

Anti-Social Behaviour

Anti-Social Behaviour Orders (“ASBOs”) have been in the press more and more recently, the man who drinks petrol for example, or the new provisions for ASBOs to be granted against children as young as 12 years of age . But did you know that there is scope for applications to be arranged by the private sector?

ASBOs can be imposed by the court under the Crime and Disorder Act 1998 ("the 1998 Act"). The rules governing such applications have just changed in fact, conferring upon the court the power to make interim orders in the appropriate circumstances and, as noted above, have been extended to apply to children as young as 12 years of age. While the procedure for applying for an ASBO is civil, breaches of an ASBO are a criminal offence, which can lead to misunderstandings of the law.

An application for an ASBO can only be made by either the Local Authority, or the Chief of Police for the relevant district. Difficulties such as a lack of staffing, a lack of funding, and sometimes simply the inability or refusal to start an Application, can sometimes appear to preclude proceedings from the start. But with the agreement of the Local Authority, or the relevant Chief of Police, the administrative burdens could be borne by the private sector to the benefit of all.

Say a private entity, such as a retail consortium or the tenants of a shopping centre, find that an individual is continually acting in an anti-social manner such as continually shoplifting and being drunk and aggressive towards staff. One option available would be to seek an ASBO. If the public sector is either unwilling or unable to assist in obtaining an ASBO, the option still remains to have the work undertaken in the private sector if the agreement of the Local Authority, or the relevant Chief of Police can be obtained.

The client organisation would have the benefit of private sector expertise, they would be involved in the process of the application, and they would have more control over the timing of when an application is made. If the individual then commits a crime by breaching the ASBO, any member of the organisation would then be able to report that breach to the police as a criminal matter and have the offender apprehended.

The organisation benefits from having the ASBO in place as a deterrent and also has a fairly direct route to having the nuisance dealt with if it continues. The public sector can also benefit, particularly where the offender is already known to them, as with the administrative burdens having been borne by the private sector in applying for the ASBO, the crime of breaching that ASBO could be used to extend the offender’s charge sheet.

For further information, please contact Yvonne Robertson yr@mitchells-roberton.co.uk