

## **More effective responses to anti-social behaviour**

### **A response to the consultation paper on behalf of the Legal Committee of the Council of Her Majesty's District Judges (Magistrates' Courts)**

1. This response is submitted by the Legal Committee and is confined to those issues raised by the consultation which impact on the work of the magistrates' courts. There are currently around 136 full-time District Judges (Magistrates' Courts) in post, many (particularly in the busier large city courts) having considerable experience of dealing with applications for both ASBOs and CRASBOs under the existing legislation.
2. The Legal Committee welcomes the proposal to strengthen orders by allowing the inclusion of positive requirements. This will avoid the need to draft orders in an artificial way and will reduce the risk of orders being struck down on appeal.
3. The Legal Committee has no view on the proposal to replace ASBOs by Criminal Behaviour Orders, but does feel that magistrates' courts remain the best court to deal with such applications. Magistrates' courts already have an extensive civil jurisdiction and have no difficulty in applying the civil standard of proof. If it was nevertheless felt that such work was unsuited to lay magistrates, the DJ(MC)s are well able to take on this work. In some courts (e.g. Birmingham and Leeds) some specialist civil work such as confiscation enforcement and proceeds of crime applications is already dealt with almost exclusively by DJ(MC)s. The fact that magistrates' courts' enforcement powers are less extensive than those of the county courts could be dealt with by a simple legislative amendment.
4. So far as applications against young people are concerned, the appropriate venue should be the Youth Court. This avoids the need to appoint "litigation friends". It is a defect of the existing procedure that applications for ASBOs against young people have to be dealt with in the adult court. Again the bench of DJ(MC)s is available to deal with this work.
5. One practical point relating to the Criminal Behaviour Order needs to be made. At present many applications for CRASBOs are made by associate prosecutors (CPS staff members having the right of audience to present cases in magistrates' courts). Such prosecutors do not presently have the authority to deal with contested applications for CRASBOs (or any other civil preventative order). This can cause delay. Agreement needs to be reached with the CPS to enable such prosecutors to be able to deal with such applications.

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On behalf of the Legal Committee

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