

Anti-social Behaviour Law

Second Edition

Jack Anderson
Paul Grotorex
Damian Falkowski
Benjamin Tankel

All Barristers, 4–5 Gray's Inn Square, London

Published by
Jordan Publishing Limited
21 St Thomas Street
Bristol BS1 6JS

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British Library Cataloguing-in-Publication Data

A catalogue record for this book is available from the British Library.

ISBN 978 1 84661 162 9

Typeset by Letterpart Ltd, Reigate, Surrey

Printed in Great Britain by CPI Antony Rowe, Chippenham and Eastbourne

FOREWORD TO THE FIRST EDITION

Anti-social behaviour by adults and young people brings misery and havoc to the communities in which it occurs. In recent years we have taken great steps towards tackling this by giving public bodies the powers they need to take action and to ensure the unacceptable behaviour of a few individuals and families towards those around them is not allowed to go unchecked. I have made it a priority for this government to continue this work and to do even more to strengthen communities by promoting the values of respect and responsibility. We are determined to do as much as we can to support those who have the task of dealing with anti-social behaviour, but this is no good if they are not sufficiently aware of the powers that they have. The laws in this area are as varied as the problems which exist, and by drawing them all together in one place this book provides an invaluable service. It will enable practitioners to make informed and appropriate decisions about how to tackle the problems they face most effectively, and as such I am delighted to offer these words of support.

A handwritten signature in black ink that reads "Tony Blair". The signature is written in a cursive style with a large, sweeping initial 'T'.

The Prime Minister, Tony Blair
March 2006

PREFACE

This second edition is considerably larger than the first and this reflects the continuing attention that the subject of anti-social behaviour has received both from the legislature and from the courts. If the basic principles are now well-established, their application in particular cases can remain contentious. Successive governments have both amended existing legislation and introduced new tools to address anti-social behaviour since the first edition of this book.

At the time this edition goes to press, the current government has embarked on a consultation on 'More effective responses to anti-social behaviour'. The new government claims that it is necessary to move beyond the ASBO but proposals for a new Criminal Behaviour Order and Crime Prevention Injunction might be seen rather to build on and adapt the classic anti-social behaviour order than to represent a radical departure. We do not consider the government's proposals in detail as the consultation is at an early stage but we suspect and hope that much of the material on ASBOs covered in this book will be of use under the new regime, whatever shape it finally takes.

In addition to covering the substantial new case law that has emerged across the various topics addressed in this work, there are several new chapters. Specific provision has now been made in relation to causing nuisance and disturbance on NHS premises and a new gang-specific injunction has been devised specifically to address the problem of involvement with gangs. Closure notices and orders, originally introduced specifically to deal with drug dens, can now also be sought in relation to premises associated with anti-social behaviour more generally (see Chapter 11) and premises associated with certain prostitution and pornography related offences (see Chapter 25).

We have tried to state the law as at 21 March 2011.

We wish to thank again those of our colleagues who contributed to the first edition of this work (in particular Lisa Busch, Chris Buttler, Andrew Fraser-Urquhart, Saima Hanif, Richard Humphreys QC and James Strachan) and who have discussed certain issues in relation to this second edition, in particular Philip Coppel QC and Paul Greatorex.

Finally, we would like again to offer our thanks to Tony Hawitt at Jordans for his support and, above all, patience in putting together this second edition.

Jack Anderson
Damian Falkowski
Benjamin Tankel

4–5 Gray's Inn Square

21 March 2011

PREFACE TO THE FIRST EDITION

A book such as this could not have been published ten years ago: the first time the phrase ‘anti-social behaviour’ was used in an Act of Parliament was in the Housing Act 1996. This marked the beginning of a period of sustained legislative activity in which the phrase gained currency, to the point where in 2003 an entire Act of Parliament was named after and devoted to this subject. The announcement by Tony Blair just hours after his re-election in May 2005 that the related issue of ‘respect’ is to be a particular priority for the Government¹ suggests that this legislative drive is unlikely to abate.

But whilst it might therefore be said that a recognisable body of law has emerged, its precise scope remains unclear. This is best illustrated by the Anti-social Behaviour Act 2003 itself, which deals with topics as diverse as drug dens and high hedges and contains provisions relevant to everyone from parents to ravers. Accordingly, we have not in this work attempted to define the limits of this new legal topic: we have merely sought to set out those powers and remedies which appear to be most relevant to those who are charged with tackling these problems.

We have tried to state the law in England as at 1 February 2006, although developments after this date have also been included where possible. We have also included three pieces of legislation which are not yet in force, but which we understand soon will be: (1) certain outstanding provisions in the Clean Neighbourhoods and Environment Act 2005 (expected to come into force on 1 April 2006); (2) intervention orders under the Crime and Disorder Act 1998 (also expected to come into force on 1 April 2006); and (3) the increase in the Criminal Justice Act 2003 of maximum sentences for certain summary offences to 51 weeks.

However, we have realised during the process of writing this book how fast the law changes in this field and urge practitioners always to check the most up-to-date source of statutory materials. Further, readers in Wales need to take special care, as certain Acts referred to provide for a different regime there and it has not always been possible to identify secondary legislation passed by the National Assembly for Wales or, where that body has the power to bring provisions in primary legislation into force, whether it has done so.

¹ ‘I want to make this a particular priority for this government, how we bring back a proper sense of respect in our schools, in our communities, in our towns and our villages’ (Speech on returning to Downing Street, 6 May 2005): see www.10downingstreet.gov.uk.

Finally, we must give thanks to our contributing authors for their work, to our colleagues at 4–5 Gray’s Inn Square for their encouragement, to Tony Hawitt at Jordans for all his support, to Karen Swift for her very helpful comments, and to our respective families (Michaela Palackova and Rosalind and Clara Falkowska) for their forbearance during the process of producing this book.

Paul Grestorex and Damian Falkowski

4–5 Gray’s Inn Square

6 March 2006

Chapter 1

INTRODUCTION

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DEFINITIONS OF ‘ANTI-SOCIAL BEHAVIOUR’

1.01 The difficulty in defining ‘anti-social behaviour’ is well-recognised:

‘It is difficult to define anti-social behaviour. The range of other terms employed to describe the problem highlights this: quality of life issues, minor disorder, incivilities. None of the [police] forces we visited had a formal definition of anti-social behaviour. The officers we spoke to generally took a pragmatic ‘common sense’ view based in the operational realities they face day-to-day. So, for the police, at a local level, anti-social behaviour is a description of whatever ‘minor’ problems intrude on the daily life of the community and leads to calls for police service.’¹

1.02 In some respects, it is easy to identify what the term ‘anti-social behaviour’ refers to, for example, by examining the contents of the Anti-social Behaviour Act 2003, or other remedies which are intended by the government to help tackle this problem. However, discovering what the term means *in law* is much harder. The only definition offered by Parliament is found in s 1(1) of the Crime and Disorder Act 1998, which states that ‘anti-social behaviour’ means acting in:

‘... a manner that caused or was likely to cause harassment alarm or distress to one or more persons not of the same household as himself.’

1.03 The government has given guidance on the meaning of ‘anti-social behaviour’ as follows:

¹ ‘Policing Anti-Social Behaviour’, Police Research Series Paper 123 (Home Office, 2000).

‘[A] pattern of behaviour which continues for a period of time but cannot be dealt with easily or adequately through the prosecution of those concerned for a single snapshot or criminal event.’²

‘[A]nti-social behaviour ... [covers] a whole complex of thoughtless, inconsiderate or malicious activity.’³

‘The common element in all anti-social behaviour is that it represents a lack of respect or consideration for other people. It shows a selfish inability or unwillingness to recognise when one’s individual behaviour is offensive to others and a refusal to take responsibility for it. More fundamentally it shows a failure to understand that one person’s rights are based on the responsibilities we have towards others and towards our families and communities.’⁴

1.04 The government has also given guidance on what ought *not* to be considered as ‘anti-social behaviour’:

‘... run of mill disputes between neighbours, petty intolerance or minor one-off acts.’⁵

This illustrates the difficulty in achieving consensus about the meaning of the term and thereby highlights one source of controversy about this subject: whether or not behaviour satisfies one of the earlier descriptions of anti-social behaviour, or falls into this category, will undoubtedly depend on one’s standpoint in relation to it. At the time of writing the second edition, Home Secretary Theresa May has embarked upon a consultation on more effective responses to anti-social behaviour but while there appears to remain a consensus that anti-social behaviour is a problem, the concept remains elusive.

1.05 Turning to the courts, the House of Lords gave guidance in the context of anti-social behaviour orders:

‘[Anti-social behaviour] takes many forms. It includes behaviour which is criminal such as assaults and threats, particularly against old people and children, criminal damage to individual property and amenities of the community, burglary, theft and so forth. Sometimes the conduct falls short of cognisable criminal offences.’⁶

‘[A]nti-social behaviour can take different forms and may consist of insults and abuse and threats or assaults or damage to houses by stone throwing or the painting of graffiti.’⁷

² Home Office Guidance, March 1999.

³ Home Office Guidance, 2002.

⁴ White Paper, ‘Respect and Responsibility – Taking a Stand Against Anti-Social Behaviour’ (Cm 6778, 2003), available at www.crimereduction.gov.uk.

⁵ Home Office Guidance, March 1999.

⁶ *R (McCann) v Manchester Crown Court* [2003] 1 AC 787 at [16], per Lord Steyn.

⁷ [2003] 1 AC 787 at [85], per Lord Hutton.

RELATIONSHIP BETWEEN CIVIL AND CRIMINAL LAW

1.06 One might say, based on the above, that anti-social behaviour is merely in the eye of the beholder. Not only is that inadequate, given the legal consequences that can depend upon correctly identifying such behaviour, but the debate can be seen to be more fundamental. Ultimately, the difficulties with the term's definition are explained by its very wording: any assertion of what is *anti-social* thereby reveals a particular conception of society. At the broadest level, therefore, the debate about the legalisation of 'anti-social behaviour' is about: (1) that conception of society, (2) what types of behaviour offend against it, and (3) whether such behaviour offends against it to the extent that legal intervention is required. Traditionally, the state has addressed these issues through the criminal law and the criminal justice system. Yet the shortcomings of this, both perceived and real, have been acknowledged at the highest level of the judiciary, and found to justify the new legislative approach:

'It is well known that in some urban areas, notably urban housing estates and deprived inner city areas, young persons, and groups of young persons, cause fear, distress and misery to law-abiding and innocent people by outrageous anti-social behaviour ... In recent years this phenomenon became a serious social problem. There appeared to be a gap in the law. The criminal law offered insufficient protection to communities. Public confidence in the rule of law was undermined by a not unreasonable view in some communities that the law failed them.'⁸

'People usually refrain from acts which are likely to cause injury to others or to their property. On the occasions when they do not, the sanctions provided by the criminal law are available. But it is a sad fact that there are some individuals for whom respect for the law and for the rights of others has no meaning ... The social disruption which their behaviour creates is unacceptable. So too is the apparent inability of the criminal law to restrain their activities.'⁹

1.07 One response to this has been to amend the criminal justice system itself. Certain community orders and youth community orders have been introduced (see Chapters 4 and 13) aimed at controlling as well as punishing anti-social individuals, whilst fixed penalty notices (see Chapter 4) are intended to provide a quicker and more direct sanction for anti-social behaviour. Of greater significance, however, is the granting of greater and wider powers to the police, local authorities and other public bodies to seek *civil* remedies for anti-social behaviour. The use of both civil and criminal law to tackle anti-social behaviour is one of this subject's most striking features, and its rationale lies in the different purposes the two serve:

'The criminal courts, and the civil court when it is asked to order ... an injunction [to restrain the commission of a criminal offence], have quite different ends in view. The civil court is concerned only with prevention. But prevention – deterrence – is not the sole, nor even the primary, object of criminal justice. The role of deterrence is essentially secondary. If it took first place, people would go to

⁸ *R (McCann) v Manchester Crown Court* [2003] 1 AC 787 at [16], per Lord Steyn.

⁹ [2003] 1 AC 787 at [42], per Lord Hope.

prison for riding bicycles without lights. Criminal punishment is essentially retributive, in the salutary sense that it serves to exact no more nor less than just punishment for the crime in question. It thus possesses the overriding virtue that the sentence must be proportionate to the defendant's culpability and the gravity of what he has done. It means that the criminal must not be punished with excessive severity or excessive leniency. There are difficulties and exceptions in this principle's application ... [b]ut the touchstone, at least the starting point, in criminal sentencing is always to ascertain what is the just, proportionate, sentence for the crime in question. This principle, however ragged in practice, serves to distinguish the administration of justice from the application of social engineering. The principle is vital in a free society.

In considering whether to grant an injunction such as is sought here the civil court is performing a wholly different exercise. Its purpose is not at all to administer proportionate justice. It is to afford pre-emptive protection to the public against the activities of a persistent anti-social criminal where in his case criminal sanctions have repeatedly failed in their secondary purpose of deterrence. The injunction puts deterrence first, and gives it sharp teeth. It is quite unlike the process of punishment. It is granted upon an inference from the man's record that he will continue to offend. Generally, the common law does not give a dog a bad name; nor should it. Generally, the common law attaches consequences only to proved past facts. An injunction in aid of the criminal law constitutes a special exception to this benign approach. This is why it must be resorted to with great care.¹⁰

1.08 Laws LJ was considering an injunction under s 222 of the Local Government Act 1972 to restrain breaches of the criminal law, and the 'great care' referred to reflects the traditionally cautious approach of the courts to such injunctions (see Chapter 8). Yet more recent case law on the subject suggests that the real test for the court asked to grant such an injunction is whether or not criminal proceedings and criminal sanctions will be adequate.¹¹ Given the above acknowledgment by the House of Lords that often they are not, it is unsurprising that magistrates' courts have, albeit in a different legislative context,¹² shown no such caution and issued thousands of ASBOs – which are in effect civil injunctions – containing prohibitions on conduct which is in any event criminal – and have done so with the support of the Court of Appeal.¹³

1.09 Whether or not this constitutes 'social engineering' in the above words of Laws LJ, the difference in purpose and approach remains, as was made clear by the House of Lords in the ASBO case of *R (McCann) v Manchester Crown Court*:¹⁴

¹⁰ *London Borough of Barking and Dagenham v Jones* (unreported) 30 July 1999, CA, per Laws LJ.

¹¹ *Guildford Borough Council v Hein* [2005] EWCA Civ 979, discussed below at **8.07–8.09**.

¹² When dealing with applications for anti-social behaviour orders under the Crime and Disorder Act 1998 rather than injunctions under s 222 of the Local Government Act 1972 (which in any event are dealt with by the county court and High Court, not magistrates' courts).

¹³ See *R v P* [2004] EWCA Crim 287 at [30].

¹⁴ [2003] 1 AC 787 at [75]–[76], per Lord Hope.

‘The defendants say that prohibitions which banish the defendant from an area of the city where he lives, or which expose him to harsher penalties than he would normally face if he commits an offence, have all the characteristics of a penalty for the anti-social acts which he is found to have committed. An anti-social behaviour order may well restrict the freedom of the defendant to do what he wants and to go where he pleases. But these restrictions are imposed for preventive reasons, not as punishment. The test that has to be applied under section 1(6) is confined to what is necessary for the purpose of protecting persons from further anti-social acts by the defendant. The court is not being required, nor indeed is it permitted, to consider what an appropriate sanction would be for his past conduct.’

1.10 The distinction could not be made plainer than it was in *Lonergan v Lewes Crown Court*¹⁵ where it was argued that the inclusion of a curfew in an ASBO was a penalty and, therefore, inappropriate in a civil injunction. The Divisional Court said:

‘When a curfew order is imposed as a sentence under the Powers of Criminal Courts (Sentencing) Act, it is properly described as a penalty because that is its purpose – to punish. However, when a prohibition is imposed as part of an ASBO, even though it restricts freedom of movement in the same way and possibly for a more prolonged period of time, its purpose is not to punish but is preventative and protective.’¹⁶

1.11 The approval by the Court of Appeal in *R v P*¹⁷ of the prohibition in anti-social behaviour orders of conduct which is in any event criminal has not been overruled. But a more recent decision of a different division of the same court,¹⁸ again concerning anti-social behaviour orders, shows the traditional caution of the judiciary towards this still exists, as well as a concern that the distinction in purpose between the civil and criminal law should remain understood. In a speech which encapsulates much of the above, Hooper LJ said as follows:

‘31. It follows from the requirement that the order must be necessary to protect persons from further anti-social acts by him, that the court should not impose an order which prohibits an offender from committing a specified criminal offence if the sentence which could be passed following conviction for the offence should be a sufficient deterrent. If following conviction for the offence the offender would be liable to imprisonment then an ASBO would add nothing other than to increase the sentence if the sentence for the offence is less than 5 years’ imprisonment. But if the offender is not going to be deterred from committing the offence by a sentence of imprisonment for that offence, the ASBO is not likely (it may be thought) further to deter and is therefore not necessary. In *P*, Henriques J said (paragraph 30):

‘Next, it is submitted that [two of] the prohibitions ... are redundant as they prohibit conduct which is already subject to a general prohibition by the

¹⁵ [2005] 1 WLR 2570.

¹⁶ [2005] 1 WLR 2570 at [12].

¹⁷ See *R v P* [2004] EWCA Crim 287 at [30].

¹⁸ *R v Boness* [2005] EWCA Crim 2395, discussed further in Chapter 6.

Public Order Act 1986 and the Prevention of Crime Act 1953 respectively. In that regard we are by no means persuaded that the inclusion of such matters is to be actively discouraged. So far as more minor offences are concerned, we take the view that there is no harm in reminding offenders that certain matters do constitute criminal conduct, although we would only encourage the inclusion of comparatively minor criminal offences in the terms of such orders.”

32. We would only make one comment on this passage. The test for making an order is not whether the offender needs reminding that certain matters do constitute criminal conduct, but whether it is necessary.

...

36. There is another reason why a court should be reluctant to impose an order which prohibits an offender from, or merely from, committing a specified criminal offence. The aim of an ASBO is to prevent anti-social behaviour. To prevent it the police or other authorities need to be able to take action before the anti-social behaviour it is designed to prevent takes place. If, for example, a court is faced by an offender who causes criminal damage by spraying graffiti then the order should be aimed at facilitating action to be taken to prevent graffiti spraying by him and/or his associates before it takes place. An order in clear and simple terms preventing the offender from being in possession of a can of spray paint in a public place gives the police or others responsible for protecting the property an opportunity to take action in advance of the actual spraying and makes it clear to the offender that he has lost the right to carry such a can for the duration of the order.

37. If a court wishes to make an order prohibiting a group of youngsters from racing cars or motor bikes on an estate or driving at excessive speed (anti-social behaviour for those living on the estate), then the order should not (normally) prohibit driving whilst disqualified. It should prohibit, for example, the offender whilst on the estate from taking part in, or encouraging, racing or driving at excessive speed. It might also prevent the group from congregating with named others in a particular area of the estate. Such an order gives those responsible for enforcing order on the estate the opportunity to take action to prevent the anti-social conduct, it is to be hoped, before it takes place. Neighbours can alert the police who will not have to wait for the commission of a particular criminal offence. The ASBO will be breached not just by the offender driving but by his giving encouragement by being a passenger or a spectator. It matters not for the purposes of enforcing the ASBO whether he has or has not a driving licence entitling him to drive.’

TACKLING ANTI-SOCIAL BEHAVIOUR

1.12 The panoply of powers and remedies covered in this book shows that, in very many cases, there will be more than one remedy or course of action open to a body trying to deal with anti-social behaviour. Whilst it can be an advantage to have such a choice, it also means that the decision about which remedy to pursue must be made carefully. The powers that local authorities and

other public bodies have been given in recent years to tackle anti-social behaviour are considerable and the courts will be astute to see that these powers are not exercised unfairly or otherwise unlawfully.

1.13 Although this is not a ‘how to’ book, the following questions may assist decision-makers to identify the most appropriate course of action in any particular case:

- (1) What powers or remedies exist for dealing with the problem?
- (2) How appropriate is each of these from a practical point of view?
- (3) Are there any relevant legal considerations to be taken into account before the decision to seek the particular remedy is made?
- (4) Is there sufficient evidence?
- (5) What will the remedy achieve?
- (6) How much will it cost?

1.14 The main part of this work deals with question (1). The following paragraphs deal briefly with (3) and (6) and Chapter 3 deals with (4). Questions (2) and (5) arise in every case and the answers depend upon particular facts and circumstances, as well as on the judgment of those who have to make the decision.

1.15 Two other short points about the decision-making process are taken for granted and as such are noted but not discussed in detail. First, it is now generally understood that a multi-disciplinary or ‘partnership’ approach is both necessary and appropriate to tackle anti-social behaviour effectively. This is reflected in the scope of this work. Second, before seeking any legal remedy in respect of anti-social behaviour, authorities will usually have tried to deal with the problem by non-legal means, and taken an incremental approach to tackling the behaviour.

Legal considerations: overlapping remedies

1.16 Where a number of overlapping remedies exist, what is the position of the defendant against whom the harshest of these is sought? It can be anticipated that this fact will be relied upon to try to defeat the claim, but there is not much guidance from the courts in such a situation. In 2000, the Court of Appeal held that the trial judge was wrong to see the question of reasonableness (ie of making a possession order) as turning on the notion that there was an alternative and, as he thought, more appropriate remedy available.¹⁹

1.17 In the more recent decision of *R v J*,²⁰ the question was whether it was an abuse of process to charge the defendant with indecent assault in circumstances

¹⁹ *Newcastle upon Tyne City Council v Morrison* (2002) 32 HLR 891 at [60]. The court approved *Sheffield City Council v Jepsen* (1993) 25 HLR 299 where the submission that the landlord should have sought an injunction before resorting to possession proceedings was rejected.

²⁰ [2005] 1 AC 562.

where the conduct upon which that charge was based was an act of unlawful sexual intercourse with a girl under 16, in respect of which no prosecution could have been commenced due to a statutory time-bar. The part of the judgment of interest here is the following observation of Lord Bingham:

[Counsel for the Crown] contended that conduct may not infrequently be covered by more than one criminal offence and that prosecutors must enjoy a wide measure of discretion in selecting what charges they prefer. With this in general I agree, while observing that if conduct falls within a more general and also a more specific statutory provision one would ordinarily expect a charge to be laid under the latter, as exposing the defendant to the penalty which Parliament prescribed for the particular conduct in question.²¹

1.18 The House of Lords held (by a majority) that the defendant could not be so charged, but this was on the basis of the proper construction of the relevant statutory provision, rather than because it found there had been an abuse of process. The Court of Appeal had found there was no abuse of process.²² Thus, it seems unlikely that a court will intervene merely because a prosecutor or an applicant in civil proceedings is found, in choosing a charge or remedy, not to have done what it would ‘ordinarily expect’. Nonetheless, the above may be a helpful observation for authorities to keep in mind when choosing between both a general and a specific remedy.²³

Legal considerations: specific and general duties

1.19 An authority must always keep in mind the other duties it is under when considering what action to take and, whilst these are not considered in detail here, the following categorisation may provide a helpful summary or overview.

- (1) In addition to its general duties, the authority may have specific duties in respect of anti-social behaviour. These are considered in Chapter 2.
- (2) The authority may have a duty (rather than a discretion) to take action to tackle a particular problem. Two examples of this are statutory nuisances and abandoned vehicles.²⁴
- (3) The authority may owe specific statutory duties to the individual against whom action is being considered. The case of *R (AB & SB) v Nottingham City Council*²⁵ indicates the possible consequences if an authority ignores such duties when pursuing a remedy for anti-social behaviour. In that

²¹ [2005] 1 AC 562 at [24].

²² [2003] 1 WLR 1590.

²³ See also *R v Rimmington* [2005] UKHL 63, [2005] 3 WLR 982 which concerned conduct which is a criminal offence both at common law and by virtue of statutory provision. At [30] Lord Bingham said, ‘I would not go to the length of holding that conduct may never be lawfully prosecuted as a generally-expressed common law crime where it falls within the terms of a specific statutory provision, but good practice and respect for the primacy of statute do in my judgment require that conduct falling within the terms of a specific statutory provision should be prosecuted under that provision unless there is good reason for doing otherwise’.

²⁴ See further **12.38–12.46** and **23.09**.

²⁵ [2001] EWHC (Admin) 235, [2001] 3 FCR 350. See further **6.58** below.

case, an application for an ASBO was stayed pending a judicial review of the authority's failure to assess the defendant's needs under the Children Act 1989. The application succeeded, and the judge commented that the authority had:

'... concentrated unduly on the anti-social behaviour order proceedings and insufficiently on the discharge of its duty, in particular under s 17 of the Children Act, to assess SB's needs and to make provision for them. No doubt that focus has been the result of SB's very serious behavioural problems, but those problems cannot excuse a failure to comply with the s 17 duty.'²⁶

- (4) The final category is that of general duties which are negative in nature. The three most important of these are:
- (a) the duty on public bodies when taking administrative action, supervised by way of judicial review, not to act illegally, irrationally or in a way which is procedurally improper;²⁷
 - (b) the prohibition in s 6 of the Human Rights Act 1998 on public authorities acting in a way which is incompatible with rights under the European Convention; and
 - (c) the various prohibitions on discrimination contained in the Equality Act 2010.

Costs

1.20 It is not possible to give specific guidance on this issue as each case will be different, but research on the cost of ASBOs and possession orders (two of the most common remedies) provides some very helpful indications. With regard to the former, a Home Office report from March 2005 showed that the average cost of obtaining an ASBO was £2,500 (including estimates of staff and legal costs), down from £4,800 in 2002.²⁸ With regard to the latter, research carried out by Glasgow University and Heriot-Watt University during 2003 and 2004 estimates the cost of evicting a tenant for rent arrears to be between £2,000 and £3,000, and the cost of evicting a tenant for anti-social behaviour to be between £6,500 and £9,500.²⁹

1.21 Of general interest under this heading are the results of a national 'day count' of anti-social behaviour undertaken by the Home Office on Wednesday 10 September 2003. This recorded 66,107 reports of anti-social behaviour. The London School of Economics developed a framework for assessing the cost to the various agencies who have to deal with such behaviour, and estimated this at £3.4bn per year.³⁰

²⁶ [2001] EWHC (Admin) 235 at [48].

²⁷ See *Council of Civil Service Unions v Minister for the Civil Service* [1985] AC 374 at 410D.

²⁸ 'The cost of ASBOs: Report from ASBU/Home Office' (March 2005).

²⁹ 'Possession Actions and Evictions by Social Landlords' (ODPM, June 2005).

³⁰ There are six reports on this in total.

GUIDE TO THIS WORK

1.22 Given the large number of different and overlapping remedies, as well as the number of different authorities (as well as individuals) who have the power to act, presenting all of this in a way which is clear and easy to use is something of a challenge, but it is hoped that the structure adopted meets this adequately.

1.23 The book begins in Part I by examining who has the power to take action and the various legal considerations to be taken into account when deciding how to act. Having sufficient and appropriate evidence is also vital, and this is also covered in this Part.

1.24 Part II looks at those ‘general’ powers for dealing with anti-social behaviour, namely police powers, the criminal law, byelaws, ASBOs, remedies for harassment, and injunctions under s 222 of the Local Government Act 1972. These are referred to as ‘general remedies’ as they are flexible enough to cover a wide variety of situations, in contrast to those examined in later Parts, which are designed to deal with a specific type of problem or apply only in particular circumstances.

1.25 The sections in Part III are all linked in some way to the ownership or use of land. Thus, it examines remedies available to landlords and landowners, as well as those designed to deal with anti-social behaviour arising out of the use or misuse of land by others.

1.26 Children are often the focus of concern over anti-social behaviour, and the White Paper on anti-social behaviour³¹ states that schools have a ‘pivotal role’ in tackling this type of behaviour. Remedies against parents have also assumed greater significance recently. All of these are examined together in Part IV.

1.27 Finally, Part V examines those remedies which exist only in respect of particular situations. A number of these are not ‘remedies’ so called, but criminal offences, yet these are included for the same reason as the general criminal law is considered in Part II – they cannot be ignored when deciding how to tackle anti-social behaviour, particularly now that multi-agency approaches to anti-social behaviour are the norm and invariably involve the police.

³¹ ‘Respect and Responsibility – Taking a Stand Against Anti-Social Behaviour’ (Cm 6778, 2003).