

# **USE OF ANTISOCIAL BEHAVIOUR ORDERS IN SCOTLAND**

DTZ PEDA Consulting and Heriot Watt University

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## EXECUTIVE SUMMARY

1. This report presents findings from the first phase of a 3-year monitoring project on Antisocial Behaviour Orders (ASBOs) in Scotland. The final report in 2007 will fulfil the requirement under section 17 of the Antisocial Behaviour etc (Scotland) Act 2004 to arrange for a study to examine the operation of Part 2 of the Act. This initial research is part of the project. It draws on a national survey of local authorities (LAs) and housing associations (or Registered Social Landlords – RSLs) undertaken in September/October 2004. This survey focused on the use of ASBOs in 2003/04. The report is also informed by the views of practitioners and national stakeholder organisations that took part in a series of focus group discussions convened by the research team. Results from the national survey are presented alongside comparable data from earlier reports on ASBOs in Scotland, as well as statistics on the use of ASBOs in England and Wales, as recorded by the Home Office<sup>1</sup>.

### ASBOs sought and granted

2. Scottish LAs and RSLs sought a total of 235 ASBOs in 2003/04 – an increase of 87% on the 2002/03 figure. ASBO applications were made in 26 of Scotland's 32 LAs. This includes one authority – Glasgow – where all ASBO actions in 2003/04 were attributable to one RSL (Glasgow Housing Association) rather than the Council itself. Whilst their powers to seek ASBOs were introduced only in June 2003, RSLs were responsible for 25 ASBO applications in 2003/04 (11% of the national total).

3. Some 148 ASBOs were granted by the Scottish courts in 2003/04, representing a rate of 6.9 Orders per 100,000 households<sup>2</sup>. The rate of ASBO deployment remains slightly higher in Scotland than in England and Wales (where the comparable figure in 2003/04 was 6.1). Expressed in these terms, the highest ASBO rates in Scotland in 2003/04 were recorded in Dundee, Orkney, North Lanarkshire and Scottish Borders.

4. The pattern of ASBO use across the country is only slightly associated with survey evidence on the incidence of antisocial behaviour (ASB)<sup>3</sup>. In some large urban areas where rates of ASB are well above the national average (e.g. Glasgow), ASBO use was relatively low. Area to area variations in ASBO use may reflect a number of factors. These include:

- The differing speeds at which LAs and RSLs have been 'gearing up' to make full use of ASBO powers (e.g. through the establishment of specialist counter-ASB posts or teams). Glasgow City Council, for example, set up such a team only in December 2004.

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<sup>1</sup> It should be acknowledged that Scotland's ASBO regime Scotland differs somewhat from that operated in England and Wales (particularly as it relates to young people). In broad terms, however, comparisons between the use of ASBOs North and South of the border are legitimate.

<sup>2</sup> Whilst the number of ASBOs granted in 2003/04 was considerably fewer than the number of Orders sought (148 as against 235) it should not be inferred that the difference represents applications rejected by the courts. Whilst this will have been true in a small number of cases, the main reason for the disparity is probably that some ASBO applications entered in court in 2003/04 remained outstanding at year end.

<sup>3</sup> Data from the Scottish Household Survey (2003) revealed that experiences of neighbour serious disputes were highest in Glasgow. Incidences of neighbourhood problems such as vandalism, groups of young people hanging around and people drinking and using drugs were also above average in Glasgow.

- Variations in the attitudes of the legal profession and the courts as regards ASBOs – in some areas the ‘unsympathetic’ stance of solicitors and/or sheriffs is seen as discouraging or suppressing applications.
- The organisational location of responsibility for tackling ASB within LAs – in two thirds of LAs, housing departments take the lead in progressing ASBO applications. Where ASB response continues to be seen as closely related to an authority’s landlord role, it may be the Council is less likely to prioritise tackling disorder involving or affecting private sector residents or non housing cases (though this does not necessarily imply that the overall incidence of ASBOs will be lower where such arrangements prevail).
- The extent of LA/RSL commitment to resolve ASB through means other than ASBOs – e.g. mediation.

### **The use of other measures for tackling ASB**

5. Whilst they represent a comparatively new remedy, ASBOs are already being more widely used than eviction actions against social sector tenants. Whereas 25 LAs sought ASBOs in 2003/04 (for the most part, against their own tenants – see below), only fourteen LAs entered ASB-triggered eviction actions in court during the year.

6. Growing numbers of LAs and RSLs are using Acceptable Behaviour Contracts (ABCs) as a remedy for ASB – particularly where perpetrated by young people. By 2004 more than a third of LAs (13) had experimented with ABCs. However, whilst some organisations see ABCs as a standard pre-cursor to ASBO applications, this approach is far from universal. Across Scotland as a whole there is no clear relationship between the use of ABCs and ASBOs.

### **ASBO perpetrators**

7. In a small number of LAs private tenants and home-owners account for an appreciable proportion of ASBO perpetrators. In general, however, ASBOs continue to be applied mainly to social sector tenants – in 2003/04 85% of ASBO perpetrators were LA or RSL tenants. To some extent the tenure-specific focus of ASBOs is probably a reflection of the actual incidence of ASB. Indeed, the incidence of serious neighbour disputes in the social rented sector is almost twice as high as other tenures (Scottish Household Survey 2003).

8. However, it may also be influenced by the organisational location and funding of staff charged with ASB response. Typically, this means that a largely<sup>4</sup> Housing Revenue Account-funded service<sup>5</sup> concentrates mainly or exclusively on problems affecting council tenants. Conversely, following stock transfer in Glasgow, the City Council’s ASB response has been separated from the landlord role and now reportedly focuses on ‘private sector’ neighbourhoods.

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<sup>4</sup> The Scottish Executive have provided additional funding to LAs for services to be provided on a cross tenure basis from 2004/05

<sup>5</sup> That is, a service financed from council tenants’ rents

9. Whilst 13 per cent of 2003/04 ASBO applications were against persons aged under 18, nearly two thirds of all applications (63%) related to persons aged over 25. This is in stark contrast to the pattern in England and Wales where, as reported by Home Office research (Campbell, 2002), 36% of 1999-2001 Orders granted related to people aged 16 or under and only 21% were aged over 25<sup>6</sup>. The different age focuses in Scotland and in England and Wales are likely to be explained by the earlier introduction of ASBOs for under 16 year olds in England and Wales.

### **ASBO offences, prohibitions and duration**

10. A few LAs have begun to experiment with the use of ASBOs to tackle offences such as prostitution and begging. For the most part, however, ASBOs continue to be used to tackle disorder in housing estates. In 2003/04, for example, 94% of ASBO applications were in respect of offences committed ‘in residential areas near the perpetrator’s home’.

11. It can be inferred that noise of one kind or another (e.g. shouting, playing loud music) was a factor in nearly half of all incidents triggering ASBO applications. The evidence here derives from the fact that 46% of Orders granted prohibited some form of noise on the part of the perpetrator. Nineteen per cent of Orders granted (32% of RSL-initiated Orders) prohibited the perpetrator from entering a specified area (e.g. to protect a victim or witness or to stop harassment).

12. The duration of ASBOs varies greatly from area to area. In a number of LAs, for example, all Orders granted in 2003/04 were of indefinite duration whereas in others, they tended to be limited to 12 months. The extent to which ASBO duration reflects judgements by the Court – as opposed to decisions on the part of the applicant – is not clear.

### **ASBO breaches**

13. The data collected on breaches was somewhat patchy and inconsistent, perhaps because the term ‘breach’ is not consistently understood. This appears to have led to confusion over allegations of breach and incidents that lead to a conviction for breach of an Order. The survey data here appear to indicate that as many as two thirds of ASBOs in force in 2003/04 were breached during the year. However, this finding should be treated with caution until it can be verified through the 2004/05 survey to be undertaken in summer 2005.

### **Use of ASBOs to counter ASB involving young people**

14. Under the Antisocial Behaviour etc. (Scotland) Act 2004 the ASBO regime is broadened to cover young people aged 12-15. These changes came into effect in October 2004. Particularly given the experience of England and Wales (where it has, for some time, been possible to obtain Orders against juveniles) where a significant proportion of ASBOs are granted for the younger age group (36% of ASBOs granted between 2001 and 2003 were against under 17 year olds) it might be expected that the use of ASBOs could increase substantially in Scotland under the new arrangements. A majority of LA survey respondents

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<sup>6</sup> Detailed information on the use of ASBOs in England and Wales is available only for the period covered by Campbell’s study

(54%) thought it likely that their authority would make use of these powers during the first year of the new regime. Seventeen per cent thought this ‘very likely’.

15. However, the generally more experienced LA and RSL staff taking part in focus group discussions tended to see such powers as heavily qualified. The checks and balances built into the legislation – e.g. involvement of Children’s Reporter – were viewed as placing a major limitation on the use of ASBO applications involving 12-15 year olds. Also, whilst ASBO breaches by young people constitute criminal offences, the proscription of custodial sentences was considered by practitioners as a seriously restraint on the efficacy of ASBOs as a means of countering disorder involving young people. Hence, it appears very unlikely that the extension of the ASBO regime to young people aged 12-15 will generate a dramatic increase in the overall use of Orders.

# 1 INTRODUCTION AND BACKGROUND

## Research Context and Objectives

1.1 Antisocial Behaviour Orders (ASBOs) are civil orders, introduced by the Crime and Disorder Act 1998 to prevent behaviour that causes or would be likely to cause alarm or distress to others. Breach of an Order is a criminal offence punishable by up to five years imprisonment and a fine on indictment. The concept was further developed under the Criminal Justice (Scotland) Act 2003 which extended the option to RSLs, as well as introducing interim ASBOs. The Antisocial Behaviour etc (Scotland) Act 2004 extends the ASBO regime to cover 12-15 year olds (though breach of Orders by members of this group cannot be punished through imprisonment).

1.2 Whilst 1998 saw the introduction of ASBO powers in England and Wales, as well as in Scotland, it is important to recognise that the two regimes differ in certain significant respects. Somewhat in contrast to England and Wales, local authorities are clearly the lead agencies in seeking ASBOs in Scotland, with the police playing an essentially supportive role – e.g. assisting in evidence collection.

1.3 Importantly, the scope of ASBO powers in the two jurisdictions has differed in that – until October 2004 – Orders could be sought for young people only in England and Wales, and not in Scotland. Whilst ASBOs can now be obtained for 12-15 year olds in Scotland, the framework remains distinct from that south of the border in terms of the ASBO application process and in terms of the consequences of ASBO breach. Unlike in England and Wales, a young person breaking ASBO terms cannot be jailed. Other significant differences in the regimes in Scotland and in England and Wales have included the more recent introduction of interim ASBO powers and the scope for ASBOs to be granted to housing associations.

1.4 Nevertheless, the basic ASBO concept remains common across Great Britain. Hence, in broad terms, comparisons between ASBO use in Scotland, on the one hand, and England and Wales, on the other, remain legitimate.

1.5 An earlier study commissioned by the Scottish Executive found that 226 ASBOs had been granted in Scotland from their date of introduction to March 2003 (CIHS, 2003). This work also established that there were large variations in the incidence of ASBO usage between local authorities. However, the scope of this work did not allow for any in-depth examination of the reasons for such variations, nor any detailed exploration of ASBO application processes or outcomes.

1.6 The central aim of this new study, scheduled to run from September 2004-February 2007, is to update the existing research, and to examine in more depth the key issues around the use of ASBOs in Scotland. Specifically, the key objectives of the study are to:

- Collect up-to-date data on the use of ASBOs and Interim Orders by both local authorities (LAs) and housing associations (or Registered Social Landlords – RSLs)
- Collect data about the ASBO application process and about ASBO prohibitions, together with an analysis of the circumstances in which the Orders are used

- Investigate LA and RSL experience of using ASBOs to gain a fuller understanding about their effectiveness in resolving antisocial behaviour
- Collect information about the use and effectiveness of other measures used before, instead of, and alongside ASBOs – e.g. mediation, Acceptable Behaviour Contracts, interdicts, possession actions (for social renters) and Noise Abatement Notices
- Examine the effectiveness of new measures introduced by part 2 of the Antisocial Behaviour etc (Scotland) Act 2004 – and in particular its extension of ASBOs to 12-16 year olds

### **Methodology and scope of report**

1.7 This report presents findings from the initial phase of the research (September-December 2004). This involved the following elements:

- Literature review
- Analysis of an email survey issued to all social landlords operating in Scotland, as well as secondary data on ASBO use
- Focus group sessions involving local authority staff, RSL staff and representatives of national stakeholder organisations

### **Literature review**

1.8 The literature review covered existing research and good practice guidance on the use of ASBOs in England and Wales, as well as in Scotland. The review incorporated findings from academic research, as well as official publications.

### **Email survey**

1.9 To develop a full understanding of both the extent and nature of ASBO use across Scotland, an email survey of social landlords in Scotland was undertaken. Using a survey previously carried out by the Chartered Institute of Housing (Scotland) (CIHS) as a starting point, the survey collected statistical information on ASBO applications and Orders granted in 2003/04.

1.10 The survey was issued to a total of 180 local authorities and RSLs operating across Scotland. Responses were received from 114 organisations – an overall response rate of 63% (100% for local authorities and 55% for RSLs). The survey form is attached as Appendix B.

## Analysis of secondary data

1.11 To supplement the email survey, and provide historical and national trends, data was extracted from the previous CIHS report, as well as Home Office statistics for England and Wales.

1.12 As the email survey drew responses from only just over half of all RSLs, we cross-referenced our data with figures for RSLs as collected by Communities Scotland (CS) through CS Annual Performance Statistical Returns (APSR).

## Focus groups

1.13 To help interpret the output from the statistical analysis and to draw on the informed views of practitioners and others, we held three focus group sessions. These involved:

- a **local authority** focus group with twelve attendees from different councils. This group brought together participants from housing departments, specialist ASB teams, legal departments and the police.
- a **national stakeholder organisation** focus group involving eight attendees from a wide range of organisations including the Scottish Retail Consortium, Chair of a Scottish Tenants' Organisation, Scottish Children's Reporter and the Edinburgh Chair of Justices Committee – which oversees the operation of the District Court.
- a **Registered Social Landlord (RSL)** focus group drawing eight participants from different organisations – mainly from a housing management background, although some dedicated ASB staff were also involved.

## Data limitations

1.14 The extent to which we were able to interrogate the data was limited in three ways:

- As the raw data from the previous CIHS research was not available, the scope for analysing previous years data on ASBO deployment was limited. For example, only 12 months data on ASBO use by local authority area are presented in the report.
- As the CIHS survey collected data across calendar years and the recent study collected data across financial years there was an issue with the comparability of the data. In order to overcome this issue, the CIHS data was reallocated into financial years on the assumption that ASBO activity was constant across the 12 months. In reality, ASBO activity is not consistent and therefore figures for financial years up to 2003/04 will not reflect actual activity but are estimates only. However, this method provides a strong base upon which to understand ASBO use.
- The APSR made to CS by RSLs, although extremely useful in facilitating cross-referencing with our own email survey, is limited to statistics on ASBO applications and ASBOs granted. For more detailed information on ASBO use (e.g. by duration or

outcome) we have relied on the email survey. The survey, which achieved a 55% response rate for RSLs, does not provide a full picture of ASBO use within the sector.

## 2 INCIDENCE OF ASBO APPLICATIONS AND ORDERS GRANTED

2.1 This section sets out data on the deployment of ASBOs between April 1999 and March 2004. Drawing on evidence from the email survey, as well as secondary data, ASBO activity in Scotland is compared with England and Wales.

### ASBO applications

2.2 Between April 1999 and March 2004 ASBO applications in Scotland totalled 603 (see Table 2.1). The 235 ASBOs applications made in 2003/04 constituted an increase of 87% on the previous year. This growth has primarily been driven by a rise in ASBO applications by local authorities, with RSLs (who were empowered to make ASBO applications only as from June 2003<sup>7</sup>) also contributing to the increase.

2.3 Fifteen of the 25 ASBO applications made by RSLs in 2003/04 were attributable to just three associations – Glasgow, Melville and Scottish Borders<sup>8</sup>.

**Table 2.1: ASBO applications in Scotland 1999-2004**

Year	LAs	RSLs	Total	% change year on year
1999/00	47	-	47	-
2000/01	97	-	97	107
2001/02	98	-	98	0.3
2002/03	126	-	126	29
2003/04	210	25	235	87

#### Notes to table

Note: Pre-2003/04 figures converted to financial years

Source: 2002/03 = CIH, 2003/04 DTZ email survey and Communities Scotland APSR data

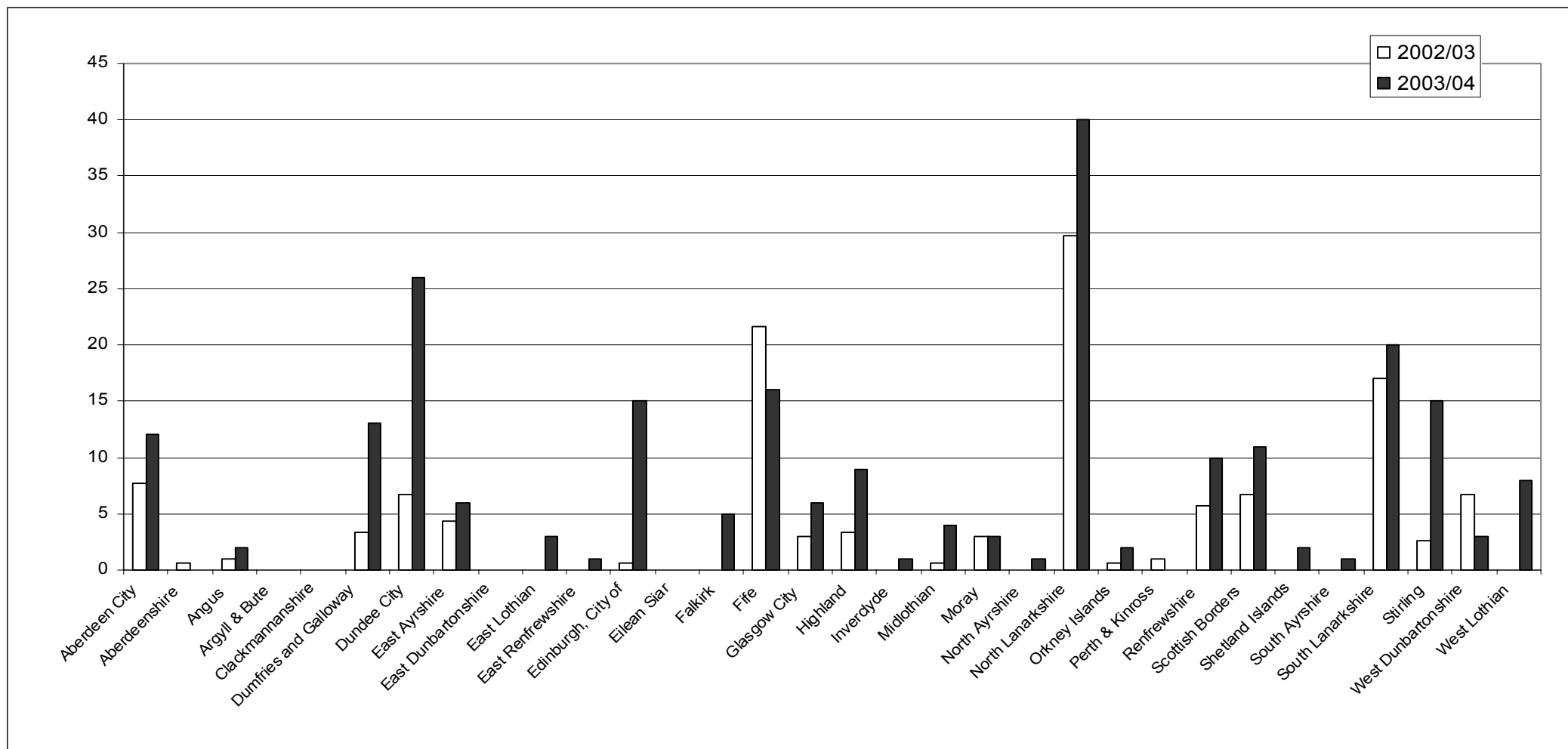
### ASBO applications by area

2.4 Figure 2.1 presents the numbers of LA and RSL ASBO applications made during 2003/04 broken down by the geographical area in which the application was made. Of the 235 applications, 40 (17%) were made in the North Lanarkshire area. Dundee (26 or 11%) and South Lanarkshire (20 or 8%) had the next largest numbers of applications. Within six local authority areas no ASBO applications were made, while in a further 10, applications numbered three or less.

<sup>7</sup> The Criminal Justice (Scotland) Act 2003 (the 2003 Act) enables registered social landlords (RSLs) to apply to the courts for Anti Social Behaviour Orders (ASBOs). The relevant part of the 2003 Act came into force on 27 June 2003.

<sup>8</sup> As detailed in paragraph 1.11 this report has relied on Communities Scotland APSR and LA email survey returns to provide a full picture of ASBO applications and orders during 2003/04.

**Figure 2.1: ASBO applications by local authority area, 2002-04**



**Notes to chart**

Note: Pre-2003/04 figures converted to financial years

Source: 2002/03 = CIH, 2003/04 DTZ email survey and APSR data

2.5 The six applications by Glasgow Housing Association were the only ones made by **any** Glasgow agency.

2.6 Trends in ASBO applications by local authority area are set out in Table 2.2. The numbers of authorities where no ASBOs were sought reduced from 12 in 2002/03 to six in 2003/04. The overall growth in ASBO applications is most significant in the City of Edinburgh, where applications increased from one to 15. Just four authorities – Dundee, North Lanarkshire and South Lanarkshire and Stirling – accounted for 100 of the 211 ASBOs sought by local authorities in 2003/04. In three of these authorities applications were substantially higher than in the previous 12 months.

2.7 Table 2.2 shows the rate of ASBO applications per every 100,000 households. Whilst the **number** of applications was highest in North Lanarkshire, the **rate** of applications was higher in both Stirling and Dundee. Because of their comparatively small populations the relatively small numbers of ASBO applications by Orkney and Shetland place these authorities amongst those areas with the highest ASBO application rates (see Table 2.2).

**Table 2.2: ASBO applications in Scotland 2002-2004 by local authority areas (2002/03 figures converted to financial years)**

Area	Number		Rate per 100,000 households	
	2002/03	2003/04	2002/03	2003/04
Stirling	3	15	7.4	41.4
Dundee City	7	26	10.0	38.9
North Lanarkshire	30	40	22.1	29.9
Orkney Islands	1	2	7.9	23.6
Scottish Borders	7	11	13.8	22.8
Shetland Islands	0	2	0.0	21.6
Dumfries and Galloway	3	13	5.2	20.2
South Lanarkshire	17	20	13.3	15.6
Renfrewshire	6	10	7.5	13.2
Aberdeen City	8	12	7.8	12.2
Midlothian	1	4	2.0	12.1
West Lothian	0	8	0.0	12.1
East Ayrshire	4	6	8.5	11.8
Fife	22	16	14.2	10.5
Highland	3	9	3.7	9.9
Moray	3	3	8.3	8.3
Falkirk	0	5	0.0	7.9
East Lothian	0	3	0.0	7.7
West Dunbartonshire	7	3	16.2	7.3
Edinburgh, City of	1	15	0.3	7.2
Angus	1	2	2.1	4.2
East Renfrewshire	0	1	0.0	2.8
Inverclyde	0	1	0.0	2.7
Glasgow City	3	6	1.1	2.2
South Ayrshire	0	1	0.0	2.0
North Ayrshire	0	1	0.0	1.7
Aberdeenshire	1	0	0.7	0.0
Argyll & Bute	0	0	0.0	0.0
Clackmannanshire	0	0	0.0	0.0
East Dunbartonshire	0	0	0.0	0.0
Eilean Siar	0	0	0.0	0.0
Perth & Kinross	1	0	1.7	0.0
<b>Total</b>	<b>126</b>	<b>235</b>	<b>5.7</b>	<b>10.7</b>

Note: Pre-2003/04 figures converted to financial years

Source: 2002/03 = CIH, 2003/04 = DTZ email survey and APSR data, Scottish Executive 2002 Based Household Projections

## ASBOs granted

2.8 Since April 1999, a total of 374 ASBOs have been granted in Scotland. This represents 62% of applications made over the same period. However, it is not accurate to state that 38% of ASBO applications have been rejected during this period. This is because ASBO applications enumerated as having taken place in a particular year, say 2003/04, will not necessarily have resulted in a judicial outcome before the end of that year. Evidence from practitioners suggests that the proportion of rejected ASBO is considerably lower than 38%.

2.9 As with the profile of applications, ASBOs granted have steadily increased, rising from 26 in 1999/00 to 148 in 2003/04. The rate of growth slowed between 2001 and 2003, peaking again in the most recent year.

**Table 2.3: ASBO Orders Granted in Scotland 1999-2004**

Year	LAs	RSLs	Total
1999/00	26	-	26
2000/01	57	-	57
2001/02	68	-	68
2002/03	75	-	75
2003/04	134	14	148

**Notes to table**

Note: Pre-2003/04 figures converted to financial years

Source: 2002/03 = CIH, 2003/04 = DTZ email survey and APSR data, Scottish Executive 2002 Based Household Projections

2.10 Using Home Office data<sup>9</sup>, we have compared the rate of ASBOs granted in England and Wales and Scotland. Table 2.4 and Figure 2.2 show that ASBOs granted per 100,000 households have been consistently higher in Scotland than in England and Wales (though, as explained in paras 1.2-1.3, the two regimes differ in certain respects).

2.11 During the period covered by this report, Scottish organisations were unable to seek ASBOs for persons under 16 years of age. As such, the ASBO applications and Orders granted figures for Scotland do not include younger people for whom an ASBO might have been an option, had the power been available. On this basis it is reasonable to argue that the incidence of ASBO applications in Scotland is significantly higher than in England and Wales in relation to the ‘actionable’ proportion of the population.

**Table 2.4: ASBOs granted in England and Wales, and Scotland, 1999-2004**

Year	Numbers of ASBOs granted		ASBOs granted per 100,000 households*	
	England & Wales	Scotland	England & Wales	Scotland
1999/00	-	26	-	1.2
2000/01	267	57	1.2	2.6
2001/02	321	68	1.5	3.1
2002/03	495	75	2.3	3.4
2003/04	1,343	148	6.1	6.7

**Notes to table**

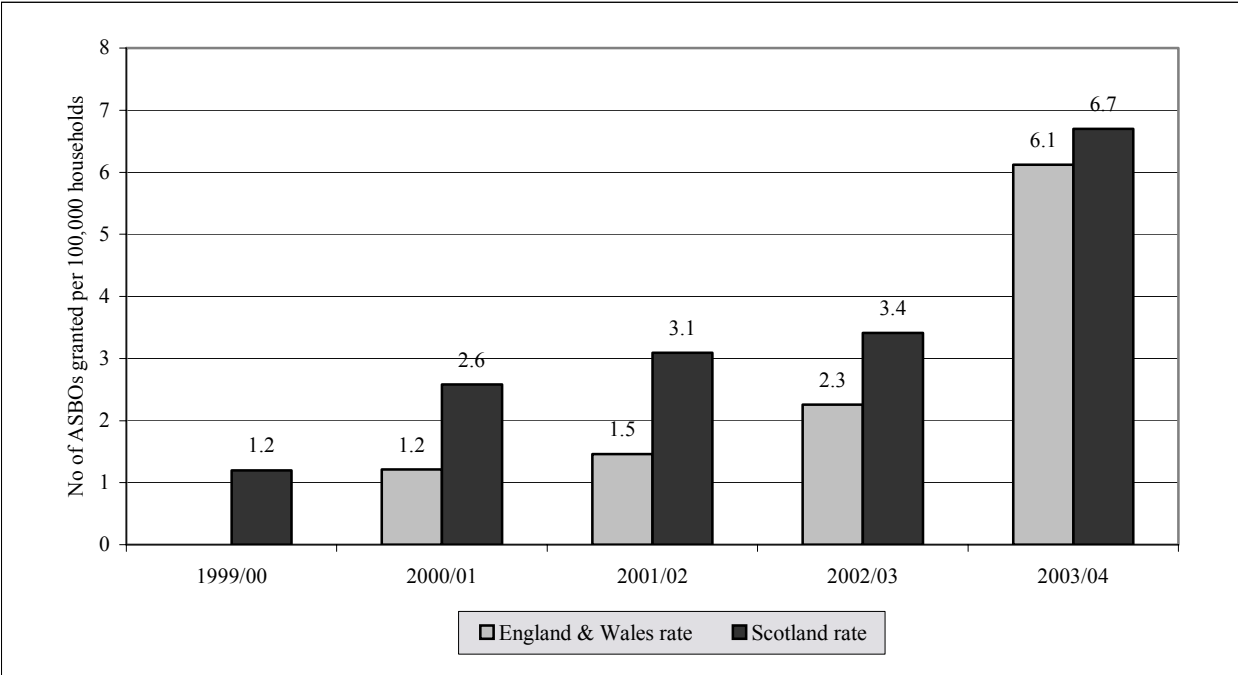
1. Pre-2003/04 figures for Scotland converted to financial years;

2. England and Wales data for 1999/00 not available.

Sources: ASBOs granted – Home Office (England and Wales), CIHS, DTZ Pidea, Communities Scotland (Scotland); Households figures – ONS 2001 mid-year estimates (1996-based projections); (England and Wales), Scottish Executive 2002 Based Household Projections (Scotland)

<sup>9</sup> This unpublished data is collected through the courts rather than from local authorities and other organisations making ASBO applications

**Figure 2.2: Incidence of ASBOs Granted in England & Wales and Scotland, 1999-2004**



**Notes to chart**

- 1. Households figures for Scotland 2002-based, England & Wales 1996-based;
  - 2. Scotland figures for 1999/00-2002/03 interpolated from CIHS data; 3. England and Wales data for 1999/00 not available.
- Sources: As Table 2.4

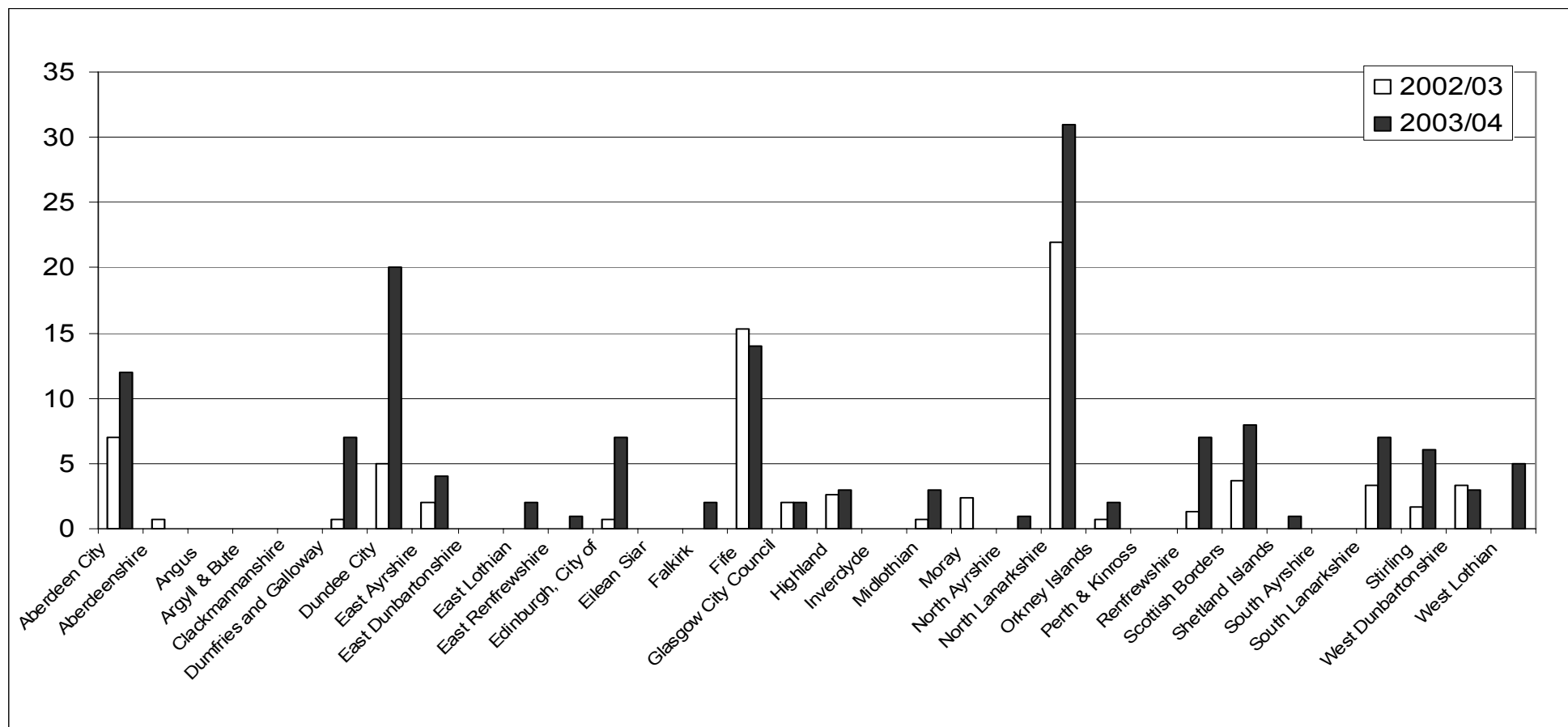
**ASBOs granted by area**

2.12 Figure 2.3 presents the ASBOs granted in 2002/03 and 2003/04 by LA area. Of the 148 ASBOs granted, 31 (21%) were initiated within the North Lanarkshire area. Dundee (20 or 13%) and Fife (14 or 9%) had the next largest numbers of ASBOs granted. Within ten local authority areas no ASBOs were granted, while in a further 10 the numbers granted totalled three or less.

2.13 Trends in ASBOs granted are plotted for two years and are set out in Table 2.5. ASBOs granted increased from 75 in 2002/03 to 148 the following year. The greatest numerical growth in ASBOs was in Dundee, where ASBOs granted rose from nil to 20. The number of ASBOs granted in North Lanarkshire, Scottish Borders, Dumfries and Galloway and Edinburgh also increased significantly – together the number of ASBOs granted in these areas increased from 26 to 56.

2.14 Table 2.5 also shows the rate of ASBOs granted per every 100,000 households. Overall, 2003/04 saw 6.8 ASBOs granted per 100,000 households, twice the figure for 2002/03. As with the applications, Orkney and Shetland show up as ‘high rate’ authorities thanks to their relatively small populations. Perhaps more notable is that largely rural areas such as Scottish Borders and Dumfries and Galloway were also among the authorities where ‘ASBOs granted’ rates were highest in 2003/04. In the former, most of this activity was initiated by RSLs rather than by the local authority. Dumfries and Galloway Council process all ASBO applications on behalf of Dumfries and Galloway Housing Partnership.

**Figure 2.3: ASBO Granted by local authority area, 2002-04**



**Notes to chart**

Pre-2003/04 figures converted to financial years

Source: DTZ email survey and APSR data

**Table 2.5: ASBOs Granted in Scotland 2002-2004 by local authority area (2002/03 figures converted to financial years)**

Area	No ASBOs granted		Rate per 100,000 households	
	2002/03	2003/04	2002/03	2003/04
Dundee City	5	20	7.5	29.9
Orkney Islands	1	2	7.9	23.6
North Lanarkshire	22	31	16.4	23.1
Scottish Borders	4	8	7.6	16.9
Stirling	2	6	4.6	16.9
Aberdeen City	7	12	7.1	12.2
Dumfries and Galloway	1	7	1.0	10.9
Shetland Islands	0	1	0.0	10.8
Renfrewshire	1	7	1.8	9.3
Fife	15	14	10.1	9.2
Midlothian	1	3	2.0	9.1
East Ayrshire	2	4	3.9	7.9
West Lothian	0	5	0.0	7.6
West Dunbartonshire	3	3	8.1	7.3
South Lanarkshire	3	7	2.6	5.5
East Lothian	0	2	0.0	5.2
Edinburgh, City of	1	7	0.3	3.4
Highland	3	3	2.9	3.3
Falkirk	0	2	0.0	3.1
East Renfrewshire	0	1	0.0	2.8
North Ayrshire	0	1	0.0	1.7
Glasgow City	2	2	0.7	0.7
East Dunbartonshire	0	0	0.0	0.0
Moray	2	0	6.4	0.0
Clackmannanshire	0	0	0.0	0.0
Aberdeenshire	1	0	0.7	0.0
Angus	0	0	0.0	0.0
Argyll & Bute	0	0	0.0	0.0
Eilean Siar	0	0	0.0	0.0
Inverclyde	0	0	0.0	0.0
Perth & Kinross	0	0	0.0	0.0
South Ayrshire	0	0	0.0	0.0
<b>Total</b>	<b>75</b>	<b>148</b>	<b>3.4</b>	<b>6.8</b>

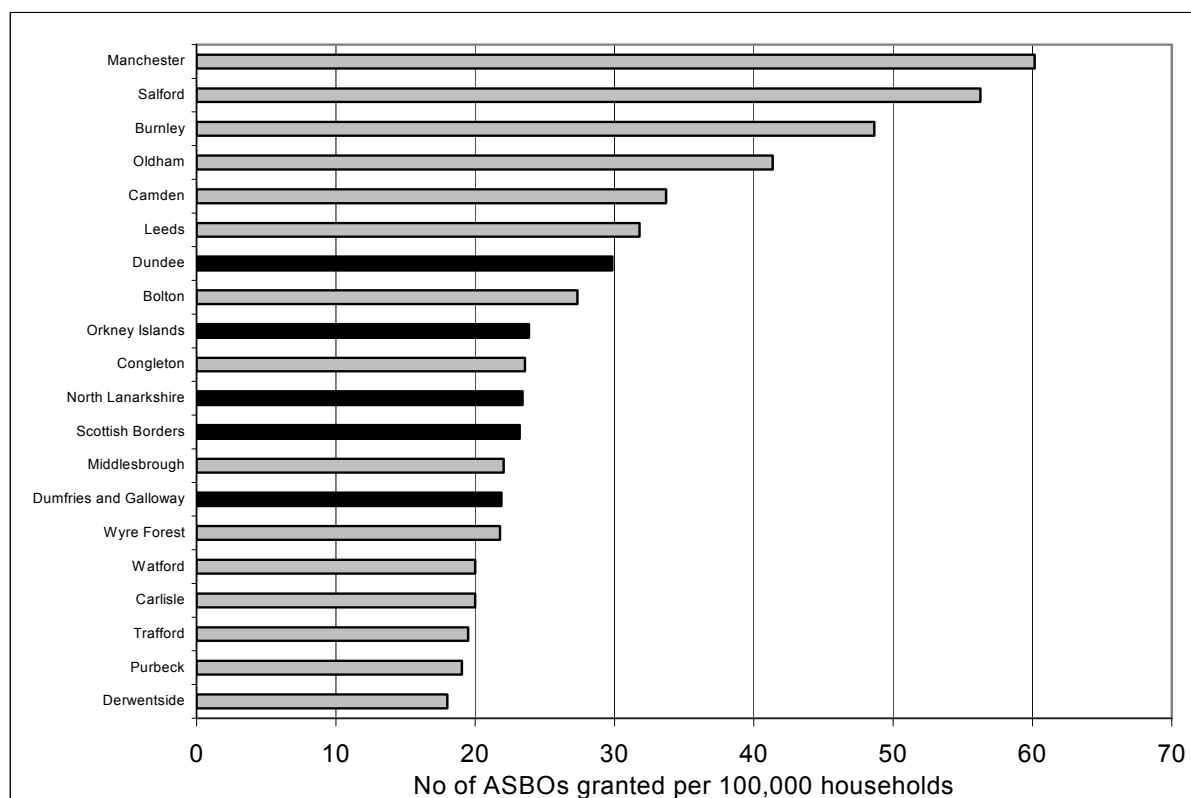
**Notes to table**

Pre-2003/04 figures converted to financial years

Source: 2002/03 = CIH, 2003/04 = DTZ email survey and APSR data, Scottish Executive 2002 Based Household Projections

2.15 The incidence of ASBOs in Scotland can also be compared with that in England and Wales at a local authority level. As shown in Figure 2.4, several Scottish authorities feature among the highest ASBO users on this measure, though even in Dundee the 2003/04 numbers were modest by comparison with certain English authorities.

**Figure 2.4 - Incidence of ASBOs Granted, 2003/04: Highest 20 LAs in Scotland and England & Wales**



**Notes to chart**

Households figures for Scotland 2002-based, England & Wales 1996-based. Scotland figures for 1999/00-2002/03 interpolated from CIHS data

Sources: Scotland 1999/00-2002/03 - CIHS; 2003/04 - DTZ Piedad and APSR; England & Wales

**Interim ASBOs**

2.16 In Scotland the option of applying for an ASBO on an ‘interim’ basis was introduced under the Criminal Justice (Scotland) Act 2003. The aim was to provide more immediate protection to victims of antisocial behaviour and/or to protect witnesses from intimidation prior to a full ASBO court hearing. Interim Orders can be applied for pending the full application for an ASBO.

2.17 Table 2.6 shows the total number of ASBO applications alongside the number of ASBOs granted on an interim basis. This suggests marked variations in practice between local authority areas. For example:

- In Angus, West Lothian, West Dunbartonshire and East Lothian the number of interim ASBOs granted was equal to the total number of ASBO applications
- In South Lanarkshire, East Ayrshire and Aberdeen the number of interim ASBOs was less than 20% of the applications made

2.18 Around 59% of interim ASBOs were later granted as full ASBOs during 2003/04 – (and more may have been granted as full ASBOs subsequently). It needs to be borne in mind here that the power to grant Interim ASBOs came into force only in June 2003 – part way through 2003/04. Particularly given the likely time lag before new legislation is reflected by organisational practice, it is possible that the 2004/05 pattern of ASBO use may be very different in this respect.

**Table 2.6: Interim ASBOs Granted in Scotland 2003-2004 by local authority areas**

Area	Total ASBO applications 2003/04	Interim ASBOs granted 2003/04
Aberdeen City	12	2
Aberdeenshire	0	0
Angus	2	2
Argyll & Bute	0	0
Clackmannanshire	0	1
Dumfries and Galloway	13	11
Dundee City	26	16
East Ayrshire	6	1
East Dunbartonshire	0	0
East Lothian	3	3
East Renfrewshire	1	0
Edinburgh, City of	15	14
Eilean Siar	0	0
Falkirk	5	2
Fife	16	7
Glasgow City	6	4
Highland	9	3
Inverclyde	1	0
Midlothian	4	0
Moray	3	0
North Ayrshire	1	0
North Lanarkshire	40	15
Orkney Islands	2	0
Perth & Kinross	0	0
Renfrewshire	10	9
Scottish Borders	11	3
Shetland Islands	2	1
South Ayrshire	1	0
South Lanarkshire	20	3
Stirling	15	8
West Dunbartonshire	3	3
West Lothian	8	8
<b>Total</b>	<b>235</b>	<b>116</b>

Source: Email Survey

2.19 The variation in use of interim ASBOs was explored within the focus groups. The majority view was that Interim Orders were easier and faster to secure. This was principally due to the fact that less evidence was required to support the application. One local authority reported that Interim Orders could be obtained within one week, compared to two months or more for a full ASBO (though it was not clear whether this discrepancy was mainly due to the time needed to amass necessary evidence to support full ASBO application, or because of more lengthy court procedures where full ASBOs are sought). Focus group participants

reported that Interim Orders are often used in more serious cases of harassment, where there is a need to take urgent action to resolve ASB, and/or where witnesses or victims are reluctant to provide evidence in court.

2.20 Focus group participants made the point that once an Interim Order is granted there may be no reason to pursue a full ASBO unless the ASB continues. Two organisations represented among focus group participants had established a standard procedure of applying for Interim Orders in the first instance (i.e. seeking a full ASBO only where an Interim Order appears to require extension).

2.21 Focus group evidence suggests a degree of inconsistency within the sheriff court system as regards Interim ASBOs. In some areas, it was reported, the evidential requirements laid down by sheriffs for such Orders were little different from what was deemed necessary to justify applications for full ASBOs. There were alleged instances of applications being rejected until a proof level submission was made. This raises wider questions about the consistency of sheriff decision-making and is an issue needing investigation in the course of the forthcoming case study research.

### **Reasons for the increasing use of ASBOs**

2.22 Commenting on generally rising ASBO use, participants in both the RSL and local authority focus groups cited growing pressure – from both residents and elected members – for action on ASB. This was seen as following from the political priority ASB has assumed; a development, in turn, resulting in part from the high profile of the issue in the media. Concerns were expressed that central government places undue emphasis on simple ASBO application numbers and that this is encouraging too great a focus on punitive as opposed to constructive measures to tackle antisocial behaviour.

2.23 Many focus group participants – particularly among the local authority staff – saw the rising incidence of ASBO applications as reflecting a growing confidence in the effectiveness of the device. The gradual improvement of joint working on ASBOs involving local authorities, the police and other bodies was another factor cited. Similarly, some authorities (and probably RSLs) were becoming more confident that sheriffs would respond sympathetically to ASBO applications.

2.24 As in England and Wales, it may be that the option of applying for ASBOs on an interim basis has significantly widened the appeal of the device (because – like civil injunctions in England and Wales – it is now a useful remedy for serious offences calling for immediate action) (Pawson et al, 2005).

### **Reasons for geographical variation in the use of ASBOs**

2.25 Clearly, the incidence of antisocial behaviour varies from one area to another and it would, therefore, be surprising if the incidence of ASBO applications (and Orders granted) was constant across the country. It is, however, clear from Tables 2.2 and 2.5 that the actual pattern is not only highly diverse, but also quite inconsistent with what might be anticipated in terms of the expected pattern of ASB. The most obvious example here is Glasgow – a local

authority area where various forms of neighbourhood complaints run well above the national average<sup>10</sup>, and yet the use of ASBOs has been low.

2.26 Some of the same factors cited above were seen as significant in helping to explain the substantial area to area variations in the use of ASBOs. In essence, individual local authorities and RSLs have been ‘gearing up’ for the new regime at different speeds. In some cases this was seen as being intimately linked with the local timetable for setting up a specialist ASB unit bringing together officers with appropriate legal and other expertise. With respect to Glasgow, for example, it was predicted that the establishment of such a unit (in December 2004) would lead to a marked increase in counter-ASB activity by the City Council, probably including the use of ASBOs.

2.27 A second factor said to be significant in influencing regional variations in approaches to tackling ASB was the varying attitude of the courts – and, indeed, the legal profession more broadly. In Falkirk, for example, it was believed by ASB officers from other LAs and RSLs that limited use of ASBOs was, in part, a response to a belief that the local court was unsympathetic to the ASBO model. Another part of the explanation for the low numbers of ASBOs in Glasgow was said to be the sceptical stance of legal professionals (both private solicitors and LA and RSL legal departments) as well as sheriffs. In some courts, focus group participants reported, interpretations of the ASBO legislation varied markedly between sheriffs.

2.28 Variations in court procedures could also be significant. For example, it was reported that legal aid had been granted to ASBO defendants in Glasgow but not in some other areas. Having representation in court might have an impact on the probability of an ASBO application being granted by the sheriff.

2.29 A third factor cited by some focus group participants as affecting regional patterns in ASBO use was the organisational location of the staff member(s) tasked with tackling antisocial behaviour. This issue, discussed in more detail below, was seen as potentially affecting both the scale and pattern (e.g. in relation to housing tenure) of ASBO use.

2.30 There was some focus group participant support for the hypothesis that a below average or unexpectedly low incidence of ASBOs could, in certain instances, reflect a positive LA/RSL commitment to tackling ASB in other ways. Again, Falkirk was cited as an example of an authority strongly committed to mediation and, perhaps as a result, less inclined to seek ASBOs.

### **ASBOs and organisational structures**

2.31 Table 2.7 below shows that housing departments (or equivalent) most commonly lead in progressing ASBO applications (19 or 65%).

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<sup>10</sup> For example, the Scottish Household Survey 2003 found that, with respect to a range of ‘neighbourhood problems’ (e.g. noisy neighbours, vandalism, substance abuse) the proportion of respondents reportedly affected was higher in Glasgow than in any other local authority area (see (<http://www.scotland.gov.uk/library5/housing/shsar03-09.asp#437>, downloaded 28/01/05)

2.32 In 21 authorities specialist teams or posts had been established to manage the organisation's response to ASB. These arrangements took a range of forms including:

- Specialist ASB or investigating officers
- Community safety teams within which a ASB unit operates
- Social protection teams involving wardens, investigators, police and street mediators
- Specialist team utilising Scottish Executive mainstream funding including a dedicated legal team, support workers and witness advice across all tenure
- Neighbourhood Relations team with dedicated staff and legal team, multi agency working and 'out of hours' service

2.33 In the local authority sector there was no clear relationship between the existence of specialist teams and the incidence of ASBOs. The ten local authorities with the lowest numbers of applications per 100,000 households all had specialist teams. Of the ten local authorities with the highest number of applications per 100,000 households, six had specialist teams. A number of these specialist teams are of recent origin and consequently it may be premature to make an assessment of their impact on ASBO usage. However, different teams may adopt different strategies. As such, the existence of a specialist team does not necessary equate to either high or low use of ASBOs.

2.34 Among RSLs specialist ASB posts or teams were comparatively rare. Only three of the 82 responding RSLs reported that such arrangements existed in their organisation. It is, however, notable that two of these (Glasgow HA and Melville HA) were among the highest in the country in relation to the numbers of ASBO applications during 2003/04.

**Table 2.7: Organisational Practices and ASBO Applications and Granted per 100,000 households, 2003/04**

Area	Applications per 100,000 HHs	Orders granted per 100,000 HHs	Lead Department	Specialist Team?
Aberdeen City	12.2	12.2	Housing	✓
Aberdeenshire	0.0	0.0	Legal	✓
Angus	4.2	0.0	Housing	✓
Argyll & Bute	0.0	0.0	Other	✓
Clackmannanshire	0.0	0.0	Housing	✓
Dumfries and Galloway	20.2	10.9	No response	
Dundee City	38.9	29.9	Housing	✓
East Ayrshire	11.8	7.9	Housing	✓
East Dunbartonshire	0.0	0.0	Other	✓
East Lothian	7.7	5.2	Housing	
East Renfrewshire	2.8	2.8	Housing	
Edinburgh, City of	7.2	3.4	Housing	✓
Eilean Siar	0.0	0.0	Housing	✓
Falkirk	7.9	3.1	Housing	✓
Fife	10.5	9.2	Housing	✓
Glasgow City	2.2	0.7	Other	✓
Highland	9.9	3.3	No response	
Inverclyde	2.7	0.0	Other	✓
Midlothian	12.1	9.1	Legal	
Moray	8.3	0.0	Legal	
North Ayrshire	1.7	1.7	Housing	✓
North Lanarkshire	29.9	23.1	Housing	✓
Orkney Islands	23.6	23.6	Housing	
Perth & Kinross	0.0	0.0	Housing	✓
Renfrewshire	13.2	9.3	Housing	✓
Scottish Borders	27.0	22.8	Other	✓
Shetland Islands	21.6	10.8	Legal	
South Ayrshire	2.0	0.0	Housing	✓
South Lanarkshire	15.6	5.5	Housing	✓
Stirling	41.4	16.6	Housing	
West Dunbartonshire	7.3	7.3	No response	
West Lothian	12.1	7.6	Legal	
<b>Average</b>	<b>10.7</b>	<b>6.8</b>	-	

Source: 2002/03 = CIH, 2003/04 DTZ email survey and APSR data, Scottish Executive 2002 Based Household Projections

2.35 The local authority focus group believed that specialist teams are more pro-active in their approach than mainstream housing management staff. More importantly, particularly where such teams are organisationally separate from housing management, they are thought to be more active in promoting and publicising their activities, and more inclined to deal with complaints from all sections of the community.

2.36 Participants in both the LA and the RSL focus groups also thought that specialist teams had demonstrated the capacity and skills to improve the speed and quality with which evidence was collected, therefore increasing the chances of a successful outcome in court. In fact, focus group participants claimed that few ASBO applications were rejected by the courts (though sheriffs sometimes required additional evidence). The impact of specialist teams on

the effectiveness of ASBOs will need to be investigated in the forthcoming case study work. Where possible, these will examine whether ASBO prohibitions are better framed, whether Orders are more pro-actively monitored for breaches, and whether applications to court for further actions are any more successful than in organisations where ASB response is differently configured.

2.37 Relatively few RSLs have set up ASB teams – perhaps because of the cost of setting up and maintaining a specialist unit within small organisations. There are however indications that some RSLs are already (or planning to) buy into LA specialist teams – e.g. in Edinburgh. Glasgow Housing Association plans to market its counter-ASB services to other RSLs operating in the city.

### **Antisocial behaviour policies**

2.38 The Antisocial Behaviour etc. (Scotland) Act 2004 requires every local authority, together with relevant Chief Constable, to prepare, publish and review a strategy for dealing with antisocial behaviour in the local authority area. The strategy sets out an assessment of antisocial behaviour, arrangements for consulting community bodies, the services available and coordination with the police. Draft strategies are due to be completed by 31 March 2005. Although the strategies need not be submitted to the Scottish Executive by March, many will form the basis of Outcome Agreements for funding and will therefore be required by the Executive later in the year.

2.39 In preparing the strategy, local authorities are required to consult and inform relevant stakeholders – the Principal Reporter to the Children’s Panel, RSLs and groups representing people affected by antisocial behaviour. Particular RSLs may be required to participate in the preparation, review and revision of strategies, particularly those RSLs that are major housing providers in the local authority area.

2.40 Local authorities and RSLs were asked about their ASBO policies and procedures. Only half of local authorities (and around a quarter of RSLs) reported having documented policies and practices ‘in place’. Only 19 were collecting financial information about the cost of using ASBOs and other measures to tackle ASB. The RSL focus group revealed concerns about the cost of ASBOs, especially for smaller organisations.

**Table 2.8: Number of local authorities with processes in place / in development**

Area	ASBO Policy / Practice	Performance monitoring	Financial info	Info / stats about incidence of ASBOs	Protocols / service agreements
Aberdeen City	✓	✓	✓	✓	✓
Aberdeenshire	✓	✓	✓	✓	✓
Angus	✓	✓	✓	✓	✓
Argyll & Bute	✓	✓	✓	✓	✓
Clackmannanshire	✓	✓	✓	✓	✓
Dumfries and Galloway					
Dundee City	✓	✓	✓	✓	✓
East Ayrshire	✓	✓	✓	✓	✓
East Dunbartonshire	✓	✓	✓	✓	✓
East Lothian	✓	✓	✓	✓	✓
East Renfrewshire	✓	✓		✓	
Edinburgh, City of	✓	✓	✓	✓	✓
Eilean Siar	✓	✓	✓	✓	✓
Falkirk	✓	✓		✓	✓
Fife	✓	✓		✓	✓
Glasgow City					
Highland	✓	✓	✓	✓	✓
Inverclyde	✓				
Midlothian	✓	✓	✓	✓	✓
Moray	✓	✓		✓	✓
North Ayrshire	✓	✓		✓	✓
North Lanarkshire	✓	✓		✓	✓
Orkney Islands	✓	✓	✓	✓	✓
Perth & Kinross	✓	✓	✓	✓	✓
Renfrewshire	✓		✓	✓	✓
Scottish Borders	✓			✓	✓
Shetland Islands	✓	✓	✓	✓	✓
South Ayrshire	✓	✓	✓	✓	✓
South Lanarkshire				✓	✓
Stirling					
West Dunbartonshire	✓	✓	✓	✓	✓
<b>Total Number</b>	<b>27</b>	<b>23</b>	<b>19</b>	<b>27</b>	<b>26</b>

Source: Email survey

### 3 USE OF ASBOS AND OTHER REMEDIES

3.1 We have examined the extent to which local authorities and RSLs use measures other than ASBOs to tackle ASB. Measures considered include court proceedings for eviction, interdicts, Short Secure Tenancies and Acceptable Behaviour Contracts (ABCs).

#### Court proceedings for eviction

3.2 The majority of local authorities and RSLs reported having raised eviction action against ASB perpetrators. Scottish Executive statistics show that nearly half of the landlord local authorities (excluding the three who have transferred their housing stock) entered eviction actions in court as a result of antisocial behaviour in 2003/04. More than third (11 of 29) evicted one or more tenants on these grounds during that year (see Table 3.1).

3.3 For those using court proceedings, the actual extent of use was fairly low. In 2003/04, for example, ASB evictions in Scotland totalled only 44 in the local authority sector and 26 in the RSL sector (DTZ Piedad, 2005). Table 3.1 shows the total numbers of ASB evictions (including abandonments in the course of eviction proceedings) in each LA area. This includes ASB evictions by both LAs and RSLs. The table relates this figure to the social rented housing stock in each LA. Hence, the national ASB eviction rate in 2003/04 was 11.0 per 100,000 social rented dwellings.

3.4 Table 3.1 shows that there is only a weak relationship between ASB evictions and ASBOs. Some 'high ASBO' LAs (e.g. Dundee, Aberdeen) show up as also having a fairly high rate of ASB evictions. In authorities such as West Dunbartonshire, Edinburgh and South Ayrshire, by contrast, eviction rates are relatively high but ASBO rates comparatively low. It is possible that clearer patterns would emerge from an analysis amalgamating data across a run of years. It will, in any case, be important for the proposed case study work to explore the extent to which **individual** ASBO and ASB eviction cases overlap.

**Table 3.1 – Relationship between ASB evictions and ASBOs granted, 2003/04**

Area	ASB evictions (incl. abandonments)	Social rented stock	ASB evictions per 100,000 stock	ASBOs granted per 100,000 HHs
Dundee City	6	25,411	23.6	29.9
Orkney	-	1,223	-	23.6
North Lanarkshire	2	51,664	3.9	23.1
Scottish Borders	-	12,517	-	22.8
Stirling	1	8,321	12.0	16.6
Aberdeen City	5	29,110	17.2	12.2
Dumfries & Galloway	-	2,144	-	10.9
Shetland	-	2,220	-	10.8
Renfrewshire	8	23,334	34.3	9.3
Fife	4	42,640	9.4	9.2
Midlothian	-	9,572	-	9.1
East Ayrshire	6	18,748	32.0	7.9
West Lothian	-	19,174	-	7.6
West Dunbartonshire	8	18,936	42.2	7.3
South Lanarkshire	1	35,540	2.8	5.5
East Lothian	1	10,430	9.6	5.2
Edinburgh, City of	10	38,401	26.0	3.4
Highland	-	20,492	-	3.3
Falkirk	5	22,050	22.7	3.1
East Renfrewshire	-	4,745	-	2.8
North Ayrshire	2	19,813	10.1	1.7
Glasgow City	4	122,044	3.3	0.7
South Ayrshire	6	11,403	52.6	0.0
Aberdeenshire	1	17,819	5.6	0.0
Angus	-	11,780	-	0.0
Argyll & Bute	-	8,715	-	0.0
Clackmannanshire	-	7,495	-	0.0
East Dunbartonshire	-	6,024	-	0.0
Eilean Siar	-	2,127	-	0.0
Inverclyde	-	12,782	-	0.0
Moray	-	7,756	-	0.0
Perth & Kinross	-	11,565	-	0.0
<b>Scotland</b>	<b>70</b>	<b>635,995</b>	<b>11.0</b>	<b>6.7</b>

Source: Email survey; Scottish Executive 2002 Based Household Projections; Eviction Statistics from Scottish Executive (LAs) and APSR (RSLs)

## Interdicts

3.5 An interdict is an Order from the Sheriff Court to prevent a named person or persons repeating certain nuisances (e.g. Acts of violence or harassment). The council can apply for an interdict as an alternative to, or in addition to, seeking an Order for eviction.

3.6 According to the email survey interdicts to counter ASB had (at some time in the past) been sought by 17 organisations – 15% of all respondents. This included 10 local authorities and seven RSLs. Use of interdicts during 2003/04 was very low – only three organisations (Albyn Housing Society, Hillcrest HA, and South Ayrshire Council) had made use of them during 2003/04. This seems at a variance with practice in England and Wales

where a similar legal measure – the injunction – is, according to practitioner evidence, still routinely used alongside ASBOs for ASB by public sector tenants (Pawson et al, 2005).

3.7 The consensus among participants in both local authority and RSL focus groups was that interdicts were of very limited value because of the lack of sanctions in the event of breach – crucially, there is no power of arrest<sup>11</sup>. This is in contrast to the position in England and Wales where the power of arrest – although limited in extent – has existed since the introduction of the Housing Act 1996. The Anti-Social Behaviour Act 2003 extended the powers of arrest. This allows the court granting an injunction to attach a power of arrest or to exclude a person from specified premises or a specified area where there is the use or threat of violence or a significant risk of harm to any person mentioned in the action. Consequently a power of arrest will be available in cases where there is a significant risk of harm even if there has been no actual or threatened violence. It could include emotional or psychological harm. The existing provisions, which were repealed, only allowed a power of arrest when there was either violence or threatened violence together with a significant risk of harm.

### **Short Scottish Secure Tenancy**

3.8 The Housing (Scotland) Act made it possible for social landlords to ‘demote’ the security of a tenant subject to an ASBO (or where a member of a tenant’s household is subject to an ASBO). This involves the conversion of Scottish Secure Tenancies (SST) to Short Scottish Secure Tenancies (SSST). Hence, obtaining an ASBO could make it easier for a social landlord to repossess the property of an antisocial tenant. During 2003/04 a total of nine organisations (seven LAs and two RSLs) had made use of this power. Dundee, North Lanarkshire and Stirling, who all have a high number of ASBOs, had all utilised this power.

3.9 Nonetheless, the majority (69) of organisations replying to the email survey reported that the introduction of SSSTs had made no difference to whether they pursued ASBOs. Twenty-one respondents, on the other hand, said that the possibility of tenancy demotion had made them more likely to seek ASBOs – presumably to support the application process.

### **Acceptable behaviour contracts**

3.10 An Acceptable Behaviour Contract (ABC) is ‘a written agreement between a person who has been involved in antisocial behaviour and one or more local agencies whose role it is to prevent such behaviour’. The contract is agreed and signed by the individual and lead agencies. It specifies a list of antisocial acts in which the persons have been involved and which they agree not to continue. The contract also states the potential consequences of breach, which may include an ASBO or possession Order.

3.11 The extent to which social landlords had negotiated ABCs was considered within the email survey. As illustrated in Table 3.2 thirteen local authorities and seven RSLs had experience of using this tool. It was uncommon for an RSL to use ABCs when the relevant local authority in did not.

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<sup>11</sup> The Protection from Abuse Act 2001 allows arrest for breach of interdict if the interdict has been applied for by an individual but not for those applied for by an agency

3.12 Five LAs – Argyll and Bute, Clackmannanshire, East Ayrshire, Inverclyde and Perth and Kinross – said that their routine practice was to negotiate an ABC before considering an application for an ASBO. More than a third of RSLs responding to the question (30 of 82) stated that they would negotiate an ABC before proceeding to an ASBO. In Glasgow City this was much higher - over half of RSLs (11 of 20) stated that they would negotiate an ABC before proceeding to an ASBO. This may illustrate a policy decision within the local authority area.

3.13 However, greater weight should probably be accorded to the responses of those who had actually used ABCs. This group (13 LAs and 12 RSLs) was almost evenly split in terms of whether it would be ‘standard practice’ to negotiate an ABC before considering an ASBO application. Perhaps more tellingly, a large majority of the local authorities who had used ABCs (nine of 13) said that such a ‘progression’ (from ABC to ASBO) was not their routine practice.

3.14 Table 3.2 suggests that there is little – if any – association between the use of ABCs and the use of ASBOs. For example, among the six authorities that sought no ASBOs in 2003/04, three reported experience of using ABCs (see Table 3.2). Hence, these authorities might be able to argue that their apparent ‘inactivity’ with respect to ASBOs simply reflected their commitment to an ‘alternative approach’. At the other end of the spectrum, of the ten LA areas where ASBO applications were most common in 2003/04, four had made use of ABCs whilst six had not. This demonstrates that these two devices are not usually used together. At the same time there is clearly no consensual view that they are simple substitutes for one another. It will be important for the case study work to examine the relationship between ABCs and ASBOs in greater depth, particularly because the introduction of ABCs is of fairly recent origin in most local authority areas and indeed may post date the ASBO data used in this report.

3.15 It was also pointed out by some focus group participants that the term ‘ABC’ is a misnomer under Scots law. The technically accurate term in the Scottish context would be Acceptable Behaviour Agreements (ABAs).

**Table 3.2: Use of Acceptable Behaviour Contracts by Local Authority area**

Area (sorted by applications per 100,000 HHs)	No of ASBO applications per 100,000 HHs	ASBOs granted per 100,000 HHs	ABCs ever used?
Stirling	41.4	16.6	No
Dundee City	38.9	29.9	Yes
North Lanarkshire	29.9	23.1	Yes
Orkney Islands	23.6	23.6	No
Scottish Borders	22.8	16.9	Yes – RSL only
Shetland Islands	21.6	10.8	Yes
Dumfries and Galloway	20.2	10.9	No
South Lanarkshire	15.6	5.5	No
Renfrewshire	13.2	9.3	No
Aberdeen City	12.2	12.2	No
Midlothian	12.1	9.1	Yes
West Lothian	12.1	7.6	Yes
East Ayrshire	11.8	7.9	Yes
Fife	10.5	9.2	No
Highland	9.9	3.3	Yes
Moray	8.3	0.0	No
Falkirk	7.9	3.1	Yes
East Lothian	7.7	5.2	No
West Dunbartonshire	7.3	7.3	Yes – RSL only
Edinburgh, City of	7.2	3.4	Yes
Angus	4.2	0.0	No
East Renfrewshire	2.8	2.8	No
Inverclyde	2.7	0.0	Yes
Glasgow City	2.2	0.7	Yes – RSL only
South Ayrshire	2	0.0	No
North Ayrshire	1.7	1.7	No
Aberdeenshire	0.0	0.0	No
Argyll & Bute	0.0	0.0	Yes
Clackmannanshire	0.0	0.0	No
East Dunbartonshire	0.0	0.0	No
Eilean Siar	0.0	0.0	Yes
Perth & Kinross	0.0	0.0	Yes
<b>Total</b>	<b>10.7</b>	<b>6.7</b>	<b>-</b>

Source: Email survey; Scottish Executive 2002 Based Household Projections

3.16 There was general agreement among focus group participants that ABCs (or ABAs) can play a useful role in tackling ASB – particularly where perpetrated by juveniles. ABCs were seen by some local authorities and RSLs, as potentially playing an important part within the ASBO process, enabling them to demonstrate to the court that they had exhausted all ‘lower level’ measures before resorting to an ASBO.

3.17 It was evident that, for most of the local authorities and RSLs involved in the focus groups, deployment of ABCs was a fairly recent development. There was some uncertainty as to the proper role of ABCs within overall strategies for tackling ASB – e.g. whether they should be seen as a standard pre-cursor to an ASBO application, in what circumstances they could be usefully negotiated with adults (rather than young people). Hence, participants saw an urgent need for official guidance on the use of ABCs. Such guidance would need to

convince some sceptical local authorities and RSLs that ABCs can prove a valuable tool in countering disorder in spite of their essentially non-statutory nature. The Scottish Executive is committed to producing guidance on the use of ABCs in early 2005.

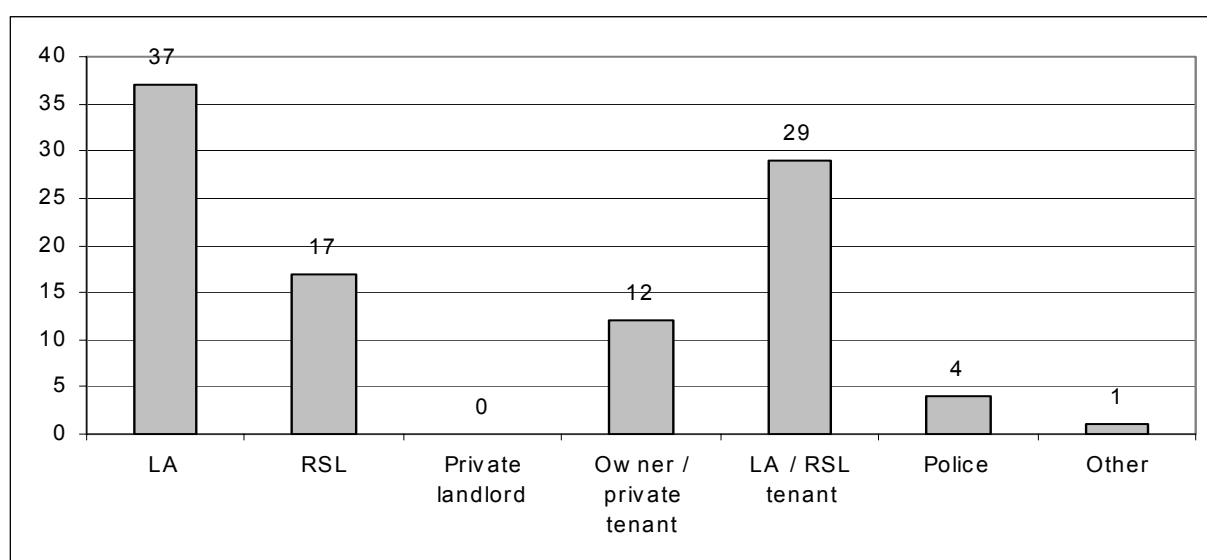
## 4 CHARACTERISTICS OF ASBO PERPETRATORS, LOCATION AND PROHIBITIONS

4.1 This section looks in more detail at the **ways** that ASBOs are being used in Scotland. It examines the situations in which ASBO-trigger incidents take place, the housing tenure of ASBO perpetrators and the nature of ASBO prohibitions.

### Source of ASBOs requests

4.2 The majority of ASBOs continue to be led by the social rented sector – just over half of all requests considered **as meriting** an ASBO in 2003/04 (54%) originated from local authorities or RSLs themselves, with a further 29% originating from complaints by social sector tenants (See Figure 4.1).

**Figure 4.1: Source of ASBO requests in 2003/04 (%)**



**Not to chart**

Base = 360 ASBO requests

Source: Email Survey

4.3 The ‘originator’ profile illustrated in Figure 4.1 is reflected in the housing occupancy of alleged perpetrators. Whilst private sector residents accounted for a small proportion, the vast majority of alleged perpetrators subject to ASBOs sought in 2003/04 were LA or RSL tenants. This is very much in line with previous years.

**Table 4.1: Housing tenure of alleged perpetrator, 2003/04**

<b>Housing tenure</b>	<b>Applications</b>
Council tenants or member of household	74%
RSL tenants or member of household	11%
Owners or member of household	10%
Private sector tenants or member of household	4%
No fixed abode	1%
<b>Total Number</b>	<b>178</b>

**Note to table**

\* Including those initially awarded on an interim basis

Source: Email Survey

4.4 There are some notable variations by local authority area with respect to the tenure of alleged perpetrators. In Edinburgh, for example, five of the 15 applications in 2003/04 involved private sector residents. The same was true of four of Dumfries & Galloway's 13 applications.

4.5 The reasons for the continued focus of ASBOs on social rented tenants were discussed in the focus groups. An important set of factors cited by a number of participants concerned organisational arrangements and funding. As illustrated by Table 2.7, most authorities continued to task housing departments with corporate responsibility for tackling ASB. In many cases this reflects the fact that the staff concerned were largely or wholly funded from the Housing Revenue Account. Hence, their function was seen as intimately linked with the LA's landlord role and its main focus, inevitably, on council housing. However it should be noted that during 2004/05 the Scottish Executive provided funding to Local Authorities for cross tenure ASB services.

4.6 Post-stock transfer, however, the picture can change markedly. In Glasgow, for example, the RSL perception was that the City Council's recent activity in countering ASB was exclusively focused on the private sector. ASB in social rented housing was seen as entirely a matter for the RSL concerned. Whilst this position contains an obvious element of logic, Glasgow RSLs see this as problematic in terms of ASB taking place in mixed tenure areas. RSL focus group participants believed that the City Council saw such incidents as entirely an RSL responsibility, irrespective of the actual tenure of alleged perpetrator or victim – a state of affairs considered most unsatisfactory.

4.7 Another factor cited by some focus group participants as helping to explain the continuing ASBO focus on social renters was that – unlike LA tenants – owners subject to ASB were unaccustomed to contacting the Council to complain about such matters. Instead, owners were believed more likely to contact the police. Hence, such offences may be more likely to be treated as a criminal matter, right from the start, whereas a similar incident experienced by a council tenant might be reported to the LA and be treated as a possible ASBO case. If this analysis is accurate it may, in some cases, reflect poorly developed liaison between local authorities and police colleagues. This is not, however, a universal problem. Focus group participants reported that in North Lanarkshire, for example, it is standard practice for the police to refer home-owner complaints of ASB to the Council's ASB team<sup>12</sup>.

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<sup>12</sup> As indicated in para 1.2 the position is different in England and Wales where the police can apply for ASBOs on their own account.

## ASBOs by location of offences

4.8 Table 4.2 shows that ASBOs continue to be used mainly to counter ASB involving offences committed in residential areas close to the perpetrators home. In only four local authorities were ASBOs sought in 2003/04 in connection with incidents taking place outwith residential areas. In these authorities (Aberdeen, Highland, South Lanarkshire and West Lothian) a total of four ASBO cases involved offences in or around retail or commercial premises, whilst two were ‘in public areas’ (e.g. parks).

**Table 4.2: Main location of incident by organisation type, 2003/04**

Main location of incident	RSL	LA	Total
In residential area near perpetrators home	94%	88%	88%
In other residential area	6%	9%	9%
In or around retail or commercial	0%	2%	2%
In public areas	0%	1%	1%
On public transport	0%	0%	0%
<b>Total Number</b>	<b>17</b>	<b>185</b>	<b>202</b>

Source: Email Survey

4.9 Local authority focus group participants reported increasing council interest in using ASBOs as a remedy for a wider range of offences – e.g. to tackle shoplifting, prostitution, begging, stalking and ‘boy racers’. In most councils thinking along these lines, however, this seemed to be a fairly recent development, and one which could be more strongly reflected in the figures for 2004/05. However, whilst some local authorities may be looking at making more ‘creative’ use of ASBOs it seems highly unlikely that the incidence of ASBO applications triggered by incidents outwith residential areas will rise substantially in the immediate future.

## Prohibitions

4.10 The email survey asked about the different ‘prohibited acts’ specified within ASBOs. As ASBOs may have more than one specified condition the data relates to all prohibited acts, not total ASBOs. The most common type of prohibited act specified by Orders granted in 2003/04 was noise. Desisting from causing specified types of noise was an instruction contained in 46% of 2003/04 ASBOs (see Table 4.3). A fifth of ASBO conditions were classed as ‘other’. These included requirements to desist from acts such as threatening behaviour or vandalism. At the level of individual local authorities, noise prohibitions generally predominated. In a small number, however, (e.g. Dundee, Dumfries & Galloway) most Orders focused on other issues.

**Table 4.3: ASBO Conditions, 2003/04**

<b>Condition</b>	<b>RSL</b>	<b>LA</b>	<b>Total</b>
Constraints on contact with specified individuals	21%	13%	14%
Area constraints	32%	17%	19%
Other	16%	22%	21%
Noise prohibition	32%	48%	46%
<b>Total Number</b>	<b>19</b>	<b>201</b>	<b>220</b>

Note to table

Based on responses from 20 LAs and 5 RSLs

Source: Email Survey

4.11 Focus group participants confirmed that noise was the most common element of ASBO cases. However, it was noted that this pattern may be partly explained by the relative ease of evidencing noise complaints. It was also reported that there has been a recent national initiative to tackle noise nuisance in residential areas and there was some concern at the possibility that parallel structures may be established to deal with this problem in some areas.

## 5 OUTCOMES AND EFFECTIVENESS

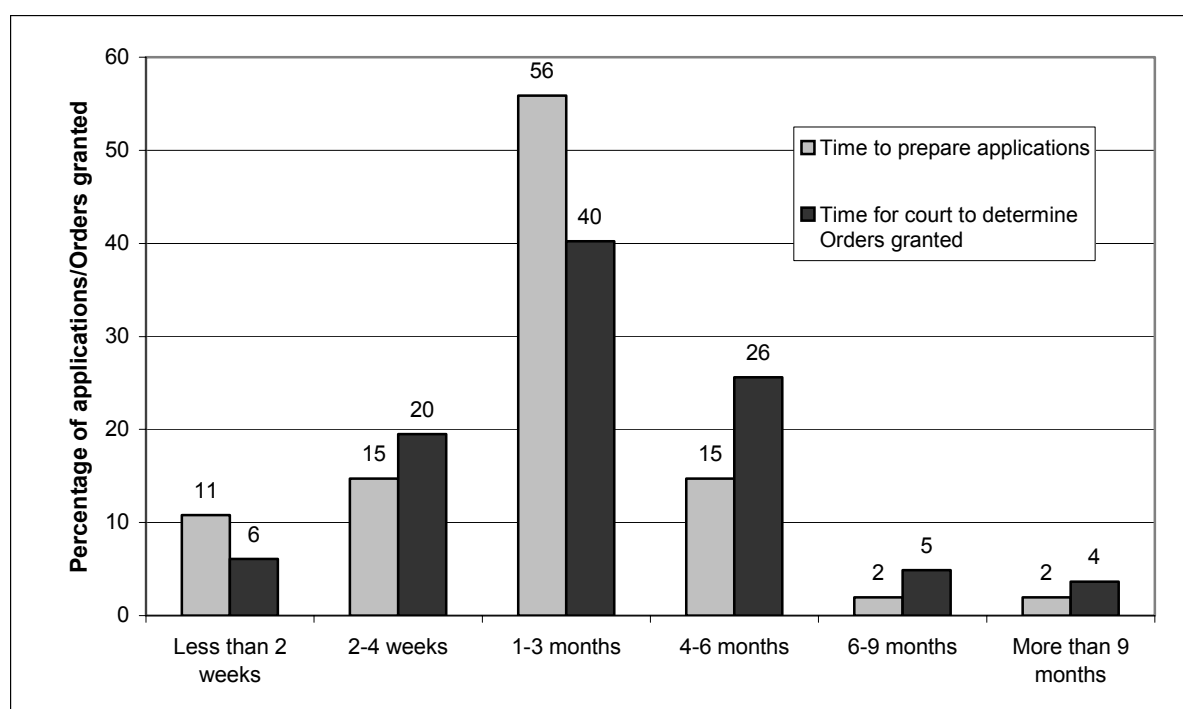
5.1 This section analyses results from the survey in relation to ASBO duration, breaches of ASBO prohibitions, and the perceived impact of ASBOs on perpetrators' behaviour. The survey information in this section is based only the responses made by RSLs and LAs, and does not relate to all ASBO activity during 2003/4.

### Process

5.2 Based on the answers of those responding to the question, more than a third of 2003/04 ASBO applications were prepared in less than four weeks (the period between deciding to seek an ASBO and the date of the application to court). In only four per cent of cases did this period exceed six months (see Figure 5.1). If subsequent surveys investigate this issue it will be important to make a distinction between full and interim ASBO preparation.

5.3 Just over a quarter (26%) of **full** ASBOs granted in 2003/04 were determined by the court in less than four weeks (period between application date and decision date). In more than a third of cases, however, this process took more than four months (see Figure 5.1). There are some notable differences between the experience of local authorities and RSLs working in different areas here. For example, in cases originating in East Ayrshire, Scottish Borders and South Lanarkshire the courts appeared liable to take a relatively long period to make rulings.

**Figure 5.1: Time taken for ASBO applications to be prepared by LAs/RSLs and to be concluded by court**



#### Note to chart

Base = 102 applications and 82 ASBOs granted

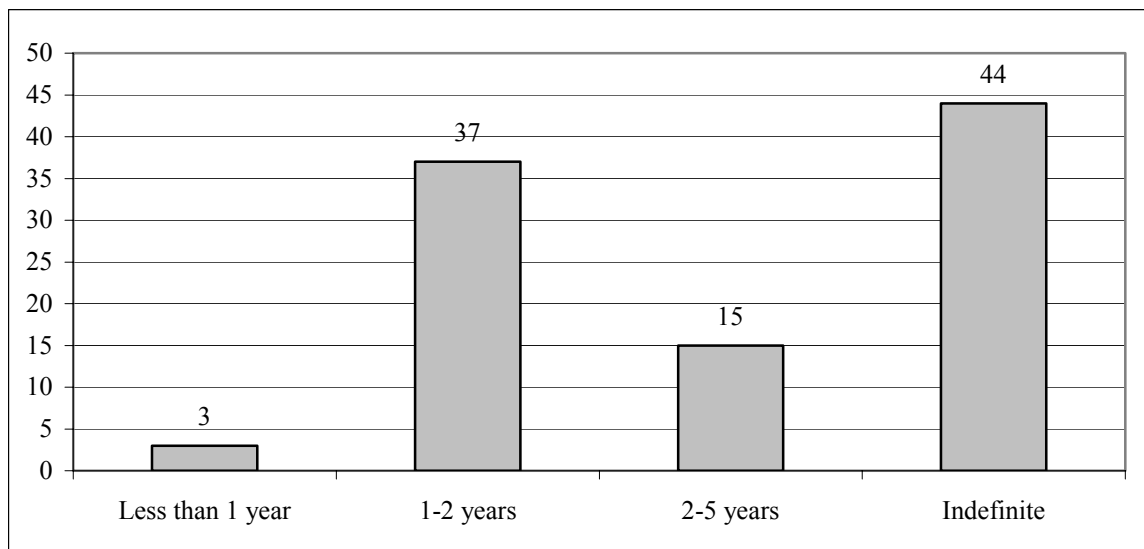
Source: Email Survey

5.4 The main reasons for the amount of time taken to go through the process was simply the amount of evidence that had to be collected. This included preparing statements and evidence from witnesses and encouraging and supporting witnesses. One local authority felt that the development of a specialist team had helped to speed up the process. Where there was a long delay in an ASBO application, the main reasons given were a defendant's application for legal aid and scheduling of court time.

### ASBO duration

5.5 Nearly half of all full ASBOs granted in 2003/04 were of indefinite duration.

**Figure 5.2: ASBOs Granted during 2003/04 by duration**



Source: Email Survey

5.6 The duration of ASBOs varies greatly by local authority area, however it is unclear whether this period is determined by the applicant or based on the court's decision. For example:

- In North Lanarkshire, West Lothian and Dumfries & Galloway, ASBOs tend to be shorter term – less than 1 year
- In seven local authority areas all ASBO granted are of indefinite duration.

**Table 5.1: ASBOs Granted during 2003/04 by duration and local authority area**

LA Area	Under 2 years	2-5 years	Indefinite	Total Number
Aberdeen City	1	-	11	12
Aberdeenshire	-	-	-	0
Angus	-	-	-	0
Argyll & Bute	-	-	-	0
Clackmannanshire	-	-	-	0
Dumfries and Galloway	6	1	-	7
Dundee City	1	9	10	20
East Ayrshire	-	-	4	4
East Dunbartonshire	-	-	-	0
East Lothian	-	2	-	2
East Renfrewshire	-	-	1	1
Edinburgh, City of	1	-	6	7
Eilean Siar	-	-	-	0
Falkirk	2	-	-	2
Fife	-	-	7	7
Glasgow City	-	-	2	2
Highland	-	-	-	0
Inverclyde	-	-	-	0
Midlothian	3	-	-	3
Moray	-	-	1	1
North Ayrshire	-	-	-	0
North Lanarkshire	29	2	-	31
Orkney Islands	-	-	2	2
Perth & Kinross	-	-	-	0
Renfrewshire	-	-	-	0
Scottish Borders	3	4	-	7
Shetland Islands	-	-	1	1
South Ayrshire	-	-	-	0
South Lanarkshire	1	-	6	7
Stirling	-	-	3	3
West Dunbartonshire	-	-	-	0
West Lothian	3	1	1	5
<b>Total Number</b>	<b>50</b>	<b>19</b>	<b>55</b>	<b>124</b>

Source: Email Survey

5.7 Local authority focus group participants believed that many early ASBOs granted were of indefinite duration – perhaps reflecting practitioner inexperience and a belief that this would provide greater security. Participants now felt they would be less likely to automatically ask for indefinite ASBOs because these were not required by the nature of the prohibition or the type of perpetrator. An example given was that many perpetrators are transient in nature, frequently moving from place to place.

5.8 For some landlords placing an indefinite duration upon an ASBO was simply a standard approach or part of their official policy. Others focus group participants argued that this could contravene the spirit of the Human Rights Act 1998.

## ASBO breaches

5.9 The CIHS report on ASBOs found that there had been ‘118 alleged breaches of ASBOs’ in the 16-month period to April 2003. It was not, however, completely clear whether this referred to the numbers of ASBOs breached at least once, or the numbers of ASBO breaches (bearing in mind that a single ASBO might be subject to multiple breaches). Neither was it clear what the ‘118 breaches’ amounted to in terms of the **proportion** of ASBOs subject to breach.

5.10 In an attempt to collect more meaningful information on this subject, our survey attempted to phrase questions on breaches in ways that might prove unambiguous. Most importantly, we sought statistics on the numbers of **Orders breached** in 2003/04 (numerator) and the numbers of **Orders in force** during 2003/04 (denominator). From the survey results it appears that our efforts here were only partly successful. A few authorities, for example, cited smaller numbers of ASBOs in force during 2003/04 than the number granted during 2003/04 (in fact, the number in force during the year should have, in every case been equal to or greater than the number granted during the year)<sup>13</sup>. ‘Breaches’ statistics cited by some authorities have, therefore, had to be discounted from the analysis which follows.

5.11 Focusing on the 25 LA areas for which ‘valid’ data appears to have been submitted, a total of 213 ASBOs were in force during 2003/04. Of these, 144 (67 per cent) were allegedly breached during the year. In a number of authorities all ASBOs in force were reported to have been breached during the year. Data from the Scottish Executive Justice Department is also at a variance with the survey returns. This will be examined in more detail during the later stages of the study to improve our understanding of this important issue.

5.12 Table 5.2 shows that a significant majority of alleged breaches resulted in further court action. Just under three quarters of breaches were reported to the Procurator Fiscal. Seven per cent were detained in custody for an appearance in court. In just 17% cases was no action taken following initial police or officer visit. The focus group participants were unable to offer much explanation or provide additional information about ASBO breaches. This topic will be explored during the case studies.

**Table 5.2: Action taken on breaches, 2003/04**

Action	Total No	Percentage
No action	1	1%
Visited by member of staff and no further action	8	6%
Visited by police but no further action	16	11%
Detained by police but no further action	1	1%
Alleged breach reported to Procurator Fiscal	113	79%
Action not known	5	3%
<b>Total alleged breaches</b>	<b>144</b>	<b>100%</b>

Source: Email Survey

<sup>13</sup> The relevance in the context of breaches being that, because ‘ASBOs in force’ is used as a denominator for ‘breach rates’, doubts as to the credibility of these figures for some LAs undermine confidence in calculated breach rates in these areas.

5.13 The majority of organisations which had recent experience of using ASBOs (i.e. having applied for an Order during 2003/04) asserted that the behaviour of perpetrators subject to ASBOs 'usually improves' (15 of 26 organisations). Four of these respondents believed that the behaviour of perpetrators 'usually remains unchanged', whilst four considered it impossible to generalise.

5.14 Focus group participants felt that in Order for an ASBO to be effective – to convince the community – and potential perpetrators of ASB - they will work - then a breach must be seen to be supported in court. If they are not, then the ASBO use may well decline.

5.15 It was emphasised by stakeholders that a breach of an ASBO should not in itself signify a failure. Further guidance on monitoring, identifying and dealing with ASBO breaches was requested by practitioners.

## 6 ASBOS AND YOUNG PEOPLE

6.1 The extension of ASBOs to young people aged 12–15 will require local authorities and RSLs to develop specific policy and practice that directly involves social work and criminal justice practitioners, including Children’s Panels and Children’s Reporter. Indeed it might be anticipated that in some areas, social work or children services departments might take the pivotal role in determining whether, and in what circumstances, ASBOs are used. It is therefore conceivable that use of ASBOs for adults and 12-15 year olds might be significantly different within the same organisation and/or area.

### ASBOs by age

6.2 The extension of ASBOs to young people did not take place during the time period for this study. However, in order to understand the potential impact of the extension, it is useful to examine the age profile of ASBO applications. Based on the analysis of ASBOs initiated during 2003/04, the largest number of ASBOs are against those aged over 25 years. This age group accounted for 63% of applications, 57% of interim ASBOs and 59% of ASBOs granted. Young people aged 16-18 account for the lowest proportion of ASBOs – 13% of applications, 15% of interim ASBOs and 16% of ASBOs granted were to people in this (albeit smaller) age band. Males account for the greater proportion of ASBOs accounting for around 63% of ASBOs, while ASBOs against females account for around 37%.

**Table 6.1: ASBOs activity during 2003/04 by age and gender**

Age / gender	Applications		Interim		Granted	
	No	%	No	%	No	%
16 – 18 F	7	3	5	5	4	3
19 – 25 F	17	8	10	10	10	8
Over 25 F	50	25	24	23	32	25
16 – 18 M	19	9	11	10	16	12
19 – 25 M	31	15	19	18	23	18
Over 25 M	77	38	36	34	44	34
16 – 18 Total	26	13	16	15	20	16
19 – 25 Total	48	24	29	28	33	26
Over 25 Total	127	63	60	57	76	59
<b>Total</b>	<b>201</b>	<b>100</b>	<b>105</b>	<b>100</b>	<b>129</b>	<b>100</b>

#### Notes to table

1: total number of applications, interim and granted ASBOs do not match those detailed in section one due to 1) non-respondents in the survey 2) this is based on RSLs completing the survey data, not the full ASPR data

2: ASBOs granted during 2003/04 may have been applied for prior to April 2003

Source: Email survey

6.3 Table 6.1 is influenced by the demographic profile of Scotland. For example, the table shows that a large majority of ASBOs (63%) are to adults aged over 25. In great part, this reflects the fact that a very large majority (84%) of Scottish adults are over 25. Table 6.2 therefore displays ASBO incidence per every 100,000 of the population. From this analysis we can see that as a proportion of the population, ASBOs (applications and Orders) are highest within the youngest age band. This relationship between age and ASBO use is most prevalent for males than females, where although ASBOs are higher within the younger age bands, the relationship is stronger for those under 25 years.

**Table 6.2: ASBOs activity during 2003/04 by age and gender per 100,000 population**

Age / gender	Population	Applications	Interim	Granted
16 – 18 F	95,371	7.3	5.2	4.2
19 – 25 F	219,497	7.7	4.6	4.6
Over 25 F	1,847,678	2.7	1.3	1.7
16 – 18 M	100,150	19.0	11.0	16.0
19 – 25 M	223,550	13.9	8.5	10.3
Over 25 M	1,627,914	4.7	2.2	2.7
16 – 18 Total	195,521	13.3	8.2	10.2
19 – 25 Total	443,047	10.8	6.5	7.4
Over 25 Total	3,475,592	3.7	1.7	2.2
Average	4,114,160	4.9	2.6	3.1
<b>Total Number</b>	-	<b>201</b>	<b>105</b>	<b>129</b>

**Note to table**

Total number of applications, interim and granted ASBOs do not match those detailed in section one due to 1) non-respondents in the survey 2) this is based on RSLs completing the survey data, not the full ASPR data

Source: Email survey, GRO 2003 Mid Year Population Estimates

6.4 As noted already, unlike England and Wales, ASBOs were not available for juveniles during 2003/04. Despite this difference in practice across the UK, it is instructive to consider the profile of perpetrators subject to ASBOs in England and Wales. Here, only 21% of those subject to Orders granted 1999-2001 were aged over 25. A larger proportion – 36% – were juveniles aged under 17 (Campbell, 2002).

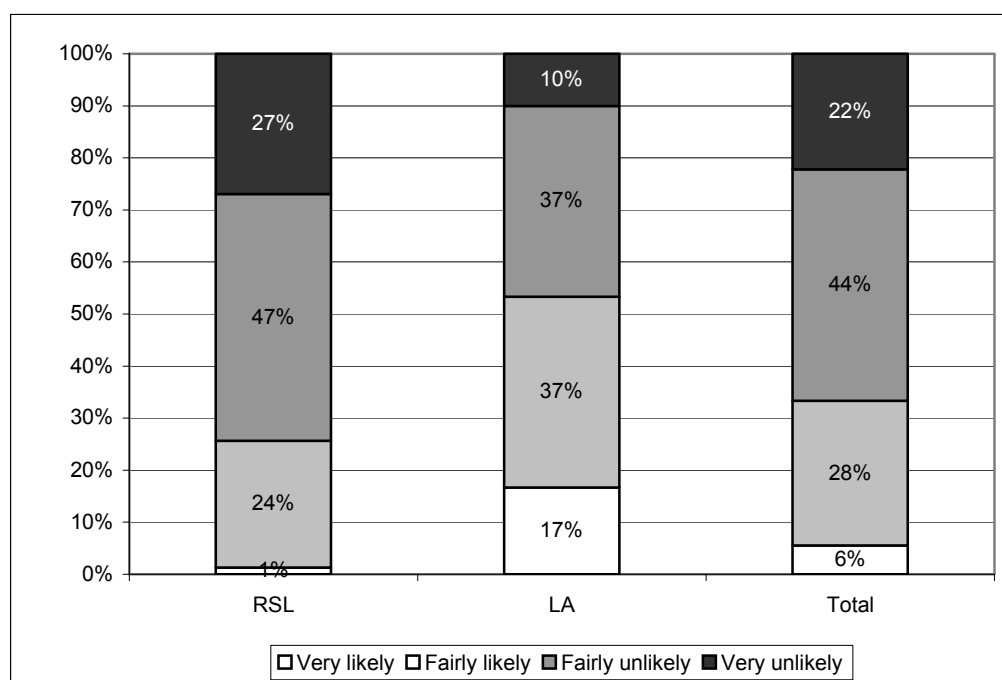
6.5 Figure 6.1 illustrates how likely local authorities and RSLs felt ASBOs would be used against young people aged 12-15. Just over a fifth of all organisations surveyed stated that they would be very unlikely to use ASBOs for this age group, while a further 44% felt it was fairly unlikely. Thirty four per cent of organisations thought they would be fairly or very likely to use the extended powers.

6.6 Just over half of local authorities expected to use the power to seek ASBOs for 12-15 year olds – this compares to only a quarter of RSLs.

6.7 The stakeholder focus group expressed surprise over the high proportion of organisations that said they were likely to use the new measures, especially as the majority of the group felt that the measure should only be used as a last resort. This group noted that the staff member completing the form would influence the response. It was also felt that while organisations may seek to use the power, the checks and balances incorporated into the process may reduce the number of applications and ASBOs granted. The second stage survey will be able to ‘test’ whether the expectations expressed in the first survey translate into action.

6.8 Local authorities and RSLs also estimated the number of ASBO applications that they thought they are likely to make over the next 12 months in relation to young people aged between 12 and 15. Table 6.3 shows that just under a third of organisations surveyed do not expect to make any ASBO applications in relation to young people aged 12-15. Thirty seven per cent expected to make between one or two applications.

**Figure 6.1: Likelihood of Using ASBOs in respect of young people aged 12-15**



**Note to chart**

Base: 32 LAs and 73 RSLs

Source: Email Survey

6.9 Local authorities are far more likely to use the extended powers than RSLs: 62% of local authorities expected to make at least one ASBO application in relation to a young person aged 12-15 compared to 37% of RSLs. There is a fairly high level of uncertainty relative to these new powers – around a quarter of all LAs and RSLs were unsure whether they would make use of them in the coming twelve months.

**Table 6.3: Expected Number of ASBOs for 12-15 year olds**

Likely no of ASBOs	RSLs		LA		Total	
	No	%	No	%	No	%
None	31	40	3	9	34	31
1 to 2	26	33	15	47	41	37
3 to 5	2	3	2	6	4	4
6 to 10	0	0	3	9	4	4
Over 10	1	1	0	0	0	0
Don't know	18	23	9	28	27	25

Source: Email Survey

6.10 The focus group participants discussed the use of ASBOs for young people. Participants felt that ASBOs for young people should be used as the last resort. They agreed that a range of other measures are available to them, however some felt that many are, or may not, be practical or effective (for example, dispersal orders, tagging). Furthermore, many of these measures ‘sound good’ to participants but may not happen in practice – one example given was that there was no available legal remedy should the ASBO be breached.

6.11 Some RSLs felt that the decision to use ASBOs against young people should be based on strong evidence of utility – one commented that statistics in Glasgow show that 30 to 40 year olds cause the majority of ASB.

## APPENDIX A: REFERENCES

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## APPENDIX B

# SURVEY ON THE USE OF ANTISOCIAL BEHAVIOUR ORDERS



**SCOTTISH EXECUTIVE**

This survey is part of a larger research study commissioned by the Scottish Executive to examine the use of Antisocial Behaviour Orders. Many of the questions replicate those included in previous surveys carried out by the Chartered Institute of Housing on the Executive's behalf.

Focusing on financial year 2003/04 (1 April 2003 - 31 March 2004), the survey asks questions about:

- Applications for ASBOs over a range of tenancies and circumstances,
- Numbers of ASBOs granted,
- Numbers of interim ASBOs granted,
- Consequences of breaches and alleged breaches,
- Wider antisocial behaviour policies.

Please note that where an ASBO application is made to the Court by a local authority *acting on behalf of an RSL*, the ASBO should be treated for the purposes of this questionnaire as a local authority ASBO.

Please **provide a response on Question 1 (Urgently Required Data) by 7<sup>th</sup> October 2004** – this will collate basic data for the Scottish Executive on the use of ASBOs before provisions in the Antisocial Behaviour etc (Scotland) 2004.

Please complete and return the **remainder of the questionnaire by 15<sup>th</sup> October 2004**.

<i>Name</i>	<input type="text" value="Name"/>		
<i>Job title</i>	<input type="text" value="Job title"/>		
<i>Local authority/RSL name</i>	<input type="text" value="LA / RSL name"/>		
<i>Telephone</i>	<input type="text" value="Phone"/>	<i>E-mail address</i>	<input type="text" value="Email"/>

## SECTION A: URGENTLY REQUIRED DATA

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### A1. ASBOs applied for/granted in 2003/04

Please complete the table below in relation to ASBO applications sought from the Court by your LA/RSL and ASBOs granted to your LA/RSL **during 2003/04**

No. of ASBO applications *	A1.1
No. of interim ASBOs granted	A1.2
Of which, no. later granted as full ASBOs	A1.3
<i>No. of full ASBOs granted**</i>	A1.4

**\*including those initially sought on an interim basis**

**\*\*including those initially awarded on an interim basis**

A2. Name of LA/RSL

## SECTION B: YOUNG PEOPLE AND ASBOs

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### B1. Number of ASBOs applied for/granted during 2003/04

Please provide the number of ASBOs (both applications and those granted) by age group and gender

Age / gender of ASBO recipient	ASBO applications	Interim ASBOs granted	Full ASBOs granted*
16-18 years (female)	<b>B1.1</b>	<b>B1.2</b>	<b>B1.3</b>
19-25 years (female)	<b>B1.4</b>	<b>B1.5</b>	<b>B1.6</b>
Over 25 years (female)	<b>B1.7</b>	<b>B1.8</b>	<b>B1.9</b>
16-18 years (male)	<b>B1.10</b>	<b>B1.11</b>	<b>B1.12</b>
19-25 years (male)	<b>B1.13</b>	<b>B1.14</b>	<b>B1.15</b>
Over 25 years (male)	<b>B1.16</b>	<b>B1.17</b>	<b>B1.18</b>

\* including those initially awarded on an interim basis

### B2. The Antisocial Behaviour etc. (Scotland) Act 2004 extends the powers of LAs and RSLs enabling them to seek ASBOs in respect of young people aged 12-15. How likely is it that your LA/RSL will make use of this power within the first 12 months of the legislation coming into force?

- Very likely **VL**
- Fairly likely **FL**
- Fairly unlikely **FU**
- Very unlikely **VU**

### B3. Could you please estimate the number of ASBO applications your organisation is likely to make in relation to young people aged 12-15 within 12 months of the legislation coming into force?

- 0 B3.1
- 1-2 B3.2
- 3-5 B3.3
- 6-10 B3.4
- Over 10 B3.5
- Don't know B3.6

## SECTION C: ASBO CASES

- C1. Please state the number of cases that your LA/RSL **considered as possibly meriting an ASBO application during 2003/04?** Show in the table both the source of the request and the housing occupancy of the alleged perpetrator.

Housing occupancy of alleged perpetrator	Source of ASBO request (please enter numbers)							
	LA	RSL / HA/ Co-Op	Private landlord	Owner occupier /Private tenant	LA/RSL tenant	Police	Other	Total
LA tenants or members of their households	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
RSL/HA /co-op tenants or members of their households	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Owner occupiers or members of their households	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Private tenants or members of their households	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
No fixed abode	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<b>Total</b>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

**IF YOUR ORGANISATION MADE NO ASBO APPLICATIONS DURING 2003/04 PLEASE SKIP QUESTION C2 AND RESPOND TO C3 AND C4.**

- C2. Please provide a breakdown of ASBOs **applied for by your organisation during 2003/04** according to the **main** location where incidents took place.

Main location of incidents	Number of ASBOs sought
In residential areas near perpetrator's home only	<input type="text"/>
In other residential areas	<input type="text"/>
In or around retail or other commercial property	<input type="text"/>
In public areas (e.g. parks)	<input type="text"/>
On public transport	<input type="text"/>
<b>Total (as in QA1 row 1)</b>	<input type="text"/>

**C3. Number of ASBOs applied for/granted during 2003/04**

Please provide the number of ASBOs (both applications and those granted):

Housing tenure of alleged perpetrator	ASBO applications	Interim ASBOs granted	Full ASBOs granted*
Council tenants or members of their households	<input type="text"/>		
RSL/HA/co-op tenants or members of their households	<input type="text"/>	<input type="text"/>	<input type="text"/>
Owner occupiers or members of their households	<input type="text"/>	<input type="text"/>	<input type="text"/>
Private tenants or members of their households	<input type="text"/>		
No fixed abode	<input type="text"/>	<input type="text"/>	<input type="text"/>

\* including those initially awarded on an interim basis

**C4. Please provide a breakdown of ASBOs granted in 2003/04 by condition(s) attached (enumerate all those where each condition applies)**

ASBO Condition	No of ASBOs granted in 2003/04 with condition
Area constraints	<input type="text"/>
Constraints on contact with specified individuals	<input type="text"/>
Noise prohibition	<input type="text"/>
Other (please specify conditions below) <input type="text"/>	<input type="text"/>

**IF YOUR ORGANISATION MADE NO ASBO APPLICATIONS DURING 2003/04 PLEASE GO TO SECTION E.**

**C5. Please state how many of the ASBO applications made to the Court in 2003/04 were defended?**

<b>Number</b>	<input type="text"/>
<b>Don't know</b>	<input type="checkbox"/>

**C6. What was the outcome of ASBO applications made to the Court in 2003/04? Please state the application outcome beside the housing tenure of the alleged perpetrator.**

ASBO Application Outcome			
Full ASBO Granted	Application withdrawn by LA/RSL	Application rejected by Court	Application has not been heard or court case is ongoing
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

**C7. How many of the ASBOs granted to your organisation by the Court during 2003/04 were appealed by the defender?**

Total number appealed	Of which...		
	Number of appeals upheld by the Court	Number of appeals where order varied	Don't know outcome
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Cross here if number of ASBOs appealed in 2003/04 not known:			<input type="checkbox"/>

## SECTION D: TIMESCALES

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- D1.** For ASBO applications made in 2003/04, how long did it take for your LA/RSL to prepare cases?

Period from deciding to seek ASBO until application made to Court	Number of Applications
Less than 2 weeks	<input type="text"/>
2-4 weeks	<input type="text"/>
1-3 months	<input type="text"/>
4-6 months	<input type="text"/>
6-9 months	<input type="text"/>
More than 9 months	<input type="text"/>
Total (as in QA1 row 1)	<input type="text"/>

- D2.** What are the main factors influencing the period of time it takes to prepare an ASBO application?

- D3.** For **full** ASBO applications made in 2003/04 how long did it take from the date of application to the Court for a ruling to be made?

Time taken for case to be concluded by Court	Number of Applications	
	ASBO granted	ASBO rejected
Less than 2 weeks	<input type="text"/>	<input type="text"/>
2-4 weeks	<input type="text"/>	<input type="text"/>
1-3 months	<input type="text"/>	<input type="text"/>
4-6 months	<input type="text"/>	<input type="text"/>
6-9 months	<input type="text"/>	<input type="text"/>
More than 9 months	<input type="text"/>	<input type="text"/>
Total full ASBO applications made in 2003/04	<input type="text"/>	<input type="text"/>

- D4.** Where an ASBO application was concluded by the Court after what appeared to be a long delay, please state the apparent reasons.

- D5.** For interim ASBO applications made in 2003/04 how long did it take from the date of application to the Court for a ruling to be made?

<b>Time taken for case to be concluded by Court</b>	<b>Number of cases</b>
Less than 1 week	<input type="text"/>
1-2 weeks	<input type="text"/>
2-4 weeks	<input type="text"/>
1-3 months	<input type="text"/>
More than 3 months	<input type="text"/>
Total interim ASBO applications made in 2003/04	<input type="text"/>

- D6** In respect of interim ASBOs granted by the Court to your organisation in 2003/04, how long did the interim orders have effect before the cases were concluded?

<b>Interim ASBO in force for ...</b>	<b>Number of cases</b>
Less than 1 week	<input type="text"/>
1-2 weeks	<input type="text"/>
2-4 weeks	<input type="text"/>
1-3 months	<input type="text"/>
More than 3 months	<input type="text"/>
Total interim ASBO applications made in 2003/04	<input type="text"/>

- D7.** Please provide a breakdown of full ASBOs granted to your organisation in 2003/04 according to their duration:

<b>Duration of conditions</b>	<b>No of full ASBOs granted in 2003/04</b>
Less than 1 year	<input type="text"/>
1-2 years	<input type="text"/>
2-5 years	<input type="text"/>
Indefinite	<input type="text"/>
Total full ASBOs granted in 2003/04 (as in QA1 col 3)	<input type="text"/>

## SECTION E: OUTCOMES

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- E1.** (a) Please state the number of ASBOs granted to your organisation and *in force during 2003/04* (i.e. those awarded in 2003/04 and those awarded in earlier years but remaining in force on 1 April 2003)

- (b) Please state the number of ASBOs granted to your organisation and *in force on 31 March 2004?*

No. of interim ASBOs	No. of full ASBOs
<input type="text"/>	<input type="text"/>

- E2.** In your experience, is it possible to generalise on the impact of ASBOs in relation to perpetrators' behaviour?

- (a) Perpetrator's behaviour usually improves
- (b) Perpetrator's behaviour usually remains unchanged
- (c) Perpetrator's behaviour usually deteriorates further
- (d) Not possible to generalise
- (e) No experience of ASBOs

- E3.** During 2003/04, in total how many ASBOs were allegedly breached?

- E4.** Please provide a breakdown in respect of alleged ASBO breaches in 2003/04 (**Note: some ASBOs may have been breached two or more times during the year, so the number of breaches may exceed the number of ASBOs breached – as in QE3**)

Outcome	Number of alleged ASBOs breaches in 2003/04
No action taken	<input type="text"/>
Perpetrator visited by member of LA/RSL staff and no further action taken	<input type="text"/>
Perpetrator visited by police but no subsequent action taken	<input type="text"/>
Perpetrator detained for investigation by police but no subsequent action taken	<input type="text"/>
Alleged breach reported to Procurator Fiscal	<input type="text"/>
Perpetrator detained in custody for appearance in court	<input type="text"/>
Action not known	<input type="text"/>
Total alleged ASBOs breaches in 2003/04	<input type="text"/>

- E5.** Where an ASBO in force in 2003/04 was breached in 2003/04 **and this resulted in the case going to court, what was the Court's ruling?** Please write in the number cases against each outcome.

<b>Court's Ruling</b>	<b>Number of cases</b>
Court dismissed case	<input type="text"/>
Perpetrator admonished only	<input type="text"/>
Perpetrator fined	<input type="text"/>
Community Service Order	<input type="text"/>
Sentence deferred for good behaviour	<input type="text"/>
Probation	<input type="text"/>
Custodial sentence	<input type="text"/>
Other sentence	<input type="text"/>
Outcome not known	<input type="text"/>
Total ASBO breaches leading to court hearings	<input type="text"/>

- E6.** For ASBOs **breached during 2003/04** were any further actions taken?

<b>Action Taken</b>	<b>Number of Cases</b>
No further action	<input type="text"/>
Applied to Court for further ASBO	<input type="text"/>
LA/RSL pursued eviction proceedings against person (irrespective of outcome)	<input type="text"/>
Private landlord pursued eviction proceedings against person (irrespective of outcome)	<input type="text"/>
LA/RSL converted tenancy to SSST	<input type="text"/>
Don't know	<input type="text"/>
Total ASBOs breached in 2003/04	<input type="text"/>

- E7.** In respect of ASBOs **expiring during 2003/04** please provide the following information:

<b>Whether ASBO allegedly breached while in force</b>	<b>Extension of ASBO/new ASBO sought</b>	<b>No ASBO extension or new ASBO sought</b>	<b>Total</b>
ASBOs expiring and previously breached	<input type="text"/>	<input type="text"/>	<input type="text"/>
Non-breached ASBOs expiring	<input type="text"/>	<input type="text"/>	<input type="text"/>
Total ASBOs expiring in 2003/04	<input type="text"/>	<input type="text"/>	<input type="text"/>

- E8.** Has your LA/RSL ever applied for a further ASBO against someone who had already been subject to an ASBO (whether or not the original has run its course)? If so please state the number of cases involved:

- E9.** Do you have any general comments on ASBOs or suggestions as to how the use of ASBOs could be improved? This may include media coverage and attitudes of other bodies.

## SECTION F: USE OF OTHER MEASURES TO COUNTER ANTISOCIAL BEHAVIOUR

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**NOTE: This section applies only to those RSLs and LAs who manage social housing:**

**F1.** Has your LA/RSL ever raised court proceedings in respect of ASB?

Yes  No (if no go to question F3)

**F2.** If yes, please state the number of court proceedings for ASB issued in 2003/04

**F3.** Has your LA/RSL ever sought an interdict in respect of ASB?

Yes  No (if no go to question F5)

**F4.** If yes, please state the number of interdicts sought in respect of ASB in 2003/04

**F5.** Under what kinds of circumstances does your LA/RSL seek to use interdicts and why?

**F6.** The Housing (Scotland) Act 2001 introduced the Short Scottish Secure Tenancy (SSST). This can be given to a tenant who is subject to an ASBO (or if a member of the tenant's household is the subject of an ASBO).

During 2003/04, how many tenancies have been converted to SSSTs where an ASBO was in force against a member of the household (regardless of breach and whether support imposed and accepted)?

**F7.** Has the introduction of SSSTs made you more or less likely to pursue ASBOs?

- More likely
- Less likely
- No difference
- Don't know

**F8.** Has your LA/RSL ever negotiated a formal Acceptable Behaviour Contract (ABC) with a person alleged to have committed antisocial behaviour?

Yes  No

**F9.** Does your LA/RSL normally expect to negotiate a formal ABC before considering an application for an ASBO?

Yes  No

## SECTION G: CONTEXTUAL INFORMATION

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**G1. For local authorities only** - What is the lead department in your LA in respect of ASBO applications?

- Housing department
- Chief Executive's department
- Legal department
- Other

**G2.** Has your LA/RSL established a specialist post or team to manage your ASB response?

Yes  No (if no go to question G4)

**G3.** Please provide further details – e.g. numbers of staff, brief description of role and remit, where located/managed in the organisation

**G4. For local authorities only** - Have you finalised your ASB strategy?

Yes  In progress  No

**G5. For local authorities only** - Have you developed a partnership/group in place to oversee the production of your ASB strategy?

Yes  In progress  No

**G6.** If yes, what agencies does the partnership involve?

Who?	Please check all that apply
Police	<input type="checkbox"/>
Social Work	<input type="checkbox"/>
Housing	<input type="checkbox"/>
Education	<input type="checkbox"/>
Environmental health	<input type="checkbox"/>
Legal	<input type="checkbox"/>
RSLs	<input type="checkbox"/>
Service Users	<input type="checkbox"/>
Voluntary Agencies	<input type="checkbox"/>
Other	<input type="checkbox"/>

**G7.** Has your LA/RSL any of the following in place/in development? (Please check all that apply)

	<b>In place</b>	<b>In development</b>
ASBO policy and practice documentation	<input type="checkbox"/>	<input type="checkbox"/>
Performance monitoring framework for action to counter ASB	<input type="checkbox"/>	<input type="checkbox"/>
Financial information about the cost of using ASBOs and/or other measures to tackle ASB	<input type="checkbox"/>	<input type="checkbox"/>
Information or statistics concerning incidence of ASB	<input type="checkbox"/>	<input type="checkbox"/>
Protocols/service agreements with other departments and/or agencies to tackle ASB	<input type="checkbox"/>	<input type="checkbox"/>

**G8.** **For all:** This research will continue until 2005/06 and we would be interested in examining data on individual ASBOs (in an anonymised form). Please state whether your organisation would be able to make such data available for this purpose? The outputs of any analyses making use of such data would, of course, be fed back to you.

Yes  No

**We would be grateful if you could indicate whether your organisation would be willing to participate in a focus group to discuss these issues in more detail Yes**

Many thanks for completing the questionnaire.

Please provide a response on **Question 1 (Urgently Required Data)** by **7<sup>th</sup> October 2004**.  
The remainder of the questionnaire should be completed by **15<sup>th</sup> October 2004**

**The completed survey should be returned by e-mail to:**

**[dtzpiedasurveys@dtz.com](mailto:dtzpiedasurveys@dtz.com)**