

Managing children's behaviour: Parents, children and the law

Children and the criminal justice system

The age of criminal responsibility in England and Wales is 10. This is one of the lowest in Europe and lower than all of the other G8 countries, apart from the United States.¹ In France it is 13, Germany 14 and in Spain it is 16. Ireland has recently raised the age from 7 to 10 for the most serious crimes, and 12 for other crimes. In Scotland the age of criminal responsibility is 8, but the approach taken through the Children's Hearing system is predominantly a welfare one. (The rest of this factsheet refers to England and Wales only).

The [Crime and Disorder Act 1998](#) abolished the presumption in England and Wales that 10-13 year olds were incapable of knowing the difference between right and wrong (*doli incapax*) and so this age group is now treated in the same way as other juveniles (14-17 year olds).

Much youth crime is dealt with outside the youth court by way of reprimands and final warnings. In the most serious cases, the law allows children as young as ten to be sentenced to custody in secure children's homes or secure training centres.¹ Young offender institutions take boys from the age of 15 (girls usually only from the age of 17).²

While children and young people are held responsible for their own actions, parents are also considered to be responsible for their children's misbehaviour: they may be sent on parenting classes if their child is involved in anti-social behaviour or crime, or prosecuted if their child is missing school regularly.

Anti-social behaviour

Anti-social behaviour is defined by the [Crime and Disorder Act 1998](#) as behaviour that “caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household as himself”.

Anti-social behaviour orders

Anti-social behaviour orders (ASBOs) were introduced by the [Crime and Disorder Act 1998](#). They are civil orders made by a court which prohibit a person from specific acts, associating with certain people and/or from entering defined areas. They are imposed for a minimum of two years on anyone over ten years of age.

Although ASBOs can be imposed for behaviour which is not criminal, breaching an ASBO is a criminal offence for which a custodial sentence is possible.

Guidance states when ASBOs are issued, this should usually be publicised although the age of the person concerned should be considered. As ASBOs are civil orders, reporting restrictions concerning minors do not apply.

In 2005, 1555 ASBOs were issued to 10-17 year olds in England and Wales (39 per cent of the total issued), and their use varies considerably between local authority areas.³ The latest figures from the Home Office show that 57% of all ASBOs issued to under-18s were breached.⁴ Figures up to December 2003 showed that 46% of juveniles breaching their ASBO received a custodial sentence, the majority of these sentences being for other offences as well.⁵

Acceptable behaviour contracts

Acceptable behaviour contracts, also known as acceptable behaviour agreements, are not set out in law. They are written agreements made between a person (usually under 18) who has been involved in anti-social behaviour and their local authority, Youth Inclusion Support Panel, landlord or the police. Although they are not legally binding, they can be cited in court as evidence in ASBO applications.

A Home Office survey recorded 7500 acceptable behaviour contracts issued in 2005/06, however as only 57 per cent of the Crime and Disorder Reduction Partnerships in England and Wales responded, the true figure would be considerably higher.⁶

Individual support orders

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Under the [Criminal Justice Act 2003](#) when a court imposes an ASBO on a child or young person it must consider whether an individual support order would be desirable, and if not, state this in open court.

Individual support orders contain positive obligations which are designed to tackle the underlying causes of a young person's anti-social behaviour, for example counselling to tackle substance misuse, or an anger management programme. ISOs can last for up to six months and can require a young person to attend up to two sessions a week. Failure to comply with the conditions is a criminal offence and can result in enforcement proceedings.

*Magistrates' courts reported issuing just 42 individual support orders during 2005.*⁶

Fixed penalty notices

Fixed penalty notices can be issued to anyone over 10 years old for environmental offences such as litter, graffiti and dog fouling. The penalties vary by offence, e.g. £75 for graffiti, and can be set locally.

Penalty notices for disorder

These can be issued to anyone over 16 years old for offences such as throwing fireworks or being drunk and disorderly. They are for either £50 or £80 depending on the severity of the behaviour.

Penalty notices for disorder were piloted for 10-15 year olds in six police force areas until 2006. Parents and guardians were responsible for paying the penalties, which were set lower than those for adults, at £30 or £40.⁷

*In 2004, 3793 penalty notices for disorder were issued to 16 and 17 year olds in England and Wales, mostly for 'causing harassment, alarm or distress' or being 'drunk and disorderly'.*⁸

Dispersal powers

Under the [Anti-social Behaviour Act 2003](#), within an area designated as such by a police superintendent, police officers can disperse groups of two or more people or order anyone under the age of 16 to return home.

Child safety order

The [Crime and Disorder Act 1998](#) allows a child safety order to be issued, where a child below the age of criminal responsibility (10) has behaved anti-socially, has committed an act which, had they been aged 10 or over, would have constituted an offence, or to prevent such an act. The order places the child under the supervision of a responsible officer from either a youth

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offending team or social services department and requires them to comply with a set of requirements to ensure that:

- the child receives appropriate care, protection and support;
- the child is subject to proper control;
- that any repetition of the kind of behaviour that led to the child safety order being made is prevented.

A child safety order can last for up to 12 months. It may be accompanied by a parenting order.

*No child safety orders were issued in 2005/06.*⁹

Parenting orders and contracts

Parenting orders

Parenting orders were introduced by the [Crime and Disorder Act 1998](#). They require the parent

- to attend a counselling or guidance programme (e.g. a parenting class) for up to three months
- to comply with any other requirements in the order (to exercise control over their child's behaviour) for up to twelve months.

If a parent is convicted of breaching the order, they can be liable to a fine (currently up to £1,000). The court may also make a probation order or curfew order.

Parenting contracts

These were introduced by the [Anti-social Behaviour Act 2003](#). A parenting contract is a document which contains:

- a statement by the parent(s) that they agree to comply with the requirements in the document, and
- a statement by the other party to the contract that it agrees to provide support to the parents to enable them to comply with those requirements.

As contracts are voluntary there is no penalty for refusing to enter into or failing to comply with one. However, failure to co-operate with support offered through a contract can be considered by a court when deciding whether to make a parenting order.

Parenting measures: Anti-social behaviour or crime

Parenting orders

Parenting orders, as described above, can be made in a court under the [Crime and Disorder Act 1998](#), where:

- a child or young person is convicted of an offence
- an anti-social behaviour order or sex offender order is made in respect of a child or young person
- a child safety order is made in respect of a child

The [Anti-social Behaviour Act 2003](#) states that a court making an ASBO against a person under the age of 16 must make a parenting order against the parents of that child if it is satisfied that the parenting order would be desirable in the interests of preventing repetition of the behaviour which led to the ASBO.

In 2005/06, youth offending teams recorded 1,383 parenting orders which were attached to a final warning or community disposal (for example a community punishment order or supervision order for the young person). There were also 424 of these disposals which had parenting contracts attached, and 9200 with voluntary parenting interventions attached. There were 33 parenting orders attached to an ASBO.⁹

The [Anti-social Behaviour Act 2003](#) also allows youth offending teams to apply to a magistrates' court for a parenting order where the child or young person has engaged in criminal conduct or anti-social behaviour. Guidance states that the youth offending team should normally only apply for an order in this way after a parent has failed to co-operate in a parenting contract. The [Police and Justice Act 2006](#) will enable, in addition, local authorities and registered social landlords to apply for parenting orders.

In 2005/06, Youth Justice Board statistics show that just seven stand-alone parenting orders were issued.⁹

Parenting contracts

Under the [Anti-social Behaviour Act 2003](#), youth offending teams can enter into parenting contracts, as described above. The [Police and Justice Act 2006](#) also enables local authorities and registered social landlords to enter into parenting contracts in respect of anti-social behaviour.

Parental compensation orders

A local authority can apply to a magistrates' court for a parental compensation order where a child under the age of 10 has taken or caused loss or damage to property in the course of behaving anti-socially or committing an act that would have been criminal if he were 10 or over. These were brought in by the [Serious Organised Crime and Police Act 2005](#). The amount of compensation specified may not exceed £5,000 in all.

Parenting measures: school exclusion, misbehaviour or truancy

Exclusion from school or serious misbehaviour

The [Anti-social Behaviour Act 2003](#) allows the local education authority to apply to the magistrates' court for a parenting order where a pupil has been permanently excluded or has been excluded twice within a year. It also enables schools and local education authorities to enter into parenting contracts in cases of exclusion from school.

During 2006, 2,383 parenting contracts were agreed following exclusion but no parenting orders were issued.¹⁰

The [Education and Inspections Act 2006](#) enables parenting contracts to be used, and parenting orders to be applied for, in cases of misbehaviour where the pupil has not yet been excluded. It also allows schools to apply directly for parenting orders (rather than through the local education authority). These measures will come into force in September 2007.

The [Education and Inspections Act 2006](#) also imposes a duty on the parent to ensure that the excluded pupil is not present in a public place during school hours on the first five days that they are excluded from school in any year. From the sixth day of exclusion the governing body or local authority will be responsible for providing full-time education. A penalty notice can be given to any parent who appears to breach this duty. These measures will come into force from September 2007.

Truancy

If a child of compulsory school age who is registered at a school fails to attend regularly at the school then the parent is guilty of an offence under Section 444(1) of the [Education Act 1996](#).

The Criminal Justice and Court Service Act 2000 amended the Education Act 1996, introducing Section 444(1A) to create a more serious offence, where a parent knows that the child is failing to attend regularly at school, and fails without reasonable justification to cause him or her to attend. Prosecution under this section can lead to a fine, community sentence (including a parenting order) or a custodial sentence.

The [Anti-social Behaviour Act 2003](#) allows parents to escape prosecution for truancy by paying a penalty notice of £50 (or £100 after 28 days). (This does not currently apply in Wales).

In 2006, 12,681 penalty notices were issued for unauthorised absence and 3237 cases were eventually prosecuted following non-payment.¹⁰

Under the 'Fast track to prosecution' scheme, parents are given a summons to appear in court in 12 weeks' time unless they improve their child's attendance at school.

In 2006, 36,651 cases entered the Fast-track case management system, and 4880 Fast-track cases ended in prosecution.¹⁰

The [Crime and Disorder Act 1998](#) enables the court to make a parenting order where a parent is convicted of failure to ensure their child's attendance at school. The [Anti-social Behaviour Act 2003](#) allows governing bodies or local education authorities to enter into a voluntary parenting contract with a parent where a child of compulsory school age has failed to attend school regularly. As part of this, the local education authority or governing body may agree to provide support in the form of a parenting programme.

In 2006, 464 parenting orders were issued and 11,283 parenting contracts agreed following unauthorised absence.¹⁰

Summary of statistics

Anti-social behaviour (statistics for England and Wales)		
Anti-social behaviour orders (10-17 year olds) ³	1555	(2005)
Acceptable behaviour contracts ⁶	At least 7500*	(2005/06)
Individual support orders ⁶	42	(2005)
Child safety orders ⁹	0	(2005/06)
Parenting orders (attached to final warnings or community disposals) ⁹	1383	(2005/06)
Parenting orders imposed with an ASBO ⁹	33	(2005/06)
Parenting orders (stand-alone, applied for by youth offending team) ⁹	7	(2005/06)
Parenting contracts(attached to final warnings or community disposals) ⁹	424	(2005/06)
'other voluntary parenting interventions' (attached to final warnings or community disposals) ⁹	9200	(2005/06)
Penalty notices for disorder (16-17 year olds) ⁸	3793	(2004)
Education (statistics for England) ¹⁰		
Parenting orders (following school exclusion)	0	(2006)
Parenting contracts (following school exclusion)	2383	(2006)
Penalty notices for truancy	12,681	(2006)
Of which prosecuted following non-payment	3237	(2006)
Cases entering fast-track system for truancy	36,651	(2006)
Cases prosecuted from fast-track system	4880	(2006)
Parenting orders (truancy)	464	(2006)
Parenting contracts (truancy)	11,283	(2006)

* partial data

Guidance

Home Office (2006) A guide to anti-social behaviour orders.
<http://www.together.gov.uk/article.asp?c=455&aid=3809>

Home Office/Youth Justice Board/Department for Constitutional Affairs (2004)
Parenting Contracts and Orders Guidance
<http://www.crimereduction.gov.uk/youth/youth51.htm>

Department for Education and Skills (2003) Ensuring regular school attendance: Guidance on the legal measures available to secure regular school attendance
<http://www.dfes.gov.uk/schoolattendance/uploads/Prosecution-Guidance%20Ensuring%20Regular%20School%20Attendance.pdf>

Department for Education and Skills (2004) Guidance on education-related parenting contracts, parenting orders and penalty notices.
<http://www.dfes.gov.uk/schoolattendance/uploads/Updated%20Guidance%20on%20Education-Related%20Parenting%20Contracts.pdf>

NB New regulations and guidance on education-related parenting contracts, parenting orders and penalty notices will be published in July 2007, replacing the current version.

Further reading

Allen, R. (2006) *From punishment to problem solving: A new approach to children in trouble*. Centre for Crime and Justice Studies.
<http://www.kcl.ac.uk/depsta/rel/ccjs/2006-punishment-to-problem-solving.pdf>

Bullock, K. and Jones, B. (2004) Acceptable Behaviour Contracts addressing antisocial behaviour in the London Borough of Islington. Home Office Online Report <http://www.homeoffice.gov.uk/rds/pdfs2/rdsolr0204.pdf>

Commission on Families and the Wellbeing of Children (2005) *Families and the State: Two-way support and responsibilities*. The Policy Press

Ghate, D. and Ramella, M. (2002) *Positive parenting: The national evaluation of the Youth Justice Board's parenting programme*. Policy Research Bureau.
<http://www.yjb.gov.uk/Publications/Scripts/prodView.asp?idproduct=21&eP=>

Halsey, K., Bedford, N. Atkinson, M., White, R. and Kinder, K. (2004) *Evaluation of fast track to prosecution for school non-attendance*. Department for Education and Skills.
<http://www.dfes.gov.uk/research/data/uploadfiles/RR567.pdf>

National Audit Office (2006) *The Home Office: Tackling anti-social behaviour* London: The Stationery Office
http://www.nao.org.uk/publications/nao_reports/06-07/060799.pdf

Respect Task Force (2006) Respect Action Plan. Home Office
<http://www.respect.gov.uk/members/article.aspx?id=7526>

Youth Justice Board (2006) *Anti-social behaviour order research*.
London: Youth Justice Board
<http://www.yjb.gov.uk/Publications/Scripts/prodView.asp?idproduct=309&eP=>

¹ Allen, R. (2006) From punishment to problem solving: A new approach to children in trouble. Centre for Crime and Justice Studies.
<http://www.kcl.ac.uk/depsta/rel/ccjs/2006-punishment-to-problem-solving.pdf>

² Youth Justice Board website <http://www.yjb.gov.uk/en-gb/yjs/SentencesOrdersandAgreements/>

³ Home Office Research Development and Statistics Directorate. Anti-social behaviour orders statistics
<http://www.crimereduction.gov.uk/asbos/asbos2.htm>

⁴ Home Office Press Release. 8 December 2006. Anti-social behaviour orders continue to bring respite to communities <http://press.homeoffice.gov.uk/press-releases/asbos-bring-communities-respice>

⁵ House of Commons statement 1 March 2005: Column 81WS.
<http://www.publications.parliament.uk/pa/cm200405/cmhansrd/vo050301/wms/text/50301m02.htm>

⁶ Respect Task Force (2007) Tools and powers to tackle anti-social behaviour. Home Office
<http://www.respect.gov.uk/members/article.aspx?id=9822>

⁷ Respect website <http://www.respect.gov.uk/members/article.aspx?id=7974>

⁸ Penalty notices for disorder statistics 2004 England and Wales.
<http://www.homeoffice.gov.uk/rds/pdfs05/rdsolr3505tables.xls>

⁹ Youth Justice Board (2007) Youth Justice: Annual Statistics 2005/06.
<http://www.yjb.gov.uk/publications/Resources/Downloads/Youth%20Justice%20Annual%20Statistics%202005-06.pdf> (England and Wales)

¹⁰ Data for Penalty Notices, Fast-track, Parenting Contracts & Parenting Orders <http://www.dfes.gov.uk/schoolattendance/otherinitiatives/Data.cfm>