriate to include. Each order and therefore prohibition will need to be targeted to the individual and the type of anti-social behaviour it is to prevent.

The prohibitions that may be imposed are those necessary to protect persons from further anti-social behaviour by the defendant (section 1(6) CDA) and must not impose positive obligations. Therefore each prohibition must be:

- negative in nature;
- precise and target the specific behaviour that has been committed by the defendant;
- proportionate to the legitimate aim pursued and commensurate with the risk to be guarded against, which is particularly important where an order may interfere with an ECHR right (*R v Boness* [2005] EWCA 2395); and
- expressed in simple terms and easily understood.

Identification of some of the best practice used within the courts suggests that the following issues should be borne in mind when formulating prohibitions:

- A court should ask itself before making an order: 'Are the terms of this order clear so that the offender will know precisely what it is he or she is prohibited from doing?' (*R v Boness* [2005] EWCA 2395).
- Less common phrases such as 'curtilage', 'paraphernalia' or 'environs' should be avoided as they may cause confusion.
- Can it be enforced? Those who will enforce the order must be able to identify and prove a breach.
- Are any excluded areas clearly delineated? Most courts require a map to be included and it may be necessary to delineate which side of the road forms the boundary. If a line is drawn down the middle of a road, there may be arguments as to which side of the road the defendant was standing.
- Does the prohibition clearly identify those whom the defendant must not contact or associate with?
- Where the defendant is a foreign national, some courts consider it good practice for the order to be translated into the native tongue.
- Testing the prohibition by considering ways in which it could be breached may highlight its limitations (*R v McGrath* [2005] EWCA Crim 353).
- There is no requirement that the acts prohibited by an order should by themselves give rise to harassment, alarm or distress (*R v McGrath* [2005] EWCA Crim 353).