

Recent guidance on ASBOs

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When can ASBOs be made?

The 2 most common ways:

- Upon civil application in the magistrates' and county courts
- As an order after conviction for an offence

Procedure for the making of an ASBO

- No specific procedure set down for the making of an ASBO after conviction
- General guidelines recently given in *R v W and F* (2006) EWCA Crim 686

Drafting the Prohibitions

- To be effective and enforceable the terms of an ASBO require careful drafting
- Best practice set out by court of appeal in R v Boness (2005) EWCA 2395

ASBOs to increase the penalty for particular criminal offences – right or wrong?

- *R v Hall* (2004) EWCA Crim 261, the CA said this was not wrong in principle
- *R v Kirby* (2005) EWCA 1228, the CA changed its mind
- *Kirby* followed by CA in *R v Boness* and *R v Theo Williams* (2005) EWCA Crim 1796

Conclusion

CA have left open the possibility for such an order to be made in exceptional circumstances, but it is discouraged.

Sentencing for breach of terms of an ASBO

- *R v H, Stevens and Lovegrove* (2006)
EWCA Crim 255 – *Morrison* overruled
- *R v Lamb* (2006) 2 CAR (S) 84 (11), CA
commented that in this type of case a
community penalty should be considered to
help an offender learn to live with his order.