

was not necessary where specific behaviour restrictions were in place. Brooke L.J. said (para.[8]) that, given the offender's previous convictions for theft, a prohibition against committing theft "might not have been inappropriate". We have already expressed our reservations about such a prohibition.

In the Court expressed doubt about whether an ASBO is appropriate if the anti-social conduct is itself a serious offence, such as robbery. The Court reviewed the propriety of making an anti-social behaviour in respect of an appellant, aged 15 at the time of the offences, who pleaded guilty to assault with intent to rob, robbery, theft, false imprisonment, and attempted robbery. He was involved in a number of incidents in which he approached younger boys, threatened them and in one case struck a boy with a stick and stole their mobile phones. The appellant was made the subject of an order under S.1C of CDA 1998. The effect of the order was to prevent the appellant from acting in various ways, principally excluding him from two parks and an airport. In the course of the judgment, Henriques J. giving the judgment observed:

"It will be readily observed from a consideration of the Home Office 'Guide to anti-social behaviour orders' that the conduct primarily envisaged as triggering these orders was for a less grave offence than street robbery, namely graffiti, abusive and intimidating language, excessive noise, fouling the street with litter, drunken behaviour and drug dealing. Doubtless in drafting that report the Home Office had in mind that courts have considerable powers to restrain robbers. We do not go so far as to suggest that anti-social behaviour orders are necessarily inappropriate in cases with characteristics such as the present."

We see no reason why, in appropriate circumstances, an order should not be made of the kind in excluding an offender from two parks and an airport if that is where he is committing robberies (or committing other anti-social behaviour). Such an order enables those responsible for the safety of the prescribed areas an opportunity to act before a robbery is committed by the offender.

In *Werner* [2004] EWCA Grim 2931 the female appellant had committed a number of offences over a relatively short period of time which involved stealing credit cards, a cheque book, and other items from hotel rooms while the occupants

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were out and using the cards to obtain services and goods. In addition to passing a sentence of imprisonment, the judge made the appellant the subject of an ASBO under s. 1C of CDA 1998, prohibiting her from entering any hotel, guesthouse, or similar premises anywhere within the Greater London Area. It was submitted on the appellant's behalf that this was an inappropriate and improper use of the power because the behaviour it sought to protect the public from was only anti-social in the sense that all criminal offences were anti-social and it was not the sort of behaviour that ASBOs were meant to target. The Court of Appeal declined to express a definitive view on this issue and quashed the order on a different ground, but they did make the following observations. The forms of conduct listed on p.8 of the 2002 Home Office guide have a direct or indirect impact on the quality of life of people living in the community. They are different in character from offences of dishonesty committed in private against individual victims, distressing though such offences are to the victims. The Court said that it would not like to be taken to say that in no case could offences of this sort attract such an order.

It seems to us that there is another problem with the kind of order in *Werner*. In the absence of a system to warn all hotels, guesthouses, or similar premises anywhere within the Greater