of the travelling community who persistently engage in anti-social behaviour around the country, Careful thought needs to be given to the consequences of extending the exclusion area so that it does not simply result in displacing the behaviour into a neighbouring area. Any evidence of the itinerant nature of the defendant's lifestyle, of the likelihood of the individual moving to another area, or of wide geographical spread of offending behaviour should be submitted with the application file, The applicant does not have to prove that anti-social behaviour will occur elsewhere, just show that it is likely to.
The more serious the behaviour, the greater the likelihood that the court will grant a geographically wide order. Orders that seek to operate in the whole of England and Wales will not be granted without evidence that that is the actual or potential geographical extent of the problem. Further detail about effective prohibitions is given in Chapter 7.
Can interim orders be made?
Interim orders are available under section ID of the Crime and Disorder Act 1998 (as amended by section 65 of the Police Reform Act 2002 and the Serious Organised Crime and Police Act (SOCPA) 2005) in both the magistrates' court and the county court. This is an order made at an initial court hearing held in advance of the full hearing. This temporary order can impose the same prohibitions and has the same penalties for breach as a full order. The interim order can, with leave of the justices' clerk, be made without notice of proceedings being given to the defendant.
A without notice interim order has no effect until it has been served on the defendant. If it is not served within seven days, it will cease and will not have effect. The benefit of the interim order is that it enables the courts to order an immediate stop to anti-social behaviour and thereby to protect the public more quickly. It reduces the scope for witness intimidation by making it unlawful for the offender to continue the behaviour while the ASBO application is being processed. It also removes any delay in the proceedings.
Section 139 of SOCPA 2005 gives the court the power to grant an interim order pending an adjourned hearing for an order on conviction.
The interim order will send a clear message to the community that swift action against anti-social behaviour is possible.
The order can be made at the outset of proceedings for an ASBO application if the court considers that it is just to make such an order. The applicant authority should, if possible, request an interim order at the same time as submitting an application for a full order.
When considering whether to make an interim order, the court will be aware that it may not be possible at the time of the interim order application to compile all the evidence which would prove that a full ASBO is necessary. Rather the court will determine the application for the interim order on the question of whether the application for the full order has been properly made and where there is sufficient evidence of an urgent need to protect the community
Applications for interim orders will be appropriate, for example, in cases where the applicant feels that persons need to be protected from the threat of further antisocial acts which might occur before the main application can be determined. Where an interim order is granted without notice of proceedings to the defendant, it is expected that the court will usually arrange an early return date.
An individual who is subject to an interim order will have the opportunity to respond to the case at the hearing for the full order. The defendant is also able to apply to the court for the interim order to be varied or discharged. In this instance the matter will be dealt with at a hearing dealing specifically with the interim order.
The interim order:
will be for a fixed period.
can be varied or discharged on application by the defendant.