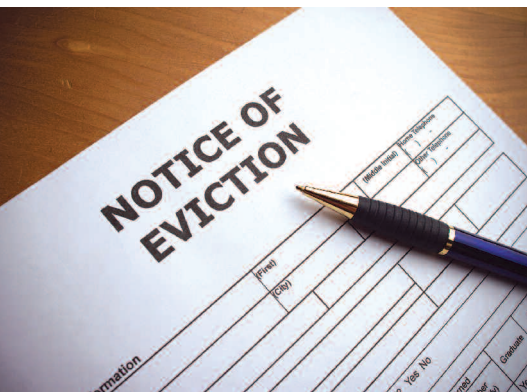


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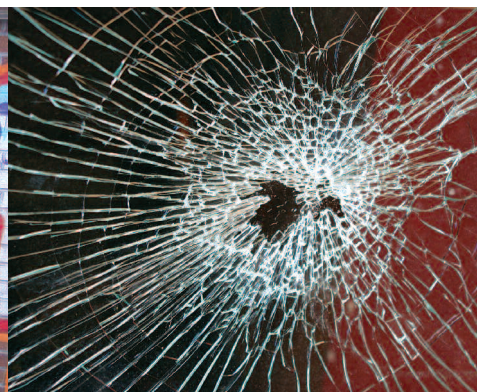
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Antisocial behaviour

Antisocial behaviour has become a major priority for government, the public and the police. This Police Foundation Briefing sets out the legislation introduced to tackle antisocial behaviour, assesses some of the new measures and draws attention to some of the key issues.

What is antisocial behaviour?

What we term 'antisocial behaviour' has always existed in one form or another. This includes behaviour defined by law as 'crime', but also extends to other activities that cause a nuisance to others, whether publicly or privately. The idea of antisocial behaviour as a distinctive problem requiring

legislative and administrative solutions in its own right is a concept that has evolved in the past 15 years in Britain and is largely associated with 'New Labour'. In the preface to the Respect Action Plan (2006), the Prime Minister describes the problem of antisocial behaviour as '...a lack of respect for values that almost everyone in this country share – consideration for others, a recognition that we all have responsibilities as well as rights, civility and good manners'⁽¹⁾.

The 1998 Crime and Disorder Act provides a definition of antisocial behaviour as ‘Acting 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 (the defendant)’⁽²⁾. More recently, the Respect Action Plan states that antisocial behaviour can take many forms ‘...from playing loud music in the early hours of the morning, graffiti, offensive and threatening remarks to dumping rubbish, harassment and intimidation’. In reality, antisocial behaviour is a subjective phenomenon that resists simple definition; what may seem antisocial to one person may be acceptable behaviour to another. The Home Office effectively acknowledges this and academics have tried to provide a better definition that is more objective, clearly distinctive from crime and reflects the cumulative impact of antisocial behaviour and how it undermines the quality of life in communities⁽³⁾.

Is antisocial behaviour an important issue?

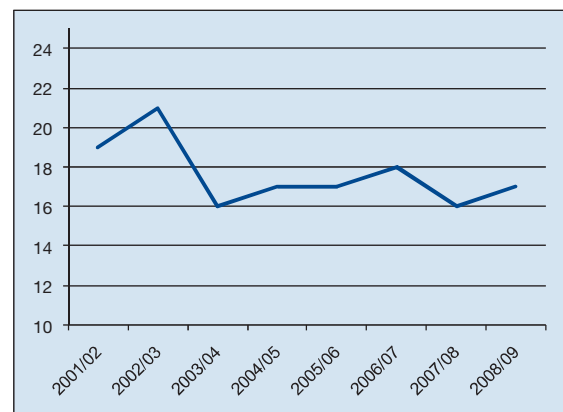
The Home Office has estimated that the cost to government agencies of dealing with reports of antisocial behaviour is £3.4 billion a year.

On September 10th 2003, the Home Office Anti-Social Behaviour Unit (ASBU) asked local government and public service organisations in England and Wales receiving direct, first-hand reports of antisocial behaviour to count the number of reports they received. 66,000 reports were made to more than 1,500 participating organisations. While acknowledging that there were wide variations between local

authority areas in the number of organisations that contributed reports, the Home Office described its count as a ‘useful snapshot’. It estimated costs on the day of the count of at least £14 million. Multiplied by 250 working days, it produced an estimate for the annual costs of responding to antisocial behaviour to be £3.4 billion, which excludes the personal and social costs suffered by victims and communities⁽⁴⁾.

According to the 2008/9 British Crime Survey, about 1 in every 6 adults perceives antisocial behaviour as a problem in their local area. Figure 1, below, shows the trend in perceptions of antisocial behaviour since 2001/02, when nearly 1 in 5 adults perceived it as a problem.

Fig. 1. Percentage of adult population perceiving antisocial behaviour as a problem in their locality



British Crime Survey 2008/09

Five of the seven strands that make up the overall measure have shown a decrease since 2001/02, notably abandoned and burnt-out cars (down from 20% to 6%). There has been a marginal decrease in the proportion citing big’ or ‘fairly big’ problems with teenagers ‘hanging around the streets’ (from 32% to 30%)⁽⁵⁾, but it remains the most widely-cited nuisance, alongside rubbish and litter (30%).

Perceptions of problems with noisy neighbours or loud parties are at the same level (10%) and the proportion concerned about drunk or rowdy behaviour has increased from 22% to 26%⁽⁶⁾. However perceptions vary significantly by area, with 23 per cent of people in London perceiving antisocial behaviour as a problem compared to eight per cent in North Yorkshire⁽⁷⁾. Also, the young and the worst off are more likely to perceive antisocial behaviour as a problem than older people and those living in more affluent neighbourhoods⁽⁸⁾.

The National Audit Office found that as with crime, a small minority of the population are responsible for a disproportionate number of incidents⁽⁹⁾ and according to one national survey, antisocial behaviour has a significant impact on the lives of a large minority of people, especially those living in disadvantaged, inner city areas, but has little or no effect on the majority⁽¹⁰⁾. Nevertheless its impact on the quality of life of those who are affected should not be underestimated.

On October 23rd 2007 in a layby near Earl Shilton, Leicestershire, Fiona Pilkington set light to her car while she and her disabled daughter sat inside it. Over a seven year period Ms Pilkington and her neighbours had made 33 calls to the police asking for help after she had suffered repeated and sustained harassment and abuse from a local gang of youths outside her home in Barwell⁽¹¹⁾.

Tackling antisocial behaviour has become a key element of neighbourhood policing which aims to address the needs and concerns of local communities by giving them the opportunity to tell the police about issues that are causing them concern and help shape the responses to them. The Government's antisocial behaviour strategy appears to have been informed in part by the 'broken windows'

thesis⁽¹²⁾ first put forward by James Wilson and George Kelling in the early 1980s and subsequently adopted by the police in New York and elsewhere in the US. According to this thesis, dealing with early signs of neighbourhood disorder, insecurity and decay, such as broken windows, helps to avoid a spiral of decline into more serious problems, especially crime and fear of crime. This thesis has however been strongly criticised⁽¹³⁾ and it remains unproven that low level antisocial behaviour, left unchallenged, leads to more serious problems.

Antisocial behaviour and the law

The new range of measures introduced since 1998 has significant implications for justice and the rule of law, most significantly because they curtail the rights and freedoms of individuals while having criminal rather than civil penalties attached to them. Most types of behaviour identified by the Government as 'antisocial' are in fact already proscribed under criminal law⁽¹⁴⁾, whereas previously such powers were largely exercised through civil injunctions and abatement notices imposed by local government. Stronger and distinct measures for tackling antisocial behaviour first emerged through housing legislation in the mid 1990s, with the 1996 Housing Act providing councils and housing associations with new powers to take enforcement action, backed by the threat of eviction⁽¹⁵⁾. But the real shift came a year later in 1997, when the incoming Labour government began to bring in new measures for responding to a much wider range of behaviours considered 'antisocial' but not necessarily 'criminal'. The table overleaf sets out the key milestones and measures that have been introduced in the last decade.

Act or initiative	Power	Imposed against	Effect	Effect of breach
Crime and Disorder Act 1998 (as amended by the Anti-Social Behaviour Act 2003 and the Police and Justice Act 2005)	Anti-Social Behaviour Order (ASBO)	Individuals aged 10+ who have committed antisocial acts, where necessary to protect the public from further acts	All acts specified in the order (on discretion of a magistrate) prohibited for at least two years (as specified)	Criminal offence: possible five years imprisonment
Non-statutory	Acceptable Behaviour Contract	Anyone thought to be committing antisocial behaviour	Voluntary agreement to try to curb antisocial behaviour informally, avoiding the need for an Anti-Social Behaviour Order	Agency may try to secure Anti-Social Behaviour Order and use the breach of Acceptable Behaviour Contract as relevant evidence
Crime and Disorder Act 1998 (as amended by the Anti-Social Behaviour Act 2003 and the Police and Justice Act 2005)	Parenting Order	Parents of antisocial children who have refused to co-operate on a voluntary basis	Emphasis is on improving parental skills through attendance at a parenting programme. Can impose other requirements	Criminal offence: possible level 3 fine (£1,000)
Crime and Disorder Act 1998	Crack House Closure Order	Premises that have been used in connection with use, production or supply of Class A drugs	Premises are closed to all persons whom the court decides for up to three months	Imprisonment of up to three months and possible level 5 fine
Anti-Social Behaviour Act 2003	Dispersal Order	A group of people congregating in a designated area (which must be an area with persistent antisocial behaviour)	Police officer or Community Support Officer can require a group to disperse without evidence that it is causing antisocial behaviour	Refusal to follow the officer's directions to disperse is an offence: possible level 4 fine or three months imprisonment
Criminal Justice and Police Act 2001 (implemented following the Anti-Social Behaviour Act 2003).	Penalty Notices for Disorder	Anyone aged 16+ guilty of any of the listed offences, including drunkenness offences	£50 fine (recently increased from £40) for most offences; £80 for more serious offences. No criminal record	Non-payment would result in prosecution for the matter about which the notice was given
Criminal Justice Act 2003	Individual Support Order	10-17 year olds who have been given an Anti-Social Behaviour Order	Aims to complement an Anti-Social Behaviour Order by addressing the causes of behaviour. Can require attendance at two support sessions per week for six months	Criminal offence: possible level 3 fine (£1,000 or £250 if child is under the age of 14 at the time of the conviction)
Anti-Social Behaviour Act 2003	Parenting Contracts	Parent of a child or young person who has been or is likely to be involved in crime or antisocial activity	Voluntary agreement by the parent to agree to the requirements of the Youth Offending Team to support the parent	Breaching an agreement is not a criminal offence and there are no legal consequences
Respect Action Plan 2006	Family Intervention Programme	Antisocial families at risk of eviction	To stop antisocial behaviour so that the threat of eviction and other sanctions can be lifted.	Not applicable
Youth Crime Action Plan One Year On 2009	Challenge and Support and Intensive Intervention projects	Young people engaged in antisocial behaviour and their parents.	Better local information, advice and support for professionals, speeding up court process and more interventions for young people.	Not applicable
Crime and Security Bill 2009/10	Parenting Order for all under 16s who breach an ASBO	Parenting assessment and automatic parenting orders for breach of ASBO by under 16s	Better support for struggling parents.	Same as for breach of standard Parenting Order
Policing White Paper 2009	Champions for victims of antisocial behaviour and introduction of minimum standards	All those who engage in antisocial behaviour	Improve standards of delivery and protection for victims	Not applicable

Adapted from House of Commons Committee of Public Accounts 'Tackling Anti-Social Behaviour', 44th Report of session 06/07

Guidance on implementing antisocial behaviour legislation recommends that enforcement measures should be combined with supportive interventions, that the right interventions or combination of interventions are used at the right time, that they tackle the causes as well as the symptoms of antisocial behaviour and are proportionate⁽¹⁶⁾. Most recently, the 2009 Police White Paper requires all Crime and Disorder Reduction Partnerships (CDRPs) and Community Safety Partnerships (CSPs) and forces to deliver agreed standards for tackling antisocial behaviour by March 2010⁽¹⁷⁾. These will set out the services and support the public are entitled to and who should be delivering them and will include a commitment to provide a single point of contact for reporting antisocial behaviour.

The new measures

Anti-Social Behaviour Order

The most controversial measure introduced to combat antisocial behaviour is the Anti-Social Behaviour Order, commonly referred to as an ASBO. ASBOs are tailor-made civil court orders which prohibit an individual from engaging in specific behaviour, for example entering a particular location or associating with a particular individual. Applications are decided against the balance of probabilities rather than guilt established beyond reasonable doubt, (i.e. whether the defendant is deemed more likely to have been responsible for the behaviour than not). Hearsay evidence may also be admissible, meaning that witnesses do not need to be present at a hearing. A breach of the ASBO is a criminal offence that can result in a custodial sentence of up to five years. Orders can run for a minimum of two years and can

last indefinitely. However, since February 2009 there has been a legal requirement for ASBOs on young people under 17 to be reviewed after the first year.

There are four different types of ASBO:

- ASBOs in civil proceedings – granted by an adult magistrate court sitting in its civil capacity. These ‘stand-alone’ ASBOs do not depend on any other order being made.
- ASBOs in criminal proceedings made on conviction (and sometimes called CRASBOs). These are in addition to any sentence the court may pass.
- Interim ASBOs that can be imposed before a full court hearing, and which may carry the same prohibitions and breach penalties as a full order.
- County Court orders made in civil proceedings concerning some form of antisocial behaviour. These rarely involve children and young people.

The 1998 Crime and Disorder Act allows police forces (in addition to other agencies) to apply for an ASBO for persons of 10 years or over. Prior to an application, the police and local authorities must consult each other, usually through ‘case management meetings’ to determine whether an ASBO or alternative measures are appropriate. Support must also be planned for victims and witnesses where necessary. If an application proceeds the police must give proof that the defendant acted in an antisocial manner and that there are persons involved who need to be protected. Evidence is gathered over a period of time using incident diaries, professional witnesses, CCTV and photographs. Where police lead the application for an ASBO, close liaison must be maintained with the force solicitor who will make an application to the magistrate’s court.

Between June 2000 and December 2007 there were 14,868 orders made in England and Wales, of which 6028 were made on young people aged under 18. The number of ASBOs in a full year rose from 350 in 2001 to 4,122 in 2005 before dropping to 2,299 in 2007. A very large proportion of ASBOs are imposed on young males ⁽¹⁸⁾. The use of ASBOs also varies widely between local authorities, ranging from 2.87 per 10,000 of the population in Greater Manchester to 0.69 in South Wales ⁽¹⁹⁾. While this may reflect the different levels and nature of antisocial behaviour in these localities, the National Audit Office found that chosen interventions tended to reflect the background of Anti-Social Behaviour Coordinators or local preferences rather than a response to the actual behaviour being addressed ⁽²⁰⁾, however the Government has recently proposed a more standardised and even-handed approach to the implementation of antisocial behaviour measures ⁽²¹⁾.

ASBOs have attracted much criticism. Originally introduced as a measure of last resort and for adults, they are now used for under 18s as often as for adults and can be imposed simply if considered to be more effective than other relevant measures ⁽²²⁾. Some have argued that ASBOs served on young people are counter-productive because they act as ‘badges of honour’, while others are concerned about the use of ASBOs in place of criminal proceedings because they require a lower standard of proof ⁽²³⁾.

Amy Beth Dallamura, 46, of Aberystwyth was issued with an ASBO banning her from the sea after emergency services spent almost £1m rescuing her more than 50 times from repeated suicide attempts. She breached the ASBO five times and at a court hearing the judge condemned her local Health Authority for failing to support her ⁽²⁴⁾.

The European Commissioner for Human Rights has claimed that ASBOs ‘almost certainly’ violate Article 5 of the European Convention for Human Rights, the right to liberty and security ⁽²⁵⁾. The recipient’s identity and the terms of the order can be widely publicised (for example through posters or leaflets) and for the ASBO to be effectively enforced the general public are encouraged to report breaches to the police. The Anti-Social Behaviour Act 2003 removed the reporting restrictions on criminal proceedings in relation to ASBOs which where young people are concerned is in breach of Article 40 of the UN Convention on the Rights of the Child ⁽²⁶⁾. In 2008 the UN Committee on the Rights of the Child questioned whether ASBOs helped young people to modify their behaviour, most of whom come from multiply deprived backgrounds, or simply facilitated their entry into the criminal justice system. The Committee recommended an independent review of ASBOs to support the withdrawal of their application against children ⁽²⁷⁾.

Acceptable Behaviour Contract

In response to concerns raised by practitioners about ASBOs, alternatives have been developed that are less draconian and restrictive. Chief among these is the Acceptable Behaviour Contract (or agreement), which comprises a written agreement between a perpetrator of antisocial behaviour and his/her local authority, landlord or police service. ABCs comprise a list of antisocial acts that the offender agrees not to continue and the consequences if the contract is breached. Contracts usually last for six months but can be renewed if both parties agree. Although used almost twice as often as ASBOs (NAO, 2006) ⁽²⁸⁾, they are not legally binding, although they can be cited in court as evidence in ASBO applications or in eviction or possession proceedings. Guidance issued in 2007 urges their wider use for young people to ‘nip antisocial behaviour in the bud’ ⁽²⁹⁾.

Dispersal Order

In addition to measures targeting individuals, area-based restrictions have been introduced of which the most common are Dispersal Orders. Introduced by the Anti-Social Behaviour Act 2003, they allow the police to disperse a group of two or more people congregating in a designated dispersal zone, either immediately or by a specified time, who have caused the public to be intimidated, harassed, alarmed or distressed, or if police perceive there to be a threat of such behaviour. Dispersal zones are designated in consultation with the local authority if it has been proved that ongoing antisocial behaviour is taking place in the particular area in question – the police are required to collect data on crime and nuisance behaviour and survey the public on whether they would like action to be taken in their locality. Individuals not resident in a designated area may be required to leave the locality and may also be directed not to return within a specified time (not exceeding 24 hours). Refusal to comply is a summary offence and the penalty on conviction is a fine or, if the individual is over 17, a fine or a maximum of three months' imprisonment. The majority of Dispersal Orders have been used in response to antisocial behaviour committed by young people.

When directions to disperse are used solely against youths, they risk stigmatising and provoking young people who feel they are being unfairly targeted simply for congregating in public places⁽³⁰⁾. ACPO guidance issued in 2005 states that the negative consequences of designating a dispersal area should be taken into account and balanced against the intended benefits. The police must ensure the use of their powers is proportionate and there are reasonable grounds to suspect antisocial behaviour may be perpetrated. They must

also recognise the European Convention on Human Rights in relation to liberty, security, privacy and freedom of association⁽³¹⁾.

Fixed Penalty Notices and Penalty Notices for Disorder

Fixed Penalty Notices (FPNs) and Penalty Notices for Disorder (PNDs) are both one-off fines issued for antisocial behaviour and non-serious criminal offences. The former deal with offences such as litter, graffiti and dog fouling and can be issued by local authority officers and police community support officers as well as the police. The latter are issued for more serious offences, such as minor shoplifting, criminal damage, being drunk and disorderly or engaging in behaviour liable to cause harassment, alarm or distress, and are restricted to those aged 16 and over⁽³²⁾. PNDs, especially, appear popular with many police forces. In 2008, 176,000 PNDs were issued in England and Wales, of which about a third were for 'causing harassment, alarm or distress'⁽³³⁾. The evaluation of the pilot scheme for PNDs showed that police officers thought they were less time consuming and a more effective deterrent than other pre-court disposals (e.g. reprimands and warnings)⁽³⁴⁾. However, both FPNs and PNDs have been criticised for blurring the distinction between criminal and non-criminal behaviour by treating, for example, littering and theft in the same way, reversing the normal presumption of innocence and, in the case of juveniles, penalising their parents. There is also evidence to suggest that the introduction of PNDs is leading to individuals being brought into the criminal justice system who would otherwise have been dealt with informally⁽³⁵⁾.

In addition to these (and other) measures, the government recently introduced the Family Intervention Programme (FIP), which shifts the focus of attention away from the individual and towards his/her wider family. FIPs combine intensive support services for families to address the causes of their behaviour, combining both supervision and enforcement action. A key worker ‘grips’ the whole family, the causes of their antisocial behaviour and the agencies involved with them to deliver a more coordinated and effective response, including the avoidance of eviction. FIPs also tackle drug and alcohol misuse, poor health, domestic violence, worklessness and debt.

How effective are these measures?

Despite the proliferation of legislation to combat antisocial behaviour over the last decade, there has been very little attempt to evaluate the impact of these measures. The House of Commons Committee of Public Accounts (44th report 06/07) drew attention to the lack of evidence about what works in response to antisocial behaviour, and criticised the Home Office for failing to collect standardised data on patterns of antisocial behaviour and the measures used to tackle it. (The Home Office commissioned research into the effectiveness of Anti-Social Behaviour Orders in 2005 but the results proved inconclusive and the findings were not published). Other areas of concern, such as the low-take up of Individual Support Orders, and wide variation in the take up of different antisocial behaviour interventions across localities have also not been investigated ⁽³⁶⁾.

The only independent assessment of the government’s antisocial behaviour strategy has been undertaken by the National Audit Office ⁽³⁷⁾, which also publicly criticised the government for failing to assess the impact of the new measures.

‘The Home Office should formally evaluate the success of different interventions and the impact of combining enforcement interventions with support service (and) consider developing and implementing more preventive measures to tackle the causes of anti-social behaviour.’ Sir John Bourn, Comptroller and Auditor General ⁽³⁸⁾.

The National Audit Office’s study found that just over half (55%) of those people who received an ASBO re-engaged in antisocial behaviour, whereas only a third of those who received an ABC⁽³⁹⁾ or a warning letter did so. However, of those who re-engaged in such behaviour, those who received warning letters did so much earlier (after 73 days on average) than those who received an ABC (155 days) or an ASBO (296 days). Warning letters are however the cheapest intervention costing approximately £66 compared to £230 for an ABC and £3,100 for an ASBO. Of those who received an ASBO, just over half breached their order with a third of this group doing so on five or more occasions. According to the Office for Criminal Justice Reform, just over half (53%) of those who breach receive custodial sentences ⁽⁴⁰⁾. This has been criticised as creating ‘a fast-track to custody’ and for undermining the principle of proportionality, leading even to the incarceration of someone who has not committed a criminal offence (other than a breach of a civil order).

A study for the Youth Justice Board found that although the ASBO was originally meant to target people whose behaviour caused the greatest problems in the community, the majority of young people who receive ASBOs have few or no previous criminal convictions. It also found that young people tend to have little understanding of the detail of their orders

and although aware of the possibility of breach proceedings, they tend not to regard the threat of custody as ‘real’ or as a ‘deterrent’. Prohibitions can be poorly defined or excessively stringent, which increases the likelihood of a breach. However the study concluded that most professionals think the ASBO can be effective when used appropriately as part of a tiered approach in which a progressive range of less restrictive interventions are tried first ⁽⁴¹⁾.

A study for the Joseph Rowntree Foundation on Dispersal Orders found that they provide short-term relief and can strengthen local responses to antisocial behaviour by opening a ‘window of opportunity’ for longer term measures to be introduced. It found that in practice, the police tend to use Dispersal Orders as a last resort, favouring instead ‘dialogue and negotiation’ to disperse crowds. The imposition of Dispersal Orders can lead to antisocial behaviour being displaced to other areas and, if implemented in isolation of other measures, can fail to resolve antisocial behaviour in the long-term ⁽⁴²⁾.

The lack of balance between enforcement and support has been highlighted by the House of Commons Committee of Public Accounts which has acknowledged that in recent years enforcement measures have been used almost entirely without supportive intervention, for which there is some evidence of effectiveness ⁽⁴³⁾. Parents subject to Parenting Orders report high levels of satisfaction whether participating on a voluntary or compulsory basis and one study showed that in the year following participation on a parenting course, reconviction rates among the young people whose behaviour had caused their parent’s referral was 61.5% compared with 89% in the year before ⁽⁴⁴⁾.

The outcomes achieved by Family Intervention Projects are even more impressive with 85% of families in one study leaving the programme at a point where complaints about their antisocial behaviour had ceased or been reduced to a level where their tenancy was no longer under threat ⁽⁴⁵⁾. The same study also reported that the average cost per closed case was between £27-£36K, which represents almost a tenth of the estimated costs of custodial, residential and foster care following eviction.

Compounding the lack of evidence about what is effective is an absence of reliable data on the causes of antisocial behaviour, who it affects, where it is concentrated, why it is currently perceived to be a problem, whether it is getting worse and its human and financial cost. Without reliable evidence, policy has largely been informed by public opinion (such as the British Crime Survey) and while public attitudes and perceptions cannot be overlooked, it can be risky developing initiatives in response to public opinion.

Conclusion

The subjective definition of antisocial behaviour and the lack of knowledge about the nature and extent of such behaviours and their root causes means that an effective, evidence-based strategy cannot be realistically developed or reliably evaluated.

From 1998 onwards the Government focused on introducing enforcement measures based largely on perceived public demand for solutions to antisocial behaviour. New measures were intended to provide a swift response to the most insidious problems afflicting local communities and the limited evaluation that exists suggests such measures can provide short-term relief. While the importance of robust data is acknowledged by Government it has yet to create a national framework for data collection, but more importantly these measures have not been adequately supplemented by supportive interventions and the root causes of antisocial behaviour have largely been ignored. Of equal concern has been the use of highly restrictive civil measures, in particular ASBOs and Dispersal Orders. Intended as the 'last resort', they appear to have been used as a first line measure in England and Wales despite the risks of criminalisation, circumventing due process and violating human rights.

More recently however, the 2006 Respect Action Plan has begun to shift the focus towards addressing some of the causes of antisocial behaviour, for example supporting young people at risk of such behaviour and tackling parenting problems and the Youth Crime Action Plan has recently released additional funds for preventive work. These are encouraging developments but it remains to be seen whether supportive measures such as these will be widely adopted.

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