1 What is anti-social behaviour (ASB)?

One knows that it is not a cow or pig, but defining an elephant in precise terms is a little more difficult, at least in legal language. The application of common sense leads to a practice that is well understood by all. (Alun Michael, MP, 2005)

To some, trying to answer the question ‘what is anti-social behaviour?’ is a wasteful academic exercise; like the elephant in the above quote, you know what it is when you see it. Alun Michael, MP, used a similar argument in a debate on the Crime and Disorder Bill in 1998, stating that ‘it is for the police, the local authority and the courts to recognise what has been described as the elephant on the doorstep, which is easier to recognise than to define’ (see also Rutherford 2000; Hough and Jacobson 2004; Millie 2007a). Louise Casey, the senior civil servant who was later in charge of the Home Office's campaigns to tackle anti-social behaviour (ASB) held a similar position. In minutes recording a meeting she attended of the Anti-Social Behaviour Scrutiny Panel of the London Borough of Camden (2004), it is stated that Casey, 'did not feel that a group of people sitting around a table analysing definitions was the right way to deal with anti-social behaviour ... We know what the problems are. We know what is needed. Now we have to do it'. Such a ‘no nonsense’ approach is certainly popular with some politicians. In an after-dinner speech Casey is also reported as saying, ‘Topic for the evening, “Research: help or hindrance?” “Hindrance”, thanks very much’ (Guardian 2005). Aspects of this speech were later quoted by Baroness Linklater (2007) in a House of Lords debate:

The Anti-Social Behaviour Unit [at the Home Office] was created to promote and develop a crackdown on such behaviour – with enormous enthusiasm and a zero-tolerance enforcement approach. However, the rigorous evidential tests more usually required by the
Treasury for funding other Home Office policy initiatives were not applied. Indeed, Louise Casey, now head of the Prime Minister’s respect task force, was reported as saying to a senior police audience in 2005: ‘If No. 10 says bloody “evidence based policy” to me one more time, I’ll deck them.’ One can only infer from that extraordinary remark that No. 10 was indicating that at least some research would be desirable, even if the head of the task force had no time for it.

For fear of causing further ‘hindrance’, this book examines the available evidence concerning the contemporary obsession with ASB in Britain. Rather than accepting at face value that ASB is a menace that needs to be stopped, the extent and nature of ASB is questioned, as well as the policy responses to it. For Louise Casey – a high profile civil servant with very close ties to Tony Blair – to be so publicly anti-evidence is illustrative of a shift from New Labour’s earlier pragmatic emphasis on evidence-based practice, that ‘what matters is what works’ (Blair 1998: 4). The focus had become one of action, not about evidence, and certainly not about definitions. These are, of course, old arguments. For instance, in discussing vandalism back in 1973 Stan Cohen stated that:

I want to start by considering some of the problems involved in defining vandalism. At first sight, this might sound like an arcane theoretical exercise with no reference to a real world in which ‘everyone knows’ what vandalism is and clearly recognises it as a problem, threat or menace. Let us imagine, though, having to explain to a foreigner what vandalism is. (p. 23)

Like Cohen’s view of vandalism – and contrary to Alun Michael or Louise Casey – in this chapter it is argued that it is very important to have tighter definitions and limits to behaviour regarded as anti-social. Rather than everybody knowing what it is, ASB is seen as a contested concept; that one person’s ASB may be another’s criminality. Similarly, what to one person might be anti-social may be tolerable to another or even celebrated as a valued contribution to contemporary life. Definitional limits to ASB are also important because the consequences of censure can be severe. The highest profile measure designed to tackle ASB is the Anti-Social Behaviour Order (or ASBO), as introduced with the 1998 Crime and Disorder Act. The ASBO is explored in detail in Chapter 6; however, in brief, it acts as a form of hybrid law (Gardner et al. 1998; Pearson 2006) or two-step prohibition (Simester and von Hirsch 2006). It is two step in that it is a civil order in the first instance; however, breach of the order is a criminal offence carrying with it criminal
Censure in the form of a maximum five years in prison. The consequences of subjective 'common sense' decision making can therefore be very severe indeed.

That said, pinning down what is currently meant by ASB is not easy (e.g. Bland and Read 2000; Harradine et al. 2004; Ramsay 2004; Millie et al. 2005a) with common understandings characterized by vagueness and subjectivity. While criminologists and legal philosophers have been debating the precise nature and limits of criminal activity for decades (e.g. Feinberg 1984, 1985; Muncie 2001; Garland 2002), determining what exactly makes certain behaviours anti-social may be just as difficult – despite everyone apparently 'knowing it when they see it'. Without tighter definitional limits ASB could be anything from the mildly annoying through to the seriously criminal. For instance, if I am rude I am being anti-social, but so too if I steal your car. Most people would exclude both behaviours from definitions of ASB, as being either to trivial or adequately covered by criminal law. ASB lies somewhere in between, but what exactly is it that makes this behaviour unacceptable?

**ASB as a political and media invention**

There is of course the possibility that the label ‘ASB’ has simply been invented by politicians and by the media to describe a loose collection of neighbourhood problems (Burney 2005; Millie 2007a). Just as categories of ‘crime’ can be regarded as inventions of the criminal justice system (e.g. Hulsman 1986), ‘ASB’ can be regarded as a label of convenience for non-criminal and minor criminal neighbourhood concerns. It would be wrong to suggest that people do not behave anti-socially and that some people and neighbourhoods do not suffer the consequences of this behaviour. Nonetheless, it is certainly possible that politicians and the media have over-sold the problem. For instance, in 2004 a documentary about terrorism was shown on British television, *The Power of Nightmares* by Adam Curtis – broadcast over three nights from 20 October. In this, Curtis claimed that current terrorist threats were exaggerated or illusionary with *fear* of terrorism being used as a powerful political tool. Although on a different scale, it could be argued that ASB was similarly created (e.g. Burney 2005). UK crime rates had been falling from the mid-1990s onwards (e.g. Thorpe et al. 2007) and so ASB provided an opportune ‘menace’ to target for political rhetoric and action. By keeping the definition of ASB as vague as possible it also made it easier to claim successes. This is, of course, a dangerous game as it can draw people’s attention to ASB-type problems and increase worries (Bannister et al. 2006). It seems
unlikely that politicians have been quite as calculating, although there has almost certainly been a degree political packaging of ASB (Millie 2007a). Serious forms of ASB do exist, although perhaps not to the scale that we have been led to believe (see Chapter 2). Drawing on evidence from *Factiva*, *Lexis Nexis* and from the *Economist,* Stuart Waiton (2005: 23) has claimed the following:

The catch all term ‘antisocial behaviour’ has today become so widely used it seems strange to find it was rarely used [in the media] until the 1990s. In the 1980s a couple of articles a year were printed in the UK discussing antisocial behaviour, whereas in January 2004 alone, there were over 1000 such articles. Not even the most pessimistic social critic would suggest a parallel increase in problem behaviour.

**Origins of the term ‘anti-social behaviour’**

Before going any further, it is useful to consider the origins of the term ASB. Within a public order enforcement context ASB is a comparatively recent addition to the common lexicon. However, within psychosocial literature ‘anti-social behaviour’ has been a term used for many years as a label for unwanted behaviour as the result of personality disorder and is the opposite of pro-social behaviour (e.g. Lane 1987; Farrington 1995a; Millon et al. 1998). For instance, writing from a psychosocial perspective, David Farrington (1995a: 84–5) has stated that teenage anti-social behaviour in particular, ‘covers a multitude of sins … such as theft, burglary, robbery, violence, vandalism, fraud and drug use … bullying, reckless driving, heavy drinking and sexual promiscuity … heavy smoking, heavy gambling, employment instability and conflict with parents’. This is an exceptionally broad remit. Relatedly, sociopathy and psychopathology are now more commonly regarded under the umbrella term ‘anti-social personality disorder’ (ASPD) (see e.g. Eysenck 1994; Squires and Stephen 2005). To avoid any confusion, this is **not** what this book is focused on. Instead a much narrower conception of ASB is considered, with the focus entirely on ASB as understood within a public order enforcement context.

People suffering from ASPD may find themselves the subject of such enforcement measures; however, ASB has greater overlap with conceptions of deviancy and delinquency – including some minor forms of criminality (see Chapter 3). ASB also has a lot in common with incivilities, disorder and ‘quality of life crimes’; terms that describe a ‘cocktail of social unpleasantness and environmental mess found in decaying neighbourhoods’ (Burney 2005:
2). Of these labels the most useful is perhaps ‘incivilities’. According to Bottoms (2006: 239), ‘incivilities can sometimes consist simply of behaviour that lacks civility and consideration for others ... on occasion they become genuinely offensive to reasonable people, in ways that may also constitute a wrong against them.’ Just as ‘disorder’ is the opposite to ‘order’, ‘incivility’ is the opposite to ‘civility’. The term relates to people’s behavioural expectations for a ‘civilized’ or civil society, characterized by ‘consideration for others’. The overlap with ASB is clear, in that someone who is anti-social, is, by definition, not being ‘social’ and similarly lacks consideration or is unaware of the impact of their behaviour on others. In fact, although ASB is a peculiarly British obsession, it owes a great deal to US literature on incivilities and, in particular, Wilson and Kelling’s (1982) ‘broken windows’ perspective. A fuller discussion is given in Chapter 5; but in simple terms, this takes a view that low level issues (such as broken windows) need to be tackled, otherwise there can be detrimental impact on fear, neighbourhood decline and criminality. It was an attractively simple concept to politicians (e.g. Blair 2001).

It is often assumed that ASB is a label created by New Labour. And while New Labour has certainly embraced the concept enthusiastically, it in fact pre-dates Labour coming to power in 1997 and featured in earlier Conservative legislation. Of course, some of the problems commonly regarded as anti-social are very old indeed (see Elias 1978; Pearson 1983, 2006; Burney 2005). However, in legislative terms the origin of what became known as ASB can be seen as the Conservative 1986 Public Order Act. The term ASB is not in fact used in this instance, but what is of significance is the focus on ‘harassment, alarm and distress’, what became the three pillars of later New Labour legislation to address ASB. According to the 1986 Public Order Act (s.5(1)):

A person is guilty of an offence if he (a) uses threatening, abusive or insulting words or behaviour, or disorderly behaviour, or (b) displays any writing, sign or other visible representation which is threatening, abusive or insulting, within the hearing or sight of a person likely to be caused harassment, alarm or distress.

A person guilty of causing unintentional ‘harassment, alarm or distress’ could be given a fine. If intentional (s.4(a)), then the maximum sentence was six months’ imprisonment or a higher fine. What is immediately apparent is the subjectivity of the terminology used. For instance, I can be harassed, alarmed or distressed by quite different things to someone else. Similarly, threat, abuse, insult or even disorderly behaviour are concepts open to interpretation. To give an example, between 2005 and 2007 a range of people
associated with the pro-hunting ‘Countryside Alliance’ were arrested or given on-the-spot fines for wearing and selling t-shirts emblazoned with the logo ‘Bollocks to Blair’ (Horse and Hound Magazine 2005; The Times 2006). According to Horse and Hound Magazine (Butcher 2007), a case was dropped against a man ‘for brandishing a placard that read “Bollocks to Blair” above the M4 motorway’. He had originally been charged under the 1986 Public Order Act with ‘displaying any writing, sign or other visible representation which is threatening, abusive or insulting’. The subjectivity of what causes harassment, alarm or distress is clear, and, in this instance, had a lot to do with the perception of offensiveness (see Feinberg 1985). As reported in The Times (2006), a stallholder noted the bizarre situation where he could be charged for selling ‘Bollocks to Blair’ t-shirts, while the clothing company French Connection could sell t-shirts with their logo ‘FCUK’ across them: ‘We’re continuing to display [the shirts] at shows and they are selling really well. It is a bit of a punchy slogan but I personally find it offensive for young girls to go round in t-shirts with FCUK written on them. Perhaps we should spell it Bollokcs to Blair.’ The case is reminiscent of QC Sir John Mortimer’s famous defence in 1977 of the Sex Pistols album, ‘Never Mind the Bollocks, Here’s the Sex Pistols’ (see Cloonan 1995). It seems that notions of offence and ‘civility’ have not moved on as far as may have been thought.

As noted, the 1986 Public Order Act did not use the term ASB, but it covered much in common with what later became labelled as anti-social. One of the first definitions was put forward by the Chartered Institute of Housing (1995), as: ‘Behaviour that unreasonably interferes with other people’s rights to the use and enjoyment of their home and community’. This highlighted the importance of housing in ASB discourse. It has been noted elsewhere (Burney 2000, 2002; Brown 2004; Flint 2006a) that much of the current focus on ASB originated in a housing context in an effort to address issues of ‘problem neighbours’ or ‘neighbours from hell’ (cf. Field 2003) – something quite different to the public order targeted by the 1986 Act. At the Chartered Institute of Housing’s annual conference in 1995 a lobby group was formed called the ‘Local Authority Working Group on Anti-Social Behaviour’, later to become the ‘Social Landlords Crime and Nuisance Group’ (see Burney 1999). Their influence on Labour Party policy, then in opposition, was immediate. In the same year Labour published their paper A Quiet Life: Tough Action on Criminal Neighbours. This outlined proposals for a ‘Community Safety Order’, which evolved into the ASBO when introduced in 1998. However, the term ASB was not adequately defined in any of these discussions, although it had become synonymous with neighbour disputes and people’s rights to ‘the use and enjoyment of their home and community’; or to a ‘quiet life’ – whatever that meant.

This emphasis was apparent in the 1996 Housing Act introduced by the Conservative government. This was the first time ASB was mentioned in
legislation, here relating to powers for social landlords to grant injunctions against anti-social tenants. According to the Act (s.152), a person is guilty of ASB if she or he is:

(a) engaging in or threatening to engage in conduct causing or likely to cause a nuisance or annoyance to a person residing in, visiting or otherwise engaging in a lawful activity in residential premises to which this section applies or in the locality of such premises (b) using or threatening to use residential premises to which this section applies for immoral or illegal purposes, or (c) entering residential premises to which this section applies or being found in the locality of any such premises.

This definition was certainly not the shortest. In this case what was deemed to be ASB centred on ‘nuisance’ or ‘annoyance’, as opposed to the ‘harassment, alarm or distress’ of the 1986 Public Order Act. But these are similarly subjective concepts, meaning there was a lot of scope for interpretation of other people’s behaviour. For pragmatic reasons, the injunction powers also included persons using or threatening to use premises for immoral or illegal purposes – principally to cover drug dealing or prostitution.

‘Harassment’ was also a feature of the 1997 Protection from Harassment Act, one of the last pieces of Conservative legislation enacted before the general election in May that year. ‘Harassment’ was defined as follows:

A person must not pursue a course of conduct (a) which amounts to harassment of another, and (b) which he knows or ought to know amounts to harassment of the other. (s.1(1))

Here, according to Finch (2002a, cited in Ramsey 2004: 911) the definition is left vague as it, ‘enables the victim to determine the parameters of acceptable interaction on an individualistic basis … [with] primacy given to the victim’s interpretation of events when attributing liability’. Not only was acceptability of behaviour a subjective decision made by the victim, it is stated that the perpetrator ‘ought to know’ that it is harassment. In effect, the perpetrator is in the peculiar position of having to understand how someone may perceive their actions. That said, there was some elaboration as the behaviour had to have occurred at least twice (s.7(3)) and could include speech (s.7(4)) (see Finch 2002b: 423). Still, this left considerable scope for interpretation.

The 1998 Crime and Disorder Act definition of ASB

When Labour came to power following election success in 1997 one of the first pieces of legislation passed was the 1998 Crime and Disorder Act seeing,
among other things, the introduction of the ASBO. While the ASBO was their 'baby', Labour had inherited much legislative language from the Conservatives, a fact made clear by the definition of ASB used in the 1998 Act (s.1(1a)). Here the definition relates to when ASBOs are appropriate, with ASB being defined as acting:

in a manner that caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household as [the perpetrator].

Unfortunately, Labour also inherited the Conservative's lack of legislative clarity. The phrase 'not of the same household' excludes incidents of domestic violence as these were already covered by the 1996 Family Law Act (Thorp 1998: 23). Nonetheless, what is left is everything else that causes or is likely to cause 'harassment, alarm or distress'. By including the phrase 'likely to cause', the definition creates further problems in that it includes behaviour perceived to be a threat, rather than focusing solely on actual behaviour; put another way, a focus is on the supposed consequences of perceived threat (e.g. Armitage 2002). This was acknowledged in a Home Office report (Harradine et al. 2004: 3), that 'by describing the consequences of behaviour rather than the behaviour itself, the definition lacks specificity and measurability'. As noted, 'harassment' had already been covered by the 1997 Protection from Harassment Act; however, for the 1998 Act 'harassment' is only part of the picture. By including harassment, alarm or distress, behaviour that is perceived to lead to any one of these effects could be censured as anti-social. A local authority worker interviewed for a recent study (see also Millie et al. 2005a) summed up the problem with ASB definition thus:

What's the definition? The police's is anything which causes alarm or distress, large groups wandering around the streets. Goodness me, I mean I used to do it and mostly everyone else did, used to wander around with their mates on the street once the youth club's shut. But they cast that as anti-social behaviour, a bit of fun, a bit of malarkey ... I think anti-social behaviour, the term of it, is very much abused if you like, I really do.

Defining a problem so loosely and subjectively means most unwanted behaviour can be regarded as anti-social. It has been well documented (e.g. Ashworth et al. 1998; Burney 2000a; Whitehead et al. 2003; Ramsey 2004; Millie et al. 2005a; Macdonald 2006) that this vagueness has led to the inclusion of both criminal and non-criminal behaviour – or as Home Office guidance (1999) put it, criminal and sub-criminal behaviour. This blurring of boundaries in criminal justice is something that Cohen (1985) had anticipated and can clearly cause problems (see Brown 2004; Squires 2006). In effect, behaviour that had previously been regarded as unpleasant, but
tolerated, can be ‘up tariffed’ or criminalized. To use Cohen’s (1985) famous fishing analogy, it is an example of ‘net widening’, where behaviour – and perpetrators of this behaviour – previously outside the scope of criminal law get caught in an ever expanding criminal justice net. For example, ASBOs have been granted to disruptive teenagers with the condition not to congregate with other youths. Congregating with other youths is, understandably, for the vast majority of young people a perfectly acceptable part of daily life. However, in order to deter future ASB, for a select few it can lead to a breach of ASBO conditions, with the breach carrying the possibility of criminal censure. One of the principles of criminal law is equality before the law; however, ASBOs break this principle and can be regarded as personalized penal codes, ‘where non-criminal behaviour becomes criminal for individuals who have incurred the wrath of the community’ (Gil-Robles 2005: 37). Similarly, ASBOs have been given to street sex workers and street drinkers (e.g. Jones and Sager 2001; Fletcher 2005; Macdonald 2006; Moore 2008), not for criminal acts, but for the perceived effect of their behaviour.

Following the 2002 Police Reform Act, ASBOs could also be granted post-criminal conviction in an attempt to prevent future criminal behaviour (what have become known as criminal ASBOs or CrASBOs). In such cases, the risk is one of ‘down tariffing’, with offences that are clearly criminal being treated in legal language as though they were an anti-social problem.

**An elastic definition of ASB**

A vague definition runs the risk of infringing rule of law principles by ‘[failing] to give fair warning to citizens of what kind of conduct may trigger these powers’ (von Hirsch et al. 1995: 1501). That said, it has been argued that there are distinct advantages to having an elastic definition. In a government report on ASB the difficulties with definition were avoided by claiming ‘[t]here is no single definition of anti-social behaviour. It covers a wide range of behaviour from litter to serious harassment’ (SEU 2000a: 14). According to Carr and Cowen (2006: 59) the resulting political and policy discourse has been that ‘we do not know what it is, although it is sometimes said in response that we all know what it is when we see or experience it’. For those studying ASB this is not a satisfactory position. However, for practitioners this vagueness has given them a considerable degree of local discretion.

Speaking as the Home Office’s ‘Respect Coordinator’, Louise Casey (2005) has stated ‘the legal definition of antisocial behaviour is wide. And rightly so’. It is claimed that a wide definition allows for the identification and prioritization of local concerns. Whether local discretion is a good thing is another matter as there is a risk that outsider groups (cf. Becker 1963) may be discriminated against. According to Ashworth et al. (1998: 9) early
proposals included provisions to mitigate against discrimination ‘on grounds of race, religion, sex, sexual orientation or disability in applying for or enforcing ASBOs’. These provisions did not reach the 1998 Crime and Disorder Bill (although they later reappeared in a Home Office classification of anti-social behaviours (Harradine et al. 2004)). Ashworth et al. (1998: 9) have noted:

Even if the police and local authorities can be trusted to be scrupulous in avoiding discrimination on these grounds – and we are not sure that they can – this is no obstacle to these orders being used as weapons against other unpopular types, such as ex-offenders, ‘loners’, ‘losers’, ‘weirdos’, prostitutes, travellers, addicts, those subject to rumour and gossip, those regarded by the police or neighbours as having ‘got away’ with crimes, etc.

According to Donoghue (2007:418) having such local discretion leads to ‘inconsistency in application and administration’. A vague definition has also allowed civil powers associated with ASB legislation to be used for more serious criminal activity in an attempt to speed up the criminal justice process – as with the use of CrASBOs. In the Labour Party’s early consultation paper on ASB, A Quiet Life (1995), this was a justification for introducing the new measures, that there was ‘intense dissatisfaction [among practitioners] with the extent and speed of existing procedures’. According to Tony Blair: ‘though many of these [anti-social] things are in law a criminal offence, it is next to impossible for the police to prosecute without protracted court process, bureaucracy and hassle, when conviction will only result in a minor sentence. Hence these new powers to take swift, summary action’ (Blair 2003a).

The trouble with this perspective is that, although the court process can be painfully slow, much of the ‘bureaucracy and hassle’ is there to ensure a sound conviction. There is well-documented concern that such ASB measures circumvent due criminal process (e.g. von Hirsch 1995; Ashworth et al. 1998; Gil-Robles 2005; Macdonald 2006). According to Burney (2002: 474) the result can be ASBO applications where, ‘we know you boys committed that crime but we can’t prove it to criminal standard’. Of course, some of the more ‘unusual’ ASBO applications may not make it past the courts. As Donoghue (2007: 428) has observed: ‘While it is the local authorities and the police who are instructive in determining ASBO applications, it is the judiciary who primarily define their legitimacy, their purpose and scope, and their function in law.’ Having said this, there are still some quite bizarre ASBO applications that do get through (see Chapter 6).
Typologies of ASB

As a response to a lack of a legislative clarity, the Home Office initially produced a list of behaviours deemed to be anti-social (Home Office 2003b; Harradine et al. 2004). This was part of a one-day count of ASB in an attempt to determine the scale of the problem (10 September 2003 – see Chapter 2). Up until that point the government was quite happy introducing new legislation without any knowledge of the extent and nature of the problem. The behaviours included were:

- Litter/rubbish
- Criminal damage/vandalism
- Vehicle-related nuisance
- Nuisance behaviour
- Noise
- Rowdy behaviour
- Abandoned vehicles
- Street drinking and begging
- Drug/substance misuse and drug dealing
- Animal-related problems
- Hoax calls
- Prostitution, kerb crawling, sexual acts.

This was a useful start, but left some ambiguity. For instance, at what level does ‘noise’ become intolerable? Is this the same in an urban block of flats as it is in a rural village? Similarly ‘animal-related problems’ is vague enough to include any animal concerns, although most cases were presumably related to ‘dog mess’ or uncontrolled pets. An example here is when, in 2004, a farmer was given an ASBO that stipulated he was not to let his pigs and geese escape (Macdonald 2006). In terms of the nature of the problem and impact, this is quite a different concern to the ‘prostitution’, ‘street drinking’ or ‘rowdy behaviour’ also listed. ASB seemed to be anything that would be really annoying, but was either a very minor criminal offence or not criminal at all.

To gain some clarity various typologies of behaviour thought to be anti-social have been suggested, as shown in Box 1.1. The first was a ‘spectrum of anti-social behaviour’ produced by Bannister and Scott (2000) in work commissioned by the Scottish Office. This was chiefly concerned with ASB within social housing and divided ASB into neighbour problems (such as noise), area or neighbourhood problems (litter, graffiti, etc.) and also criminal behaviour (such as burglary).
In 2004 the Home Office published a typology (Harradine et al.) that covered similar ground, but divided ASB into (1) acts directed at people; (2) environmental damage; (3) misuse of public space; and (4) disregard for community/personal well-being. The category ‘misuse of public space’ was a useful development as it emphasized the public nature of ASB; as noted, the 1998 Crime and Disorder Act definition excluded domestic incidents. Where the Home Office typology failed was in its inclusion of clearly criminal acts. For instance, included under the heading ‘acts directed at people’ is intimidation and harassment on the grounds of race. This is quite rightly treated as a serious criminal offence in section 32 of the 1998 Crime and Disorder Act (racially aggravated harassment). Calling racially aggravated harassment ‘anti-social’ runs the risk of ‘down tariffing’ the offence.

**Box 1.1 Typologies of anti-social behaviour**

- Bannister and Scott (2000: 7) *Spectrum of anti-social behaviour*
  1. Neighbour: A dispute arising from nuisance, e.g. noise.
  2. Neighbourhood: Incivilities within public spaces, e.g. rubbish.
  3. Crime: All forms of criminal activity, e.g. housebreaking.

- Harradine et al. (2004: 4) *Home Office typology of anti-social behaviour*
  1. Acts directed at people: Intimidation/harassment (including on the grounds of race, sexual orientation, gender, religion, disability or age).
  2. Environmental damage: Criminal damage/vandalism, litter/rubbish.
  3. Misuse of public space: Drug/substance misuse and dealing, street drinking, begging, prostitution, kerb crawling, sexual acts, abandoned cars, vehicle-related nuisance and inappropriate vehicle use.

- Millie et al. (2005b: 9) *A typology for the London ASB Strategy 2005–08*
  1. Interpersonal or malicious ASB: Directed at individuals, groups or organizations, such as threats to neighbours, hoax calls or vandalism directed at individuals or groups.
  2. Environmental ASB: Such as noise nuisance, abandoned vehicles, graffiti or fly tipping.
  3. ASB restricting access to public spaces: Including intimidating behaviour by groups on the street, aggressive begging, street drinking and open drug use.
Types of anti-social behaviour

1 Nuisance neighbours: Rowdiness, excessive noise and animal-related problems are all examples of anti-social behaviour caused by nuisance neighbours.

2 Environmental crime: such as graffiti and fly tipping, has a huge impact on our communities and on how happy we are in them. It can ruin public spaces and is expensive to clean up.

3 Street problems: Intimidation, begging, public drug dealing, and the reckless driving of mini-motorbikes are all street problems that fall under the definition of anti-social behaviour.

Note: Some ordering has been changed to ease comparison.

In 2005 I was involved in work associated with the pan-London ASB Strategy, working with Mike Hough, Jessica Jacobson and others at King’s College London (GLA 2005; Millie et al. 2005b). As part of this we produced a typology of anti-social behaviours (as shown in Box 1.1). This also isn’t perfect; but unlike the earlier Home Office classification it attempts to restrict behaviours to those that are just anti-social, and excludes the seriously criminal. ASB is divided between (1) interpersonal or malicious ASB; (2) environmental ASB; and (3) ASB restricting access to public spaces. A more recent Home Office categorization (Respect website 2007a) is very similar, with problems divided between (1) nuisance neighbours; (2) environmental crime; and (3) street problems. Classification can only go so far in determining the exact nature of ASB. To take ‘street problem ASB’, or ‘ASB restricting access to public spaces’, as an example, which groups have legitimacy in using, and in some instances dominating, shared spaces is going to be contested. Retail spaces and city centres are clearly populated by shoppers; yet others will have equal claim to these spaces, including groups of young people often deemed to be anti-social just by their presence. Another example is shown in Box 1.2 which gives two uses of public space; after-work drinking by city workers in London and a street homeless man encamped outside Waterloo Station. Both activities restrict access to shared spaces and both would tick some of the boxes in the Home Office list of anti-social behaviours; but are any really anti-social? Or at what point does their behaviour become anti-social?
In a recent national survey (Millie et al. 2005a), respondents were asked what they thought the government meant by ASB (see Table 1.1). Half answered an open-ended question and half had to choose from a checklist of problems, including some from the Home Office typology (Harradine et al. 2004) and some not usually thought of as ASB. Most thought the government’s focus was on youth problems (71% given the checklist). However, two-fifths of those given the checklist chose mugging or burglary – clearly criminal activity rather than anti-social. Others chose ‘drug use of dealing’ (63% of those given the checklist, although this fell to 6% of free responses, perhaps suggesting that this is not what most people naturally think about). Others identified traffic noise and pollution, issues not normally associated with ASB, but can be grouped under wider neighbourhood ‘quality of life’ concerns. It seems the public’s view of ASB can be just as vague as the government’s. However, for the majority the government’s focus is on youth issues.
Table 1.1  What do you think the government means by anti-social behaviour?

<table>
<thead>
<tr>
<th>Free responses (n = 831)*</th>
<th>% Responses to checklist (n = 847)**</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vandalism/graffiti/hooligans</td>
<td>17</td>
<td>Rowdy teenagers on the street/youths hanging around</td>
</tr>
<tr>
<td>Youths hanging around/people being a nuisance</td>
<td>16</td>
<td>Drug dealing</td>
</tr>
<tr>
<td>Drinking, drunk and disorderly</td>
<td>15</td>
<td>Noisy neighbours</td>
</tr>
<tr>
<td>Unacceptable/bad behaviour; rowdiness; bad language</td>
<td>13</td>
<td>Mugging</td>
</tr>
<tr>
<td>Crime: muggings; burglary; criminal damage</td>
<td>12</td>
<td>Burglary</td>
</tr>
<tr>
<td>Noisy neighbours</td>
<td>10</td>
<td>Graffiti</td>
</tr>
<tr>
<td>Noise; traffic noise; pollution</td>
<td>8</td>
<td>Speeding</td>
</tr>
<tr>
<td>Violence; fighting</td>
<td>7</td>
<td>Traffic noise and pollution</td>
</tr>
<tr>
<td>Intimidation; offensive/threatening/aggressive behaviour; harassment</td>
<td>7</td>
<td>None of these</td>
</tr>
<tr>
<td>Drug use; drug dealing</td>
<td>6</td>
<td>Don’t know</td>
</tr>
<tr>
<td>Yobbish behaviour/yob culture</td>
<td>4</td>
<td></td>
</tr>
<tr>
<td>Disruptive/disturbance to community</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>Litter; fly tipping</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>Speeding</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Don’t know</td>
<td>5</td>
<td></td>
</tr>
</tbody>
</table>

Notes:
* Question: ‘What do you think the government means by anti-social behaviour?’
** Question: ‘Which of the problems on this card do you think the [government’s] strategy is aiming to reduce?’

A working definition of ASB

In a focus group with former homeless people in London (see also Millie et al. 2005b), one respondent stated that ASB is simply: ‘Stuff that affects you. You know, other people’s stuff.’ For him ASB was regarded simply as other people’s behaviour that he didn’t like. His observation may have been near the mark. The sociological notion of ‘conduct norms’ (e.g. Sellin 1938) is a useful way of viewing what is commonly regarded as anti-social – in effect, ASB becomes something that contravenes certain cultural and societal norms of behaviour. For instance, according to the Chartered Institute of Housing (1995: 3) ASB is ‘[b]ehaviour that opposes society’s norms and accepted
standards of behaviour’. Writing about incivilities in America, La Grange et al. (1992: 312) came to a similar conclusion, defining incivilities as ‘low-level breaches of community standards that signal an erosion of conventionally accepted norms and values’. However, it is entirely possible that such norms and values vary between different individuals or communities and that plural norms of acceptable behaviour are developed, a theme explored in Chapter 3. The danger is that the behavioural expectations of the majority are seen as ‘social’, while those of minority or marginalized ‘outsider’ groups are regarded as anti-social (Millie 2006).

With this in mind, there does seem to be a normative element to ASB, although which specific behaviours are outside social and cultural norms can be contested. Another element to ASB is that it is persistent (e.g. Thorp 1998; Campbell 2002; Millie et al. 2005a; Bottoms 2006). According to Frank Field, MP: ‘The distinguishing mark of anti-social behaviour is that each single instance does not by itself warrant a counter legal challenge. It is in its regularity that anti-social behaviour wields its destructive force. It is from the repetitive nature of the nuisance that anti-social behaviour is born’ (2003: 45). Thus, one noisy party does not warrant censure as ASB; but holding regular parties in your flat without the cooperation of neighbours can become anti-social.

In formulating a working definition of ASB lessons can be learnt from discussion over what constitutes ‘bullying’. This has been another ‘slippery’ concept; however, within psychological literature some general characteristics have been identified (taken from Olweus 1999; Smith et al. 2002; and Coyne et al. forthcoming):

- It is aggressive behaviour or intentional ‘harm doing’
- Is carried out repeatedly and over time
- It occurs in an interpersonal relationship characterized by a power imbalance
- It often occurs without apparent provocation
- Is negative actions carried out by contact (physical or otherwise such as with cyber-bullying).

Much can be learnt from this, especially the criteria of intentionality and repetition. In our work for the London ASB Strategy (Millie et al. 2005b: 9) the following working definition was offered (see also Millie et al. 2005a):

ASB is behaviour that
- Causes harassment, alarm or distress
- To individuals not of the same household as the perpetrator, such that
- It requires interventions from the relevant authorities; but
- Criminal prosecution and punishment may be inappropriate
Because the individual components of the behaviour:

1. are not prohibited by the criminal law or
2. in isolation constitute relatively minor offences.

For pragmatic reasons, the basic structure of the 1998 Crime and Disorder Act definition is kept, although the or was likely to cause element was removed. It was agreed that ASB ought to be limited to actual behaviour, rather than including perceived threat. The definition is further limited as serious criminality is excluded (as this is adequately covered by criminal law). The role of authorities in intervening is recognized along with the cumulative impact, or persistence, of behaviour that makes it anti-social (Flint 2006a: 5). However, unlike the bullying definition, intentionality was not included. This is something that, legally, is very difficult to determine.

As stated, this was a working definition, but it does at least limit the range of behaviours that are anti-social. What I hope to demonstrate through this book is that an absolute precise definition is not possible. Instead; it is the contested nature of what constitutes ASB that has the biggest impact on how ‘unwanted’ behaviours ought to be tackled, if at all.

The scope and structure of this book

Use of the term ‘anti-social behaviour’ in a public order enforcement context is primarily a British phenomenon. As a consequence, most of the discussion that follows is focused on a British context. More specifically, when legislation is referred to, for simplicity, this is usually for England and Wales unless otherwise stated. Scotland has its own separate legal system although it too has followed a policy of tackling ASB. Consequently, much of the discussion in this book will be similarly relevant to Scotland. It is also relevant to developments in Ireland (north and south) (e.g. Brown, 2007) and in Australia where ASB is starting to gain capital among politicians and policy makers (e.g. Arthursion and Jacobs 2006). For instance, a conference was held in 2007 at the University of Tasmania in Hobart considered the prospects of applying British policy on ASB to Australia. In North America – and in the United States in particular – there is a long history of work to tackle incivilities, minor disorders and ‘quality of life’ crimes. This book feeds into these wider debates. It also draws on such literature and experiences from outside Britain where appropriate. Hopefully the book is of use to scholars, practitioners and students interested in the control of low level ‘unacceptable’ behaviours, wherever they are.

In the next chapter, the extent and nature of ASB in Britain is considered. It is frequently claimed that ASB is a menace wherever you live. Evidence is presented that puts this idea in doubt. In Chapter 3, a theoretical
context to discussions of ASB is presented. According to Mooney and Young (2006: 399) the current focus on ASB may be viewed as a simple ‘rediscovery of the sociology of deviance circa 1960’. To an extent they have a point and, in this chapter, literature on, for example, normative behaviour, deviancy, ‘otherness’ and social control, is related to contemporary debates on ASB. Chapters 4 and 5 consider some fundamental questions for those wishing to tackle ASB: first, what causes ASB? and, second, what can be gained by tackling ASB? Criminologists have been arguing about the causes of crime for decades. The causes of ASB are going to be similarly contested. Rationales for tackling ASB are similarly not straightforward, including because ASB itself is a bad thing, that tackling ASB can lead to reductions in crime, or perhaps that it aids regeneration. These and other perspectives are considered.

The next three chapters focus on measures to control or prevent ASB. In Britain, most attention has been on the Anti-Social Behaviour Order or ASBO. Consequently, the ASBO gets its own chapter in Chapter 6. Chapter 7 looks at alternative enforcement options, while Chapter 8 considers how ASB can be prevented. Of course, the type of prevention that is promoted will be strongly influenced by what is thought to cause ASB in the first place; and so these discussions relate back to earlier consideration of causality.

In the concluding chapter the discussion is brought together by looking at a possible future for ASB in Britain. The idea that people can interpret the same behaviour differently is explored further, that people have contested uses and expectations for public shared spaces. The consequences for governing and negotiating behavioural expectations are considered.
Selected reading

The contested nature of what constitutes ASB is something that has been a concern for a number of writers. For the Home Office perspective the best place to look is still:


Academic work that has looked at definitions includes the following:


Notes

3 Fixed penalty notices (see Chapter 7).
4 Under the 2003 Anti-Social Behaviour Act (s.153A) these became known as Anti-Social Behaviour Injunctions or ASBIs – amended with the 2006 Police and Justice Act (s.26).
5 Now the ‘Scottish Government’.