

Were anti-social
behaviour orders
(asbos) a success?



**ASSIGN
BUSTER**

Were Anti-Social Behaviour Orders (that were introduced by the Crime and Disorder Act 1998) a success?

For this essay, we will be exploring whether Anti-social behaviour orders (ASBO) were a success. Anti-social behaviour orders were put in place in order to reduce the likelihood of people engaging in these activities and as a way to control those who regularly partake in them. Examples of anti-social behaviour includes vandalism such as graffiti and fly posting, street drinking, nuisance, rowdy or inconsiderate neighbours, fireworks misuse and environmental damage such as littering, dumping of rubbish and abandonment of cars. Basically, an act which could be considered as unnecessary nuisance behaviour; which people engage in repetitively and for the sole purpose of causing a disturbance to the wider community. In this essay we will be discussing the definitions of anti-social behaviour and anti-social behaviour orders. We will then look at the strengths and weaknesses of the ASBO's and how they were used to discourage anti-social behaviour. We will conclude that they are effective if implemented correctly and used alongside other programmes. Furthermore, there needs to be a clearer understanding of what is deemed to be anti-social behaviour and why younger people are more prone to engage in these behaviours.

Anti-social behaviour (ASB) is usually defined as an unacceptable activity that causes harm to an individual, to their community or to their environment. This could be an action by someone else that leaves you feeling alarmed, harassed or distressed. It also includes fear of crime or concern for public safety, public disorder or public nuisance. A popular definition of anti-social behaviour comes from the Crime and Disorder Act

<https://assignbuster.com/were-anti-social-behaviour-orders-asbos-a-success/>

1998 which defines anti-social behaviours as “ Acting in a way that causes suffering to an individual or a group, not living at the same address as the perpetrator.” Millie et al (2005) identified three main types of anti-social behaviour (ASB). The first of these anti-social behaviour (ASB) restricts the use of shared spaces this is linked with any type of threatening or physical obstructive behaviours that stop others from using shared spaces. These include street drinking or drunkenness or drug abuse. The second of these is interpersonal or malicious anti-social behaviour that is directed at certain people or groups; this includes any act from hoax calls to vandalism. The third type of anti-social behaviour according to Millie et al (2005) is environmental anti-social behaviour. This behaviour includes that intentionally or through negligence degrades the local environment. These acts include littering, fly-tipping or dog- fouling.

Anti-social behaviour orders (ASBOs) were introduced by section one of the Crime and Disorder Act 1998 in England and Wales. The powers to impose ASBOs were strengthened and extended by the Police Reform Act 2002. An anti-social behaviour order is a civil order made in the United Kingdom against a person who had been shown, with relevant evidence, to have engaged in anti-social behaviour. They were designed to address behaviour like intimidation, drunkenness, and violence by individuals and families, using civil orders rather than criminal sanctions. The intention was that by restricting behaviour in some way would deter the individuals from engaging in that behaviour without having to go through the criminal justice system. The orders restricted behaviour through prohibiting a return to a certain area or restricting public behaviour such as swearing or drinking alcohol. Many

saw the ASBO as connected with a way of dealing with young delinquents. Next we are going to discuss some of the strengths and weaknesses of the anti-social behaviour orders and whether they were effective.

When discussing the strengths and weaknesses of ASBO's we must consider a multitude of factors. Firstly, how do we define anti-social behaviour? What constitutes an act that requires a civil order? Who makes that decision? These are all the basic questions which are asked when discussing ASBO's. As discussed above, anti-social behaviour is a very loose term and can be interpreted differently by everyone; especially as everyone will have different things which they determine as nuisance behaviour. Kirby and Edmonson (2012) address the issue that ' what is classed as anti-social behaviour can be difficult to define due to different individuals having conflicting views of acceptable and distressing behaviour'. Similarly, Burney (2013) defines ' anti-social behaviour as having no clear identity'. This means that individuals can find it confusing to distinguish the difference between an act that is simply frustrating to an act that could be classed as a crime. However, I believe that the main defining quality is when this behaviour affects other people or the wider community. When delivering an ASBO it goes through the magistrate's court; where there has to be sufficient evidence that the individual committed these acts before they are issued with an order which determines what obligations they must comply with for a set amount of time. The idea is that it highlights the consequences of their actions and the restrictions put in place will restrict their behaviour which will ultimately deter them for engaging in them again. But were they successful? This is what we will discover throughout this essay.

A major benefit of dealing with anti-social behaviour with these civil orders is that it helps deal with the public's concern on the issues of having safer communities. In extension to this, one of the most prolific benefits of the anti-social behaviour order is that they help the community feel like their problems are being tackled and treated seriously. It is not uncommon that society wants to be reassured that their concerns are being dealt with properly, as in the Home Office (2012) report it stated that 'Anti-social behaviour is a local concern and some long-term solutions from the government will make more individuals in the communities more likely to challenge anti-social behaviour'. Therefore, this indicates that there is a want and a need for this order and shows that the police and local governments want local communities to work with them in reducing anti-social behaviour to help create a safer environment. ASBO's allow communities to take back their neighbourhoods from intimidating and out of control youths, and to establish proper norms of behaviour. Even though it could be stated that the offences are only minor, if there is a persistent repetitive nature to them, then this means that they can be dealt with and therefore reduce the chances of them becoming harmful to the community. It has been stated that ASBO's effectively deal with individuals who fall through the net of the criminal justice system due to the minor nature of their crimes. Furthermore, it is not unreasonable to request that something meaningful must exist to punish actions that don't merit criminal punishment, but damage the quality of life of others, especially through constant repetition. The ASBO is such a tool. It is intended to be the primary weapon in a 'zero tolerance' environment.

On the other hand, this is often deemed as criminalising behaviour and individuals and therefore results in harsher punishments than maybe necessary. (REFERENCE) highlights that we need to remember that ASBO's are only a civil order and having a situation where if they breach one condition, they could face a criminal penalty. This then creates a scenario where individuals are treated like criminals and could be subjected to excessive consequences. However, one could argue that depending on the nature and the repetitiveness of the act and how it affects others and the community should determine whether there is a criminal penalty. For example, having children hanging around outside should be dealt differently to someone who is vandalising the neighbourhood or involves underage drinking and drug use; as they are illegal. Some may suggest that this allows them to be dealt with and re-establish a respect within the community. ASBOs address the symptom, not the condition. Their powers are wide and undefined - too wide, meaning that Judges and magistrates can do pretty much whatever they like. Certainly there are problems in the way people conduct themselves - but if such behaviour isn't criminal, then it's up to families and communities to fix it. The ASBO is the latest example of excessive state interference in the lives of citizens. Either conduct is criminal, or it is not. The law of nuisance exists. Restraining orders exist. ASBOs aren't intended to deal with that kind of problem: they're the tool of the state controlling behaviour. Just because a problem exists, doesn't mean it's the job of the state to try and fix it. The powers granted to the state in its efforts are disproportionate to the problems concerned.

One of the key issues with the Crime and Disorder Act (1998) definition of ASB, is that it weakens the criminal justice system and individuals can find themselves caught between civil and criminal law. Basically, suggesting that numerous anti-social behaviours could potentially be identified as a criminal act which could elicit a higher level of prosecution. Kirby and Edmonson (2012) state that ' the application for an Anti-social behaviour order (ASBO) only requires evidence that matches a civil burden of proof, rather than a criminal burden of proof'. Suggesting that often people are charged under criminal law with very little evidence to support this. Furthermore, Squires and Stephen (2005) identify fears that ' many of the behaviours involved in the application of an ASBO could be defined as criminal, suggesting the order provides an easier route to sanctioning the recipient, rather than proving individual offences'. Therefore, it seems that if it came under criminal law it would be more specific to each offence rather than categorising anti-social behaviour as a wider group. Therefore, eliciting that individuals receive higher punishments despite considering what they did as there is such a broad term for what covers anti-social behaviour.

Idealistically, this calls for an investigation into the justice system and defining specific punishments for the specific crime instead of simply punishing for all ' anti-social' behaviours.

Some have argued that the conditions of ASBO's are making day to day life impossible for these individuals as the conditions and restrictions are too broad. However, the whole point of the ASBO is that they are supposed to be an inconvenience because this will force the individual to think about the consequences of their actions. ASBOs offer a wide flexibility to the

sentencing authority as they are not only a punishment for past actions but also a form of restraint to prevent future misbehaviour. They permit the judge or magistrate to forbid the offender to go to a certain place, avoid a certain person, and ban them from participating in a particular activity. Without such powers, our courts will never be able to deal with the rising tide of yobbish behaviour that is, whilst not criminal, hugely damaging our communities. If they made them more lenient; and for example, only banned them from going to places where they used to commit their crimes; then they could just continue doing them, just in another location where they were not banned. But having restrictions where they cannot access certain areas or be in a crowd forces them to be inconvenienced and hopefully this encourages them to participate less in anti-social behaviour. Following on from this, some have suggested that they are ineffective because young people wear ASBO's like a badge of honour; showing that they broke the rules of society and got away with it and this somehow is a symbol of pride. For example, when discussing the effectiveness of anti-social behaviour orders, Wain and Burney (2007) concluded that they are not effective in reducing anti-social behaviours. They found that the ASBO was not taken seriously amongst the younger generation as it is seen as a " badge of honour". Furthermore, there are indications that because the ASBO has been given out too frequently it has become ' ineffective' as a form of punishment. ASBOs are explicitly intended to deal with bad juvenile behaviour. But they encourage rather than deal with such problems. They are viewed as badges of honour amongst young gangs - the ' naming and shaming' just increases this. They push people that could be helped by social work or proper

attention into an unenviable category of 'offender' - they criminalise people for behaviour that isn't criminal.

However, this is certainly not true for all. You cannot claim that it means nothing to all the individuals who receive them, of course, in some cases this is true. But for a lot of individuals, 62% in fact (REFERENCE) did not see them as cool or a mark of respect even if their friends did. To build upon this, a major limitation of ASBO's is that it can criminalise the most vulnerable groups within society. Additionally, Kirby and Edmonson (2012) decided that ASBO is not effective because it fails to support the notion that young people, specifically, are targeted. Ireland (2011) argues that they 'often criminalised young people unnecessarily'. In fact, it has been suggested that it can leave individuals feeling attacked by their local community or singled out by the police. As it has been found that often groups of young people are targeted for simply hanging around streets where they live, and it is assumed by the locals that they are causing trouble when in fact they are just hanging out with their friends. This can leave them feeling targeted and can result in them acting up to the role in society they have been labelled with. Thus, leading to a self-fulfilling prophecy. One study conducted by Macdonald and Telford (2007) implied that of 'all ASBO's issued in England and Wales to the end of 2005, roughly 40% were imposed on under 18s'. This shows that a large amount of ASBO's are given to youths and the popular understanding is that they hang around in groups intimidating and harassing local residents. Suggesting that there seems to be a discriminatory element that plays a role. Also, the conditions for ASBO usually leads to them being separated from their families and friends and this can prevent them

from building relationships which can affect their lives in the future. This further reiterates that although set out to deter people from engaging in anti-social behaviours, the ASBO has had little effect on reducing the number of people participating in these behaviours.

However, it is noted several times that they are most effective when in partnerships with other agencies and plans. Many argue that ASBO's were not set up as an individual solution to control young people's behaviour; instead they were set up as one of many programmes put in place to contain this issue. Therefore, it is inappropriate to judge the effectiveness of ASBO's individually as this way they will always fail. For example, it was found in (REFERENCE) that when partnered with parenting orders they were much more effective. Parenting orders were set up to encourage the youngster's parents to attend parenting classes to help them discover and understand the root of the problem. Of course, this is only appropriate for the cases where the young people were aged under 18; and as (REFERENCE) states that in 2005 60% of ASBO's were given to people over the age of 18. This highlights that there although they were reported more effective when worked together; this is not representative of the whole group.

Alternatively, it has been found that early intervention could actually prevent offenders from participating in more serious crimes later in life and is seen as an effective tool in managing anti-social behaviour. Moreover, if the police and other agencies were trained to spot the signs earlier, then maybe they can understand and prevent the factors that lead to individuals acting in this way and therefore reduce the numbers of people engaging in these acts. In addition, Armitage (2002) argued that ' the more orders an individual has

<https://assignbuster.com/were-anti-social-behaviour-orders-asbos-a-success/>

the more likely it is that they have underlying issues that are causing the behaviour'. Basically, suggesting that it is more effective to consider what factors and why individuals may have done certain acts than issuing criminal punishment as the solution. Thus, indicating that young people and children should be given guidance and support which could decrease the chances of them committing more serious offences in the future. Therefore, this indicates that ASBO's are not the most effective way of dealing with anti-social behaviour. This means that the police and other agencies need to consider other forms of intervention such as counselling sessions or rehabilitation programmes; which could have a major impact on the crisis. Simply, allowing the possibility for understanding why people are engaging in these behaviours rather than simply punishing them for it.

Furthermore, it can be argued that ASBO's, if effective, are cost effective. Mainly because receiving an ASBO and the man hours needed to enforce this is cheaper to society than sending the individuals to prison. It is stated that it costs around £2500 to obtain an ASBO whereas according to the Government statistics (2017-2018) (REFERENCE) it costs society £77, 865 per prisoner a year. Of course, this is only true if it is effective in discouraging the anti-social behaviour; which as we are discovering is extremely debatable. The prison population is soaring and we have to find ways to keep it down, or at least slow the speed of its rise. Talking about crushing sentences for all may arouse the passions of a certain type of voter but we have to have a pragmatic look at the pressures on the system. ASBOs are one way to punish offenders while still ensuring they have continuing access to education, family support, job opportunities, etc., and they are

much cheaper than the alternative of prison. Sentencing shouldn't be affected by such considerations. If we need more prisons, we should build them. The point is that offenders should get the punishment they deserve. If they only need light punishment, fine - but don't argue that those who should otherwise go to prison must get ASBOs for economic reasons - this is an affront to victims and to society and dilutes the disincentive to offend.

Over 40% of ASBOs are breached, with little resulting punishment. In the first three years of use, only 30 juveniles were imprisoned for breach of ASBO alone (omitting those occasions when people were sentenced for breach along with another offence). This brings the justice system into disrepute. It doesn't seem to matter if they're breached - so people don't care about getting them. Furthermore, they're not granted in anything like the proportions needed to have an effect: 5, 000 were supposed to be imposed every year, but instead only 3, 800 were used in the first five years. Of course, some ASBOs fail. But no aspect of the justice system has a 100% success rate, and by their nature ASBOs are more likely to be abused because (unlike prison) the offender remains in his own environment. Should more in breach of ASBOs be punished? Sure. That's not an argument against ASBOs though, is it? Neither is the fact that not enough are handed down. Although the use of ASBOs around the country is still patchy, some authorities have made very effective use of them to improve life in many local communities.

In conclusion, anti-social behaviour orders could be considered a success if they are implemented correctly and used alongside other programmes. From this essay it is clear that anti-social behaviour orders (ASBOs) incorporates a <https://assignbuster.com/were-anti-social-behaviour-orders-asbos-a-sucess/>

variety of differing behaviours and offences that the police and other government agencies deal with. Nevertheless, due to the evidence it is fair to state that the strategies such as anti-social behaviour orders (ASBOs) that are used to take on and counteract anti-social behaviour are both ineffective and inefficient as they set out to be. Moreover, this is because the anti-social behaviour orders (ASBOs) and other strategies are not focusing on the main underlying problem. Another problem with anti-social behaviour orders (ASBOs) is that the definition of what is classified as anti-social behaviour is quite vague. This means that it is quite difficult for individuals to comprehend what actions or behaviours are considered as being deserving of getting an anti-social behaviour order (ASBOs) and what actions do not constitute getting an anti-social behaviour order.

- Armitage, R. (2002), Tackling anti-social behaviour, Nacro, London.
- Burney. (2013) Making People Behave. Willan Publishing
- Crime and Disorder Act 1998, Home Office (2004), Defining and Measuring Anti-social Behaviour, Home Office, London
- Home Office (2011), More Effective Responses to Anti-social Behaviour, Home Office, London.
- Innes, M. and Weston, N. (2010), Re-thinking the Policing of Anti-social Behaviour, HMIC, London.
- Campbell, S. (2002), A Review of Anti-social Behaviour Orders, Home Office Research Study, Vol. 236, Home Office, London.
- Macdonald, S. & Telford, M. (2007). The use of ASBOs against young people in England and Wales: lessons from Scotland. Legal Studies, 27(4), 604-629.
- Manders, G. (2009), “ The use of anti-social behaviour powers with

vulnerable groups: some recent research”, *Social Policy and Society*, Vol. 9 No. 1, pp. 145-53.

- Squires, P. and Stephen, D. (2005), *Rougher Justice*, Willan, Cullompton
 - Millie, A., Jacobson, J., McDonald E and Hough, M. (2005) *Anti-social behaviour strategies; Finding a Balance*. London; Policy Press.
 - New Anti-Social Behaviour Powers Come Into Effect, 2014<https://www.police.uk/news/new-anti-social-behaviour-powers-come-effect>
 - Sally Ireland. (2011) ASBOs are dead, long live ASBOs, *Criminal Justice Matters*, 86: 1, 26-27
 - Kirby and Edmonson, A. (2012), “ The effectiveness of the ASBO practitioner perspective”, *Safer communities; Brighton*, Vol. 11 Iss. 2, pp96-104.
- Wain, N. and Burney, E. (2007), *The ASBO: Wrong Turning – Dead End*, Howard League for Penal Reform, Londo