House of Commons
Home Affairs Committee

Anti–Social Behaviour

Written Evidence

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Home Affairs Committee

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Written evidence

1. Memorandum submitted by Alcohol Concern

**Scale and Scope of the Problem**

1. Alcohol-related anti-social behaviour is identified by the public as being one of their main concerns, with one in four saying that drunk and rowdy behaviour is a problem in their neighbourhood and seven in ten saying that drinking in public places or on the street is a problem in their area. Concern is unsurprisingly greater in inner city or urban areas than rural ones.

2. The group of drinkers which cause greatest concern are the under 18s who are seen as the biggest problem by 57% of the public, with “Friday and Saturday night” drinkers and street drinkers being identified as the third and fourth biggest problem.¹

**Relationship between Alcohol and Anti-social Behaviour**

3. Alcohol is linked to a broad range of anti-social behaviours. This includes a relationship with violent crime (recent Home Office figures estimated that around 50% of violent crime is alcohol-related) as well as lower level ASB such as noise nuisance or vandalism. Increases in anti-social behaviour can be linked to the growth of the night time economy in town and city centres and can play a part in keeping people out of these areas in the evenings.

4. Binge drinking and drunkenness play a major role in contributing to the problems associated with the late night economy in town and city centres around the country. A recent Home Office study highlighted the links between anti-social behaviour and binge drinking—60% of binge drinkers aged 18–24 admitted involvement in criminal or disorderly behaviour after drinking compared with 25% of regular drinkers² (this includes incidents such as vandalism and behaviours such as getting into arguments).

5. The reasons for this are that norms of drunken behaviour differ from standards of behaviour that are expected when sober. Noisy, jubilant or rowdy behaviour is often present, whilst aggressive or out of character behaviour may be tolerated. Large numbers of drunken revellers can be intimidating to others because of this and because their behaviour can be unpredictable. The way that alcohol impairs cognitive skills may also mean that people may misread social cues, take bad judgements about risk or respond inappropriately in social situations. They may also respond aggressively when they believe they are being provoked leading to escalation of situations which would without the presence of alcohol be defused or calmed down fairly easily.

6. The impact of this on police and other emergency services is well documented—a recent Alcohol Concern report “No Half Measures”, which researched the views of the Police, illustrated the frustration felt by many officers about the impact of alcohol related disorder on their work. Dealing with the sheer numbers of drunken revellers was a frequent theme of discussions with one police officer feeling like “little more than a UK Peacekeeping Force” at weekends, whilst another said “My whole job revolves around alcohol. We’re there to deal with crime, but we’re constantly distracted by disorder offences...”

7. This was backed up by polling evidence too—where just under 70% of the Police Officers polled believing that attending alcohol related incidents frequently diverted staff away from tackling other kinds of crime.

8. These problems have become much more obvious over the last 10 years or so as the “Evening Economy” has expanded in town and city centres around the country. The regeneration benefits which this sector of the economy was seen as bringing in, have sadly been blighted by the alcohol related violence and disorder which are increasingly visible and which act as deterrents to local residents and the older population in particular using public space during certain times of the day and night.

9. A further link between alcohol and anti-social behaviour is the issue of street drinking—an area on which Government policy has tended to focus. Individuals who fall into this group often have long term alcohol, physical and mental health problems and drink on the street both because it tends to be cheaper than in pubs but also for the companionship it can offer. Aspects of street drinkers behaviour can be seen as intimidating or anti-social including rough sleeping, rowdy drinking sessions or begging.

**Impact of Current Government Initiatives**

10. Tackling alcohol-related anti-social behaviour effectively requires a number of different responses to deal with the heterogeneity of the problems it causes. A truly effective approach means tackling the symptoms of the problem in the shorter term but also making sure that the causes are addressed in the longer term.

¹ All figures from Strategy Unit Interim Analytical Report on Alcohol.
11. The problem of tackling anti-social behaviour associated with binge drinking and drunkenness has been lower down the policy agenda than approaches to deal with street drinking until fairly recently. The 2002 action plan on reducing alcohol related crime and disorder published by the Home Office aimed at reducing under-age drinking and public drunkenness but was low profile and has not been a success partly due to the low priority given to this issue.

12. The National Alcohol Harm Reduction Strategy in 2004 recommended little in the way of new powers to tackle alcohol related crime and disorder instead concluding that the powers needed were largely already in existence. Our concern is that this does not provide a basis on which to move forwards on this issue. Reasons why enforcement does not happen were not explored, nor was there any incentives given either to change the culture of policing of offences related with drunkenness or to challenge industry practice in this area.

13. The Home Office Campaign over the Summer of 2004 was a welcome step forwards in this area. The Campaign, which looked both at tackling unacceptable drunken behaviour and rooting out underage sales through a regime of test purchasing, was a success in terms of getting Police, Trading Standards and Licensees to work together. Over the course campaign, Police and trading standards officers carried out sting operations against more than 1,700 licensed premises, issued over 4,000 fixed penalty notices and confiscated alcohol from more than 9,500 adults and juveniles.

14. We believe that the good work of this campaign needs to be taken forwards in an ongoing way if we are to sustain this behaviour change both in terms of tackling underage sales but also changing individual behaviour around alcohol consumption. To achieve such a change it is vital that the action is not seen just as a summer crackdown as this implies that it is simply about avoiding trouble for the duration, but rather as a line in the sand which is drawn to say that this sort of behaviour (from both retailers and individuals) is no longer to be accepted.

15. Ensuring that action on this issue is effective becomes increasingly important given the recent changes to licensing laws which may exacerbate the problem.

**Street Drinking**

16. Government initiatives to deal with this issue have included controlling mechanisms such as by-laws, alcohol free zones, or anti-social behaviour orders. Although we are supportive of measures aimed at reducing anti-social behaviour caused by alcohol it is also important, particularly for this group—many of whom will be alcohol dependent or have entrenched problems with alcohol misuse—to offer access to treatment as a part of this approach. Anti-social behaviour orders in particular could be used in a constructive manner as a lever for accessing treatment but we have heard only anecdotally of their use in this way. It would be helpful to have central guidance as to how these can be used in cases where alcohol misuse is an issue.

17. It is also important to offer alternatives to drinking in public such as wet centres, as part of a controlled drinking zone approach if the problem is to be tackled effectively. There has been little research into the effectiveness of the current approach of alcohol free zones etc but concerns include the displacement of street drinkers into other less visible areas such as housing estates or side streets. Wet centres offer a harm reduction approach which can promote healthier more stable lifestyles and a first point of referral or contact to return street drinkers to a less problematic lifestyle.  

18. **Alcohol Concern Recommendations:**

(a) Better definition and recording of the scope of the problem

1. Those who work on a day-to-day basis in the criminal justice system (for example police, probation officers and lawyers) are clear about the impact that alcohol has on their work; however the absence of systems for recording data about alcohol-related crime means that there is little formal evidence of need. It is vital that a system for recording such data is put in place so we have a clearer idea of how wide scale the problem is.

(b) Better evaluation and research into current initiatives

1. There is not as far as we know any comprehensive research on the effectiveness of alcohol free/controlled drinking zones as a way of tackling street drinking as a problem.

2. Monitoring the use of police powers—Enforcement of legislation on drunk and disorderly behaviour has dropped sharply over the last 10 years which reflects the problems in policing large numbers of drunk people and the low priority given to the problem historically. Similarly anecdotal evidence suggests that

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3 Wet day Centres in the UK: A research report and manual (Crane, M and Warnes, M) University of Sheffield 2003.
sanctions against irresponsible retailers such as the ability to shut rowdy premises for 24 hours are not used but we have not been able to access comprehensive data on this. The use of new sanctions such as the dispersal orders, ASBOs and Fixed Fine Penalties need to be monitored.

(c) Increased Priority given to Policing Alcohol Related Anti-Social Behaviour

1. The attention paid to the Summer Enforcement campaign needs to be carried on throughout the year.
2. Alcohol related anti-social behaviour should be a key priority in the National Police Plan and within Home Office public service agreements.

(d) Responsibilities of the Alcohol Industry for tackling anti-social behaviour

1. The role and responsibility of the Industry in tackling alcohol related anti-social behaviour needs to be highlighted.
2. Test purchasing for underage sales needs to continue as standard.
3. Sales to intoxicated purchasers is something which is well known to occur—but rarely results in a conviction. In order to challenge the complacency of retail trade on this issue this needs to be changed. Test purchasing in these circumstances are difficult but it would be possible to mount surveillance operations and high profile prosecutions in this area would be a welcome focus of attention.

(e) Challenging the culture of drunkenness

1. The Strategy Unit interim analysis pointed out that expectations about the effect that alcohol has on behaviour also plays a key role and drunkenness is often used as an excuse for out of character behaviour. Drunkenness therefore should no longer be seen as a mitigating factor in criminal behaviour.
2. Public Campaigns on Drunkenness need to be mounted to challenge public opinion in the same way as smoking. Currently quantity of alcohol consumed is seen as a proxy for a good night being had and this will need to change if we are to prevent drunken anti-social behaviour from occurring.

(f) Prevention and Treatment

1. Young people in particular cite the lack of youth facilities as reasons for anti-social behaviour—and the role of parenting support, youth and community services and the youth justice system in diverting young people from anti-social behaviour and from alcohol related anti-social behaviour in particular should be recognised.
2. Links between treatment and criminal justice agenda should be built in particular into initiatives aimed at street drinkers.

18 October 2004


INTRODUCTION

1. Anti-social behaviour (ASB) has always been part of “our business” but the discussions around the new wave of police reform have re-focused attention on ASB’s destructive impact on communities and how police and other agencies could better tackle it.
2. Over the past 10 years the over-riding priority for Chief Constables and Police Authorities has been to reduce crime, which had reached record levels in 1995. Since then it has fallen by 38%, much if it being achieved by the Service’s development of better intelligence systems and focusing its resources much more effectively on the disruption of the most prolific and serious offenders.
3. It was believed at the time that by bringing down levels of crime and thus making it more unlikely that people would suffer its effects, their fear of it would reduce as well. It is now acknowledged that the relationship between the levels of crime people experience and their perception about their own safety is more complicated than first thought. Reducing the volume of crime on its own is not enough.
4. The second wave of reform concentrates on creating a “new localism” — trying to create communities and environments where crime cannot thrive; people are safe; feel safe and have a sense of involvement in how they are policed. ACPO is an integral part of that development and we are working with the Home Office on two major projects to see how the police, other partner agencies and local people themselves can better work together to build safer communities.
5. Within this submission we can only briefly set out our views on our strategic concerns around tackling ASB, although we have also taken the opportunity to comment on some specific issues. We believe that the Police Service has to be a key component and would welcome the opportunity to expand on these or any other issues that we have not covered, at a Committee hearing.

6. For the information of the Committee we have set out ACPO’s role and remit in Appendix 1, below.

Summary

7. We believe that for action against anti-social behaviour to be effective in communities a number of factors need to happen:

(i) We must agree a definition

(a) There needs to be a shared understanding between the Police Service, partner agencies and residents of communities about the definition of anti-social behaviour in that area and the role that each agency will play in combating it.

(b) ASB means many different things to different people. Whilst common threads (e.g., alcohol abuse) run through all communities, the mix and prominence of each aspect of ASB will vary from area to area and local people have to be given the chance to say what aspects affect them and what issues have to be addressed.

(ii) Identifying a coherent strategic approach

(a) We know a lot about interventions that can be effective at reducing ASB, but we have been less effective at working with other agencies to join them together into an integrated, coherent strategy.

(b) We think that there has to be universal recognition that ASB can only be tackled effectively by joint action “across the piece.” This means, for instance, cross-cutting government action from the top to direct and facilitate joint activity down to a local fully integrated strategy.

(c) This strategy would have to be supported by a range of enabling mechanisms such as joint training of workers, better consultation mechanisms, a performance regime that rewards integrated working across agencies and a set of defined common minimum standards of working.

(iii) Finding and using effective measures

(a) The police service is moving towards the adoption of a set of common minimum standards of policing which will ensure that as far as possible we are using the best available practices. This is not to ensure that every force does everything in the same way but rather to reassure the public that the levels of service that they receive are consistently high across the country.

(b) We suggest that this principle should be extended across multi-agency activity that tackles ASB. This means:

— A common method of identifying, developing, evaluating and promulgating measures that work—for all the agencies and bodies involved.

— A common performance regime across the agencies involved, with joint targeting and scrutiny functions.

A Strategy to Address Anti-Social Behaviour

Agreement on Definition

8. Even though levels of overall crime have reduced considerably since 1995 the population’s fear of crime has not fallen in the same way. Research seems to show that much of this continued fear arises from perceptions of growing anti-social behaviour, especially in some difficult communities and town centres. A belief that the authorities, including the police, do not give dealing with it a high enough priority compounds this fear.

9. Part of the Service’s difficulty in being effective against ASB is that we do not seem to be able to engage with partner agencies in some fundamental areas where we believe that agreement is vital, such as:

(a) There seems to be no common definition of ASB, its causes and its extent. This means that it is very difficult to get agreement or a common focus on how or where to tackle it. Much of the ASB that we see and the fear and misery it causes grows out of perceptions about behaviour and this means that different communities will see it in different ways. We tend to see, for instance, that an area with a high proportion of elderly residents view young people as more of a threat. Generally we see ASB as revolving around:

— Problem families whose bad behaviour has a disproportionate impact on the community and who are seen as being “out of control”;
— Threatening behaviour and abuse, often caused by “gatherings” of youth, again who are seen as being out of control;
— Drunkenness generating “yobbish” behaviour, especially in town centres;
— General noise issues;
— Vandalism/graffiti which eventually “label” a locality as being “a problem”.

(b) All this makes it very important that local people should be involved in the process of deciding what aspects of behaviour are causing them the most difficulties. There are some issues that are not always easy to spot if residents are not involved, eg hate crime in communities that comprise a high proportion of “hard to reach groups.” In the last few years Chief constables and police authorities have made considerable efforts to find better ways of working with communities to identify these issues and this lies at the core of the work of the current ACPO/ Home Office Reassurance Project. The Service is now looking at how it moves from “consulting” with the community to a process of negotiation about how we are all going to address their concerns.

(c) The lack of definition inevitably means little commonality about who should be tackling it as a core part of their business. We believe that a range of agencies, private sector bodies and local people have to play their part in addressing the underlying causes of ASB in order for there to be long term improvement; it cannot just be left to the police to deal with the symptoms of the problems when they appear;

(d) Absence of agreement on priorities and activity also make it very difficult to produce meaningful analysis of the issues underlying ASB. Much work has been done to identify the root causes of ASB and its effects on community, including extensive work by the Government’s own Social Exclusion Unit. However, at a tactical level too many agencies find it too difficult to share the operational information they hold, because of perceptions about their own role and data protection etc. Without this picture, intelligence led and targeted action is very difficult to produce.

(e) Disagreement over methods and tactics to be used can be a major stumbling block to joint activity. There are some professionals, for instance, who believe that early interventions with young people in difficult family circumstances “label” people and that because of this stigma they later become, in effect, a “self fulfilling prophecy.” We, however, think that where proven measures are sensitively applied in a response to identified need, they give us our best chance of diverting vulnerable young people from later crime.

_Taking effective action_

10. We believe that only concerted multi-agency action consisting of an effective mix of help and enforcement, targeted by the best available intelligence at both criminality and the underlying causes can be effective at reducing ASB.

11. The issues can perhaps best be illustrated through two typical scenarios of ASB:

**Example 1: Youth Offenders**

(i) We believe that ASB cannot be looked at in isolation. Young people are often seen as a problem in communities for a number of reasons. This is not always true of course and we also have to remember that young people in difficult areas are as often victims of crime as they are perpetrators. However, for those young people who are at risk of offending, ASB is an integral link of a chain of progressive criminality that has to be broken if it is not to lead on to prolific and serial offending in the future.

(ii) To be effective, firstly the agencies have to be able to understand the problems and the criminal drivers. This means sharing information about specific individuals and families to allow effective analysis and identification of potential solutions that might work.

(iii) For the police this can mean, for example, being involved in drugs education in schools. It also means effective and vigorous enforcement of the law to catch and convict offenders where appropriate—communities will have little confidence in these processes if crime or other disruptive behaviour is allowed to go unchecked.
Figure 1

A CYCLE OF OFFENDING AND MULTI-AGENCY INTERVENTIONS

(iv) Figure 1 illustrates the range of options that agencies might use in an individual case. Their effectiveness is dependent on a number of issues:

1. Effective sharing of data, including personal information about clients, to allow intelligence led systems to target activity on the problem. Some agencies feel that the Data Protection Act prevents them from doing this.

2. Intervention activity has to be co-ordinated “across the piece” to stop one initiative “clashing” with another. Courts, in particular find this difficult as they see such constraints as clashing with their independent status.

3. Co-ordinating groups, such as CDRPS, have to be able to co-ordinate activity effectively. Some agencies find it difficult to engage effectively as conflicting strategies and performance regimes draw them away.

Example 2: A “No Go” Town Centre

(i) There is a perception that many town centres across the country have become “no go areas” at certain times of the day or week; that drink fuelled ASB is caused by a proliferation of licensed premises and a lack of supervision by the authorities which allows bad behaviour to go unchecked.

(ii) Licensed premises have proliferated over the past 15 years and many authorities have actively pursued a policy of encouraging such developments, for economic reasons. In the centre of Nottingham, for instance, there are 365 licensed premises within 1 square mile and between 1997 and 2003 the number of places available for drinking (based on figures from fire safety regulators) rose from 66,000 to 110,000. This is not just a large towns trend; in one small town in the Home Counties the numbers leapt from 7,000 to 15,000 places over a similar seven-year period.

(iii) We would argue that the same principles of linked activity apply. Whilst much of the analysis and intervention in our first example revolved around individuals, this problem needs a higher-level analysis and different players, such as Trading Standards, The Highways Departments and most notably the private sector have to be involved.

(iv) Local authorities should be setting wide ranging town centre plans, again driven by intelligence, which aims to set in place proven measures that reduce crime and disorder. Examples include:

(a) The number and type of licensed premises should be matched to local conditions and licensing conditions should be enforced. We have been encouraged by the licensing regulation being drawn under one authority under the recent changes to the Licensing Act. Previously, commercial considerations too often appeared to override community concerns in, for instance, the granting of new licenses. However, we need to be convinced that the new authorities will be strong and enforce the Act.

(b) Licensed premises should be better supervised, eg under-age sales of alcohol.

(c) The town centre layout and practices should be adapted to incorporate crime reduction principles such as street lighting; lines of visibility; siting of footpaths; accredited door staff; public transport availability at closing time; siting of taxi ranks and licensing of refreshment stalls.
Activity to Address the Issues

12. These examples are typical of problems encountered in many areas across the country. There are a number of issues for those agencies, including the police in putting together effective strategies to combat the problems.

Training

13. There is both an internal training need and an external one with our criminal justice and local authority partners. The majority of this work can be done at a local level and can be aligned to the setting up of local protocols. In relation to our CJ partners, then it can be raised initially within the Local Justice Board and then perhaps through local court user groups.

14. Choosing, implementing and monitoring measures to tackle anti-social behaviour requires a great deal of communication and partnership working between groups. In order to deliver an appropriate, proportionate and uniform response to anti-social behaviour it is important that everyone involved is equally aware of the full range of measures available to address such behaviour and the suitability of measures.

15. There is a wide range of officers from various organisations involved in addressing anti-social behaviour in the community. The list could include: Neighbourhood and Street Wardens; Environmental Health Technicians and Housing Officers from Local Authorities; Police Constables, Community Support Officers and Traffic Wardens from constabularies; Housing Officers and staff from Residential/Social Landlords and others from Social Services; Welfare, Health education and the Voluntary Sector.

16. It is also important that training includes the private sector, where this is appropriate and examples might include publicans, nightclub door staff and even managers of licensing chains. The training would be to the same standards and integrated with the overall work of other partner agencies.

17. Joint training should be instigated for all operational members of the extended police families above under the aegis of the CDRP’s Anti-Social Behaviour Sub Group. Such training will:
   — Reinforce effective, economical and efficient partnership working.
   — Identify speedier interventions in ceasing anti-social behaviour—practitioners will be more aware of the most appropriate action and other groups that can assist.
   — Provide public reassurance—as a more consistent partnership approach is recognised by communities.

Dispersal of Youths

18. ACPO had some concerns about the power to disperse youths, and its impact on local community relations. However, the targeting and time limiting of the power now addresses them.

Fixed Penalty Tickets

19. ACPO supports the extension of fixed penalty tickets (FPTs) in respect of disorder and ASB offences, reflecting the positive feedback from pilot forces. Indeed, ACPO is preparing a list of additional offences that we feel are suitable to be dealt with in this way.

20. FPTs could be used yet more effectively as a tool for dealing with ASB. We suggest that government should consider using the evidence of FPTs in other sanctions. This could mean, for instance, that if a youth receives three FPTs that this would automatically trigger an ASBO.

Role of Social Landlords

21. We would support the Government’s determination to enable social landlords to tackle anti-social behaviour more effectively and with sustainable results. Sustainable solutions also need to look at changing the attitudes and assumptions of those engaged in anti-social behaviour. The motivation for this change may be driven by the threat or exercise of sanctions or by supportive and diversionary interventions. The most effective model is likely to be a combination.

22. We wholeheartedly believe that social landlords have a critical role to play as a senior stakeholder. This includes not only Local Authority and Registered Social Landlords but also the growing number of Private landlords.
Issues around the Night Time Economy

23. In response to the ODPM inquiry into the night time economy, the Police Service strongly urged the following:

- Support for local approaches to be delivered through the existing Crime and Disorder Reduction Partnerships in an holistic manner, taking into consideration preventive and educational measures, as well as effective powers of enforcement.
- There must be more effective integration and enforcement of licensing and planning laws. Resident’s views must be given a high priority in determining whether a licence is granted or renewed.
- Saturation (the cumulative effect) must be a ground for refusal of a licensing application.
- Tighter regulation is required to prevent changes of use of premises, within and between classes.
- There remains a need for the police to be able to object to the issuing of personal and premises licenses.
- Police and Local Authority must have stronger powers to close licensed premises temporarily (perhaps up to seven days) and permanently where they are creating crime and disorder problems and selling to those underage.
- Policing the night-time economy creates a huge demand on police resources which are currently stretched in many town centres. ACPO supports the “polluter pays” principle and the view that licensed premise should be responsible for the costs associated with crime and disorder problems resulting from the night time economy.
- Local Authorities must be empowered to promote mixed venues to prevent a pure youth drinking culture.
- Good design has a critical role to play in prevention, both in the built environment of town centres and in licensed premises themselves. Local Authorities use of planning and licensing regulations and the use of Section 17 of the Crime and Disorder Act must have more impact in this area. The ability to impose conditions to the grant of licenses relating to door staff, CCTV provision etc remains critical.
- We would support a unified national database of licensed premises and persons, rather than a series of local ones. We also support a national inspectorate for licensing.
- Available and safe transport is a necessity to deal with late closing. Who will run this and how will this service be guaranteed?
- We support the promotion of a national proof of age scheme and initiatives such as Pub Watch, Radio Links, CCTV and other technology by businesses and town centre associations. However, the administrative burden must be taken off the police.
- The Department of Health who will be producing the Governments Alcohol Strategy must be engaged more in addressing problems locally. There are also many other social issues associated with alcohol ie domestic violence, drink driving, and these must also be taken into consideration.
- Wefeel that there is a need to tie the national chains into local issues through the licensing process. Often where police have intervened because of problems in licensed premises, we find that the national offices of the chain involved merely sack the licensee, put in a new licensee and open again for business. Whilst they are able to do this they have little incentive to be involved in solving local town centre issues. There is actually a commercial benefit to resolving town centre issues—a safe town centre will attract more people.

Parenting Orders:

24. Evidence suggests that ASBOs are most effective when combined with Parenting Orders.

25. The expectations and roles of the local police should be set out in locally agreed policies such as those on attendance and behaviour.

26. The police view on parenting orders is somewhat similar to that on ASBOs and that is that the Service views them primarily as a tool to protect the public who are being affected by persistent anti-social behaviour. So whilst we support the overall tone of the guidance which aims to address the underlying causes of truancy and bad behaviour and the emphasis on working closely with the child and parents.

27. This is the dichotomy; the police service would strongly support a system that was effective at tackling the anti-social behaviour of pupils against other pupils, staff and parents. This may of course ultimately lead to an exclusion which unless adequately supervised can lead to incidence of nuisance and disorder in public places during school time.

28. The input of youth offending teams and educational welfare officers is vital. There are a number of excellent example of schools bringing in the charity/voluntary sector to work with dysfunctional children to divert them from potential exclusion—but the money has to be provided to allow it to happen.
The Role of Government

29. We have set out a discipline of intelligence led, inter-agency activity that we think needs to be developed to tackle ASB in all its forms. The Service is taking the issue of ASB very seriously and is working extremely hard to ameliorate long term, difficult issues. The ACPO Reassurance Project, being developed in eight areas across the country is looking at the triggers of ASB and how they can be best addressed. We do not feel that some of the other agencies who must be involved to ensure long-term success are as committed to this process. We accept that this is often because they are inhibited from doing so by being pulled in different directions—these inhibitors need to be removed, specifically:

30. We recognise and support the determination of government to make a difference in communities, but we would like to see a series of cross cutting initiatives to facilitate agencies participation. For instance, all departments of government should be tied in to a PSA that recognise ASB as a destroyer of the fabric of society. This would encourage the role of Crime and Disorder Reduction Partnerships (CDRPs) as the fundamental drivers of local activity.

31. Their ability to activate local agencies in a focused in an intelligence led strategy should be enhanced and this means looking at such measures as joint targets, explicit monitoring against these target incorporating each agency and proper levels of resources.

32. It also means removing specific inhibitors to joint activity such as:

(a) Data protection: Effective intelligence systems are vital and barriers to proper exchange of necessary data need to be removed. Previous attempts such as Section 115 of the Crime and Disorder Act have not produced the fundamental shift in attitudes needed. Clear guidance on sharing data that will stand the scrutiny of the Data Commissioner is needed for all agencies.

(b) Resourcing: The new ODPM “Safer and Stronger Communities” Fund and its themes on “liveability” need to be “joined up” with the Home Office’s new Neighbourhood Policing Fund otherwise a confusing patchwork of funding and schemes such as Neighbourhood Warden, PCSOs and accredited staff emerges which causes wasted co-ordination activity and confusion at the front end where simplicity and focus should be the key.

(c) Departmental over-lap: We are encouraged by moves to rationalise government oversight of these issues and we would like to see units such as the Home Office Anti-Social Behaviour Unit, Home Office Citizen Focus, community engagement and neighbourhood policing units brought under one roof. This rationalisation should also be extended to departments in the other ministries covering these issues. We also suggest that the Prolific and Priority Offenders Scheme should be part of this process—if it is properly focused, through NIM target profiles, it could be extremely effective in tackling anti-social behaviour offenders as core volume crime burglars and vehicle thieves.

(d) Targets and performance regimes: “Joining up” performance targets for “offences brought to justice” and anti-social behaviour offences are required to give incentives for neighbourhood policing interventions, as in the case of S5 fixed penalty notices for disorder which are a straightforward no-bureaucratic way of addressing a local problem whilst gaining a sanction detection in the process.

(e) Strategic gaps: At a local level a “Strategic Co-ordination Gap” and a “Neighbourhood Policing Gap” emerges between existing structures in efforts to join up these elements between agencies. Delivery through a ring fenced Neighbourhood Policing Model and Strategic inter-agency co-ordination is the way ahead here.

23 September 2004

APPENDIX 1

THE ROLE OF ACPO

ACPO4 is the professional association of the chief officers of the police forces of England, Wales and Northern Ireland. It performs a number of roles:

— It speaks for its members when appropriate. This includes the Service's relationship with the Home Office or to other bodies on issues where there is a common service interest. It does not seek to comment or discuss issues relating to single forces.

— It acts as professional advisor on policing matters to the Home Secretary.

— It formulates guidance for the service, eg to interpret new legislation.

4 NB: ACPO is not a staff association; the Chief Police Officers' Staff Association (CPOSA) performs that role.
In April 2003 Chris Fox, formerly chief constable of Northamptonshire, was appointed as the first full time President of the Association.

3. Memorandum submitted by the Association of Directors of Social Services (ADSS)

1. The ADSS represents the Directors of Social Services in England, Wales and Northern Ireland. Directors of Social Services are responsible through the activities of their departments in local authorities with social service responsibilities for the well being, protection and care of vulnerable people including older people, people with disabilities, people with mental health problems and children in need and their families. In the main, this submission will restrict itself to commenting on anti-social behaviour as it impacts upon children and young people as the submission has been drafted through our Children and Families Committee and it is in this area that we have our most significant concerns about the direction and implications of government policy.

2. In summary our concerns are to do with: the appropriateness of anti-social behaviour measures, especially Anti-Social Behaviour Orders (ASBOs), to children and young people; the subsequent potential for increasing numbers of children to be inappropriately “criminalised”; the links between these measures and the unacceptable levels of children held in custody or secure; the apparent lack of a standardised or proportionate approach to the use of these measures nationwide; some of the broader as well as specific implications for children’s welfare; a subsequent concern that these measures may not lead to safer communities in the longer term.

3. As an organisation, ADSS is conscious that it may be accused of espousing stereotypical liberal views on such matters and we think it is therefore important to confirm our policy position with regard to youth crime and anti-social behaviour. We fully support the Government’s commitment to the prevention of youth crime for two primary reasons. Youth crime is obviously bad for the community and is a particular problem for the more vulnerable sections of the community for whom we hold a level of responsibility, whether that is because they may have been victims of crime or because they live in fear of crime. But youth crime is similarly bad for the young offender both because serious and persistent offending represents a deficit in the quality of care a child may have received and because offending behaviour is bound to prejudice the individual outcomes for that child. Therefore any reservations we have about the Government’s approach to dealing with crime and anti-social behaviour are not to be caricatured as a blinkered defence of young offenders. Our major concern rather is that the strategy should be an effective one which has a long term impact on youth crime and anti-social behaviour for the sake of protecting communities and promoting better outcomes for children and young people. Whereas we think that some excellent progress has been made in recent years on youth crime, we think there is a serious absence of a measured and evidence based approach to anti-social behaviour.

4. In our response to the Green Paper “Every Child Matters” and the accompanying “Next Steps” document on youth crime we highlighted the potentially contradictory messages emanating from government. On the one hand children and young people are perceived as young, potentially vulnerable and in need of protection and investment. On the other they are seen as being out of control, violent and responsible for much crime and anti-social behaviour. We believe that it was a fundamental error for the Government to segregate its policy approach to youth crime from the more ambitious and constructive approach to all other areas of children’s services. The ADSS firmly believes that children and young people should be valued throughout their childhood and adolescence, including those whose early experiences have contributed to a life style of exclusion and anti-social behaviour.

With regard to the causes of anti-social behaviour we would distinguish between three separate categories of anti-social behaviour among children and young people each of which has a separate but related group of causes. The first category is anti-social behaviour which is in effect sub-criminal behaviour. That is when individuals or groups are considered to be “terrorising” a particular neighbourhood through a pattern of apparent criminal acts which for whatever reason are not being prosecuted through the due criminal process. In our analysis there has to be a strong correlation between the causes of this sort of behaviour and the causes of other forms of youth crime as, for example, evidenced in research conducted by the Youth Justice Board and summarised in their Annual Report 2003. The second category is that which is closest to the original understanding of what constituted anti-social behaviour, namely non-criminal behaviour which nevertheless causes nuisance and aggravation and may be seen as a precursor to criminal behaviour. Again we consider there to be links with the first group of causes but with an arguable heavier emphasis on the need for basic communication and education to those concerned about the consequences of the behaviour upon their fellow citizens and in the longer term upon themselves. Our third category is the “lesser” matter of children and young people deemed to be anti-social simply by virtue of their gathering in public places and in various minor ways crossing the threshold of tolerance within a local area or community. Clearly this
is a tenuous category for the purposes of this committee but we consider it worth mentioning because we are increasingly concerned not just with the effects of genuine anti-social behaviour, but also with the implications for children and young people of communities which are becoming intolerant of their place in the public realm.

5. Our critical point about tackling the causes of anti-social behaviour, in whatever form, is that any response can only be effective if it is part of the integrated strategies within local communities and agencies to address other aspects of need and vulnerability among children and young people. This is a further reason why we are deeply concerned about the separation of anti-social behaviour responses from other strategic responses to children and young people. The causes of anti-social behaviour chime with the causes of many other forms of vulnerability among children and young people and any strategy which seeks to address anti-social behaviour in isolation is in our view deeply flawed. We believe existing measures ranging from ASBOs to Dispersal Orders are essentially reactive and that tackling the route causes of all forms of anti-social behaviour depends upon a proactive, integrated range of measures ranging through education, support to parents, and provision of effective facilities through to reactive and punitive measures. We recognise that a number of these measures are developing but we think the emphasis of the response is too heavily weighted on the short-term reaction and not focussed strongly enough on integrated prevention.

6. The introduction and subsequent evolution of Anti Social Behaviour Orders (ASBOs) has served to further confuse the picture for children and young people. During the passage of the Crime and Disorder Bill in 1998 the then Home Office minister Alun Michael made it clear that children and young people were not intended to be the main targets of these orders, stating “Their use against juveniles, especially those at the younger end of the age range, would be exceptional.” (ref. Standing Committee B, 30 April 1998, Hansard). In practice however 58% of ASBOs between April 1999 and September 2000 were made against those under the age of 18 (Home Office Research Study 236).

7. The anti social behaviour legislation blurs the distinction between criminal and non criminal behaviour. Many criminal offences are included within the list of behaviours, published by the Home Office, which may be defined as anti-social. This has resulted in a “twin track” approach, with little or no consistency over whether the criminal or civil route is taken to curb the behaviour, and leads to a great deal of confusion amongst young people, their families and the agencies involved. It is the view of the ADSS that if criminal behaviour is to be punished then it should be done so through the criminal justice system, thereby leaving the civil court to hear cases of genuine sub-criminal behaviour. Arguably, the existing measures simply allow for prosecution of children and young people on a lesser burden of proof but with significant long term implications for their future lives. Moreover, there is a requirement in law for an ASBO to be proportionate and appropriate. However given that the minimum period for an ASBO is two years it is difficult to know whether the ASBO is indeed proportionate, particularly when compared to a criminal prosecution where the result for a first time offender is likely to be a Referral Order which lasts between three months and one year. While the ASBO itself is a civil order any non compliance with the terms of the order becomes a criminal offence through breach proceedings. This in turn causes further confusion where a young person may receive a criminal sentence—or even custody—for breaching an order given for a non criminal action.

8. Clearly the most extreme forms of breach may involve the use of custody for a young person who has potentially committed no criminal offence. ADSS believes there is a place for the use of detention among the most serious offenders but this should be an exceptional disposal. We are gravely disappointed that over the past seven years the numbers of children and young people detained in secure units or in custody has risen so sharply and we consider this to be an indictment of government policy towards children and young people as well as towards tackling offending. As well as being a dangerous and expensive response the use of custody generally does not work as evidenced by the rates of recidivism. The assessment of risk to self or others as a threshold for the use of custody appears to have been lost and we are hearing anecdotal evidence about recent increases in the use of custody in breached ASBOs among young people. This comes at a time when there is a critical shortage of places especially within local authority secure accommodation for those young people who are in genuine need of such an extreme response.

9. Our experience nationally is that there is a wide and dangerous disparity in the use of ASBOs and we think there is an urgent need for a review of the application of guidance and for the introduction of mechanisms which would lead to a more standardised and therefore fairer approach. In our view some areas interpret the guidance as an encouragement to seek an ASBO at an early stage and in ways which therefore lead to the premature criminalisation of children. We would commend the practice as we understand it in Devon and Cornwall where a collectively agreed protocol introduces a three staged approach before the application for an ASBO including targeted interventions to promote pro-social behaviour. We believe this approach to be proportionate, effective and efficient for all agencies. We are acutely aware however that it is an approach which would not satisfy some of the more populist agendas which influence this area of practice.

10. The ADSS fully supports the involvement of parents and carers in any action taken to prevent and reduce anti-social behaviour. However we do not believe that a parenting order should me made whenever a child or young person is made subject to an ASBO. The current rationale appears to be that poor outcomes eg anti-social behaviour are a consequence of bad parenting. What is more important than imposing a parenting order is to understand the underlying causes of the behaviour and then to work with the parents
in addressing such causes. This can best be achieved through adopting a “whole family” approach as for example with family group conferencing, interventions that are likely to be more successful if undertaken on a voluntary basis. We consider parenting orders to be a useful tool, but only if there is evidence to suggest the family concerned will not co-operate voluntarily. It is our experience that enforced co-operation is less likely to succeed in most cases.

11. We are particularly concerned about the privacy arrangements for children and young people made subject to an ASBO. Because ASBOs are civil measures there is not the same presumption in favour of reporting restrictions to withhold identification as exists for children in criminal proceedings. We question the benefits in having children’s names and photographs published in the local media and distributed in the local community. Our view is informed by evidence that some children so named have become the victim of violence and intimidation as a result. We believe we have a duty of care to the children and young people whose anti-social behaviour we are trying to reduce. Any behaviour that puts children at increased risk of physical harm is in conflict with our professional values and surely at odds with the intentions behind the current Children Bill. We believe these forms of publicity have no proven effect on the reduction of anti-social behaviour in communities, that they reinforce the general stigmatising of young people and thus potentially still further reduce a community’s tolerance and that, while rendering the individual child at risk are in many cases regarded as a perverse “badge of honour” by that same child—the publicity affirms their status among peers.

12. **Recommendations**

On the basis of the above concerns, and recognising that the existing anti-social behaviour legislation is not likely to be substantially reformed in the near future, we would suggest the following recommendations could be given consideration by the committee in the course of its work.

(i) The Government should take steps to assert the primacy of the role of Children and Young People’s Strategic Partnerships in developing strategies and services to tackle anti-social behaviour among children and young people at a local level. We recognise the importance of Community Safety Partnerships (or CDRP’s) in this function and clearly their engagement needs to be retained but at present local and national planning mechanisms do not sufficiently integrate responses to ASB with broader children’s services and until this happens our responses will remain reactive and short-term.

(ii) Similar steps should be taken at a national level to ensure better integration of ASB strategy with the broader and more constructive agenda outlines in “Every Child Matters”. In particular it should be clear that the five outcomes for all children apply also to children and young people engaged in offending or anti-social behaviour.

(iii) There should be a requirement that before any ASBO is sought on a child or young person then the relevant YOT should be engaged to conduct a pre-court assessment of the circumstances as is the case for any child accused of committing a crime.

(iv) We applaud those authorities that have developed a stronger preventative approach to anti-social behaviour by the introduction of initiatives such as Acceptable Behaviour Contracts (ABC’s) and believe the Government should do more in guidance to encourage comparable work consistently throughout the country.

(v) We believe there is an urgent need for clarification of the sorts of behaviour that qualify as anti-social behaviour and those definitions should preclude the use of ASBO’s as an alternative route to prosecuting children and young people for criminal behaviour.

(vi) We believe that consideration should be given to ensure that applications for ASBO’s on children and young people should be dealt exclusively through the Youth Courts which are appropriately trained and experienced.

(vii) There is an urgent need to curtail the use of custody or secure accommodation as an option for the breach of an ASBO by a child or a young person.

(viii) There is a need to review the management of reporting restrictions on children who are made subject to ASBO’s for the reasons outlined in paragraph 11 above.

(ix) There should be research on the use of ASBO’s and related powers with a particular focus on two aspects: research concerning the consistency or otherwise of the application of these powers across the country; research which explores the effectiveness of these measures.
4. Memorandum submitted by Barnado’s

1. INTRODUCTION

1.1 Barnardo’s believes that everyone has the right to live in a safe and decent community and we are aware of the unhappiness, fear and economic cost that ingrained anti-social behaviour brings to communities particularly the most vulnerable residents, including children and young people. It is often those communities experiencing extreme poverty, economic hardship and a poor environment which are those where anti-social behaviour has the most debilitating effect.

1.2 However, we have a number of concerns about the focus on children and anti-social behaviour and some of the very punitive approaches being taken to tackle such behaviour. We believe that preventative approaches, which foster respect and equality and that lead to the creation of safe and strong communities that are not divided by scapegoating are more effective in dealing with anti-social behaviour. We would not wish to ignore the fact that a few individual children do behave in a way that is very detrimental to their community, but the great majority of children and young people share adult’s desires to be able to go about their business in their own community without being fearful or at risk.

1.3 We are concerned that the basic standards of proportionality and consistency are applied more rigorously within the criminal youth justice system than they are in ASBO decisions. For example the minimum ASBO is for two years, regardless of the behaviour being responded to, and the potential sanction for breach is a custodial sentence. The disposal for a comparable criminal offence, where there is one, would be likely to be more focussed on restoration and rehabilitation, and would only carry a custodial penalty for serious or persistent offending.

1.4 In the guidance accompanying the Anti-Social Behaviour Act, the behaviours cited as examples could all qualify as offences under current criminal legislation. However, under the anti-social behaviour legislation the response of the formal systems to these “offences” has changed in that they are not responded to by a criminal investigation, with its required standards of evidence and proof and are dealt with in the civil rather than criminal courts.

2. GENERAL COMMENTS—THE CAUSES OF ANTI-SOCIAL BEHAVIOUR

“The morals of the children are 10 times worse than formerly”

2.1 Read any daily or local paper and it is likely that many people would agree with this and see it is an accurate reflection of today; however, this statement was made by Lord Ashley in the House of Commons in 1823. Research over many years’ shows that there has been an almost continual moral panic about children’s behaviour and a preoccupation about the causes of, and how best to deal with and control such behaviour.

2.2 In all recordings of the misbehaviour of children there have been cycles in accrediting the causes, and these have frequently been contradictory as is evidenced in two political documents of the late ’40s and ’50s. The first “Youth Astray” published in 1946 said: “The misbehaviour of boys and girls is mainly the outcome of conditions, social, economic, and to some extent hereditary, for which they themselves cannot be blamed”, however by 1959 there had been a remarkable change of opinion. In “The responsible society” a very different viewpoint was expressed: “We reject the notion, propagated by sincere but misguided idealists, that society shares the guilt of its criminals; that most malefactors are the victims of their environment”.

2.3 What is of course always changing is the society that children live in; in March 2000 the Social Exclusion Unit published a report on young people and identified a number of changes in family, social and labour market structures including:

— the disappearance of traditional sources of employment;
— more jobs only open to those with qualifications;
— longer dependence on parental support;
— earlier exposure to “high risk” activities such as drinking, smoking, drugs etc;
— social and media attitudes which encourage young people to act older than they are;
— more young people likely to have experienced a relationship breakdown.

2.4 Additionally an earlier Social Exclusion report on neighbourhood renewal published in 1998 found that:

— the poorest neighbourhoods had disproportionate numbers of young people;
— there were poor educational and other opportunities for those young people;
— young people were perceived as a problem by those communities.
3. MAIN POINTS

3.1 Anti-social behaviour orders

There is no record of the numbers of children made subject to anti-social behaviour orders as separate figures are not kept, but Home Office figures say that 1,337 ASBOs were granted in England and Wales between April 1999 and June 2003 and they recently estimated that 60% of all orders were made on young people under 18 years old.1 However, research by the BBC which involved approaching all 207 local authorities suggests that of 13,000 ASBOs served, 842 were on under 18s.2 Breach of an anti-social behaviour order can result in a custodial sentence; again there are no figures yet available as to whether breach of anti-social behaviour orders may have contributed to the rise in youth custody in 2004. In a speech to the NACRO conference in April this year, Rod Morgan, Chair of the Youth Justice Board expressed his concern at the need to use resources on the growth in custody rather than preventative work and undertook to investigate whether breaches of orders were contributing to the rise in custody figures.

Barnardo’s concern is in relation to an application for an ASBO on a child. The 1998 Guidance3 which accompanied the 1998 Crime and Disorder Act suggested that ASBOs were only to be used “when other methods to prevent further misbehaviour have failed or when such methods have been considered but have been deemed inappropriate in the circumstances”; the implication being that ASBOs were to be a “last resort”. This position appears to be eroded in the Guidance accompanying the Anti-Social Behaviour Act 20004. Whilst there is still encouragement to consider alternatives there is also clear encouragement not to delay the application for an order. Where the application is for an ASBO in relation to a child there is further guidance requiring consultation with Social Service departments and Youth Offending Teams prior to the application to the court.5 This therefore creates confusion for applicants, if they are not to delay the application for an order, how can they ascertain what else might be done or consult fully with the other agencies?

What Barnardo’s would like to see

Barnardo’s would wish to see a much clearer and explicit requirement, in the case of children for consultation with the relevant agencies, preferably as part of a multi agency panel, before an application for an order can be made. We would also like this panel to be required to examine what circumstances may be contributing to the child’s behaviour, eg exclusion from school, and what can be done to deal with these circumstances. This would not only make a proper differentiation between the response to children and adults but would also be more aligned with the “no order unless necessary” principles of the 1989 Children Act, which governs all other interventions by social welfare agencies.

Within Barnardo’s we have a number of community based services which work in this way, such as our Blackpool Project which provides services to both children and parents by working with other agencies to identify issues at an early stage. Families are referred to a multi agency panel, referrals may come from any agency and recently there has been a steady increase in self referrals. The panel will investigate the reasons for the referral, assess the circumstances of the child and plan and implement appropriate and targeted interventions. The most crucial component of this approach is that children are not labelled or stigmatised by being identified as “potential offenders”, they are dealt with as “children in need”.

There are other examples of effective multi agency working for children engaged in or at risk of anti-social behaviour. For example, the Northampton U Turn project works with 10 to 18 year olds and provides a brokering service between them and their communities and works with individual young people in developing action plans to help them change their behaviour.

3.2 Dispersal and curfew powers

There would appear to be great variation of use of these anti-social behaviour measures. Local Authorities are rightly urged to take anti-social behaviour seriously and use all available measures to address this behaviour; however there are wide interpretations of the measures. Some areas and Police authorities, notably Devon and Cornwall, have taken the view that enforcement should be the final sanction and have targeted their resources at engaging with young people and communities. They have established the Crimebeat partnership, with Youth Affairs Officers who work directly with young people, encouraging them to develop their own crime and anti-social behaviour reduction strategies. Similarly in Coventry, the anti-social legislation measures will be piloted twinned with a number of engagement projects. This is in direct contrast to other areas, such as Worcester where 15 areas in one suburb were designated for curfew and dispersal powers in one application.
What Barnardo’s would like to see

We would wish to see more robust guidance for local authorities and Police authorities with a requirement to establish engagement projects alongside any application for dispersal and curfew powers.

3.3 “Naming and shaming”

This measure has been one of grave concern since its inception. Regardless of any human rights implications, the major concern is for the safety of vulnerable children. There is already evidence of other vulnerable children being targeted and groomed by adults with nefarious intent. We believe that allowing details of children to be published under headlines such as a recent one in a daily national newspaper: “baby faced brothers”, together with photographs and details of where they live, is placing children at substantial risk. The very fact that they have been made subject of an ASBO would indicate that they do not have adequate support and supervision, and evidence from our own work on children abused through prostitution shows that such children are prime targets.

We would also question the effectiveness of such methods in changing behaviour. All behavioural and psychological research shows that where children gain attention or status from “bad” behaviour, raising the profile of this behaviour merely reinforces that this is how they get attention and leads to more of the same behaviour rather than less. The pejorative tenor of much of the reporting of children made subject to ASBOs—the consistent use of terms such as “yob” and “scum”—goes far beyond a “public interest” principle of informing people of the conditions of any order and can only serve to raise the levels of fear and antagonism to children and young people in general. This is not consistent with other Government’s efforts to reduce the fear of crime.

What Barnardo’s would like to see

In the Youth Court and Crown Court hearings involving children, there is a presumption against publicising their details unless the magistrate/judge specifically adjudicates that it is in the public interest to do so. We would wish to see this presumption apply in the civil court for the purposes of children made subject to anti-social behaviour orders.

3.4 Parenting support

Barnardo’s has a number of services which provide parenting support, including support to parents who have been made the subject of a Parenting Order because of their child’s criminal or anti-social behaviour. A recent evaluation of these services found evidence which corroborates the findings of the Youth Justice Board. The parents attending Barnardo’s programmes were predominantly mothers, a significant majority experienced numerous difficulties including debt, ill health, housing problems and domestic violence; a high percentage had been seeking help with their children’s behaviour for some time but almost none had been provided with assistance. Barnardo’s has found that our work with parents on Parenting Orders is enhanced where it is part of an overall service for young people at risk. For example, our Hartbeat Project provides services not only for parents on orders, but also mentoring services for the children and young people. These services are either as part of the Children’s Fund preventative work of the provision of mentors for children who have received a Final Warning. Additionally this service also provides out of school activities for children and young people. This multi-layered approach, working with both children and parents has proved to be effective in reducing further offending or anti-social behaviour.

What Barnardo’s would like to see

We welcome the emphasis in the current Children Bill on earlier interventions and support for children and the recent announcement from the Home Office of earlier support for children of prisoners. We would like to see measures taken to ensure that support services are provided in a way that does not label or stigmatise children and families.

4. Conclusions

4.1 Barnardo’s understands the concerns expressed by those communities where anti-social behaviour is perceived as being a problem and acknowledges the need to address such behaviour, however the focus on children and young people under 18 as the main instigators is, we believe unhelpful. We are also concerned that for the purposes of dealing with anti-social behaviour, there is little differentiation between the treatment of children and adults.

4.2 There is evidence that measures which are preventative rather than punitive are more effective when dealing with children and young people. Models based on engagement and interaction between children and other community members, retaining enforcement as an absolute last resort are likely to prove more effective in reducing that anti-social behaviour which is committed by children.
4.3 We would wish to see further guidance and regulation to accompany the anti-social behaviour legislation that clearly separates the treatment of children from that of adults and which enables all efforts to be made to change behaviour before any formal enforcement order can be made.

9 September 2004

REFERENCES:
6 Positive Parenting, Youth Justice Board 2002.

5. Memorandum submitted by D L Brewer

1. INTRODUCTION

1.1 The Government has unleashed a monster on democracy by the establishment of the Anti-social Behaviour Order.

1.2 Section 1 of the Crime and Disorder Act 1998 empowers individual benches of lay magistrates and individual judges to decide that behaviour by an individual (whether it is currently lawful or unlawful behaviour) is anti-social and, if there is evidence that the behaviour may be repeated, to impose an Anti-social Behaviour Order. If it is breached, the Order can be punished by a custodial sentence of up to five years.

1.3 Under our Constitution, there is a clear distinction between the Legislature and the Judiciary. This Act, however, empowers individual courts to make legislation for individuals either to criminalise non-criminal behaviour or to increase the potential penalty for behaviour which is made criminal by Parliament from the maximum sentence prescribed by Parliament to a custodial sentence of up to five years' imprisonment.

2. DEFINITION OF ANTI-SOCIAL BEHAVIOUR

2.1 Section 1 of the Act defines anti-social behaviour by a person as behaving "in a manner that caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household as himself".

2.2 The Act goes on to say that an order can be made if it “is necessary to protect persons from further anti-social acts by him”.

2.3 This test is so wide that almost any behaviour is capable of satisfying it. The behaviour does not need to be criminal behaviour and the threshold is set very low.

3. EXAMPLES OF POTENTIALLY ANTI-SOCIAL BEHAVIOUR

3.1 Distress can be caused very easily. Imagine an argument between friends in a school playground. One of the children is upset by the argument and begins to cry. The two friends have had arguments before. The vague, imprecise test for an anti-social behaviour order is satisfied. Whilst no one could possibly contemplate this resulting in an ASBO, surely the test should be sufficiently precise to exclude such behaviour.

3.2 Some media interviewers have visibly distressed or alarmed interviewees on the television and they give every sign that they will continue to interview people in a robust way. Although this satisfies the test for an ASBO, would Parliament be comfortable with leaving it to a bench of three lay magistrates to decide whether the Newsnight or Today teams are controlled by ASBOs?

3.3 The Home Office has issued guidance on what it considers to be anti-social behaviour. Under-age smoking is one of the examples given. Am I alone in believing that it would be wholly wrong to impose an ASBO prohibiting an individual from under-age smoking and to send him to a Detention and Training Centre if he continues to smoke under-age?

3.4 Most people are familiar with groups of drunken people congregating in town centres. They are often noisy but inadequate individuals succumbing to compulsive behaviour over which they have little or no control. The fact that shoppers tend to give them a wide berth is often taken as a sufficient basis for applying
for an anti-social behaviour order. Have we reached the stage where inadequate individuals who will be given no assistance by the Probation Service or Health Service are subjected to such punitive and uncompromising orders?

4. **Consistency**

4.1 The vagueness of the test means that a decision whether to impose an anti-social behaviour order in an individual case is almost entirely at the discretion of the three magistrates who happen to be sitting.

4.2 The vague test means that those individuals who have the task of seeking orders can have no certainty that individual applications would or should be granted and this leads to the risk of inappropriate applications being made and some of them granted.

4.3 The courts cannot be relied upon to refuse inappropriate applications as the decision is based on such an open test being applied by individual magistrates in an entirely subjective way.

5. **Practical Effects**

5.1 There are already far too many examples of inadequate, minor offenders ending up in prison repeatedly because of this legislation.

5.2 The town centre drunk appears before the local magistrates’ court for being found drunk on a highway. They have been before the court for this offence on several occasions in the past and received fines within the maximum of £200. The offence does not carry the risk of imprisonment. The Prosecution in response to a request by the Local Authority ask the court to make an order under S1C of the Crime and Disorder Act 1998 prohibiting the defendant from getting drunk within the town centre. The minimum length of the order is for two years. The court makes the order.

5.3 Experience to date indicates that the defendant will get drunk again in the town centre within days or possibly even hours of the order being made. He will be arrested, brought back before the court and found guilty of breaching the order.

5.4 The court must then determine sentence. National Sentencing Guidelines indicate that the starting point penalty is custody and the defendant will find himself sentenced to immediate custody for a period of weeks or months.

5.5 On release from prison, experience again indicates that the individual will very soon be drunk in the town centre again and the process, including the sentence of imprisonment, will be repeated. There is a potential for this individual to be sent to prison repeatedly for the term of the order made by the court.

5.6 A short analysis of what has occurred will demonstrate that the court has, in effect, reclassified the offence of being found drunk on a highway from an offence carrying the maximum penalty of a fine to an offence for this individual carrying a maximum penalty of up to five years’ imprisonment.

6. **The Drive for ASBOs to be Made**

6.1 The Government has encouraged Local Authorities to employ Community Safety Officers in an effort to persuade the public to come forward and complain about anti-social behaviour. The officers work with the Police and an important part of their role is to ensure that more ASBOs are made.

6.2 There has been an instance in Wiltshire when a Government Minister met Local Authority representatives and deeply criticised them for failing to obtain more anti-social behaviour orders. The excellent work done by the Local Authority Officers using good behaviour contracts instead of seeking ASBOs was ignored.

6.3 There is, therefore, substantial pressure on Local Authorities and the Police (which is also applied indirectly to the courts) for the making of ASBOs in ever-greater numbers.

6.4 Some groups working with young people have expressed concern that young people represent relatively easy targets for ASBOs and that a disproportionate number of ASBOs has been sought against them and obtained.

6.5 This may, in part, have contributed to the alarming rise in the number of young people receiving custodial sentences from the courts.

7. **An Alternative Strategy**

7.1 The traditional method of deciding whether to criminalise behaviour is for the proposal to be discussed in detail by Parliament and, when appropriate, an Act is passed, the behaviour is carefully defined and a maximum penalty applicable to all offenders is set.

7.2 There is no reason whatsoever for this democratic and considered approach not to be used for all forms of anti-social behaviour. It is open to Parliament to define the behaviour, criminalise it and identify a proportionate maximum penalty for it.
7.3 Take the example of anti-social behaviour cited in its advice by the Home Office—under-age smoking. Is it right for an individual court to make an ASBO in respect of a person under 16 which means that any further under-age smoking by that individual will be punishable by up to five years' detention? If Parliament is of the view that the current penalty for under-age smoking is insufficient would not Parliament prefer to identify the extent to which the maximum penalty should be increased?

8. ARE ASBOS LEGAL?

8.1 The first concern as to legality is the apparent breach of the doctrine of separation of powers. The Crime and Disorder Act 1998 has delivered a wide-ranging legislative power to the Judiciary.

8.2 The ASBO process appears to conflict with various Articles of the European Convention on Human Rights—for example Articles 5, 6, 9, 10 and 11.

8.3 The biggest concern is Article 7 which states that:

1. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national or international law at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the criminal offence was committed.” and

2. This Article shall not prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognised by civilised nations.”

As outlined above, the ASBO is capable of being used to criminalise individual behaviour in respect of one individual in one local area by a local bench of magistrates. This does not constitute a criminal offence under national law and enforcement breaches Article 7.

9. CONCLUSION

9.1 No one can deny that life can be made unbearable as a result of some anti-social behaviour and that it is right that local communities should be protected.

9.2 Parliament can deliver adequate protection by identifying behaviour which should be criminalised and by identifying circumstances when a higher maximum penalty or even a minimum penalty should be imposed. If necessary, Parliament could adjust the rules of evidence to ensure that cases can be prosecuted. If there are grounds for allowing hearsay evidence in ASBO proceedings, they must equally apply to criminal proceedings.

9.3 Sections 1 and 1C of the Crime and Disorder Act 1998 should be repealed and the proper control of criminal legislation returned to Parliament.

28 July 2004

6. Memorandum submitted by Centrepoint

1. CENTREPOINT

(i) Centrepoint works with 1,600 of Britain’s most disadvantaged young people each year. We help them build structure in their lives, and get out of the downward spiral of exclusion and marginalisation. We are committed to helping young people create structures in their lives to support and nourish them as individuals, which is why our work extends into areas like health, helping our clients tackle drug or alcohol dependency, developing social skills, engaging in learning and accessing jobs.

(ii) We also work to shape, influence and advance policy on youth homelessness and social exclusion. Our policy work aims to increase the public understanding of the causes and effects of homelessness and to push for practical changes to policies which would enhance the life chances of the young people who use our services and other disadvantaged young people.

2. CAUSES OF ANTI-SOCIAL BEHAVIOUR

(i) People who commit anti-social behaviour are often among the most vulnerable in society and can have complex mental health needs or drug and alcohol addiction. Young people who behave in an anti-social way are often making the difficult transition into independent adulthood, in many cases from a background including care, homelessness or time in a young offender’s institution and just like older perpetrators of anti-social behaviour they need support to address and manage their behaviour.
3. **Young People and Anti-social Behaviour**

(i) All of us must challenge behaviour which frightens people, debasesthe local environment, and fosters violence towards people and property. But when it comes to young people the label “anti-social behaviour” can be applied to whatever the young do that contradicts the interests of other, usually older, people. It is rarely applied to what communities and organisations do which is anti-social in the eyes of some younger people, such as privatising city-centres, selling off playing fields, not creating adequate youth facilities or resisting local residences for homeless people. The media and government often reinforce negative perceptions of young people. For example, it is rarely stressed that young people are more likely to be the victims of crime than the perpetrators. Anti-social behaviour is, by no coincidence, concentrated amongst those with the least money, space and resources. Inequalities in education, health services and housing contribute to a feeling of not belonging, as sense of disconnection, of simply not caring—whether about dropping litter, attending school or stealing. It is therefore important to develop cohesive communities where there is a common vision and a sense of belonging for all communities and where those from different backgrounds have similar life opportunities.

(ii) Police now have the power to disperse groups of two of more and to return a person under the age of 16 to their home. These powers can be used when an officer has reasonable grounds for believing that anti-social behaviour is a significant and persistent problem and the local authority has authorised use of the powers. The current focus upon enforcement as the best way to deal with anti-social behaviour signals a failure to fully recognise the complexity of such behaviour. The foundation of any response to anti-social behaviour must be rooted in an understanding of the many different social and environmental influences that lead people to behave in ways that are considered unacceptable by the rest of society. An example of this is nuisance caused by young people hanging around on street corners directly relating to the absence of leisure facilities and social opportunities for young people in the community. It is important to understand what lies behind anti-social behaviour in order to avoid the irresponsible stereotyping of young people as threatening and part of a “yob culture”, as this may lead to further alienation, worsening relations between young people and authority figures and negative views of young people in general.

(iii) Strong families, to teach values, provide stability, offer support and protect children physically and emotionally are vital for young people’s future success. The consequences of poor parenting capacity is demonstrated within the fact that the vast majority of the young people Centrepoint works with become homeless as a consequence of unsupportive or disruptive family backgrounds. We are concerned that the links between social exclusion, anti-social behaviour and poor parenting capacity do not appear to be fully recognised or addressed at the moment. More focus needs to be given to the underlying factors that weaken families and the intensive support often needed to help them become stronger. There is need for greater clarity in terms of the relative roles of supportive and punitive approaches to dealing with nuisance behaviour. It is Centrepoint’s experience that punitive approaches to changing behaviour can be futile if the behaviour is rooted in complex issues that go unaddressed. Support for vulnerable families, such as parenting skills, must be delivered in conjunction with a wider package of support to address accompanying pressures such as financial or housing problems.

(iv) Centrepoint welcomes the emphasis given to enforcing standards and addressing nuisance behaviour without resorting to the courts. We are however concerned that all such measures need to be sensitive and appropriate to circumstances of vulnerable young people. In particular, the introduction of Fixed Penalty Notices for 16 and 17 year olds must be considered carefully to avoid exacerbating poverty. It is important to consider the potential pressures these measures may place upon the families of young people receiving fines and Fixed Penalty Notices. There is huge potential for the measures to lead to increased poverty within families, heightened family conflict and homelessness.

(v) We also have concerns at the way young people subject to an Anti-social Behaviour Order (ASBO) can quickly find themselves caught up in the youth justice system if they break the terms of their ASBO even once. Breaching an ASBO is a criminal offence and young people can find themselves handed a custodial sentence after one breach of the Order. This criminalises young people who may not have committed a serious offence, labels them as young offenders and exposes them to other more serious and entrenched criminals. Providing a community based programme of specialist support and education about the affect of their behaviour could prove far more effective in tackling anti-social behaviour than sending young people to an institution. The “naming and shaming” approach to anti-social young people has the potential to be detrimental, as it can negatively affect young people’s self-esteem and therefore put their ability to develop as positive and responsible citizens at risk.

4. **Housing and the Anti-Social Behaviour Act**

(i) Under the Anti-social Behaviour Act 2003, landlords can demote tenancies on the grounds of anti-social behaviour and apply for injunctions to prohibit anti-social behaviour. Demotion orders allow the landlord to change the terms of the tenancy to make it less favourable to the tenant and easier to end. Demotion orders can be granted against tenants who have not perpetrated any anti-social behaviour, but whose visitors have. The Act requires the court to be satisfied that it is reasonable for a demotion order to be granted, but the court is not required to consider how far the tenant is able to control who visits and their behaviour. A possession order can be granted when there has been no further incident of anti-social
behaviour following a demotion order. Possession orders for demoted tenancies can be made for reasons such as rent arrears. This may be likely given that any outstanding rent arrears from the secure tenancy are passed onto the demoted tenancy. Injunctions may include exclusion orders which can exclude the individual from specific premises or areas, including their own place of residence.

(ii) Injunctions and demotions both increase the likelihood that someone will lose their home and potentially become homeless. It seems doubtful that excluding someone from their home will prevent the behaviour for which the injunction was given and the Act makes no provision to help people address the causes of their anti-social behaviour. Exclusions from tenancies can also leave people open to exploitation from unscrupulous private landlords, as they have no other option but to look to them for housing.

14 September 2004

7. Memorandum submitted by The Chartered Institute of Housing

1. INTRODUCTION

1.1 The Chartered Institute of Housing (CIH) is the only professional body for individuals working in housing. Its primary aim is to maximise the contribution that housing professionals make to the well being of communities. Membership status is dependent on completion of a professional qualification and a track record of professional achievement.

1.2 CIH has over 18,000 individual members working for local authorities, housing associations, Government bodies, educational establishments and the private sector. Many of our members are engaged in day-to-day work in tackling anti-social behaviour (ASB).

1.3 In order to assist our members carry out this vital work we are engaged in a number of activities which includes: publication of good practice material and dedicated training courses, conferences and events.

1.4 The role of the CIH policy unit is to promote more effective housing policy through work with: Government ministers and their officials; Members of Parliament; and other influential policy makers. On this issue CIH has developed a close working relationship with the Social Landlords Crime and Nuisance Group.

2. THE EFFECTIVENESS AND PROPORTIONALITY OF CURRENT POWERS

2.1 Anti-social behaviour began to emerge as an issue of public concern in the early 1990s and quickly became a major concern of tenants who were critical of the lacklustre response of many authorities/landlords to deal with it. Acting on this criticism a number of housing organisations did pioneering work but were critical of their lack of effective powers to tackle it.

2.2 In fact even prior to 1990 local authorities had a considerable number of (mainly environmental health) powers to deal with certain types of nuisance. The issue was not the number of powers but their scope, effectiveness and practicality. Many pioneering landlords “rediscovered” and made creative use of longstanding powers but considered that further powers were needed.

3. THE CAUSES AND EFFECTS OF ANTI-SOCIAL BEHAVIOUR

3.1 The causes of anti-social behaviour are complex. The change in the use of publicly funded housing from general needs to an almost exclusively social welfare role has probably contributed towards making this an issue for social landlords. Higher concentrations of people on low incomes and other social problems have been accompanied by increased challenges in housing management.

3.2 These social changes took place at the time of increased tenant security which limited landlord’s effective sanctions.

3.3 Despite these trends it is important to recognise that anti-social behaviour is not exclusively confined to the social rented sector and is an issue of equal concern to owner occupiers. However, given the higher concentrations of deprivation in the social sector it is arguable that the effects of ASB have a disproportionately higher impact on the quality of life of social sector residents.
4. **Effectiveness and Proportionality of Current Powers**

4.1 The development of powers to deal with ASB has been largely reactive and *ad hoc*. Government frustration that ASB continues to be a major concern has previously resulted in either: a further grant of powers; or criticism of organisations that use these new powers infrequently (or not at all).

4.2 A more effective approach would have been to focus on the reasons for the failure of poorer performing landlord’s reluctance to use the range of existing powers. There now seems to be a consensus developing that landlords have now a sufficient barrage of powers and attention should now be focused on barriers to their use and to disseminate best practice in tackling ASB of which the use of enforcement powers is only a small part.

4.3 The development of new powers to restrain behaviour rather than evict tenants is clearly a positive development and has given landlords greater flexibility to deal with the wide range of disruptive behaviours which constitute ASB. A key advantage of injunctive powers is that they can be applied in conjunction with support programmes designed to tackle the causes of the offending behaviour.

4.4 Taking some of the current powers in turn:

(i) **Possession**: Traditionally, possession action was the only tool social landlords had to tackle ASB. As an all or nothing power its effectiveness was limited. Difficulties arise in its use for low level but persistent ASB especially since possession can only be granted if it is reasonable. A landlord also loses the ability to control an individual once evicted therefore many landlords favour injunctive powers. Nevertheless it remains an important power, for example, to separate groups of problem households.

(ii) **Demotion**: This is a new power but may prove to be an effective deterrent whilst introducing a degree of progressiveness to the possession process which it has previously lacked.

(iii) **Housing Act 1996 Injunctions**: These gave local authorities the ability to restrain behaviour, (underpinned by the power of arrest) of any residents in their property without the power being confined to the terms of the tenancy agreement to the tenants (eg other occupiers). The Anti-social Behaviour Act 2003 extended these powers registered social landlords.

(iv) **Anti-social Behaviour Orders**:

1. These are highly flexible and effective forms of injunction which are tenure neutral (not restricted to social housing). However, obtaining them may require the coordination of several agencies and their effectiveness depends on swift action by the CPS following a breach.

2. The greater degree of collaboration between agencies required by ASBOs and the Crime and Disorder Act has arguably had as an important impact as the power itself. Professional practice gained in obtaining ASBOs has led to the development of intermediate non-legal initiatives such as Acceptable Behaviour Contracts (ABCs). ABCs are cheap and simple to administer and allow for a more incremental and proportionate approach.

(v) Use of powers generally: ASBOs or other injunctive powers may be all that is required in certain cases, however, in others they may do little more than provide immediate relief to the victim if the underlying causes of the problem are not treated. All powers should be seen as part of a range of options available which may include support and rehabilitation packages designed to tackle the offending behaviour. A considerable degree of professional skill and judgement may be required to select the right programme in each case. A mechanistic approach is unlikely to prove effective.

5. **Enforcement and Co-ordination**:

5.1 Crime and Disorder Reduction Partnerships (CDRPs) have helped co-ordinate activity at the local level and this has improved with the inclusion of Registered Social Landlords. However, performance in each area remains patchy. Effectiveness requires commitment to the process (as opposed to being a mere signatory) of all key stakeholders including the police and local authority social services and education departments.

5.2 Our members have voiced concerns about clear lines of responsibility in some areas. This problem is most likely to emerge in authorities who have transferred their housing stock (LSVT) where there is a danger that the landlord and the authority take the view that the prime responsibility for tackling anti-social behaviour rests with the other agency. Best practice suggests that the body that has developed the expertise should provide the lead but they should be fully supported by their partner where they lack the power or capacity to carry out a particular function.
5.3 Local authorities continue to be the sole possessors of a range of environmental powers. There may also be capacity issues for smaller landlords who do not have the ability to set up specialist legal/ASB teams. The cost of legal action is also a significant barrier for smaller landlords since they cannot take advantage of the economies of scale enjoyed by larger landlords who also benefit from the experience of handling a large number of cases. These problems can be exacerbated in rural areas where there is a smaller pool of experienced practitioners and of specialist legal services.

5.4 There is the confusion about the status of local Arms Length Management Organisations (ALMOs) in particular whether they can exercise the full range of local authority powers. There is also a danger unclear lines of responsibility will lead to similar problems as in LSVT areas undermining the effectiveness of local action.

5.5 A number of our members have expressed their frustration by the perversity of some judgements and the lack of consistency between Courts. Often the effect of such inconsistency is seen to work to the advantage of the perpetrator. Anecdotal evidence suggests that this may be a greater problem in rural areas. Similar standards of service across the country are likely to be difficult to achieve whilst these inconsistencies continue.

5.6 Exchange of information is crucial to success and its importance has been highlighted in various reports and guidance. However, exchange of information continues to be a problem in some areas when not all parties are willing to co-operate to the extent necessary for maximum effectiveness. Myths and misconceptions about the data protection legislation can be used as an excuse for inaction, but more often it is merely a play safe response to a lack of knowledge about the rules. The Information Commissioner has produced guidance on this issue but this is not widely known. The Bichard Inquiry makes it clear that better guidance is needed on information sharing generally. Further, the power to exchange information exists under the Crime and Disorder Act but a power to do something does not necessarily equate to a commitment to use it productively.

5.7 As stated above it is important to recognise that the perpetrators of anti-social behaviour do not exclusively live in rented housing. Prior to the Housing Bill 2003 receiving royal assent there will still be only a limited range of powers to deal with occupiers of private housing. In particular some social landlords have experienced problems with occupiers in properties which have been sold under the right to buy.

5.8 New powers contained in the Housing Bill to suspend right to buy applications and for the selective licensing of privately rented accommodation will help but by no means fully redress the disparity of powers between the tenures. Suggestions for further work to tackle anti-social behaviour in the owner occupied and privately rented sectors were made in the Social Exclusion Unit’s report of Policy Action Team 8 but we are unaware of any further developments.

6. THE IMPACT OF GOVERNMENT INITIATIVES:

6.1 There are positive signs that the Government’s approach is beginning to move away from a fixation with powers towards a more strategic approach which gives greater emphasis to the sharing of best practice and developing professional skills. The “Together” programme is a good example of this. CIH would endorse this approach as more likely to produce results with the as yet poorer performers.

6.2 Neighbourhood Wardens have proved to be both successful and popular with landlords and tenants alike. However, CIH is concerned that so far funding is not available on a long-term basis.

7. PREVENTION AND SUPPORT

7.1 Enforcement on its own in many cases will prove insufficient to prevent reoccurrence of the offending behaviour unless it is accompanied by a support package designed tackle the causes. CIH recognises the importance of prevention and rehabilitation in the eradication of offending behaviour in the long term rather than the ASB merely being temporarily displaced elsewhere.

7.2 However at present there remains a dearth of good practice examples. The Dundee Families Project remained almost the only one. The project costs around £350,000 a year to run but is said to save over £450,000 in legal costs. More recently Rochdale Council and Shelter have piloted an initiative whereby those who are made homeless through ASB are given support for up to a year if they abide by the terms of an “acceptable behaviour contract”. From the results so far, the signs are extremely encouraging. However, the development of effective strategies to tackle ASB would no doubt benefit from a wider range of good practice examples.

7.3 Performance in prevention and support could no doubt be improved with the development of better working relationships between social landlords, Youth Offending Teams, Drug Action Teams and Social Services.

14 September 2004
8. Memorandum submitted by The Child and Adolescent Faculty of the Royal College of Psychiatrists

From the inception of the work of Child and Adolescent Psychiatrists, we have been heavily involved in the assessment, management and treatment of children and adolescents and their families as it impacts on “safeguarding” children, promoting emotional wellbeing, and making the community, schools and the family home a “safe place”.

This is demonstrated through the many activities of CAMHS, from infancy through to adolescence. Early identification and appropriate referral into CAMHS services of children who are displaying anti-social behaviour.

The known major overlapping aetiological origins of anti-social behaviour and childhood mental health problems eg substance misuse, depression. Anti-social behaviour in children is much more characterised by multimorbidity and complex need than in the case in adults.

The development of evidence based treatments for children displaying anti-social behaviour, cognitive behaviour therapy, interpersonal therapy, multisystemic therapy, functional family therapy, parent management therapy, parallel evidence based treatments for significant mental health problems especially depression, anxiety, PTSD, ADHD, Autism Spectrum Disorder, Substance Misuse.

Given, however, effective preventative and early interventions it may be it is still the case that in the developmental pathway from childhood into adolescence and into young adulthood, turning spans and ongoing activities continue to impact on eventual outcome.

Adolescence is a major turning point and opportunity for intervention to prevent development of anti-social behaviour in adulthood as iterated in two documents prepared for the National Forensic Mental Health R&D Committee.

14 September 2004

9. Memorandum submitted by the “Children are Unbeatable!” Alliance

The “Children are Unbeatable!” Alliance includes over 300 organisations, and as many prominent individuals (see attached list of aims and membership [membership list not printed]). The Alliance believes that the Government should outlaw all forms of corporal punishment by removing the existing defence of “reasonable chastisement”, giving children the same legal protection against assault as have adults. We hope that the Home Affairs Committee will join the Health Committee and the Joint Parliamentary Committee on Human Rights in urging this important—and ultimately inevitable—law reform.

The Committee is doubtless already aware that how children and young people are parented is one of the causes of anti-social and criminal behaviour by them, is how they are parented. Harsh and erratic discipline are identified as key components of the sort of poor parenting which leads to juvenile delinquency5 and we submit that, until the Government grasps the nettle and outlaws all forms of physical punishment, little progress will be made in this area.

Prohibition of all corporal punishment in the family is a long overdue reform which is required to give children equal respect for their human dignity and physical integrity. Human rights requires the criminalisation of any assault on a child which would be a criminal offence if directed at an adult (the relevant standards are set out below). The existing defence which enables parents and some other carers to justify assaults as reasonable punishment must be removed completely. Parents’ rights to restrain and protect their children and others must of course be preserved.

The primary aim of criminal law is prevention of crime and criminalisation of minor assaults does not in any sense imply automatic prosecution. There are very few prosecutions for minor assaults on adults, and there would be few prosecutions for minor assaults on children: the de minimis principle (that the law does not concern itself with trivial matters) would apply. In addition, it should be emphasised that the prosecution of parents is very seldom in children’s best interests. There should be invariable and careful consideration of the child’s best interests before any prosecution of a parent goes ahead.

The purpose of law reform on physical punishment is to send a clear signal throughout society that hitting children is no more acceptable or lawful than hitting adults; to change attitudes and practice and provide a supportive context for the promotion of positive, non-violent forms of discipline.

Proposals which give children less than equal protection (such as the current clause 49 of the Children Bill, which allows parents to continue to justify common assault as lawful punishment) do not satisfy children’s human rights and if implemented would lead, we believe, to legal ambiguity and parental confusion. Change which falls short of equal protection sends the inevitable message “carry on smacking” and prevents those working with families being able to deliver a clear message, thus inhibiting promotion of positive discipline and effective child protection.

The Committee will naturally give its attention to measures which support parents in their challenging and difficult job. There are hundreds of excellent voluntary parent-support organisations that help parents who are in difficulties and who have no qualms about saying straight away that parents must not smack. But they are only able to help a few. We urgently need a widespread well-funded education campaign and public debate on what is positive discipline, but while smacking remains legal the Government will be unable to send clear messages on this vital issue. We note that the Government-sponsored National Families and Parenting Institute produced a 13-page booklet on parenting toddlers “From breakfast to bedtime” which, absurdly, decided to avoid using the word smacking at all, presumably because it felt unable to advise parents not to smack.

Outlawing all forms of physical punishment will provide an ideal opportunity for the Government and everyone else to engage with what is positive and effective parenting, rather than having to waste time and energy on defending, or avoiding mentioning, the indefensible.

14 September 2004

Attachment

ALLIANCE AIMS AND STATEMENT

The organisations and individuals listed below [not printed] welcome the Government’s intention to clarify the law on parental discipline. The traditional defence of “reasonable chastisement” works against the aims which we and the Government of a modern Britain share: the encouragement of positive parental discipline in all families, and assurance of effective child protection in the few cases where it is needed.

We believe it is both wrong and impracticable to seek to define acceptable forms of corporal punishment of children. Such an exercise is unjust. Hitting children is a lesson in bad behaviour.

Removing the defence of “reasonable chastisement” and thus giving children in their homes and in all other settings equal protection under the law on assault is the only just, moral and safe way to clarify the law. While technically this would criminalise any assault of a child, trivial assaults, like trivial assaults between adults, would not be prosecuted. There already exist adequate means to prevent unwarranted or unhelpful prosecutions. It would on the other hand ease prosecution in serious cases. It would eliminate the current dangerous confusion over what is acceptable and provide a clear basis for child protection.

There is ample evidence from other countries to show that full legal reform, coupled with the promotion of effective means of positive discipline, works rapidly to reduce reliance on corporal punishment and reduces the need for prosecutions and other formal interventions in families. Using positive forms of discipline reduces stress and improves relationships between children, their parents and other carers.

10. Memorandum submitted by The Children’s Society

1. INTRODUCTION

1.1 The Children’s Society is a national children’s charity working with around 50,000 children and young people in 90 projects across England. Our projects provide a wide range of services in communities and work with a wide range of children and young people including young offenders, young refugees, disabled children and young people, and children and young people at risk on the streets.

1.2 This memorandum is informed by our practice experience, consultations with children and young people and our policy and research into this area and related subjects.

1.3 The Children’s Society recognises the impact that anti-social behaviour can have upon neighbourhoods and communities and the need to tackle that behaviour by methods that encourage respect and responsibility. We are acutely aware of the particular effect that anti-social behaviour can have on the lives of children and young people and their families, not least because children and young people are the first to tell us that they experience those problems; they want to feel safer in their communities, and intimidation, drugs and bullying on their streets to stop. However The Children’s Society is concerned about the impact of what could broadly be described as the “new anti-social behaviour agenda” on children, young people, their families and communities.
2. **What is Anti-Social Behaviour?**

2.1 The Social Exclusion Unit\(^6\) has identified that there is no clear definition of anti-social behaviour and a more recent report for the Office of the Deputy Prime Minister\(^7\) highlights the level of subjectivity involved in deciding what constitutes anti-social behaviour.

2.2 The Cabinet Office’s Policy Action Team highlighted the vagueness of the term, in their PAT 12 report\(^8\), and the implications of it for young people, pointing out, the subjectivity of the term is wide open to prejudice against young people. Many children and young people are telling us that they do not understand the term, but they feel that it is targeted towards them.

2.3 Research being undertaken by our Children in Neighbourhoods in London Project indicates that young people aged 9–13 are confused or in some cases have no sense of what anti-social behaviour measures are or what they mean and hence would not know what behaviour they should not engage in to avoid having measures used against them.

2.4 One of the critical problems with the passage of the Anti-social Behaviour Act 2003 was that there was no coherent or explicit communication with children and young people. Ninety percent of children and young people aged 10–16 consulted in an NOP England-wide poll stated that they believed that young people should have been consulted before dispersal and curfew orders were brought in\(^9\). Young people at one of our Children’s Fund projects in Kent felt clearly targeted and labelled by the measures contained in the Act stating:

“We know the Bill isn’t just about young people but we are the main group getting punished”

“It makes all young people look bad”.

3. **Children & Young People in Communities**

3.1 The Committee asks for evidence about the causes of anti-social behaviour and the effectiveness and proportionality of current powers. In order to assess we recommend that the Committee consider what place and space is created for all children in our communities.

3.2 Research undertaken for National Playday 2003, demonstrated how fear and intolerance of children being outdoors is impacting on children’s normal healthy play and their sense of acceptance and belonging in their communities. Two-thirds of the 2,600 children aged 7–16 questioned for the Playday survey (coordinated by the Children’s Play Council and The Children’s Society) said that they like to play outside daily, mostly to meet friends\(^10\). However:

- Four in five (80%) say they have been told off for playing outdoors;
- Half (50%) say they have been shouted at for playing out;
- One in four (25%) aged 11–16 were threatened with violence.

4. **Children’s Rights**

4.1 We remain concerned that the rights and freedoms of children and young people under domestic and international law are not being respected or considered in many of the measures set out to tackle anti-social behaviour. We draw particular attention to children’s right to play under Article 31 United Nations Convention on the Rights of the Child (UNCRC) and their right to freedom of association under Article 11 of the Human Rights Act 1998 and Article 15 UNCRC.

5. **Criminalisation of Non-Criminal Activity**

5.1 Children in England are held to be criminally responsible from the age of 10 and anti-social behaviour measures can be used against children from that age. The Children’s Society like many other organisations and the United Nations Committee on the Rights of the Child\(^11\) believe that this is too low. There is a blurring of the lines between criminal and non-criminal activity, which can be quite confusing for young people. As one young person states:

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\(^6\) “Although disorder, youth nuisance and anti-social behaviour were often identified as priority themes in Crime and Disorder strategies there was a lack of clarity as to what behaviours were being referred to . . . Any behaviour could be classed as being anti-social depending on a number of factors including the context in which it took place, the location, the tolerance levels of the local community and expectations about the quality of life in an area” Social Exclusion Unit (2000) National Strategy for Neighbourhood Renewal—Policy Action Team 8: Anti-social behaviour.


\(^8\) “There is no single definition of anti-social behaviour . . . young people are often perceived to be responsible for anti-social behaviour but they are most at risk of being victims”.

\(^9\) NOP Research Group questioned 702 children aged 10 to 16 face to face in Great Britain on September 13 2003.

\(^10\) Press release “Grumpy grown-ups stop children play, reveals Playday research” http://www.playday.org.uk/pr005.htm

\(^11\) Concluding Observations of the UN Committee on the Rights of the Child, United Kingdom, October 2002 Report.
"I shouldn’t be on an ASBO because I’ve not got any convictions. I don’t go robbing, fighting, bullying or terrorising. I don’t take drugs or drink on the streets... the only thing I have done wrong is hang around in a group and then I did nothing wrong" (young person awaiting appeal)

5.2 This is very concerning given that breach of many of the anti-social behaviour measures including Anti-social Behaviour Orders and Dispersal of Groups under section 30 of the Anti-social Behaviour Act 2003 is a criminal offence.

5.3 One of the key concerns that has been raised by children and young people that we work with both in relation to the application of ASBOs and the imposition of dispersal and curfew orders is that they often feel that they are being “got at” and targeted by particularly powerful people within their communities. This is particularly so in relation to section 30 orders and the subjective nature of the grounds for its application. (section 30(1))

6. Dispersal and Curfews (Section 30 of the Anti-social Behaviour Act 2003)

6.1 In its scrutiny of the Anti-social Behaviour Act 2003, the Joint Committee on Human Rights (JCHR) was critical of section 30 and questioned its proportionality.

6.2 An Independent Legal Opinion from Anthony Jennings QC also advised that the Bill contained significant potential breaches under the Human Rights Act 1998: “...If a constable between 9pm and 6am finds someone who he reasonably believes is under 16 and they are not in the effective control of a parent, that young person may be removed. How can this be categorised as ‘serious anti-social behaviour’? This is nothing short of a nationwide curfew on young people under 16... In my opinion this provision engages and breaches Article 5... There is also potential breach of Article 8 because of the right to privacy and lack of any justification for infringement under Article 8(2).”

6.3 It is too early to assess what the real impact of imposition of dispersal and curfew orders is having on children and young people and communities. The imposition and meaning of dispersal and curfew orders is not being widely publicised or made clear to young people in a language that they understand. Notification of an order recently by Bedfordshire Police simply referenced the relevant section of the Act with no indication of what that means.

6.4 Despite an assurance given by the Minister, the Baroness Scotland of Asthal that the guidance on section 30 of the Act would require police and local authorities to consult with the local community, including children and young people prior to issuing an authorisation, the powers have come into force but the guidance (under section 34 of the Act) is yet to be issued. One of the critical measures must be how far children and young people and their families are being involved and consulted in the imposition of the orders under section 30 of the Act.

6.5 With the proliferation in the use of curfew and dispersal powers across the country during the summer months, their impact on children’s rights to gather, play and socialise in public spaces within their communities must be a priority for examination and evaluation.

6.6 Children are not only entitled to freedom of association and to play, but there is widespread concern that children being increasingly less physically active is contributing to mental and physical ill health and obesity. The impact of anti-social behaviour measures on children, and whether they are proportionate and justifiable, should be assessed not only by their effect on problem behaviour, but by a wide range of factors, including their impact on children and young people’s opportunities for play outdoors, their impact on community relations and their sense of belonging in their community.

7. Anti-social Behaviour Orders (ASBOS)

7.1 Local authorities are developing often very different policies with regard to the use of ASBOS with the result that the same behaviour is being addressed in very different ways depending on locality.

7.2 Some areas measure their success by the high number of ASBO’s on children. Some councils are using ASBOS extensively; Manchester City Council recorded the highest numbers of ASBOS issued in England and Wales (422 from April 1999 to 31 March 2004).

12 The JCHR stated: stated that: “...the potential intrusion on private life and liberty is so extensive, and the benefits in any case likely to be so speculative, that it might be difficult to establish (either in general or specific cases) that the powers granted under clause 30 of the Bill will or would only be used when it was proportionate to pressing social need.”. Joint Committee on Human Rights, Thirteenth Report of the Session 2002–03, HL Paper 120, HC 766, 17 June 2003.
13 Anthony Jennings QC (Matrix Chambers): In the matter of The Anti-Social Behaviour Bill (28 May 2003).
15 ASBOS granted and refused between 1 April 1999 to 31 March 2004, www.crimereduction.gov.uk/asbos2.htm
7.3 Other areas have committed themselves to prevention as a general approach and are focussing their efforts on preventing ASBO’s from being made in the first place, through community based initiatives, through the attention of Youth Inclusion and Support Panels and the use of Acceptable Behaviour Contracts. As one LA officer has stated, “Every ASBO is a failing of the council to meet a young person’s needs”.

7.4 The Home Office Review of ASBOs\(^\text{17}\) reported that 58% had been made against under 18s. When ASBO’s were introduced through the Crime and Disorder Act 1998 they were primarily targeted at adults; tenants in particular. It is important to consider whether they were ever really designed with young people in mind in order to assess whether they are effective, appropriate and proportionate.

7.5 Through the work of our Manchester Youth Bail Support Project we know that many young people often do not understand why an order has been placed on them, nor what the conditions of the order mean. This is particularly concerning, given that breach of an order is a criminal offence. Looking at some of the conditions that are applied to young people demonstrates how easy it is to breach an order and to effectively be drawn into the criminal justice system. Orders can be applied to children as young as 10 and conditions can involve\(^\text{18}\):

- Being banned from the estate the young person is living on;
- Not associating with children and young people on their estate;
- Not being able to enter certain areas which often have local amenities such as shops and youth clubs;
- In one case a young person’s home was in the exclusion zone and he had a bail condition to reside at his home address;
- “Only being allowed with three people stops my son playing most sports,” (parent);
- “I find it difficult . . . I can’t play out as there are always more than three people out there and I’ll end up breaching my ASBO. I can’t play football with my friends any more” (12 year old on ASBO).

For some families the only possible way to assist young people to comply with the orders and to avoid breach and a criminal conviction is to move out of the area.

7.6 The 2002 Home Office Review of ASBOs highlighted that in around one in 10 of the cases they looked into in detail the young person subject to an ASBO had a learning or other educational difficulty. The Committee should question whether the procedures for ASBO’s were ever really designed with these children in mind, and how are they being made understandable to children.

7.7 Having seen some success in reducing the numbers of children in custody during 2002–03, it was disheartening to hear the Youth Justice Board’s report of a reversal in that trend earlier this year\(^\text{19}\). Anecdotal evidence coming directly from the secure training centres and prisons appear to indicate that ASBO breaches have contributed to that rise.

7.8 It is also important to note the practice of deferring ASBOs on young people going into custody until they come back out. From a young person’s perspective, the message is that no-one believes that being locked up will do anything to change them: that being locked up is strictly for punishment, not rehabilitation. Any child returning from a sentence of custody will, in any case, have a period of YOT supervision, either under the community half of their detention and training order, or on license.

8. Naming and Shaming

8.1 The Children’s Society remains concerned about the lack of reporting restrictions when children and young people are given an ASBO and the removal of the automatic reporting restrictions (under s.49 of the Children and Young Persons Act 1933) when a young person is convicted and given an Anti-social Behaviour Order (ASBO) in the youth court brought about by section 86 of the 2003 Act.

8.2 In its recent report to the UK Government on the implementation of the UNCRC, the UN Committee recommended that states parties “ensure that the privacy of all children in conflict with the law is fully protected in line with Article 40(2) of the CRC” (recommendation 62(d)).

8.3 Apart from the human rights breaches, we would ask the Committee to consider the very acute children protection concerns that arise from a policy of making publicly available information about children’s identity, photographs and address. The policy makes it very easy for paedophiles and others who may want to abuse children to identify and target vulnerable children who may be very susceptible to grooming.


\(^{18}\) Egs of conditions that have been applied to ASBOs on children and young people that The Children’s Society works with.

\(^{19}\) http://www.youth-justice-board.gov.uk/YouthJusticeBoard/AboutUs/News/NewsArchive/CustodyRise.htm
8.4 Naming and shaming is counterproductive. In some cases public identification and publicity can glorify bad behaviour, and act as a badge of honour. The local notoriety, which it brings often feeds into a young person’s sense of satisfaction about causing trouble. For one young person that we have been working with the reporting of his ASBO led to an elevation to cult status in the local community and significantly set back the work that a youth organisation had been doing him.

8.5 Equally, for those who do want to make a fresh start, for whom being caught and reprimanded has had an effect, the impact of negative publicity about them can only prolong their problems in engaging with their community more positively. People who may never have even known or met them, will know them only as a troublemaker, long after their behaviour has changed.

“I had to move out of one area to another because of the ASBO conditions. The leaflets stated where we had moved to. This didn’t seem fair as the ASBO was given in a different area and we had moved for a fresh start.” (parent of y.p. on ASBO)

8.6 Many young people have raised with us the potential for people to mistakenly identify and report children breaching their ASBO conditions. Equally, photographs issued at one point in time may quickly go out of date, as young people grow and change their appearance and fashions. Many young people also have a real sense of injustice that malicious reports can be made up or exaggerated, and the breach process does not require those reports to be tested against a criminal standard of proof, even though the result is a criminal conviction for breach.

8.7 Overall, children and young people report to us that naming and shaming is exacerbating tensions between young people, adults and authorities, as they feel under constant negative scrutiny from the adults around them, whether or not they are under an ASBO themselves. This impedes community relations, and the young person’s job prospects and future life chances. It can also impact on the whole family, including younger siblings.

8.8 Without careful attention it can lead to over-zealous and malicious “amateur” policing and surveillance, such as private individuals videoing and photographing children as they go about their community. In any other circumstance we would view such behaviour highly suspiciously, and we must appreciate how intrusive this feels for children. If we do not show children that we have respect for their privacy, then we will have great difficulty explaining what privacy means and why they should both protect themselves and show respect for others’ privacy.

8.9 The Home Office Review of Anti-social Behaviour Orders20 highlighted some of the dangers of reporting stating that “there were also dangers of over-enthusiasm from the local press. One local paper was so moved by the example of one ASBO they started a ’Shop a Yob’ campaign”. The Review goes on to say “the decision to release juveniles” names remains a very contentious issue, even meriting discussion in the national press’. Reference to the national press is still relevant three years later as we are aware of local and national newspapers engaging in such activity. It is hard to argue that national coverage involves the local community, who may have been affected by the behaviour, in enforcing the ASBO.

9. Conclusion

We are very concerned about the discrepancies between the “anti-social behaviour” approach and the “youth justice system approach” to the problematic and criminal behaviour of children who often have very similar personal and family needs. ASBOs in particular, create restrictive conditions that are usually unsupported by assessment or intervention to support behaviour change. This contrasts with the approach taken when children are given final warnings or convicted of offences. Anti-social behaviour orders are being used as “easy” alternatives to the criminal justice process, with their lower standard of proof than that required by criminal courts.

24 September 2004

11. Memorandum submitted by County Durham Youth Engagement Service

Collated Observations and Comments made by Members of CDYES

Generally, with regard to causation, anti-social behaviour tends to be much more prevalent in areas of high multiple deprivation. However, this is not always the case: some areas of high deprivation do not generate high levels of anti-social behaviour. As to a single causative factor, an excessive consumption of alcohol is in many cases closely associated with anti-social behaviour and criminality. This pertains across all age ranges and applies to males and females.

It should be noted that behaviour that is categorised in one area as anti-social may be tolerated in another. This is particularly the case when comparing rural areas with deprived urban areas. Relatively minor acts of anti-social behaviour in the former may be perceived as significant which if perpetrated in an urban environment may go virtually unnoticed. Whilst it is acknowledged that reaction to anti-social behaviour may vary considerably according to area, nevertheless perception of what is and what is not acceptable behaviour may well be valid across all areas. However, as a corollary to this it has to be realised that this will result in differential executive and sentencing responses to similar behaviour in different parts of the country. At its extreme, the same act in one part of the country may go virtually unnoticed whilst in another it may result in a successful ASBO application and a prison sentence of some length on breach. There are clearly human rights issues in this situation.

There is also a degree of concern that ASBOs are being successfully applied for when there is sufficient evidence for a substantive offence to be prosecuted through the courts. This strategy has been perceived as a short-cut to getting “known” criminals imprisoned without having to prove a substantive offence against them in court and thereby have to overcome the criminal burden of proof. Such an approach may be pragmatic but it could also cause, in the longer term, loss of respect and credibility in the criminal justice system. Of particular concern in this area is that the rigorous pursuance of ASBOs and breach proceedings could well result in an increase in the youth custody population which is contrary to government policy. This increase could happen despite the more graduated approach to sentencing which usually occurs within the youth justice system where offenders are required to engage with increasingly higher levels of supervision and support if their offending persists.

It is particularly important that agencies respond to reported acts of anti-social behaviour in relation to young people in a proportionate and effective manner. In practice this means that every area should have a range of prevention and early multiple intervention programmes to which young people can be referred. It is clear from the Government’s own research that these programmes are successful in the majority of cases. Where anti-social behaviour persists and an acceptable behaviour contract is being pursued, it is equally important that assessed intervention programmes are implemented to support restrictions that may be placed on the young person’s behaviour. Youth Offending Teams and their partners are ideally placed to provide this support and it is crucial therefore that they are party to all ABCs and resourced sufficiently to carry out this work.

At both the preventative and ABC stage it is additionally important in addressing anti-social behaviour to involve the parents/carers of any young person. Youth Offending Teams again are well placed to both engage and support parents/carers which can be non-contractual, through a parenting contract or where this fails through a parenting order.

Where the young person’s anti-social behaviour persists and an ASBO is successfully applied for it is again fundamental to its success that an Individual Support Order (ISO) is attached to the order by the court where deemed appropriate by the report providing agency (usually the local Youth Offending Team). It is important to note that an ISO can only last a maximum of six months and cannot enforce attendance of the young person on support programmes for more than two sessions per week. This may be insufficient to provide adequate measures of supervision and support. Given the inadequacy of the statutory arrangements, Youth Offending Teams should be resourced sufficiently to provide additional voluntary contact with the young person where necessary over the full length of the ASBO and at an intensity determined by the needs of the individual.

This paper recognises that anti-social behaviour is highly significant for both individuals and communities. It can cause damage, fear, intimidation and paralysis. In the case of many adults, the imposition of an ASBO may be fully justified in addressing and directly bearing upon their actions. Safeguards need to be maintained however to ensure that ASBOs for adults are not short-cuts to custody. Loss of perceived “due process” and “natural justice principles” will bring the criminal law into disrepute. It should be recognised that adults may need supervision to reinforce restrictions and address problems (alcohol abuse) that may predispose towards anti-social behaviour.

In the case of young people all the aforesaid equally applies but because of their general immaturity, impressionability and capacity for change, it is important that the symptoms of anti-social behaviour are addressed as early as possible in an effective fashion. This involves early identification of unacceptable social behaviour and referral mechanisms which result in assessed early multiple interventions. It is at this early stage of anti-social behaviour that it is most likely to be successfully and cost effectively addressed. Persistence resulting in an ABC or an ASBO must also be fully supported by intervention programmes. Failure to do so will, in many cases, result in the behaviour continuing and a criminal breach ensuing. Victimisation of individuals and/or communities will have continued in the meantime with the young person becoming more entrenched in their behaviour patterns.

There are difficulties in ascertaining a clear picture of the number of ABCs and ASBOs that are issued to young people. There are not any recording protocols in place to monitor numbers and effectiveness of ABCs and ASBOs. From April 2005 Youth Offending Services nationally will have a statutory responsibility to submit data regarding ASBOs and ABCs. For this to happen protocols will need to be developed locally.
between the YOTs and relevant partner agencies in order to establish numbers of ASBOs and ABCs that are issued, who has responsibility for monitoring, are they an effective intervention and the outcomes of any breach proceedings. There is not a current existing co-ordinated approach to this.

10 September 2004

12. Memorandum submitted by the Crime and Society Foundation

Introduction

1. This memorandum argues that:

(a) The current definition of anti-social behaviour does not provide a sound basis for effective policy.

(b) The Government’s anti-social behaviour strategy has in practice drawn many vulnerable people into the criminal justice system. In other words it has widened the net.

(c) The current anti-social behaviour strategy, which places so much of an emphasis on the imposition of the ASBO, should be rethought.

2. The Crime and Society Foundation agrees that there are behaviours that are of real concern to people in their localities. These behaviours, which can be unpleasant and threatening, need to be tackled and prevented. It is not evident to the Foundation that many of these behaviours are new, or that new laws are required to deal with them.

Problems of Definition

3. The common definition of anti-social behaviour (ASB) is contained in the 1998 Crime and Disorder Act. This defined ASB as “[a]cting 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 defendant].” In its 2003 White Paper, Respect and Responsibility, the government argued that ASB can mean “different things to different people”.

4. In practice, therefore, the definition of ASB is based on a subjective judgement about impact rather than an objective definition of any particular acts. The Foundation believes that this subjectivity of definition is a key weakness of current policy. This view is reinforced by a recent Home Office Report, Defining and measuring anti-social behaviour, which observes that “by describing the consequences of behaviour rather than defining the behaviour itself, the definition lacks specificity and measurability”.

5. An attempt to address this lack of specificity and measurability was made by the Anti-Social Behaviour Unit as part of its one day count of reported anti-social behaviour in September 2003. For this exercise a typology was developed, covering a range of behaviours, from potentially serious offences such as opening a crack house to the frankly trivial: letting down car tyres or dropping litter. The count measured 66,107 reports of anti-social behaviour in that one day, amounting to an estimated 16.5 million reports per year.

6. In the Foundation’s view this attempt to specify and measure anti-social behaviour identifies another weakness in current anti-social behaviour definition: the attempt to hold under one encompassing concept a wide range of different behaviours. As Louise Casey, the director of the Anti-Social Behaviour Unit put it in a recent interview with the ePolitix website, “[a]nti-social behaviour spans a vast list. . . It is a very big range of problems”.

7. If the objective is to impact on activities legitimately concerning the public, it is important to be able to disaggregate different types of behaviours and to specify and measure what is of concern in order to design and evaluate effective policy responses. It is the Foundation’s contention that current anti-social behaviour legislation and policy makes difficult such an approach.

8. Problems of definition lead to problems of solution. In the view of the Foundation the combination of a definition based on subjective criteria and an attempt to encompass a wide range of behaviours under one term leads to inappropriate, expensive and sometimes draconian policy responses.

Net Widening

9. Whilst many people may feel they have a common sense notion of what ASB is, at the level of front line practical social policy implementation such vagueness and subjectivity should be a cause for concern. This is particularly the case with Anti-Social Behaviour Orders (ASBOs). While ASBOs are sometimes issued to prevent people from doing things which are genuinely disturbing or distressing for others, they are also being used in absurd situations and are impacting upon people whose behaviours are a result of vulnerability rather than criminality.

10. The Foundation’s main concern is about the emerging evidence-base regarding the impact of ASBOs on the vulnerable.
11. Recent research by the consortium Emerging Role of Sheltered Housing (EROSH) points to an increase in the use of ASBOs to evict pensioners from sheltered housing. According to Meic Phillips, the chair of EROSH’s good practice group, the behaviours giving rise to these evictions are the result of diminishing health, such as the onset of dementia or other mental health problems associated with the aging process. This can then be exacerbated by communication breakdowns between agencies at the time the placement is made, leading to information about previously known behavioural problems not being passed on (personal communication 03.09.2004). What in the past would have been managed as health-care problems are in some cases now being redefined as problems of anti-social behaviour. The Foundation supports Meic Phillip’s call for research on the impact of ASBOs on the elderly in sheltered accommodation and would suggest that this be led by the Department of Health.

12. It is not only the elderly who are liable to being considered anti-social rather than needy. Research by Caroline Hunter and Judy Nixon into ASB and social housing indicates that two thirds of those described as being involved in ASB have some form of vulnerability. These include those who are victims of sexual and physical abuse (18%), those with mental disability (18%), those with drug and alcohol addictions (23%), those with a physical disability (9%) and households with children who were out of control (15%) and combinations thereof (2001a).

13. Hunter and Nixon also indicate that the holistic approach advocated by the Social Exclusion Unit Policy Action Team on anti-social behaviour was not found to be operational in the social housing sector. As a result tenants evicted from social housing often end up in local private sector housing with behavioural problems displaced rather than resolved. Social landlords reported to Hunter and Nixon that they were issuing eviction proceedings due to ASB as a way of forcing the co-operation of social service departments in relation to vulnerable residents.

14. Research by Mark Foord, Frances Young and Annie Huntington, reviewing how housing responses to ASB impacted on social work practice, also points to an absence of joint working between housing providers and social services. According to their research housing agencies are more readily resorting to eviction, boosting the numbers of families in temporary accommodation.

15. In the research cited above there are very few examples of the balanced holistic approach advocated by the Social Exclusion Unit and many examples of housing organisations simply by-passing the fast-track multi-agency process suggested by Siobhan Campbell’s review of anti-social behaviour orders for the Home Office. Instead they move swiftly to warning, order and eviction in quick succession. Pressure on resources, pressure from those impacted on by the alleged behaviour and the complexity of creating multi-agency processes lead resource-stretched organisations to implement the most direct measure with little consultation.

16. There are also indications that lone mothers are not being treated fairly under ASB legislation. Analysis by Judy Nixon and Caroline Hunter shows that in 66% of cases of evictions of women as tenants the cases focused on the behaviour of a violent or disruptive partner or a teenage child (usually male) and that these women were three times more likely to have been subject to sexual or physical abuse. In 66% of cases with women as tenants there had been no visit made before legal action was taken. It is very likely that women who are the victims of domestic violence will be evicted as a result of the behaviour of the abuser (2001b).

17. The Foundation is concerned that the use of anti-social behaviour legislation with regard to the vulnerable represents an extension of the criminal justice state into policy areas that have until recently been conceived of as matters for the Department of Health and local social services departments.

OTHER ISSUES

18. The above point is related to a further general concern that the ASB policy development process has had the effect of encouraging the view that there are criminal justice solutions to a wide range of social problems. The creation of 24,000 Community Support Officers whose remit will be to tackle anti-social behaviour as currently defined is one example of this.

19. Siobhan Campbell’s research for the Home Office also points out that 36% of ASBOs are breached in the first nine months and over 50% of breaches end in a custodial sentence. Given the costs to those drawn in, the costs to their families, the cost to the Treasury, and the poor record of the criminal justice system both in relation to young people and also in preventing re-offending, is such an extension of the criminal justice activity justified?

20. Finally, whilst it is not a core focus of our representation to this Inquiry, the Foundation would support calls for the reversal of policy on naming and shaming young people subject to ASBOs. In our view it is right that the Home Secretary opposes the naming of paedophiles and we agree with the recent court judgement questioning the desirability of the naming and shaming of a burglar through a local poster campaign (Ellis v the Chief Constable of Essex Police, 2003). The Foundation hopes that there would be agreement that protection should be offered to teenagers who may well have not even committed a criminal offence.
RECOMMENDATIONS

21. The Crime and Society Foundation recommends the following:

(a) that the concept of anti-social behaviour is getting in the way of serious and sensible policy-making in this area and should be dispensed with;

(b) that ASB strategies intended to deal with what can be nuisance or disruptive behaviour are too often targeting vulnerable people in need and should therefore be rethought.

15 September 2004

REFERENCES:
Home Office (2003b), Together: The one day count of anti-social behaviour.

13. Memorandum submitted by the Crime Concern Trust Ltd

1. Crime Concern is a national not-for-profit body, which works with national and local partners to create safe and prosperous communities. Through our consultancy, training and project support services, we are involved in extensive and diverse work around anti-social behaviour (ASB). This provides us with a unique understanding of both its and the efficacy of the various policy responses.

EXECUTIVE SUMMARY

2. Crime Concern’s experience is that:

— well resourced and targeted preventative action, especially early interventions, coupled with appropriate enforcement measures, are key to the success of ASB strategies;

— the multiplicity of causes and manifestations of ASB require tailored, local approaches;

— focusing on enforcement at the expense of prevention, may merely displace activity or prematurely draw perpetrators of incivilities (as opposed to serious crimes) into the criminal justice system;

— there is an inaccurate perception that ASB is exclusively a “young people” issue; orders and measures should not focus on young people disproportionately.

3. Whilst we largely support the Government’s current approach, we recommend that:

— care should be taken to ensure that preventative action is not marginalised;

— a planned and co-ordinated multi-agency approach is taken with ASBOs;

— interventions are better supported; we, therefore, welcome the Youth Justice Board’s (YJB) current development of guidance for Youth Offending Teams (YOTs) on this issue;

— a debate on incentivising pro-social behaviour is needed.

BACKGROUND

4. Our work around ASB is considerable. At a regional level, our consultancy teams support Community Safety Partnerships and other key partners, in training staff in the field of ASB, designing ASB strategies and conducting ASB reviews. Our 45 “local” projects based in highly disadvantaged neighbourhoods are deeply involved with both the victims and perpetrators of ASB. Nationally, Crime Concern are the sole delivery arm of the YJB’s Prevention Programme Support, providing a range of initiatives to reduce youth

21 The Trust, established in 1988, is a registered charity, and currently employs approximately 500 staff, and works with more than 600 volunteers.
crime and provide diversionary activities for young people. We work closely with the Home Office ASB Unit, hosting their annual Taking a Stand Awards. This year we will extend this involvement with ASBU by providing training and support for Taking a Stand winners. In addition we are working with the Neighbourhoods Wardens Unit (ODPM) providing training and support for Warden schemes, reflecting our commitment to community engagement and empowerment to combat ASB.

The Causes of ASB

5. The nature of ASB, as a subjective experience dependent on both individuals' and communities' perceptions and life experiences, means that a simple definition of ASB has proved elusive. Accordingly, practitioners have used an extensive list of behaviours to identify those that may be considered anti-social.

6. The list is extremely diverse, covering activities that are highly criminal such as drug dealing, prostitution and criminal damage, to low level incivilities such as rowdy behaviour, littering and noise nuisance. Unsurprisingly, the causes are as variable as the behaviours.

7. Crime Concern's work on the causes of ASB has identified six main categories of contributory cause:
   - Environmental: the situational factors which allow nuisance behaviours to establish and accumulate, and include: poor estate design with inadequate natural surveillance etc; street furniture that is not “vandal proofed”; readily accessible age-restricted products such as spray paints, fireworks and knives.
   - Housing: high levels of voids; rapid turnover of tenants; and poor quality housing management, such as inadequate tenancy enforcement and insufficient tenancy support.
   - Community: arising in areas which lack community capital and cohesion, these are the causes most likely to be considered by policy makers. They include: insufficient facilities for children and young people; inadequate community amenities; little collective community action; scarce constructive communication between generations; problems around substance misuse, such as under-age/street drinking, poor management of pubs and clubs, and drug-taking hotspots including “crack houses”.
   - Personal/family: these may precipitate or exacerbate nuisance behaviours, and include: families under pressure or with prevalent cross-generational antisocial attitudes; mental health issues; and substance dependency.
   - Educational/employment: these relate to the development of young people, but also to the role of schools/employment providers in building community capital and generating social cohesion. They include: high levels of bullying; an inability to manage difficult behaviours in schools; high levels of truancy, exclusion and absenteeism; low levels of literacy and numeracy; long term unemployment; and poor employment training.
   - Policing/enforcement: these pertain to the roles, and abilities, of various authorities to deal with ASB, and impact directly on the public perception of how ASB is dealt with. These perceptions include: a reluctance in some areas to use enforcement measures against persistent perpetrators; too slow a response by authorities (police/councils/RSLs) to anti-social incidents; absence of local enforcement agents on the ground; eg beat officers, wardens, Police Community Support Officers: and limited police involvement in community groups such as residents associations, local youth services etc.

8. The multiplicity and interconnectivity of the causes and behaviours discussed above, with a number of contributory factors working concurrently, mean perpetrators of ASB are unlikely to fall into neat categories. Accordingly, no one approach or “solution” will be effective in tackling all behaviour.

9. It is widely recognised that effective strategies to reduce nuisance behaviour need to address the underlying causes of behaviour as well as deal with the resulting behaviours themselves. Indeed, in this year’s Spending Review, the Government reiterated its commitment to “addressing the underlying causes of crime in communities”. Focusing solely on the behaviour will only provide short-term relief (merely displacing the behaviour either temporally and/or spatially) and, as such, represents an ineffective use of resources.

10. Contrary to public perception, ASB is not a problem exclusively linked to disaffected young people. The various elements of ASB legislation reflect this, and contain measures to make and enforce ASBOs, close premises associated with class A drugs, tackle ASB by tenants, strengthen parental responsibilities, and address noise and environmental issues.

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22 This list was compiled for Home Office ASB Unit’s one-day count of on 10 September 2003.
23 These are listed in the Anti-Social Behaviour Act 2003.
Building a Successful Strategy

11. Crime Concern’s experience shows that successful ASB strategies require four key components:
   — Prevention/education
   — Intervention
   — Enforcement
   — Resettlement

12. Only by incorporating each of these elements and by focusing on individuals, groups and/or communities simultaneously, will the underlying causes, manifestations, and impact, of ASB be effectively addressed.

Prevention

13. There are several key areas where prevention can be effective, including: changing the physical landscape to “design out crime”; increasing the numbers of capable guardians; conducting inter-generational work to improve inter-generational communication; developing projects for young people and their families; and undertaking work in schools.

14. Evidence from evaluations of several projects has shown the benefits of preventative and/or diversionary activity in reducing nuisance behaviour of young people.

15. Youth Works is a national initiative,25 to encourage young people to take an active and responsible attitude to their communities. The evaluation findings and model became a springboard for the development of the YJB’s Youth Inclusion Projects (YIPs). In one evaluated area, juvenile nuisance at the local shopping precinct fell by 60%. Overall, 71% of the representatives of partner agencies thought that Youth Works had “definitely” reduced criminal and ASB by young people, and a further 16% thought it had reduced it “a little.”

16. Crime Concern supports the importance Government places on community development, engaging communities to develop and improve communication between different sub groups. Such approaches generate community capital and sustain safer neighbourhoods.

Intervention

17. Intervention initiatives identify potential anti-social activity and move to address these early. They include: individually focused case-groups, including the use of Acceptable Behaviour Contracts (ABCs), Youth Inclusion and Support Panels (YISPs); group-focused YIPs and parenting programmes targeted at the parents of children at risk.

18. Crime Concern endorses the use of ABCs and Agreements (ABAs) as a first step to address ASB. Case studies illustrate the success of these in dealing with a variety of behaviours, especially those in which the perpetrator runs an additional risk if disclosure is made about the behaviour, eg with kerb crawling. Evidence from Lancashire Constabulary showed that of 15 ABCs made with kerb crawlers immediately on arrest, none had been breached. However ABCs made with the prostitutes were unsuccessful and ASBOs were subsequently applied for.

Enforcement

19. Crime Concern believes that enforcement is a necessary component of successful ASB strategies, but must be used in a balanced and proportionate way. Consistent with Government policy, we believe that enforcement should be used in conjunction with, rather than as a substitute for, complementary, preventative and early intervention measures. Our work suggests that some bodies/authorities may resort prematurely to ASBOs, and do this without sufficient investment into complementary preventive action.

20. There is also a growing concern that ASBOs are predominantly targeted at young people; research by Campbell (2002)27 reveals that 84% of recipients of the 466 ASBOs granted between 1998 and 2002 were male and of these 74% were 21 and under. Other research has highlighted the use of ASBOs (which only require a civil standard of proof)28 in place of criminal proceedings when there has been a lack of evidence to a criminal standard.

25 Youth Works was set up in 1994.
21. ASBOs should be used as part of a considered and planned process. Since the penalty for breaching an order is a criminal offence, ASBOs should be designed to divert perpetrators away from the Criminal Justice System. Our experience suggests that the rationale for, and consequences of, breaching ASBOs, is often poorly communicated to young people. Moreover, ill-thought orders may result in unnecessary breaches and, therefore, criminalisation, with the implications this has for individuals' life chances.

22. Recent media stories have highlighted several cases of ASBOs served on young people, where it appears there has been no YOT involvement. This suggests that, in some areas, enforcement is occurring without suitable support and intervention. For all interventions (ABAs, ABCs and ASBOs) to be effective, there needs to high quality referral and support for recipients. Ideally, every young recipient should be considered by a panel (such as those established under the YISP Programme), identifying the best intervention for that young person, and allocating a key worker to ensure that they attend, progress and support parents etc. Crime Concern notes that the Youth Justice Board is currently developing guidance for YOTs on this issue, and welcomes this move.

23. Evidence also indicates the successful application of alternative enforcement orders. Armitage (2002) examined interventions used by various agencies across the UK and found the most successful included: ASBOs; fixed penalty fines; introductory/starter tenancies; and rapid responses to litter, graffiti and vandalism. However, Crime Concern is concerned that such single stranded approaches may only displace or temporarily halt ASB. There has been little study into the long-term successes of such enforcement orders and this significant knowledge gap needs to be filled by further evaluative research.

Consistent with Government policy, we believe that community engagement is key to the success of crime prevention and reduction. With ASBOs, communities can play a vital enforcement role by providing evidence of ASB. An example of such community involvement is the Brighton NDC area, where the board includes a substantial number of community members who engage well with the projects lending credibility and building trust between the agencies and the community.

Resettlement

24. Crime Concern considers resettlement an essential element of ASB strategies. Resettlement reintegrates, rather than ostracises, individuals whose past behaviour has caused problems. A clearly defined resettlement process, possibly including: multi-agency conferencing; support from YOT or Connexions; and/or supported tenancy agreements ensures that the negative outcomes of enforcement action on individuals and families can be reduced and/or managed.

Incentivising Behaviour

25. Crime Concern believes that serious consideration should be given to incentivising pro-social behaviour. Historically, UK Governments have focused on disincentivising ASB. Yet policy initiatives in the US suggest that “carrots” may be more effective than “sticks” in changing behaviour. A recent Cabinet Office Strategy Unit paper noted that “…we tend to think of conditionality in relation to crime in a punitive, negative way, but conditionality can be applied in a positive way too.” The paper cites the experience of the US, where behaviour has been improved through incentivising initiatives, such as “graduation incentives”, (paying a young person to stay on in school), and notes that “Interestingly, the evidence is that this positive form of conditionality can often be rather more effective than the conventional negative forms.” The report draws a parallel with tenancy agreements, which “represent a relatively clear example of conditionality aimed primarily at reducing ASB.”

22 September 2004

14. Memorandum submitted by Crisis

1. Summary

1.1 Crisis is the national charity for single homeless people. We work year round to help some of the most vulnerable homeless people in our society. We develop innovative services that help homeless people rebuild their social and practical skills, join the world of work and reintegrate back into society.

1.2 The launch of the Anti-Social Behaviour Unit has seen a growing emphasis on coercion and enforcement as a means of tackling the problem of begging and Crisis is concerned by the negative impact that this is having upon vulnerable street homeless people.


1.3 This submission argues that the vast majority of people who beg are street homeless and that it is a problem that is best understood as a product of social exclusion rather than anti-social behavior.

1.4 The evidence in favour of enforcement and coercion as a means of tackling begging is at best patchy and in fact indicates that it is a costly and often ineffective means of tackling the problem, exacerbating the difficulties facing some of the most vulnerable people in our society.

1.5 Dealing with begging in the long term requires that we recognize that people who beg are part of a broader street homeless population and that we seek solutions that address the root causes of the problem, including issues, such as homelessness, drug addiction and mental ill health.

1.6 Recommendations:
   (i) Re-evaluate anti-social behaviour policy and practice with regards to people who beg.
   (ii) Increase the provision of alternatives to street life.
   (iii) Improve access to accommodation.
   (iv) Improve access to specialist services.

2. TACKLING BEGGING, CURRENT PRACTICE

“Anti-social behaviour means different things to different people—noisy neighbours who ruin the lives of those around them, ‘crack houses’ run by drug dealers, drunken yobs taking over town centers, people begging at cash points . . .”

2.1 Under the Anti-social Behaviour agenda local authorities have been encouraged to adopt a carrot and stick approach to begging. This involves offering street homeless people help dealing with problems such as drug addiction and mental ill health and using enforcement where this does not work. Enforcement measures include recording begging offences, and using anti-social behaviour orders against persistent beggars.

2.2 However, the evidence shows, that many vulnerable homeless people continue to struggle to access essential services and the overall result of the new approach has been an increase in the use of enforcement as a means of tackling begging.

2.3 In Westminster for example (a trailblazer authority) the local authority worked with the Metropolitan Police to identify “aggressive beggars”, who were arrested, finger printed and had DNA samples taken before being released on bail. In addition to these “street audits” authorities throughout the country, including Camden, Manchester, Leeds Nottingham, Oxford, Derby and Middlesbrough, have resorted to Anti-Social Behaviour Orders (ASBOs), public order offences and civil injunctions as a means of dealing with begging.

3. BEGGING AND HOMELESSNESS MAKING THE CONNECTION

3.1 Begging and street homelessness constitute two overlapping parts of a broader homelessness problem, “research from across England—including Manchester, Brighton, Leeds, Blackpool, Bristol, Chester, Leicester, Westminster, Woolwich and Luton has consistently found that the vast majority people begging are homeless.”

3.2 For example, a Crisis survey found that 58% of people who begged had slept rough the night before and a report by Fitzpatrick and Kennedy on behalf of the Joseph Rowntree Foundation came to similar conclusions. The research identified a high degree of overlap between begging, rough sleeping and Big Issue vending and found that people’s experiences of rough sleeping invariably preceded their involvement in begging. Almost all those interviewed had experienced severe trauma in their lives.

32 The Anti-Social Behaviour Plan established five trailblazer authorities. Three of these Brighton, Bristol and Leeds were set targets of reducing begging by 60% by March 2005. In December 2003 begging was made a recordable offence.
4. BEGGARS, ANTI-SOCIAL OR SOCIALLY EXCLUDED?

4.1 Although the act of begging may be deemed anti-social, it is a problem that is best understood and dealt with as a manifestation of social exclusion.

4.2 The Social Exclusion Unit defines social exclusion as short hand “for what can happen when people or areas suffer from a combination of linked problems such as unemployment, poor skills, low incomes, poor housing, high crime, bad health and family breakdown”. Based upon this criteria, the evidence suggests that people who beg are amongst the most vulnerable people in our society.

4.3 The vast majority of people who beg are homeless, with a background of rough sleeping, all are vulnerable. People who spend time on the street suffer from high levels of unemployment, poor skills, low incomes, poor housing, high crime, bad health and family breakdown.

4.4 The evidence of their vulnerability is stark and incontestable.

- Unemployment: 90% of street homeless people are unemployed.
- Poor skills: only 38% of people the street homeless have any educational qualifications compared to 66% of the general population.
- Low income: Poverty is strongly associated with homelessness a Crisis survey found that 26% of street homeless people interviewed gave arrears or money problems as a reason why they first slept rough.
- High Crime: Nearly four in five rough sleepers have been victims of crime, compared to one in five of young men, the group most at risk of crime in the general population. Overall rough sleepers are 15 times more likely to experience assault than the general population. Official figures only reflect a small proportion of those affected with 79% of incidents against rough sleepers going unreported.
- Poor housing: A survey funded by the Rough Sleepers Unit of 260 people who beg found that only 6 had their own home.
- Bad health: Research has shown that as many as 60% of street homeless people have mental health problems and a recent report by Homeless Link found that 59% of rough sleepers have multiple health needs (drink, drug and mental health problems).
- Relationship breakdown: 33% of homeless people gave disputes with parents and step parents as one of their reasons for first sleeping rough and 21% said it was the main reason.

4.5 Whilst there is no doubt that some members of the public feel threatened when confronted by beggars, particularly if they are aggressive, surveys reveal a more complex picture than the popular stereotype.

4.6 For example, the majority of begging is passive rather than aggressive and data from the British Social Attitude Survey found a general lack of appetite from the British public for punitive measures on begging. Only one quarter of those surveyed were in favour of arresting people for begging and the majority of those surveyed thought that beggars genuinely need help. When asked about how to deal with this situation, more supportive policies, such as support to access housing, education, training and employment, garnered the most enthusiasm.

41 Ballintyne, S (1999) Unsafe Streets—Street Homelessness and Crime IPPR.
5. THE INADEQUACY OF SERVICE PROVISION

"Services often fail those who need them most. Those with multiple disadvantages are less likely to benefit from many current programmes." 49

5.1 Despite efforts by government and the voluntary sector there remain significant gaps in service provision for vulnerable homeless people and in practice begging and street homelessness can reflect an absence of support and/or difficulties accessing appropriate services.

5.2 There are still problems with hostel spaces in particular areas and for particular groups, including drug users, those with behavioural problems, people with pets and couples 50 and many vulnerable homeless people continue to struggle to gain access to even the most basic primary care.

5.3 Crisis research found that vulnerable homeless people were nearly 40 times more likely than members of the general public not to have access to a GP. Despite improvements in the provision of drug treatment in specific areas, there are difficulties reported on the length of waiting times, a serious problem given that rapid access to treatment is essential for street homeless people who want to tackle their addiction.

AVERAGE LENGTH OF TIME TAKEN BY ORGANISATIONS ACCESSING SPECIALIST SERVICES FOR THEIR CLIENTS (IN WEEKS) 51

<table>
<thead>
<tr>
<th>Service undertaken externally</th>
<th>Number of weeks</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alcohol assessment</td>
<td>3.5</td>
</tr>
<tr>
<td>Drug assessment</td>
<td>4.5</td>
</tr>
<tr>
<td>Drug detoxification</td>
<td>10.5</td>
</tr>
<tr>
<td>Alcohol detoxification</td>
<td>9.5</td>
</tr>
<tr>
<td>Alcohol rehabilitation</td>
<td>11.0</td>
</tr>
<tr>
<td>Drug rehabilitation</td>
<td>12.0</td>
</tr>
</tbody>
</table>

(Note: the statistics above are based upon a questionnaire sent to 974 organisations working with homeless people.)

5.4 Accessing Housing Benefit continues to present problems. A recent report by the Audit Commission outlined many problems with the current system. In 2000–01, new claims took on average 51 days to be processed in England. 52

6. WHY ENFORCEMENT DOES NOT WORK

"There is some evidence that the risks of social exclusion can be increased when people fail to meet their responsibilities and incur penalties, by creating hardship, debt and rent arrears. Sanctions are also often incurred unintentionally and vulnerable people may be more likely to incur them." 53

6.1 The nature of homelessness and in particular street homelessness means that those affected lack private space. As a consequence much of their lives are spent in the public sphere where they are likely to come into contact with law enforcement authorities.

6.2 According to Crisis research for example, 87% of street homeless people had contact with the police during their last period of rough sleeping. However, homeless peoples involvement in crime is for the most part low level and lifestyle related and many are hidden victims of crime with a frequency, which would not be tolerated amongst the wider population. Adding anti-social behaviour to the list of crime that vulnerable homeless people can commit has further increased their likelihood of contact with enforcement agencies.

6.3 Yet there is little evidence to show that use of enforcement measures such as banning beggars from public spaces or fining them are effective means of tackling the underlying causes of begging and homelessness. Bans from public spaces often simply displace the problem of begging, moving it from one area of the city to another and homeless people are ill placed to pay fines. In both instances there is a danger that the problems facing vulnerable homeless people are exacerbated.

6.4 Not only are such methods often ineffective, but they are extremely expensive 54 with the average cost of securing an anti-social behaviour order reported to be as high as £5,000. 55

50 Randall & Brown, Helping Rough Sleepers off the streets, A report to the Homelessness Directorate June 2002.
55 New Start 3 April 2002 http://www.newstartmag.co.uk/news327.html
6.5 Police officers have expressed a desire to get beyond enforcement, which is essential in some circumstances but largely inappropriate for dealing with the range of low level nuisance offending undertaken by most street homeless people.56

7. **The Alternative**

7.1 Crisis believes that as well as access to appropriate accommodation and alternative activities to street life, street homeless people require help to overcome drug and alcohol misuse, social isolation, mental and physical health problems, boredom and deep-seated low self-esteem.

7.2 Street homeless people and police officers have an interest in tackling victimisation, reducing reoffending and improving contact between themselves. For homeless people it is key to a safer less dangerous life. For police officers it reduces demand upon time and resources used formally processing homeless people for little benefit and it increases homeless people’s access to a range of supportive services which means that officers are able to deliver the kind of police service they prefer to deliver.57

7.3 When asked what could be done to reduce offending the solutions proposed by homeless people placed greater emphasis on reducing the perceived need to offend rather than greater policing. One in three people who sleep rough are of the view that regular access to food and support services reduces offending. Just under one in three believe that having safe public areas where rough sleepers could gather at night or during the day would itself reduce offending. Two in three rough sleepers believe the key to improving contact with police lies in changes to the way police work. One in five think police officers should receive specialised training in working with people who sleep rough and one in seven believe police should set up a police homelessness unit to guide work with homeless people.58

8. **Recommendations**

8.1 A review of current policy and practice: Undertake a review of the current policy and practice to ensure that homeless people are adequately protected against anti-social behaviour and crime.

8.2 The provision of alternatives to street life: this should include safe havens in public spaces, ensuring the availability of wet facilities for street drinkers, the development of easily accessible activities and employment opportunities that engage homeless people.

*Example of good practice 1: Crisis Skylight*

Crisis Skylight is a centre where homeless people take part in free practical and creative workshops ranging from bicycle repair to performing arts. They have opportunities to build on existing skills or develop new ones, discover and grow talents and abilities, learn from one another and meet new people. Activities are open to all and encourage homeless people to integrate with the general public.

8.3 Improving access to accommodation: ensuring the availability of accessible, appropriate and if necessary supported accommodation.

*Example of good practice 2: Prime Focus*

Based in Birmingham Prime Focus is a complex needs unit established to provide specific provision for men, over 25 years old, who present with multiple or complex needs and are excluded from accommodation. These men are former or current rough sleepers. The allocations and referral panel consists of several partner agencies including Contact and Assessment Team, Probation Service, social services, the Community Mental Health Team, the Primary Healthcare Team and Focus management. The project provides 15 self-contained one-bedroom flats with communal facilities including a lounge access to computers and a laundry. There is 24-hour staff cover on site and active housing management.

8.4 Specialist services: The provision of appropriate care and social services, particularly detoxification facilities, at times when officers and rough sleepers need access eg at night.

13 September 2004

58 Ibid p 67.
15. Memorandum submitted by the Crown Prosecution Service

1. **Summary**

1.1 This paper outlines the work of the CPS Anti-social Behaviour Project, which was set up in April 2004 and is funded by the Home Office. A key element of the Project is the appointment of Anti-social Behaviour Expert Prosecutors in 12 hotspot Areas around the country. Annex A [not printed] shows the names of the ASB experts and the geographical areas that they cover.

1.2 The aim of the Project is to help make communities safer—through creating a Service-wide framework, within which CPS improves its performance in reducing anti-social behaviour and is able to demonstrate it in a way that can inspire greater confidence from the public. The Attorney General formally launched the project on 22 April 2004 when the 12 Experts were announced.

2. **Background**

2.1 Following the publication of the Government’s White Paper, the CPS initiated discussions with the Home Office which culminating in an agreement to create a cadre of 12 ASB expert prosecutors to lead its response to tackling anti-social behaviour. The Home Office Anti-Social Behaviour Unit (ASBU) pledged to fund these posts for two years. A 13th ASB expert, funded by the CPS, was announced in early August 2004, and has now taken up his post. In addition, all other CPS Areas have nominated ASB co-ordinators, who carry out similar functions as the 13 ASB experts but are not dedicated to the work on a full time basis but carry responsibility for prosecuting other offences.

2.2 The project has a strong operational focus, enabling the CPS to provide the tools required by practitioners to tackle anti-social behaviour effectively, and has wide inter-agency representation (including members of the Home Office, the Attorney General’s Chambers, and Department of Constitutional Affairs) to ensure that the legislation on ASBO is utilised effectively in tackling ASB. The project has also been identified as a key strategic project by the CPS Board. In addition, the Government confirmed in the National Policing Plan 2004–07 that tackling anti-social behaviour and public disorder was a key priority for the Government.

2.3 The ASB expert prosecutors are engaging proactively with local communities to combat low-level crimes, and a key part of the general service that the CPS provides is now specifically focused on delivery to victims of anti-social behaviour.

2.4 The ASB expert prosecutors are making applications for orders on conviction to ensure that anti-social behaviour is reduced, and are adding a wider range of evidence in support of their applications—prosecuting is not solely about obtaining just convictions for past misconduct as their role now goes beyond that by looking at how communities can be protected from misconduct in the future.

2.5 The experts are at the forefront of local community engagement, attending and addressing meetings with members of the public who have been suffering from anti-social behaviour and listening and responding to the points that are being made. Meetings also prove to be a valuable opportunity for prosecutors to explain to the public how the CPS works and for the public to be reassured that the Crown Prosecution Service’s new powers under the Anti-Social Behaviour Act are being used effectively for the benefit of the communities.

2.6 Traditionally, the role of the CPS prosecutor has been to prosecute cases fairly and effectively, applying the Code for Crown Prosecutors to bring more offenders to justice. With the reform of the criminal justice system in recent years, the role of the prosecutor is developing. It now includes reducing offending and engaging proactively with local communities in combating low-level crimes.

2.7 The CPS is enhancing and developing this role, which will enable prosecutors to play a more active role in the sentencing process than hitherto. We propose that prosecutors will remind the courts of their sentencing powers including powers to make ancillary orders such as ASBOs and guideline cases, and ensure that the victim’s views are placed before the court at the sentencing stage (including any impact of the crime on the community as a whole). This in turn, should lead to an increase in public confidence and the criminal justice system as a whole. It will also bring more offenders to justice.

2.8 The particular aims and objectives of the project have been agreed by the project partners and endorsed by the Government, namely:

- To give full effect to the new provisions in the Anti-Social Behaviour Act 2003, to provide guidance on its new provisions and on decisions to apply for orders on conviction, and to identify the evidence required to pursue an order and the types of conditions to be sought.
- To establish the Anti-social Behaviour Expert Prosecutors to guide and assist all relevant prosecution team (CPS and Police) practitioners to use post-conviction orders so that anti-social behaviour is reduced.
- To consult staff within the CPS and partners in the criminal justice system to develop a national training package to train CPS Prosecutors on the changes in the law and best practice as to how it should be implemented.
— To assist areas in the preparation of local protocols with the police and local authorities in relation to adding further evidence in support of applications for orders on conviction, and to develop local protocols to determine when it will be appropriate for each agency to apply for an order and which agency should prosecute breaches.

— To improve CPS performance in tackling anti-social behaviour and inter-agency working at a local level, and foster local multi-agency partnerships that successfully tackle anti-social behaviour within a developing community engagement strategy.

3. **PROJECT MILESTONES**

3.1 The following project milestones have been achieved to date:

   — March 2004: Central Anti-social Behaviour team in post;
   — April 2004: 12 Anti-social Behaviour Experts in post;
   — April 2004: Project Working Groups established;
   — April 2004: First tranche of Guidance issued;
   — June 2004: Performance Management Measures formulated;
   — June 2004: Action plans for 12 ASB expert prosecutors agreed
   — Aug 2004: 13 Anti-social Behaviour Expert appointed;
   — Aug 2004: Second tranche of Guidance issued;
   — Aug 2004: Model protocol finalised;
   — Sept 2004: National training package developed.

3.2 Work is currently being undertaken to develop milestones for the second year of the project in conjunction with our trilateral partners in the Home Office and Department of Constitutional Affairs.

4. **ANTI-SOCIAL BEHAVIOUR EXPERTS**

4.1 The 13 ASB expert prosecutors have been tasked with the following:

   *(i) Prosecution of ASB cases*

   — Prosecuting cases involving ASB at the Magistrates court on a regular basis and seeking ASB orders on conviction where appropriate, testing the boundaries of the provisions, and ensuring that they are used in a proportionate manner.

   — Advising on the drafting, evidential package and delivery of individual post-conviction ASBO applications, and presenting high-profile or complex applications personally before the relevant Courts.

   *(ii) Development of Local Protocols*

   — Liaising with local agencies to develop a protocol for ASB by encompassing guidance on what criteria should be used to assess whether an application is made, what liaison is necessary with other agencies and local communities, how such an application should be made before a Court and which agency should prosecute breaches.

   *(iii) Training*

   — To work with the central project team to develop guidance and training, and play an active role in delivering this at a local level, and to cascade the training package to other CPS Areas.

   — To provide advice to prosecutors within their locality, and share best practice nationally, via the central project team.

   — To identify and nominate a lawyer in each Criminal Justice Unit/Trial Unit to become the Unit’s Anti-social Behaviour Co-ordinator, with responsibility for being the lead lawyer for anti-social behaviour cases.

   — To develop and deliver a training programme to those nominated lawyers to familiarise them with ASB protocol.
(iv) Liaison with other CPS areas and other agencies

— To liaise with CPS ASB specialists in other CPS areas to encourage information sharing and an exchange of ideas to develop good practice nationwide.

— To facilitate inter-agency communication in local forums and conduct inter-agency liaison at area level.

— To compile and maintain a directory of individuals with responsibility for ASBOs in each CPS Unit, Local Authority and Police (Borough) Division.

— To establish links with Crime Reduction Partnerships and identify and target local persistent low-level crime.

— To engage with local communities so as to obtain an understanding of ASB issues of local concern and to target prosecution of such offences, including applying for ASBO on convictions.

4.2 All prosecutors will be able to learn from the ASB Experts so that, in time, they will be able to approach anti-social behaviour orders on conviction with confidence; know when they are appropriate; know the best way to secure them; and know how to obtain effective orders and prosecute breaches.

4.3 The ASB Expert prosecutors have been active in establishing inter-agency relationships with their local CJS to enforce the new legislation to its maximum effect. Prime examples of such multi-agency work include:

— Kent, West Midlands: Holding joint training courses for CPS prosecutors, Police, British Transport Police and court legal advisors.


— Lancashire, Merseyside, Greater Manchester: Training all new police recruits on ASBOs.

— South Yorkshire, West Mercia, Merseyside: Drafting and agreeing inter-agency protocols in conjunction with local Police and Courts.

— South Wales, Kent, South Yorkshire: Attending local partnership meetings and giving presentations to CDRP, Local Authority and Community Safety partnership agencies.

— South Yorkshire, Avon & Somerset, Northumbria: Giving presentations to Crown Court User Groups, local Judiciary, YOTs, local Law Society.

— Lancashire, London: Liaising on specific police operations to tackle town centre violence, prostitution and anti-social behaviour caused by excessive consumption of alcohol.

— Greater Manchester, West Midlands: Piloting ASB Response Courts with local Magistrates Courts (see 7. below).

— South Wales: Developing national information campaign and school packages for primary/secondary schools with Welsh Assembly.

— Avon & Somerset, Northumbria, Lancashire: Attending meetings of local Community Projects, Housing Consortiums, CDRPs.

— Lancashire, Northumbria, London: Addressing local residents meetings, local business’ meetings and primary/secondary schools to explain role of the ASB expert in the community.

5. Future Work

5.1 Two working groups have been set up to consider guidance on applications for orders on conviction and prosecution of breaches of orders, to develop a national training package and to develop local protocols with the police and local authorities. The Working Groups are chaired by Chief Crown Prosecutors and members include ASB expert prosecutors, Unit Heads, representatives from Police Solicitors, British Transport Police, Local Authority Solicitors and the Department of Constitutional Affairs.

5.2 The Training and Guidance Working Group has been designing a national training course aimed at equipping prosecutors with sufficient knowledge to effectively conduct applications for ASBOs on conviction and prosecute breach proceedings. Desktop guidance has been sent to all prosecutors, informing them of existing and anticipated law and amending and updating existing legal guidance. This will enable them to apply a fair and consistent approach to the review of applications for ASBOs on conviction, to identify the evidence required to support an application, the type of prohibitions to be sought, and how to effectively prosecute subsequent breaches.

5.3 The Protocol Working Group has drawn up a national protocol, which can be adapted to local circumstances, which will explain how the CPS, Police and Local Authorities can best combine their skills and resources when applying for ASBOs and prosecuting breaches and to help local areas to draft their own protocols. Joined-up working is not new to prosecutors, and in youth services in particular, prosecutors have worked with other agencies for years. There will need to be strong local partnerships to bring the protocols to life.
6. Guidance

6.1 Comprehensive guidance to all CPS prosecutors and caseworkers was distributed on 12 April and is available online. It provides guidance on the amendments that have been made to Section 1C of the Crime and Disorder Act 1998 by the Anti-social Behaviour Act 2003, which provides CPS prosecutors with the power to apply for Orders on Conviction.

6.2 A condensed desktop guidance package to all prosecutors and caseworkers was distributed on 3 August. This provides bullet point guidance on how to apply for a post-conviction ASBO, flow charts to illustrate the correct procedure, and annexes giving examples of conditions and forms to be used.

7. ASB Response Courts

7.1 Following information that the Lord Chancellor was keen to pilot ASB “sessions” in Magistrates’ Courts, a meeting was held with the Department of Constitutional Affairs and the Home Office to establish the practicalities of arranging such sessions and to obtain agreement from the various agencies who would be involved. As a result of this, all parties agreed that, rather than holding separate ASB court “sessions” (which were impracticable for listing purposes), ASB “Response Courts” would initially be set up in 3 pilot areas (Manchester, Birmingham and Sheffield). These have proved to be successful and are to be extended.

7.2 The idea of ASB Response courts (ASBRC) is that the ASB expert prosecutors assist the courts by ensuring that suitable cases are highlighted, and that the court is made aware of the nature of the anti-social behaviour and the impact that this type of behaviour has on the community. It is a matter for the courts in consultation with other local practitioners to decide how best to meet local needs. The core principles of ASB Response Courts are:

— The Approach: When a case is identified as an ASB case (as determined by local arrangements), the court will indicate that it is now sitting as an ASBRC thus signalling that it will take a serious view of the matter before it. The court should take every effort to avoid delay and should be quick to respond to the circumstances of the case. The court should refrain from adjourning or splitting the hearing of an ASBO application, or making an ASBO in the absence of defendants.

— Specialist Sessions: Where local practitioners identify the need for a specialist sitting, for example, when there is a cluster of ASB cases, the police target a particular location or type of anti-social behaviour, or where there is a lengthy hearing on an ASB case (eg the defendant challenges the making of an ASBO), the court is expected to consider convening a specialist ASB session.

8. Conclusion

8.1 The CPS has made progress since the project was set up in April 2004 to a point where the new legislation is being used most effectively. It has embarked upon new and innovative ways of working with local communities and agencies to bring about a culture shift in the way in which anti-social behaviour is being tackled.

8.2 The ASB expert prosecutors have already carried out much valuable joint agency work and have written the protocols and training courses, using their front line expertise in consultation with other CJS practitioners from the police and local authority.

8.3 The CPS will aim to give full effect to the new provisions of the Anti-social Behaviour Act 2003 and foster local multi-agency partnerships that successfully tackle anti-social behaviour within a developing community engagement strategy, thereby contributing to a reduction in crime and fear of crime, and increasing public confidence in the criminal justice system.

19 September 2004

16. Memorandum submitted by C’mon Everybody

1. C’mon Everybody is a small organisation that has evolved out of funding initiatives by the DfES and then, later, by the Home Office during the late 80’s and early 90’s. At the moment, the mainstay of our work is the delivery of parenting programmes. Most of these courses endeavour to replicate the format established by Professor Carolyn Webster-Stratton at the University of Washington, Seattle, USA. Further details of her work can be obtained from the website: www.incredibleyears.com.

2. These programmes, I feel, have no real competitors in terms of the quality and evidence-based outcomes that have been gathered over the past 20 years. These programmes are:

— broader based,
— greater than 20 hours in length,
— focused on parents’ strengths,
— group based,
— using multiple learning methodologies,
— sensitive to barriers for low socio-economic families.

3. What makes these programmes quite unique is that they can work in unison with a children’s programme (Dinosaur School). The major elements of this course are:

— developmentally based,
— providing lots of practice activities in a variety of settings,
— utilising role plays and videotape modelling,
— utilising fantasy and games,
— collaborative—using group problem solving,
— offered in small groups,
— utilising incentives and consequences,
— utilising homework,
— involve teachers and parents in reinforcing newly acquired skills.

4. When commissioned to deliver the pilot parenting orders some years ago, it was necessary to create a course that incorporated a number of educational strands. We had no template to work from. Consequentially, our programme included many other strategies, as well as Webster-Stratton. We took the professional view that many of these parents would exhibit an array of needs. By attempting to build up their own self-worth and human relationship skills, it was envisaged that this could promote their ability to manage, and positively change, their children. As a result, we worked on a range of issues, from giving and receiving feedback, to, positive self-talk. We adopted a variety of techniques in order to maximise learning.

5. The programme we ran was, by necessity, roll-on and roll-off. The referrals came in fits and starts which, in turn, mitigated against a more qualitative developmental course. Naturally, we would have preferred a solid cohort so that we could have nurtured the group much more cleanly.

6. Most of the parents were referred for 10 weeks. In the end, many stayed for much longer. For probably the first time many of these parents were having their own needs addressed. We got a strong sense that we were having a positive input on their lives. Obviously, if they breached their order, there was the chance of further punitive measures. I believe that this was a very powerful aid in getting the parents to attend in the first place. However, as I have indicated, they must have gained some value by attending otherwise I am sure they would have packed up at the earliest opportunity.

7. Nearly all the referrals were because of school non-attendance. All were either Y10 or Y11 students. On closer scrutiny of their cases, it was clear that all of them had been in the system for many years. Effecting long term positive change over such a short period of time would be extremely difficult within a stand alone support mechanism. We did have some positive impact; otherwise they would not have so readily come back for more.

8. Ideally, other supports needed to be in place and customised to individual family needs. In particular, it would have been nice to have been able to work with the children in parallel to working with the parents. (C’mon Everybody may have a commission to work with groups of ASBO parents as well as groups of their children from January 2005).

9. We got a strong sense that Parenting Orders have the potential to make a very positive input on many of these challenging families. You should not have to wait until Y10 or Y11 in order to intervene. They will have a greater potential if delivered as a preventative model than a last resort.

10. Our perceived success was a result of a number of factors. First and foremost, we have a very experienced and skilful staff. Their finely honed personal skills are critical in developing the necessary rapport with the clients. Similarly, the curriculum offered was stimulating and challenging, as well as differentiated to cater for the range of referrals. If you can offer this, together with other appropriate supports, then I firmly believe that Parenting Orders can be a very useful tool indeed.

11. Finally, I must emphasise that most of what I have presented here are my views and perceptions. Interestingly, since the pilot some five years ago, Sheffield has offered very few Parenting Orders.

11 September 2004

17. Memorandum submitted by Professor R F Hobbs

This submission refers to evidence that has been gleaned from an Economic and Social Research Council funded project looking at violence and control in the night-time economy. The research was carried out at the University of Durham under the direction of Professor R F Hobbs. It also refers to data from a number of learned papers listed below, and to work on a Home Office funded project, as well as research with a number of individual police forces and local authorities in relation to alcohol related problems.
The findings relevant to the Home Affairs Committee’s inquiry are as follows.

1. During the late 1980s, in response to de-industrialisation and the loss of traditional sources of employment, local government administrations in Britain began to acknowledge the potentially important role that leisure activities could play in urban regeneration.

2. As a result, the night-time economy is now a major feature of economic life in Britain. In England and Wales alone the licensed trade employs around one million people, and creates one in five of all new jobs. Each year, brewers, leisure companies and entrepreneurs invest around £1 billion within the sector, which is currently growing at a rate of 10% per annum. The pub and club industry presently turns over £23 billion, equal to 3% of the UK Gross Domestic Product.

3. This new night-time economy as based upon the consumption of alcohol, and is aimed almost exclusively at young people.

4. This economic boom has been accompanied by a rise in violence and disorder. In every research site across the country analysed by the Durham researchers it was found that violence and disorder was exacerbated in direct proportion to the number of drinkers coming in to the town or city. Further we were able to trace the spread of violence and disorder that accompanied the development of new drinking circuits adjacent to established drinking routes.

5. Our findings were overwhelmingly confirmed by research projects carried out by individual police forces, by studies of Accident and Emergency departments, and by an evaluation of a Home Office-funded targeted policing initiative to reduce alcohol-related violence and disorder. There was a statistically direct correlation between city centre licensed premise capacity and street assault. Further, when there was an increase in the capacity of licensed premises in a particular area or street, this was connected to an upsurge in the number of assaults in that area.

6. Police, ambulance and Accident and Emergency staff are frequently overwhelmed by the workload created by the night-time economy, which in most major urban settings, particularly those featuring large student populations, has a nightlife that has extended beyond the traditional Friday and Saturday night, and in some cases is moving towards a seven night weekend.

7. Night-time economies attracting over 100,000 customers were regularly policed by 15–20 Police Officers. Further the nature of drink related disorder, which is often unpredictable, irrational and extremely violent, means that a small number of simultaneous incidents will reduce the police presence further, as officers suppress the disorder, deal with victims, identify and apprehend offenders, and restrain, escort, and process prisoners. As a consequence officers are unable to enforce the law as they would during the hours of daylight. Arresting offenders removes police officers from the street, and officers are therefore reluctant to make an arrest unless, in their opinion, it is unavoidable, as this will reduce the overall effectiveness of the police, and in particular render a beleaguered night-shift unable to react to more serious incidents.

8. Unconscious or helpless drunks, lost and distressed underage teenagers, and generally vulnerable individuals drawn to bright lights of the city-centre are the targets of predators. This places an additional burden of duty of care upon police working the night-shift.

9. Although many night-time economies have a minority of venues that are badly run and create problems for the police, most problems of violence and disorder are generated in public space as customers move from venue to venue, or at hot spots such as taxi ranks, bus stations, or fast food outlets.

10. Forthcoming changes in the licensing laws are not grounded in any research or evidence to show that violence and disorder will be dissipated by giving more powers over licensing to local authorities, or by allowing 24 hour opening hours.

11. Forthcoming changes in the licensing laws will assist in the expansion of these night-time economies and lead to more people on the streets throughout the night. This will make it impossible for the Police, Ambulance service and Accident and Emergency departments to plan their resources, or to create time for meal breaks, administration, or follow up work with prisoners/victims/patients. Peaks and troughs could occur at any time.

12. During the last two years senior city-centre managers and municipal Chief Executives have acknowledged that the alcohol based youth market has become out of control, and they have expressed a desire to achieving “diversity” in the night-time economy. In particular they wish to attract a more mature clientele into the city. A number have expressed a desire to “attract families back”. However, current and proposed legislation ensures that the free-market dominates, and youth orientated pubs and bars are more profit friendly than, for instance a real ale bar for middle aged beer aficionados, or a wine-bar.

13. Both the current and proposed licensing laws are heavily weighed in favour of the alcohol industry. Police or local authorities are often wary of opposing new licenses, as failure in, for instance a Crown Court appeal, with costs being awarded can be a severe blow to the public purse. Consequently it is hardly surprising to find the alcohol industry willing to commit formidable and expensive resources to any legal dispute relating to a licensing.
14. Given the increasing scale and capacity of night-time economies around the country, the enforcement of ASBO’s and fixed penalty notices will not have a significant impact upon city centre violence and disorder. Further, given the realities of policing the night-time economy, and in particular the inebriated character of the night-time population the enforcement of fixed penalty notices will be impractical.

RECOMMENDATIONS

15. The night-time economy is statistically the most prominent site of violence and disorder in contemporary Britain, and consequently offers an opportunity to deal with the problem at its root.

16. The night time economy is a largely unregulated youth orientated zone that floats on alcohol. It is an economy that due to the target age range within most of its consumers fall, and the commodity upon which it relies, is highly risky. However, despite being a high risk environment, it remains an unplanned economy, driven by market forces. To reduce exacerbating problems of violence and disorder, any city and town with a night-time economy should be required by law to create a plan that ensures adequate, Police, transport, toilet, hospital, and ambulance facilities. Public safety should be given the highest priority, and if these conditions cannot be met, then the economy should not be allowed to expand.

17. We should consider the examples of other countries that prohibit the granting of licenses for alcohol outlets that are in close proximity to other alcohol outlets. This would restrict and contain the growth of drinking circuits, and therefore improve safety in public space.

13 September 2004

18. Memorandum submitted by Homeless Link

Homeless Link is the national body representing the homelessness sector in England and Wales to Government. Its 500 members include advice agencies; housing associations; hostels; day centres; mental health and drug services; local authorities; mediation services—the full range of voluntary sector organisations involved in supporting homeless people.

Anti-social Behaviour strategies impact on the lives of homeless people in a number of ways.

1. Begging

Not all or even most homeless people beg and not all beggars are homeless people. However homeless people who beg are likely to come into contact with the implementation of ASB strategies. These will include ASBOs issued against persistent beggars and other initiatives, such as those adopted by Anti Begging Trailblazer authorities.

Studies reveal that the vast majority of people engaged in begging have a class A drug dependency (O Baker, Druglink Sept/Oct 2002). There has been an increase in the use of ASBOs for people who beg and those using street based drugs markets. It is absolutely understandable that residents and local authorities wish to reduce the potential annoyance of street begging. However, we submit that punitive interventions, if used without a determined and comprehensive complementary programme of support, have the effect of displacing begging and related activity to other areas. Our member organisations based beyond the boundaries of local authorities where such an approach is used, report displaced homeless people moving cross boundary, often to cities or towns where fewer homeless support services are available. This can be exacerbated if ASBOs focus not on requiring an end to behaviour ie begging, but on denying a person access to a geographical area, which may well be the location for agencies (such as day centres) who are providing a structured programme of support to address this behaviour.

To be successful, a determined approach to reducing begging has to be linked to readily available drug treatment services. NTA statistics (NTA 2004) show that waiting times for treatment are falling. We welcome this reduction. However in many parts of the UK there are still lengthy waiting times for treatment. Drug users need to be able to access treatment when they are ready and motivated for change. Drug-using homeless people with multiple needs lead chaotic lives. Waiting times of a few days, never mind many weeks, are likely to result in a loss of motivation and are counter productive. More than half of our members report that the homeless people they care for find it difficult to access drug and alcohol services.

CJIP has improved access to services across most areas but substitute prescribing remains a difficulty. National Audit Office statistics show that the success rate for DTTOs is 28% in 2003, although it is recognised that people may need several attempts before they are successful. We are concerned however, that giving priority for treatment services to those who are involved with criminal activity could effectively discriminate against those who are not involved.

Relatively few RSLs or voluntary sector accommodation providers house active drug users. If they do, there is usually a stipulation that they must participate in a methadone reduction programme. However it is hard to access such programmes. Less than half of UK GPs will prescribe methadone.
2. Tenancies

When people who have been homeless are offered a tenancy it is usually a major step forward for them. They may have led a life that has taken them in and out of hostels and shelters before they have been able to settle, receive appropriate support and be ready for a more settled existence. Often a substantial investment of time and resources has succeeded in getting them ready for this step. Many of our members provide pre-tenancy preparation programmes and training.

It is unlikely that the preparation will have succeeded in eliminating all behaviour that might be regarded as anti-social. Formerly homeless people need skills in managing budgets, paying rent and other bills, managing relationships with neighbours and social networks etc. The availability of Tenancy Sustainment Teams and floating support over a sustained period can make all the difference to success or failure.

No one would suggest that any tenant should have the opportunity to behave aggressively or violently towards their neighbours. However, it is often the case that support for formerly homeless people is more limited or short term than required. If the result is lower-level anti-social behaviour, the option of reinstating support should be the first choice as an alternative to punitive action. This would have a higher chance of preserving the benefits of earlier interventions and succeeding in integrating the resident into the community. The alternative can result in the person ending up back on the streets, with the personal, economic and social costs associated with that.

3. Homeless People as Victims

Our members have noted that it is not uncommon for tenants who were formerly homeless to be “befriended” by people who are involved in drug supply or the sex industry who then effectively “hi-jack” their tenancies. This often results in the loss of a tenancy and a return to homelessness for the individual while the perpetrators move on to “befriend” another vulnerable tenant. This presents a serious challenge to task of supporting formerly homeless people and helping them to sustain tenancies. It results in the objectionable behaviour remaining in the same area although the specific location will change. We have been working closely with our members to gather evidence of this practice and to share good practice in tackling it. It continues to be a matter of concern.

Vulnerable and homeless people and those who beg can often be the victims of anti-social behaviour and crime, although the media tends to focus on them as perpetrators. The enforcement agencies need to consider how they can protect these vulnerable people who suffer stigma and exclusion and can be seen as fair game for abuse or even violent attack by an anti-social minority.

In conclusion, we consider that there needs to be a thorough piece of research into the impact of Anti-social Behaviour strategies on the exclusion of homeless people and previously homeless people. Pending the outcome of this, caution needs to be exercised in the use of these strategies without a comprehensive and complementary provision of support services for homeless people.

15 September 2004

19. Memorandum submitted by the Home Office

Overview

What is anti-social behaviour?

Anti-social behaviour is defined in the Crime and Disorder Act 1998 as behaviour that is likely to cause alarm, harassment or distress. This manifests itself in a number of ways—nuisance noise, verbal intimidation, criminal damage or vandalism, abandoned cars, kerb-crawling, street drinking and begging, or groups of people intimidating others.

An indicator of public perception of anti-social behaviour has been developed using data from the British Crime Survey (BCS). Using this measure, the proportion of people estimated to perceive a high level of anti-social behaviour in their local area fell from 21% to 16% between 2002–03 and 2003–04.

The BCS indicator brings together perceptions of abandoned and burnt-out cars, noisy neighbours or loud parties, people being drunk and rowdy in public places, people using or dealing drugs, teenagers hanging around on the streets, rubbish or litter lying around, vandalism, graffiti and other deliberate damage to property. Between 2002–03 to 2003–04, as well as the overall fall in perception, all of the seven individual anti-social behaviour measures showed a decline (Dodd T et al (2004) Home Office statistical bulletin 10/04).

The BCS shows that people within council estates and low-income areas, multi-ethnic, low-income areas and council estates with greatest hardship perceive high levels of anti-social behaviour. Analysis of the 2002–03 BCS showed that people living in council estates and low-income areas were more likely than people in all other types of areas to perceive teenagers hanging around, rubbish, vandalism and drug use or dealing as very or fairly big problems. For example, 64% of people living in multi-ethnic, low-income areas identified
vandalism as a very or fairly big problem. This figure for vandalism was also high amongst people living in council estates with greatest hardship (61%) compared with 35% of the population in England and Wales (Thorpe and Wood 2004).

There is also variation in different types of area in the type of behaviour that was considered to be the “biggest problem” in their local area. People in affluent urban areas are more likely to perceive rubbish (19%) and vandalism (19%) as the biggest problem, while those in council estates were more likely to mention teenagers hanging around (28%) and drug use or dealing (21%) (Thorpe and Wood, 2004).

In addition a one-day count of anti-social behaviour was undertaken to obtain a snapshot of reported anti-social behaviour. Over a single 24 hour period in September 2003, 66,000 reports of anti-social behaviour were made to participating organisations (police, fire service and local authorities) in England and Wales. This is equivalent to approximately 13.5 million reports per year or one report every two seconds. More than 1,500 organisations took part and information was received from every CDRP and CSP area in England and Wales.

Anti-social behaviour is also typified by repeated acts perpetrated by an individual or group and also the proximity between “victim” and “perpetrator” (neighbours, for example).

The cumulative effect of this behaviour has a damaging effect on the welfare and safety of individuals. A recent report by Sheffield Hallam University (“What works for Victims and Witnesses of Anti-Social Behaviour” July 2004) outlined the impact of anti-social behaviour on individuals and showed that fear of reprisals was the largest deterrent to victims reporting incidents and acting as witnesses.

The vast majority of people behave in a way that does not cause other people to feel intimidated or unsafe. This behaviour also holds back the regeneration of deprived areas and the safety and progress of the community as a whole.

**The Government’s response**

Tackling anti-social behaviour is a priority for the Home Office and for many Departments across Government.

The Governments response to anti-social behaviour can be summed up as a “twin-track” approach—providing help and support to the individuals and communities and using the full range of powers to ensure acceptable standards of behaviour are upheld. The Government rejects the view that tackling anti-social behaviour is a choice between prevention and enforcement; a successful response involves both. Work to tackle anti-social behaviour should be seen in the wider context of investment in health, education and regeneration and in the reform of public services.

In March 2003, we published the White Paper “Respect and Responsibility—Taking A Stand against Anti-social Behaviour”. This outlined the main steps we had taken, including increasing the number of police officers, introducing community support officers, wardens and Crime and Disorder Reduction Partnerships, and putting in place Anti-Social Behaviour Orders and Fixed Penalty Notices to address anti-social behaviour.

The Anti-social Behaviour Act 2003 also gave new powers to the police, local authorities and other agencies, including social services, environmental health officers, schools and businesses.


The TOGETHER campaign is driven by people working in the field of anti-social behaviour and the general public. When local people have confidence that their concerns are listened to and acted upon they then are more confident and determined to help tackle anti-social behaviour. The campaign supports efforts at a local level to drive up community involvement, ownership and responsibility.

The Action Plan sets out the priority areas for action for reducing anti-social behaviour over the next two to three years. Key areas include reducing the impact of nuisance neighbours, environmental crime and begging. We are working with 10 Trailblazer areas to develop best practice and take action in these areas, funding was provided to every Crime and Disorder Reduction Partnership (CDRP) and practical help and support was provided to front-line practitioners.

Taken together—the existing steps we had taken, the new legislation and the roll-out of the TOGETHER campaign are working to ensure the anti-social behaviour of a minority is tackled, not tolerated.

Other Government Departments are also playing a key role in reducing anti-social behaviour. For example, the “Cleaner Safer Greener” communities agenda, launched by ODPM in July 2003, brings together a range of Government activities aimed at improving the quality of life for everyone by making our streets, parks and public spaces better. “Cleaner Safer Greener” programmes are addressing key issues, including creating attractive and welcoming parks, play areas and public spaces, improving the physical fabric and infrastructure of places and engaging and empowering local people and communities.
1. Responding to Anti-Social Behaviour — Powers

The Government is committed to ensuring local agencies have the powers they need to reduce the impact
of anti-social behaviour.

Due to its nature, anti-social behaviour often cuts across the responsibilities of a range of different
agencies—the police, local authorities (including a number of different departments within local
authorities), schools, registered social landlords, other housing providers and the private sector.

It is important that there are a range of tools available to ensure the full range of agencies can take swift and
effective action against anti-social behaviour in whatever form it occurs.

The Anti-social Behaviour Act 2003 introduced a number of new powers following discussions with local
people and local agencies. These powers complement the wide range of interventions agencies can make.
They include criminal, civil and non-statutory measures.

The use of these powers should not be seen in isolation of wider initiatives to reduce crime by tackling
deprivation and improving public services; they should be considered as part of a wider response to reducing
anti-social behaviour.

However, the Government is clear that local agencies should make appropriate use of the powers
available to them to tackle the problem and that they should be deployed to target the minority of people
who cause alarm, harassment or distress. Using enforcement powers can have a positive impact on the safety
and wellbeing of the law-abiding majority.

Most of the powers available can be applied across housing tenure and used to tackle anti-social
behaviour wherever it occurs. Accompanied with appropriate and proportionate publicity, the powers send
a clear message that anti-social behaviour is being tackled.

Effective early intervention can reduce anti-social behaviour — acceptable behaviour contracts, fixed
penalty notices and warning letters, for example, can nip problems in the bud. However, if problems persist
or if the behaviour is severe, swift action can be taken — including the use of Anti-social Behaviour Orders.
Many measures also have a strong element of support — we have introduced Individual Support Orders and
Parenting Orders to ensure people can get the help they need.

An outline of the main powers available and their use, follows:

Acceptable behaviour agreements/contracts

Acceptable Behaviour Contracts/Agreements (ABC/As) are a written voluntary agreement between an
individual and the local housing office or police. ABC/As are also used by other agencies now such as schools
and social services. ABC/As are flexible and can be used for a variety of situations, including vandalism,
with adults as well as young people.

In April 2002 there were at least 173 contract schemes in England and Wales and 39 of the 42 police forces
surveyed had implemented at least one ABC scheme. A total of 1,868 contracts had been issued an average
of 11 contracts per scheme. An evaluation of a scheme in Islington found that the number of anti-social
behaviour acts committed while on contract decreased from 164 in the six months prior to the contract to
80 during the six-month contract period.

Penalty notices for disorder

The penalty notice for disorder (PND) scheme was introduced to provide a new disposal for dealing with
low-level, high volume disorderly offending. The scheme currently includes 11 disorder offences, including
being drunk and disorderly and behaviour likely to cause harassment, alarm or distress (section 5 of the
Public Order Act 1986). The scheme will shortly be expanded to include theft, criminal damage, and various
alcohol and fireworks offences.

The purpose of the scheme is to provide the police with a quick and effective way of dealing with low level
anti-social behaviour, which saves police and court time, as well as delivering an immediate punishment to
the offender. The new measures are discretionary and provide an additional option for dealing with a suspect
and do not preclude the use of any existing methods of dealing with offenders. Guidance to the police will
restrict the use of PNDs for theft and criminal damage to relatively minor amounts and, in the case of theft,
to cases where there is no personal victim.

The PND scheme provides the recipient with the benefit of an administrative disposal which does not
require attendance at court nor an admission of guilt and does not result in a criminal record. Payment of
the penalty discharges all liability for the offence.

The PND scheme has now been rolled out to all forces in England and Wales and can now be issued to
16 and 17 year olds.

— Up to the end of July this year over 20,000 penalty notices for disorder had been issued.
— The lower level penalty is to be raised from £40 to £50 from October 2004.
The scheme has recently been extended to cover 10–15 year olds under powers in the Anti-social Behaviour Act 2003. The scheme will be introduced for this age group in four pilot areas. However, other forces have shown an interest in this and where appropriate we will look at how to address this within the pilot.

The PND scheme has proved to be a welcome addition to the disposals available to the police. Frontline officers have found them to be effective and efficient, freeing them up to return to patrolling the streets even where the offender has been arrested as the paperwork required is cut to the minimum.

In the four pilot areas, the payment rate within 21 days was 51%. Taking into account records following up PNDs that are fine registered, 70% of PNDs issued were paid, either within the 21-day payment period or after court action. This figure may underestimate the true payment rate because either (i) payments may have been made subsequent to the follow-up period and (ii) the pilot areas may not have been fully representative of England and Wales as a whole. (ii) is likely since the metropolitan area of West Midlands is over-represented in that it accounts for nearly 60% of all pilot PNDs, and the metropolitan areas in turn had lower PND payment rates than the non-metropolitan areas (Spicer and Kilsby 2004).

**Anti-social Behaviour Orders**

Anti-social Behaviour Orders (ASBOs) were introduced in 1999 and have also recently legislated to improve their effectiveness in the light of the experience of their operation. ASBOs are civil orders, similar to injunctions. They prohibit individuals from specific anti-social actions and are available for any person aged 10 or over who has acted in an anti-social manner likely to cause harassment, alarm or distress and who is likely to do so again. Breach of an ASBO is a criminal offence with a penalty of up to five years imprisonment for an adult offender. It is for the court to decide the appropriate penalty for breach of an order.

There is increasing use of ASBOs. 2,455 ASBOs have been made up to March 2004—474 Orders were made between January-March 2004, the highest figure quarterly to date and a 36% increase over the previous quarter. ASBOs are a key part of a local response to problems with anti-social behaviour.

Home Office research to be published shortly indicates that the average cost of taking out an ASBO has come down based on cost findings in an earlier Home Office report published in 2002 (the Campbell review). It is possible that these reductions in cost are due to agencies becoming more familiar with the application process and the use of orders on conviction. New research will be available in October 2004.

The Government will continue to work with practitioners and with local people to improve the operation of ASBOs, where possible. This will include working with the Department for Constitutional Affairs to introduce a system of fixed feeds for the public funding of defence solicitors in anti-social behaviour order cases by the end of 2005.

**Individual support orders**

Individual Support Orders (ISOs) were created by section 322 of the Criminal Justice Act 2003 for 10–17 year olds with anti-social behaviour orders (ASBOs). Individual support orders are civil orders and became available on 1 May 2004.

The purpose of the ISO is to tackle the underlying causes of the young person’s anti-social behaviour in the interests of preventing repetition of this behaviour. The ISO supplements the prohibitions of the ASBO with targeted positive requirements, which address the causes of the anti-social behaviour. For example, the order can require counselling for substance misuse or behavioural problems. The support will be tailored to the individual’s needs.

An individual support order may last up to six months and can require a young person to attend up to two sessions a week.

**Section 30 dispersal powers**

These powers were introduced in the Anti-social Behaviour Act 2003—they allow a senior police officer, with a local authority, to designate an area where there is persistent anti-social behaviour and problems with intimidating groups. Police and Police Community Support Officers in these areas have powers to disperse groups where their presence or behaviour may result in a member of the public being harassed, intimidated or distressed. The Order also enables juveniles to be taken home after 9.00pm.

The Order has already been used in a number of areas to deal with a variety of problems. This has included areas where groups of street drinkers congregate, town centres where there are particular problems at pub and club closing times, transport terminals where there has been problems with graffiti and criminal damage and shopping parades which attract large, intimidating groups of people.

All Orders need to be accompanied by publicity in and around the area. It is a vital tool in dealing with “hotspots” of anti-social behaviour and it is already being used to target these areas.
Crack house closure powers

The Anti-social Behaviour Act contains provisions to enable police to close down properties taken over by drug dealers and users of Class A drugs where there is serious nuisance. Premises can be closed down within 48 hours and remain closed for three months and up to six.

This power is often used in conjunction with other powers to deal with such premises—including tenancy enforcement, and other housing powers such as possession proceedings and civil and criminal injunctions against individuals. The principle of this power is that it should be used in a strategic manner to provide instant relief to the community from the problem of premises such as Crack Houses and stimulate wider working and community engagement to address the problem in a sustainable manner.

Since its implementation our monitoring exercises lead us to believe it has been used over 150 times nationally with considerable success on both closing crack houses and other such premises, and increasing community confidence in authorities ability to take action against Class A drugs.

A data collection exercise with police forces is currently being undertaken looking at the number of dispersal and designation orders made.

Alcohol related disorder

In addition, the Alcohol Harm Reduction Strategy for England was published on 25 March 2004. It sets out a series of recommendations for tackling the harms associated with alcohol misuse—underage, binge and chronic drinking—in four key areas: better education and communication; improving health and treatment services; combating alcohol-related crime and disorder; and working with the alcohol industry. The Home Office and the Department of Health are jointly responsible for overseeing the implementation of the Strategy, and are working with a full range of partners, including the alcohol industry, to do so.

The Strategy recognises the key role that drinks manufacturers and retailers have to play in tackling alcohol-related crime and disorder. In implementing the recommendations from the Strategy, the Government will involve the alcohol industry in new initiatives at both national and local level. We will work with the industry to introduce a social responsibility scheme for drinks producers that will strongly encourage the responsible manufacturing, packaging and advertising of products. We will also urge producers to contribute to a national fund, which will pay for new schemes to address alcohol misuse at national and local levels.

We will also introduce a voluntary social responsibility scheme including a code of good practice for retailers, pubs and clubs. This will ensure that the alcohol industry works closely in partnership with police and other local agencies to ensure that a real impact is made in reducing alcohol related problems. Where necessary, the scheme will seek a financial contribution from the industry towards the harms caused by excessive drinking. In the light of local priorities, local authorities will be responsible for deciding whether, and if so, where the scheme should operate.

These schemes will best be implemented on a voluntary basis. However, the success of this approach will be reviewed early in the next Parliament and the possibility of legislation will be carefully considered if there is not sufficient progress. We will be evaluating the impact of industry involvement and participation in the two schemes.

To complement the aims of the strategy, the Home Office and ACPO undertook a Alcohol Misuse Enforcement Campaign during the summer of 2004. This is a key step in tackling alcohol-related crime and disorder and in encouraging use of the full range of existing powers for police and local authorities. Around a hundred areas participated in the campaign, which ran every Thursday, Friday, Saturday and Sunday for eight weeks. Final data from the campaign shows:

- 51% of on licences and 32% of off licences targeted through test purchase operations have been found to be selling to minors;
- 4,060 Fixed Penalty Notices have been issued;
- 5,762 arrests for alcohol related offences;
- 3,311 confiscation’s of alcohol from young people, and 6,385 from adults.

In order to ensure that the learning and messages from the summer campaign have been fully embedded, the campaign will be repeated at regular intervals over the coming months with all learning and links being incorporated into wider action to tackle violent crime in England and Wales through the Reducing Violence Programme. Any barriers to effective use of existing enforcement powers identified through the campaign will be fed back and tackled as part of the overarching alcohol harm reduction work.

The Reducing Violence Programme builds on the momentum from the alcohol misuse enforcement campaign, and has alcohol harm reduction issues at its heart. It will target violent crime in England and Wales in a rolling programme, starting with the top 10 CDRPs/BCUs with the highest volumes of More Serious Violence.
One of the objectives of the Licensing Act 2003 is to reduce alcohol-related crime and disorder. The Home Office and DCMS will monitor the impact of the Act on crime and disorder and the other licensing objectives. If necessary in the light of these findings, further legislation will be introduced to alter or strengthen any provisions.

A Designated Public Places Order (DPPO) is a notice, which enables local authorities to create a non-drinking zone in an area within their authority which has a history of anti-social behaviour caused by individuals drinking in a street, park or other public space.

As of August 2004 around 130 local authorities have notified the Home Office that they have introduced a DPPO.

They should be used against those who are, through their drinking, causing a public nuisance or likely to do so (set out in Home Office Circular 045/2003 sent to Chief Officers of Police). Failure to comply with such a request without a reasonable excuse is an arrestable offence. The powers were not created to introduce a blanket restriction on public drinking. They are intended to stop the immediate problems of anti-social drinking in the designated areas and to allow the police to confiscate alcohol from those who continue to drink when asked not to.

Local agencies can also apply for a bye-law—however a bye-law cannot empower the police to request someone to surrender alcohol and would give the police no specific powers of arrest.

Housing

A number of measures are available to deal with anti-social behaviour specifically in relation to housing. These measures are designed to work as a package across housing tenure, so anti-social behaviour can be addressed in owner-occupied, private rented and social housing. Many existing measures are “tenure-blind”—such as Anti-social Behaviour Orders and Acceptable Behaviour Contracts, while other measures are specific to tenure.

Social housing providers have a key role in identifying the nature of problems their tenants’ face and, working with other agencies, using the tools available to counter those problems effectively. Many landlords are already effectively and successfully tackling anti-social behaviour, having prioritised this as a key element of their housing management function.

In April 2002, the Office of the Deputy Prime Minister published the consultation paper, “Tackling Anti-Social Tenants”. The paper presented options focused around three themes—enforcement, prevention and rehabilitation. The paper promoted more effective usage of the enforcement measures and encouraged landlord’s who never or rarely used the tools, to take action. The Paper also outlined proposals for new legislation—to increase available powers and to improve legislation that was impeding the success of landlord’s efforts.

Part 2 of the Anti-social Behaviour Act 2003 dealt specifically with social housing in England and Wales and further measures have been introduced in the Housing Bill which is currently before parliament.

Powers currently available to social landlords

A number of powers are available specifically to social landlords to protect their tenants and the wider community, as part of a wider strategy to prevent problems and to provide support where it is needed.

Many of these measures may be used to tackle anti-social behaviour without removing the perpetrator from their home and moving the problem to somewhere else. As such, they are compatible with the Government’s drive to ensure that local authorities work to prevent homelessness, enabling multi-agency efforts to stop anti-social conduct and sustaining tenancies.

Injunctive powers

An injunction is an order of the court prohibiting a person, either a tenant or non-tenant, from engaging in certain types of conduct. Injunctions are a swift, inexpensive and effective means of stopping anti-social behaviour, which avoids the need for eviction of the perpetrator from their home.

The Anti-social Behaviour Act 2003 has repealed and replaced those injunctive powers previously available under the Housing Act 1996 with new provisions, designed to provide all social landlords with greater flexibility. For the first time RSLs were given the same powers to apply for housing injunctions as local housing authorities.

All social landlords may apply for free standing injunctions to prohibit anti-social behaviour that affects their management of their housing stock. Key improvements enable landlords to protect anyone lawfully engaged in an activity in the locality, including anyone residing in the area, even if their accommodation is not owned or managed by the landlord. In addition, the anti-social behaviour does not have to occur in or near the landlord’s properties to be covered provided there is a link with the landlords housing management
function. A power of arrest or an exclusion order is also now available where there has been serious anti-social behaviour even where there has been no violence or threat of violence—for example in cases of serious hate behaviour.

Social landlords (local authorities, registered social landlords and Housing Action Trusts) may also apply for ASBOs. They may also be used to tackle anti-social behaviour committed by anyone aged ten years or more, whereas injunctions are not normally applied to those under the age of seventeen.

A local authority may also use Section 222 of the Local Government Act 1972 to bring injunction proceedings in the County Court to prohibit a person from continuing to cause a public nuisance. Local authorities previously had the power under section 222 to deal with anti-social behaviour. Following commencement of Part 9, Section 91, of the Anti-social Behaviour Act 2003 the Court may now attach a power of arrest to injunctions where there is either a use of threat of violence or a significant risk of harm.

Demoted tenancies

Many landlords have found introductory tenancies a very effective way of controlling anti-social behaviour in new tenants. The demoted tenancy scheme allows landlords to deal with existing tenants in a similar way.

Social landlords (local authorities, housing action trusts and registered social landlords) now have the right to apply to the court for a demotion order on the basis of anti-social conduct or unlawful activity. The Order ends a secure tenancy or assured tenancy and replaces it with a demoted tenancy (as a stand-alone remedy or as an alternative to a possession order). The scheme provides a clear linkage between the enjoyment of the benefits and rights of security, and responsible behaviour.

Possession

Where possession is sought on the grounds of anti-social behaviour we would wish to see landlords employ prevention, support and enforcement strategies as appropriate to the nature of individual cases. Eviction may provide a solution where other strategies, including early intervention, tenancy support, mediation and enforcement (including use of injunctions, Anti-social Behaviour Orders (ASBOs) and demotion as outlined above) have failed to produce a change in the behaviour of a tenant. It may also be appropriate where the behaviour is of such a serious nature that eviction provides the most effective option for the protection of other residents and the wider community.

Courts must now give particular consideration to the actual or likely effect that the anti-social behaviour has had or could have on others when considering whether it is reasonable to grant a possession order against a tenant under one of the nuisance grounds for possession. This will help ensure that victims and witnesses have confidence that their needs will be given high importance in any hearings.

Allocation of social housing

If a local authority is satisfied that an applicant, or a member of their household, is guilty of unacceptable behaviour serious enough to make the applicant unsuitable as a tenant, they can either decide that the applicant is ineligible for an allocation of accommodation or award them no preference for an allocation. The only behaviour, which may be regarded by the local authority as unacceptable behaviour, must be behaviour, which, if the applicant or a member of their household were a secure tenant, would entitle the local authority to a possession order.

Local housing authorities are required to have regard to the revised Code of Guidance on the Allocation of Accommodation issued by the ODPM in November 2002. The Guidance provides that where a local authority has reason to believe that an applicant’s unacceptable behaviour is due to a physical, mental or learning disability, the local authority must not treat that person as ineligible for an allocation without first considering whether the applicant would be able to maintain a tenancy with appropriate care and support.

Guidance issued by the Housing Corporation to which all registered social landlords must have regard states that ineligibility for housing on the ground of the applicant’s anti-social behaviour should be based on evidence of the behaviour. The Circular also states that previous tenancy enforcement action for anti-social behaviour should not be taken into account if it occurred two or more years prior to the date of application and the tenant’s household has conducted a tenancy satisfactorily in the intervening period.

The Housing Bill—anti-social behaviour measures

Powers available to social landlords will be further bolstered by measures in the Housing Bill, currently before Parliament. These include giving local authorities the flexibility to extend introductory tenancies where there are continuing doubts about the conduct of the tenancy, giving landlords the right to refuse a secure tenant’s request for a mutual exchange in certain cases of anti-social behaviour and measures to suspend tenants’ right to buy on anti-social behaviour grounds.
Private Landlords and Licensing

Anti-social behaviour does not just occur in the social housing sector. People who rent their homes from private landlords or people who own their own homes may experience, or carry out, anti-social behaviour that damages quality of life.

Developing partnerships with private landlords can be difficult. They are not a homogeneous group; some may avoid all contact with statutory agencies while others would welcome support in dealing with anti-social tenants but may be unclear as to how best to access it.

Enforcement action

Where enforcement action is considered appropriate it is essential to identify where perpetrators live, as the measures that can be deployed are in part dependent on tenure-specific property rights. However, many enforcement mechanisms, such as Acceptable Behaviour Contracts (ABCs), Anti-social Behaviour Orders (ASBOs), Parenting Orders and injunctions are available for use by local authorities, the police and social landlords regardless of the “perpetrator’s” or the “victim’s” housing status.

Housing Bill—Selective licensing of privately rented accommodation

Part 3 of the Housing Bill currently proceeding through Parliament provides that a local housing authority (LHA) may make a licensing scheme for privately rented accommodation in its area, or any part of it, providing certain conditions are met.

One of these conditions is on the basis that an area is experiencing a significant and persistent problem caused by anti-social behaviour and that some or all private sector landlords in the area are not taking appropriate action to combat the problem. The local housing authority must be satisfied the introduction of licensing, when combined with other measures taken by the authority (for example prevention strategies or enforcement action such as ASBOs) or in conjunction with others, will lead to a reduction or elimination of the problem.

A scheme will require the consent of the appropriate national authority, (the Secretary of State in England and the National Assembly for Wales in Wales). Where approval is given most private landlords will be required to obtain a licence (either for themselves or for their managing agents) in order to let or manage residential property in an area where a licensing scheme exists. Controlling or managing a house which ought to be licensed, but is not licensed, without a reasonable excuse for doing so will be a criminal offence. A licence may include conditions relating to the management of the house, including taking such steps as are reasonable to deal with anti-social behaviour of the occupants and people visiting it.

2. Responding to Anti-social Behaviour—Structures and Support

Anti-social behaviour cuts across the functions of a wide range of national and local agencies. In order to deal with the problem effectively, local authorities, the police, the Courts and the Crown Prosecution Service, housing providers and other relevant agencies need to play a full role in reducing anti-social behaviour.

The Government has put in place the structures and support to help local agencies deliver.

Local authorities—section 17

Section 17 of the Crime and Disorder Act 1998 recognises that certain key authorities have responsibility for the provision of a wide and varied range of services to and within the community. In carrying out these functions, section 17 places a duty on them to do all they can to reasonably prevent crime and disorder in their area.

The purpose of section 17 is simple: the level of crime and its impact is influenced by the decisions and activities taken in the day-to-day business of local bodies and organisations. Section 17 is aimed at giving the vital work of crime and disorder reduction a focus across the wide range of local services and putting it at the heart of local decision-making.

Crime and Disorder Partnerships

The Crime and Disorder Act 1998, as amended by the Police Reform Act 2002, set out statutory requirements for responsible authorities to work with other local agencies and organisations to develop and implement strategies to tackle crime and disorder and misuse of drugs in their area. These statutory partnerships are known as Crime and Disorder Reduction Partnerships (CDRPs).
The responsible authorities are:

— the police;
— local authorities (including social services, youth offending teams etc);
— fire authorities;
— police authorities;
— primary care trusts (this was commenced by order with effect from 30th April 2004); and
— health authorities in Wales.

There are 354 CDRPs in England and 22 Community Safety Partnerships in Wales. In Wales Community Safety Partnerships already have responsibility for crime and disorder and substance abuse reduction. In England there are 149 Drug Action Teams (DATs) and these teams are required to work more closely or integrate with their local CDRP by 1 April 2004.

Many partnerships have already begun the integration/closer working process and, rather than prescribing structures, the Home Office recommends that local partners should decide locally on structures which best meet local circumstances and which will enable these agreed outcomes to be delivered effectively.

Responsible authorities (in practice usually Crime and Disorder Reduction Partnerships) are required by law to carry out audits every three years to:

— identify the extent of crime and disorder problems in their community;
— develop strategies to deal effectively with these problems.

The Anti-social Behaviour Action Plan sets out why it is important to tackle ASB and change the culture that lets it go unchallenged. CDRPs are required to: audit the extent of ASB in their area and include priorities to address ASB in their strategies.

**Action Plan and the TOGETHER campaign**

The Government’s Action Plan “Together—tackling anti-social behaviour” and the subsequent TOGETHER campaign has provided guidance and support to local agencies—helping them to target resources and powers to protect victims and witnesses of anti-social behaviour and ensure the problem is tackled, not tolerated.

The TOGETHER campaign is an ambitious programme that is designed to provide help, resources and know-how to every practitioner across the country. It has three core aims:

— to make the use and application of tools and powers simple and effective;
— to take the best of what is developed locally and spread it nationally; and
— to create a change in culture so that action is taken.

Specifically, this has included investment of £75 million over three years and a range of initiatives to help local agencies work more effectively:

— funding for every Crime and Disorder Reduction Partnership to improve their response to anti-social behaviour and ensure they have a lead person accountable for anti-social behaviour;
— work with 10 trailblazer areas to improve their response and pilot new ways of dealing with the problem;
— a series of events (TOGETHER Academy) for front-line practitioners. This has included targeted support for police officers, housing officers, environmental health officers, Magistrates and other who are responsible locally for taking action;
— help and support every working day, via the TOGETHER website (www.together.gov.uk) and ActionLine (0870 220 2000).

**National Policing Plan**

The Police Reform Act 2002 amended the Police Act 1996 to require the Government to lay before Parliament by the end of November each year a National Policing Plan for the following three years. The National Policing Plan should set the strategic direction for the police service in England and Wales over each rolling three-year period. It should also establish the performance framework, including any indicators and targets against which police force performance will be measured and compared with other similar forces.

The Home Office intention for the third National Policing Plan (2005–08) is to make it a strategic and succinct document, which will provide genuine flexibility for the identification of local policing priorities within a national framework. The 2005–08 Plan will be developed with the new set of Home Office Public Service Agreements from the Spending Review 2004 and the contents of the Home Office Strategic Plan firmly in mind. The desire to put the law-abiding citizen at the heart of policing will be central to the Plan’s message. It will also be closely allied to the embryonic National Community Safety Strategy.
**Relationship between National Priorities and Local Decision Making**

The National Policing Plan seeks to strike a balance between national and local priorities by setting a clear framework of national minimum standards and performance assessment while leaving sufficient flexibility for locally identified priorities to be addressed. An overall national reduction in crime and anti-social behaviour and improved feelings of public safety can be achieved by the police service engaging with their communities and partners to identify priorities and the best means of tackling them. The Policing Performance Assessment Framework then measures how effective and efficient forces have been in tackling both local and national issues.

Tackling anti-social behaviour is a key priority for the community and for the police and we continue to work with them and other public services to reinforce the need to challenge behaviour that is unacceptable and take action if it continues.

**Community Support Officers (CSOs) role in tackling anti-social behaviour**

CSOs provide a high visibility policing presence in the communities where they patrol. This gives reassurance to the public and allows them to act as “eyes and ears” for the police on the streets, passing on intelligence about crime and disorder as well as potential trouble hotspots. Police Officer colleagues can be called for back up should the situation warrant it.

Anecdotal evidence from local force evaluations has shown that CSOs have had a positive impact on reassurance and anti-social behaviour. The Home Office will be undertaking a formal evaluation shortly to build on this evidence and identify the most effective ways to deploy CSOs.

The main benefits of CSOs which forces have identified to date are:

- **Reassurance.** Where this has been measured, CSOs appear to be effective at providing reassurance, decreasing fear of crime and increasing confidence in the police.

- **Anti-social behaviour.** A wide range of forces such as Northumbria, Nottinghamshire and the Metropolitan Police Service are assessing the impact of CSOs on anti-social behaviour. Anecdotal evidence suggests that the impact on reducing anti-social behaviour is positive.

Methods used by CSOs for having a positive impact on anti-social behaviour would include the deterrent effect of their presence, persuasion and advice or use of one of the powers which have been made available to them by the Police Reform Act 2002 and the Anti-social Behaviour Act 2003. These include the power to issue fixed penalty notices for litter, dog fouling and graffiti as well as for the more serious offences of public nuisance and public disorder, including nuisance caused by public consumption of alcohol, whether by adults or minors.

Because of their patrolling presence in communities, CSOs are also well placed to observe and gather evidence in support of ASBOs.

The funding profile for CSOs recruited under rounds 1, 2 and 3 funding requires forces to obtain match funding of up to 50% per CSO and this often means making agreements with local authorities for CSOs to patrol in certain sensitive areas or anti-social behaviour hot spots.

The target number of CSOs in the National Policing Plan is 4,000 by the end of 2005. We have almost reached this figure and a new target of 20,000 additional CSOs by the end of 2008 was recently announced in the Home Office Strategic Plan 2004-08. The exact funding profile for these new CSOs has yet to be decided.

**Role of Community Safety Accreditation in tackling anti-social behaviour**

Community Safety Accreditation has a valuable role in tackling anti-social behaviour. Neighbourhood wardens, private security guards, park rangers and many other “front-line” staff have a role to play. Accreditation of people in these roles allows forces to forge close links with other organisations and can empower people working in these jobs to deal more effectively with the low-level anti-social behaviour, which they encounter while they are on patrol.

Accredited persons can be given a range of powers targeted to deal with anti-social behaviour. These are similar to the powers for CSOs (though not as extensive) and include the power to issue Fixed Penalty Notices for offences such as dog fouling and littering and the power to confiscate alcohol from young people. This enables accredited persons to tackle these problems on the spot, without always needing to involve the police on every occasion.

Not all accredited persons have powers, but accreditation still helps them to deal with anti-social behaviour. Accreditation improves intelligence sharing and allows forces and their local partners to establish a co-ordinated approach to fighting anti-social behaviour to ensure that they deploy their combined resources in the most effective manner.
To date, eight forces have established accreditation schemes. Eleven more forces have plans to begin accrediting people this financial year. Most of these forces are concentrating their initial efforts on neighbourhood and city centre wardens. However, some forces are accrediting other groups of public employees. Lancashire has already begun to accredit private sector employees and most are considering extending their schemes to security companies.

Role of Neighbourhood Wardens in tackling anti-social behaviour

Tackling crime and anti-social behaviour are key elements in the Neighbourhood Renewal Units’ task of tackling deprivation in England’s poorest communities. As part of this the NRU has provided £93 million of grant funding for 245 neighbourhood warden schemes from 2000 to 2006, employing over 1,500 wardens. There is an estimated 2,000 additional wardens paid for through other funding streams such as neighbourhood management, neighbourhood renewal fund and new deal for communities. Many warden schemes are entirely funded through local authorities or other sources without any extra Government help.

Neighbourhood wardens provide a uniformed, semi-official presence in residential areas, town centres and high-crime areas with the aim of reducing crime and fear of crime; deterring anti-social behaviour; fostering social inclusion and caring for the environment.

The independent evaluation of neighbourhoods warden schemes recognises that wardens, by addressing the problems of graffiti, fly-tipping, littering, dog fouling and youth nuisance, are making a significant contribution to helping to tackle anti-social behaviour. Wardens also work with other agencies and the police to deal with offenders eg sharing intelligence on individuals that are subject to an ASBO.

Residents survey evidence from the independent evaluation suggests that there has been a 27.6% reduction in the overall rate of crime in warden patrolled areas, compared to a slight increase (4.7%) in crime in comparator areas. There has also been a small decline in these areas of the number of residents perceiving youth anti-social behaviour as a problem.

The Neighbourhood Renewal Unit is also providing an extra £2 million to be invested on anti-social behaviour related activity through existing NRU programmes. Warden schemes will receive money to spend on such things as target hardening, improving detection and identification and promoting diversionary activity.

Crown Prosecution Service

The Home Office is working closely with the Crown Prosecution Service to improve the way anti-social behaviour cases are prosecuted. As part of the Home Office’s TOGETHER campaign the CPS are developing a two-year project, which has developed a team of 13 anti-social behaviour “expert prosecutors”. In addition, all other CPS Areas have nominated anti-social behaviour co-ordinators, who carry out similar functions to the expert prosecutors but are not dedicated to the work on a full time basis.

Traditionally, the role of the CPS prosecutor work has been to prosecute cases fairly and effectively, applying the Code for Crown Prosecutors. However, the role of the prosecutor is changing. It now includes reducing offending and engaging proactively with local communities in combating low-level crimes and anti-social behaviour. Prosecuting is not solely about obtaining just convictions as their role can now go beyond that, by looking at how communities can be protected.

The main aims and objectives of the project are to provide guidance on the new provisions in the Anti-social Behaviour Act 2003 and on ASBOs on conviction, to prosecute ASBOs effectively, to develop a national training package for all relevant CPS staff on reducing anti-social behaviour, to develop an effective community engagement strategy and, overall, to improve CPS performance in tackling anti-social behaviour.

Anti-social behaviour Response Courts

The Department for Constitutional Affairs has now established Anti-social Behaviour Response Courts (ASBRC) in the twelve areas where there are specialist CPS prosecutors (shortly to be extended to 13). This is intended to ensure that magistrates’ courts are able to properly respond to anti-social behaviour cases in a visible and consistent way and ensure that courts help Local Criminal Justice Boards to meet confidence targets.

In the light of experience of the first 12 ASBRC courts DCA are intending to roll out further ASBRC to areas where there is a high incidence of anti-social behaviour (by December 2004). We anticipate the ASB Response Courts to develop organically as experience grows.

ASB Response Courts will:
- make every effort to avoid delay and will be quick to respond to the circumstances of the case;
- hold specialist sittings where local practitioners identify the need (eg when there is a cluster of cases, or the police target a particular location or type of anti-social behaviour);
— take special care in their handling and support of witnesses to ensure intimidation does not take place;
— be fully aware of and conversant with the range of powers available to tackle anti-social behaviour and the recently revised magistrates’ sentencing guidelines. The Judicial Studies Board and Justices’ Clerks Society have recently issued fresh training material and guidance on anti-social behaviour and the importance of proper training for magistrates has been underscored;
— ensure there is more active local engagement between the courts, other CJS agencies and Crime and Disorder Reduction Partnerships, amongst other benefits this will ensure that the courts receive regular updates on the impact of anti-social behaviour on the community.

Social landlords

New section 218A of the Housing Act 1996 introduced by section 12 of the Anti-social Behaviour Act 2003 places a new requirement on all social landlords (local housing authorities, Registered Social Landlords and Housing Action Trusts) to prepare and publish Statements of Policies and Procedures in relation to anti-social behaviour.

Each social landlord must publish a Statement of their policies and procedures, and an associated Summary not later than six months after the commencement of Section 12 of the 2003 Act—this means by 30 December 2004. Guidance to local authorities and housing action trusts on preparing the policies and procures was issued by ODPM on 13 August 2004. Similar guidance to RSLs in England was issued by the Housing Corporation on 25 August 2004. The National Assembly for Wales will issue guidance to local housing authorities and RSLs in line with their timetable for commencement of Section 12 of the ASB Act in Wales (February 2005).

The aim is to ensure that tenants know exactly what their landlord will do about it when it occurs. Tenants often feel left in the dark when they are experiencing problems with anti-social behaviour. They may be unable to find out what the landlord’s policy is, or what should happen next. They may not know what options are available to them or the landlord. Sometimes the problem may be because front-line housing management staff don’t know what procedures they should be following either.

The published policies and procedures will enable anyone who is interested, eg tenants, local councillors, housing association board members, to see clearly what commitments the landlord is making. It will provide a starting point for ensuring that effective action is taken. It will create shared expectations between landlords and tenants on how anti-social behaviour will be dealt with.

3. Preventing Anti-social Behaviour

All enforcement action to tackle anti-social behaviour has a preventative effect anti-social behaviour—through deterrence and modification of behaviour. In addition, there are a range of other steps being taken to reduce anti-social behaviour—in particular to work with young people and to target the minority of people causing the problems.

It is vital that local agencies see prevention of anti-social behaviour and enforcing standards as part of a single response to the problem, rather than as a choice between one or the other. A number of these programmes combine these elements to ensure that a clear message is sent to people that anti-social behaviour will not be tolerated. Diversionary programmes can also act as an “early warning” to identify people at risk and ensure early interventions, which could include enforcement, are effective.

Diversionary programmes

The approach is to intervene and identify at an early stage young people who are most at risk of getting involved in crime and anti-social behaviour. The Government is supporting a wide range of targeted schemes at young people who are most at risk. These include:
— 70 Youth Inclusion Programmes (YIPs) that operate in some of the most deprived areas in England and Wales. YIPs identify the 50 most at risk 13–16 year olds living in the neighbourhood and seek to engage them in constructive activities. 88 Junior YIPs are also in place, targeting most at risk eight to 13 year olds;
— 93 pilot Youth Inclusion and Support Panels (YISPs) targeting at risk children in eight to 13 age group, funded through the Children’s Fund. The main emphasis of the Panel’s work is to ensure that children and their families receive, at the earliest possible opportunity, mainstream public services together with interventions from voluntary and community groups.
— 104 Positive Futures programmes in the most deprived areas. Priority is given to engaging young people on each project identified as being most prolific young offenders or those who are most at risk of offending or misusing drugs.
The DfES has a broad range of policies and initiatives that help contribute to a reduction in anti-social behaviour. Amongst other things, these include the extensive reforms of children and young people’s services being implemented as a result of Every child matters and that will be built on in the forthcoming Youth Green Paper. Children and Young People are at the heart of these reforms and the changes will provide more joined up, robust and quality services for them. They will enable professionals to work together more efficiently to identify children and young people who are at risk of negative outcomes—including anti-social behaviour—and ensure that the appropriate help and support is available to instead enable children and young people to achieve their potential.

Positive Activities for Young People

The Positive Activities for Young People programme (PAYP) has provided diversionary activities since April 2003 so that young people across the country aged eight to 19, at risk of social exclusion and community crime, are able to participate in positive activities during the school holidays, access out of school activities throughout the year and be supported to engage in learning and/or employment with key worker support for those most at risk.

43,007 young people have taken part in various activities in the period from 1 April to 31 July 2004. 23,851 were in the 13–17 age range and 17,734 were aged eight to 12 years. Most popular activities undertaken, (over half) are sports and recreational, followed by education and developmental and the arts.

The most frequent “at risk” category flagged up for young people on the PAYP database is “Nuisance/anti-social behaviour”. This category accounted for 37% participants between April and July 2004.

Prolific and Other Priority offenders (PPO)

Tackling the risk factors and steering young people away from crime and anti-social behaviour caused to local communities is now firmly placed in the “Prevent and Deter” strand of the Government’s Prolific and Other Priority Offenders strategy (PPO), announced by the Prime Minister in March.

The PPO strategy has been signed up to by the Home Office, DfES, DCA and the Attorney General and will be delivered by local CDRPs. Each CDRP will identify and engage at least the 15–20 prolific offenders in their area as well as those young people most at risk of becoming the prolific offenders of the future.

The three elements of the strategy are:

(i) Prevent and Deter (P&D). The aim of which is to provide the foundations to reduce the flow of offenders, particularly prolific offenders that blight the lives of communities in which they live and to reduce the numbers of young people who become involved in crime in the first place. The P&D strand will use a combination of intensive targeting and early intervention programmes with a particular focus on three specific target groups including young offenders, older children at risk of offending and children in need of support.

(ii) Catch and convict. Committing CDRPs to identify a small number of PPOs that are causing most harm, and

(iii) Rehabilitate and resettle, ensuring that those targeted by this strategy are given support that they need to avoid returning to prolific offending.

Youth Offending Teams

Anti-social behaviour can be a gateway to more serious crime and much anti-social behaviour may be classed as criminal (for example, criminal damage). In many cases, those engaged in anti-social behaviour may already be engaged in criminal behaviour. A coherent response to both crime and anti-social behaviour committed by young people is therefore important and Youth Offending Teams (Yots) have a key role to play in improving the response to youth related disorder locally.

The Home Office and the Youth Justice Board (YJB) have recently consulted on draft guidance on the role of Youth Offending Teams in tackling anti-social behaviour. The guidance is designed to encourage Yots to become constructively involved with partners and also to raise awareness among other agencies of the role and functions of Yots.

The key messages of the guidance include:

— the importance of setting boundaries of acceptable behaviour for young people alongside support to tackle anti-social behaviour;

— the wide range of interventions that can be used to tackle ASB among young people—from early warnings through to ASBOs on conviction;

— Yots often manage and deliver interventions with young people, for example, parenting contracts and orders, the new individual support orders and ASBOs.

— Interventions with young people should lead to three outcomes:
1. Establishing clear standards of acceptable behaviour within the community, ensuring that these are upheld and the community protected, and victims’ needs addressed.

2. Addressing the risk factors that lead to anti-social behaviour, offering support to avoid the young person becoming engaged with anti-social behaviour, or involved with the criminal justice system.

3. Making the young person aware of the impact and consequences of their behaviour, ensuring that they stop that behaviour and are helped towards a positive future.
   — The important role of Youth Inclusion and Support Panels (YISPs) as a useful vehicle for tackling emerging anti-social behaviour among young people under 10.
   Advice on the use of Individual Support Orders which came into effect at the beginning of May 2004 and can be made alongside ASBOs for juveniles to tackle the causes of anti-social behaviour.

The role of parenting support

Parenting has a crucial impact on a child’s behaviour. Many parents say they would welcome more support in their role as parents. As set out in Every Child Matters and the DfES Five Year Strategy for Children and Learners, the Government is committed to increasing the availability of a range of support services for parents—including good quality information and advice, training professionals working with families to support parents more effectively, as well as supporting schools in improving their engagement with parents.

In line with our commitment to offering parents the support they need, when they want it, support will continue to be offered to parents on a voluntary basis. As a last resort, Parenting Orders may be used to engage parents who condone anti-social behaviour or truancy.

Children’s Fund

Focusing on children aged five to 13, the Children’s Fund aims to respond to the needs of children and young people at risk of social exclusion.

One of the objectives of the Children’s Fund is to ensure that fewer young people commit crime and fewer children are victims of crime. Of the 4,988 Children’s Fund supported services which completed their monitoring returns for January to March 2004, 1,277 (26%) listed services which were “explicitly targeted at children exhibiting anti-social or criminal behaviour”.

Improving behaviour and attendance in schools

Persistent truancy and exclusion are strongly correlated with educational underachievement, crime and anti-social behaviour. Following a sustained £470 million programme to improve behaviour and attendance across the nation’s schools:
   — School attendance is at an all time high. The proportion of schooling lost to truancy is as low as in any year since 1994 and the average level of truancy per pupil is 25% lower than in 1997.
   — The number of permanent exclusions has fallen for the first time since 1999–2000 to 9,290, remaining almost a quarter down on their 1996–97 peak of 12,700.

Ofsted indicates that behaviour is unsatisfactory overall in only 5% of secondary schools and just 1% of primary schools. This is backed up by teacher perceptions with 93% saying that standards of pupil behaviour are generally good or acceptable (Stakeholder Tracking Survey March 2004).

Parental responsibility for attendance and behaviour at school

The vast majority of parents carry out their responsibility to ensure their children attend school and behave well, a minority do not.

The Government is determined that the minority of parents who do not take responsibility for their children’s behaviour and attendance should do so. We also know that some parents need support. That is why we introduced a balanced package of support and sanctions in the Anti-social Behaviour Act which aims to reinforce parental responsibility for school attendance and behaviour. LEAs and schools have been able to use their new powers from March this year.

Schools and LEAs can now enter into parenting contracts, providing those parents who need support with the practical help they need to ensure that their children attend school on a regular basis and to tackle their child’s unacceptable behaviour in school.

LEAs can also apply for court-imposed parenting orders for parents unwilling to accept voluntary measures; LEAs, senior school staff and police officers now have power to issue penalty notices of up to £100 to parents of truants.
We expect most LEAs to begin to use their new powers during the Autumn term 2004. However, there have been some encouraging results—Birmingham, one of the first LEAs to operate the new penalty notices, warned 800 parents that they would receive a notice if their child’s attendance did not improve, and found that almost all did so, ultimately only needing to issue 24 notices.

Connexions

Connexions aims to reduce the number of young people not engaged in education, employment or training. As part of this, it aims to contribute to improvements in young people’s behaviour and a reduction in the number of young people who become involved in crime.

Connexions can have a role in identifying young people at risk of offending or anti-social behaviour and work with them to help link them to activities that will address this risk; provide specialist input where necessary such as careers advice; work with YOTs to ensure continuity at key transition points, including helping ensure a package of support is available to the young person when their engagement with the YOT comes to an end.

Youth Services

Youth Services provide informal personal and social education for young people. Effective provision by the Youth Service can play a key role in reducing anti-social behaviour.

4. Other Responses for Anti-social Behaviour

There are a number of other initiatives underway to tackle anti-social behaviour:

Graffiti Pilots

The Home Office has worked with a number of private sector companies to tackle graffiti, which costs business millions every year. We have worked closely with companies like British Telecom, Telewest, and NTL on the appropriate implementation of new graffiti-cleaning powers under the Anti-social Behaviour Act 2003. These powers allow councils to serve a “graffiti removal notice” on the owners of street furniture, statutory undertakers and educational institutions whose property is defaced with graffiti. If the owner does not remove the graffiti in compliance with the notice, the local authority may do so and recover its costs. In response to concerns about the regulatory impact of these powers, we are initially piloting them with 12 local authorities only. The pilots began on 31 March.

Gate-it

On 5 March we launched Gate-it—a new fund to deliver physical environmental improvements to areas which are run-down, badly designed or poorly maintained and have become magnets for anti-social behaviour.

Operation Gate-it throws a spotlight on areas such as alleyways behind houses, bin stores, garages and derelict land near housing estates, to help local residents take action to make these areas cleaner, greener and safer. It aims to do this by:

— Improving pathways, open spaces and communal areas to deter joy-riding, fly-tipping and nuisance behaviour.
— Securing open spaces by installing gates on alleyways, bollards and fencing.
— Installing CCTV.
— Opening up visibility into parks or play areas to make them safer.
— Improving areas of neglected or waste land which attract anti-social behaviour.

Through Operation Gate-it £2.3 million will be spent helping local groups improve their neighbourhood. The programme is managed on behalf of the Anti-social Behaviour Unit by Groundwork working in partnership with British Trust Conservation Volunteers (BTCV). Groundwork and BTCV are working every day in communities across England and Wales to help deliver practical improvements to their environment.

Scrap-it

We have launched trailblazers to tackle abandoned cars in London and Liverpool, in partnership with the Association of London Government and Liverpool City Council respectively, a free take back service is also now operational in London. From October 2004 these projects will ensure that all vehicles confirmed as untaxed or abandoned will be removed within 72 hours of reporting.
Taking a Stand

The Home Office, in partnership with Crime Concern, BBC Local Radio and the Co-op, has launched the “Taking A Stand Awards 2004” to recognise individuals and local groups who are tackling, not tolerating anti-social behaviour. The overall winner will receive £5,000 and the additional 100 winners £1,000 to further fund their projects. Winners will also be offered the opportunity to develop their skills and knowledge to remove any obstacles to taking further action on the ground.

The Award not only aims to recognise these people and groups but also to inspire others to take similar action. They highlight what can be done to combat anti-social behaviour, and encourage closer co-operation between local agencies to deal with it.

20 September 2004

20. Memorandum submitted by The Howard League for Penal Reform

Our work and beliefs are framed by the following values:

— The Howard League for Penal Reform works for a safe society where fewer people are victims of crime.
— The Howard League for Penal Reform believes that offenders must make amends for what they have done and change their lives.
— The Howard League for Penal Reform believes that community sentences make a person take responsibility and live a law-abiding life in the community.

COMPOUNDING SOCIAL EXCLUSION

The Howard League for Penal Reform shares the wider public’s concern about anti-social behaviour by adults and young people. However we are equally concerned about the vagueness and degree of interpretation regarding what constitutes anti-social behaviour and the responses to it. It is our view that the current approach is punitive and is likely to exacerbate social exclusion which, in turn, is likely to compound problems of anti-social behaviour rather than resolve them.

The media’s reporting of these issues confirms this view (eg Seenan 2003; Aitkenhead 2004). They highlight, and in some cases inflate, social tensions, especially between the young and the elderly and further stigmatise people from some of our poorest communities who seem to provide the focus for this legislation. People with difficult and chaotic lives need support not exclusion.

BLURRING THE BOUNDARIES OF CIVIL AND CRIMINAL LAW

We fear that current legislation has the effect of widening the net of the criminal justice system, by criminalising naughty children and their parents, the mentally ill and those in social housing. Anti-social behaviour legislation relies on a low burden of proof. It does not rely on an objective test of behaviour but on the reaction to that behaviour by others. Yet anti-social behaviour legislation uses the criminal justice system to reinforce it if the original orders are breached. There is a blurring of the boundaries between civil and criminal law.

The Howard League for Penal Reform frequently receives information about the use of anti-social behaviour legislation. The example below illustrates how the use of an ASBO has lead to an escalation of the situation that has meant a young girl has ended up in prison.

Daisy

Daisy is 17 years old and profoundly deaf. She was issued with an ASBO in the north-east for spitting. She breached her ASBO by continuing to spit. She was taken to court where she was kept in the cells all day. She became extremely upset in the courtroom which ended up with her throwing water over the Group 4 officer and spitting at a magistrate.

She was remanded in custody and charged with new offences.

Daisy has gone back to court where she was sentenced to an Intensive Supervision and Surveillance Programme (ISSP) for the original breach of the ASBO but she remains in prison on remand for the incident in the courtroom. Daisy has been in prison for more than four weeks.

Daisy’s case shows how the act of spitting, although undoubtedly unpleasant, was deemed anti-social behaviour and therefore worthy of an ASBO. Daisy continued to spit breaching the order. Regardless of the incident in the courtroom, Daisy was sucked into the criminal justice arena with the imposition of an
ISSP. The Howard League for Penal Reform believes that this is not an appropriate use of legislation nor resources. Surely a civil and developed society such as our own can deal with unpleasant behaviour like spitting without recourse, ultimately, to the criminal law?

**IMPACT ON CHILDREN**

The introduction of Anti-social Behaviour Orders (ASBO) has troubled the Howard League for Penal Reform and academics alike (Ashworth et al 1998; Burney 2002). When they were initially introduced it was intended that they should only seldom be used in relation to young people, yet the reality has been somewhat different, with estimates suggesting that at least half of ASBOs are served on young people (Burney in Donovan 2004).

Children have seemingly become the main focus of concern relating to anti-social behaviour in our communities.

- Children have a right to use public spaces, yet groups of children can be dispersed if their presence is thought to being causing distress. Many children are in public spaces as no organised or structured activities like youth clubs exist, others may choose to spend time away from home due to the quality of their housing or domestic situation. Sweeping powers to disperse groups of young people may serve to increase young people’s isolation, as well as miss an opportunity to support and help young people with problems that they may have.

- In some areas in Manchester, we have become aware that publicity carrying the names and photographs of children involved in anti-social behaviour. This is not appropriate. Such actions will put children at risk and it may encourage even more anger and resentment in local communities fostering a “lynch mob” mentality. Children when they break the law are generally afforded anonymity as a protection. These children are not in the ambit of the criminal justice system and, it seems, are not afforded the same protections.

Evidence has shown that a policy of naming and shaming is counter-productive. Naming cannot be separated from shaming. Research from Australia (notably John Braithwaite) has shown that un-resolved shame, shaming without subsequent reintegration results in the rejection of the standards that are expected and increases the likelihood of reoffending.

Arguments that the public need to know the prohibitions of an ASBO to enable them to report violations do not really stand up to scrutiny. Individuals affected by the anti-social behaviour would be aware of what is happening without publicity. Excessive publicity can escalate bad behaviour and become a status symbol or badge of honour.

- The Howard League for Penal Reform has become increasingly aware of the volume of children ending up in penal establishments as a result of breaching ASBOs. It is reported that Hassockfield Secure Training Centre holds 17% of its boys and 33% of its girls for breaching an ASBO (Donovan 2004). Involvement in activities that have only merited a civil sanction has lead to the use of the most severe sanction of the criminal justice system.

The Howard League for Penal Reform believes that the current upward trend in the numbers of juveniles held in penal establishments is not wholly unconnected with the use of imprisonment for those breaching ASBOs.

Anti-social behaviour legislation is a blunt instrument to deal with multiple and complex problems that children may have. Children must be treated as children, when they have broken the law or engaging in anti-social behaviour, and should be protected by the law.

15 September 2004

**REFERENCES**


21. Memorandum submitted by the Housing Corporation

A. THE HOUSING CORPORATION

1. The Housing Corporation registers and regulates just over 2,000 Registered Social Landlords (generally known as housing associations) in England. It provides finance for some associations to build and develop affordable homes and also provides Innovation and Good Practice (IGP) resources to improve housing association performance, including addressing the problems of anti-social behaviour (ASB). The Corporation is a non-departmental government body and is sponsored by the Office of the Deputy Prime Minister.

2. The role of the housing association sector is both changing and growing. Many associations now play a pivotal part in neighbourhood management. The Housing Corporation is committed to the Government’s Sustainable Communities Plan and supports the National Housing Federation’s inBusiness agenda. An example of an association pursuing the neighbourhood management approach is the Poplar HARCA in the East End of London. HARCA undertakes a wide range of responsibilities that go beyond the usual “bricks and mortar” function. The sector has a great deal of untapped potential that Local Authorities do not always fully exploit.

3. The Housing Corporation’s Regulatory Code outlines our expectations of the standards that we expect housing associations to meet. It states that all associations should have a strategy on how they will tackle ASB. The Anti-social Behaviour Act 2003 placed an obligation on us to issue guidance to the sector on developing their policies and procedures on ASB and this was issued on 27 August 2004. We have funded (both nationally and regionally) a number of projects from our IGP budget looking at a range of initiatives to tackle ASB. These include:
   — The Coventry consortium of housing associations tackling ASB. This is a group of 13 associations working in partnership. The consortium employs two members of staff, who provide strategic and operational support.
   — The Derbyshire consortium. This is similar to the above, but works across a more dispersed and rural area. It involves seven housing associations and employs one worker.
   — Notting Hill Housing Trust out of hours patrol service. The Trust identified that there was a problem with incidents of anti-social behaviour outside of usual office hours. It employs up to six officers, who can make patrols to areas experiencing difficulties with anti-social behaviour. Residents can also contact a call centre and request that an officer attends an incident. The officers have no enforcement powers, but provide useful reassurance and intelligence gathering.

4. The lessons learnt from these schemes are published on our Bank of Good Practice www.bankofgoodpractice.org. We continue to commit significant staff resources to this area. Finally, we are looking at developing a model that will enable housing associations to measure how they are performing in this critical area.

5. In terms of tackling ASB, the sector has not advised us of the need for additional tools or duties. However, the sector has expressed serious concerns as to the cost of some of measures, such as ASBOs and injunctions. Some associations have told us of legal bills of up to £20,000 for ASBO applications. Partnership working and learning from the experience of other agencies will hopefully lead to a reduction in these costs.

B. THE CAUSES OF ASB

6. We wish to focus on two key causes of ASB.

7. The first is the breakdown of community relationships. For example, the collapse of many sectors of the manufacturing industry, such as coal mining, has had damaging effects on a number of communities. In February 2004, the Guardian newspaper interviewed three former miners from South Yorkshire who now work in the social care professions. One said “Mining communities were almost self-policing. People looked out for one another. That’s broken down. When people grow into second generation unemployment, they think: ‘Why not get into drugs?’ It’s related to hopelessness in this area, and that in turn leads to anti-social behaviour”.

8. Although there has been this breakdown in many areas, it is vital that communities are placed at the heart of any strategy to tackle ASB. Top down approaches will be ineffective. The statutory housing management guidance issued by the Housing Corporation on developing ASB policies and procedures insists that housing associations must consult their residents on these policies. Members of the community need to have the confidence to come forward and report cases of ASB. We support the Home Office’s “No witness, no justice” programme.

9. The second major cause is poverty. Research carried out in 2000 (Hunter et al) shows that perpetrators have much higher levels of social, behavioural or mental health problems than the general population. An examination of 67 individual ASB files showed that 67% of these showed households had severe and often
multiple vulnerabilities (mental health problems, substance misuse etc). 61% of the households included children and there were very high levels of poverty and benefit dependency (92% of households were dependant on welfare benefits). Over a quarter of the households had previous convictions for criminal offences (including theft and handling stolen goods). The interim report into the Shelter Inclusion Project found that at referral, none of the households contained anyone in employment. Over half of the referrals were headed up by lone parents, invariably female.

10. We feel that until recently, there has been a muted response to ASB and its causes. Although we welcome the new tools available in the Anti-social Behaviour Act, there should be an acknowledgement that this piece of legislation on its own cannot deal with the outcomes of the breakdown of communities and poverty. Housing associations and other landlords can help but they can at best mitigate the worst presenting problems of ASB (and may only displace some perpetrators to other locations). Holistic policy responses are needed to address the causes.

C. THE EFFECTIVENESS AND PROPORTIONALITY OF CURRENT POWERS (INCLUDING ANTI-SOCIAL BEHAVIOUR ORDERS, FIXED PENALTY NOTICES, DISPERSAL POWERS, CONFISCATION ORDERS, AND LOCAL AUTHORITY POWERS IN RELATION TO HOUSING)

11. Housing associations have a number of powers in relation to housing and ASB. However, they did not get the power to apply for ASBOs in their own name until 2001 (three years after local authorities). The sector has mixed views on the efficacy of this tool. Some report concerns as to their cost and problems with magistrates not enforcing breaches. Others see them as a vital tool that offer much needed respite for communities that have been terrorised. We have been told by some associations that the new post-conviction ASBOs are a very effective tool.

12. We believe that ASBOs are a proportionate tool that clearly indicate to perpetrators where their behaviour is inappropriate. They also establish a defined set of boundaries for perpetrators, which is useful when the perpetrators are young.

13. The new powers to close crack houses have been more unanimously welcomed. The accompanying guidance on their use stressed the need for referrals to drug rehabilitation schemes to be made at the time of closure. We welcome this balance of enforcement and support.

14. Associations have in the past found it difficult to make full use of their injunctive powers. We therefore welcome the changes that have been made to injunctive powers in the Anti-social Behaviour Act 2003. These powers only came into force on 30 June 2004, so it is too early to assess their impact. We also await the outcome of the introduction of tenancy demotion.

D. ISSUES OF ENFORCEMENT AND CO-ORDINATION, LOOKING AT THE RESPECTIVE ROLES OF LOCAL AUTHORITIES, DIFFERENT GOVERNMENT DEPARTMENTS, CRIME AND DISORDER REDUCTION PARTNERSHIPS (CDRPs), THE POLICE, THE CROWN PROSECUTION SERVICE, HOUSING AUTHORITIES AND LANDLORDS, AND HOW THEY INTER-RELATE

15. This is a critical area for housing associations. We are aware that there has been some criticism of the sector for not being sufficiently engaged with the multi-agency approach to tackling ASB. We accept that not all associations are working in partnership with other agencies. However, there are some mitigating circumstances. For example, in the London Borough of Camden, there are approximately 60 associations that own stock. Some of these will be very small. Some will be larger national associations, which may only own a handful of stock in that borough and indeed have stock in forty other local authorities. In these circumstances, there is a clearly a role for consortia style arrangements, such as those funded by the Corporation in Coventry and Derbyshire.

16. CDRPs generally seem to be working well, although we have been advised of some concerns as to lack of attendance by some statutory agencies. Many CDRPs have set up effective data sharing protocols, which have improved partnership working by associations and the police.

E. THE IMPACT OF GOVERNMENT INITIATIVES

17. Many of the Government’s initiatives on ASB have not had sufficient time to have their impact measured to any meaningful degree, (for example, schemes under the TOGETHER programme). However, there are some initiatives with a broader policy focus, (such as crime reduction and social inclusion), that have an impact on ASB.

18. An evaluation of neighbourhood warden schemes between 2001 and 2003 demonstrated that wardens have an important role to play in reducing crime and the fear of crime. There was a 27.6% reduction in the overall crime in the neighbourhood warden areas, compared with an overall increase of 4.7% in the comparator areas.

19. When looking at the impact and cost effectiveness of initiatives to tackle ASB, we feel that an understanding of the long term impacts needs to be adopted.
F. The Role of Parenting Support, Youth and Community Services and the Youth Justice System in Diverting Young People from Anti-social Behaviour

20. We support the principle that prevention of ASB is better than cure. ASB will only reduce when perpetrators accept responsibility for their actions and change their behaviour. There are many excellent examples of housing associations developing diversionary schemes for young people. For example, the Testway 7s scheme, set up by Testway Housing Association. This is a summer sports scheme for children of tenants of Testway, which has led to a significant reduction in ASB.

21. The recent emphasis on the provision of parenting support is welcomed. Children’s anti-social behaviour can often be caused by a complete lack of parental control and structure in their lives.

22. For some children, no amount of diversionary activity will change their behaviour. When all other support mechanisms have failed, the youth justice system must deal with such cases in a clear and structured fashion. When ASBOs have been breached on a repeated basis, sanctions must be used.

G. Disparities in Levels of Anti-social Behaviour and in the Use of Powers to Combat it Across the Country

23. We are unclear as to the source of disparities in levels of ASB in different parts of the country. There are no nationally agreed mechanisms for capturing incidences of ASB. The Home Office carried out a one-day count on 10 September 2003 and this provided some useful data. However, the Home Office recently published a development and practice report entitled Defining and Measuring Anti-social Behaviour. This stated “the number and sources of returns was not consistent across CDRPs and Community Safety Partnerships and for this reason the data should not be used to make comparisons between areas.”

24. Disparities in relation to the use of powers will be caused by a range of factors. There have been considerable regional differences in the knowledge of the powers and what works. Within the housing association sector, the new statutory obligation being placed on all housing associations to have policies and procedures on tackling ASB should minimise these differences. There are also regional inconsistencies in how CDRPs work and how the courts deal with cases of ASB. Finally, the presence of a local “champion” (for example, an officer or a community activist) can also raise the profile of tackling ASB considerably.

H. Responsibilities of the Private Sector for Tackling Anti-social Behaviour

25. We welcome the proposals in the Housing Bill to introduce selective licensing of private sector landlords in areas of low demand. There have been too many cases of tenants of social housing being evicted due to their ASB and then moving into a local privately let property. We do not feel that licensing should be made universal, as this would deter individuals who only have one or two properties to let. However, where licensing schemes do exist, then the private sector landlord should also have a duty to produce and publish a policy on how they will deal with ASB.

26. We also feel that there should be greater encouragement of local businesses to get involved in community partnerships. For example, businesses have generally been slow to get involved in New Deal for Communities partnerships, which offer tremendous potential to improve local communities.

13 September 2004

22. Memorandum submitted by Hull City Council

The Causes of Anti-social Behaviour

— Abuse of drugs, alcohol and also misuse of solvents and other addictive substances have all been identified as potential causes of ASB.

— Poor parenting could also contribute to the rise of ASB, although the Council recognises that ASB is not simply a youth problem.

— For some young people there may be a general feeling of apathy (calling into question the issue of citizenship) due to a lack of future prospects which may in part be responsible for the growing “yob” culture experienced in many areas.

— The quality of education, both through schools and other appropriate training agencies can have an effect on levels of ASB.
— Those educational establishments that have poorer disciplinary records (often serving areas of relative or real poverty) also have higher levels of ASB.
— The quality of the leisure facilities available in particular areas may also affect the levels of ASB experienced.
— A (real or perceived) lack of enforcement action could be seen to be sending out the wrong message to those who causes ASB, and also those who suffer most from it.
— A lack of reflective sanctions handed out to those found guilty of committing ASB sends out the wrong message. It could also be argued there is too much emphasis on “rights” and not enough on “responsibility”.
— The perception of what constitutes ASB is contributing towards a growing fear factor perceived by many.

**Effectiveness and Proportionality**

— ASBOs, were introduced as a way forward, however, there is some evidence that they are seen by many offenders as merely an inconvenience, and that perhaps the potential route into the criminal justice system and restrictions on freedom need further highlight. There also needs to be some further work at both national and local level surrounding breaches of orders. There is a general perception that at times these are not dealt by the courts with the severity that perhaps they should.
— With regard to young people, not just those subject to ASBO or ABC there should be a more strategic system in place for support and guidance for parents, and also adequate action plans set up to prevent re-offending.
— Further work needs to be done around punishment of offenders. Whilst custodial sentence should not be the only option, where there is clearly a need to protect the public, this should happen.
— When looking at first time offences it is perhaps more appropriate to look at the effectiveness of reparation and restorative justice methods. There is a great deal of work taking place at both local and national level on the issue of restorative justice, and the results of this work needs to be shared with all local authorities and partner organisations, in particular the Courts.
— There needs to be a more consistent approach to enforcement with clear pathways to obtaining sanctions which encompasses support packages and gives opportunities for behavioural changes.
— Guidance concerning the enforcement, suitability and effectiveness of Fixed Penalty Notices, given to help tackle problems such as dog fouling and littering would be a useful tool for Local Authorities to assess their strategies in this area.
— Further deterrent for tackling ASB are dispersal orders. However, attention should be given to why the gatherings are happening. We must also consider what happens when we disperse large groups. Where do they go, what do they do? To remove the problem is not to fix the problem.

**Enforcement and Co-Ordination**

— Despite recent improvements there is still a lack of co-ordination. There needs to be much clearer and stronger links between public, local authority and Registered Social Landlords.
— Action needs to be case based and multi-agency, and more often firm action needs taking sooner. Instead of a reactive, a pro-active approach should be taken.
— The Courts should encourage Local Authorities to bring forward more complex and difficult cases, and where Local Authorities decide not to take a case forward then there should be better communication of the reasons behind this decision, thereby increasing public confidence in the actions of Local Authorities in this area. The communication of examples of best practice in this area would also be appreciated.

**Government Initiatives**

— In trying to measure their success there needs to be clear baseline data to measure effective progress. A lack of clarity around the definition and measurement of ASB does not help. When looking at monitoring, the focus seems to lean towards enforcement, the number of ASBO’s, Injunctions.
— For the Community Warden Service they will look at in-depth consultation, targeting residents and businesses within a defined scheme area. From this information they can then after a period of time compare crime figures and statistics and evaluate success hand in hand with any recent government initiative.

— There is also a very clear focus on under 18s, we should not forget young people are not the only ones responsible for committing ASB and should look at much wider issues, not just youth crime.

— It is also worth considering that success of initiative often works hand in hand with a commitment from the service provider to that project. ASB is not just a police problem, a housing problem, it needs to be tackled on a multi-agency approach, with all partners fully committing.

**Support and Diversion**

— The importance of this area cannot be underestimated. The prevention/education/diversion element of ASB work needs including within any overall strategy. It forms a vital part of any action plan. There is not enough co-ordination of this work and a lack of involvement from lay agencies with expertise/resources such as the YOT leaves many gaps in service.

— There are a whole host of support services available, yet many seem to operate in an unco-ordinated approach.

— The youth services provide numerous diversionary activities for young people yet perhaps a more multi-agency approach, identifying where the real problems exist, would help to focus these resources in the areas they are most needed.

— A prime example of this would be ASBO’s. The granting of an order is merely the start of the process. Without adequate help and support for the subject and for orders imposed on young people, support for parents/guardian, it is merely setting them up to fail. It is the halfway stage in the process, not the result.

**Disparities**

— Differing levels of socio-economic problems will have a direct impact. Communities that have high levels of unemployment, sub-standard accommodation, and general disenchantment, are more likely to have higher levels of ASB. In areas such as these drugs and alcohol are used as a means of escapism, adding to the spiral of decline.

— We need also remember cultural differences. What is anti-social to some is quite acceptable to others.

**Responsibilities**

— Responsibility for tackling ASB cannot lie just with the Local Authority. The private sector has to accept some responsibility for the environment which it operates.

— In relation to tackling alcohol fuelled disturbances the licensing trade/industry should be looking at adopting a more responsible approach. The selling of cheap alcohol, doubles for singles, three for the price of two should be curtailed. Serious consideration also needs giving to the selling of alcohol to people under the age of 18. The trader must accept responsibility for sales both on and off its premises.

— There are provisions within section 215 of the Town and Country Planning Act to make owners of property responsible for the condition of the land/property they own. This power should be exercised on those who fail to accept their responsibility and help contribute to in trouble.

— Better design of public facilities may also go some way to tackling problems. Thoughts surrounding access, lighting may help to ensure some buildings/areas are not targets for trouble makers.

— In relation to housing, again the private sector has a key role. Private landlords need to take a more responsible approach towards vetting any potential tenants, and take appropriate action against those who cause disturbances towards other residents.

14 September 2004
INTRODUCTION

1. JUSTICE is a British-based independent all-party, legal and human rights organisation, which aims to improve British justice through law reform and policy work, publications and training. It is the British section of the International Commission of Jurists.

2. In line with our role as a human rights and law reform organisation, this submission will concentrate on the legal and human rights aspects of the current powers which exist to prevent and punish anti-social behaviour, particularly Anti-social Behaviour Orders ("ASBOs") and the police powers in the Anti-social Behaviour Act 2003. Our focus will be on the extent to which these measures comply with human rights norms, including the right to a fair trial, the appropriateness of using the police and the criminal justice system to deal with non-criminal behaviour and the potential that exists for the creation of unfair discrimination.

3. At the outset, we must make clear that the although we may be critical of certain aspects of anti-social behaviour and criminal justice policy, JUSTICE is most certainly not "in favour" of those who engage in crime or who thoughtlessly create nuisance and misery for other people. We acknowledge that crime and anti-social behaviour are of enormous concern to many people in Britain and that it is entirely right that the Government has a responsibility to deal with these problems. We do, however, question whether the correct emphasis is being applied, and that the causes of anti-social behaviour are being neglected. We are also very concerned that draconian legal measures are introduced with little thought as to their cost in terms of the erosion of fair trial rights, civil liberties and fundamental legal principles.\(^59\)

HUMAN RIGHTS AND LEGAL CONCERNS WITH ANTI-SOCIAL BEHAVIOUR ORDERS

4. JUSTICE is concerned that in the \(McCann\) case the House of Lords accepted that proceedings to obtain an anti-social behaviour order, pursuant to section 1 of the Crime and Disorder Act 1998, are civil, rather than criminal, proceedings.\(^60\) This classification is important because it allows a court, when considering the making of an order, to take into account second-hand hearsay evidence of the alleged misbehaviour, which may or may not amount to a criminal offence, and which may result in the imposition of an order, which if breached may result in a conviction and loss of liberty.

5. The right to in-court confrontation of a witness who gives evidence against an accused is an important part of the right to a fair criminal trial in article 6(2) of the European Convention on Human Rights, and it is fundamental to the adversarial tradition of English criminal courts. Although the European Court of Human Rights has, in certain situations, allowed the use of anonymous and hearsay evidence this has only occurred where there was evidence of witness intimidation. The Court stressed that this unusual procedure must only be used when necessary, and there must be measures in place to counter-balance the disadvantage caused to the accused.\(^61\)

6. The classification of ASBO proceedings as civil means that hearsay evidence can be used in all cases, even where there is no suggestion of witness intimidation. Although we understand the Government’s motivation when enacting the Crime and Disorder Act 1998 was a perception that victims of anti-social behaviour have in the past been fearful to come forward and give evidence, the creation of a blanket exception is, in our view, an unnecessary restriction on the right to a fair trial. This is particularly so now that the Criminal Justice Act 2003 has relaxed the hearsay rule to allow courts to accept such evidence in individual cases where there is a demonstrated problem of witness fear or intimidation.

7. The other perceived difficulty was that the traditional criminal justice system was too slow in its response to anti-social behaviour. However, in a country where civil liberties and human rights are considered to be values that are worthy of protection, surely it would be preferable to provide more resources to the police and the courts to enable matters to be dealt with more speedily, than to create a parallel justice system with watered-down rights. Often, in the past, the real difficulty in addressing anti-social behaviour arose from a lack of effective co-operation amongst the relevant authorities. Police forces have long had the power to warn, caution, enter property and arrest for public order offences or breach of the peace; housing managers and noise abatement departments have long had inective and confiscation powers. Anti-social behaviour practitioners report that one of the real benefits arising from the Crime and Disorder Act 1998 has been the effect of the duty on local agencies to co-operate. One suspects it is this duty, in combination with the present emphasis on taking complaints of anti-social behaviour seriously, that has had the effect of galvanising the various agencies into action, and that the existence of new powers are less important than this effect.

\(^{59}\) In this regard see Social Control and "Anti-Social Behaviour": The Subversion of Human Rights?, Andrew Ashworth, Law Quarterly Review, April 2004, 263.

\(^{60}\) Clinkham \(v\) Kensington and Chelsea Royal LBC; \(R\ (McCann\) \(v\) Crown Court at Manchester \[2003\] 1 AC 787.

\(^{61}\) Barbera, Messege and Jabardo \(v\) Spain \(1989\) 11 EHRR 360 and Doorson \(v\) the Netherlands \(1997\) 22 EHRR 330.
8. The very wide definition of what can constitute anti-social behaviour\textsuperscript{62} is of great concern because perfectly lawful activities can become criminalised through the use of an ASBO. For example, an overly sensitive person may object to children playing, as children do, in the common area of an estate, or on a street. The fact that the behaviour must cause or “be likely to cause harassment, alarm or distress” is also of concern, as there is no requirement that the behaviour did, in fact, cause harassment etc. Such behaviour, of itself not criminal and not actually causing anyone harm, can form the basis of an order, the breach of which can result in five years imprisonment. We believe that the definition of anti-social behaviour should be tightened, to incorporate an objective element and a need for actual harassment etc. to be caused.

9. The wide definition of anti-social behaviour also has the potential to unjustifiably discriminate against those from ethnic minority populations, travellers, and simply those with alternative lifestyles. The perception among some older members of society that “young people these days” are predominantly anti-social is not only very sad in terms of creating good community relations, but has the potential to result in unnecessary over-policing of young people, and perhaps their unnecessary criminalisation.\textsuperscript{63} We would urge that all agencies involved in preventing and prosecuting anti-social behaviour are subject to a duty to monitor their activities to enable any discriminatory effects to be identified.

10. The fact that an ASBO may only be imposed for a minimum two years, and that an application to discharge an ASBO of more than two years may only be made after two years has expired, is arbitrary and has the potential to cause injustice. Surely the purpose of the order is to prevent future anti-social behaviour. If it can be shown that the behaviour has ceased, the justification for having made it has also ceased. Two years constitutes a large proportion of the life of a child, and (as more fortunate parents will be aware) in that time great improvement in behaviour can occur. An order which becomes unnecessary may stand in the way of useful and rehabilitative activities, for example, if a ban on entering a town centre, imposed 18 months previously on the tear-away 15-year old, was to prevent the much more mature 17-year old youth from accepting an offer of employment. No matter how much everyone concerned was in agreement that he had changed, the ASBO would have to remain in place.

\textbf{INAPPROPRIATE CONDITIONS AND PENALTY FOR BREACH}

11. Experienced criminal law practitioners have reported that there are major problems, firstly in relation to the scope and practical effects of some orders, and secondly in relation to a harsh sentencing regime. In relation to the former, one practitioner encountered an order that prohibited his client from going within 25 metres of certain tube stations. Of course, this had the unforeseen effect of limiting his ability to travel at all, as the main road in the area was within a 25-metre radius of the stations. Orders can have the effect of cutting family members off from each other, adversely affecting relationships which may in fact assist in the rehabilitation of an unruly youth. We submit that the conditions attached to any ASBO must be carefully designed to prevent repetition of the behaviour, and, in order to be a proportionate restriction on freedom of movement and association, must be specifically related to that behaviour. Those imposing ASBOs should be reminded that section 1(6) requires that the conditions are necessary to prevent repetition of the behaviour.

12. Certain local authorities have used ASBOs as a means for dealing with street-based prostitution, with the result that a breach of the order could result in a term of imprisonment. This flies in the face of Parliament’s intention behind the enactment of section 71 of the Criminal Justice Act 1982, which expressly abolished imprisonment for the offence of soliciting.

13. Practitioners report that there is a tendency to impose imprisonment whether or not this penalty, which should be one of last resort, is in fact proportional to the actual behaviour complained of. The sentence is not imposed so much on the seriousness of the behaviour constituting the breach, but rather because of the fact that it involves a breach of a court order. While we accept that this aspect of the offence is necessarily aggravating, it should not so increase the seriousness of behaviour that would not warrant a prison sentence into behaviour attracting such a sentence. The need for clear sentencing guidelines in relation to breach offences is urgent to avoid disproportionality. The fact that the ability to impose a conditional discharge expressly disallowed is a disproportionate fetter on a court’s sentencing powers.

\textbf{CAUSES OF ASB AND NEED FOR PREVENTION VIA OTHER NON-CRIMINAL JUSTICE MEANS}

14. JUSTICE believes that there is great scope for the use of alternative dispute resolution techniques, neighbourhood mediation and restorative justice responses to deal with anti-social behaviour, that would directly involve the communities affected where appropriate, and which may be so much more effective in stopping nuisance behaviour than a traditional punitive criminal justice response. There is a need to try to solve the problems which lead to the anti-social behaviour, rather than simply punishing people, excluding them from certain areas or removing them from their homes, responses which may simply move the problem to another area.

\textsuperscript{62} Acting “in a manner that caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household as himself”.

\textsuperscript{63} Notwithstanding the Times headline of 8 September 2004 “Pensioners from Hell lose homes for teen antics”.

15. There is a need for there to be imaginative programmes and projects to attract young people off the streets and into purposeful activity. Youth work should be encouraged and properly funded. We commend the Government of the success of initiatives such as the SPLASH programme in reducing anti-social behaviour, but would urge it to increase its support. It must be recognised that money must be spent over a long period in order to prevent anti-social behaviour in this way.

16. There is anecdotal evidence that some people see having an ASBO against them as something of a badge of honour, and the current popularity among the media of certain towns to “name and shame” recipients gives them a degree of notoriety, a trend which in many cases could be counterproductive. In relation to children, particularly, the policy of allowing publicity goes against principle that the best interests of child should be paramount, and may do more harm than good by encouraging problematic behaviour in an effort to live up to their reputation.

DISPERSAL POWERS AND CURFEWS ON UNDER-16S

17. The police power to order the dispersal of groups, even when there has been no bad behaviour, is simply an unnecessary restriction of civil liberties and will potentially result in a loss of respect for the police, and the law generally, amongst the groups singled out for attention. Only where there is evidence that a group has perpetrated actual anti-social behaviour should there be the power to order people to leave an area. The power means that if the police believe there is an anti-social behaviour problem in a particular locality, they can award themselves extra police powers, which only apply to that locality. There is an obvious and enormous potential for unlawful discrimination, be that on the ground of age, socio-economic status or race. Loading up the police with unnecessary powers is not sensible, because it complicates the law unnecessarily, confusing the police and the public alike.

18. Imposing a blanket curfew on people less than 16 years of age will likewise create tension between young people and the police, and result in a general lessening of respect for the law.

CONCLUSION

19. We acknowledge that anti-social behaviour and low-level crime is a significant problem that blights the lives of many communities throughout the UK. However, we are concerned that by creating a parallel civil system of justice the right to a fair trial is being circumvented. We would argue that where the behaviour complained of is a criminal offence it should be dealt with as such, whether by way of a police caution or a prosecution. The new rules relating to the admission of hearsay evidence in criminal proceedings will facilitate prosecutions in situations where it can be shown that witness intimidation is actual or likely. We have no objection to the impositions of orders designed to prevent the repetition of criminal offences following conviction. However, we are concerned that the extremely wide definition of anti-social behaviour means that non-criminal activity is, in effect, being made criminal by the imposition of an order imposed as a result of non-criminal proceedings. We do not believe that the de facto criminalisation of behaviour is appropriate in a country that respects the rule of law.

30 September 2004

24. Memorandum submitted by The Law Society

The Law Society regulates and represents solicitors in England and Wales. Solicitors advise and represent both public authorities and alleged perpetrators. An important function of the Law Society is to support law reform in the public interest. It is on that basis that we submit our evidence.

Persistent and low level criminal behaviour has a clear adverse impact on the quality of life of many living in the UK, especially in poor and deprived areas.

Even before the introduction of the Crime and Disorder Act 1998 the legal provisions were in place to deal with low level criminal activity through prosecution for individual offences. However we recognise that practical and resource issues relating to the availability of witnesses and the need to tackle repeated, comparatively low-level crime in an effective way. The powers in the 1998 Act were based on experiences with football banning orders and injunctions against anti-social behaviour under the Housing Act 1996.

However the present system is complex. Those using the powers against anti-social behaviour are not always clear about which powers are proportionate and appropriate in particular circumstances. This can lead to injustice to those subjected to the powers.

Children, mainly the most disadvantaged and vulnerable, have in practice been the main focus of anti-social behaviour powers. The recent debate over the lowering of the age limit of penalty notices to cover children aged 10 years is an illustration.
We have identified the following themes:

— The Necessity for a Clear Definition of Anti-social Behaviour.
— Ensuring Procedural Fairness.
— Prevention, Punishment, and Proportionality.
— Ensuring Co-ordination within Government.

1. THE NEED FOR A CLEAR DEFINITION OF “ANTI-SOCIAL BEHAVIOUR”

The Law Society recognises the real problem that anti-social behaviour can cause for communities and individuals. If such behaviour is to be tackled effectively it is essential for reasons of deterrence, enforcement, and policy-making that such behaviour is clearly defined.

There is no statutory definition of “anti-social behaviour”. The definition used is that applied to Anti-social Behaviour Orders (ASBOs) and is based on acts causing harassment, alarm or distress. Anti-social behaviour can range from small groups of children standing on a street corner to prostitution, to serious and persistent harassment and attacks on property. The wide ambit of the term covers a vast degree of low level as well as serious criminal behaviour.

The Home Office describes “anti-social behaviour” as having a “wide legal definition”. The difficulty is the lack of a clear standard for enforcers, policy-makers and the public to measure behaviour against. Without such a standard it will become increasingly difficult to justify legally any further interference with human rights, nor will it be possible to assess the effectiveness of anti-social behaviour strategies. The Law Society believes it is in the public interest for codes of behaviour to be clear, public, and explicit.

The importance of clear guidance is magnified when a clear standard is lacking. It is in the public interest for Government to issue consistent and comprehensive guidance. Such guidance would ensure all concerned are able to exercise their discretion in an informed and consistent manner nationally avoiding the disproportionate or inappropriate use of powers to deal with this behaviour. Guidance would also provide the individual with a degree of protection and society with a transparent and accountable system enhancing confidence in the effective use of any powers by State bodies.

Additionally, guidance helps State bodies to efficiently target resources thus limiting unnecessary costs.

2. ENSURING PROCEDURAL FAIRNESS

Remedies such as ASBOs involve a hybrid criminal/civil process: the grant of an order is the outcome of a civil trial, but any finding of a breach of the order, being a criminal offence, is the outcome of a criminal trial. Individuals are denied the full rights under Article 6 when an ASBO is being considered by the court on the basis the application proceedings are civil and not criminal. The reasoning is the court is not entitled to take evidence, and so a conviction; but whether a preventative order is necessary.

However this approach is increasingly difficult to sustain now that the mere existence of such an order has punitive social and economic consequences for the individual. Such consequences include the denial of access to social housing and employment opportunities as well as a general stigmatisation. One of the reasons for stricter requirements for procedural fairness being applied to criminal matters is not only the punishment but the effect of a conviction upon an individual’s future and his or her standing in the community. The House of Lords (in its judicial capacity) acknowledged this, in part, in McCann. It held that ASBOs were preventative rather than punitive. As a consequence they were the result of civil proceedings although Article 6 still applied in part. Therefore, whilst the proceedings were civil, the standard of proof needed to prove allegations of anti-social behaviour should be the stricter criminal standard of “beyond reasonable doubt” rather than merely “the balance of probabilities”.

Respect for appropriate due process is a fundamental element of liberal democracy. The weaker procedural protections applied to ASBOs and other similar civil orders marks a significant shift in the relationship between the individual and the state in favour of the state especially when there is no identified victim. The inter-relationship between criminal penalties and civil measures to tackle anti-social behaviour is complex eg how the acceptance of a penalty notice could impact on an acceptable behaviour contract (ABC) and in turn influence the making of an ASBO.

We hope that the Committee’s Inquiry will identify the nature and extent of this shift and recommend that any further similar developments be approached with extreme caution.

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64 S1 Crime and Disorder Act 1998.
65 However there is a different definition for anti-social behaviour in a housing context. There anti-social behaviour is “conduct (a) which is capable of causing a nuisance or annoyance to any person and (b) which directly or indirectly relates to or affects the housing management function of a relevant landlord” (SI 53A Housing Act 1996).
3. **PREVENTION, PUNISHMENT AND PROPORTIONALITY**

We oppose the use of blanket provisions such as curfews against children. Such measures discriminate on the grounds of age and are an unjustified interference with children's human rights. We believe orders restricting freedom of movement are justified only where the individual concerned can be shown to have participated in particular forms of behaviour.

However, we recognise the anti-social behaviour of a particular identifiable group may justify the making of an ASBO against a member of that group without proof of his or her direct criminal involvement in an individual offence—for example, where a group is involved in harassing a particular family, ASBOs might properly be issued in respect of all members of the group.

We are concerned about the current trend for the courts to sentence those convicted to imprisonment for breach of an ASBO.

Thus this raises concerns of proportionality. In many cases the activity under which it was considered necessary to make an ASBO, if prosecuted and convicted would often result in a non-custodial sentence. But when the conduct is used to justify an ASBO, individuals—especially children—could find themselves entering the criminal justice system at a more punitive level than if their behaviour had been initially dealt with by reprimand, final warning or even prosecution.

In addition it is unclear that any level of breach could justify a five year custodial sentence. If the individual has committed a criminal offence that also breaches the terms of an ASBO this should be prosecuted separately as an offence in its own right. Breach of ASBOs should not be used to punish behaviour where there is insufficient evidence to bring a separate charge.

The Law Society believes that the choice of remedy or “punishment” ought to be proportionate to behaviour. This issue is complex. Where it is perceived that a legal remedy is necessary there is now a more than sufficient array of options: ASBOs, injunctions, demotion orders (removing security of tenure) and possession orders to name a few. Although authorities are being encouraged to use their legal powers there is little consideration as to which remedies might be appropriate in which circumstances.

Eviction, whilst a civil remedy, may have more serious consequences for a family than a term of imprisonment for a family member. Social landlords now have the option of seeking either a demotion order or a possession order. The Law Society believes that these two remedies should be distinguished by legislation requiring landlords to produce to the court, on applications for a demotion order, a plan to support a tenant’s rehabilitation; whereas a claim for possession should be seen as an attempt at a final resolution through eviction. The Law Society is concerned at the proliferation of proceedings seeking different remedies in different courts. This is not just because of the dangers of double jeopardy for the individual, but also due to the adverse effect this can have on the administration of justice, and the potential wasted legal costs.

The Law Society supports a holistic approach addressing the underlying social causes of anti-social behaviour. Fines or prosecutions for breach of ASBOs may deal with the symptoms but fail to address the real issues. To its credit the Government’s emphasis has not been entirely punitive, but some of the measures raise serious concerns.

In its report on anti-social behaviour the Social Exclusion Unit acknowledges that such behaviour is a result of many complex problems including poverty, unemployment and drug dependency. The ODPM in its recent guidance to local authorities supports a three pronged approach of prevention, enforcement and support. The Home Office has, in recent guidance recommended the use of Acceptable Behaviour Contracts in appropriate cases.

We welcome the development of imaginative responses which, whilst they may be less politically visible, are likely to be more socially effective in the long term. The ODPM asks landlords to acknowledge in their anti-social behaviour policies that “Effective intervention by specialist agencies can prevent landlords having to take legal action”. Such policies should also consider “the positive impact support might have on perpetrators” who suffer from alcohol/drugs dependency or mental health problems. Landlords should also consider initiatives such as mediation services, diversionary activities such as youth clubs, or supported tenancies. Even where formal legal action is taken attempts should be made to provide opportunities for rehabilitation. In relation to children the non-enforcement work of some Youth Offending Teams has been excellent. The Law Society believes such initiatives should be given equal priority in terms of support and funding to legal action.

70 See note 3.
71 See note 6 para 3.31.
72 See note 6 para 3.20.
4. **Ensuring Co-ordination within Government**

We support the Government’s adoption of a multi-agency approach to tackling anti-social behaviour. For example before an ASBO application can be made the authority seeking an order must consult with other agencies.

We consider stronger co-operation reflected in guidance can bring significant benefits, especially when a child is involved. When action is being considered, multi-agency co-operation allows the individual’s needs to be targeted effectively and any additional support to be provided. For court procedures, although increased involvement of other agencies may cause “delay” in the short term, the benefits are clear. The court can consider the necessity of any order (eg ASBO) and any appropriate conditions in order to be effective and proportionate.

It is essential government departments understand their own and other departments responsibilities. Guidance can sometimes be contradictory and even undermine the discharge of statutory duties. For example in the case of social services assessments of a child’s needs under s17 Children Act 1989 the Home Office guidance emphasises the importance of enforcement stating “The assessment of the child’s needs should run in parallel with evidence gathering and the [ASBO] application process” and that “Social services need to ensure that they are taking the welfare of the community into account when making their decisions”, whereas the ODPM’s guidance emphasises the welfare of the child by advising, the “assessment should normally be carried out before any specific enforcement action is taken against the young person” in fact it is the Department of Health that has responsibility for child welfare.

The Law Society believes that anti-social behaviour initiatives should take place within the existing structures of public authorities legal powers and duties. It is concerned to prevent the perceived need for a visible political response to anti-social behaviour overriding the equally important need for individuals to be able to access appropriate services. Such support can and does both benefit the individual and the community in addressing challenging behaviour.

*15 September 2004*

25. **Memorandum submitted by Liberty**

1. The scourge of “anti-social behaviour” is a major preoccupation of politicians and it resonates widely with a population understandably concerned with living in relative safety, peace and harmony. Liberty supports this concern and has represented and supported many families and individuals seeking protection from crime and harassment.

2. Despite the very many key note speeches and column inches devoted to this subject, we as a society are often far from clear about what we mean by “anti-social behaviour”. This lack of precision may be unimportant in ordinary social or family life. Here the concept of behaving in an anti-social manner might well be used to describe the unpleasant guest who begins by dominating the conversation, proceeds to light his cigar during dinner and ends by taking a drunken swing at the host. However, it is our view that in a democracy, if prohibitions and punitive sanctions are to be employed—a greater degree of clarity is required.

   For the purposes of this response, we assume that there are essentially two categories of conduct that “anti-social behaviour” policy may legitimately seek to address:

   — Criminality (as traditionally covered by eg offences against the person, public order offences and criminal damage).
   
   — The kinds of nuisances which the civil law has always been prepared to address (eg by the grant of injunctions protecting us from excessive noise or harassment from neighbours, ex-partners etc).

3. It is not legitimate however, to use an ill-defined idea of anti-social behaviour to attack mere difference in society—even if such difference causes irritation or indeed some anxiety to others. A group of young people congregated around the same street corner every afternoon may cause annoyance or fear to local residents. However it is important to address whether they are actually doing anyone harm (ie the rational basis for annoyance and fear) as well as the question of why they are there before seeking to remove them by way of police compulsion.

4. The legislative approaches of recent years may be crudely placed in three categories:

   — Amendments to the traditional criminal law (new offences, powers of arrest, fixed penalty procedures etc).
   
   — Anti-social behaviour orders.

73 See note 3 page 41.

74 See note 3 page 5.

75 See note 6 para 3.27.
— Broader and blanket powers under which Parliament effectively delegates legislative decision-making to the Police so that whole areas may be “designated” for a regime of far greater compulsory police powers than is allowed under the ordinary law of the land.

We intend to focus on the second two areas for the purposes of the present exercise.

ANTI-SOCIAL BEHAVIOUR ORDERS

5. These civil orders (ASBOs) may it seems be aimed at both low-level criminality and the types of nuisance traditionally left to be resolved by citizens themselves—if necessary by recourse to the civil courts. Government crime statistics indicate that approximately three quarters of crime goes undetected. Much of this offending relates to low-level crime such as criminal damage arising from vandalism or graffiti. An inability to prosecute will frequently be a consequence of a lack of policing resource or an inability to gather sufficient evidence to prosecute. There will inevitably be pressure upon the police to use non-criminal measures such as an ASBO as an easy alternative to prosecution. ASBOs should not be used as a solution to a situation where the police “think he may be up to no good but can’t prove anything”.

6. There are particular concerns about the use of ASBOs when the police do not intend to instigate criminal proceedings. As breaching the terms of an ASBO is a criminal offence punishable by up to five years imprisonment, it is possible to end up with a criminal record without having committed any recognisable offence. As the evidential burden is lower to obtain an ASBO, there is a blurring of the traditional distinctions between the criminal and civil law and a corresponding dilution of the presumption of innocence. That said, we appreciate that the courts have always granted civil injunctions to protect individuals from nuisance and harm and that the sparing use of tightly defined and time limited Orders may complement the criminal law in protecting specific vulnerable and intimidated people who would not otherwise gain access to such protection.

7. It is tempting for local authorities to see ASBOs as a magic bullet solution. We do not accept that using orders to move prostitutes from a particular location will have any impact other than displacement. Similarly we believe that introducing a city wide ASBO will inevitably result in a breach. The effectiveness of ASBOs are increasingly being scrutinised in the press. Making ASBOs effective and limiting them to appropriate restrictions necessary not only helps to satisfy human rights requirements but will also deflect such criticism.

BLANKET POWERS

8. The Anti-social Behaviour Act 2003 (ASBA) extended notions of how anti-social behaviour can be defined. It removed the need for those who face legal sanction to have been involved in any “wrongdoing”. ASBA restricts freedom of movement and action. However, there is no need for any anti-social act. Two main areas of concerns are in part 4 of the act. This introduces curfews for under 16s and creates dispersal powers. What makes these powers distinct from existing law is that there is no need to link an individual to an action for powers to be used. Dispersal powers allow the police to move on groups if they believe that a group (or any single individual in a group) are likely to intimidate people. In order for an area to be subject to dispersal powers a Police Superintendent needs to believe there is a problem with anti-social behaviour and that groups are intimidating people in the locality. There is no need for any particular group to have acted improperly and no individual needs to be “doing” anything. While people might find the presence of a group of young men with hoods partly covering their faces intimidating, this does not necessarily justify the police taking action. Curfews for under 16s allow the police to pick up anyone under that age unaccompanied by an adult and return them to their homes. Again there is no need for them to be acting in an anti-social manner.

9. These powers are a consequence of the Government’s “blank cheque” policy on policing. The Prime Minister makes no attempt to pretend otherwise as demonstrated when he said, “We asked the police what powers they wanted and gave them to them”. We appreciate the police will request all possible tools that they believe may assist them in fighting crime. However, we believe that Parliament should legislate according to principles of proportionality and necessity. The United Kingdom has a tradition of consent based policing. Citizens accept the state is entitled to exercise control through policing. In return the state does not use those powers to excess or when unjustified. Our concern is that this consensus is being undermined by empowering the police to take action against those who are not acting in an anti-social or criminal manner.

76 Often an action not an offence in itself such as “not entering street X” or “associating with person Y”.
77 Stoke City Council among others has introduced ASBOs on prostitutes operating in particular locations.
78 See for example the Daily Mail article “Two fingers to your ASBOs” Tom Rawstorne, 10 September 2004.
79 And makes it an offence punishable by three months imprisonment if they fail to do so or return.
10. The Government’s response to criticism that policing powers are being too widely drawn is that the public should trust an appropriate use of discretion. This is also part of the justification behind proposals to make all offences arrestable82. Allowing unfettered discretion presents problems. Recent figures show that use of stop and search powers without reasonable suspicion (permitted under S.44 Terrorism Act 2000) have been unfairly and disproportionately used against Muslims. These powers, which the Home Secretary told Parliament would only be used where there is a terrorist threat, have also been used against anti-war and arms fair protestors. The Metropolitan Police Authority has admitted excessive use of S.44 powers. Wide discretion places too much emphasis on an individual officer’s assessment as to whether he is using the powers available to him proportionately. This is impractical, as it effectively requires the officer to make constant high level policy assessments (as opposed to more immediate practical judgements) of proportionality under the Human Rights Act 1998. Statute should limit powers so that those who exercise them retain discretion only within tightly defined parameters.

11. The Codes of Practice to the Police and Criminal Evidence Act 1984 demonstrate awareness that consent based policing requires there can be no presumptions as to criminality83. What was apparent 20 years ago no longer holds true. The PACE Codes still apply. However, they are now more easily bypassed through the use of section 44, the application of Part 4 ASBA powers and by proposed extensions of arrest powers. The consequence of recent developments will be a further blurring of the line between “anti-social behaviour” and criminality.

Efficacy

12. Our concerns over Government policy on anti-social behaviour would be more difficult to justify if there were demonstrable societal benefits. It is likely that individual uses of ASBOs are indeed effective and we believe there is justification for the use of these within defined parameters. However, there are underlying efficacy issues that need to be addressed.

13. We have previously touched upon the problems arising from excessive use of ASBOs. Displacement of aggressive youths from one estate to a neighbouring estate does not address the cause of their behaviour. ASBOs and indeed the many other legislative responses may have their place, but they are not a panacea for all of society’s ills.

14. We are aware of anecdotal evidence of ASBOs being treated as a badge of honour. If this is so then what must be the principle purpose of ASBOs, deterrence from anti-social behaviour, is undermined. Their effect will be limited to punishment for breach. This may provide a short term “solution” through the likely imprisonment of the person who has committed the breach. Bearing in mind the cost of maintaining someone in prison and links between imprisonment and re-offending rates, wholesale imprisonment for breach will not result in any real benefit to society.

15. ASBOs are expensive. Home Office figures of an average of £5,300 each may be conservative. Certainly some orders have cost far more84. Before the government commits itself to increased use of ASBOs there should be a cost and effectiveness analysis. The allocation of resources to policing must be the most effective way of combating crime. Sufficient police resources are also required to investigate alleged breaches of the ASBOs that are in place. ASBOs can only be effective if they are seen as ancillary to policing, not an alternative to policing.

16. There is no lack of criminal law that can be used to prosecute anti-social behaviour. The Public Order Act 1986 criminalises the use of “threatening, abusive or insulting words or behaviour, or disorderly behaviour”85 and there are a wide range of other low level offences against person, property or relating to protest. Prosecuting the existing criminal law should be at the heart of government policy. The creation of new offences, criminalising the breach of civil orders and the continuous increase of police powers simply casts the net wider without addressing cause. If more and more people are labelled as “yobs” then they are likely to react as such. Treating all under 16s as potential criminals by allowing the police to pick them up after 9pm will not have any significant impact on crime rates but will undermine respect for the rule of law.

Conclusion

16. The primary focus of what defines “anti-social behaviour” should be acts that breach the criminal law. At the heart of the criminal law is the presumption of innocence. The Government has an understandable desire to address societal concerns about low-level criminality. However, we are concerned that increasing reliance on ASBOs does not provide a realistic solution. Indiscriminate and excessive use of ASBOs is undermining any benefit they might bring.

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82 See current Home Office consultation “Policing: Modernising Police powers to Meet Community Needs” para 2.7.
83 For example Code A at para 2.2 Reasonable suspicion (allowing stop and search) cannot be based on generalisations or stereotypical images of certain groups or categories of people as more likely to be involved in criminal activity.
84 Metropolitan Police estimates go up to £100,000.
85 Section 5 PAO.
17. It is telling that the Anti-social Behaviour Act 2003 covered many acts not normally associated with criminality. As well as curfews and group dispersal, there are increased powers that can be used against protestors and travellers. We are concerned that what is described as “anti-social” is increasingly becoming “what is not the norm”. A desire to reduce anti-social behaviour should not result in state penalisation of non-conformity.

20 September 2004

26. Memorandum submitted by the Local Government Association

Key Points

— An LGalert was sent out to all local authorities in England and Wales to seek comments for inclusion within the LGA submission to this inquiry.

— Anti-social behaviour is a key issue for local communities and therefore for local government. The LGA and its members are willing to work with government to find real, long-term solutions.

— There are no quick fixes. Tough action against perpetrators may make good short term headlines, but unless that is accompanied with long-term action, the victims will be the long-term losers.

— The most successful interventions are those that engage the individual in changing their own behaviour. By providing suitable structures and offering the necessary support for perpetrators to stop, it is possible to achieve long-term change. Key to achieving this is being able to identify some of the “key triggers” that may lead to an individual or group to demonstrate anti-social behaviour.

— The wide ranging services and activities that local authorities are responsible for places them at the heart of any initiative to tackle anti-social behaviour. But local authorities need suitable support to enable them to make a real difference.

— Local councils, with clear democratic mandate for community leadership and a key role in crime and disorder reduction partnerships and Drug (and Alcohol) Action Teams (DA(A)Ts), are best placed to drive forward local strategies to tackle crime and anti-social behaviour in response to local needs. However, this needs to be suitably funded and underpinned through a sustainable commitment from all partners, who are not constrained by nationally directed targets and priorities which may be in conflict to the local priorities.

— Councils’ experience is that the criminal justice system places barriers in the way of effective use of anti-social behaviour orders (ASBOs) by local authorities.

— Sharing of local knowledge and intelligence, especially between the police and the council, could be improved in order to facilitate better co-ordinated responses to tackling anti-social behaviour.

— The consequences of longer term costs as new orders and provisions bed-in are only now starting to become clear. The savings from ASB investment in enforcement, prevention and rehabilitation are not directly recouped by local authorities. However, the associated costs of tackling anti-social behaviour are often the burden of local government. This burden needs to be recognised by central government.

Local Government Association

1. The Local Government Association (LGA) was formed on 1 April 1997 and represents the local authorities of England and Wales—a total of just under 500 authorities. These local authorities represent over 50 million people and spend around £78 billion per annum. The LGA is a voluntary lobbying organisation representing local government. Local authorities do not have to join but nearly all local authorities in England and Wales are in membership.

The LGA Vision

2. Anti-social behaviour is a key issue for local communities and therefore for local government. LGA research in 2001 showed that local authorities identified anti-social behaviour as the top community safety issue they faced, both currently and in the future.

3. The LGA has lobbied for increased enforcement powers in relation to a range of anti-social behaviour issues, and welcomes the Government’s focus on giving local government and its partners powers to act.

The Association was pleased to note the further promise within the Home Office five year strategy, to work with local government and other agencies to ensure that the correct powers are available to tackle anti-social behaviour locally. The LGA will be willing to provide further assistance in making this happen.

4. However, anti-social behaviour with its broad definition can include both criminal and non-criminal acts; and it often involves complex issues that require multi-agency solutions and/or rehabilitative work. We therefore strongly believe that the most effective approach should be based on sustainable solutions. Long term and medium term solutions in conjunction with enforcement actions should be pivotal to tackle the “key risk factors” that contribute to the causes of anti-social behaviour.

5. This approach has been clearly adopted in the recently launched prolific and persistent offenders initiative which has three distinct but interrelated strands—detect and convict, prevention and rehabilitation. The anti-social behaviour white paper and subsequent act did not embrace this wider approach so clearly and explicitly.

THE CAUSES OF ANTI-SOCIAL BEHAVIOUR

6. Defining the causes of anti-social behaviour is difficult and complex. However, the Social Exclusion Unit PAT 8 report\(^\text{87}\) provided a good base for consideration of the key risk factors that may influence the likelihood of an individual or group becoming involved in anti-social behaviour.

**Figure 1**

<table>
<thead>
<tr>
<th>CAUSES OF ANTI-SOCIAL BEHAVIOUR</th>
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<tr>
<td><strong>Family</strong></td>
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<tr>
<td>parental criminality</td>
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<tr>
<td>poor parental supervision/discipline</td>
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<tr>
<td>low family income/social isolation</td>
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<tr>
<td>family conflict</td>
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7. To tackle these risk factors it is clear that the way forward would be to invest in further medium- and long-term solutions that will aim to reduce the risk of incidents of ASB occurring and work towards limiting these risk factors. The table clearly illustrates the pivotal responsibility that local government has in respect of delivery of services that can impact on these causes through children services, adult services, education, leisure, housing, regeneration and crime reduction. It is clear that we need to work together to ensure that the structures and services are in place and adequately supported to ensure that these risk factors are tackled effectively within our communities.

8. It is worth noting that the definition of anti-social behaviour is often varied and unclear. Local partners therefore need to work together in each locality to identify the nature and extent of anti-social behaviour in their area and develop locally appropriate strategies to deal with it.

THE EFFECTIVENESS AND PROPORTIONALITY OF CURRENT POWERS

9. The LGA has strongly welcomed a number of the key powers that have been introduced to help councils and their local partners to tackle the issues of anti-social behaviour within their locality. However, we see the approach towards tackling anti-social behaviour as a three-pronged approach—that is prevention, enforcement and rehabilitation. The powers introduced contribute predominately to the enforcement element of the approach.

Anti-social Behaviour Orders (ASBOs)

10. Local authorities have found that the new streamlined ASBOs processes introduced within the Anti-social Behaviour Act 2003 useful. Across England and Wales latest figures show that 2,455 anti-social behaviour orders have been sought in total since their introduction; and research shows that half of these are applied for by councils, half by the police, but with many involving joint working between the two agencies. In other cases authorities have also used the threat of such orders to deal with problem behaviour. Furthermore, these figures do not reflect the fact that the vast majority of cases considered will result in modified behaviour without actually applying for an ASBO.

11. One barrier that a number of authorities have encountered, however, is that their local Crown Prosecution Service (CPS) are expecting applicant local authorities to prosecute breaches of ASBOs. These are often contested in crown court as they potentially carry a custodial sentence and as such a local authority solicitor does not have rights of audience in crown court which requires a Barrister who will usually be sourced externally. This could potentially be an expensive problem for many local authorities. Furthermore, local authorities have reported that the criminal justice system has hampered the use of such orders. Case examples have been highlighted whereby the CPS made a decision not to take breaches seriously and not prosecute. A swift and effective response from the Criminal Justice System is a vital part in tackling anti-social behaviour to ensure that their use is taken seriously and therefore act as a deterrent. The LGA therefore hopes that the improvements to the prosecution and court process as outlined in the Home Office five year strategy will help to eliminate these barriers.

12. Authorities would welcome the ability to forward free standing ASBOs (that is ASBOs not linked to other existing proceedings) through the county court and not just through the magistrates' court as is now the case.

Acceptable behaviour contracts (ABCs)

13. Acceptable behaviour contracts, which were developed originally by the London Borough of Islington, are proving successful for a number of authorities. However, it needs to be recognised that these are resource intensive for authorities. The new youth service framework, with a clear focus on crime and disorder among other things, could improve things in the future.

Parenting orders and classes

14. Parenting orders and classes are seen as a good tool and authorities have used them for good effect. However, a number of authorities have noted that they are not able to resource and meet demand requested through referrals. Again, inadequate funding is an issue in this respect. The 2003 ASB Act states that in the case of a juvenile an ASBO must be accompanied by a parenting order unless the court states reason not to (for example if the young person in care of the local authority or such provision is not locally available). Many local authorities will struggle to adequately provide this specialist provision, particularly in rural areas where costs will be high.

Fixed Penalty Notices (FPNs)

15. The proposals in the Clean Neighbourhoods consultation, to extend the number of offences which FPNs can be used for and also to allow councils to set their own fine levels will be very welcome.

16. There are issues with enforcement, therefore the proposed new offence of giving a false name and address will be helpful in ensuring these powers are most effective. New powers to deal with nuisance vehicles, fly-tipping and fly-posting are the LGAs three main priorities in terms of improving the local environment and these will all address anti-social behaviour at the same time.

17. A number of authorities have raised the issue that FPNs will not be upheld in court unless the person issuing it has seen an offender commit an offence. Duty of care legislation doesn’t allow other evidence to be used. This therefore limits the extent to which this power can be used.

Dispersal powers

18. The ASB bill originally had suggested that when the police wished to seek a dispersal order they would need only to consult with local authorities. The LGA lobbied hard to change this, and the final ASB Act ensured that police have to seek agreement from the relevant local authority. This change has been vital to secure local authority ownership for dealing with the consequences of dispersal, and the longer term joint problem solving in areas with the police service.

89 Confident Communities in a Secure Britain—The Home Office Strategic Plan 2004-08 (July 2004).
Public order and trespass

19. New powers to move trespassers and associated vehicles has proved futile in a number of areas as the local authority travellers site are often full (a condition is that the powers can only be used by the police if an alternative site is available). The LGA did note its concerns during the development of the act that the provision of traveller sites was a national problem which would limit the use of this power.

Individual support orders (ISOs)

20. The LGA has warmly welcomed the development of Individual support orders introduced under the Criminal Justice Act 2003. The purpose of ISOs is to tackle the underlying causes of a juvenile’s anti-social behaviour and rehabilitate the individual’s behaviour. This approach fits firmly with the LGA vision to reducing anti-social behaviour.

Closure orders

21. The LGA has been supportive of the powers given to the police for closure of “crack houses”. However, it is important that local authorities are consulted as soon as possible when a closure order is being sought.

Local government powers in relation to housing

22. Injunctions under the Anti-social Behaviour Act 2003 are welcomed as they now include those perpetrators who are tenants of registered social landlords (RSLs). The changes also widen the scope of those people local authorities are able to protect. However, there is a clear gap in terms of private sector housing. Some private landlords are very reluctant if not obstructive, when approached about their tenants ASB. Currently, there is no mechanism to ensure that private landlords assist with the investigation of nuisance complaints and the developments of strategies to tackle individual cases. A number of authorities have set up voluntary landlord accreditation schemes to try and address this issue which have proved to be useful.

23. During the passage of the Bill the LGA expressed concerns that demotion oftenancy has the potential to place the most vulnerable members of society in a more precarious position. It is important that consideration is given to each case individually around the medium and longer term effects of such actions.

24. Homelessness prevention and ensuring vulnerable young people have access to sufficient stock of good quality housing support are also central to avoiding ASB. The Government’s reduction of the Supporting people budget and the low level of funding for Children’s Social Services only add to an increased risk of ASB amongst these young people.

25. Good case study examples to aid localities in deciding on the most appropriate process to use to tackle anti-social behaviour would be useful. Examples are beginning to be developed locally that indicate that although ASBOs are a civil remedy, common practice is that the quality of evidence must be to the standard expected for criminal procedures. This can make application process more difficult than communities have been led to expect by the Government’s “together” campaign which can lead to an unhelpful gap between expectations and reality.

26. The LGA is in the process of conducting research into the use of the powers introduced through the Anti-social Behaviour Act one year on. The findings will be launched late Autumn 2004.

Issues of Enforcement and Co-ordination

27. Although a great number of authorities have said that the co-ordination and partnership working has improved locally around issues of tackling anti-social behaviour, there is still a need for further improvement in the co-ordination between LAs and the police (and other agencies). A key area of concern that authorities have indicated has been the sharing of local knowledge and intelligence, especially between LA anti-social behaviour teams and the police on specific cases and incidents. It is also important that LAs have access to court information when dealing with specific cases.

28. Partnership working is key: some of the most successful examples of tackling anti-social behaviour are the result of joined up working between councils and key local agencies. However, there needs to be a clearer definition of how the various participants interrelate. Local government can contribute most effectively in dealing with anti-social behaviour through provision of long term sustainable preventative measures, with access to suitable tools of enforcement.
THE IMPACT OF GOVERNMENT INITIATIVES

29. ASB focus from central government has led to an increase in focus within many localities. The inclusion of ASB, as a national policing priority, has been particular effective in gaining police recognition of “low level” crime as a local priority and provides the impetus for local joint working. Furthermore the £25,000 allocation to all CDRPs has also been welcomed to increase co-ordination, particularly in small CDRPs. Though, as this is time limited until 2006, the bigger issue of resources needs to be addressed.

30. The “together” campaign has provided an effective way of publicising ASB and raising awareness. It has also given local authorities the opportunity to re-enforce important messages about behaviour and tolerance. The Home Office trailblazers have demonstrated some great results; however the work only involves a small number of authorities. The LGA hopes that the support and good practice can now begin to be shared with all local authorities.

31. There needs to be a consistent approach across all Whitehall departments. The impact of the powers available to tackle anti-social behaviour is clear, but the supporting structures must enable these initiatives to work.

32. For example, the Department for Education and Skills (DfES) needs to ensure that schools and Local Education Authorities (LEAs) have the funding and resources to deliver the Personal, Social and Health Education (PSHE) and Citizenship curriculum in order that children and young people can develop pro-social values and behaviour.

33. There are no quick fixes. Tough action against perpetrators may make good short-term headlines, but unless that is accompanied with long-term action, the victims will be the long-term losers. The association asks that government widens its focus, from the use of enforcement powers as the only measurement of performance in relation to anti-social behaviour, and begin to acknowledge the preventative work being done by local authorities and their partners to tackle the underlying causes to anti-social behaviour locally. A number of illustrative case studies are highlighted within the LGA paper “Sustainable solutions to anti-social behaviour”.  

34. To be most effective councils and their local partners need to be free to pursue an integrated, holistic approach to tackling and preventing anti-social behaviour at the local level, and central government can focus on resolving the structural causes of anti-social behaviour. Although resources are being invested by authorities in preventative work, councils are currently faced with a range of national initiatives, inter-agency activities and government drives focused on diverse issues. One of the biggest challenges facing councils is co-ordinating these diverse initiatives to enable the benefits to reach local communities.

35. Local authorities, with their democratic mandate are best placed to identify the key issues locally. Working together with local partners, who have the freedom to react to the needs of the local communities, localities can tackle the issues of importance. There needs to be a better recognition nationally of the differences in priorities across localities, and freedom for the agencies within these communities to tackle the priorities for that locality.

36. The consequences of these new government initiatives on local authorities have to be also considered in financial terms. The consequences of longer term costs as new orders and provisions bed in are only now starting to become clear. The savings from anti-social behaviour investment in enforcement, prevention and rehabilitation are not directly recouped by local authorities.

37. Local authorities and their partners face government initiative after initiative around issues of anti-social behaviour, however, the LGA believes that government needs to also look at the structural problems that are at the root of ASB.

DIVERTING YOUNG PEOPLE FROM ANTI-SOCIAL BEHAVIOUR

38. The association believes that overall there is undue focus on enforcement rather than preventative activity in this area within the Anti-social Behaviour Act. We fear that such an approach may simply reinforce negative perceptions of young people as trouble-makers, jeopardise their future life chances and lead to further alienation. There needs to be a balance between punishment and ensuring that children and young people have the best possible start in life. The 2002 review of the UK’s implementation of the UN Convention on the Rights of the Child highlighted poor progress in this area. Furthermore, ASB should be defined by the behaviour and not the age of alleged perpetrator.

39. The government needs to give more emphasis to working with local communities to tackle the social conditions that give rise to much ASB as well as ensuring that there are adequate resources available for suitable diverting activities for young people. ASB is linked with a lack of things to do and places to go for young people without money in both urban and rural areas. Local authorities have seen endless budget cuts over recent decades and youth activities, leisure services, libraries, clubs, have all suffered severely. Schools and councils have been forced to sell off playing fields and open spaces where kids might have let off steam.

90 Sustainable solutions to anti-social behaviour—local government’s approaches to tackling anti-social behaviour, LGA, September 2004.
40. The ASB Act, every child matters and numerous other consultation documents refer to the importance of parenting or family support. However, the message from local authorities is that there is great concern about the shortfall in adequate funding for such provision.

**Disparities in Levels of Anti-social Behaviour and in Use of Powers to Combat it Across the Country**

41. There are obvious disparities in the use of ASB legislation and levels of ASB across the country. Some of this disparity could be due to the level of resources available ie some inner-city areas have access to more resources to address the problem. However, another contributing factor to this disparity reflects complex issues around what is determined as anti-social behaviour and the need for locality based actions to deal with local issues.

42. The number of ASBOs sought should not be the key performance indicator for the success of local authorities in tackling ASB locally. As this submission has previously noted, ASB may be dealt with locally before reaching enforcement stage. The process for Corporate Performance Assessments (CPA) 2005 and onwards will hopefully recognise this need to measure quality of prevention and rehabilitation strands of work.

**Responsibilities of the Private Sector for Tackling Anti-social Behaviour**

43. The private sector has a responsibility in tackling anti-social behaviour. In some cases the private sector sets a poor example eg through illegal fly posting, but on the whole authorities have noted a positive response from the business community within their locality. It is important however that the issue of anti-social behaviour is seen as the responsibility of the whole locality and not that of the police or local authority. London Borough of Camden has for example developed a strong relationship with the Holborn Business Partnership who has provided funds to be used as police overtime to tackle ASB and provided the use of a solicitors firm, free of charge, to conduct an ASBO application.

**Licensing Act 2003**

44. An unintended outcome of the Licensing Act 2003 may be to increase anti-social behaviour. The Act adopts a deregulatory approach, providing many new opportunities to licensees, including 24-hour provision of alcohol, likely to lead to an increase in ASB. Although local authority licensing strategy has to take into account crime and disorder issues, we need to ensure that the licence trade takes a responsible approach to the new regime. This needs to apply to all licensed premises. It should focus on avoiding underage drinking; binge drinking and mixing substances (eg alcohol and cocaine) and stopping drinks being “spiked”.

**Housing**

45. Empty homes are a significant problem. The vast majority of these empty homes belong to private landlords. Areas where there are a number of empty homes may see a reduced market value in neighbouring properties and in the wider area, thereby contributing to a spiral of decline. The housing minister Keith Hill said that the Government would not tolerate homes which are “sitting empty, becoming magnets for vandals and ASB, at a time when there is a shortage of homes in some parts of the country.” The Association therefore welcomes a number of the proposals under the Housing Bill expected next year. The introduction of Empty Home Management Orders for Empty properties will provide a new intervention tool for councils.

46. The LGA warmly also welcomes the proposal for introducing a licensing regime to ensure greater protection for tenants in Houses in Multiple Occupation so that higher standards of management and maintenance can be more easily enforced. It is something that the LGA has been requesting for a while. The mandatory scheme will help to ensure that 120,000 of the most vulnerable households in the country will receive statutory protection.

47. In the longer term the LGA would like to see the introduction of licensing for the whole of the private sector but welcomes the proposals in the bill as a good start. The association sees licensing as essential to encouraging regeneration in destabilised communities with a range of social and economic problems, particularly where bad landlords are linked to criminal and anti-social behaviour generally.

30 September 2004

27. Memorandum submitted by the Magistrates Association

The Magistrates Association is well aware of the destructive effect of anti-social behaviour. We have been working with the Anti-social Behaviour Unit and have publicised its work in *The Magistrate*. Anti-social behaviour has always existed but varies in its form, intensity and the degree to which it affects particular
communities. It is not restricted to the UK: many of the specific problems that cause distress and concern at present are very common across Europe, eg graffiti, flytipping etc. Action through partnership working is crucial to rebuild the confidence of communities and to disempower offenders whether they be targeting vulnerable people or terrorising whole neighbourhoods.

CAUSES

There are many causes including boredom, peer pressure, lack of parental control (for youths), drink and drugs.

EFFECTIVENESS AND PROPORTIONALITY OF CURRENT POWERS

Current powers are very extensive, with changes that some magistrates have found confusing because (a) they have been brought in at different times, and (b) so many other changes are taking place/on the way. As far as ASBOs are concerned, magistrates can now be asked, or decide themselves, to “bolt-on” an ASBO after a criminal conviction—in both youth and adult courts—as well as hearing stand-alone applications for ASBOs which all take place in the adult court regardless of the age of the defendant, as they are civil proceedings.

It is important, for the effective use of current powers, that everyone involved in an application should realise that there is a two-stage test before an ASBO can be granted. The court must be satisfied first that there have been past acts of anti-social behaviour, and then that an order is necessary for protection against further anti-social acts. These may be civil orders but we must be satisfied to the criminal standard of proof at stage one (past acts of anti-social behaviour).

Where serious criminal offences have been committed then prosecution should follow. Applications for ASBOs should not be made in such cases as some form of easier alternative.

Care must be taken by the judiciary making the order that the prohibitions are practical, easily administered and understood by all parties having taken all points into consideration, particularly those of the YOT in the youth court.

ASBOs need to be seen as practicable and address the concerns of the victims and the local communities. They need to have the confidence of the public.

It is important that reported incidents are followed up as quickly as possible so that the problem is dealt with while it is fresh in the perpetrator’s mind. Rapid detection followed by a swift first court appearance is a key factor in reducing anti-social behaviour. If this became the norm it would be a strong deterrent.

The Judicial Studies Board has informed MCCs that an ASBO training session for magistrates should take place this year. We welcome this in order to consolidate knowledge, but would warn against further initiatives and further change on this front. A great deal of essential training, to do with other criminal justice changes, is taking place at the moment and an overload of change will have a negative effect.

Greater use of fixed penalty notices is a worry—especially if against young people. The Association does not support further extension of fixed penalty notices as these can down-value this type of aggressive criminal behaviour. Payment rate is likely to be low—enforcement and collection is costly—coming back to court for enforcement is not the ideal way to deal with anti-social behaviour.

It is too early to judge the effectiveness of Dispersal Orders

It is early stages to judge the effectiveness of Confiscation Orders but they are useful for dealing with offences such as persistent driving with no insurance.

ENFORCEMENT

Orders must be quickly but proportionately enforced.

Conditions must be reasonable and focused at eliminating the behaviour that led to the application—too many conditions could make the order unworkable.

ASBOs are only effective if the police have the resources to enforce them.

Overuse will severely dent the effectiveness of the orders and lead to large numbers of breaches and there could be a perception by the public or the peer group that they are not policed.

There is a danger that too many initiatives will lose impact and unless well implemented and co-ordinated will not be credible.

Difficulties arise with breaches being imprisonable, whereas the order is not. Where breaches are brought there can be a very severe penalty. The level of seriousness is recognised in the current Guideline (the starting point is “Is it so serious that only custody is appropriate?”) but we have been disturbed by reports of adverse comment amounting to pressure on sentencers when the outcome has not been what prosecutors, police etc have wanted. Punishment must be justified and proportionate and there can be many gradations of breach. There has also been a lack of public understanding over the extent of magistrates’ powers. The overall
maximum penalty is five years imprisonment, but that applies to the Crown Court. If a case is retained in the magistrates’ court our powers of punishment are six months custody, and in the Youth Court 24 months Detention and Training Order.

**Government Initiatives**

There has been a great impact as far as publicity is concerned. This can of course have a negative effect with unrealistic expectations being raised.

The Government initiative of a Community Justice Centre dealing with low level crime such as anti-social behaviour has been publicised. We consider that magistrates’ courts are the obvious and ideal place within local communities to deal with anti-social behaviour. What is essential is for agencies to have the resources to support and implement any orders of the court.

**Role of Parenting Support, Youth and Community Services etc in Diverting Young People from Anti-social Behaviour**

ASBOs prevent, but they don’t divert. There is nothing positive in an ASBO—it only spells out what the offender shouldn’t do or where he shouldn’t go. There needs to be a positive element—ie spelling out what they should be doing and this is now possible through Individual Support Orders (ISOs). With young people aged 10–17 we must make an ISO if we are satisfied that this would help prevent repetition of the behaviour. This could be of great benefit but we do not know if provision for these orders will be forthcoming in all areas of the country.

More parental support is required and a greater sense of accepting parental responsibility. There should be an effective programme properly resourced for young people and their families which involves warnings and, if necessary, Acceptable Behaviour Contracts.

When making an ASBO in respect of young people under 16, we are required to make a parenting order if satisfied that this would help prevent repetition of the behaviour. Information is sought from the YOTs when considering this, and YOTs are very reluctant to recommend Parenting Orders. Again, resources are part of the problem.

The multi-disciplinary approach of the YOTs has unlocked some of the blockages in the system (eg housing, access to healthcare) but there is more work to be done.

Young people truanting from school are quite likely to be getting into trouble. Local authorities should look at the problem of young people having long journeys to school. Not all authorities subsidise bus fares for children living within a three mile radius and a long journey on foot provides more opportunity for truanting.

Local authorities can also help by ensuring that there are ample opportunities for leisure activities for young people, particularly sport, that can help channel excess energy so that it benefits society rather than destroys it.

**Disparities in Levels of Anti-social Behaviour and in the Use of Powers to Combat it Across the Country**

Use of ASBOs and levels are not consistent around the country. Standards of prosecution have varied and some benches have had more experience than others depending on the local approach to ASBOs. Face to face training for all magistrates is a positive step, the Justices Clerks Society has issued useful guidance and the Judicial Studies Board has produced training materials. This should increase consistency of approach but the courts can only deal with what is brought before them and can only take into account evidence to the required standard of proof.

There needs to be joint training at every level and clear protocols within each of the 42 areas setting out precise areas of responsibility and accountability of all agencies—police, local authority, probation, YOTs, courts, CPS etc—particularly in the process of bringing offenders to court.

There is disparity both in application and understanding of what can be achieved. There is a risk that ASBOs are “marketed” as the ultimate panacea. They are most effective as a last resort.

We have heard that very few ASBOs have been made in Liverpool where schemes set up in local communities and very much involving those communities, are working extremely well. It would be worthwhile looking at those schemes.

**Responsibilities of the Private Sector**

The private and statutory sectors need to co-operate to ensure that entrenched and intractable anti-social behaviour does not become an accepted part of their landscape.

*20 September 2004*
28. Memorandum submitted by Nacro

Nacro is the leading crime reduction charity in England and Wales. The organisation’s prime purpose is to make society safer through the development of effective approaches to crime prevention and through the promotion and delivery of constructive interventions, with offenders, which emphasise social inclusion and community involvement.

Nacro employs more than 1,400 staff employed in a broad range of settings. These include housing, employment and training, restorative justice, prison based and community based projects, and interventions with young people in trouble or at risk of offending. Nacro’s Youth Crime and Mental Health Sections provide specialist services in their own fields that operate within the overall philosophy of the organisation.

INTRODUCTION

There can be little doubt over the priority accorded to measures to combat Anti-social Behaviour. The White Paper on anti-social behaviour,91 the rapid production and progress through Parliament of the Anti-social Behaviour Act 2003, the launch of the Government Anti-social Behaviour Action Plan92 and the Prime Minister’s involvement in the promotion of its activities are all testament to this. This is all the more remarkable given that 15 years ago the expression was scarcely in use, and the concept of anti-social behaviour, as a predisposing factor to offending, although anecdotally and experientially recognised by practitioners, was not part of a clearly articulated and evidenced model.

Before addressing the specific issues set out by the Home Affairs Committee, there are three general issues Nacro would raise.

GENERAL ISSUES

Anti-social behaviour—a “youth” issue?

Although generally anti-social behaviour measures are applicable to all age groups, there is an underlying impression, promoted by the media and in particular certain parts of the popular press that anti-social behaviour is essentially a “youth” issue, dealing with the activities of “teenage yobs” and “young louts”. This is reinforced by the readiness with which local press resorts to extensive coverage of ASBOs on teenagers and the fact although it was nearly 18 months before the first ASBO was made on a youth, nearly 65% of ASBOs93 have been on those under 18.

The use of language

The terminology often used by practitioners involved in anti-social behaviour work is that of the criminal justice system. Thus those who carry out anti-social acts are “offenders”, they do not behave anti-socially but “offend”. Often this is a “carry over” from these practitioners previous backgrounds and the use of such terms is an easy way to refer to “perpetrators” engaging in “anti-social acts”. Also most anti-social behaviour constitutes an offence, it is just they are not being investigated through the criminal route. Nacro feels it is particularly important to maintain the distance between those in the criminal justice system and those who are not. Those subject to anti-social behaviour measures have not been convicted of an offence, not even those subject to an ASBO.

The use of ASBOs for those experiencing mental health problems

There are a small number of people who experience severe mental health problems and exhibit anti-social behaviour and who might not always be responsible eg someone who is psychotic. Many local authorities use ASB measures to respond to people with mental health problems rather than comply with their duties to provide support. Nacro believes this could lead to a person with mental health needs facing eviction from their home when there should be adequate support and supervision in place for them. ASBOs could be given to people with personality disorder—rather than seeking out treatment for them—or people not taking their medication or drinking.

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91 Respect and Responsibility—Taking a stand against Anti-social Behaviour (Cm 5778) Home Office 2003.
93 Available at http://news.bbc.co.uk/1/hi/programmes/kenyon_confronts/3230997.stm
SPECIFIC ISSUES

The causes of anti-social behaviour

Attention was drawn in the early 1990s to communities which appeared to be “disintegrating” in the face of crime, drug use and dealing, and lack of investment in their fabric by the popularising of the term “sink estates”. Often this occurred in “inner city” communities experiencing extreme poverty and economic hardship. Concern was focussed on the degree, seeming intractability and generational nature of “social exclusion”, as the shutting down of economic and social opportunities became known.

Increasingly research pointed to the association of anti-social behaviour with offending, and the “fear of crime”94 with persistent petty offences.95 This often involved groups or neighbours and was seen as a major concern to the wider public.96 Research also highlighted that the worst effects of victimisation, often with children as the victims, were often felt in poorer communities, with lack of legal assistance for victims who were the subject of actual or feared intimidation and reprisals. A model of what was termed “the Anti-social Behaviour cycle” was developed in by the Audit Commission in “Mis-spent Youth” (Audit Commission London 1996) and “Mis-spent Youth ‘98” (Audit Commission London 1998) which clearly identified:

— Inadequate parenting;
— Aggressive, hyperactive behaviour;
— Truancy and exclusions;
— Peer group pressure;
— Unstable living conditions;
— Lack of training and employment; and
— Drug and alcohol abuse

as particular, self reinforcing characteristics of communities in which anti-social behaviour is a feature and which may provide a clear route for young people into offending.97 This model coupled with has been termed the “Crime Careers” model of generational anti-social behaviour and offending98 has received wide acceptance in explaining the perpetuation of social exclusion and the apparent intractable nature of what are essentially social welfare problems in these communities.99

Since then much work has been undertaken on what are now termed “risk factors”. Possibly the most comprehensive is “YJB Research Note No 5; Risk and protective factors associated with youth crime and effective interventions to prevent it” (2001; Youth Justice Board; London). What is particularly striking from the work on “risk factors” is the congruency between those relevant to anti-social/offending behaviour, and those relevant to the safeguarding and promoting of welfare of children. It simply is not the case that a particular set of risk factors surrounds those involved in anti-social/offending behaviour and a separate, distinct set surrounds those who need safeguarding and having their welfare promoted. There does appear to be an element of chance for a child who experiences a cluster of risk factors in whether they come to the attention of the child welfare or criminal justice agencies.

Effectiveness and proportionality of current powers

Clearly it is not possible to comment on certain of the powers introduced by the Anti-social Behaviour Act 2003 as they have either been in force for a limited period of time or await implementation.

Nacro would urge the Committee to seek assurances that before Penalty Notices for Disorderly Behaviour (PNDs) are rolled out nationally to 10–15 year olds the measure is thoroughly piloted and fully evaluated. There are particular issues relating to the appropriateness of using this measure for this age group and the absence of involvement of any adult in the process of notice issue. In the light of comments made by the Prime Minister100 there may be pressure not to do this.

95 Such as littering, graffiti, abuse, obstruction, and criminal damage.
96 Some doubt has recently been cast on the degree and extent of the fear crime see “The Frequency of the “Fear of Crime” Farrell and Dodd to be published British Journal of Criminology vol 44 no 1.
100 Official Report, Commons, 21 January 2004; col 1319.
GROUP DISPERSAL POWERS

As well as the time the powers have been available, the widely varying ways different Police Forces have applied these powers (ranging from immediate use to use only as a last resort after all other diversionary avenues have been explored) means it is difficult to comment on effectiveness.

As to whether the measures are proportionate Nacro argues:
(a) without an ability to vary the hours during which dispersal powers are available to be exercised;
(b) without clear guidelines and models to ensure inclusiveness of all in the consultation process with the local community; and
(c) with widely varying thresholds for the use of these powers.

it is difficult to see how instances where their use is disproportionate can be avoided. It must also be remembered use of these powers has not yet been tested in the higher domestic and European courts.

ACCEPTABLE BEHAVIOUR CONTRACTS

It is accepted that there is value in a process which makes people aware of the impact of their behaviour on others. However, nationally it is difficult to assess effectiveness of these as there appears to be no central collation of numbers made and outcomes. The proportionality of the restrictions is in some doubt, as the ability to negotiate these is not assured.

ANTI-SOCIAL BEHAVIOUR ORDERS

It is clear that simple numbers are inadequate to judge whether ASBOs are effective or not. “Status” issues ie whether a measure of last resort or not obviously have relevance. A locality with numerous ASBOs could be seen as “failing”, if they are making full use of all the other measures. Where children are involved the length of the order could be significant in proportionality—a five year order for a 10 year old is 50% of their life; for a 40 year old 12.5%. Nacro would argue order length for children should take account of maturational processes. Nacro counsels caution in determining the nature of prohibitions for example those relating to clothing and/or are nationwide. Breach of ASBOs is viewed by the court as a serious matter, with an entry level of custody. Nacro argues this is disproportionate for children, young people and vulnerable adults in particular. Nacro welcomes recent suggestions that this outcome should be one of last resort.

Enforcement and co-ordination

Nacro is opposed to a blanket policy of “enforcement by publicity”. This further promotes the exclusion of those who are often already amongst the most vulnerable groups.

Co-ordination between agencies involved in anti-social behaviour measures is variable, with authorities nearly adjacent within a particular region displaying widely ranging levels of consultation and communication. Where there exists a clearly coordinated process for planning for applications, much more opportunities for diversionary efforts exist, and these are often part of the process. Nacro believes this provides an effective, structured way to prevent formal proceedings which are kept as a “last resort”, and thus avoid unnecessary use of measures which are costly to obtain and monitor. Devon and Cornwall Police have adopted this strategy.

Impact of Government initiatives

Currently we are in the paradoxical situation of increasing the fear of mis-behaviour during a period of sustained reduction in offending overall. Nacro believes a balance needs to be struck which promotes the awareness of anti-social behaviour measures without increasing fear of crime.

The role of parenting support, youth and community services and the youth justice system in diverting young people from ASB

Given the identified risk factors above, it is clear that parenting support programmes (preferably available on a voluntary basis), youth and community services all have a significant part to play in diverting young people from anti-social behaviour. The results of the Youth Justice Board sponsored preventive initiatives and the reported reduction in communities of instances of anti-social behaviour during the periods they are in operation confirm their value. However work is needed to shift the emphasis of such work from “risk reduction” to “promotion of protective factors”.

101 See YJB/ASBU Guidance to Youth Offending Team role in Anti-social Behaviour (March 2004).
102 Some doubt has recently been cast on the degree and extent of the fear crime see “The Frequency of the Fear of Crime” Farrell & Dodd; British Journal of Criminology vol 44 no 1.
Nacro would counsel caution over involvement of the youth justice system in this activity. Engagement with criminal justice agencies for those not involved in offending behaviour, or even below the age of criminal responsibility, raises issues of stigmatisation resulting in possible promotion of social exclusion. A possible solution would be the involvement of the voluntary sector in direct provision, albeit under the aegis of a YOT, which might put a degree of “distance” between criminal justice agencies those not in the system.

Disparities in levels of ASB and in the use of powers to combat it across the country

The latest figures indicate widely varying rates of use of ASBOs and there are reportedly widely varying uses of such as group dispersal powers. It is difficult to believe that Manchester is more than twice as “anti-social” as the whole of the Metropolitan Police area. Indeed the results of the one day anti-social behaviour audit would not support this. Variation in the extent to which diversionary strategies are employed and whether formal powers are used as a “last resort” measure confound the use of formal powers as a comparator for the extent of anti-social behaviour in different localities.

Responsibilities of the private sector for tackling anti-social behaviour

Nacro sees only a limited role for the private sector in such as evidence gathering eg by private security in “private” public space (shopping malls), it sees no role in terms of the exercise of powers.

In line with comments made above Nacro sees an extensive role for voluntary organisations in the provision of preventive services which would separate non-criminal service provision from criminal justice system agencies and prevent stigmatisation.

CONCLUSION

In Nacro’s view while enforcement measures have a part to play in tackling anti-social behaviour, the greater emphasis should be placed on prevention and rehabilitation. This is particularly important in view of the evidence that:

— Providing effective support to families under stress significantly reduces the likelihood that children will become delinquent or engage in anti-social behaviour.
— Effective pre-school education programmes increase the likelihood of educational achievement at school, and reduces the likelihood of offending and anti-social behaviour in later life.
— Tackling issues of truancy and school inclusion can reduce offending and anti-social behaviour by young people who are not benefiting from the school system.
— Reducing youth unemployment can substantially reduce youth offending and anti-social behaviour.
— Providing accommodation and support for homeless young people and adults significantly reduces the likelihood of their committing offences and engaging in anti-social behaviour.
— Well structured, youth activity programmes in high crime, disadvantaged areas can significantly reduce local rates of youth offending and anti-social behaviour.

13 September 2004

29. Memorandum submitted by the National Association for Youth Justice

The NAYJ is the national practitioner based organisation that campaigns for justice for children in trouble. It has a national committee and membership to which are federated regional organisations, who promote the principles embedded in the NAYJ Manifesto. As such this submission focuses on the outcomes for children.

INTRODUCTION

There can be little doubt of the political profile currently being accorded to measures to deal with Anti-social Behaviour. The White Paper on anti-social behaviour,\(^\text{103}\) the rapid production and progress through Parliament of the Anti-social Behaviour Bill, the launch of the Government Anti-social Behaviour Action Plan\(^\text{104}\) personally involving the Prime Minister and recent, high-profile public statements, again involving

\(^{103}\) Respect and Responsibility—Taking a stand against Anti-social Behaviour (Cm 5778) Home Office 2003.

the Prime Minister, give testament to this. This is all the more remarkable given that 15 years ago the expression was scarcely in use, and the links between anti-social behaviour and offending behaviour, although recognised by practitioners, was not part of a clearly articulated and evidenced model.

There are some general issues NAYJ would raise before addressing the issues the Committee wishes to address.

GENERAL ISSUES

An alternative system/route to custody

The NAYJ believes the anti-social behaviour measures have effectively constructed an alternative system to that of the criminal justice system. This alternative ensures the use of custody at a significantly lower threshold (in terms of seriousness of offending) than would be the case if criminal proceedings were followed for the same behaviour. It is less rigorous, involves reduced cost and less rigorous standards in terms of evidence. In the case of alleged breach of an interim order it must be noted the pattern of behaviour, and thus the grounds for prohibitions, have yet to be satisfactorily established. The use of custody as the “entry level” breach penalty has significant implications for children in trouble with the law, where diversionary principles from formal proceedings as well as custody, are a keystone to the system.

Anti-social behaviour—a "youth" issue?

The media, in particular the “red top” popular press, have fuelled the perception that anti-social behaviour is solely a “youth” issue. “Teenage yobs”, “young louts” and their behavior is all that matter. This is reinforced by the eagerness that local press give to extensive coverage to ASBOs made on teenagers. This impression is reinforced by nearly 65% of ASBOs\(^\text{105}\) having been made on those under 18. It is scarcely surprising that they are interpreted as an “anti-youth” measure.

The use of language

The lack of development of a suitable lexicon of easy to use terms for anti-social behaviour means it has taken its terminology from the criminal justice system. Thus there are “offenders”, not people who behave anti-socially; they “offend” not behave anti-socially. It may well be the new occupation of anti-social behaviour practitioners come from occupations that are particularly familiar with criminal justice terminology and is an easy way to refer to “perpetrators” engaging in “anti-social acts”. Also all the forms of anti-social behaviour constitute offences. However, none of these are justification for the criminalisation of those who have not been properly convicted by a criminal court. The NAYJ believes it crucial to the inclusion of those who are experiencing impoverished circumstances, to avoid their “criminalising by language” and thus promote exclusion.

SPECIFIC ISSUES

The causes of anti-social behaviour

The early 1990’s saw increased attention paid to the causes of “social exclusion”, in particular the areas unfortunately labelled “sink estates”. Of particular concern was:

(a) its apparent generational nature; and
(b) its seeming intractability.

Research (originating from America) linked anti-social behaviour with offending, and the “fear of crime”.\(^\text{106}\) Communities were depicted as plagued by persistent petty offences such as littering, graffiti, abuse, obstruction, and criminal damage involving groups or neighbours as antagonists.\(^\text{107}\) Research also highlighted that the worst effects of victimisation, often with children as the victims, were often felt in impoverished communities, with lack of legal assistance for victims who were the subject of actual or feared intimidation and reprisals.

An “english” model of what was termed the “Anti-social Behaviour cycle” was presented in “Mis-spent Youth” (Audit Commission (1996) London p90) and further developed in “Mis-spent Youth ’98” (Audit Commission; London 1998 p 48–50). This clearly identifies:

— inadequate parenting;

\(^{105}\) available at http://news.bbc.co.uk/1/hi/programmes/kenyonconfronts/3230997.stm


\(^{107}\) Some doubt has recently been cast on the degree and extent of the fear crime see “The Frequency of the Fear of Crime” Farrell & Dodd to be published British Journal of Criminology vol 44 no 1.
— aggressive and hyperactive behaviour;
— truancy and exclusions;
— peer group pressure;
— unstable living conditions;
— lack of training and employment; and
— substance misuse;

as specific and self reinforcing characteristics of communities in which anti-social behaviour is a feature.

Since then the identification of these “risk factors” has occupied much effort. Possibly the most comprehensive to date is “YJB Research Note No 5: Risk and protective factors associated with youth crime and effective interventions to prevent it” (2001; Youth Justice Board; London).

Consideration of the outcome of the work on risk factors is that those relevant to anti-social / offending behaviour are identical to those involved in welfare of children. There is not one set that are involved in anti-social / offending behaviour with a discrete, different set involved in child welfare cases. The NAYJ believes what is involved are individuals and communities living in poverty, including economic, emotional, and impoverished social capital. It also believes chance plays a part in determining whether a child in such circumstances experiences the child welfare or criminal justice systems.

**Effectiveness and proportionality of current powers**

With some of the powers still to be implemented, and many of those contained in the Anti-social Behaviour Act 2003 it is possibly premature to undertake a comprehensive, detailed evaluation. Accordingly the NAYJ would urge the Committee to consider the following points:

(a) That there will be rigorous and thorough piloting and evaluation before Penalty Notices for Disorderly Behaviour (PNs) are implemented for 10–15 year olds. The NAYJ believes these measures are inappropriate for those under 18. It is clear there is enthusiasm on the part of the Government for speedy implementation of this. The NAYJ believes the lack of any adult parent/carer role in the process means it is fundamentally flawed. It even lacks the duty to contact such that is present in the “street bail” provisions—analogous “ticket issuing” exercise—recently introduced by the Criminal Justice Act 2003.

(b) It is clear different Police Forces have implemented the Group Dispersal powers in widely differing ways. Some resorted to their exercise immediately they were available, others have kept them as a measure of last resort. Clearly there is no “base line” in their use to enable comparison between areas. With the British Crime Survey identifying the gathering of groups of youths as a major anti-social behaviour problem the NAYJ believes this will further reinforce the perception of anti-social behaviour as a “youth issue” (see above). The NAYJ believes the “one size fits all” nature of the “curfew” hours, and the lack of guidance/models for ensuring a truly inclusive consultation exercise with the community and thresholds for consideration to their use means again comparison as to efficacy and proportionality will be problematic.

(c) The NAYJ accepts that Acceptable Behaviour Contracts (ABCs) may have a utility in making a person aware of the impact of their behaviour on others. However, the NAYJ knows of no national monitoring of these, nor guidance on the degree in which these are a “fait a complis”. Proportionality could be an issue as the role of negotiation in agreeing the requirements is unclear, as is the ability for parents and children involved in the process to seek advice and support from others in.

(d) Particular issues for the NAYJ relating to Anti-social Behaviour Orders are:

(i) Whether they are measures of “last resort” or not?
(ii) The proportionality of order length—five years for a 10 year old is half their life.
(iii) Are nationwide prohibitions on such as ownership of specific types of clothing proportionate?
(iv) The disproportionate nature of the use of custody as the “entry level” sanction for breach.

**Enforcement and co-ordination**

The NAYJ is somewhat alarmed at the apparent disparity between different localities in the quality of co-ordination and consultation between agencies involved in countering anti-social behaviour. Practitioners report not being aware that a decision to seek an ASBO on a child until application is made in court, or an order is asked for on conviction. What is clear is that where a clearly co-ordinated process for planning for applications exists, much more opportunities for diversionary efforts exist, and these can and are often integrated into the process. Devon and Cornwall Police have adopted such a strategy which reduces the unnecessary use of measures which are costly to obtain and monitor.

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The NAYJ opposes the strategy of “enforcement by publicity”. Local communities know who it is that behave anti-socially. Publicity is rarely community based (cf the “shop a job” campaign run by a red top national newspaper), is gratuitous, and highlights individual children as headed for social exclusion and thus vulnerable.

Impact of Government initiatives

The NAYJ believes the focus on the numerical use of formal powers is not productive in seeking locally based, informal solutions to anti-social behaviour.109 The NAYJ counsels caution over such as the “Academy” exercises recently run by the ASB Unit, which appeared to promote use of formal measures as a “good thing” in itself. The NAYJ believes the current, high profile emphasis on the instance of anti-social behaviour and its corrosive effects is creating a paradoxical situation of increasing the fear of mis-behaviour during a period of sustained reduction in offending overall. A balance needs to be struck which promotes the awareness of anti-social behaviour and available measures without increasing fear of crime.110

The role of parenting support, youth and community services and the youth justice system in diverting young people from ASB

With the identified risk factors above, the NAYJ believes high quality parenting support (particularly where voluntarily accepted) youth and community services are crucial in diverting young people from anti-social behaviour. The reported significant reduction in areas where such preventive initiatives as Splash, YIPs, and YISSPs have been run are a testament to this—as is the rise again when seasonal schemes end. The NAYJ is opposed to the involvement of formal youth justice agencies as direct service providers in preventive activity. This is with full knowledge of the recent YJB/ASBU guidance to YOTs on the latter’s role with anti-social behaviour. Children not involved in offending behaviour, or below the age of criminal responsibility, should not engage with criminal justice agencies. Such would lead to stigmatisation resulting in promotion of social exclusion. There needs to be clear separation between non-offenders and criminal justice agencies. This might be achieved by service provision by a voluntary organization, under the “aegis” of the YOT.

Disparities in levels of ASB and in the use of powers to combat it across the country

The NAYJ believes our understanding of differences in levels of anti-social behaviour cannot be based on raw numbers of the times formal powers are used. The picture is far more complex than “a lot of ASBOs means there’s a lot of anti-social behaviour”. It is dependant on whether there is exhaustive diversionary activity from formal proceedings, with a clearly structured incremental set of interventions, or whether formal proceedings are a “first option” strategy. The former strategy could be dealing with far more anti-social behaviour, but in a more measured, cheaper, informal way. Clearly the NAYJ believes the use of formal power should only happen after diversionary routes are exhausted and as outlined above, there should be a co-ordinated planning and consultation structure.

Responsibilities of the private sector for tackling anti-social behaviour

The NAYJ sees no role for the private sector in the exercise of anti-social behaviour powers.

The NAYJ, in line with comments above regarding avoidance of net widening and criminalisation of those not convicted of an offence, sees an extensive role for voluntary organizations in the provision of preventive services.

13 September 2004

30. Memorandum submitted by the National Federation of Arms Length Managerial Organisations

INTRODUCTION

1. The National Federation of ALMOs (NFA) is the representative trade body for Arms Length Management Organisations (ALMOs). The NFA is a not-for-profit body that aims to secure a long term financial future for ALMOs, persuade central government to take account of the interests of ALMOs and establish a vibrant and innovative independent ALMO sector that will provide decent homes, raise standards across the public rented housing sector, achieve excellence in service provision, promote tenant empowerment and help to deliver broader national and local policy priorities.

109 The Times 31 August 2004.
110 Some doubt has recently been cast on the degree and extent of the fear crime see “The Frequency of the Fear of Crime” Farrell & Dodd; British Journal of Criminology vol 44 no 1.
2. ALMOs are bodies set up by councils specifically to manage and improve the local authority housing stock. They are non-profit making local authority owned companies. The stock remains within the ownership of the local authority and the tenants stay secure council tenants. The first ALMOs were established in April 2002. Rounds one to four of the ALMO programme encompass 705,000 dwellings, nearly 30% of the council stock, while rounds five and six will lead to the establishment of more ALMOs in 2005 and 2006.

**POWER TO APPLY FOR ASBOs**

3. ALMOs are a new and vibrant part of the social housing sector. They are committed to providing the best possible service to their tenants and to helping deliver the key priorities of the local authority. The ability to deal swiftly and effectively with anti-social behaviour is essential to achieving these aims. However, because the sector is so new ALMOs are not listed in the legislation that allows local authorities and housing associations to apply for anti-social behaviour orders (ASBOs). Instead they have to ask the local authority to undertake this work which only adds another level of bureaucracy that serves no purpose and leads to potential delays.

4. ALMOs are subject to strict supervision in order to ensure they deliver high standards of management. In addition to being monitored by the council and ODPM they must also achieve at least 2* in an inspection of their service by the Audit Commission Housing Inspectorate before they can access ALMO funding. This guarantees that only the best deliverers of housing management services enter the programme. Addressing anti-social behaviour is a core housing management function and ALMOs should be given the same powers as other social landlords to enable them to deliver an effective service. In any event the court process itself provides sufficient checks and balances to ensure the power is not abused.

5. ALMOs work closely with their home councils and police forces and are key contributors to local authority corporate anti-social behaviour strategies. However, in order to be able to contribute effectively to local Crime and Disorder Reduction Partnership strategies they need to be given the operational powers appropriate to their role as housing managers. Because the ALMOs’ focus is primarily on the management of the housing stock they are able to be more single minded and effective in dealing with anti-social behaviour on council estates. It is the ALMO that has the direct relationship with tenants and this ensures it has a stronger interest in ensuring the distress caused by anti-social behaviour is addressed as speedily as possible.

6. Since it is the ALMO, primarily, that is committing the resources, paying the costs and collecting the evidence required to apply for an ASBO it makes more sense for the ALMO to deal directly with the police and the courts rather than processing the case via the local authority. In most cases the operational staff experienced in these matters have, in any event, been transferred to the ALMO. It is a waste not to use their knowledge and skills and this would also free up council officers’ time to deal with anti-social behaviour in the wider community.

7. The deterrent effect of ASBOs is also relevant. At present the message to perpetrators is confused since it is not clear which body is generating the ASBO. If tenants know that the ALMO managing their stock has the power to rapidly take action against anti-social behaviour then this will help prevent further transgressions in the future.

8. A number of ALMOs also manage stock on behalf of other landlords, particularly housing associations. It would be sensible to allow ALMOs the power to apply for ASBOs on these properties as well—although it will be for each landlord, when determining the management agreement, to decide whether or not to allow the ALMO to use this power on their stock.

**REPRESENTATION IN COURT**

9. In some courts ALMOs are not allowed to represent the landlord without a council solicitor also being present, which adds an unnecessary cost to the process. This applies primarily in cases of eviction for arrears and anti-social behaviour and would also be an issue should the power to apply for ASBOs be extended to ALMOs. Representation in court is an important part of the housing management role and is also often a recommendation in inspection reports. If ALMOs are unable to do this it will add additional expense and bureaucracy and undermine the effective management of the stock.

10. ALMO staff are simply carrying out the management function which has been delegated to the ALMO by the local authority. However, the approach of the courts has varied, primarily because ALMOs are so new and courts have little knowledge of the S27 delegation powers. Court rules on who can represent the council are not applied in a consistent fashion and this has led to delays and extra costs in some cases. It would be helpful if the Government could do more to clarify the role of ALMOs to courts and other agencies and resolve this issue.
EFFECTIVENESS OF CURRENT POWERS

11. Under the Regulation of Investigatory Powers Act 2000 (RIPA) the council still needs to authorise any surveillance activities undertaken by the ALMO. This can lead to delays and problems similar to those with ASBOs. Provided the same controls are put in place as apply in a council the powers to authorise this activity should be extended to the ALMO in order to streamline the process.

12. However, subject to the caveat that ALMOs should enjoy the same legal powers as housing associations and local authorities the NFA believes that the appropriate legal tools to address anti-social behaviour are now broadly in place. There are a range of measures that ALMOs can apply directly including mediation, Acceptable Behaviour Contracts (ABCs), injunctions and serving notices.

13. The issue now is the extent to which the available tools are being used effectively. It can take a long time to obtain a court hearing for an ASBO application and defendants frequently delay the process as long as possible while the system for applying for Legal Aid only encourages this. Since ASBOs are only applied for in the most serious cases this can mean that tenants on estates are victimised and intimidated for many months before any hope of redress. Such cases should be heard within three months of application. Enforcement of ASBOs and effective action when the order is breached is another area of concern. It completely undermines local strategies for addressing anti-social behaviour if those who break the order go unpunished.

ENVIRONMENTAL ISSUES

14. As the primary point of contact for residents ALMOs are well placed within the community to offer a range of services beyond core housing management functions. This could include providing services to other tenures and performing environmental functions such as imposing fines for littering or dog fouling. However, clarification is needed that local authorities do have the power to delegate such activities to ALMOs where it is their wish to do so. This would enable ALMOs to take a more holistic approach to the management of their estates and to take on a wider neighbourhood management role where this is locally appropriate.

15. Abandoned vehicles on estates can often be the focus of anti-social behaviour and the start of a general decline in the overall environment. It is a key concern for tenants and action needs to be taken swiftly to remove this blight. However, ALMOs do not have the power to apply directly to the DVLA for details of owners of abandoned cars—a letter of authorisation has to be sent by the local authority for each enquiry—not do they have the power to remove the vehicles. This leads to unnecessary delays in addressing the problem.

ALTERNATIVES TO LEGAL ACTION

16. Possession orders and ASBOs are very much a last resort for cases of extreme misbehaviour. However, there is an increasing lack of tolerance for less serious instances. For example many residents view playing football in common areas as anti-social and even intimidating and expect the landlord or its managing agent to stop it. This can cause friction between different age groups. ALMOs have a strong community focus that goes beyond the landlord role. This includes the promotion of training and employment opportunities for the local unemployed that is a feature of many ALMO programmes. The Government needs to make available more resources to a wider group of potential agencies to develop youth diversion projects that will tackle the problem of young people with limited access to facilities.

17. More partnership working across agencies and tenures is essential. Whereas one can understand why schools exclude disruptive pupils in many cases this simply transfers the problem to another area, such as an estate. All housing managers are frequently faced with the difficult choice between the support needs of vulnerable tenants and the right to quiet enjoyment of other residents who may be adversely affected by their behaviour. The homelessness legislation ensures that many vulnerable residents are housed in local authority stock and not always with an adequate support package in place. Proactive tenancy sustainment should now be viewed as a mainstream activity rather than an add on to the traditional housing management approach. However, this does lead to higher costs and the housing subsidy system should reflect this in its assessment of housing management costs.

18. More support is also needed for the victims of anti-social behaviour and judges should be more sympathetic to the fears of victims. In a recent case a judge insisted on sworn affidavits from residents rather than accepting evidence from the housing officer. This can be a real problem in some cases, especially where the tenant is vulnerable or residents are afraid of the perpetrator(s). A balance needs to be set between the rights of defendants to a fair hearing and the rights of those affected by the anti-social behaviour.

20 September 2004
31. Memorandum submitted by The National Housing Federation

The Federation represents over 1,400 independent, not for profit housing providers. Our members include registered social landlords (RSLs), housing associations, co-ops, trusts and transfer organisations. They manage more than 1.7 million homes provided for affordable rent, supported housing and low cost home ownership as well as delivering a wide range of community and regeneration services.

There has been rising concern from landlords, tenants, politicians, media and the general public over the last few years with regard to anti-social behaviour. We believe that anti-social behaviour has a corrosive effect on the community as a whole and is detrimental to community cohesion. Our IN business for neighbourhoods’ agenda demonstrates the commitment that our members have to alleviating and combating anti-social behaviour, with partnership working and innovative practices. We have included in this submission some case studies showing this.

It is also important to recognise that anti-social behaviour, contrary to what some sections of the media appear to believe, is not the preserve of tenants of social housing. It is encouraging to see that the Government recognises that there can also be severe problems with leasehold and freehold residences and private tenants. The range of different tenures involved emphasises the need for social landlords to work as closely as possible with other agencies; many of the new powers are very important in dealing with non-tenants, where previously it would have been difficult to do so.

**LEGAL SANCTIONS**

There is a range of new and previously existing powers open to our members, or which our members are able to tap into via the relevant local authority and these have enabled a speedier and more structured approach to anti-social behaviour. They include:

- Anti-social behaviour orders—Legally enforceable court order prohibiting specified forms of anti-social behaviour.
- Acceptable behaviour contracts—Agreements generally used for more minor cases and younger children and sometimes a precursor to above.
- Parenting orders—Legally binding orders that require parents to take advice on dealing with their children’s behaviour.
- Injunctions and exclusion orders under sections 153A, 153B, 153C and 153D of the 1996 Act—New powers enabling any RSL to take out injunctions against its residents or a member of the general public causing anti-social behaviour.
- Powers of arrest in relation to injunctions—It is now easier to attach powers of arrest, as there only needs to be a perceived threat of violence for a judge to agree to powers of arrest.
- Vehicle removal—Powers to dispose more easily of abandoned vehicles, which are an eyesore and raise health and safety issues.
- Possession proceedings—The more traditional way of taking legal action against a tenant for nuisance etc, which remains very important.
- Demotion of tenancies—This again is a new power, which can deter anti-social behaviour by reducing the security of the tenancy for up to twelve months.
- Refusal of right to buy request—Again used as a deterrent for a limited period, but could affect sales of a particular property.

We welcome the availability of additional legal powers, and we urge the Government to monitor how they operate in practice and keep them under review so that they can be amended or added to in the light of greater experience. We are particularly concerned about the role of the courts, since the value of legal remedies can be vitiated by delays in obtaining hearings, in addition to the risk that legislation may be interpreted in ways not intended by Parliament.

However, legal remedies, although they attract most attention, and play an essential part in dealing successfully with anti-social behaviour, are not the whole story. In this submission we stress the equal importance of preventive work and the forging of effective partnerships with other agencies. Work of this kind, although it does not receive the same attention from the media and the public, either stops anti-social behaviour from happening in the first place or allows it to be dealt with at an early stage before it becomes a major problem.
CASE STUDY 1: SOUTHERN HOUSING GROUP

The Group regularly uses possession orders to take on the worst cases and in 2002–03 successfully evicted eight households for nuisance. The cases are time-consuming and take sensitive handling—particularly when neighbours have to give evidence in court. To make the process easier on witnesses, the Southern Housing Group has involved other agencies like Victim Support and the police. And in one recent case, after making a special application under the Civil Procedures Code, they got the judge to consider statements from tenants who asked to remain anonymous.

In partnership with local authorities and the police, the Southern Housing Group has been using acceptable behaviour contracts since 2001—especially with children and young people. The contracts are not legally binding, but getting perpetrators to agree they have behaved badly and to promise to change their ways shows a court that an attempt has been made to stop the nuisance before eviction was considered. The Group has also actively worked to promote acceptable behaviour contracts to local authorities and the police in areas where they have not been used before.

Devoting major new resources to the problem of nuisance, the Group recently launched a dedicated anti-social behaviour team. Manager, Sharon Nandoo and her team are there to provide advice, support and training for their frontline colleagues, besides developing contacts with other agencies, such as local authorities and the police. Sharon’s expertise as a qualified lawyer with 16 years’ experience is proving extremely valuable as difficult cases are piloted through the courts and she is helping the Group make the most of new legislation.

As well as tackling nuisance when it occurs, Southern Housing Group also sees its role as helping to prevent nuisance in the first place. Practical measures include refurbishing older estates to upgrade security, while planning for new developments includes measures to design out crime.

Starter tenancy schemes have been running at selected SHG estates since September 2000 and have helped enforce what it means to be a good tenant and neighbour. On other estates, residents sign up to voluntary good neighbour agreements. The Group regularly negotiates letting agreements with local authorities to promote balanced communities and actively develops mixed tenure schemes.

The National Housing Federation has produced a booklet in partnership with the Local Government Association and the Association of Chief Police Officers, entitled Together We Can Beat It. This sets out how interested parties can work together to efficiently and rigorously deal with anti-social behaviour and builds on a previous production produced in 2001 by the National Housing Federation and the Local Government Association, entitled Framework for Partnership.

CASE STUDY 2: HOME HOUSING ASSOCIATION

Although the Arthur’s Hill area in the West End of Newcastle came close to being demolished in the late sixties and early seventies the area has always had a very strong sense of community that has enabled it to survive. That community spirit is thriving today and is evidenced by the fact that there are residents from over fifty different ethnic backgrounds.

In the early nineties the area began to see a decline with void levels rising steadily. The landlord had to address this issue, so it talked to people and came up with some relevant local strategies that would reverse the decline, while also taking into account the differing needs of the ethnic backgrounds present within their stock.

Home, with residents, Newcastle City Council and a whole host of other partners, has pioneered a range of initiatives that have succeeded in turning the area around.

The first priority was the issue of crime and fear of crime so Home funded two police officers to work in the community, funded and installed CCTV cameras to make sure residents felt secure, and provided and installed burglar alarms and yard security lights for free. Home also fitted smoke alarms. Residents felt an immediate result. Home has continued its commitment to the initiative and crime statistics have dropped dramatically.

Another groundbreaking initiative was the formation of the Inner West Private Rented Project, now called New deal for communities. Formed in 1997, it was jointly funded by Home, Newcastle City Council and Enterprise 5 Housing Association. The Project works with both tenants and private landlords to improve housing management in the private rented sector; reduce crime and anti-social behaviour; reduce voids; and support and advise private tenants in their tenancies.

Home also had to look at the type of properties it was able to offer people and realised that its stock of mainly Tyneside flats was not appropriate for its customers. There was a market for substantial family accommodation especially as there were a large number of Asian families living in the community for whom traditional Tyneside flats were unsuitable. Home initially converted six pairs of flats into family accommodation. They were snapped up immediately and soon Home was inundated with applications. So far Home has converted 41 pairs of flats at a cost of almost £2 million and these conversions have helped to create a stable and sustainable community.
Home has provided a community centre for people to gather and talk both formally—with Home, the Police and other relevant agencies—and informally; there is also a CHAT (Churches Acting Together) Shop. Home has also introduced a lettings policy that encourages allocating family members homes in the same neighbourhood.

Community involvement is the key to continued success and Home has been able to listen to people and make decisions at a local level.

**PREVENTION**

These case studies, which exemplify the approach of housing associations in many parts of the country, show how members are actively promoting alternatives to legal action where possible, whilst demonstrating that in the most severe cases, they have no qualms in taking punitive action leading to eviction. This work is in accordance with association’s pledge to be in business for neighbourhoods, an agenda that promotes partnerships and the pursuit of mixed, sustainable and cohesive communities.

The causes of anti-social behaviour are many, and could include:

— Lack of youth facilities,
— The breakdown of families and community support in some areas,
— Poor parenting, lack of social skills,
— The decline of traditional employers of unskilled and semi-skilled labour,
— The general rise in drug use,
— The increase in illegal dumping of refuse and vehicles,
— Gang culture,
— Reduction in after-school activities to name but a few.

A recent development that causes us grave concern is the reduction in the funding for the Supporting People programme, which in many cases is likely to lead directly to accusations of anti-social behaviour against residents who may have support needs, which reflect themselves as anti-social behaviour. We strongly urge Government to reverse this cut and to ensure that adequately funded support is available for vulnerable people.

The development of the supporting people programme has the potential to be very beneficial in providing housing related support to ensure tenancy sustainment by people with a history of moving about, or with chaotic lifestyles. However, the continuing uncertainty over the long-term level of resources for this programme means there is little confidence that the level of support required to ensure that residents with support needs are able to retain their tenancies will be maintained.

**CASE STUDY 3: CIRCLE 33—HARTS**

The HARTS team was established in 2002 to provide specialist support for residents in Haringey and now has 60 team members helping 700 families.

HARTS—short for HARingey Tenancy Sustainment—was set up following an approach from Haringey Council to Circle 33’s specialist support agency, EPIC Trust. In response to the Victoria Climbie tragedy, the Council wanted to fill the gap between Housing and Social Services.

The team works with residents facing problems such as language difficulties, alcohol and substance misuse, anti-social behaviour and domestic violence.

HARTS also helps people access facilities such as schools, health care and appropriate housing. Referrals normally come through the Council, health visitors, schools and Social Services, but residents can also refer themselves. Team members speak more than 20 languages between them, which is a very important asset in a culturally diverse area such as Haringey, which has significant Greek, Turkish and Somalian communities.

Mediation has also had a part to play in dealing with anti-social behaviour as an alternative to legal action and we believe Government should actively support this approach.
Case Study 4: Whitefriars Services Ltd

Whitefriars has a qualified team of trainers and consultants who have stage I and II City and Guilds 7307 Further and Adult Education Teacher’s Certificate. The team are also qualified and experienced mediators.

In addition to providing Whitefriars’ own internal needs, the team train other RSLs and provide the service to them in addition to providing specialist advice on tenancy enforcement and mediation.

Whitefriars have a wealth of experience in conflict resolution and anti-social behaviour in addition to developing training and support programmes. External clients include Heart of England Housing Association, Jephson Housing, Touchstone Housing and Coventry City Council.

Our members have been wholeheartedly involved, along with their local partners, in finding solutions but obviously the cost of effectively tackling anti-social behaviour can be a substantial burden, particularly for our smaller members. Many members have set up specialist anti-social behaviour teams, although here again cost is a factor.

An example of innovative solutions to anti-social behaviour is the Dundee families project.

Case Study 5: Dundee Families Project

The Dundee Families Project was established with Urban Programme funding to assist families who are homeless or at severe risk of homelessness as a result of ‘anti-social behaviour’. The Project is run by NCH Action for Children Scotland in partnership with Dundee Council Housing and Social Work Departments. The Project operates from premises in St Mary’s, Dundee. It provides a range of individual, couple, family and group work interventions. The service is offered in three main ways:

— Admission to the core block, which comprises accommodation for up to 4 families. Residents receive intensive support, often involving daily contact. The premises are immediately adjacent to staff offices.
— Support to a small number of dispersed flats run by the Project, mainly for families to move into from the core block.
— An outreach service provided to selected families in their existing accommodation, where they are at risk of eviction by the City Council due to anti-social behaviour.

The Project provides an all year 24-hour a day service (Dundee City Council, 1999). In May 1999 its staff were as follows: Project Manager, two Deputies, seven Social Care Workers, 4 Relief Social Care Workers, one Administrative Assistant and one Domestic.

The Dundee project is a shining example of what can be achieved, but we have to recognise the cost involved in setting up such a scheme and unfortunately, many of our members do not have the resources, without additional access to funding streams, to set up such projects of their own.

In referring to the costs of dealing with it issue, it is relevant to mention that we are currently formulating our response to the Housing Corporation’s consultation on a proposed “efficiency indicator”. It is particularly unfortunate that the proposed indicator, despite its name, measures not efficiency but cost. This approach sends all the wrong signals because it effectively rewards associations, by deeming them more “efficient”, if they take a narrow view of their function. Government, and the Housing Corporation, should take a broader view of efficiency that incorporates the value of the services that associations provide, not merely the cost of providing them.

Such a broad view of efficiency has real benefits not only for associations and residents but also for Government. For example, if effective prevention work is able to nip a developing problem in the bud, it can avoid the decline of a whole area, which would have been a substantial cost on the public purse had it been allowed to happen. Prevention work that engages young people in a positive way can save the heavy costs of dealing with them through the justice system if they had got involved in crime.

Housing associations, as major landlords, have a leading part to play in addressing many of the issues contributing to anti-social behaviour. It is important that the Government recognise this as part of our role and we encourage other agencies, public and private, to share in this work. We also call on Government to offer further financial support for organisations working in this field. This will allow associations, or partner agencies as appropriate, to build on their existing schemes, and set up new ones, to support victims, organise youth and community activities, and promote local enterprise and employment.

Our members have demonstrated that their contribution to dealing with anti-social behaviour is not confined to the “stick approach” of evictions or other punitive measures, which, however necessary they may be in certain cases, will not necessarily get to the root of the problem by changing people’s behaviour. Our members will always seek more imaginative and innovative solutions to the problem of anti-social behaviour, solutions that look holistically at the problem, of which dealing firmly with perpetrators is only a part.
CASE STUDY 6: DRUM HOUSING ASSOCIATION

Drum Housing Association, based in Petersfield, has launched an offensive on vandalism in a combined initiative with local schools, the police and Neighbourhood Watch. Over one hundred children took part in a competition to design an anti-vandalism poster. The winning poster will spearhead a local campaign to help combat vandalism, which costs the community thousands of pounds every year.

The competition has been hailed as a great success by all the parties involved. The Deputy Headteacher of Petersfield School believes the children benefit greatly from taking part in this type of initiative. He said, “It is good for the children to think about social issues such as vandalism. The poster competition has generated quite a bit of interest among pupils. They have discussed the effects of vandalism and then expressed their own feelings creatively. The children have been given the chance to consider the issue, that in itself is a great education”.

The poster will be distributed as part of the police PRIME policy (Problem Resolution in Multi-Agency Environments), which encourages local groups and agencies to work together. Co-organiser of the competition, Josephine Roberts of Drum Housing Association, explained, “The PRIME policy is very much in keeping with Drum’s own policy of promoting community partnerships. Vandalism is an issue that affects our community. By working with other organisations we can reach a wider audience and involve the community in confronting the issues. The children’s posters will help to discredit vandalism amongst their own peers as well as the wider community”.

The overall winner of the competition was 16 year old Kathryn Stones of The Petersfield School. Kathryn’s prize will be an all-expenses-paid trip to an art gallery of her choice in London. Other winning entries were from The Dunhurst School and The King’s Arms Project Petersfield.

Inspector Sargent, who presented the prizes, said, “I have been very impressed with the children’s work. The competition has helped to raise awareness of the problems caused by vandalism. The posters will help to send out the message that vandalism is unacceptable to the whole community, young and old alike”.

PARTNERSHIP WORKING

We have already referred to the importance of partnership working. Our members’ experience shows that in order to tackle the problem effectively it is essential to form local and national partnerships with local authorities, the police, schools, other landlords, local businesses, social and youth services, as well as the courts. From these partnerships, they have devised effective strategies through design and regeneration, inclusion programmes, sanctions for the worst cases and publicity around their schemes and good practice which have reduced or eradicated anti-social behaviour in their locality.

It has helped that our members now have new powers to deal with anti-social behaviour and that the police also have increased powers to manage the problem, which in turn has assisted our members, but the effectiveness of these powers is much reduced when the various agencies work in isolation from each other. This is why Crime and Disorder Reduction Partnerships are so important.

INFORMATION SHARING

Many of our members who operate across several local boroughs, state that while they are happy that there is the opportunity to share information with the police service and other agencies in the areas that they work, they have voiced their concerns around the lack of more coherent information sharing protocols.

They may have properties across five boroughs and in each of those boroughs, there will be a different information sharing protocol in place.

This does not sit well with their need for a joined up organisational approach to their business, nor does it fit in with the current efficiency drive.

The National Housing Federation and our members would be very grateful for government support on this matter.

It is also important to recognise that anti-social behaviour, contrary to what some sections of the media appear to believe, is not the preserve of tenants of social housing. It is encouraging to see that the Government recognises that there can also be severe problems with leasehold and freehold residences and private tenants. The range of different tenures involved emphasises the need for social landlords to work as closely as possible with other agencies; many of the new powers are very important in dealing with non-tenants, where previously it would have been difficult to do so.
CASE STUDY 7: THE RIDINGS HOUSING ASSOCIATION

Since its inception in 1999 the tenant’s federation of the Ridings HA has given a high priority to the prevention of anti-social behaviour on the landlord’s estates by involving young people in positive activities. As a result, the Ridings’s tenant involvement and community development work focuses on services for young people and voluntary work with young people. Most of these schemes result from housing management issues or develop as a result of initiatives by tenants or young people themselves with the Ridings in a supporting role.

The Ridings helped develop partnership between local groups and volunteers, Youth Services, Leisure Services and the Community Involvement Team. Ridings helped the group set up, fundraise and develop a child protection policy, besides helping with group training. It also funded a volunteer to do her MIDAS training with a community transport organisation to help the group take young people to activities not available on this isolated estate. Activities included: a sponsored litter pick, Halloween party, regular trips to a youth club off the estate, Fun days, sports days, and trips.

CONCLUSION

The National Housing Federation welcomes the new powers afforded them and also as previously stated, wholeheartedly welcome working in partnership with other organisations and agencies.

We are also pleased at this inquiry, which we hope will open more avenues for our members to deal with anti-social behaviour and investigate other methods that underpin our members support and commitment to the communities within which they operate.

Having said that, we still feel that there is some way to go in getting the support to develop alternative initiatives and we would welcome any opportunity to further discuss the matter on our members behalf which will enable us to come up with a strategy for change in the methodology of dealing with anti-social behaviour.

15 September 2004

32. Memorandum submitted by the National Landlords Association

BACKGROUND

1. The National Landlords Association (NLA) was founded in 1973 as the Small Landlords Association, and is the largest association for landlords of residential property in the country. Membership is spread throughout the United Kingdom and the association has about five thousand member landlords who, together, have an investment in residential property worth an estimated £1.5 billion.

2. The use of “small landlords” in the original name of the association is in reference to the fact that, in comparison to large landlords such as local authorities and the Ministry of Defence, the private landlords who compose our membership have much smaller interests. While most private landlords in England and Wales have only one letting, the NLA has a disproportionate number of members with, typically, a small handful of lettings, often contained within buildings that are designated as houses in multiple occupation (HMOs). Membership is, however, very varied, ranging from the widowed lady who lets a few rooms in her own home, to the larger landlords who may have several dozen lettings. About two thirds of the association’s membership is in London and the south-east, reflecting the distribution of let property in the country.

3. For the majority of our members, their letting is a sideline and the rental income is not regarded as their main source of income. Some may be wealthy but others will be struggling to make ends meet. NLA members are all concerned to see a fair and just private rented sector. The act of joining the NLA is usually a demonstration that the landlord wants to “get it right”. Members are expected to abide by a Code of Conduct and its introduction has been welcomed by them.

INTRODUCTION

4. In providing evidence to the Home Affairs Select Committee we are focussing exclusively on the problems of dealing with anti-social behaviour displayed by tenants in private sector housing.

5. Private landlords are commonly demonised as irresponsible individuals who are happy to install any tenants, regardless of their behaviour, often in low-quality housing, simply in order to rake in money from rent. Our aim in providing evidence to the Select Committee is to lay out some of the truths regarding the situation private landlords find themselves in when tenants start to display anti-social behaviour and some methods which might prove helpful in supporting landlords who need to deal with the problem.
6. In all spheres of policy the National Landlords Association works in association with Government to improve standards in the private rented sector. In particular, we have previously worked closely with the Office of the Deputy Prime Minister and other agencies on the production of guidance for members of Crime and Behaviour Reduction Partnerships in tackling anti-social behaviour which was produced in March 2003.

PROBLEMS FACING THE PRIVATE RENTED SECTOR IN RELATION TO ANTI-SOCIAL BEHAVIOUR

Definition of anti-social behaviour

7. The first fact to make clear is that without a well-thought out definition of anti-social behaviour it can be very easy to “create” a problem where there is none and blame landlords for not dealing with it. Currently anti-social behaviour can range from low-level nuisance to criminal activity. Definitions tend to vary from area to area throughout the country. Some local residents may complain that playing music too loud is anti-social behaviour but this may be the result of poor sound insulation in a building rather than music being played at genuinely excessive volume. In such a case there may be little that the landlord can do, especially if s/he is letting a single flat in a leasehold block.

Factors limiting action by landlords against anti-social tenants

8. Before placing demands on private landlords to act against problem tenants, it is important to remember that private landlords are individuals. Whereas housing authorities or Registered Social Landlords may be able to act “corporately” and bring power to bear on anti-social tenants, the relationship between a tenant and private landlord is more likely to be one-on-one. As a result the private landlord may themselves feel vulnerable at the thought of having to face a problem tenant. This may particularly be the case when the landlord is a woman and as owning rental property becomes more attractive to women the problem is likely to grow.

9. The landlord may also have a poor knowledge of the law in this area, especially if they have not had to deal with such a situation before. At the same time they will fear that failure to act completely within the law will result in them being penalised. The line between legitimate pursual of a tenant for bad behaviour and harassment is very thin.

10. In taking effective action against anti-social tenants, the options open to the private landlord are severely restricted. Direct representations are often met with abuse and threats of violence; unlike the social housing officer whose private address is likely to be unknown to the tenant, the private landlord is required by law to disclose his address to the tenant—actual violence is not unknown. The only other avenue to making direct representations is to seek possession. Ground 14 of Schedule 2 of the Housing Act 1988 provides for an immediate notice seeking possession where there is anti-social behaviour, but the difficulty of providing evidence that will satisfy the courts and the cost of such litigation is a deterrent. The other route for landlords is to seek possession under Section 21 of the Housing Act 1988; this is usually the preferred option as although it involves giving not less than two months notice, possession is guaranteed and the costs are kept to a minimum. Legal proceedings always take time, particularly against a clever defendant who may be supported by legal aid. The consequence of these considerations is that it is seldom possible for the private landlord to get possession from such a tenant in much under six months.

Private rental sector involvement in crime and disorder reduction partnerships

11. The research undertaken by the University of Sheffield to support the guidance on tackling anti-social behaviour found that many Crime and Disorder Reduction Partnerships had faced difficulty in engaging landlords in their activities alongside other local agencies. This may not always be for the reason that the landlords are not interested but will be the result of a variety of factors.

12. Private landlords do not come from a homogenous background and this causes difficulties when trying to engage their interest in local activities to combat anti-social behaviour. People may become landlords for a variety of reasons. Some want to actively invest in property. Others may inherit a property. Others may continue to own and let out a property they themselves once occupied once they have moved elsewhere. The size of holdings will vary from one single flat to a portfolio of properties across a region. There will be different levels of engagement in property management: some landlords will want to be very involved in a hands-on way, others will leave the management of property and recruitment of tenants entirely to a letting agency and will want to have little association with day-to-day management.

13. Private landlords may not always live in the area in which the properties with the problem tenants are located. They may live in an adjacent local authority area or at the other end of the country or could even be living abroad and leaving their property in the hands of letting agents. Recruiting them to take part in Crime and Disorder Reduction Partnerships will therefore take more effort by the local authority and they may not be available to attend local meetings on a regular basis.
14. The historic relationship between landlords and local authorities has been one of at best indifference and at worst animosity on both sides. Local authorities have usually had to focus their efforts on managing their own housing stock. When they have had to address the wider housing sector, some have fallen into the trap of believing all landlords to be exploitative individuals with little interest in the people that they house and have treated them accordingly. Landlords, too, often view local authorities with suspicion; either from a belief that they should be allowed to continue their business without regulation or as a result of a bad experience caused by the local authority’s poor treatment of private landlords. This has contributed to a reluctance by landlords to involve themselves in local authority initiatives.

15. The other agencies which are involved in Crime and Disorder Reduction Partnerships are representative of the local area (eg local police, social services, health service, youth service). There is not always a single cohesive local landlords’ body available to represent the interests of individual landlords and in any event not all landlords will belong to such a body.

**Solutions to the Problems Outlined Above**

16. It was apparent from the research undertaken by the University of Sheffield to back up the guidance on tackling anti-social behaviour that the most successful approach to tackling the problem in the private sector is for local authorities to work in partnership with landlords rather than pursuing them as part of the problem.

17. Problems with locating private landlords to involve them in the process of dealing with anti-social behaviour may be alleviated by the proposals in the Housing Bill to allow local authorities to license landlords in selected areas. However, if local authorities approach the powers as a way of punishing landlords it is likely that many of them may simply decide to sell their properties which will result in less available housing.

18. Landlords need support and information to enable them to tackle problem tenants. The NLA advice line offers this service to its members. Local authorities need to communicate to the landlords in their area that they can offer advice on where to go for help in dealing with problem tenants and give assistance in tackling the problem.

19. Some local authorities have introduced schemes to provide landlords with reference checks on potential tenants and vet their previous records on behaviour. This is a very helpful scheme for landlords but is not widespread throughout the country and more landlords need to be aware of it.

20. Whatever happens to the anti-social tenant they will still need housing. It is likely that that housing will often have to be provided in the private rented sector, especially for problem tenants who have already been moved on from accommodation in the social rented sector. Some private landlords are willing to house such tenants—if other sanctions can be imposed to moderate the behaviour patterns. Such landlords deserve all the support that can be given.

21. There have been suggestions made at various times, especially in the last five years, that one straightforward solution to the problem of anti-social behaviour by tenants would be to remove their housing benefit. We would like to make it clear to the members of the committee that we reject such an idea in the strongest terms. Such a measure would fail in its objective of forcing tenants to behave properly. The landlord would fail to receive payment for the rent but, unlike in the social housing sector, the individual landlord could be afraid of chasing the tenants face to face for payment and would have less power available to pursue the tenants through the legal system. The removal of housing benefit would not give tenants any incentive to behave properly and the landlord would be the only person who would be hurt by the measure.

**Conclusion**

22. In ending this submission the NLA would like to remind the members of the Select Committee that landlords are unlikely to want bad tenants in their properties because a tenant who indulges in anti-social behaviour is unlikely to care for the property itself and that is the landlord’s main investment.

23. Anti-social behaviour is a societal problem of today which needs to be addressed. However, we would question the appropriateness of using of housing legislation to bring such behaviour under control. There are deeper societal ills that are the real causative factor.

*15 September 2004*
33. Memorandum submitted by the National Youth Agency

The National Youth Agency (The NYA) is a developmental agency, funded largely by the Local Government Association and government departments (primarily the Department for Education and Skills and the Home Office). The NYA aims to advance youth work to promote young people’s personal and social development, and their voice, influence and place in society. It works to improve and extend youth services and youth work; to enhance and demonstrate youth participation in society; and to promote effective youth policy and provision.

1. Anti-social behaviour blights lives and communities, both urban and rural.

2. The National Youth Agency asks the Home Affairs Committee in its deliberations to bear in mind that, contrary to most media reports and much political rhetoric, anti-social behaviour can be, and is, committed by people of any age, not just by young people. To children and young people, reckless and inconsiderate driving by adults is anti-social; to a sight-impaired person negotiating a town centre street, a pile of cartons carelessly dumped outside a shop door by the proprietor is anti-social; to most people, regardless of age, racial harassment is anti-social. The unfortunate shorthand so frequently used as a synonym for ASB—“yob culture”—reinforces the perception that the problem is almost wholly related to the actions of the young. The NYA urges the Committee to consider the wider societal implications of anti-social behaviour for all citizens.

3. Furthermore, The NYA asks the Committee to take account of the fact that young people are often the target of anti-social behaviour, with young men aged 16–24 most at risk of being the victims of violent crime.111

4. It is the NYA’s belief that an emphasis on punishment, and enforcement alone is counter-productive and that it is essential to work with local communities to tackle the social conditions underlying unacceptable behaviour so that sustainable improvements can be achieved. Youth work in particular has the potential to support young people through adolescence and to help them to develop into responsible citizens, through its central objective of fostering the personal and social development of young people. A key element of this personal development involves the young person learning to take responsibility for their own actions. Examples of such approaches appear at the end of this submission.

5. The Causes of Anti-social Behaviour

Risk factors can be both symptoms and causes and the relationship between the two is both complex and dynamic. These can be summarised as:

— Family: poor supervision, low income household and family conflict.
— School: low achievement, truancy, and general school disorganisation.
— Community: disadvantaged neighbourhood, community neglect, crime and the availability of drugs.
— Individuals, friends and peers: friends involved in problem behaviour, alienation and lack of social commitment.112


6.1 The NYA, in consort with a dozen other organisations concerned with the wellbeing and rights of children and young people, campaigned hard during the passage of the Anti-social Behaviour Bill and remains extremely concerned about the powers contained in the 2003 Act. In particular, we refer to powers such as that of dispersal of groups of young people in a public place and Fixed Penalty Notices. We believe they simply reinforce negative perceptions of young people in general as trouble-makers and may lead to further alienation, as well as worsening relations between young people and authority figures. Dispersal orders do not tackle the reasons for young people being out on the streets in the first place (often because there are no appropriate, affordable places to go or things to do). They may simply move a perceived problem to another area and they risk punishing the innocent as well as the trouble-maker. Fixed penalty notices risk undermining home/school relationships, as well as further threatening often fragile or volatile family relationships, due to financial pressures. This is likely to particularly impact on poorer families. We understand that the application of the proposed Penalty Notices for Disorder (in effect an on-the-spot fine) to young people aged 10–16 is left to the discretion of the individual police officer and can be imposed in any place or at any time—the young person does not have to be in a designated area and there is no discussion with the local Crime and Disorder Partnerships.

6.2 Expert opinion from Anthony Jennings QC during the passage of the ASB Bill through Parliament suggested that the proposals appeared in breach of Articles 5, 6, 7, 8, 9, 10, 11 and 14 of the Human Rights Act 1998 and the Children Act 1989. Nothing in the subsequent Act allayed these concerns.

6.3 Decca Aitkenhead (The Guardian, 24 July 2004) points out that the publicity given to a young person who is the subject of an ASBO is in stark contrast to the anonymity afforded a child or young person convicted of a criminal offence. ASBO applications are heard in civil courts, judged only on probability, and evidence can be presented anonymously, making it incapable of challenge.

6.4 The NYA queries how this squares with Article 40 of the UN Convention on the Rights of the Child, to which the UK Government fully subscribed in December 1991:

“Parties recognise the right of every child alleged as, accused of, or recognised as having infringed the penal law to be treated in a manner consistent with the promotion of the child’s sense of dignity and worth, which reinforces the child’s respect for the human rights and fundamental freedom of others and which takes into account the child’s age and the desirability of promoting the child’s reintegration and the child’s assuming a constructive role in society.”

7. ISSUES OF ENFORCEMENT AND CO-ORDINATION

7.1 Work done in the West Midlands on ASB (see above) shows that success depends on partnership working to a strategic plan, where the wide range of agencies who need to be involved share a vision which underpins their interventions. Successful approaches to ASB are holistic—they include social, economic and family interventions. These include better housing management and youth and community initiatives.

7.2 The NYA welcomes the forthcoming Green Paper on Youth and the proposed “youth offer” which appears to acknowledge the investment that will be needed to provide adequate “places to go and things to do” for young people. Central to this must be the involvement of young people in the planning, development and implementation of such initiatives. Any inquiry into anti-social behaviour strategies and the effectiveness of available powers of enforcement and co-ordination should take account of these developments. Pitts et al have explored the contribution of detached and outreach work in the UK to community safety, finding that boredom is an issue in the needs and risks of young people. A scarcity of leisure facilities was cited as a problem for 60% of the young people in their study. This finding “could be significant for youth justice and community safety professionals because of the demonstrable link between leisure provision, boredom and involvement in petty crime”.

7.3 “Involvement of young people in the process of reducing local crime and disorder should start by involving them in the audit process—seeking their experience and their views. The British Crime Survey shows that those aged 16–29 face at least treble the crime risks facing the elderly.” Home Office, Guidance to Statutory Crime and Disorder Partnerships (1998).

8. THE IMPACT OF GOVERNMENT INITIATIVES

8.1 Government initiatives such as Splash and Summer Splash have shown beneficial results in test areas, reducing overall crime as well as limiting instances of juvenile nuisance. Between June and August 2002 total crime fell by 7.4% and juvenile nuisance increased by 0.1% compared to 2.9% and 13.2% increases respectively during the same period in 2001.

Building on the success of Splash is PAYP (Positive Action of Young People), a three-year project to deliver diversionary and developmental activities for young people. However the NYA recognises that sustainable year-round provision is an essential requirement for continued success on tackling anti social behaviour.

9. THE ROLE OF PARENTING SUPPORT, YOUTH AND COMMUNITY SERVICES AND THE YOUTH JUSTICE SYSTEM IN DIVERTING YOUNG PEOPLE FROM ANTI-SOCIAL BEHAVIOUR

9.1 The key roles youth work play in crime prevention include:
   — providing a supportive, enabling role rather than a controlling one;
   — focusing resources on areas with high concentrations of young people at risk rather than simply specific offenders;
   — developing the use of outreach and detached youth workers;
   — working with other agencies to tackle a range of problems faced by young people (such as homelessness, employment, drugs and relationship problems) and


114 See Joseph Rowntree Fund research on detached youth work, 2004, JRF/The NYA.
— developing clear aims and methods of work;¹¹⁵
— providing safe locations for young people to meet and programmes offering opportunities for learning and personal development.

10. EXAMPLES OF YOUTH WORK APPROACHES TO TACKLE ANTI-SOCIAL BEHAVIOUR

10.1 Youth work has made a significant contribution to many government interventions over the past five years. These include: The Youth Inclusion Programme, Community Renewal Rewards, On Track Crime Reduction Programme, Positive Futures, Youth Justice Board Development Fund, Intensive Supervision and Surveillance Programmes.

10.2 Specific examples¹¹⁶ include Summer Plus (Westminster Youth Service): re-offending by participants did not rise as it usually does during the summer; a number of the young people involved returned to education, training or employment. Alternative Trip (North Yorkshire Youth Service): a 50% reduction in nuisance behaviour reported by the police during the half-term period when the scheme ran, compared with the previous year. Challenge and Adventure (Isle of Wight Youth Service): 70% to 80% of the young people on the project (potential young offenders) have stayed out of criminal involvement. In many of the examples, the young people involved had been written off as “no hoppers” by wider society before receiving a positive youth service intervention in their lives. What emerged clearly was the need for sustained interventions and opportunities for young people to engage in a wide range of activities throughout the year, involving a range of partners and underpinned with long-term funding.

“Too often, politicians and funders take a simplistic view of the task, expecting positive change to occur quickly and ignoring the reality that seeing youngsters through ‘relapses and consolidating and reinforcing success, for ‘as long as it takes’, is central to the task.”¹¹⁷

11. DISPARITIES IN LEVELS OF ANTI-SOCIAL BEHAVIOUR AND IN THE USE OF POWERS TO COMBAT IT ACROSS THE COUNTRY

11.1 There has been a marked increase in the use of anti-social behaviour orders in 2004, with 1,323 ASBOs issued to March 2004. As can be seen below, ASBOs have been used most extensively in urban areas:

— 422 times in Greater Manchester (since 1999)—up 232% since March 2003
— 59 issued in Liverpool—up 139%
— 122 issued in Leeds—up 430%
— 48 issued in the London borough of Camden—up 182%¹¹⁸

12. RESPONSIBILITIES OF THE PRIVATE SECTOR FOR TACKLING ANTI-SOCIAL BEHAVIOUR

12.1 The private sector has a positive role to play in tackling crime and anti-social behaviour. In particular, The NYA believes that private sector planning applications should include an element of community gain, youth or community facilities. Partnerships between the private sector, local councils and community groups need to be established and/or strengthened to assist in tackling anti-social behaviour. A good example is “Business in the Community”, consisting of 700 member companies.¹¹⁹ “Membership of Business in the Community is a commitment to action and to the continual improvement of their company’s impact on society”.

6 September 2004

34. Memorandum submitted by NCH

INTRODUCTION

NCH, the children’s charity, is the largest voluntary sector provider of services to children, young people and families in the UK. We run more than 500 projects and work with more than 100,000 people every year. NCH has extensive professional experience of working to prevent and tackle anti-social behaviour and we work with both the perpetrators and the victims. In partnership with local authorities we run several innovative projects that aim to address the underlying causes of anti-social behaviour.

¹¹⁶ Ibid.
¹¹⁹ http://www.bitc.org.uk/about_bitc/index.html
Incidents of anti-social behaviour can cause misery to families, estates and communities and it is right that the Home Affairs Committee is conducting an inquiry into the effectiveness of government policy to address this problem. While gaining media headlines and being seen to be tough on anti-social behaviour may be politically advantageous, what matters to NCH is the implementation of effective policies that reduce anti-social behaviour.

We know that young people are more likely to be the victims of anti-social behaviour than the perpetrators and that many youngsters are worried about anti-social behaviour. Indeed a recent Populus poll reflected this view which found that two-thirds of young people were seriously concerned about anti-social behaviour.\textsuperscript{120}

### The Need for a Broad Policy Approach to Tackle Anti-social Behaviour

Anti-social behaviour is a very complex problem and if the Government is to be successful in tackling such behaviour a balanced package of both enforcement and preventative measures is required. This view is supported in the Social Exclusion Unit’s report 8 on Anti-social Behaviour which stated in paragraph 7 that:

“... To be effective the problem of anti-social behaviour needs to be addressed as a whole. Addressing any part of the problem in isolation will not provide a long-term solution. Tough enforcement action will not decrease anti-social behaviour unless it is linked to effective prevention. Evictions will only move the problem elsewhere unless perpetrators are made to change their behaviour.”\textsuperscript{121}

In fact, there is a danger that over reliance on enforcement could actually result in overlooking other problems such as domestic violence. Getting this balance right is essential and NCH is concerned that government policy in this area has been dominated by enforcement measures with little attention on prevention. In our view, if the Government continues in this direction it will be greeted with very little success as the underlying causes of anti-social behaviour are not being sufficiently addressed.

Below, we outline our observations on a number of measures that the Government has introduced to tackle anti-social behaviour.

### Parenting Orders

NCH believes that, when appropriately delivered, parenting support can be beneficial to parents. However, we question whether such a measure would bring to an end to entrenched anti-social behaviour by young people. We disagree with what we see as “spin” put on the Youth Justice Board (YJB) research in 2002\textsuperscript{122} which generated headlines such as “Parent Classes Help Cut Youth Offending: Upbeat Assessment of New Government Programme”. As well as the view of Lord Warner, the then chair of the YJB, who commented that “Now there is real evidence [that] relatively short parenting programmes . . . can cut offending by half among youngsters who were already entrenched in their offending.”\textsuperscript{123}

In fact, closer analysis of the YJB’s research indicates that Parenting Orders are seen in some cases as an initial barrier to engagement because of their enforced nature. The report observes “it is far less clear from the research that the programme had a positive impact on young people” and that the improvements in young people’s behaviour were more likely to be because they were themselves on “change programmes” run by Youth Offending Teams. Interestingly, the researchers conclude, “parenting programmes are unlikely to provide a “quick fix” for entrenched anti-social behaviour by young people, though they may perhaps have the effect of applying the brakes on what are often very fast downward trajectories in terms of outcomes for this vulnerable group.”\textsuperscript{121}

NCH questions the effectiveness of Parenting Orders in tackling anti-social behaviour. Instead, we believe that there should be an environment in which all parents can voluntarily access support with numerous chances for parents and children to opt in as part of a package of family support. In doing so this would enable parents to seek support and advice in a non-stigmatised way and crucially before anti-social behaviour becomes entrenched. This would mean that such behaviour could be addressed at an early stage with a better chance of successfully reversing anti-social tendencies.

\textsuperscript{120} Young worried by antisocial crimes, \textit{Times} newspaper (9th September 2004).
\textsuperscript{121} Paragraph 7, \textit{A Report of PAT 8: Anti-social Behaviour}, Social Exclusion Unit (March 2000).
\textsuperscript{123} Article in \textit{the Guardian} newspaper by Woodward W., Education Editor (10 July 2002).
**Anti-social Behaviour Orders (ASBOs)**

Initial government guidance stated that ASBOs were to be an instrument of last resort and only issued when other interventions have failed. However, this has now changed and current guidance states that there is now no necessity to try other interventions prior to the issuing an ASBO. NCH strongly opposes this change and believes that it should be reversed. This is because issuing an ASBO in isolation will not address the underlying causes of a person’s behaviour. It should be the last resort, not the first form of intervention.

If we are to successfully tackle anti-social behaviour it is essential that provision is available to help change and address the causes of such behaviour through engagement. The importance of this kind of approach was highlighted in the Home Office review of ASBOs which found in 60% of cases there were mitigating factors involved in the offender’s anti-social behaviour such as drug and alcohol abuse, temporary or permanent school exclusion, eviction or learning disability. Research by Norton and Nixon (2002) supports this view as they found that more than two-thirds of defendants threatened with eviction from social housing were described by housing offices as having “particular vulnerabilities of special needs.”

We are of the view that people need to be given the opportunity to change their behaviour before punitive punishment is used. We do not believe that ASBOs achieve this, nor do we think that Individual Support Orders issued in conjunction with ASBOs will make a real difference. Instead, our experience points to the need to tackle the underlying causes at the earliest possible stage.

We are concerned that the number of ASBOs issued to tackle anti-social behaviour has more than doubled since March last year when there is no evidence to show that issuing ASBOs is an effective method of reducing anti-social behaviour. NCH favours an independent impact evaluation of ASBOs in order to establish their effectiveness of reducing anti-social behaviour.

**Naming and Shaming**

NCH is concerned about the increasing use of the policy of naming and shaming young people who are subject to ASBOs. There is clearly an inconsistency between the publicity given to young people who have been issued an ASBO and the protection from public identification of children convicted of more serious crimes. Again, we question the impact that naming and shaming has on changing a young person’s behaviour. We believe there is a danger that this measure will reduce the chances of young people correcting their behaviour as well as running the risk of alienating young people from their local community.

As with ASBOs, it seems that little attention is taken to mitigating circumstances when using this measure. For example, in August 2004 a 12 year old boy with the mental age of a four and a half year old having Attention Deficit Hyperactive Disorder and autism was issued with an ASBO and named in his local paper. We do not believe that is the best way to help this young person or his family and some magistrates seem to share this view. It is interesting to note recently magistrates in Cambridge refused to lift restrictions preventing the identification of young people issued with an ASBO because it was not in the interests of justice. In our experience of working with families the evidence shows that engaging in tailored intensive support is more effective.

**Evicting Anti-social Tenants**

NCH does not agree that the eviction of tenants for anti-social behaviour is an effective way of reducing the problem. We believe that eviction will only result in anti-social behaviour being displaced and not addressed—a view also supported in research carried out by the Joseph Rowntree Foundation. In contrast, our experience working with families with a history of anti-social behaviour suggests that addressing the causes of anti-social behaviour is a more effective approach than eviction. For example, NCH’s Dundee Families Project which offers a wide range of support services to the homeless and those facing eviction as a result of anti-social behaviour has been judged a success in tackling nuisance neighbours and anti-social tenants. Research by the University of Glasgow found that two-thirds of the families referred to the project have been successfully re-housed and put back on secure tenancies.

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125 P 7, Tackling anti-social behaviour—what really works, Nacro (September 2002).
126 P 8, Tackling anti-social behaviour—what really works, Nacro (September 2002).
127 Record Year for ASBOs as Communities Fight Back, Home Office Press Release (31 August 2004).
128 For example see “Court Refuses to Name ‘Complete Nuisance’, 12” Cambridge News (9 September 2004).
129 Neighbour nuisance, social landlords and the law, Hunter, Nixon and Shayler, Joseph Rowntree Foundation (2000).
Interestingly, there is a cluster of characteristics associated with those families referred to the project because of anti-social behaviour—characteristics that highlight their vulnerability. The evaluation of the project found that:

- two thirds of households were a one parent structure;
- nearly all the families were reliant on state benefits;
- 70% of adults had drug or alcohol problems;
- over 50% of adults had criminal records;
- there was evidence of neglect affecting almost half the children; and
- over half the women had suffered from domestic violence.\(^{132}\)

However, while our Dundee Families Project has been judged a success, our experience points to a significant shortfall in this kind of provision nationally. It is our view that the necessary support and assistance is not available or easily accessible in the majority of cases. In addition, limited resources and the pressure on local authorities have resulted in the adoption of short-term quick-fix solutions rather than the development of long-term preventative strategies. We believe that there needs to be greater resources targeted to addressing the factors contributing to anti-social behaviour. We support the creation of a single funding allocation to resource initiatives to tackle the causes of anti-social behaviour.

CHILDREN’S FUND

Our work running a number of Children Fund programmes reinforces the merits of support and prevention to reduce anti-social behaviour by young people. For example, feedback sheets asking 46 young people about the benefits of activities offered to them for four nights a week by their local Children Fund found 44 respondents believed that these activities keep them out of trouble.\(^{133}\) One respondent commented: “Before Activate (an activity provided by the Children’s Fund) I hanged around the street and talk to my mates but when I come now I learn more things” (Girl, aged 12).\(^{134}\)

The services provided by the Children’s Fund are, in many areas of the country, successfully reducing the likelihood of young people behaving anti-socially. We also support the development of complementary initiatives such as Splash and Summer Splash, which have shown a positive impact in reducing anti-social behaviour. However, NCH is of the view that there is still inadequate support and facilities available for young people and this kind of provision needs to be expanded and made available all year round. This view was also supported in a survey carried out by the Prince’s Trust, which found that 92% of adults believed that local authorities should provide more diversionary activities for young people to help tackle anti-social behaviour.\(^{135}\) We hope that the forthcoming Green Paper on Youth Provision will address the need to invest in youth services.

CONCLUSION

Our experience of working with families and young people strongly suggests that addressing the underlying causes of anti-social behaviour is a far more effective approach than just punishing them through enforcement measures. While there are some good examples of preventative initiatives to tackle anti-social behaviour there is still a significant deficit in this kind of provision. NCH believes that until such provision is widely accessible the Government’s success in reducing anti-social behaviour will be severely limited.

15 September 2004

35. Memorandum submitted by the Northern Housing Consortium

1. BACKGROUND

1.1 The Northern Housing Consortium (previously the Northern Consortium of Housing Authorities 1974–2002) was established in April 2002, and its 179 members include Local Authorities, Registered Social Landlords (RSLs) and other organisations involved in housing.


\(^{133}\) P.23, Interim Report, St Helen’s Children’s Fund Evaluation. Helle Mittler, Prof Corinne May-Chahal University of Central Lancashire (May 2004).

\(^{134}\) P.24, Interim Report, St Helen’s Children’s Fund Evaluation. Helle Mittler, Prof Corinne May-Chahal University of Central Lancashire (May 2004).

\(^{135}\) Budget gap will mean service cuts, Children Now (18 August 2004).
The Northern Housing Consortium is controlled by its members, who between them manage over 75% of social housing in the North. These organisations are drawn from the three Northern Government Office regions of the North East, North West and Yorkshire & Humberside, as well as the Housing Corporation (Northern).

Members meet regularly to consider the impact of Government policy and to agree a joint approach to new initiatives, and the Consortium’s Anti Social Behaviour (ASB) Practitioner Study Group has contributed to this response.

The following details the views of the Northern Housing Consortium on the Home Affairs Committee inquiry into the Government’s strategy for combating all types of ASB opened in August 2004.

2. THE CAUSES OF ANTI-SOCIAL BEHAVIOUR

The causes of ASB identified by our members are many and complex, and any solutions require a range of responses by different agencies working together. The societal and individual causes identified by our members include:

— Poverty.
— Unemployment.
— Boredom.
— The effect of alcohol, drugs and other substance misuse.
— Lack of parental guidance.
— Peer pressure.
— No fear of sanctions.
— Social and financial exclusion.
— People adopting a selfish approach.
— Lack of leisure facilities where children can safely play, causing complaints of inappropriate street play.
— Failure to prepare young people for later life by a failure in education to apply the standards necessary to become properly literate.

3. THE EFFECTIVENESS AND PROPORTIONALITY OF CURRENT POWERS

Our membership feel that social housing providers and their partners have sufficient powers at their disposal to tackle ASB, but key issues surrounding these powers still remain.

It is felt that there is a genuine need for all those involved to better co-ordinate their responses, so they are as effective as possible. It is also felt that resources remain a key problem, with demand for tenancy enforcement services continuing to outweigh the capacity of ASB teams.

Progress also needs to be made by the Court Service in raising the awareness of their own staff and District Judges of the new powers, as the legal system appears slow to respond to what is expected of them. Our members are receiving more (but not enough) support from the courts when cases are put before them, the main barrier being cost. Not all social landlords can afford to employ in-house solicitors and it can be extremely expensive to meet the justified demands and expectations of the public. The Government must do more to reduce the cost; the expertise, legislation and the will is present just not the funding.

Further resources also need to be concentrated on early intervention, to increase the prospects of reducing more serious ASB at a later stage. Local authority landlords and RSL’s can make a contribution to reducing causes of ASB by creating safe and sustainable communities, and by allocating sufficient resources to their estate management functions so that early ASB prevention work can be undertaken, linked with powers available to Police and other statutory bodies.

Much more work can, and should, be done in assertive outreach work with parents failing to control their anti-social children, through such powers as Parenting Orders. Improved links between Education and Children’s services are needed so they are more co-ordinated.

There are also concerns over some of the newer measures that have been introduced. Human Rights Group “Liberty” have indicated that they are going to take the case against Dispersal Orders to the European Courts. The power to stop two or more individuals congregating in a specified area seems draconian and difficult to effectively enforce. This power coupled with alcohol bans may be useful but must be used in a balanced way. Fixed Penalty Notices may be effectively used but those who do use them need to ensure that they are not used merely as a revenue raising device.
4. Issues of Enforcement and Co-ordination, Looking at the Respective Roles of Local Authorities, Different Government Departments, CDRPs, the Police, the Crown Prosecution Service (CPS), Housing Authorities and Landlords, and How They Inter-relate

4.1 Since the Crime and Disorder Act 1998 all agencies tackling ASB have been working more effectively together. Most Councils have now appointed an anti-social behaviour co-ordinator. For this role to be effective it will need to be “mainstreamed” in terms of funding and be integrated with the Crime and Disorder Reduction Partnerships (CDRP's).

4.2 Members generally have a good working relationship with the police, which is proving to be very effective. However this is not the case with the CDRP, which for many have so far proved to be quite ineffective and achieves little.

4.3 The CPS have been rather slow in “coming on board” with using new ASB powers, with some attributing this to not having been issued with guidance and/or training on how to administer their new powers. The CDRP have, to their credit, tried to encourage both the CPS and staff from magistrates' courts to raise awareness by meeting with them and facilitating training sessions (eg on ASBOs).

4.4 Although the Home Office has taken steps recently to improve the role of the courts this remains a difficult area and the courts are often too slow to react to the very real problems of ASB.

4.5 Many of the roles that help to pull ASB work together (eg Wardens, Community Support Officers, outreach workers) are short term funded and all partners need to ensure that the work is an integral part of day-to-day work.

5. The Impact of Government Initiatives

5.1 Whilst Government initiatives often provide drivers, they are sometimes unco-ordinated and might overlap (eg Police Community Support Officers and Neighbourhood Wardens). Some have proved to be good but they are very frequent and raise expectations amongst the public that cannot always be met.

5.2 The Government have generally shown a high commitment to raising the profile of ASB and initiatives such as the “Together” campaign have had some impact in giving focus to the national debate. This has included encouraging local CDRP’s to develop an awareness and participation from local communities.

5.3 TV and press coverage of initiatives have been high profile, and the Home Office have clearly put a lot of resources into the development of best practice for local authorities and RSL’s to assist them in making effective use of new powers.

5.4 Overall, however, as with many new initiatives put forward from central government, the key problem is one of resources. Whilst it is incumbent upon CDRPs to develop localised solutions to tackling local problems, all too often practitioners find it difficult to keep up to speed as there is “no breathing space”.

6. The Role of Parenting Support, Youth and Community Services and the Youth Justice System in Diverting Young People from Anti-Social Behaviour

6.1 It is important that there should be a coordinated and coherent approach to the prevention of youth crime, ASB and disorder. Both voluntary and mandatory sanctions related to ASB should always be offered in ways that encourage and reinforce a desire to effect a positive change in behaviour. Thus ASBOs and CRASBOs need to be applied with this aim in mind. It is not the number of orders imposed in any locality that will determine an effective multi agency response to the problem, but the quality of content. All sanctions should consider, and where appropriate, offer support to parents via Parenting Contracts and Orders.

6.2 Whilst a minority of parents are neglectful of their children or have a disregard for their children’s behaviour outside the home, the greater number will welcome support and opportunities to examine different ways of setting boundaries and encouraging appropriate behaviours with their children.

6.3 Locally, agencies need to plan together and well ahead, for those times when young people are least likely to be constructively occupied/supervised eg during school holidays. Youth and community services, Connexions and Youth Offending Teams/Services need to work closely together to ensure that they offer age-appropriate and accessible activity provision for all children and young people. Such provision must also take into account the needs of “high risk” and “highly at risk” individual young people so as to ensure that their needs are closely identified and met and their progress charted.
6.4 Tenancy Enforcement Officers and estate managers are frequently faced with barriers when seeking to refer issues for action by Children’s Services. There appears to be a “cultural” divide in which CS will only act if the subject of the referral (or their parents) has been advised of the referral, and a Social Worker will only seek to get involved if the nature of the risk to the child meets the strict criteria laid down in the Childrens Act 1998 (Child Protection) legislation. As for youth and community services, there appears to be extreme limitations upon youth and community workers actively engaging with children and young people in “hotspot” areas, and the sparse resources are spread across a wide area.

7. **Disparities in Levels of Anti-Social Behaviour and in the Use of Powers to Combat it Across the Country**

7.1 The levels of ASB are clearly different throughout the country depending on the size and location of the area. Most powers are universal, however, some police forces are yet to adopt dispersal areas as policy and this has created some difficulties as residents expect authorities to use this power. It would be more beneficial if all powers given by Government were compulsory to the organisations they are aimed at, thus ensuring consistency across the country.

7.2 Some areas will always suffer more than others but funding should not be given just on crude statistics, but should also reflect commitment to solving the problem and success achieved.

7.3 One of the unaddressed issues around ASB is that of tolerance. Communities can be very intolerant of the activities of young people and may complain of any kind of behaviour or activities by young people, there is a cross generational education issue.

8. **Responsibilities of the Private Sector for Tackling Anti-Social Behaviour**

8.1 This is an area that requires a great deal of attention as significant number of problems arise in the private sector that are ignored due to absentee landlords or landlords that do not have the skills or capacity to tackle the problems. Some form of compulsory licensing or financial penalty could be enforced on private landlords to ensure they deal with problems in their properties effectively.

8.2 Greater powers other than ABC, Injunctions or ASBO’s that are cost effective would also be appreciated in the use of owner-occupiers. In addition to this it is vital that courts make serious cost awards against those who are punished in court rather than making the public purse or housing organisations pick up the cost.

8.3 Although the Housing Bill is making good strides to tackle private sector ASB, there is still a significant disparity. There is also a perception that less is expected of owners of private sector property in terms of ASB than is the case for public sector landlords.

8.4 RSLs need to be more effectively brought into CDRPs in tackling ASB. It has been suggested that Section 17 of the Crime and Disorder Act could be brought to RSLs in some way.

9. **Summary**

9.1 Whilst Government initiatives and guidelines on tackling ASB are welcomed, there remain ongoing problems in securing appropriate resources. In other words, whilst there may be great enthusiasm to use new powers available, this is tempered by frustration at not being able to use these powers due to the sheer volume of case work which needs to be done and can be dealt with by utilising existing powers.

9.2 Links between ASB practitioners and the police have become well established and are proving mutually beneficial, however the relationship between practitioners and the CPS, as well the dynamics of the CDRPs still have great room for improvement.

9.3 The need for further emphasis on prevention and rehabilitation has also been highlighted by our membership, to avoid the age old issue of simply moving the problem on to another area. This should include greater funds to occupy children of all ages in their spare time, and support for parents.

9.4 Our members have also emphasised the important need for tougher action to be taken to stop the private sector being a safe haven for those who are guilty of ASB. This impacts on the wider community and destroys the confidence of the general public in the abilities of those who attempt to tackle ASB.

14 September 2004
36. Memorandum submitted by Northgate Information Solutions

SUMMARY

— This memorandum focuses on three key issues: the use of penalty notice enforcement as an additional tool to combat anti-social behaviour; the role and responsibilities of the private sector in relation to anti-social behaviour; and the need to promote multi-agency working to co-ordinate, educate and enforce the drive to combat anti-social behaviour in our communities.

— There are arguments for extending the use of penalty notices in tackling anti-social behaviour and, in particular, to combat corporate behaviour involving environmental and social nuisance. However, any extension of their use requires a clear national framework for their operation and clear guidelines for the growing number of enforcement agencies.

— Northgate believes that multi-agency working is critical to tackling anti-social behaviour. This is fundamentally a matter of transforming relationships and preparing people for change, rather than simply joining up systems. It requires an approach that puts people first.

COMMUNITY JUSTICE AND PENALTY NOTICE ENFORCEMENT

1. Everyone should enjoy the right to live free from environmental and social nuisance, and this right should be respected by all. It is fundamental to the quality of life and community well-being. To achieve this we need a strong and robust system of community justice built on two equal pillars—help and enforcement.

2. Demoralised communities living in run-down or neglected environments need to know that broader social issues—inequality and social deprivation—will be tackled at the same time as their day to day concerns such as poor street lighting, dirty streets and fear of crime.

3. Community well-being is founded on trust between local citizens and public authorities. Where there is perceived inactivity on the part of public authorities to deal with citizens’ day to day concerns, local citizens are less likely to trust their ability to deliver fair and efficient public services. When social nuisance or crimes are reported, but nothing done, then the community becomes a victim too.

4. A proactive approach to educating and promoting community well-being, backed up by a system of penalty notice administration where clear and decisive action is taken to tackle individual concerns, could help to enhance public trust and improve service delivery.

5. Penalty notices give authorities with limited resources an additional means of dealing efficiently with minor offences. Used appropriately, penalty notices can be an effective way of dealing with high-volume low-level crime, environmental and social nuisance and other forms of minor civil infringements of the law which are currently either processed through the courts or where no action is undertaken. They give authorities with limited resources an additional means of dealing efficiently with minor offences.

6. Used appropriately, the penalty notice system can divert individuals away from the courts and remove the stigma of having a criminal record. They can also have an educative role. Penalty notices can have a “ripple” effect. Once imposed on individuals for particular offences or infringements, word of mouth quickly leads to other individuals improving their performance in order to avoid paying similar fines. By integrating them into the educative process they may assist changing attitudes and behaviour, at least, in the short term.

EXTENDING PENALTY NOTICE ENFORCEMENT

7. The Government is proposing to extend the use of penalty notices to certain cases of shoplifting and criminal damage and to apply them in relation to disorder offences to children aged as young as 10. The Department of Environment, Food and Rural Affairs (Defra) is also consulting on extending the use of penalty notices.

8. Northgate believes that the penalty notice system can play an integral role in the administration of justice, but that the system is only as effective as it is fairly enforced. The wider use of penalty notices should be part of a co-ordinated policy mix of education, the promotion of rights and law enforcement to optimise prevention of low-level social and environmental nuisance. Community engagement and inclusion in developing effective policies and effective practice is crucial. Any effective anti-social behaviour strategy must involve the community both in problem-solving and change management.

9. It is essential that all authorities with responsibilities in enforcement benefit from clear guidelines to direct authorities about the fair and appropriate use of penalty notices. Enforcement staff need to be sufficiently skilled and trained to operate the system fairly and equitably.
10. Whilst the Home Office has indicated that it intends to publish guidelines, there is an apparent lack of consistency governing penalty notices in relation to anti-social behaviour. This arises partly from the fact that responsibilities for different offences and infringements can lie with different government departments. These inconsistencies relate to issues such as the amount of time an individual has to pay; the effect of non-payment of the penalty notice—in some cases the fine is increased and registered as a fine, in others the individual will face prosecution for the original offence; whether or not public bodies can hypothecate penalty notices and for what purposes the receipts may be used and whether or not the behaviour engaged in falls under criminal or civil law.

11. As the use of penalty notices grows, there are strong arguments for a Penalty Notice Act to ensure a joined up approach to policy making and to help assist in educating the public about their responsibilities.

12. This new act would lay out the principles and practices for the use of penalty notices in tackling what is, in effect, a new category of infringements related to community wrongdoing.

13. Standardisation of the approach should neither rule out local flexibility nor the need for specific departmental guidelines. However, it should provide a uniform national framework which aids compliance. It can also be used as part of the community education process to ensure that the public fully understands why there is a need to tackle community wrongdoing in this way.

14. Unlike court fines, penalty notices are not related to the ability to pay. This means that problems can occur if individuals are allowed to accrue large amounts of unpaid fines. Enforcement systems should monitor their use. But there needs to be consideration of a wide range of measures to tackle the problem of non-payment if it is not to grow. Since the non-payment of a penalty notice ends up, in many instances, as a registrable fine, this could lead to an increase in criminality.

15. Some local authorities currently provide time to pay arrangements or payment by instalments, although the legislation governing anti-social behaviour penalty notices does not currently provide this. In Canada, the Contraventions Act 1992 provides individuals with a right to representation about the fine, fee or sentence to be imposed or whether the person ought to be given time to pay the fine or fee. Other methods which could be considered are payment through the tax system or discounts for those on low incomes who pay promptly and provide evidence of low income.

Tackling Corporate Anti-social Behaviour

16. We all of us have a responsibility to ensure community well-being, whether we are an individual or an organisation, a public sector body or part of the private sector. If individuals believe that there is one standard of law for the corporate body and another for themselves, this will undermine public trust in community justice.

17. Corporate anti-social behaviour must be tackled in much the same way as individual behaviour. All too often, hard-pressed authorities do not have the time to tackle high-volume, low-level non-compliance with regulatory rules. Yet, this may result in daily suffering for employees at work or undermine levels of compliance generally. Traditionally the use of penalty notices in the regulatory system has been underplayed or ignored.

18. Defra’s recent proposals mark a strong shift towards extending the use of penalty notices to tackle corporate anti-social behaviour. Northgate believes that much greater consideration needs to be given to using penalty notices as an additional tool in the regulatory environment.

19. In other countries such as New Zealand, Canada and Australia, they have been widely used as a tool to strengthen law enforcement, for example in health and safety law and under Australian environmental legislation where breaches of the law are minor; where the facts are apparently indisputable; where there is one-off breach and where a penalty notice could act as a deterrent.

20. In Australia, at a federal level penalty notices are normally known as infringement notices and are used as a significant part of the regulatory system. Some of the laws and regulations which include provision for penalty notices are outlined in the table below. This shows the extent of their use within the regulatory system.
Table 1
AUSTRALIA—LAWS AND REGULATIONS WHICH PROVIDE FOR THE ISSUANCE OF INFRINGEMENT NOTICES

<table>
<thead>
<tr>
<th>Act/Evidence</th>
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<tr>
<td>Aboriginal Land (Lake Condah and Framlingham Forest) Act</td>
<td>Air Navigation (Fuel Spillage) Regulations 1999</td>
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<td>Air Navigation Regulations 1947</td>
<td>Airports (Building Control) Regulations 1996</td>
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<tr>
<td>Airports (Control of On-Airport Activities) Regulations 1997</td>
<td>Airports (Environment Protection) Regulations 1997</td>
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<td>Civil Aviation Act 1988</td>
<td>Child Support Act 1988</td>
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<td>Commonwealth Electoral Act 1918</td>
<td>Close Corporations Act 1989</td>
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<tr>
<td>Corporate law economic reform program (Audit Reform &amp; Corporate Disclosure)</td>
<td>Conservation Act 1999</td>
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<td>Act 2004</td>
<td>Corporations Act 1989</td>
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<td>Corporations Regulations 2001</td>
<td>Customs Act 1901</td>
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<td>Defence Force Discipline Act 1982</td>
<td>Defence Act 1903</td>
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<td>Education Services for Overseas Students Regulations 2001</td>
<td>Environment Protection and Biodiversity</td>
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<tr>
<td>Financial Sector (Collection of Data) Act 2001</td>
<td>Conservation Regulations 2000</td>
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<tr>
<td>Great Barrier Reef Marine Park Act 1975</td>
<td>Excise Act 1901</td>
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<tr>
<td>Interstate Road Transport Regulations 1986</td>
<td>Fisheries Management Regulations 1992</td>
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<tr>
<td>Migration Regulations 1994</td>
<td>Income Tax Assessment Act 1936</td>
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<tr>
<td>Quarantine Regulations 2000</td>
<td>Interstate Road Transport Act 1985</td>
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<td>Road Transport Reform (Dangerous Goods) Regulations 1997</td>
<td>Referendum (Machinery Provisions) Act 1984</td>
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<tr>
<td>Superannuation (government co-contribution for low income earners) Act 2003</td>
<td>Road Transport Reform (Heavy Vehicles Registration) Act 1997</td>
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<td>Taxation Administration Act 1953</td>
<td>Spam Act 2003</td>
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<td>Sydney Airport Demand Management Act 1997</td>
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<td>Tradex Scheme Act 1999</td>
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</table>

PROMOTING MULTI-AGENCY WORKING

21. Northgate believes that multi-agency working is critical to tackling anti-social behaviour. This is fundamentally a matter of transforming relationships and preparing people for change, rather than simply joining up systems. It requires an approach that, first and foremost, puts people at the heart of any change management programme.

22. As a technology problem-solver, our experience is that all too often IT projects are delivered well, but the overall programmes may be delivered badly. To overcome this, strategic leadership from the top is required. To be successful, national leadership must take into account local circumstances and provide local flexibility or support. It must balance national prescription with local circumstance. Strong project management is also critical to success, with working relationships defined and agreed from the outset.

ABOUT NORTHGATE

Northgate is a technology services company with a difference. It is committed to high quality public services and understands the public sector. That knowledge is core to its business.

Northgate's task is to enhance public sector value through intelligent use of people and information technology systems and to share in the economic and social benefits that this brings.

Northgate assists the fire and rescue service, local authorities and the police to promote community well-being by helping them provide citizens with accessible and responsive one-stop services based on clear and accurate information.

15 September 2004
37. Memorandum submitted by the Portman Group

1. INTRODUCTION

The Portman Group (TPG) was set up in 1989 by the UK’s leading alcohol producers. Its purpose is to promote responsible drinking; to help prevent alcohol misuse; to encourage responsible marketing; and to foster a balanced understanding of alcohol-related issues.

TPG speaks for its member companies on these social aspects of alcohol. It does not represent any drinks companies or other part of the trade on any other matter. TPG nevertheless welcomes the participation of the wider drinks industry—manufacturers, wholesalers and retailers—in its activities, for example as signatories to the Code of Practice, or in using the Proof of Age Card scheme, and believes that the drinks industry can thereby demonstrate its social responsibility, help to protect its commercial freedoms and enhance its success in a manner consistent with good citizenship.

TPG welcomes this opportunity to respond to the Home Affairs Committee inquiry into anti-social behaviour. In our response we have sought to focus only on those areas where we consider we have particular knowledge or competence. Our response will focus in particular on the role that the drinks industry can play in reducing alcohol-related crime and disorder. The types of crime that we have been involved in trying to prevent include purchase by and sale to under 18s; drink-driving; and drunkenness/public disorder. In addition to our work in this area at a national level [see attached key TPG publications listed at Annex 1 [not printed], it is worth mentioning that our charitable arm, The Portman Group Trust (TPGT), has supported a number of local initiatives which have as their aim the reduction of public disorder and anti-social behaviour eg Crystal Clear in Merseyside, Nightsafe in Lancashire, Burnley Alcohol Action Group and numerous local pubwatch schemes.

OVERVIEW

In recent years there has been an increasing focus on alcohol’s contribution to violence and anti-social behaviour particularly in association with youth “binge drinking”. The Strategy Unit’s Interim Analytical Report estimated the economic costs of alcohol-related harm to be at around £19.4 billion with crime and public disorder accounting for £7.3 billion of the total. The current National Alcohol Harm Reduction Strategy for England provides an excellent opportunity for a range of key stakeholders, including the industry, to make a positive contribution towards reducing the serious and growing problems associated with alcohol misuse in this country. TPG would observe that there is much that currently exists in law, regulation and good practice that is designed to tackle alcohol-related crime and disorder. The Strategy Unit’s interim analysis of alcohol harm and the Ministerial Working Group on alcohol-related harm chaired by Hazel Blears both conducted thorough evaluations on alcohol-related harm and concluded that there is a need for more rigorous enforcement of existing legislation rather than new regulation.

A partnership approach is crucial to the effectiveness of any strategies to reduce alcohol-related crime and disorder; the current, statutory, local crime and disorder reduction partnerships (CDRPs) are an important vehicle for helping to reduce alcohol-related crime and disorder. Although we would submit that there is a need for better understanding of the precise nature and extent of the link between alcohol and crime/violence, we believe that priority should be given to taking practical steps to alleviate alcohol-related crime and violence based on evidence of best practice.

THE CAUSES OF ALCOHOL RELATED CRIME AND DISORDER

There has been considerable research into the link between alcohol and crime/disorder and it is generally acknowledged that the relationship is a complex one. The Strategy Unit’s interim analysis of alcohol harm found that “alcohol misuse can contribute to various types of anti-social, violent or aggressive behaviour through a complex interplay of factors. These include its pharmacological effect on the body and our social norms and expectations about acceptable behaviour when drinking or when drunk.”

THE EFFECTIVENESS AND PROPORTIONALITY OF CURRENT POWERS

TPG believes that existing laws relating to the sale and consumption of alcohol and alcohol-related crimes (including those that relate to drink-driving) provide an adequate level of protection to society though we would like to see more rigorous enforcement in some areas. TPG believes that law enforcement bodies should give higher priority to enforcing existing laws on the sale and consumption of alcohol, making full

136 Member companies: Allied Domecq, Bacardi Brown Forman Brands, Beverage Brands (UK) Ltd, Carlsberg UK, Coors Brewers, Diageo Great Britain, Interbrew UK, Pernod Ricard, Scottish & Newcastle. Associate member companies: Enterprise Inns, Laurel Pub Company, Mitchells and Butlers, Pubmaster, Thresher Group, Union Pub Company/Pathfinder Pubs and JD Wetherspoon.


use of test purchasing powers available to police and trading standards offices and giving a higher profile to the relatively new offence of proxy purchase. There is also a need for more rigorous enforcement of existing laws against drunkenness and serving intoxicated persons.

TPG welcomed and participated in the planning of the recent Alcohol Misuse Enforcement Campaign led by the Home Office Police Standards Unit and ACPO. This has certainly helped to raise awareness of the range of powers available to police and trading standards officers (TSOs) in helping to tackle alcohol-related crime and disorder. High profile media coverage of the campaign has sent out strong messages that irresponsible behaviour will not be tolerated. We would hope that law enforcement agencies continue to make full use the range of powers available to them, targeting irresponsible retailers and consumers alike, to sustain a “zero tolerance” climate around drunkenness and underage misuse.

TPG is concerned to note that numbers of prosecutions for both underage purchase/sale and drunkenness behaviour have dropped sharply over the last 10 or so years. We are concerned too to note that average fines on conviction have fallen over the same period. Average fines for drunkenness are currently around £100 while those for selling to under-18s are around £90. It has been suggested that current low levels of fines may be inhibiting prosecuting authorities from bringing prosecutions relating to underage sale/purchase and/or drunkenness for fear that they will not be able to recover costs. The wider use of Fixed Penalty Notices and Anti-social Behaviour Orders (ASBOs) should make it easier to enforce legislation on underage sale/purchase and drunkenness although penalties should be appropriate to the crime; serious breaches should be given appropriate penalties, not least to send out some strong messages to society at large. TPG is pleased to note the recent announcement that the maximum penalty for selling to under-18s will be increased from £1,000 to £5,000.

We have already made public our views on the Government’s proposals to reform the current licensing laws. We welcome the proposed move towards a more flexible licensing regime as set out in the Licensing Act 2003. We consider in particular that ending permitted hours and encouraging more family-friendly licensed premises would make a valuable contribution towards encouraging a more responsible drinking culture in England and Wales, although we do believe this needs to be balanced by rigorous enforcement of the law on serving drunks and underage customers as well as compliance with published guidelines published by the British Beer and Pub Association (BBPA) on responsible promotions. Licensed premises will also need rigorously to adhere to the Secretary of State’s statutory guidance under the new Licensing Act on these points. To assist them in complying, TPG provides a wide range of materials for use at point of sale and in staff training.

The Role of Industry

The broader alcohol/hospitality industry is uniquely placed to help reduce alcohol-related problems in and around licensed premises and has a unique responsibility to do so. It can achieve this through, for example, providing responsible server training and following best practice in operating licensed premises. There is clear evidence that some environmental and situational strategies can have a significant impact on reducing levels of assault and injury in and around licensed premises. Examples of best practice in the UK were set out by TPG in the publication *Keeping the Peace—a Guide to the prevention of alcohol related disorder* (1998). These include but are not limited to:

- strategic partnerships to develop and maintain community safety strategies;
- pubwatch and clubwatch schemes;
- use of CCTV particularly in town centres;
- regular, reliable late night transport;
- use of toughened glass;
- use of exclusion orders;
- responsible retailer promotions;
- routinely asking for reliable proof of age;
- training for doorman staff and servers;
- good design principles in licensed premises.

Further examples of good practice mentioned elsewhere in the research literature include the availability of a wide range of non-alcoholic beverages and the availability of food in licensed premises. In addition to creating a more subdued social atmosphere, eating while drinking slows the biological process of intoxication.

There is evidence that, since the publication of *Keeping the Peace*, there has been a significant increase in adoption of those good practice models featured in the guide and other similar guides such as the BBPA’s Security in Design leaflet. There are increasing numbers of pubwatch schemes in operation, many of them receiving support and advice from the National Pubwatch Scheme, which has a distribution of over 17,000

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for its newsletter. The use of toughened glass and other glass alternatives continues to increase. The British Institute of Innkeeping (BII) continues to develop the range of courses available to those who work in licensed premises. These and many in-house training schemes contain guidance on calming potentially violent situations. Initiatives such as “Servewise” in Scotland are examples of industry training schemes directed at preventing crime and disorder on licensed premises.

There has been serious, persistent and often well-justified concern over the nature of some retailer promotions in pubs, clubs and bars, on the grounds that they encourage excessive consumption and/or antisocial behaviour. (Examples include “half price drinks until the first goal is scored” and “drink yourself under the table and we’ll call an ambulance to take you home”.) TPG welcomes guidelines on responsible promotions issued by the BBPA as well as the inclusion of guidance on responsible promotion in company polices (eg Mitchell and Butlers, Scottish and Newcastle). We were pleased to note that Secretary of State’s guidance to the Licensing Act 2003 includes a clear expectation that licensees should comply with the BBPA’s guidelines on responsible promotions.

EDUCATION (CHILDREN)

TPG believes that education can and should play a primary role in shaping responsible attitudes towards alcohol. It is right that the drinks industry should play a role in the education of its future customers, provided that this is done in a balanced way and does not seek to persuade young people that they should drink, either now or in the future. All our educational materials are produced in line with accepted good practice and reflect current thinking about the most effective ways of delivering alcohol education.

TPG supports alcohol education for young people in a number of ways. For example, we produce and distribute the following materials free of charge:

- We’ve seen people drinking—a resource for use in primary schools;
- Finding out about drinking alcohol—a resource for use in secondary schools;
- A-Z Alcohol Education Resource Directory—a comprehensive listing of materials for use by teachers and others who work with young people;
- Postcards—a set of four cartoon-style postcards aimed at 11–16 year olds that offer information on the dangers of alcohol misuse;
- In your face—a video and accompanying discussion booklet suitable for classes of students aged 14–18;
- Discussing drinking with your children—a booklet designed to help parents to talk about alcohol issues with their children.

In addition we provide funding through our sister organisation, The Portman Group Trust, for local projects designed to promote responsible drinking and to help prevent alcohol misuse. Many of these projects are educational initiatives aimed at young people.

TPG believes that parents can and should play an important role in teaching children about alcohol and encouraging responsible attitudes towards drinking. Our MORI survey shows that a large majority (78%) of the British public believes that parents are one of the most important sources of information about alcohol and sensible drinking for children. One of our most popular resources is a guide for parents.

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This leaflet has proved enormously popular in the nine years that it has been in publication and we distribute an average of 500,000 pa on demand via GP surgeries, libraries, health promotion agencies and school PTAs. Development is underway for an additional resource for “harder to reach” parents who may not have the literacy skills to absorb or fully understand Discussing drinking with your children. TPG has further commissioned research to explore the role of parents in the delivery of alcohol education with a view to improving parent/child communication about alcohol issues. The findings of this research will be available towards the end of 2004 and we would be happy to share these with the Home Affairs Committee.

There is evidence of a need for improvement in the delivery of alcohol education. Competing pressures in the curriculum mean that alcohol is often sidelined (compared with education on illicit drugs and tobacco) and many teachers feel inadequately trained to teach about alcohol. TPG recommends that a higher profile be given to alcohol education within the statutory requirements of the national curriculum from KS2 onwards. Although the Government’s Blueprint research programme includes alcohol education, the focus is primarily on drugs. TPG believes that more resources should be put towards replicating programmes with proven positive outcomes such as the School Health and Alcohol Harm Reduction Project (SHAHRP) in Australia. Ongoing evaluations of SHAHRP have demonstrated both attitude change and a significant reduction in alcohol related harm particularly among students who were supervised drinkers prior to the

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141 Alcohol and Society. (2000) MORI for TPG.
intervention (which began at age 13). Replication of this programme in the UK would be useful, particularly as there is evidence of cultural transferability of drinking interventions between the UK and Australia, although it should be noted that such a trial would require major funding.

Whilst formal alcohol education is undoubtedly important, we should not neglect education outside the classroom. TPG’s Taskforce on Underage Alcohol Misuse highlighted that theatre-in-education (TIE) can play a useful role in alcohol education programmes. The Portman Group Trust regularly provides grants to local TIE companies, enabling schools to hire them at a subsidised cost as part of a broader alcohol education programme. For older children, peer education projects and those delivered by detached youth workers outside school and home settings have been shown to be successful. TPG has actively supported such projects in the past through for example a £60,000 fund in 1998 for community-based alcohol education projects which was administered by The Prince’s Trust. These types of interventions are particularly important for “at risk” children or young adults, who may be excluded or absent from school and/or come from dysfunctional families where alcohol misuse may be a problem.

**Tackling “Binge Drinking” Among Young Adults**

TPG is concerned that young adults in the UK see binge drinking or drunkenness as normal behaviour. Studies show that between 30% and 39% of 18–24s drink to get drunk regularly. This is of course a significant minority, yet as many as 75% of 18–24 year olds believe that their peers drink in order to get drunk, and among binge drinkers themselves, this figure rises to 90%. According to a survey carried out by Vision 21 for TPG in July 2003, nearly 90% of 18–30 year olds think that it is normal to get drunk on holiday. Unless such “norms” are challenged, it is likely that binge drinking will continue to escalate as more and more young adults think this is what they are expected to do.

A number of recent studies have given us some valuable insights into social context and possible motivations for young Britons’ binge drinking behaviour. In addition to the “social norming” effect and a widespread belief among young adults that drinking to get drunk is analogous with “having a good time”, it would appear that escapism or release from everyday life and poor self esteem are also strong contributory factors to binge drinking among young adults. It is important fully to understand the motivations for binge drinking culture in order to develop effective interventions and messages for this particular audience.

For the past three years TPG has been the only organisation campaigning nationally against drunkenness. Ongoing evaluations of our current anti-drunkenness campaign, which uses a number of innovative campaign vehicles such as pub theatre, “viewrinals”, online games, viral emails and “talking posters”, indicate that the message has been extremely well-received by the target audience. Over the summer we piloted cinema advertisements and posters in the East Midlands. The campaign has been evaluated and will be disseminated to relevant Government departments when it becomes available. If it is positive, then we would hope for Government backing to roll the campaign out nationally.

Our experience has shown that cinema, viral emails and online games are very effective ways of getting alcohol messages to young adults. We would further recommend that “best practice” in health promotion messages targeted at young adults should:

- Speak from a position of equality and not authority;
- Focus on the immediate consequences of misuse (eg accidents, injuries, sexual risks etc) which should be presented in such a way that they are grounded in the reality of young people’s experiences;
- Aim to incorporate an element of surprise and/or use innovative mechanisms;
- Use shock tactics sparingly and in a non-patronising way.

**Summary of Recommendations**

Our response concludes with a summary of the main recommendations contained in this response. We recommend:

- that awareness and enforcement measures in relation to proxy purchase be strengthened;
- wider use of the full range of powers available to police and partner agencies, including wider use of test purchasing;
- tougher penalties particularly for underage sales/purchase and drunkenness offences;
- that the licensed trade further implement those examples of best practice which have been shown to have an impact on reducing levels of assault and injury in and around licensed premises (as set out, for example in TPG’s guide Keeping the Peace—a Guide to the prevention of alcohol related disorder (1998));

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— that examples of successful Local Crime and Disorder Partnerships are “showcased” so that others can follow by example;
— wider use of Fixed Penalty Notices and Anti-social Behaviour Orders for low level offences.

21 September 2004

38. Memorandum submitted by the Prison Reform Trust

1. ABOUT THE PRISON REFORM TRUST

1.1 The Prison Reform Trust (PRT) is an independent charity that works to create a just, effective and humane penal system. We inquire into the system, inform prisoners, staff and the wider public and seek to influence government towards reform. PRT provides the secretariat to the All Party Parliamentary Group on Penal Affairs. Each year we publish a number of reports on all aspects of prison life that receive widespread media attention, inform ministers and officials and lead to changes in policy and practice. About 4,000 prisoners and their families contact our advice and information service each year. We jointly produce a range of prisoners’ information booklets with the Prison Service.

2. NET-WIDENING AND THE IMPACT ON THE PRISON POPULATION

2.1 A direct consequence of the Anti-social behaviour (ASB) legislation will be a significant increase in the total number of people who come under the control of the agencies of the criminal justice system. When the Home Office conducted its one day count of ASB in September 2003 a total of 16 different categories of behaviour, divided into 59 sub-categories were included in the count. Alongside potentially serious offences such as intimidation, harassment and burning out cars, the count also included behaviours such as “skateboarding in pedestrian areas”, “begging”, “games in inappropriate areas” and “letting down tyres.” This broad definition of anti-social behaviour inevitably means that more people could be caught up in the criminal justice system for doing less and less. PRT believes this phenomenon of net-widening is of great concern.

2.2 It means that a whole range of individuals, from beggars to teenagers hanging around on street corners, could be criminalised. The subsequent stigmatisation that follows has a significant impact on a person’s ability to find work and stable housing. It has been well documented by the Government’s Social Exclusion Unit that both are critical factors that divert individuals away from offending.

2.3 Anti-social Behaviour Orders (ASBOs) are the most well known element of the Government’s legislation. Between 1 April 1999 and 30 September 2003, 1,623 ASBOs were issued in England and Wales. Children under 18 were subject to around half of them. Of the 835 ASBOs issued between 1 June 2000 and 31 December 2002, more than a third, 305, were breached, 152 of them resulting in the offender being sent to prison, usually for short sentences. This demonstrates that the courts are prepared to be very tough on breaches of ASBOs which potentially could have an inflationary impact on prison numbers.

2.4 An analysis of the rise in the prison population by Professor Mike Hough and colleagues at King’s College completed last year and published by PRT found that tougher sentencing has been the critical factor in the rise in the prison population over the last decade. The Decision to Imprison—Sentencing and the Prison Population found that the number of offenders arrested, cautioned and appearing before the courts has remained relatively constant and there has not been any increase in the overall seriousness of offences brought to justice or the length of criminal records of defendants to justify the greater use of prison. The key explanation is increased severity in sentencing. As Professor Hough concluded:

“The key factors are simple to grasp . . . the courts are more likely to use custodial sentences now than a decade ago, and when they do, they are more likely to pass longer sentences.”

2.5 From its inquiry into the rehabilitation of prisoners the Home Affairs select committee will be well aware of the damage in terms of loss of homes, job prospects and contact with families that is an inevitable consequence of imprisonment and the high reconviction rates of released prisoners. It will also be aware of the limited opportunities for rehabilitation especially for short term prisoners. The Home Secretary, David Blunkett, writing in the Observer in February 2002 stated:

“Our prisons are crowded places full of people on short sentences that do not allow prison staff to do one of the things they are best at—rehabilitation work. Prison staff work hard to provide programmes which tackle poor education and skills, and help people find jobs. Those on remand and short sentences are not inside for long enough for these programmes to make a difference—but they are there long enough to lose their jobs, their family relationships, and even their homes. This can push someone off the straight and narrow for good.”

PRT believes that prison should be used as an absolute last resort for the most violent and persistent offenders. Using short custodial sentences for people who have breached anti-social behaviour orders is a disproportionate response that, rather than rectifying the behaviour, is more likely to reinforce criminality and contribute to reconviction rates.
2.6 Overall the new anti-social behaviour legislation creates a more punitive and interventionist criminal justice system. There needs to be a rebalancing of the system to focus much more on the causes of offending. Furthermore, the criminal justice system has only a small part to play in making our communities safe and reducing crime. Crime often flourishes where provision of services such as education, health and child care is inadequate. Common sense dictates that public money is better spent in these areas.

3. **Criminalising Children**

3.1 PRT is concerned that Anti-social Behaviour Orders (ASBOs) are needlessly criminalising increasing numbers of children. Strict enforcement of ASBOs has led to a significant rise in the juvenile prison population. There is evidence that those who are initially caught up in the criminal justice system go on to become persistent offenders. An ESRC study, “Criminal Careers: Understanding Temporal Changes in Offending Behaviour” published in January 2003, found that 69% of a sample of male 10–14 year olds who had their first court appearance in the 1980s and early 1990s became persistent offenders. These offenders are often given custodial sentences. Although ASBOs do not initially result in a court appearances, if the offender breaches the order they will be brought to court.

3.2 On 3 September 2004 the juvenile prison population was 2,609. In the last 10 years the population has more than doubled. Since January it has increased by nearly 10% after it began to stabilise last year and then decrease. According to the Youth Justice Board and Youth Offending Team managers that have been in contact with PRT the recent rise is thought to be linked to an increase in the number of children who are being remanded into custody for breaching the conditions of ASBOs. Imprisonment often fails to tackle their offending behaviour. 80% of 14–17 year olds discharged from prison in 2000 were reconvicted within two years.

3.3 Juvenile offenders have often experienced a range of social exclusion factors which contribute to their offending behaviour. These have been outlined in detail in the Social Exclusion Unit’s report “Reducing re-offending by ex-prisoners”. They include:

- Low educational attainment. Recent research found that of those in custody of school age, nearly half had literacy and numeracy levels below those of the average 11 year old and over a quarter equivalent to those of the average seven year old or younger.
- Disrupted family backgrounds. HM Inspectorate of Prisons estimated in 1997 that over half those under 18 in custody had a history of being in care or social services involvement.
- Behavioural and mental health problems. Juvenile prisoners have high rates of mental illness. A survey of 16–20 year olds, highlighted in the Social Exclusion Unit’s report, found that two-fifths of sentenced males and two-thirds of sentenced females had a range of mental health problems.
- Problems of alcohol or drug misuse. The same survey found that over half of 16–20 year olds reported drug dependency in the year prior to imprisonment. Over half the females and two-thirds of male prisoners had a hazardous drinking habit. Alcohol problems are often highlighted to PRT as a significant factor in offending behaviour by prison service staff working with young offenders.

3.4 Given this background of severe social exclusion it is a grave misjudgment to place too much focus on the enforcement of ASBOs which is resulting in the unnecessary use of imprisonment for children, without addressing the wider issues. The Government needs to look again at how support services are provided to children and families who are subject to ASBOs. They require the full range of support services, before problems escalate and children are drawn into the criminal justice system. There is surely scope here to build on the Sure Start initiatives. We must look beyond punishment and tackle the root causes of anti-social behaviour by providing alternative measures that will not push children further to the margins of society.

3.5 ASBOs in their crudest form are a control device aimed at deterrence, which can also be used as a form of “naming and shaming”. There is a danger of them becoming a “badge of honour” for some young people. There should be a clear objection on any enforcing authority to complement the order with support/ treatment services. Failure to do so should implicate the authority in any “failure” of the order.

13 September 2004

39. **Memorandum submitted by Relate**

**INTRODUCTION**

Relate has been extending its work into this field for some years now. Our experience is that young people who are at risk of being anti-social and later offending can often live in families that are in difficulty as a result of family change, something that we have experience of through our work to promote health, respect and justice in couple and family relationships.
We find that many families undergoing transitions such as adult couple relationship breakdown, parental unemployment, or perhaps bereavement can find the transition in family dynamics difficult to manage, and that notions of healthy, respectful relationships are hard for these families to create.

Relate offers a chance for families to come together and work through the transitions together with the aim of giving everyone a chance to say what they think and be involved in finding solutions to the emotional issues that they are facing.

We have been working within the relationship support field for over 60 years, and believe that we have built up a bank of knowledge and skills that can significantly change people’s lives.

**OUR WORK WITH PEOPLE ON ANTI-SOCIAL BEHAVIOUR ORDERS**

Anti-social behaviour in young people is often the beginning of a downward turn for a young person that can lead to youth offending.

Relate is now involved in delivering over 20 contracts of work on behalf of Youth Offending Teams across the country, supporting the parents and families of young offenders and teaching them new skills and behaviours to cope with the family changes and difficulties that they are often in.

It is our experience that these workshops and courses are one of the successful ways that families can be supported to positively change and in turn support young people to change their behaviour and resist reoffending.

We offer a range of interventions, tailored to the needs of the community group that we are serving, and the most regular of these are outlined below.

**“Riding The Storm”—Parenting Course**

This course normally runs over six or eight sessions. The course is accredited by the Open College Network (OCN).

The course is offered to those with a young offender in the family. It is also suitable for parents with children who are at risk of offending.

The following can be achieved by parents attending the course:

- Better understanding of the pressures of being a teenager;
- Breaking of bad parental habits;
- Building on identifying their existing skills as a parent;
- Managing conflict between parent and teenager;
- Negotiating boundaries;
- Raising awareness of peer support networks;
- Rebuilding relationships;
- Stabilising family life.

**Parent Mentoring**

This course is available to any parent supporting other parents and their children.

This course runs over a total of 22 hours and can be run in a way to suit the client (over three days, ten weekly sessions, regular morning or afternoon sessions). It is accredited by the Open College Network (OCN).

Benefits of this programme include:

- Peer support for parents in the community;
- Low cost help to parents;
- Building capacity for supporting parents in your community;
- More empowering approach to parenting.

Relate also assist in arranging travel for parents, to and from course venues.

Our experience is that people who attend our courses find them challenging and supportive and that they take with them skills and knowledge about how to change how they react to situations in order that they might respond differently in the future.
EVALUATION OF OUR PARENTING PROGRAMMES

Parents who have attended our programmes reported:
— less conflict with their children;
— better communication;
— better monitoring of behaviour;
— better relationships.

Other findings included:
— the average child’s offences fell by a third while their parent was on a course;
— 90% of parents attending would recommend it to others;
— 89% of children of parents on an order were convicted in the year before the course, this fell to 61.5% in the year after average number of offences per child also halved (from 4.4 to 2.1).

Relate believes that it would be in the interests of all to extend our work out to those families of young people who are on anti-social behaviour orders, and would welcome the opportunity to extend our own programme to deliver more opportunities to families in difficulty.

25 August 2004

40. Memorandum submitted by the Restorative Justice Consortium

The Consortium was formed in 1997 for the purposes of:
— Encouraging the development of restorative justice within the criminal justice system and anywhere where conflict arises;
— Providing good principles for standards of practice;
— Sharing and exchanging information about RJ; and
— Promoting understanding and use of RJ by the community.

It is a registered charity and is the only independent, umbrella, membership organisation for those involved and/or interested in Restorative Justice.

INTRODUCTION

Anti-social behaviour takes many forms and can occur in almost any context or environment. It is well documented that it can cause major fear and dysfunction in local communities, for example, where out of control youngsters have attracted considerable media attention and the Government has introduced major changes to combat it. Among young people it may be akin to bullying. It may include harassment of elderly people, which is a form of bullying. Among adults it may involve neighbours who cause a nuisance or do not prevent their children from doing so. Although there are many innocent victims of anti-social behaviour, it is important to recognise that in many disputes there are faults on both sides; the complainant may also have behaved in ways that upset the complained-about, not least in the way that they make their complaint.

The Restorative Justice Consortium does not have specific expertise on the causes of anti-social behaviour but we are in a strong position to suggest ways, which may reduce it. First of all, it is clearly best dealt with at an early stage before attitudes have hardened. The sooner this is done, the more chance there is of dealing with it through persuasion and restorative justice processes (RJ), including mediation.

The basic presumption should be “try restorative justice first”. It will not always work, but when it does, it can solve the problem far more effectively than recourse to the courts. It is far less expensive both in terms of the direct costs and, to use a dispute between neighbours as an example, it can save indirect costs such as the expense and stress of eviction and re-housing.

RESTORATIVE JUSTICE

RJ is already used by several police forces to tackle anti-social disorder amongst young people, with considerable success. This usually takes the form of Restorative Conferences in which all those involved are brought together by a trained RJ facilitator, often a police officer, in a carefully planned meeting. People involved include the youngsters who are offending plus their parents and teachers, the victims of the behaviour plus their family and friends, and local community representatives.

The impact of the behaviour on local people and the local community is brought home directly and personally to those doing it, in such a way that they are able to understand the harm done, feel remorse for its effects and undertake to stop it forthwith. Those who have suffered from it lose their fear of being targeted again, and feel more constructive and less vengeful about supporting—and holding to account—the youngsters in the future. Community representatives feel involved and are better able to help the community to take more responsibility for its own problems in future.
The conference ends with an “outcome agreement”, in effect a contract about the young person’s behaviour in the future, which will be monitored closely by the police, and everyone else involved.

There are many examples of this working well, but more investment in training the professional participants, particularly the police, is needed if its full potential is to be exploited.

**SCHOOLS**

A basic preventive measure is the promotion of restorative approaches in schools. This is a general term including not only peer mediation (in which older pupils are trained to help younger ones to resolve their differences), but anti-bullying initiatives based on personal accountability and respect, and open communication using such techniques as circle time, to encourage pupils and staff to speak freely about their concerns and ways of addressing them.

RJ in schools has already been piloted by the Youth Justice Board, in conjunction with DfES, and the preliminary results have been impressive, with less truancy and reduced exclusions, linked to better behaviour in and around the school vicinity. Final results are awaited and, as in RJ generally, there is a need for greater investment in RJ in schools if the full benefits are to be exploited.

**COMMUNITIES**

Similar methods could help prevent young people from harassing elderly residents, bringing them together so that they see each other as human beings with needs, not as stereotyped “yobs” or “wrinklies”. This should also take place as soon after the event as possible. The involvement of the formal youth justice system should be seen as the last resort. Mediation services should be encouraged to develop the skills of their mediators in handling community and group meetings, and to recruit those with experience of working with young people as well as young people themselves.

**NEIGHBOURHOOD MEDIATION**

It is the common experience of community mediation services, as mentioned above, that the party who reports a dispute has sometimes contributed to it, whether by anti-social behaviour of their own or by the manner in which they approached the other party. Mediators visit both sides, whereas councillors and MPs in their surgeries often hear only from one side. In addition, mediators are trained in active, non-judgemental listening, which makes it easier for both sides to describe the facts from their point of view and express their feelings. This in itself can often defuse the tension and promote better understanding between the parties and an appreciation of underlying personal difficulties. Mediators are as far as possible drawn from local communities, and receive a practical training. In most mediation services, volunteer mediator’s work in pairs as this not only assists their evaluation of their performance, but means that at least to some extent they can be drawn from a background comparable to that of the parties.

Impressively, an agreement can be reached in eight or nine cases out of ten when the parties agree to meet.

It is true that the more entrenched disputes, especially some of those seen on sensational television programmes about “neighbours from hell”, seem unlikely to respond to this down-to-earth approach, but many of those have only reached their present degree of aggravation because the underlying causes were not discussed at a much earlier stage.

**MEDIATION IN ACTION**

Local methods vary. We would like to draw to the Committee’s attention a particularly effective scheme, currently in use in Hampshire and being considered for use in Lambeth and possibly elsewhere.

New Forest, Southampton and South-West Hampshire Mediation has a contract with Southampton City Council housing service that provides for all cases of alleged anti-social behaviour reported by tenants to be immediately (not as a last resort) referred to the Service. It employs paid independent assessors, trained in active listening and conflict resolution skills, which visit the households concerned within five working days of the initial complaint. An assessment of the appropriate outcome is completed within 15 working days. In many cases, receiving a visit, being listened to and told what options are available, is enough to resolve matters. In other cases the assessors write a report to the Council recommending appropriate action, taking account of the parties’ own views. When this involves mediation, the Service arranges it. Assessors and mediators help both parties to look for realistic ways forward rather than a win/lose outcome. The results are striking. The Service handles some 500-600 cases a year. Of all fully assessed cases, 94% were closed with no further action from the Housing Office after their initial referral. The time of Housing Officers is saved, the satisfaction of tenants increased, who appreciate the independence of the Service and the role of volunteer mediators enhanced and simplified. The City Council housing service has ensured the stability of the scheme by awarding a five-year contract to the Service.
ANTI-SOCIAL BEHAVIOUR ORDERS (ASBO)

We would argue strongly that, far from encouraging local authorities to make more and more ASBOs, the Government should encourage them to use RJ and mediation as their first line of intervention, working alongside the police and not-for-profit organisations. The use of an ASBO should be regarded as the last resort, not the first. Local authorities should also be encouraged to assist a local not-for-profit organisation to establish a mediation centre if one does not already exist. Mediation centres should be independent voluntary organisations, overseen by an appropriate umbrella body. Many such organisations are members of the Restorative Justice Consortium.

By the same token, if an ASBO or Acceptable Behaviour Contract is breached, immediate breaching of the offender is likely to be counterproductive, especially if it leads to custody with its well-known high recidivism rate. The offender should first be asked to explain the reason for the breach and then be given the opportunity to make a new commitment to keep it, knowing the consequences if they do not. At the same time their personal circumstances should be explored, including whether local statutory or voluntary agencies had given whatever support was needed by the individual or family. This could include the parenting support and youth and community services mentioned in the terms of reference.

Those responsible for setting targets should remember the desired objective. To achieve more convictions, or ASBOs, is not desirable in itself; the aim is to reduce the unwanted behaviour, and if this is better done by other means, such as ABCs, injunctions, or indeed environmental measures, the agency concerned should not be penalized for failing to reach an arbitrary target.

Mediation and RJ usually leads to an agreement, and this could take the form of an acceptable behaviour contract (ABC). We think that in present-day society the language of contract (as in “social contract”) is more appropriate than the language of giving “orders”. The contract should be two-way. The person should undertake to refrain from unacceptable behaviour, but the community (for example in the form of a local authority agency or a voluntary organisation) could agree to access services for them to accommodation, rehabilitation, and their other pressing needs.

Under the general heading of “mediation” or a “restorative approach” we commend the use of methods such as people’s panels. Instead of the standard public meeting, at which the most vociferous ask questions and speakers from the platform try to parry them, the meeting is divided into small groups, each with representatives of the various local interests, agencies and voluntary organisations, with a facilitator who asks them to observe basic ground rules. They are then invited to voice their concerns, and suggest ways of meeting them. At a follow-up meeting, those responsible for the relevant field are invited to report on progress.

FUNDING

The letter asks about the role of the private sector and the impact of government initiatives. We cannot comment on the former, but we would stress that the not-for-profit sector has considerable experience and great potential for more work of this kind, provided it is not hampered by the constant search for short-term, narrowly-focused funding initiatives and bureaucratic procedures for assessing performance.

CONCLUSION

We believe that RJ and mediation are fine examples of what the Home Secretary has advocated: active citizenship and “an alternative that relates to people’s lives—in a non-authoritarian way” (Edith Kahn Memorial Lecture, Guardian 11 June 2003).

It would help if public figures would encourage people to take the step of agreeing to RJ and mediation, emphasising “smart” measures like these which actually work at low cost, rather than repeating the over-worn mantra of “being tough”, even though many so-called “tough” interventions do not bring in the results needed.

They will be supported in this by the growing number of people who have experienced successful RJ and mediation. Building on the experiences of the examples above, we believe that over time, if consistently applied, these approaches should lead to a cultural change in the way anti-social behaviour is seen and dealt with. What we want is confident, responsible communities which take more responsibility for solving their own problems, rather than systems which unnecessarily escalate them into the courts with the delays, bureaucracy and ineffectiveness which often ensues.

14 September 2004
41. Memorandum submitted by Rethinking Crime and Punishment

INTRODUCTION

Rethinking Crime and Punishment (RCP) is a four-year initiative set up by the Esmee Fairbairn Foundation to raise the level of debate about the best way of dealing with offenders and to explore alternatives to prison. We have made 57 grants that aim to increase public understanding about and involvement in criminal justice, and to produce fresh thinking about punishment. We have set up a major independent inquiry into alternatives to prison, which is due to report in November, and have undertaken various pieces of research into public attitudes in this area.

We welcome the opportunity to contribute to the Home Affairs Committee’s inquiry into anti-social behaviour. This is an important area of policy and one in which it is absolutely essential that policy-making is based on evidence around what works as well as a clear understanding of what is actually meant by anti-social behaviour. This short submission draws on findings from our funded projects and therefore focuses on two main areas: (i) the importance of prevention and (ii) public opinion.

RCP’s programme of work indicates that while there is a clear need to tackle anti-social behaviour and crime, it is important to focus on prevention and to avoid stigmatising or unnecessarily drawing young people into the criminal justice system. Under-18s in the UK are already detained at the rate of more than one every two hours. It is important that measures to tackle anti-social behaviour do not lead to a yet greater reliance on the use of imprisonment for this age group. Over zealous use of anti-social behaviour orders could have particularly negative consequences. More positively, there are areas of the country (e.g. Swansea), which are successfully tackling the problem without seeing the number of ASBOs imposed as a criteria of success.

THE NEED FOR PREVENTION

The key finding from Rethinking Crime and Punishment projects is that much more should be done to prevent children and young people from becoming involved in anti-social behaviour or crime. Work undertaken for RCP by York University has confirmed that early intervention can be cost-effective and RCP’s analysis of public attitudes has shown that most people think better parenting is key to reducing crime. From the children’s charities that want greater priority given to tackling child neglect to the think tank CIVITAS which wants more parent training programmes, RCP has found that prevention is better than cure.

There is a broad professional agreement that more constructive early intervention in the lives of young people most at risk could produce enormous dividends. The consortium of children’s charities working together in a project called SHAPE—Reshaping Children’s Lives and the Youth Crime Debate have argued convincingly that dealing with the causes of child neglect and abuse will help to address the causes of youth crime. The view of the Consortium—comprising the National Children’s Bureau, NSPCC, Children’s Society, NCH, Barnados and Nacro is supported by the Children’s Rights Alliance report Rethinking Child Imprisonment which concluded that if you select at random any inmate of a YOI “you will almost certainly find a heartbreaking history of personal misery, professional neglect and lost opportunities”.

The key role of education in preventing offending has also been highlighted by a number of RCP’s projects. Research by Ecotec has found four main areas where there appear to be significant links between education and offending: (i) educational underachievement, particularly with respect to literacy and numeracy, (ii) detachment from mainstream education, (iii) the impact of custodial sentences and care episodes and (iv) the efficacy of school organisation. Attempts to address anti-social behaviour are unlikely to be successful unless they address issues relating to education.

Work funded by RCP has not only identified the problems but also proposed solutions. A consultation with young people undertaken by the YMCA found a great deal of support for the introduction of parenting education for mothers and fathers of young offenders “to induce a sense of responsibility”. RCP’s work on restorative justice has highlighted the role which family group conferencing can play in strengthening the way children are brought up.

For the young people consulted by the YMCA, tackling bullying and truancy was a key approach to prevention. Significantly, school suspension and exclusion for bullies was not seen as an effective means of punishment as it gives “offenders” a “holiday” from school. More, not less schooling, should be used as a punishment instead of suspension and schooling. This finding should serve as a reminder of the need to ensure that anti-social and offending behaviour is addressed with the aim of social inclusion, not exclusion.

The young people consulted by the YMCA felt that harsher punishments should be given to young offenders and their parents, but argued that part of the offender’s rehabilitation should involve meeting their victims, or participation in a victim awareness scheme. This growing interest in restorative justice was strongly supported by an inquiry into RJ conducted by legal reform group JUSTICE. They found the introduction of RJ in England and Wales to be “largely successful” and suggested that there is scope for RJ to develop as an alternative to prosecution and custody for all age groups. Confronting people who have been anti-social with the consequences of their behaviour in this way could be an effective way of dealing
with the problem. Yet neighbourhood mediation schemes are not available in every area; Mediation UK estimate they cover 60% of the country. There is scope to for extending the youth offender panels which involve member of the local community in dealing with first time young offenders.

It is clearly important that efforts to deal with anti-social behaviour build on the successes of the youth justice reforms introduced since 1997. Giving youth offending teams specific responsibilities and resources for tackling anti-social behaviour by young people under 18 seems an important way forward.

**Public Attitudes**

A major theme of RCP’s work has been on public attitudes to crime. As a result we have learnt a great deal about what people really do think about the best way to deal with offenders. The research we have commissioned, and the projects we have funded include three MORI opinion polls, four substantial research studies and several projects whose primary focus was to impact on public attitudes through the provision of information or influencing in other ways.

These findings are highly relevant within the context of how best to respond to anti-social behaviour. Perhaps the most important finding is that although public attitudes are complex, they are in general much less punitive than is often thought to be the case.

It is clear that there is a good deal of support for prevention:

- Asked what would do most to reduce crime in Britain six out of 10 people say better parenting, 55% more police, 45% better school discipline and 41% more constructive activities for young people.
- When we asked in 2001 how the public would spend a notional £10 million on dealing with crime. The most popular option was to set up teams in 30 cities to work with children at risk.
- Nearly three quarters of people, according to work undertaken by Ecotec, think that schools and colleges have an important role to play in preventing young people from offending and reoffending with teachers seen as more important in this regard than police, courts or custody.

In addition, there is a lot of support for treating rather than punishing underlying problems. For young offenders, education is seen as playing an important role. Research by Ecotec found that two thirds of people agree (a third strongly) that under 18s who have offended and cannot read and write should receive compulsory education rather than custody.

There is also a great deal of scepticism about prison. About half of the public think that offenders come out of prison worse than they go in. Only 2% choose to spend the notional £10 million on prison places and when asked to deal with prison overcrowding, building new prisons is the least popular option with the support of only a quarter of people. These findings confirm the importance of ensuring that prison is used sparingly and that people who breach anti-social behaviour orders do not find themselves drawn into the prison system.

RCP’s findings may seem at odds with what is usually thought to be the public’s view. Part of the problem no doubt stems from the way the media cover aspects of anti social behaviour. Earlier this year for example the Blackpool Gazette published the pictures of two ten year olds under the headline “Ban for the Imps of Satan”. While identifying the perpetrators of anti-social behaviour is seen as an essential aid to enforcement, there are downsides. First, it could put these and other similar looking boys in physical danger. No socially responsible paper would encourage vigilantism but the tenor of some coverage could encourage some to take the law into their own hands.

Second, the coverage makes life more difficult for the teachers, social and youth workers whose job it is to turn young people like this around. But further excluding alienated young people is not going to work. What parents would want their children taught with the imps of Satan? Would a mentor not think twice about trying to help boys who terrorise their neighbours? Getting these boys on track will take a lot of work—unless the media agree that there is no hope of reform at the early age of 10 and 11. Finally labelling children in this way could make them feel that they really are evil people rather than the very naughty boys they are. Ironically the Axis project, which RCP visited in Blackpool, is an excellent example of a constructive approach by the police and YOT. It takes a tough and tender approach—education, drug treatment, and counselling combined with tough police enforcement for those who offend. Such a balanced approach is needed both to deal with youth crime and to report it.

**The Way Forward?**

While it is important that anti-social behaviour is addressed, RCP’s work has found that it is essential that the response to such behaviour is effective, just and proportionate, and in the interests of local communities.

That is why it is concerning that current measures to deal with anti-social behaviour risk needlessly drawing people into an already overstretched criminal justice system. The fact that anti-social behaviour orders are issued in civil rather than criminal courts, with an offence only having to be proved “on balance of probabilities” rather than “beyond reasonable doubt” is a particular worry. Because breaching an order
is punishable by up to five years in prison, there is a danger that people who have committed relatively low-level anti-social behaviour could find themselves in jail. This is a particular concern if anti-social behaviour orders are not accompanied by a comprehensive and individualised package of support to help address the underlying causes of anti-social behaviour.

In developing future responses to anti-social behaviour, RCP’s work suggests an approach that includes the following recommendations:

— An emphasis on prevention and an approach that aims to include rather than exclude people from society;
— Mainstream agencies such as schools and health services should take full responsibility for playing their part in preventing anti-social behaviour and offending by young people;
— Support for parents of teenagers should be introduced in a similar way to Sure Start;
— Local authorities should be able to reinvest savings from reductions in custody into youth crime and anti-social behaviour prevention;
— Quick response units comprising police and youth services should be developed to set up positive activities to divert youngsters from anti-social behaviour; and
— More intensive community based programmes offering 25 or more hours a week supervision contact to turn round the lives of the most troublesome young offenders.

20 September 2004

42. Memorandum submitted by Salford City Council

The Crime and Disorder Legal Team of Salford City Council, on behalf of the Joint Chairs of Salford’s Crime and Disorder Reduction Partnership, commissioned a review and evaluation by Third Sector First of the CDRP’s approach to tackling anti-social behaviour. The report was completed in July 2004. The research involved work with professionals in the police, legal system, local authority and voluntary sector and a small number of victims and perpetrators who gave some unique insights into the character and consequences of anti-social behaviour. The opinions expressed here are, in general, based upon the findings of that evaluation.

The Causes of Anti-social Behaviour

The report addressed issues regarding the causes of anti-social behaviour. Those who reported an increase in the incidence and degree of ASB offered a range of explanations that can be classed as “familial”, “societal” and “technological”.

The familial explanations centred mainly on declining responsibility—in the family generally but specifically on the part of parents. Respondents described situations where parents fail to take responsibility for the actions of their children. Instead of undertaking to work co-operatively to stop their children’s anti-social behaviour, it is reported that parents think their children are simply being “picked on” by the authorities. There was also a strong feeling among the professionals that many of the parents they come across have no control over their children’s behaviour and do not know how to deal with them. The perception of professional practitioners was that the cumulative effect is parents at the end of their patience who want their children out from under their own feet, and encourage them to spend their time anywhere but in the home.

However, it also appears that in some cases parents are simply unaware of where their children are and what they are doing, and that, in many cases, the parents are willing to ensure that their children do not act in an anti-social manner when they are made aware of the problems. Early interventions in such cases try to ensure that the parents are made aware of the problem in the expectation that many of them will respond positively.

A rise in the incidence of ASB explained in terms of a societal problem—namely that the fabric of society has adversely changed whether combined with family problems or in its own right—could be explained as follows:

— Discipline in society and especially in schools has broken down.
— Children no longer attach any sense of shame to particular types of behaviour.
— We have provided children with an over inflated sense of their own self-importance. Their resultant attitude means they have no consideration of the impact of their behaviour.
— It was noted that leisure activities have been killed off and in particular, sport in school has been squeezed out to allow for the pressures of the national curriculum. As a result, children no longer have anything extra curricular to engage in or to expend their energies on.
Linked to these aspects of ASB some argue that there was not enough for young people to do, emphasising the need for more investment in youth work. Some suggest that it is more a case of the wrong things at the wrong time, and in particular an absence of activities after 9.30 pm and at weekends. However, others feel the claim that there was nothing to do is an excuse, not a viable explanation. They argued either that (a) there was a considerable range of things on offer for young people and that the opportunities which confronted this generation far exceeded those of earlier generations, or that (b) opportunities for some might be limited by income and access, but that was no justification for the seriously anti-social behaviour under discussion. Several young people expressed an awareness of a range of activities they were choosing not to participate in, mostly because they were bored by the range of provision at youth clubs and similar projects.

Another problem may be the lack of legitimate places for young people to congregate. While one of the teenagers appreciated the annoyance inevitably caused when youths gather at these so-called hotspots, especially those close to residential areas, and another said that much of their behaviour was only problematic if there were adults in the vicinity—hence they would where possible go to parks and other non-residential areas—some expressed resentment of police attempts to move them off the streets and into parks. They complained that parks are unsafe environments. It does reinforce a point that facilities have to be safe as well as attractive to young people, otherwise they are redundant.

A small number blamed the alcohol industry for the eruption of ASB:

— targeting of younger drinkers in the production and marketing of alco-pops;
— the readiness of some off-licence staff to knowingly distribute to under age teenagers.

Alcohol appears to be a very significant factor in incidents of anti-social behaviour, providing a motive for income-generating crimes such as street robbery, reducing inhibitions and fueling disorder and aggression.

A relatively small number of professionals offered the technological explanation namely:

— ASB has increased because, with the use of mobile telephones, gangs can quickly and easily congregate; and
— the public can use mobiles to instantly report any anti-social behaviour they witness—so in this case, it is the reporting, not the incidence of ASB which has been affected by the development of technology.

However, it must also be noted that there are other significant issues that have to be addressed when considering the causes of anti-social behaviour:

THE MEANING OF “ANTI-SOCIAL BEHAVIOUR”

It is important to establish a shared understanding of the definition of anti-social behaviour before considering its rise in prominence. There is a consensus of opinion among practitioners that behaviour is anti-social when it impacts on the quality of life of local people. It does not always have to be targeted to cause distress. However, to provide a clear, practicable definition that is meaningful to a community and fully reflects all the issues and powers, is impossible, as ASB activity and legislation is wide ranging, from crack houses to dog fouling.

IS ANTI-SOCIAL BEHAVIOUR REALLY ON THE INCREASE?

There is a range of opinion about whether and why ASB has gained prominence over the last few years. Just over half the professionals, including victim and complainant representatives, reported that the volume and seriousness of anti-social behaviour had increased. Notably, almost all the young people agreed. For one young person this was illustrated by the use of bad language among children as young as five and the common use of marijuana by children of 10 and even eight years. The young person stressed the scale of the problem by pointing out that it is now easier for children to procure drugs than it is for them to access alcohol.

It may simply be the profile and the reporting of ASB that have risen over the last few years. With anti-social behaviour rarely out of the news headlines the media are responsible for the rise in prominence of ASB as they have created a huge profile for it. As a consequence the general public are very well aware of the increased powers the authorities now have for dealing with anti-social behaviour and are more ready than ever before to call on the police and other agencies to exercise their authority.

Changing levels of tolerance is a possible explanation for increased levels of reporting as opposed to there being an actual increase in the incidence of ASB. However, it is important to point out that the relationship between levels of tolerance and levels of reporting is not straightforward and this has implications for recording levels of ASB.
THE EFFECTIVENESS AND PROPORIONALITY OF CURRENT POWERS

There is considerable evidence that the most persistent perpetrators of anti-social behaviour, regardless of age, are unrepentant and unaffected by threats or promises. Many of the people on whom ASBOs have been sought are violent, unpleasant and remorseless in the misery they inflict on their community. For some there is no reason to believe that ASBOs will have any greater effect on their behaviour than other community sentences or the threat of imprisonment; only age and eventual exhaustion is likely to reduce their inclination to offend. But for the majority of people against whom the strategy in Salford is invoked at a lower level appear to result in a quietening down or complete cessation of the problem. There also appears to be a number who do not breach their ASBO. Again this cannot be taken as evidence that the behaviour has improved, it may just be an unwillingness on the part of residents to report breaches, bearing in mind that they would have to make a statement for use in the criminal court whilst their evidence may have been hearsay evidence within the civil ASBO application.

ISSUES OF ENFORCEMENT AND CO-ORDINATION

Our review suggests that whilst ASB is problematic, so too is recording it. Overall, at present these records are not collated or integrated in a way that makes it possible to state confidently that anti-social behaviour is decreasing, stable or on the increase. Salford is seeking to address these issues with the development of a single number for reporting ASB which would be used across the CDRP. This may be hindered by the problem of integrating reports of crime to the police that also fall within the wider ASB definition.

THE ROLE OF PARENTING SUPPORT, YOUTH AND COMMUNITY SERVICES AND THE YOUTH JUSTICE SYSTEM IN DIVERTING YOUNG PEOPLE FROM ANTI-SOCIAL BEHAVIOUR

There is widespread support for more diversionary activity and a widespread conviction that it works. Generally the evidence base for diversionary activities is weaker than people hope it might be.

The debate frequently held between diversion and enforcement is tangential to what seems to be the real issue—a belief that the real problem predates the appearance of anti-social behaviour. In other words, by the time we see the result it could be too late to do anything about it. The argument is for very early intervention, to prevent the need to make ASBOs a decade from now. Although there is evidence that anti-social behaviour is associated with a combination of readily identifiable familial and social characteristics, it is widely believed that not enough is done early enough to prevent crime and anti-social behaviour in later life. The implications are that greater investment should be made in services that are not, in themselves, justified in relation to anti-social behaviour—for example family support and parenting programmes—but from which reductions in anti-social behaviour might be a major dividend.

Many professionals believe that diversionary sports programmes do have results: certainly with some young people. The overriding emphasis on sport and physical activity was justified because young men were the principal perpetrators of juvenile nuisance and that this was a group of people with an evident interest in sport. It also allows coverage of healthy living issues and may provide a route into employment.

However, there are concerns about these sorts of interventions:

— One particular concern was that the funding for these projects could at best be described as piecemeal, that it is difficult to sustain projects, and young people become quickly disillusioned and disheartened by the loss or closure of projects with which they are involved;
— sports workers have ended up having to deal with complex social and emotional issues for which they have neither the preparation and training, nor the knowledge of where and how to make appropriate onward referrals.

ASB is a sub-set or indicator of the multiple problems characteristic of many families in crisis, which might include low income and poor health as well as ill discipline. One might conclude that:

(i) If social workers were more involved at an earlier stage, ASB would be minimised or prevented from developing.
(ii) If ASB was an indicator of underlying and serious deficiencies in childcare and child supervision, then social workers would probably already be aware of the problem, as might be health professionals and teachers, even if they were not prominent in the ASB management process.
(iii) Social workers may have a substantial, continuing but unacknowledged role in addressing the conditions in which ASB develops.

ENFORCEMENT

It is felt that a combined approach of enforcement and prevention comprised the most effective strategy for Salford.

7 September 2004
43. Memorandum submitted by Shelter

Shelter is the UK’s largest provider of independent housing advice, helping over 100,000 homeless or badly housed people every year. Anti-social behaviour (ASB) is a key issue in our services work. Our housing aid centres deal with large numbers of cases involving neighbour nuisance, harassment and violence and help find solutions for victims of ASB. The pioneering Shelter Inclusion Project, set up in partnership with Rochdale Metropolitan Borough Council, works with households with ASB problems to change their behaviour and enable them to sustain their tenancies. From this work, we understand the devastating impact that ASB can have on individuals and communities and the need for an effective response that balances the need to prevent and tackle the causes of ASB, as well take enforcement action.

INTRODUCTION

It is essential that local agencies and housing providers have the skills and resources to work together to address ASB. Shelter agrees that where behaviour is persistent and willful, remedies must be available to protect the individual and community. We support the use of injunctions and, where appropriate, anti-social behaviour orders (ASBOs) as effective tools, targeted on the specific behaviour of individuals. In some cases, this will include the use of criminal sanctions. There are also circumstances where possession may be the right course of action. However, this should only be as a last resort—it may be effective in dealing with the immediate problem but, as well as causing homelessness, it often simply displaces the problem to a new area and a new set of neighbours.

Shelter believes that the response to ASB should meet a number of tests and should, in particular:

— Be effective in tackling behavioural problems and addressing the causes of those problems, not just to move the problem on.
— Strike the right balance between prevention, support and enforcement.
— Provide practitioners with practical, proportionate tools that they can understand and use.
— Be consistent with wider policies to tackle homelessness and reduce poverty and social exclusion.
— Make effective and appropriate use of the courts.

Our key recommendations for more effectively addressing ASB are:

— Increased resources to enable the development and promotion of dedicated rehabilitation and support services.
— More effective co-ordination and joint working between agencies responsible for addressing ASB and social care, support, education and health services.
— When the Anti-social Behaviour Unit winds up, lead policy responsibility should pass to ODPM so that it sits alongside the Neighbourhood Renewal Unit, Social Exclusion Unit and Homelessness and Housing Support Directorate and there is effective co-ordination with prevention and support services and, in particular, the Supporting People programme.

TACKLING THE CAUSES OF ANTI-SOCIAL BEHAVIOUR

ASB has become a catch-all term for a wide range of different behaviours, ranging from graffiti and noise nuisance through to harassment and physical violence. It is imperative that responses draw distinctions between different types of behaviour and recognise the causes of that behaviour. Measures can then be taken which are not only proportionate, but also effective in tackling it.

It is important to recognise that ASB is often rooted in complex problems and many perpetrators have high levels of vulnerability. This should not be used as an excuse for failing to tackle the issue. However, if it is to be effective, the response must recognise the reality that many of those who commit ASB need support to challenge and resolve their problems. This can be a complex task and often requires negotiation between different agencies.

Research based on ASBO case files found that two-thirds of defendants had special needs or other specific problems; 146 18% had some form of mental illness; a further 18% had experience of physical or sexual abuse; and 9% had a physical disability. Drug and alcohol problems were identified in nearly a quarter of cases and in 15% of cases children were out of control and the parents lacked the skills to deal with them. Interviews with clients from the Dundee Families Project found that half the children had experienced abuse or neglect and more than 50% of the female adults had suffered domestic violence.

146 Neighbour nuisance, social landlords and the law, JRF/CIH, 2000.
**Balancing Prevention, Enforcement and Support**

In line with the Social Exclusion Unit’s 1998 report\(^{147}\) and the 2002 DTLR consultation paper on tackling ASB,\(^{148}\) we believe that responses to ASB should strike a balance between prevention, enforcement and resettlement.

**Prevention**

Pro-active, timely and appropriate housing management is imperative to stop small-scale disputes from escalating. The evidence is that early intervention and using imaginative ways to resolve disputes is effective in preventing problems from intensifying. For example, Nottingham’s Mediation Service dealt with 70 disputes in 2001, of which two-thirds reached a successful conclusion. Acceptable Behaviour Contracts (ABCs) have also proved effective in challenging and reforming a range of behavioural problems and are now being used in a number of authorities.

**Support**

Effective support services can minimise behavioural problems, help sustain tenancies and prevent homelessness. It is essential that agencies and staff working to address ASB liaise with social care and support agencies. In many instances, the most effective way to tackle ASB will be to ensure that appropriate support is being provided to a vulnerable household.

**Resettlement**

In contrast to the lack of evidence that evicting people changes their behaviour, resettlement schemes can provide a proven solution to the problem. The Dundee Families Project is a residential scheme that works intensively with families with behavioural problems. The evaluation of the Project showed that it has been successful in changing behaviour, has widespread backing locally and represents good value for money.

These type of services should be central to ASB strategies. A handful of similar projects are now being set up, including the Shelter Inclusion Project in Rochdale. However, with the recent uncertainty around the Supporting People programme and the expectations of budget savings, the prospects of securing future funding to replicate similar schemes is uncertain. Shelter welcomes the Safer and Stronger Communities Fund announced in the Spending Review. It is essential that funding for these services is prioritised if the ASB agenda is to be effectively delivered.

**The Shelter Inclusion Project**

The Shelter Inclusion Project, which has been developed in partnership with Rochdale Metropolitan Borough Council, works with households who are homeless, or are at risk of homelessness, due to ASB. It works intensively with them to identify and tackle the causes of their behavioural problems by providing support, helping to build the parenting and other skills they need to deal with their situation and working with other services to ensure their wider support needs are met. In this way, it aims to tackle ASB, whilst keeping the household in their home and thus preventing homelessness. The project has a steering group of key local stakeholders and we have also commissioned the University of York to carry out an external evaluation of its effectiveness.

So far, the results from the project are very encouraging. In the two years since it was set up, it has worked with more than 60 households, all of whom had a history of ASB. It has been very successful in changing their behaviour and has had a significant impact on levels and perceptions of ASB in the Rochdale area, with the number of complaints about nuisance and criminality among the households dramatically reduced.

Around 90% of the households working with the project have maintained their tenancies beyond six months and none of them have been evicted, despite the fact that the majority of them were facing, or had been threatened with, possession action when they were referred. Those that have left their tenancies have done so for positive reasons—to be nearer relatives, or to enable them to access specific services, for example. The project has also been successful in terms of re-integrating a number of very challenging households into their communities, getting children back into school and building the life skills of some very vulnerable and socially excluded individuals.

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\(^{148}\) Tackling anti-social tenants: A consultation paper; DTLR, April 2002.
**Housing Benefit Sanctions**

In 2003, the Government consulted on proposals to cut Housing Benefit for anti-social tenants. Along with a wide range of agencies, Shelter opposed these proposals. Housing Benefit is an entitlement that enables people on low incomes to pay for their housing. It is not designed as a tool to achieve other policy objectives and attempting to use it for these purposes will only exacerbate poverty and social exclusion, whilst doing nothing to tackle the behaviour itself. The Government has, for the time being, withdrawn these proposals. Shelter remains opposed to Housing Benefit being used in this way.

**The Effectiveness and Proportionality of Current Powers**

Under the Anti-social Behaviour Act 2002, social landlords are required to publish policies and procedures setting out how they deal with incidents of ASB behaviour. In doing so, it is essential that they have regard to other relevant policies and strategies, including local homelessness strategies. We therefore welcome the fact that the ODPM has issued guidance for social landlords on this.

The Act also enables social landlords to “demote” secure and assured tenancies, reducing a household’s security of tenure for 12 months along similar lines to the introductory tenancy regime. When these provisions were before Parliament, we raised concerns about making sure that demoted tenancies are linked to the provision of support, to ensure that tenants are given an opportunity to address their behaviour, and to prevent landlords from using them to “fast track” the eviction of tenants for other reasons, such as rent arrears. We believe the Government should publish guidance on demoting tenancies, explicitly covering these issues.

**Begging and rough sleepers**

Following the success in meeting the Government’s target for reducing the numbers of people sleeping rough there have been a number of proposals for taking a more enforcement based approach to address rough sleeping, in particular identifying links between rough sleeping and other street based activity including begging. It is important to note that although some people who sleep rough beg, it is not the case that all beggars are rough sleepers. There is strong evidence that a significant proportion of people who beg are not rough sleepers and that many people beg to support their drug or alcohol use.\(^{149}\)

Shelter has concerns about applying criminal sanctions to very vulnerable people, whether they are actually sleeping rough or not. In particular, the use of sanctions with custodial sentences attached to them is not suitable for people with multiple support needs. However, there are benefits from taking a joined up approach between police, local authorities and the voluntary sector. For example, improving access to accommodation, support and drug treatment for people coming into contact with the police can help to reduce rough sleeping and ASB.

**Sex workers**

Street-based sex workers are among the most excluded and marginalised of all groups of homeless people, with little understanding of their needs among funders and service providers and little specialist accommodation available to meet those needs. Street prostitution is strongly associated with drug addiction, social exclusion, problematic family backgrounds and poverty. Initiatives aimed at reducing ASB associated with street-based prostitution should therefore, where appropriate, incorporate drug treatment and tenancy sustainment services.\(^{150}\)

**Responsibilities of the Private Sector for Tackling Anti-social Behaviour**

Shelter supports the measures in the Housing Bill to introduce selective licensing in areas of low demand or where community stability is being undermined. We also welcome the requirement the Bill sets out for private landlords to be “fit and proper” persons, so that those who fail to meet the test of management competence, for example as a result of having been found guilty of harassing or unlawfully evicting tenants, are excluded from holding a licence.

It is important to recognise the constraints on the ability of private landlords to respond to ASB. However, there are certain steps they can and should take and which could usefully be included in licence conditions:

- Using of written tenancy agreements with specific terms relating to nuisance caused by occupiers or visitors to the property.

\(^{149}\) Research commissioned by the ODPM found that 86% of beggars used drugs, that 49% were sleeping rough and a third spent their time at hostels or nightshelters.  
\(^{150}\) Shelter has recently carried out a review to highlight the experiences of innovative projects based in Lambeth, Bristol and Birmingham which successfully accommodate and support vulnerable women with histories of street homelessness.
— Training on how to investigate complaints of nuisance and ASB in an appropriate manner, including obligations not to harass tenants.
— Working with local authorities—including the Police, social services and the local housing authority—to decide on the most appropriate action to deal with breaches or potential breaches of tenancy in relation to ASB.

We also believe that local authorities should have stronger obligations to investigate complaints from both landlords and tenants.

17 September 2004

44. Memorandum submitted by the Social Landlords Crime and Nuisance Group

1. INTRODUCTION

1.1 The Social Landlord’s Crime and Nuisance Group [SLCNG] has become the leading housing based organisation focussing on nuisance and ASB.

1.2 The Group was formed in 1995 and comprises more than 240 member organisations, including local authorities, registered social landlords, arms length management organisations [ALMOs], stock transfer organisations, tenant groups and a Housing Action Trust. The organisation represents some 3 million tenancies in the UK. The SLCNG has developed close working relationships with others including the Local Government Association, the National Housing Federation, the Chartered Institute of Housing, TPAS Cymru and TPAS England.

1.3 The Group has been privileged to work with government ministers and officials over the past nine years and has been involved with the development of legislative powers during that time.

1.4 The Group provides support to its membership through its newsletter, conferences and seminars, to help promote good practice in dealing with anti-social behaviour.

2. THE EFFECTS OF ANTI-SOCIAL BEHAVIOUR

2.1 The lead in tackling ASB at the local level started with housing organisations. Since the early 1990’s the main concern of tenants has been the lack of response of the authorities to deal with low level crime, nuisance and ASB.

2.2 The primary role of the SLCNG has been to lobby for additional powers to deal with ASB. It is the Group’s view that the instability created within communities as a result of ASB needs to be tackled through enforcement before longer term initiatives to deal with the causes of the problem and the rehabilitation of perpetrators can be tackled.

3. THE CAUSES OF ANTI-SOCIAL BEHAVIOUR

3.1 There is a widely held view that the erosion of landlords’ powers and the increase in tenants’ rights over the past 25 years helped create an environment where landlords were unable to tackle ASB through the powers contained within the housing legislation and the Local Government Act.

4. EFFECTIVENESS AND PROPORTIONALITY OF CURRENT POWERS

4.1 The development of powers to deal with ASB has been ad hoc, reactive and, in earlier years, unco-ordinated at government level.

4.2 Nevertheless, the gradual development of powers to restrain behaviour rather than evict tenants is clearly more beneficial to all concerned.

4.3 Taking some of the Current Powers in Turn:

4.3.1 Possession: Traditionally, possession action was the only tool social landlords had to tackle ASB. When social landlords had recourse to the Magistrates Court for repossession such action was quick and certain. Taking possession proceedings through the County Courts is less quick and not always certain. This point will be revisited later. Given the effectiveness of other legislation, action which directly addresses behaviour will generally be attempted before possession is applied for.

4.3.2 Injunctions: The use of the injunctive powers contained within the Housing Act 1996 gave social landlords the opportunity to restrain behaviour, coupled with the power of arrest. The Anti-social Behaviour Act 2003 strengthened these powers and equalised the position between local authority landlords and registered social landlords.
4.3.3 Anti-social Behaviour Orders:
4.3.3.1 The gradual familiarisation of social landlords and the Courts in the use of ASBOs has resulted in this form of injunctive power being particularly effective. However, there needs to be swift action by the CPS on breach if an ASBO is to be successful.
4.3.3.2 The collaboration required between agencies in the procurement of ASBOs has led to a greater degree of understanding and partnership working between those agencies which has been as important as the injunctive power itself and it has resulted in more effective working arrangements at the front line. As a result “non-legal” initiatives such as Acceptable Behaviour Contracts have developed which have helped the incremental approach to tackling ASB.
4.3.4 Dispersal Orders: Social landlords have welcomed the development of these powers, which are proving to be effective and are welcomed within the community.
4.3.5 Demotion: Demotion is a potentially effective deterrent to ASB, although the Group is concerned about the late publication on guidance on this element of the Anti-social Behaviour Act.

5. Enforcement and Co-ordination:
5.1 There is no doubt that the introduction of Crime and Disorder Reduction Partnerships (CDRPs) has helped co-ordinate and focus activity at the local level. The inclusion of Registered Social Landlords on CDRPs has done much to ensure that Crime and Disorder strategies have the ownership that is required by all social landlords for maximum effectiveness. However there are still inconsistencies of representation on CDRPs and key players within local authorities are often absent from the table. This is a criticism that members of the Group often level at Social Services and Education Departments, in particular. There is a need for all real and potential partners of the CDRPs to recognise their responsibility.
5.2 Members of the Group are continually frustrated by the perversity of some judgements and the lack of consistency between Courts. Often the effect of such inconsistency is seen to work to the advantage of the perpetrator. There needs to be consistency of service delivery and certainty of Court outcome if citizens are to have a standard expectation about how anti-social behaviour will be dealt with, irrespective of their post-code.
5.3 The SLCNG are very concerned about the issue of witness support. Although much has been done to develop better and more consistent approaches to witness support over the past few years the SLCNG feels that a Witness Charter should be developed to set national guidelines by which these key players in the fight against anti-social behaviour will be supported.
5.4 SLCNG has long promoted the use of information exchange protocols and are concerned that not all CDRPs have implemented them. Member organisations even report inconsistencies of approach between Divisions within the same Police force. Although the Crime and Disorder Act created the power to share information to combat ASB more needs to be done to ensure that the Police, in particular, use their powers more productively. The Bichard Inquiry makes it clear that better guidance is needed on information sharing generally.

6. The Impact of Government Initiatives:
6.1 Given the Government’s previously fractured approach to tackling anti-social behaviour and the lack of co-ordination between departments it is refreshing that a more strategic approach now seems to be adopted by Government.
6.2 The development of the Together programme and the establishment of the Anti-social Behaviour Unit at the Home Office should prove to be a long-lasting focus for action. The use of successful and effective practitioners as Ambassadors will help promote good practice. The Unit needs to continue to work closely with partners at the local level to facilitate proactive work.
6.3. Neighbourhood Wardens have been welcomed by social landlords and tenants alike. There does not seem to be a standard way of working across the country but they can adopt roles that usefully supplement those of front line housing staff and police officers. Members of the Group are concerned about the long term funding issues.
6.4. Police Community Safety Officers have a similar role in reassuring the community and their powers to enforce are welcomed. As with neighbourhood wardens long term commitment from the Home Secretary is expected.

7. Diverting Young People from Anti-social Behaviour
7.1 The SLCNG’s remit is primarily one that relates more to enforcement than prevention. However, the Group recognises the importance of prevention, enforcement and rehabilitation being applied in conjunction in order that ASB is dealt with effectively in the long term. Government commitment to prevention and rehabilitation is welcomed, however, there remains a dearth of initiatives to help
dysfunctional families deal with their disruptive behaviour. The Dundee Families Project, remains almost the only example of good practice in this area and it is the Group’s view that Government needs to have a more direct involvement in the funding of such projects.

7.2 Members of the SLCNG report that Social Services Departments involvement in the CDRPs is patchy and its commitment to tackling ASB inconsistent. The Group would like to see better working relationships between social landlords, Youth Offending Teams, Drug Action Teams and Social Services, in particular, with a clearer role for social landlords in the governance process.

8. **Disparities in Anti-social Behaviour Activity and the Use of Powers to Combat it**

8.1 The SLCNG feels it has done much over the past few years to help spread good practice on tackling ASB across the social rented sector.

8.2 There is no doubt that the work of the Anti-social Behaviour Unit and particularly the role of the Ambassadors, will help speed up the process. Similarly, the development by the Audit Commission of their Key Lines of Enquiry, with a particular emphasis on tackling anti-social behaviour, will help set the standard that our communities will expect, through the Housing Inspection process.

8.3 The Group is working hard with member organisations to ensure that they comply with the 30 December 2004 deadline to produce Policies and Procedures to deal with ASB, but the lack of standardised performance indicators will prevent a truly objective assessment being made of the effectiveness of individual social landlords.

8.4 The cost of taking legal action to deal with ASB has resulted in many myths springing up. Obtaining an anti-social behaviour order, for instance, should not be inordinately expensive. Nevertheless many smaller registered social landlords often lack the practical and financial resources to take action. Given the overall impact on the local community, it could be argued that the cost associated with social landlords taking enforcement action should be borne by the community as a whole and not just the rent payers.

9. **Responsibilities of the Private Sector for Tackling Anti-social Behaviour**

9.1 Although the Housing Bill makes provision for the licensing of private sector landlords with the aim of improving the management of the private rented stock, the Group feels that the provisions are far too bureaucratic and narrow in their scope to ensure that such landlords effectively deal with anti-social behaviour. Principally, the emphasis for selective licensing needs to be shifted away from “low housing demand” and focussed more on the level of ASB associated with the neighbourhood. In that way, a better co-ordinated approach to dealing with neighbourhood problems should be implemented.

10. **Other Issues**

10.1 ASBOs and Court Jurisdiction: During the passage of the Crime and Disorder Bill the SLCNG lobbied for the power to grant ASBOs in the County Court or the Magistrates Court. It is the Group’s view that the restriction of the anti-social behaviour order to the Magistrates Court has negated the essentially civil nature of the injunctive process. The Group feels that ASBOs should be available as a stand alone order in the County Court.

10.2 ALMO powers: It is the Group’s view that ALMOs should have the authority to apply to the Courts for ASBOs. Operationally, ALMOs need to respond quickly to customers. ALMOs will be expected to play their part in the CDRP and they will need to act promptly to deal with ASB when it arises.

11. **Summary**

11.1 The SLCNG welcomes the advances that have been made in tackling ASB, which have been facilitated by the legislation, Government initiatives and the profile which the Government has adopted in tackling the problem. The Group does not feel that there is currently a need for additional major powers for social landlords to tackle ASB. Nevertheless, the Group will continue to lobby for additional powers if it feels the need to do so. There is clearly a need for landlords to adopt good practice and use the tools currently available for them.

12 September 2004
45. Memorandum submitted by Paul Stinchcombe MP

I have received the attached letter from Wellingborough Constituency Labour Party Women’s Forum in respect of their concerns about binge drinking and the possibility that more might be done to ensure that the Drinks Industry contribute towards the escalating policing and health costs caused by alcohol-related incidents and illness. I share the Forum’s concerns and made a speech on related matters in the last Parliament.

Paul Stinchcombe MP
20 August 2004

Attachment

At the last meeting of the Women’s Forum held on 23 July 2004, it was decided unanimously, that a letter be sent to you outlining our concerns regarding escalating binge drinking in our society. Members of the Forum feel most strongly that the drinks industry should be made accountable at some level; therefore, we would like you to investigate on our behalf, the possibility of the drinks industry contributing to the ever increasing policing and health costs resulting from this worrying trend.

Mrs Ann Reynolds, Secretary
15 August 2004

46. Memorandum submitted by the Tenant Participation Advisory Service (TPAS)

1. TPAS is a membership organisation of over 300 social landlords and 1,000 tenant groups that exists to promote tenant empowerment. It is a market leader in Tenant Participation providing training, information services, conferences and consultancy work.

1.1 The following response has been prepared after consultation with TPAS’ National Consultative Forum, a body made up of tenants and landlord officers nominated by TPAS’ Regional Committees. Staff members have also been consulted.

1.2 While this response has been prepared specifically for the Committee, many of the views contained in it have previously been expressed.

1.3 The response is subject to formal approval by TPAS’ Board of Management.

GENERAL

2. Responding to the views of its members TPAS has, for sometime, been a vocal campaigner for a stronger response to issues of nuisance and Anti-social Behaviour (ASB). It is the view of the organisation that ASB, if unchecked, poses the greatest threat to the future of social housing and the Governments’ aspirations for sustainable communities.

2.1 In particular, TPAS would wish to see greater involvement of local people, including but not exclusively tenants and residents groups in the design and delivery of responses to ASB.

2.2 There is a strong view within TPAS’ membership, with which it tends to concur, that current government policy does not sufficiently match up necessary enforcement action with preventative action.

THE EFFECTIVENESS AND PROPORTIONALITY OF CURRENT POWERS

3. There are, at present, a good range of powers available to statutory agencies to support action against perpetrators of ASB. Government has taken a clear and welcome policy stance to provide tools which operate at a number of levels to deal with the problem. In addition, the development of sub-judicial responses by agencies, such as Acceptable Behaviour Contracts and their subsequent promotion by government has been a positive step.

3.1 There are, however, some areas where TPAS’ membership remains concerned. There is a widespread view that the criminal justice agencies and in particular the magistracy do not yet understand the importance of firm action where necessary. Anecdotal evidence suggests that breaches of Anti-social Behaviour Orders are not always fully prosecuted, undermining the deterrent value of this tool. Other concerns relate to the repeated suspension of eviction orders where this last resort is pursued.

3.2 TPAS tends to feel that the powers of tenancy demotion included in the ASB Act are a useful and proportionate second chance approach to issues of ASB, however some members feel that any reduction of security of tenure is a threat to the basic precepts of social housing.
ISSUES OF ENFORCEMENT AND CO-ORDINATION

4. As suggested in paragraph 2.1 TPAS' main concerns regarding current policy relate to the apparent gap between the rhetoric of community empowerment and the focus on high level delivery.

4.1 While many CDRPs clearly function well, they often remain distant from TPAS' members. Few tenant members (even experienced activists), or for that matter landlord members, have access points to express their views at this level or even have a clear sense of the role of CDRPs in dealing with ASB. Similarly, anecdotal evidence suggests that some Housing Associations seem to find it difficult to achieve influence over strategy although it is vital that their responses are co-ordinated with other agencies working in the field. At the very least awareness raising work is required so that local people can see the positive impacts of their views on local ASB strategies and recognise the work of CDRPs.

4.2 CDRPs in particular do not seem to be particularly open to community engagement in strategy development. It is TPAS' view that involving local people is crucial to developing effective strategies in most areas of public policy. Around ASB, the recent ODPM and Housing Corporation guidance for landlords on producing ASB policies has put a strong emphasis on consultation with tenants and other stakeholders. TPAS hopes that other agencies and bodies charged with duties in ASB management will deliver on these principles.

4.3 While it is absolutely necessary that work is done to improve the practice of professionals working in the field TPAS has been concerned by the exclusive focus of the, otherwise excellent, ASB Units’ “Together Academy” on developing the skills of professionals. If it is accepted that communities have a crucial role to play combating the problem then access to training and capacity building should be available to make sure that activists have a detailed knowledge of the law, their role in prevention, and the development of negotiated action with service providers. While it is true that most people will just want the problem to go away the exclusive focus on professionals undermines the message that ASB is a societal problem for which all citizens share a responsibility to act.

4.4 TPAS would particularly welcome efforts to devolve local control and/or monitoring of services to appropriately trained and accountable resident groups. This could involve informal engagement in local ASB management (as with Neighbourhood Watch) or more formal independent audit of ASB management services. TPAS has previously demonstrated with its Tenant Led Inspection and Audit project that committed tenants and residents are generally very effective auditors of services.

4.5 Despite recent improvements in information gathering and sharing including efforts to set up a London wide protocol, TPAS’ impression is that co-ordination between agencies, particularly Police, Social Services and landlords is limited. Clearly this lack of co-ordination makes tackling ASB more difficult. Furthermore, TPAS’ impression is that many services have a lack lustre approach to sharing information with individual complainants and appropriately trained and briefed representative groups. It should be said that the Government has made its expectation that information sharing improves absolutely clear. However until the public, and particularly community groups, are confident that they have access to all of the information that the law allows they will believe that they are being asked to provide information on incidents without seeing the benefits of taking this risk.

THE IMPACT OF GOVERNMENT INITIATIVES

5. The Government is to be commended for the high profile it has given to issues around ASB. While TPAS' tenant members often raise concerns around the speed of response to ASB problems or the resolution of individual cases, it is now less frequent that they say “my landlord doesn’t care about ASB”. It seems that social landlords, at least, are slowly getting the message.

5.1 However, one common concern is that government initiatives have tended to focus far too strongly on resolving problems in neighbourhoods of predominantly social housing. While some cross-tenure tools, such as ASBOs, have been developed most of the available enforcement tools, in housing at least, impact only on the social housing sector. This social housing bias exacerbates a widely held belief, particularly in the press, that Anti-social Behaviour is a problem exclusive to “Council sink estates”. While it is important to raise the profile of ASB it remains necessary to make it absolutely clear that the perpetrators and victims of ASB live in all tenures or negative stereotyping of social housing tenants will continue to have severe impacts on people’s lives. While the focus on good ASB management by social landlords is welcome, these initiatives should be extended as far as possible, to the private sector.

5.2 To return to the point raised in 2.2, government policy in recent times seems to have focussed very strongly on matters of enforcement. This focus has gone some way to strengthening community confidence and there is no doubt that at times swift and effective enforcement action should be taken. It is, crucial however, that enforcement is matched up with preventative action. A higher community safety profile could be given to those schemes that seek to support people to change their behaviour as often the link between support provision and ASB management is not clear. In addition, TPAS feels that adequate support provision around drug and alcohol abuse is patchy.
5.3 In common with the Governments’ view, TPAS feels that swift action is crucial. It is following with interest the development of non custodial (and non eviction) approaches to ASB management. There is great potential in the further roll out of methods of restorative justice. While careful evaluation of pilots will be required TPAS also feels there is strong potential in the Community Justice Centre model.

YOUTH DIVERSSION

6. Parenting orders and the youth justice system have a crucial role to play in diverting young people from ASB. However, these tools involve a high level of compulsion. It is to be regretted that mainstream youth and community services seem to remain stretched.

6.1 To add to this, many youth and community services tend to remain firmly within local authority control. While clearly local authority oversight is required to ensure even spread of services and strategic direction, tenants groups that wish to provide services to young people in their areas often find it difficult to access funding and training. Greater opening out of youth and community services to self organised local groups would allow for a closer relationship between the older and younger residents of neighbourhoods. Disparities in levels of ASB.

7. TPAS is not particularly well positioned to be able to comment on disparities of levels of and enforcement action against ASB across the country. A general impression would be that services are better resourced and co-ordinated in large metropolitan districts who can support a “corporate” approach. TPAS’ impression is that ASB levels are higher where there are high numbers of people suffering from other social pressures, namely overcrowded high demand neighbourhoods in the South and low demand unstable neighbourhoods in the North.

THE RESPONSIBILITIES OF THE PRIVATE SECTOR

8. To return to the point made in 6.2 it is necessary to persuade the private sector to make use of the same tools as the social sector. It should be noted that many private landlords act very responsibly. However, particularly in low demand areas of the North ASB management is made particularly difficult by uncaring or absentee private landlords. As a neighbourhood becomes unstable landlords sometimes fall back on making lets to potential perpetrators of ASB with little reference to their support package (or lack of it). If there are problems the landlord might (if there are rent arrears or a rising number of tenant abandonments) take rapid eviction action using the short hold tenancy, however, this simply causes greater “churning” and neighbourhood instability. TPAS’ view is that only the extension of landlord accreditation/registration schemes and housing management delivery agreements, if necessary on a compulsory basis, will address this problem. TPAS awaits the Housing Bill with interest on this issue.

8.1 There is also a clear and urgent need to address the seeming vacuum of measures for dealing with Anti-social owner occupiers.

7 September 2004

47. Memorandum submitted by the UK Noise Association

The UK Noise Association was founded in 2000. It brings together a unique coalition of key organisations and individuals lobbying on different aspects of noise. It services the All-Party Parliamentary Group for Noise Reduction.

We welcome this Inquiry. We will confine our comments to noise issues.

INTRODUCTION

Neighbour noise is a major source of anti-social behaviour. It can have a serious impact on the victim. Neighbour noise can take a number of forms. The most common are loud music, barking dogs and excessive shouting and thumping. The noise can be exacerbated by poor sound insulation.

MEASURES THAT WOULD ASSIST IN DEALING WITH NOISY NEIGHBOURS:

1. A change in the law.

The main piece of legislation used to deal with neighbour noise is the 1990 Environment Protection Act. For action to be taken by local authorities, it requires for them to prove that the noise is a statutory “nuisance”. In the case of excessively loud and prolonged noise that is quite easy to prove. But in many other cases, the tight legal definition of the word “nuisance” means that local authorities are reluctant to take action. We would argue that effective action could be taken in many more cases if local authorities only needed to prove “unreasonable annoyance”.

7 September 2004

We welcome the use of anti-social behaviour orders as an important tool in tackling noise problems. Anti-social Behaviour Orders, rightly, put the onus on the noise perpetrator to sort out his/her behaviour. We welcome the clauses, set out in the ODPM’s Anti-social Behaviour: Policy and Procedure—Code of guidance for local housing authorities and housing action trusts, requiring landlords to draw up statements on anti-social behaviour. As far as noise is concerned, the more specific these are, the more likely they are to be effective. We are not suggesting that actual decibel levels for acceptable levels of noise are inserted in the statement (as that would exclude low-frequency noise such as that from a neighbour’s washing machine), but it could be useful to follow the practice used in places such as Germany or New York where, it is clearly specified when lawns can be mowed or when exactly barking dogs become a noise nuisance. This level of detail makes both the acceptable boundaries clear to tenants and enforcement easier for the authorities.

3. Tough Tenancy Agreements.

These should include a tough anti-noise clause. Ideally, this should apply to private tenants as well. This would provide landlords with an effective and inexpensive way of dealing with noisy tenants. The tenancy agreement would both act as a deterrent to anti-social behaviour and as a way of evicting the tenant if that became necessary. As with anti-social behaviour orders, tenancy agreements could benefit by detailing, in simple language, just what is, and what is not acceptable.

— One of the advantages of making more use of tenancy agreements and anti-social behaviour orders would be that they need not be dependent on noise being a “statutory nuisance” or even causing “unreasonable annoyance”. They are based on unreasonable behaviour.

4. A stronger stance by local authorities

This is key. In our experience many local authorities are reluctant to use the powers they have to deal with the noise perpetrator. It is likely they would be equally or more reluctant to use stronger powers. Far too often local authority officers, housing officers and housing association officials are reluctant to term neighbour noise as anti-social behaviour. Instead they tend to talk about “a clash of lifestyles” or “a neighbour dispute” or brand the victim as “over-sensitive”. Greater involvement of the police would partly overcome this situation (see below), but there would need to be an expectation/requirement on local councils, housing authorities (including housing associations) to make use of any tougher powers given them to deal if neighbour noise is to be tackled effectively.

At present many local authorities and housing associations are reluctant to attach blame. They tend to encourage the use of mediation. Mediation may have a role to play if it is minor noise dispute or if a reasonable person is unaware of the effect of his/her behaviour on the neighbours. But its role is limited. We endorse the view expressed in the current Consultation on Draft Guidance on Noise Management (Anti-social Behaviour etc Scotland Act 2004: “it is hard to see how mediation will effectively deal with true Anti-social Behaviour complaints, especially where there is an intent to annoy, or cause distress, or a clear disregard for those affected by the noise makers’ activities.” We argue to use mediation in these kind of circumstances allows the noise perpetrator to avoid responsibility for his/her anti-social behaviour by being able to imply that it is, in part, the fault of the victim. This is unacceptable. In these circumstances the result of mediation would be to prolong the anti-social behaviour. In these situations tougher measures such as anti-social behaviour orders would be much more appropriate. We would also favour more use of confiscation of equipment (including dogs, where necessary!) and for the appropriate powers to be given where necessary.

5. More use of the Police

There are strong arguments for giving the Police a much greater role in dealing with neighbour noise problems:

— many people already contact the Police if they have a problem;
— in our experience, noise sufferers have much more confidence that the Police will deal with the perpetrator than local authority officials;
— the Police have a wider range of legal options to deal with the noise perpetrator than the local authority officer.

This is not of course to argue that Environmental Health Officers do not have a role to play. The expertise some—though by no means all—of them have in noise issues is important, but a greater involvement of the Police would give many more options of dealing with the noise perpetrator and thus ending the noise problem.

6. Improved Sound Insulation

We gave evidence to the Inquiry into Decent Homes Standard by the ODPM Select Committee. We criticised the Decent Homes Standard for not including adequate sound insulation between homes. The Committee, in its report, came to a similar conclusion. Poor sound insulation can cause and aggravate anti-social behaviour. Any package to tackle anti-social behaviour, the problem of noisy neighbours, must include measures to improve poor sound insulation.

25 August 2004
48. Memorandum submitted by Victim Support

We responded to a previous request for written comments at the time that Respect and Responsibility was published and, as background, I enclose a copy of that response dated 18 March 2003.

Victim Support can contribute expertise about the support that is available to victims of anti-social behaviour. Our Victim Support services in the community regularly meet and speak to people affected by anti-social behaviour. Usually Victim Support comes into contact with a victim of anti-social behaviour following a referral from the police after a victim has reported a crime such as criminal damage or harassment. Referral protocols already exist between the police and Victim Support to ensure that the victim’s contact details are passed on to Victim Support. Sometimes an individual will contact Victim Support direct for example where the individual does not wish to report to the police.

As the nature of anti-social behaviour is so varied, we do not have a specific category in our statistics for the number of people we support in this category. However, we have enclosed statistics that show significant increases in the referrals of victims of racially motivated incidents (59%), harassment (60%) and criminal damage (7%) to our community based services. Our Witness Service has also experienced a significant rise in referrals for these incidents (harassment—32%, criminal damage—27% and racially motivated incidents—4%) along with a rise for witnesses attending in cases of public disorder (30%). These statistics indicate that demand for Victim Support’s services in cases often termed criminal anti-social behaviour has significantly increased from 2002–03 to 2003–04.

From our experience of supporting victims of anti-social behaviour, we can confirm just how important it is for individuals who are victims to receive support from within the community and we know how debilitating anti-social behaviour can be for the victims. Some examples of the situations where Victim Support has supported people are:

— elderly people in warded accommodation who were frightened by young people who repeatedly paint graffiti on their garden walls;
— a family who were racially abused and whose garden fence was regularly knocked down by a group of local young people and items thrown into the garden. Panic alarms and a fire-proofed letterbox were fitted to the home. The family gave evidence at Crown Court trial;
— an elderly woman living alone was terrified by the behaviour of children and teenagers in the area and particularly at Halloween when she sat at home with all the lights off that evening to avoid any conflict but risking having a fall at home;
— people who are frightened of going out at night because of the abusive young people on the streets.

The ongoing nature of the behaviour and the fact that victims cannot see an end to the incidents that are taking place around them may lead to depression, difficulty in sleeping, dependence on anti-depressants, relationship difficulties, fear, anger, anxiety, inability to leave home and inability to carry on life as normal. Victim Support volunteers who have contact with anyone in this situation offer a valuable opportunity for a victim to share their experiences with someone who can empathise and who can provide information about different ways to resolve the difficulties.

Victim Support is funded to assist victims of crime; but not all anti-social behaviour is criminal, therefore there is a gap in the provision of support services to people affected.

Some of the incidents may result in a criminal prosecution and in those situations, the Witness Service, run by Victim Support, is available in all magistrates’ courts and the Crown Courts to provide witnesses with support and information. The core service that is available to witnesses includes pre-trial visits so that a witness is familiar with the layout of the court and the court process, arrangements for witnesses to come into court in such a way that they do not have contact with the defence, support and information on the day at court and referral on to other organisations after court if required.

It is a concern to us that there is no dedicated court-based support service for witnesses in the civil courts where some cases of anti-social behaviour are dealt with. This gap in services is a main theme in the Home Office research report What works for victims and witnesses of anti-social behaviour published in July 2004 and Victim Support agrees with its recommendation that:

Crime and disorder reduction partnerships (CDRPs) and criminal justice system agencies use their powers to procure a range of dedicated services to ensure that victims and witnesses of anti-social behaviour are offered appropriate support at every stage in the process from when an incident occurs, through investigations, during court hearings and beyond.\(^{151}\)

Victim Support would like to be involved in any plans to fund the extension of support services whether in the community or in the civil courts because of our expertise and understanding of victim and witness issues and concerns.

15 September 2004

Victim Support’s Response to Respect and Responsibility—Taking a Stand Against Anti-social Behaviour

Victim Support is very pleased to respond to the Home Affairs Committee’s invitation for written comments on the Government’s white paper Respect and responsibility—taking a stand against anti-social behaviour to inform the Committee’s session on 25 March 2003.

Victim Support is the national charity working to help victims of crime. Each year, trained volunteers and staff based in a network of local services offer emotional support, practical help and information to over one million victims of crimes ranging from burglary to the murder of a relative. Victim Support runs the Witness Service in every criminal court in England and Wales. Here, every year, trained volunteers offer support and information to over a quarter of a million witnesses, victims and their families before, during and after hearings. Victim Support also runs a telephone support line for victims of crime offering information and referral to local schemes. Victim Support works to increase awareness of the effects of crime and to achieve greater recognition of victims’ rights.

Due to the short timescale for responses, we have been selective in our comments. As the national charity for victims and witnesses of crime we have confined our response to issues in Respect and responsibility that are of direct relevance to victims and witnesses.

Anti-social behaviour is not a victimless crime; it can blight people’s lives. We agree with the Government’s stance that as a society we need to take the effects of anti-social behaviour seriously and respond to the needs of people who are coping with the effects of anti-social behaviour (1.7). We welcomed the introduction of Anti-social Behaviour Orders (under the Crime and Disorder Act) and are supportive of the proposals in the White Paper to extend the support and protection made available to victims and witnesses. In particular, we would like to see a simplification and streamlining of processes so that more victims and witnesses will be able to access support and protection if they so wish.

Victim Support’s Services and the White Paper

We are concerned that the white paper does not accurately reflect Victim Support’s current service provision. Victim Support provides a service to victims and witnesses of criminal anti-social behaviour. Our community based Victim Support services offer information, practical assistance and emotional support to people who have been the victims of criminal anti-social behaviour (either against individuals or residential property). In addition, Victim Support’s Witness Service now operates in all the criminal courts in England and Wales. While the white paper does refer to the Witness Service (page 11 and page 67 paragraph 4.7) it should be made explicit that Victim Support is currently only funded to provide this service in the criminal courts. Victim Support is not currently funded to provide a service to victims and witnesses of non-criminal anti-social behaviour.

Assistance for People Affected by Anti-social Behaviour

Victim Support is concerned that victims of anti-social behaviour are given the right type of support. We welcome the Government’s recognition (4.8) that an inadequate response can leave victims feeling “isolated and unsupported”. We believe that all the authorities that come into contact with victims of anti-social behaviour (both within the criminal justice system and beyond) need to take action to respond to the needs of victims and have a duty to ensure that victims and witnesses receive the support they need.

Information Provision

We believe that victims of anti-social behaviour will require adequate information about how the local authority, police or social landlord has responded. For example, where an ASBO is granted victims must be informed what behaviour is prohibited by the order and what they can do if the order is breached. Victims should also be notified of any appeal and the outcome, including details of any other orders.

It is very positive to read that the Government believes agencies should provide adequate information about ASBO’s to the public and that whichever agency the public contact they receive a consistent response (4.9). Victim Support agrees with the Government’s proposal that social landlords can build on and strengthen local authorities work in the area of anti-social behaviour by publishing their policies and procedures on anti-social behaviour so that tenants are aware of how their landlord can respond to anti-social behaviour (4.38). However, we would also like the Government to produce more detailed guidance on the responsibilities of local authorities, community accreditation schemes and community support officers to provide information to individual victims and witnesses.
Reporting systems

Effective and accessible reporting systems are essential if victims and witnesses are to feel that their interests are being taken into account. Such systems should address victims’ and witnesses’ need for protection including protection of identity as well as the provision of any relevant crime prevention measures. Such provision will not be resource neutral. We look forward to more detailed proposals on how good practice will be collected and guidance issued.

Training

Victim Support believes that all agencies that provide services to people affected by crime should receive training to enable them to provide an appropriate and sensitive response. Victim Support provides a consultancy service which can provide appropriate training to other agencies.

Referral

We believe that effective referral systems should be put in place and maintained to ensure that all victims and witnesses affected by criminal anti-social behaviour are told about Victim Support’s services. We would very much welcome the opportunity to discuss this further. In cases where the anti-social behaviour is not criminal it is important that agencies are aware of the other local sources of support available.

Hate crimes

Victim Support believes that agencies must take the effects of racial and homophobic crimes on victims and witnesses into account when planning services and responses to anti-social behaviour. It will be particularly important to ensure that staff are trained and supported in understanding the effects of hate crimes.

Children, Young People and Families

We have long stressed that young people are more often the victims of crime than adults. We are very pleased that the Government has emphasised this fact in its white paper (2.3). In addition we welcome the Government’s comments on how anti-social behaviour can affect young people and families (2.20) and agree with the Government’s view that families coping with crime may need specialist, intensive and long-term support tailored to their particular needs. However, the white paper does not go into detail about how the needs of young people coping with the effects of crime will be addressed. We suggest that more focus needs to be put on how we can respond to the needs of young people who are coping with the effects of anti-social behaviour.

Housing

We welcome the Government’s proposal that when possession cases go to court, judges will now consider the impact of the anti-social behaviour on the victim, witnesses and the wider community. However we would ask that more detailed guidance be produced on how the impact on the victim is assessed. It is vital that housing officers are trained to make assessments sensitively. We would be happy to comment further on this from our experience of working with victims.

Restorative Justice

Victim Support is interested to note the Government’s proposal to include restorative justice programmes in its anti-social behaviour strategy. Whilst we agree that research has shown that many victims who participate in restorative justice programmes find it a positive experience, we stress that no individual who has been the victim of anti-social behaviour should be expected to take part in the process unless they choose to do so. Victims should be given the opportunity to make an informed choice about whether to be involved and the level of their involvement.

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153 Page 60.
### Victim Support Referral Statistics Relating to Services to Victims and Witnesses of Criminal Damage, Harassment, Racially Motivated Offences and Public Disorder for 2002–03 to 2003–04:

#### Victim Support Witness Service

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<th>Crime type</th>
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<th>%+/-</th>
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<td>Criminal damage</td>
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<tr>
<td>Public order, drunk &amp; disorderly and affray</td>
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<tr>
<td>Racially motivated offences</td>
<td>5,071</td>
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#### Victim Support community based service

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<th>%+/-</th>
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<tr>
<td>Racially motivated offences</td>
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### 49. Memorandum submitted by the Wine and Spirit Association

I am writing on behalf of the Wine and Spirit Association (WSA) in relation to your Committee’s inquiry into Anti-social Behaviour. If the Committee were to expand its remit to any possible link between alcohol and anti-social behaviour, the WSA would be happy to appear to give evidence.

The WSA represents over 200 members involved in the UK wine and spirit industry including producers, importers, brand owners and retailers. Although your inquiry is dealing with anti-social behaviour rather than alcohol issues, the WSA and its members have been involved in a number of initiatives recently that tackle alcohol-related harm and feel we could make a useful contribution to your deliberations. The WSA is keen to ensure the alcohol trade takes a positive and visible role in tackling alcohol-related anti-social behaviour and believe we have made significant advances in recent years.

The WSA have worked on a number of issues that touch your inquiry, short summaries of which are reviewed below:

- In conjunction with the Association of Convenience Stores and the British Retail Consortium we have recently launched guidance for the off-trade in promoting responsible retailing. This provides retailers with the tools to actively promote sensible drinking. Our paper has been welcomed by the Licensing Minister, Richard Caborn, as “a real commitment from the industry to promote corporate and social responsibility . . . and it has my full support.”

- The WSA has long campaigned for a national proof of age card. Our concern is that in their pursuit of a National ID Card, the Government has sidelined proof-of-age suggestions. The Association believes that lead time for a National ID Card is too long to address the immediate need and furthermore, a strong government campaign on a “No ID, No Sale” theme is lacking.

- The danger of large tax differentials is the incentive they provide to criminal gangs to import goods which are then not retailed through responsible outlets. Smuggled goods are more likely to end up in the hands of underage drinkers. We are concerned that calls for increased taxes or minimum price schemes, besides being illegal, will simply fuel smugglers profits. In addition, questions remain over the legality of minimum pricing measures. The wine and spirit sector are already a significant contributor to tax revenue, therefore the WSA believes the sector should not be penalised through additional levies.

- An additional criticism of minimum pricing is that it penalises those who drink sensibly. Those participating in anti-social behaviour are less likely to respond to increasing prices by decreasing consumption.

- The Association welcomes this summer’s crackdown on irresponsible drinking, although we dispute the message suggested by headline figures that a third of all off-licences were caught selling to under-18s.Whilst we accept that this figure is still too high it is important to note that the vast majority of these offences came from targeted sting operations carried out against known problem retailers. The police visited 7,153 off licences in total and at only 4% of these an offence was found to have been committed. We would like to stress that the WSA does support the Government in making every effort to tackle irresponsible retailers.
— The off-trade has sought help from the police and local authorities to tackle gangs who congregate near retail premises late at night. There was a suggestion in the Licensing Act Guidance to Local Authorities that such groups be tackled through the closure or restriction of licensable activity in the afflicted premises. However we found this recommendation to be remarkable in its short-sightedness. Premises already suffering from groups intimidating prospective customers would be further penalised by having revenue streams restricted. We believe that such a move would lead to further economic downturn in such areas, in all probability exacerbating any problems of anti-social behaviour. Vibrant mixed retail development has been shown to be an integral part of economic regeneration and subsequent tackling of anti-social behaviour.

— On licensing regulations, the WSA believes that the granting of new licenses, rather than capping the number, is important in order to prevent degradation due to lack of competition.

— Anti-social behaviour can best be tackled through self-regulation and responsible retailing. The Portman Group is ideally placed as the engine of self-regulation, especially if strengthened by the full participation of the industry. We feel it is necessary to allow sufficient time for the strategy unit’s proposals to be implemented and produce results, rather than moving too quickly to further initiatives.

The WSA recognises that alcohol does not form part of the Government’s White Paper on tackling anti-social behaviour. We believe that this is the correct position, as the issues outlined above are most effectively tackled through the process laid out under the Alcohol Harm Reduction Strategy and ongoing reform of the Licensing system. However, should you choose to expand your inquiry to include alcohol related issues, I would be happy to appear before the committee to give further evidence.

1 October 2004

50. Memorandum submitted by the Youth Justice Board for England and Wales

The Youth Justice Board welcomes the inquiry and the opportunity to submit written evidence. This note provides background on the role of the Board, Youth Offending Teams and the Board’s youth crime prevention strategy, before outlining the work the Board is currently undertaking around anti-social behaviour.

BACKGROUND

The Youth Justice Board

1. The Youth Justice Board for England and Wales is an executive non-departmental public body. The Youth Justice Board comprises up to 12 Board members, appointed by the Home Secretary. It was established under the Crime and Disorder Act 1998 to:

— Advise the Home Secretary on the operation of the youth justice system; how to prevent offending by children and young people; and the content of national standards for youth justice services;
— Monitor the operation and performance of the youth justice system;
— Identify and disseminate good practice in youth justice and in preventing offending by children and young people; and
— Since April 2000 commission and purchase places for children and young people remanded or sentenced to secure facilities.

2. The Board has had a central role in implementing the reforms to the youth justice system set out in the Crime and Disorder Act 1998 and subsequently in the Youth Justice and Criminal Evidence Act 1999. Section 37 of the Crime and Disorder Act 1998 established a new principal statutory aim for the youth justice system, “to prevent offending by children and young persons”. It is the key objective of the Board to monitor the performance and develop the ability of the youth justice system to meet this aim.

3. Since April 2000, the Board has been responsible for commissioning services for young people under 18 who are sentenced and remanded to secure facilities. The budget for purchasing places was transferred to the Board. The Board has established contracts and service level agreements with providers of secure facilities for young people. The commissioning approach has enabled the Board to influence the standards of custodial regimes for young offenders.

Youth Offending Teams

4. Youth offending teams (Yots) were created under the Crime and Disorder Act 1998 and implemented in England and Wales from April 2000. Local authorities with social service and education authorities are required to work with the police, probation services and health authorities to establish multi-agency Yots which are unique in bridging criminal justice and welfare agencies. Yots are central to the youth justice system—advising courts, administrating community sentences and interventions, and working with juvenile
custodial establishments. The Board has monitored and helped develop the teams through grants, guidance and the dissemination of research and evaluation of effective practice. The Board provides grants to Yots supplementing local funding arrangements. Each relevant local authority is required to ensure youth justice services are available in their area and to formulate a youth justice plan setting out how these services are to be provided and funded. The plans are monitored by the Board.

5. Yots have the expertise to advise on the individual needs and circumstances of young people; they have close links with other agencies such as the young person’s school, social services, the youth service or other children’s services. They will also often have information on the success of past interventions with individual young people, and may have knowledge about the young person’s family, the behaviour of siblings, and the engagement of parents in addressing their child’s behaviour.

6. The Yot is, therefore, able to offer advice to their partners on intervening with a particular young person. Yots have the skills to assess the needs of young people and to work with local partners to offer comprehensive interventions that will address the factors behind a young person’s anti-social behaviour, while providing the appropriate level of protection for the community. They will be aware of situations where a voluntary intervention may have a good chance of success and, also, of those cases where previous voluntary interventions have failed and firmer boundaries need to be established.

7. The Yot, in partnership with local child care agencies, has a key part to play in supporting young people after a decision has been made about using a particular intervention. By ensuring that the young person has a clear understanding of the consequences of continuing to behave in the way they are, the Yot can improve the chances of the intervention being successful.

8. Because Yots incorporate representatives from a wide range of services, they can respond to the needs of young offenders in a comprehensive way. Yots identify the needs of each young offender by assessing them with the Youth Justice Board’s national assessment tool, Asset. It identifies the specific problems that make the young person offend, as well as measuring the risk they pose to others. This enables the Yot to identify suitable programmes to address the needs of the young person with the intention of preventing further offending.

9. It is the unique combination of skills outlined above that allows Yots to contribute at a local level to work on the anti-social behaviour of children and young people.

Youth Offending Teams (Yots) and Prevention

10. The Crime and Disorder Act 1998 is explicit in saying:
   “It shall be the principal aim of the youth justice system to prevent offending by children and young people.”

Key Research Findings

11. Extensive research has been carried out over recent years into anti-social and criminal behaviour by children and young people. Rutter, et al (1998)155 said:
   “The notion that much crime is culturally normal and un-associated with the usual risk factors has ceased to have currency as a general theory”.

12. More recent research commissioned by the YJB from Communities that Care (CtC)156 states:
   “A considerable body of research has been identified demonstrating clearly that a firmly evidenced-based approach to prevention of youth crime is both a realistic proposition and a strategy that can be confidently expected to be successful”.

From research to strategy: What is the research telling us?

13. The messages from the research are clear and can be shown in the following points:
   — It is never too early to intervene;
   — Pathways to delinquency start early;
   — Early intervention is cost effective;
   — Greater contact with risk factors leads to an increased probability of becoming involved in offending;
   — Persistent offenders can be identified early—discreet characteristics
   — Offending risk factors overlap with other problems—substance misuse, teenage pregnancy and school failure

— Parenting capacity is both a key risk and protective factor in preventing offending and anti-social behaviour.

14. The points above recognise that as well as targeted youth crime prevention programmes there is also a need for effective general provision by mainstream services to cater for the wider needs of individuals and the community.

The development of the YJB prevention strategy.

15. The Board has responded to this research by further developing prevention programmes, delivered through Yots, which are designed to address these findings. In the past two years the Board has redesigned its prevention programmes to address not only the prevention of offending and anti-social behaviour but also to meet new governmental strategic objectives such as the Child Poverty Review, the Children’s Bill and the Prolific and Priority Offenders Strategy. At the heart of the Boards strategy has been the development of Youth Inclusion and Support Panels (YISPs).

16. YISPs are local multi-agency panels designed to identify those young people aged 8–13 considered most at risk of offending and anti-social behaviour. Having identified the young people their needs are then assessed and they are either re-integrated into mainstream service provision or offered tailored interventions designed to reduce the risk factors. Youth Offending Teams have been set challenging targets to create YISPs and ensure young people at risk that are targeted receive a service. Already over 90 YISPs have been established and the Child Poverty Review and SR 2004 have overtly recognised their value in addressing child poverty and offending. The recent Home Office five year strategic plan announced a 50% increase in YISPs and Youth Inclusion Programmes, which, with other prevention programmes delivered through Yots such as mentoring and parenting schemes represents a significant development in targeted early intervention schemes.

ANTI-SOCIAL BEHAVIOUR AND YOUNG PEOPLE: THE BOARD’S VIEW

17. There is no doubt that anti-social behaviour is a major issue across England and Wales and that criminal justice and welfare agencies all have a key role in addressing the problem. Since legislation came into force giving courts the power to impose Anti-social Behaviour Orders (ASBOs,) almost half have been imposed on young people aged between 10 and 17. It must also be recognised though that young people, like adults, are victims of anti-social behaviour, and equally expect protection and resolution to behaviour, which impacts on them.

18. The Board fully supports the Government’s desire to deal with anti-social behaviour that can blight communities and ruin lives. Measures such as Acceptable Behaviour Contracts (ABCs), Parenting Orders, Anti-social Behaviour Orders (ASBOs) and Individual Support Orders (ISOs) are welcomed by the Board and can be powerful tools for communities to reduce anti-social behaviour. Together with the full range of interventions introduced with the Crime and Disorder Act 1998 with its focus on prevention and the programmes introduced by the Youth Justice Board there is now a powerful and extensive range of measures designed to tackle the causes and effects of anti-social behaviour. The Youth Justice Board believes Youth Offending Teams have a central role in making lasting differences in the lives of young people and communities where anti-social behaviour exists.

19. The Board is keen to ensure that these measures are used in the most appropriate and effective way. In order to achieve this aim specific considerations include:
— Ensuring there is an appropriate use of preventative measures and contact with Yots before ASBOs are applied for either upon application or upon conviction
— Ensuring that Yots are sufficiently resourced to become involved in anti-social behaviour cases locally
— That appropriate and effective conditions are attached to ASBOs to prevent breaches and future anti-social behaviour
— That these new measures should not lead to an increase in the use of custody for young people resulting from ASBO breaches and that the full use of alternative court sanctions are considered.

DATA ON ASBOs

20. As ASBOs are the principal court-ordered measure used locally to combat anti-social behaviour, and data on their use is collected by a number of agencies, the Board believes they can be used to demonstrate the scale of this issue in relation to young people.
Numbers of ASBOs taken out against young people

21. Current data available to the Board on the numbers of ASBOs served against young people includes up to the end of 2003. However, as the table below shows, the numbers have risen substantially since the legislation was enacted, both for the whole population and specifically for the 10–17 age range.

### Whole Population

<table>
<thead>
<tr>
<th>Period</th>
<th>Number of ASBOs taken out</th>
</tr>
</thead>
<tbody>
<tr>
<td>April 1999–March 2001</td>
<td>317</td>
</tr>
<tr>
<td>(two-year period)</td>
<td></td>
</tr>
<tr>
<td>April 2001–March 2002</td>
<td>321</td>
</tr>
<tr>
<td>April 2002–March 2003</td>
<td>492</td>
</tr>
<tr>
<td>April 2003–March 2004</td>
<td>1,323</td>
</tr>
</tbody>
</table>

### Young people

<table>
<thead>
<tr>
<th>Period</th>
<th>Number of ASBOs taken out</th>
</tr>
</thead>
<tbody>
<tr>
<td>June 2000</td>
<td>4</td>
</tr>
<tr>
<td>July–September 2000</td>
<td>21</td>
</tr>
<tr>
<td>October–December 2000</td>
<td>36</td>
</tr>
<tr>
<td>January–March 2001</td>
<td>42</td>
</tr>
<tr>
<td>April–June 2001</td>
<td>42</td>
</tr>
<tr>
<td>July–September 2001</td>
<td>47</td>
</tr>
<tr>
<td>October–December 2001</td>
<td>54</td>
</tr>
<tr>
<td>January–March 2002</td>
<td>51</td>
</tr>
<tr>
<td>April–June 2002</td>
<td>52</td>
</tr>
<tr>
<td>July–September 2002</td>
<td>53</td>
</tr>
<tr>
<td>October–December 2002</td>
<td>76</td>
</tr>
<tr>
<td>January–March 2003</td>
<td>91</td>
</tr>
<tr>
<td>April–June 2003</td>
<td>121</td>
</tr>
<tr>
<td>July–September 2003</td>
<td>139</td>
</tr>
<tr>
<td>October–December 2003</td>
<td>153</td>
</tr>
<tr>
<td>January–March 2004</td>
<td>1,755 (est.)</td>
</tr>
</tbody>
</table>

ASBO Breach Resulting in Custody

Home Office data

(This data only relates to 2000–02. The figures for 2003 are due in the autumn.)

22. In the period June 2000 to December 2002, 478 ASBOs were taken out against young people. 170 of these ASBOs (36%) were breached by young people. Of those breaches, 71 (41%) resulted in custody.

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157 Home Office data, on which this table is based, did not register the age of people being served with ASBOs in some cases. Therefore the number of ASBOs served against young people may in fact be 5–10% higher.

158 January–March 2004 figures provided by the Home Office are not broken down by age. Thus we have assumed 50% of the 349 ASBOs were against young people.
23. Overall, approximately 15% of all ASBOs against young people ended in custody.

Youth Justice Board Data

Breaches Resulting in Custody: 2000–02 Compared to 2004

24. In the entire period June 2000 to September 2002, 71 young people entered custody as a result of an ASBO breach. In the 18-week period between 3 May 2004 and 22 August 2004, 195 young people entered custody either on remand or as their sentence.

Age of Young People Reaching Custody

25. The figures below, provided by the Board’s Placements team, show the majority of young people reaching custody as a result of ASBO breach are in the 15–17 age range, although some 12 year olds are also reaching custody.

<table>
<thead>
<tr>
<th>Age</th>
<th>12</th>
<th>13</th>
<th>14</th>
<th>15</th>
<th>16</th>
<th>17</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total number reaching custody in the period 19/04/04 to 16/08/04</td>
<td>4</td>
<td>6</td>
<td>7</td>
<td>38</td>
<td>52</td>
<td>78</td>
<td>195</td>
</tr>
</tbody>
</table>

Institutions Young People are Reaching

26. The young people entering custody are spread out throughout the secure estate, with the majority in either young offender institutions or local authority secure children’s homes. Average length of stay is approx. 43 days—this comprises shorter remand stays and longer stays on sentence.

Costs of Rising Custody

27. The figures above show a very significant increase both in the numbers of ASBOs taken out against young people and the numbers of young people entering custody as a result of ASBO breach. There is a financial cost to the rising number of young people reaching custody as a result of ASBO breach. The Board estimates the average cost of a custodial place for a year as £78,000; therefore providing places for the 195 young people reaching custody in the period 19 April to 16 August 2004 can be estimated at £2.25 million. This equates to an annual cost of approximately £6.75 million.

Interpretation of Data

28. A great deal of care must be taken in interpreting these data which are at a formative stage. Whilst it is clear that the number of ASBOs have risen significantly, as one would expect following the introduction of the new legislation and publicity, and the number of breaches resulting in custody for young people has also risen, it is too early to draw firm conclusions as to the actual impact on custody figures. ASBOs are civil orders and can be taken upon young people through two main routes, either through application by the local authority, the police, registered social landlords (RSLs) or the British Transport Police, or upon conviction.

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159 Average length of stay = 54 days. $54 \times 195 = 10,530$. $10,530 / 365 = 28.8$. $28.8 \times £78,000 = £2,250,247$.

160 £2,250,247 $\times 3 = £6,750,740$. 

for a criminal offence in the youth or crown courts. In the latter case there is no need for application and an ASBO can be requested in court at the point of sentence. In both cases breach of the order is a criminal offence. What we do not know at this stage is whether those young who have been breached have been breached for orders made by application or upon conviction. This issue is of great significance in terms of whether young people who might not have been likely to be committed to custody prior to the introduction of ASBOs are now doing so.

29. The Board has commissioned a short-term piece of research, which will examine the profile of these young people. Are they young people without previous convictions who receive an ASBO, are breached and then receive a custodial sentence or are they persistent offenders with substantial criminal careers who are well known to criminal justice agencies and would have been as likely to receive a custodial sentence through existing criminal justice legislation? The Board and the Home Office are also commissioning a longer-term evaluation designed to give a wider view of the impact of the new legislation in relation to ASB.

The Board is clear that custody should be only be used as a last resort and would be concerned if a young person were drawn in unnecessarily.

**Anti-social Behaviour: The Board’s Response**

30. The main action by the Board in response to the growing instances of anti-social behaviour, in addition to the financial and management support to Yots in delivering prevention programmes, has been to prepare guidance for Youth Offending Teams and partners agencies on the role Yots can play in relation to anti-social behaviour in their areas. The guidance has been jointly written with the Home Office’s Anti-social Behaviour Unit (ASBU) and is currently being finalised following a full consultation process. The significant local and national response (of over 100 responses) during the consultation has enabled the Board to form a strong picture of views across a wide spectrum of local and national agencies and will enable us to address the issues raised in the section below.

31. The Board is also involved in three additional pieces of work aimed at looking at the effects of anti-social behaviour legislation and practice. As mentioned above, we have commissioned a piece of work from PA Consulting to look at the impact of anti-social behaviour measures, particularly ASBOs, on the youth justice system. This work will look at the figures above in more detail and examine whether anti-social behaviour measures are drawing young people into the criminal justice system. We are also in the process of commissioning a longer-term piece of work to determine the extent of the impact of anti-social behaviour measures, the results of which will be available late next year.

32. In addition to this work, the Board has been involved in an Audit Commission survey of Yots commissioned by the Association of Yot Managers.

**Anti-social Behaviour: Issues and Potential Solutions**

33. As outlined above, while the Board is supportive of anti-social behaviour measures taken by the Government and supports appropriate action, we have four key messages, which we are reinforcing around anti-social behaviour legislation and practice. They are:

— Ensuring there is an appropriate use of preventative measures and contact with Yots before 50 ASBOs are applied for, either upon application or upon conviction.

— Ensuring that Yots are sufficiently resourced to become involved in anti-social behaviour cases locally

— That appropriate and effective conditions are attached to ASBOs to prevent breaches and future anti-social behaviour

— That these new measures should not lead to an inappropriate increase in the use of custody for young people resulting from ASBO breaches and that the full use of alternative sanctions are considered.

**Ensuring There is an Appropriate Use of Preventative Measures and Contact with Yots Before ASBOs Are Applied For, Either Upon Application or Upon Conviction**

34. The Board believes anti-social behaviour measures are sometimes used against young people without a full assessment of the factors behind their behaviour and whether there are appropriate preventive interventions available. While in many cases, ASBOs and other measures may be the most appropriate way of dealing with behaviour, the Board believes, in line with the research outlined above, that targeted preventive measures should nearly always be considered, as a first step, before the use of Orders for young people. The Board is also keen to see that Yots are consulted before ASBOs are applied for. Given the range of interventions and skills available in Yots, an opportunity would be missed to intervene in a way which addresses the underlying causes for the behaviour as well as the behaviour itself.
35. As mentioned above The Board already provides funding, guidance and management for a number of prevention schemes including Youth Inclusion Projects and Youth Inclusion and Support Panels. The Children’s Fund administered by the DfES also supports a wide range of youth crime prevention programmes. All the Board’s preventive schemes work on the basis of a process of identifying the young people at most risk of becoming involved in crime and anti-social behaviour, assessing them and providing positive activities aimed at addressing the factors which put them at risk of becoming involved in crime and anti-social behaviour. As well as working with young people themselves, the Board’s preventive projects also work with parents through parenting programmes and interventions. The Board believes parenting is a central strand of preventive work and has much to offer in addressing anti-social behaviour.

ENSURING THAT YOTS HAVE SUFFICIENT RESOURCES TO BECOME SUFFICIENTLY INVOLVED IN ANTI-SOCIAL BEHAVIOUR CASES LOCALLY

36. The Board’s and Anti-social Behaviour Units guidance for Youth Offending Teams (Yots) mentioned above sets out a clear role for Youth Offending Teams in considering every case of anti-social behaviour involving young people. However, Yot resources are extremely stretched, and although the increases announced in SR 2004 and the Home Office five year strategy in the number of YISPs and Yips are to be welcomed, the role set out in the guidance (including consulting with other agencies on all cases and administering some of the measures, including ISOs) are extremely resource-intensive. While the guidance stresses the need for local resource-sharing, if Yots are to have a strong role in addressing anti-social behaviour (which they all desire to have), significant extra resources will need to be provided to them, particularly for the administration of ISOs. While resources continue to be stretched, Yots are unable to lend their full expertise in assessing and dealing with young people to local solutions to anti-social behaviour. This lack of resources will impact on the lack of preventive initiatives and assessment of young people set out above, and may well result in inappropriate conditions attached to ASBOs conditions.

THAT APPROPRIATE AND EFFECTIVE CONDITIONS ARE ATTACHED TO ASBOs TO PREVENT BREACHES AND FUTURE ANTI-SOCIAL BEHAVIOUR

37. While the Board is clear in its support for ASBOs, it is aware that cases exist where they may be being applied in inappropriate circumstances with conditions attached which are either disproportionate to the level of behaviour or which are so unrealistic that the young people involved are bound to breach them. Some examples notified by Yots to the YJB include:

A young person in Sussex whose ASBO precluded him from entering any motor vehicle. This meant he was unable to accept lifts from Yot staff to Positive Activities schemes. It also meant he could not go into a probation minibus to take him to do his community service.

A young person in Oxford whose ASBO terms meant he couldn’t go out of his front door and turn left or he would breach the ASBO.

In East Sussex, a young person had a curfew on his ASBO which stopped him getting employment opportunities because he couldn’t get to work early enough. Another young person in East Sussex could not go to his local Connexions office because it was in an area he was banned from. A similar case occurred in Oldham where a young person was banned from the street where the Youth Inclusion Project (which was working with him to reduce his offending behaviour) was situated.

38. These may be exceptional cases, but the high breach rate for ASBOs, 39% according to the figures above, raises concerns that the conditions attached to some ASBOs may be inappropriate or ill informed by the lack of a thorough assessment of the young person and local circumstances.

39. In an attempt to ensure appropriate conditions are attached to ASBOs, the Board and the ASBU set out in their guidance on anti-social behaviour the need for Yot involvement in every case of a young person against whom anti-social behaviour measures are being taken. The Board believes it is essential that a full assessment be made of every young person before an ASBO is taken out on them, either through application to magistrates’ courts or upon conviction in youth courts. The Board believes this will ensure appropriate conditions are attached to ASBOs as those agencies applying for the ASBOs will have a better picture of the young person and will thus be able to tailor the ASBO to them and their victims, and reduce the likelihood of the behaviour continuing.

THAT THESE MEASURES SHOULD NOT LEAD TO AN INAPPROPRIATE INCREASE IN THE USE OF CUSTODY FOR YOUNG PEOPLE RESULTING FROM ASBO BREACHES AND THAT THE FULL USE OF ALTERNATIVE SANCTIONS ARE CONSIDERED

40. The figures given above show a significant increase in the number of young people reaching custody as a result of ASBO breach. As already stated work is continuing to examine this trend and underlying factors before any definitive conclusions can be drawn. The Board believes that by adhering to the principles outlined above any potential rise in custodial figures can be ameliorated. Pre consultation and assessment with Yots means that young people will have the opportunity of an intervention designed to address their behaviour; adequate resources means that Yots are able to contribute their skills in reducing propensity to
offend to local anti-social behaviour solutions; and appropriate conditions and effective assessment of young people involved in ASB before orders are applied for or at the point of breach will ensure better outcomes for young people and local communities.

CONCLUSION

41. The Board fully supports the Government’s drive to reduce anti-social behaviour. We believe the four core principles outlined above should be adhered to which in turn will result in better outcomes for young people and communities. The further development of the Guidance to Yots on ASB by the YJB and the Anti-social Behaviour Unit will address many of these issues. The Board believes that with the already wide body of positive research and evaluations of preventive schemes and with Yots and local partners playing a central role in preventing anti-social behaviour alongside a governmental strategy and professional practise where prevention is seen as the primary aim of the youth justice system as set out in the Crime and Disorder Act and custody is treated as a last resort that an even greater impact can be made upon preventing and reducing offending and anti-social behaviour.

20 September 2004

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51. Memorandum submitted by Mr Mazin Zeki

THE BLURRING OF CIVIL AND CRIMINAL

Great concern must be expressed about the nature of ASB legislation and the instant solutions it allegedly offers to beleaguered communities.

The definitions are extremely subjective and are a departure from the objective norms of law.

The distinction between civil and criminal in terms of evidence required is a matter of concern.

This is compounded by the admission of hearsay evidence

While clearly there are very irritating and unpleasant instances of anti-social behaviour the rhetoric of zero tolerance may itself be trivialising the meaning of “anti-social”.

This has often been followed by the publication of very misleading statistics about a fall in reported crime.

The statements of the Social Landlords Anti-social and Nuisance groups give rise to serious concerns.

There may have been overstated concerns and claims of success of a fall in crimes which were not actually categorised as crimes.

The practice of ASBOs are based on the assumed lower social status of social tenants which is both denied and proclaimed.

Tim Winter.

Bill Pitt overstated claims which are cause for serious concern.

Needs based allocation policies are equally to blame for compounding at least some of the ASB.

Human rights considerations.

The custom and practice dealing with anti-social behaviour action is sometimes quite distinct from the legislation.

It is attempting an artificially created “custom and practice” approach which is not necessarily based on widespread acceptance nor of course only on legislation.

Parliament is unlikely to have intended that the threat of ASBOs should be used to create social conformity which is to be imposed on all tenants on the basis of their tenure.

This is quite unlike the social conformity which is the intention of anti-smoking rules which affect all equally regardless of status or job description.

THE SUBJECTIVE DEFINITIONS

This “anti-social behaviour” now apparently includes:

— an “untidy” garden;
— an elderly pensioner who had too many flowerpots;
— rollerskating; and
— ringing doorbells.

Such minor offences (if that is the right term) are bracketed with serious threatening behaviour which is or ought to be criminal. Overcoming such fictional problems is then claimed as a success in overcoming ASB.
A repetitive pattern of such very serious behaviour would indeed make it criminal.
If so then it should be on the basis of the objective definitions and criteria of criminal justice.

The problem of witness intimidation and jury tampering is indeed serious. The way forward is to make these the subject of far more serious penalties because they are by definition criminal. Indeed they make it impossible for an impartial CJS to function.

The process of criminalisation of a broad range of human behaviour is likely to bring the law into disrepute and create justified revulsion at actual perceived legal injustice.

The imposition of such laws is also potentially wholly disproportionate and militates against the bedrock principle of proportionality which should govern administrative justice.

The subjective definition of such a broad range of activity will make it more, not less likely that it will come under successful challenge at a higher legal level in due course.

It raises Article 14 “other status” (under the Human Rights Act 1998) issues which have been unwisely ignored.

Action on the basis of mere accusations.

Opportunistic, often false accusations of “racism” to deflect criticism of unacceptable behaviour, which essentially reverses the burden of proof.

While ministers and housing professionals are busily celebrating the success of ASB legislation and custom and practice they are ignoring the long-term implications of such putative “success”.

UNEQUAL TENURE

Statistics

The creation of statistical targets which makes little substantial difference.

ABCs are, or may be, disproportionate to the relatively minor offences involved. And only directly enforceable against social tenants. If serious offences are involved then ABCs would be inappropriate or inadequate anyway.

The proposals for their routine use merely underlines the lower social status of social tenants.

Social tenants are allegedly “more protected” but also more vulnerable to malicious allegations and maladministration.

Routine data disclosure, which itself is a grey area, therefore takes place on the basis of tenure not behaviour.

Social tenants as a result are treated as, or presumed to be, treated as more likely of such behaviour.

This will discredit social housing, the choice of last resort, and make it even more marginalised.

This is underlined by the objective fact that most housing professionals do not live in social housing. And as many articles in the housing press have made clear, none of them would want to.

PROPERTY RIGHTS VERSUS HUMAN RIGHTS

However there are also implications for ongoing legal theory.

Human rights have always been a challenge to property rights however defined ASBOs and ASB legislation, together with acceptable behaviour contracts (ABCs) reverse this substantially.

The application of such laws, though not always wholly based on property rights, is substantially dictated by the property relations between landlord and tenant. The proposals to extend this application to the tenants of private landlords will only entrench this inequality although it may create a false “parity” between tenant of the private sector and tenants of social housing.

It will demarcate more clearly the difference between the legal status of tenants in general and owner occupiers.

Property rights are deemed in practice more important than human rights.

This will create a more conformist but more deeply divided society based on threatening sanctions against people on the basis of tenure.

CITIZENSHIP

“Citizenship” is a word used incessantly in this faux debate. It is often used at housing conferences and other presentational events devoted to regeneration, cohesion or safer communities. Once more it should be noted that the speakers are invariably not living in social housing. Phrases such as “meeting the needs of all our citizens” are constantly used. But citizenship has an objective and abstract meaning.
The debate is fuelled by the rhetoric of “empowerment” which is observed in the breach. Citizenship means equality before the law. The implementation of ASB law, together with associated practice, no matter how “successful”, will have the effect of undermining citizenship because it will treat people differently on the basis of tenure not behaviour.

This will result in a number of unintended consequences.

**Social and Community Cohesion**

Under the guise of creating a stronger sense of community it may be undermining the determinants of such cohesion which are informal social sanctions.

Although it might be viewed as stabilising communities the legal basis of ASB legislation will in the long run encourage increasing abandonment of social housing and emphasise it further as the housing of last resort.

Social housing is facing other long-term pressures which will lead to its accelerating decline and potential disappearance. ASB legislation will merely accelerate this decline.

Thus it might have the effect of creating further fragmentation in the housing market in future. In the short-term it is likely to deepen spatial and social segregation in areas already affected by it. Such segregation has been mentioned by the various social cohesion reports although their proposals for overcoming such segregation have been weak unrealistic and resigned.

This includes the Government response to the ODPM select committee recommendations.

In combating widespread social decay (for example in areas of rapid decline) it will merely emphasise the inequality of tenure. One community may have one tenure while an adjoining community will be affected by the rules of another tenure. This will make ASB more difficult to combat and the rules divisive in practice.

On large estates where former tenants have exercised the right-to-buy once more it will be more difficult to enforce ASBOs against all equally.

A number of councils have claimed that their ASB strategy is “tenure-neutral”. An ASBO can be issued against any named individual but in practice it is easier against social tenants (or the homeless) for the following reasons:

— the evidence needed is much easier to gather; much of it is already available;
— the information sharing protocols exist under the Crime and Disorder Act; and
— the issuing body (actual or associated) is, or has close links to the landlord.

Therefore the claim that the process is tenure-neutral is purely theoretical.

It is also disturbing that RSLs for the moment are not covered by human rights legislation as local housing authorities are.

RSLs are or should be categorised as public authorities for the following reasons:

— They take part in the information sharing protocols of CDA.
— They are successors in title in large scale transfers of property from local authorities (LSVT).
— They administer housing benefit and the benefit verification framework.
— They take part in s 106 agreement in return for nomination rights.
— They sometimes administer common registers.

The objective criteria of criminal justice are being rapidly eroded on the basis of totally subjective interpretations by housing officers who have no legal background. And who may not be properly accountable in the case of RSLs.

Social sanctions which are, or ought to be, the bedrock of any society can never be restored on this basis.

**Dangers of hearsay**

The contempt with which housing professionals (and some others) view their tenants can be gauged by the following.

Hardly any professional live or want to live in social housing even if they would qualify.

There have been demands that the rules of Data Protection Act should be suspended for RSL and housing providers because they are too onerous.

At least one chief executive of an RSL has demanded the powers to evict tenants on the spot without any process.

A previous chair of the social security committee suggested that there should be a DNA database of all housing benefit applicants.
**Property Right or Human Rights?**

Property rights are a feature of this legislation because of the powers vested in owners of certain properties, with the fiction that these powers are held on behalf of tenants.

Part of the package of punishment is the demotion of tenancies. This can result in a permanent demotion of aspects of tenancy.

The equivalent in the owner-occupied sector would be the modification or demotion of title to property. Enthusiasts for such legislation often quote the support they have received from tenants.

Interestingly none of the practitioners seem to live in social housing and this has been mentioned by many observers.

Equal opportunity is the mantra and obsession of anti-social behaviour gurus and housing professionals. But it is fatally undermined by their view of their tenants and the property relations which should govern their status.

The issue will only be clarified when there is a successful challenge against the discriminatory nature or application of such laws.

There are cases which will take the long winded route to Strasbourg but they may succeed leaving ASB laws in a much weaker state.

But such cases may not be only on the basis of ASB legislation but also consumer protection.

Many tenancy agreements may be creating unfair terms of trade.

They merely underline the arbitrary powers of unaccountable and self-serving social landlords.

ASB powers are too draconian and imprecise and this makes a successful challenge more likely. Anti-social behaviour is a problem but the laws are unlikely to be successful in the long run.

The ASB legislation requires fundamental rethinking and reform. Far from being enthusiastic for more ASBOs to be issued there should be an independent inquiry with a representative membership into their actual operation, and to the overstated claims made on their behalf.

*19 September 2004*