

# ANTI-SOCIAL BEHAVIOUR ORDERS – WHAT'S THE NEXT STEP?

With the rate of anti-social behaviour incidents across the country on the rise, calls continue to be made for the Garda Commissioner to clarify the situation regarding the use of ASBOs, while the Government has committed to investigate proposals giving new powers to An Garda Síochána and extra interventions to support the parenting of offenders. Report by Derek Nagle.



'Antisocial Ireland' – which was screened on Virgin Media One in October 2022 – showed the rising level of anti-social behaviour on the streets of the capital.

Anti-Social Behaviour Orders have yielded more than their fair share of controversy since they were first introduced in this country on 1 January 2007 as part of the Criminal Justice Act of 2006. A good deal of this mainly centred around how little ASBOs were used in the initial months following their introduction.

The meeting between the Justice Minister and Garda Commissioner Drew Harris in October 2022, regarding the use of ASBOs and a disparity in their use throughout different parts of the country, was referenced at the time by the then Taoiseach Micheal Martin. Attention was also brought to an expert forum on anti-social behaviour, which was established by Minister of State James Browne in 2020.

This was in line with a Programme for Government commitment and will investigate the efficacy of present legislation with proposals for new powers for An Garda Síochána as well as extra interventions to support the parenting of offenders.

A Garda who is of Superintendent rank or higher may apply for an ASBO through a judge. Situations where this may be deemed necessary are where an individual of adult age is harassing

or intimidating another individual, causing fear and/or distress. According to the Garda Press Office, a behaviour warning is the first step that must be taken before an application can be made to the courts for a behaviour order.

For children, as well as issuing warnings, Gardai can also arrange meetings with parents or guardians to discuss a child's anti-social behaviour before applying for an anti-social behaviour order through the courts.

**CAMPAINING FOR CIVIL LIBERTIES**  
Liam Herrick, Executive Director of the Irish Council for Civil Liberties (ICCL), told 'Emergency Services Ireland' that his organisation has always opposed the introduction of ASBOs in Ireland.

"We believe the idea of imposing criminal sanctions in relation to behaviour or actions that do not constitute criminal offences in themselves is misconceived. ASBOs carry the risk of adding a further administrative layer in the criminal justice system.

"Where they have been introduced, they have been applied in a discriminatory and inconsistent manner," he said. Herrick also believes

that since ASBOs are not extensively used by An Garda Síochána, this therefore confirms that they "do not serve a clear purpose" in the Irish criminal justice system.

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Garda Commissioner Drew Harris was asked by Justice Minister Helen McEntee in October 2022 to undertake a review of the legislation surrounding Anti-Social Behaviour Orders (Pic: Leah Farrell, TheJournal.ie)

youth justice, which is based on diverting young people away from criminal sanctions,” he added.

#### YOUTH DIVERSION PROJECTS

Indeed, another component of An Garda Síochána’s approach to youth crime is the Garda Youth Diversion Scheme. This is aimed at preventing young people between the ages of 12 and 18 from entering the criminal justice system in the first instance and diverting those who have from committing any further offences.



Ireland’s District Court system enriches the legal fraternity, doesn’t cut into crime figures, diverts Garda resources and costs the taxpayer and the state, according to John Cuffe, a criminologist, sociologist and former prison officer, who has also worked in youth diversion.

In cases related to serious crimes, young people aged 10 and 11 will be considered for inclusion in the programme. When a young person under the age of 18 comes to the attention of An Garda Síochána due to any alleged criminal or anti-social behaviour, they are required by law (Section 18 of the Children Act 2001) to be first considered for the



Neale Richmond, Fine Gael TD for Dun Laoghaire Rathdown in South Dublin, campaigned successfully for the Community Safety Innovation Fund, which sees the proceeds of crime seized by CAB (Criminal Assets Bureau) and the Gardaí channelled back into communities.





Children pictured in June 2005 during a protest in Dublin where they called for the Anti-Social Behaviour Orders (ASBOs) to be postponed. (Pic: Photocall Ireland)

Diversion Programme subject to several conditions.

These include accepting responsibility for the offending behaviour, agreeing to be cautioned and where appropriate agreeing to the terms of supervision that will have been outlined to them. The programme director's decision on accepting a young person onto the Diversion Programme is based on several factors. These incorporate the nature of the offence and its impact on the community, the views of the victim and the individual's history of offending.

#### WHAT IS CONSIDERED 'ANTI-SOCIAL'?

John Cuffe, a criminologist, sociologist and former prison officer, has also worked in youth diversion. Cuffe believes that ASBOs are a vague concept and that definitions of what constitutes 'social' and 'anti-social' are needed.

"Six teenagers quickly boarding a train carriage, jostling and shoving each other and cursing can be considered anti-social. So too could a table of well-oiled bankers, shouting and spilling their drinks in a posh restaurant. More than likely it's the former that will attract an ASBO," he explained to 'Emergency Services Ireland'.

Cuffe further believes that the general public are fed 'a daily dose of fear' by the media to sell newspapers and air space and that the speed of disseminating information often skews normality. Modern mobile phone technology means that a row outside a schoolyard can be shared as video footage in minutes.

He stresses that Ireland has a low crime rate compared to many other prosperous countries. "Perception and media bias plays its part. I am aware that crime and anti-

social behaviour surrounds us but equally I'm more aware of the damage white collar crime, bankers, politicians and developers have caused without too much spotlight lingering" he added.

#### INCREASED GARDA PRESENCE

Neale Richmond, Fine Gael TD for Dun Laoghaire Rathdown in South Dublin and former spokesperson on European Affairs, does not believe that ASBOs are the only solution to the problems at hand. However, he does believe they can be successful when combined with increased resources, youth diversion programmes and increased Garda presence.

Richmond campaigned successfully for the establishment of a Community Safety Innovation Fund, which sees the proceeds of crime seized by CAB (Criminal Assets Bureau) and the Gardaí channelled back into communities. "This, I believe, is a huge opportunity to help young people from turning to crime in the first instance. We are using the proceeds of crime to stop further crimes from happening," Richmond said.

Liam Herrick of ICCL finds the idea of ringfencing funds seized by CAB for reinvestment in the communities most affected by drug crime is 'a very interesting one'. He believes it would help address the disproportionate harm from the drug trade that are suffered by the most marginalised communities. In his opinion such reinvestment would also demonstrate the value of law enforcement to those communities.

#### A SUCCESSFUL ALTERNATIVE?

In terms of an alternative that may prove more successful than an ASBO, John Cuffe cites the magistrates court in England where there is no power of imprisonment. He suggests a realistic fine system ranging from €100 to €1000, deducted from the person convicted within the year or on the day of the hearing. Failing that, he feels the individual's parents should be responsible for the fine so that the family are forced to take ownership of their errant member rather than the taxpayer.

He believes the District Court system here enriches the legal fraternity, doesn't cut into crime figures, diverts Garda resources and costs the taxpayer and the state. "The criminal pays nothing. If a person has no choice but to cough up, then they will think twice about their next infraction. The criminal justice system in Ireland copied the old empire system and convoluted what a simple system should be."

The Garda Press Office told 'Emergency Services Ireland' that An Garda Síochána is currently conducting a review of the use of ASBOs under the Assistant Commissioner and Community Engagement and Roads Policing at the request of Garda Commissioner Drew Harris.



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