

NSPCC's response to *Strengthening Powers to Tackle Anti-Social Behaviour.*

NSPCC
Weston House
42 Curtain Road
London
EC2A 3NH
Tel: 020 7825 2742
Fax: 020 7825 2964

www.nspcc.org.uk/publicaffairs

05/02/2007

NSPCC's response to *Strengthening Powers to Tackle Anti-Social Behaviour.*

Introduction

The National Society for the Prevention of Cruelty to Children (NSPCC) is the UK's leading charity specialising in child protection and the prevention of cruelty to children. The NSPCC aims to end cruelty to children by seeking to influence legislation, policy, practice, attitudes and behaviours for the benefit of children and young people. This is achieved through a combination of service provision, lobbying, campaigning and public education.

The NSPCC believes that, given the will, most cruelty can be prevented. In order to achieve this, it is vital that all children, whatever their needs, have a range of services that are flexible and offer them support and protection. The NSPCC has more than 180 services in the UK and the Channel Islands. These services aim to:

- Prevent children being abused by working with parents and carers in vulnerable families to improve their knowledge and skills in safeguarding, and giving children and young people someone to turn to through the provision of our Listening Services.
- Protect vulnerable children and young people from abuse by providing direct services in a number of settings, including schools and young people's centres. We also protect them by providing Listening Services for adults to ensure they have someone to turn to with their concerns; by ensuring that abused children and young people are identified and effective action is taken to protect them, and by working with young people and adults who pose a risk to children and young people to reduce the risk of abuse.
- Help children and young people who have been abused overcome the effects of abuse and achieve their potential.

The NSPCC's comments on this consultation document are based on our expertise in safeguarding children and promoting their welfare. In particular, we have drawn on our practice experience of working with children and young people who are in trouble with the law, and are in contact with young offenders teams (YOTs) or are serving time in custody. This includes projects providing therapeutic services for children who have been convicted of sex offences, as well as those who have engaged in anti-social and criminal behaviours of a violent or aggressive nature, or property crimes.

The NSPCC has a very strong emphasis on providing support for children at the earliest stage, and our work at the North Yorkshire Children's Fund project embodies this ethos, working through early intervention and preventative methods in partnership with Youth Inclusion Support Panels. We have a very clear emphasis on meeting children's needs and on ensuring children are safeguarded.

Our counselling work at Thorn Cross Youth Offender Institution is also very much needs led, focusing on the individual child, and working through a solution-focused

approach to help children overcome the effects of maltreatment and other traumatic experiences. This work is provided as an outreach service from our nearby young people's centre, as a voluntary agreement, where it is clear that a young person has been abused before going into custody and is struggling to overcome the effects of the abuse.

In February 2006 ChildLine merged with the NSPCC. Our peer mentoring work at Thorn Cross is based on the ChildLine CHIPS (ChildLine in Partnerships) model. CHIPS believes that children and young people can help each other, can play a part in making changes to improve their own lives, and have a right to be listened to and respected. CHIPS develops a working relationship with young people and their schools or youth groups, and provides a range of services, such as helping schools and youth groups with setting up schemes that encourage pupils to support one another. It gives young people the opportunity to develop practical skills such as communication, listening, understanding and administration.

This response has also been informed by colleagues working in projects that provide assessment and treatment for young people who commit sexual offences. An example of this is the Young Abusers Service in London, which operates as a multi-disciplinary team providing community based assessments and treatment services for children and young people up to 21 years, where concerns exist about sexually harmful or sexually abusive behaviour. The work of the project includes assessments of level of risk, psychiatric reports, specialist reports, individual psychotherapy and cognitive behavioural group therapy and attendance at court as expert witnesses. Children who committed murder or serious assault are also seen. The project has a national catchment and has particular experience in complex forensic cases.

A rights-based approach to children who are subject to juvenile justice procedures

The UK Government is a signatory to the UN Convention on the Rights of the Child 1989, and thus is obliged to ensure that laws and policies are in compliance with the Convention on the Rights of the Child.

Article 40 (1), states the following:

States Parties recognize 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 freedoms 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.

Article 40 (4) states the following:

A variety of dispositions, such as care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well being and proportionate both to their circumstances and the offence.

We are keen to see that the principles of Article 40 are applied in all proposals relating to youth justice and children. We do not believe that the proposals in this consultation are currently in compliance with Article 40.

A broad consensus from organisations working with and for children in trouble with the law

The NSPCC is a member of the Standing Committee on Youth Justice (SCYJ), a coalition of children's and voluntary organisations that work on criminal justice issues. The following paragraphs are taken from a recent publication of the SCYJ¹, which the NSPCC fully endorses; these are the comments on anti-social behaviour.

The SCYJ shares the concerns of those who consider that the anti-social behaviour 'agenda' has led to a demonising of young people in general. The presumption in favour of 'naming and shaming' those against whom ASBOs are made, through the media or leafleting the local neighbourhood, also demonises individual children. It exposes those who are already among the most vulnerable to emotional damage and can compromise their safety through vigilante action. For others, it becomes a 'badge of honour' or a status symbol.

The current approach to anti-social behaviour has resulted in more children being drawn into the Youth Justice System. Breach of an ASBO is a criminal offence and rates of non-compliance are high. The SCYJ is particularly concerned about the impact on the numbers of children given custody. Recent figures are not available, but by the end of 2003, 46% of 10-17 year olds breaching ASBOs had received a custodial sentence. It is true that, on occasion, there were other matters before the court; however the ASBO breach was either the sole offence for which custody was imposed, or contributed to a longer sentence of detention, in more than 75% of such cases.²

ABCs are used almost exclusively against children and are frequently a precursor to an anti-social behaviour order. ASBOs themselves were originally conceived predominantly as a measure to target problematic adult behaviour and 'neighbours from hell', but are now commonly understood as a mechanism for dealing with teenage misbehaviour. Since their introduction in 1999, 46% of ASBOs have been issued against children aged 10-17 years, even though they comprise just 13% of the population.³

The SCYJ believes that responses to anti-social behaviour have disproportionately affected children. The ASBO in particular is a negative measure that seeks purely to proscribe particular forms of behaviour and is generally unsuited for dealing with the complex problems exhibited by children in trouble. Extensive use of ASBOs, and other coercive measures, is not a sign of success, as the Government appears to believe, but an indication of local failure to provide appropriate preventive services that can support children at the point at which they start to engage in problematic behaviour.

¹ These paragraphs are taken from *Still Waiting for Youth Justice* (2006). Copies available from the Children's Society.

² 'Third supplementary memorandum submitted by the Home Office', in *Minutes of Proceedings of the Home Affairs Select Committee, Oral and additional written evidence*, 5 April 2005, HC 80-III, Home Office

³ *State of children's rights in England* (2005), op cit

Research linking maltreatment to anti-social and offending behaviour

Research (Widom⁴) concluded that being abused as a child increases the risk of later criminality, though it by no means makes it certain. Widom stresses that the majority of abused children do not develop into criminals but maltreatment is certainly a risk factor for offending behaviour. Her study looked at 908 young adults who had been maltreated as children and compared them to a control group of 667, matched on age, sex, race, socio-economic status and family background. She found that 28.6 per cent of abused subjects had a criminal record compared to 21.1 per cent of the control group and that 15.6 per cent of abused males had been convicted of a violent crime compared to 10.2 per cent of the control group.

Magda Stouthamer-Loeber *et al.*⁵ used data from the Pittsburgh Youth Study to trace the development of delinquent behaviour in a group of 506 boys, 25 per cent of whom had been the subject of a substantiated incident of maltreatment. Using a variety of measures, including Achenbach's Child Behaviour Checklist, it was found that those who had been maltreated, when compared with peers who had not been maltreated, were significantly more likely to display:

- stubbornness (41 per cent compared with 24 per cent)
- defiance (41 per cent compared with 20 per cent)
- authority avoidance (39 per cent compared with 14 per cent)
- authority conflict (64 per cent compared with 41 per cent).

They were also more likely to:

- display aggression (67 per cent compared with 47 per cent)
- be involved in fighting (77 per cent compared with 43 per cent)
- be involved in violence (51 per cent compared with 34 per cent)
- be involved in moderately serious delinquency (79 per cent compared with 53 per cent).

Sappington⁶ in a review of the evidence on the behaviour of abused children, found that physical, sexual, emotional abuse and the witnessing of domestic violence between parents were all associated with an increased tendency towards subsequent violence and psychopathology. Similar trends were found in a review of research in Finland⁷ which concluded that children who experienced abuse or neglect tended to be "anti-social, aggressive and commit violent crimes later in life."

The US National Survey of Adolescents⁸ sought to establish if there was a link between experiences of abuse in adolescents and later offending behaviour. Using

⁴ Widom, C.S. (1989) "Child abuse, neglect, and adult behavior: research design and findings on criminality, violence, and child abuse", *American Journal of Orthopsychiatry*, Vol. 59, No. 3, pp. 355–67.

⁵ Stouthamer-Loeber, M., Loeber, R.D., Homish, L. and Wei, E. (2001) Maltreatment of boys and the development of disruptive and delinquent behaviour", *Development and Psychopathology*, Vol. 13, No. 4, pp. 941–55.

⁶ Sappington, A. A (2000) *Childhood abuse as a possible locus for early intervention into problems of violence and psychopathology*. Aggression and violent behaviour, A Review Journal. Vol 5, No. 3, pp255-66(12).

⁷ Haapasalo, J. and Pokela, E. (1999) *Child rearing and child abuse antecedents of criminality – Research design and findings on criminality, violence and child abuse*. Aggression and Violent Behaviour, A Review Journal. Vol, 4. No 1, pp107-27.

⁸ Kilpatrick, D G., and Saunders, B. E. (1995) National Survey of Adolescents in the United States. Medical University of South Carolina, National Crime Victims Research and Treatment Centre.

a telephone study, 4023 young people between the ages of 12 and 17 were interviewed and asked to describe their experiences of violence and abuse both within the community and at home. It reported that:

- 47.2% of boys who had been sexually abused reported involvement in offending behaviour compared to only 16.6% of those not sexually abused.
- Five times more girls reported offending behaviour if they had been sexually abused than those who had not been abused.
- 46.7% of boys and 29.4% of girls who had experienced physical abuse reported having committed a serious offence, compared to 9.8% and 3.2% of the non-abused group respectively.
- About one third of boys and 17% of girls who had witnessed violence reported engaging in offending behaviour, compared to 6.5% of boys and 1.4% of girls who did not witness violence.

General comments on consultation

Our first comment is that in whatever work is being done to support children, it is important to see them as children first, and *then* to consider their behaviour. As the research above demonstrates, and as is often repeated by practitioners, it is clear that children who have been maltreated are more likely to engage in anti-social and offending behaviours. There are many and varied reasons for this, including a lack of boundaries, poor emotional attachment, or 'attention-seeking' - a wish to engage in risk-taking behaviours because of having grown up in an environment of being ignored or not being given the love and support they need. Maltreated children will often have a limited understanding of rules and of the responsibilities expected of them, as well as very limited contact with adults. All of these factors need to be considered when developing services for children with anti-social behaviour, as the most appropriate way of ensuring that the child's behaviour is addressed is to ensure that the child understands how they are behaving, the impact their behaviour is having on others, and why such behaviours are wrong.

It is vital that there should be a process both for establishing why children are engaging in anti-social behaviour, and for developing solutions to change their behaviour. It is also vital to ensure that the child's best interests are the first consideration for any therapeutic interventions. For example, if it is established that the child is not attending school, because they are witnessing domestic violence, are subject to abuse or neglect, or have suffered a bereavement, these issues must be addressed in the first instance through a rigorous process of assessment. Similarly it is important to determine whether the child has any unmet mental health needs, or has an unidentified/ undiagnosed learning or developmental difficulty, and to ensure that this is addressed.

Where a young person is identified as being on the edge of offending, and having behavioural problems which might be considered anti-social, we are clear that more targeted interventions are necessary, and would want to see these being undertaken alongside the common assessment framework, and if it is established

that a core assessment is necessary (as per section 17 of the Children Act 1989) we recommend that this takes place at the earliest opportunity. Current assessment processes in the youth justice system have a very strong emphasis on the risk the young person poses to others, rather than how these young people are at risk from others or are at risk to themselves. We would like to see a much greater emphasis on reducing risks to the young people themselves.

The difficulties of working with young people who have been given ABCs, ASBOs or other orders, is that their persistent underlying problems may result in them breaching their behaviour orders, and this can mean they are then being driven further into the criminal justice system. Only by ensuring that a range of agencies work together through a multi-systemic approach with all relevant members of the family can these difficulties be understood and worked through. The other issue that must be considered is that for many young adolescent males their anti-social behaviour occurs for a limited period of time and then diminishes as they mature, and unfortunately being drawn into the youth justice system may affirm this behaviour rather than help it to dissipate.

Any process of engagement with a young person who is behaving anti-socially must have the Outcomes Framework of the Every Child Matters agenda as its underlying principle, in particular ***staying safe*** and ***making a positive contribution***. We very much hope that YOTs are able to engage fully with children's trusts and local children's safeguarding boards as new working arrangements evolve in the next phase of the Every Child Matters agenda.

Responses to specific consultation questions

New front-line preventative powers

1. Do you believe that additional powers are required to strengthen the response of front-line police to prevent anti-social behaviour?

We do not believe that the additional powers discussed, to disperse individuals where they have grounds for believing they are behaving anti-socially, are necessary. Police already have sufficient powers to prevent anti-social behaviour in the community.

Services working in these areas are aware that sometimes young people go in for attention seeking behaviour, which can sometimes escalate, and any response to such behaviours needs to be proportionate. It is essential that trust is built up between police and young people, and that young people expect the police will help and support them when they need it, which will increase the likelihood that young people will approach the police if they have had crimes committed against them. Police officers need extra training to deal with these situations.

Just as with adults, the majority of young people out at night do not intend to get into trouble but some may be drawn in to anti-social behaviour, as their basic wish is to be with their friends; however peer pressure, lack of guidance from parents and sheer boredom, coupled with a propensity to risk-taking, experimentation and

pushing of boundaries, leads to young people engaging in so-called 'anti-social behaviours'. The work of the police and community support officers (CSOs) should be to recognise these behaviours for what they are, and ensure that appropriate de-escalation techniques are used to reduce the likelihood of criminal damage and personal injury.

2. Is it appropriate for the police to impose such conditions and, if so, what safeguards would be required?

We do not believe it is appropriate to impose such conditions.

Safeguards should include training for police and CSOs, to ensure that their response is appropriate. We recognise that for children out on the streets in the evenings, face to face work should be led by police, although as mentioned there should be a strong emphasis on de-escalation and on reducing harm and damage. We would suggest that it would be appropriate for there to be 'youth teams' specifically trained to understand the nature of young people and how they behave, and who do not have inherently negative attitudes or prejudices about young people.

3. What would be an appropriate sanction for breaching such conditions?

We do not believe sanctions are appropriate for breaching these conditions, as per our answer to question 2.

General comments on tackling anti-social behaviours through new front-line preventative powers

We would like to see a much greater emphasis on additional facilities for young people to go to, such as youth clubs, after-school activities for children aged 11 – 18, and other leisure facilities. We are aware that there are proposals to develop these services, as highlighted in *Youth Matters – the Next Steps*, and as required under Section 6 of the Education and Inspections Act 2006. However these provisions are not in place in many areas, and also do not all provide the support and advice services that young people need. Much of this is about funding, and about ensuring that such services are a genuine part of the community and do not alienate young people who have poor attendance at school.

It is all about providing the right kind of services that young people want and use. Children and young people must be asked what they want and would use, and be involved in the development and design of such facilities. Our experiences of providing young people's centres across England and Wales is that a multi-agency approach is what is needed for such services. NSPCC's young people's centres youth workers report to us that what young people want is somewhere warm and safe to be with their friends in the local community, and someone to talk to about the problems and difficulties they are facing. The experience of the young people that we work with in the young people's centres is one of isolation, with no systems of support from family or friends. Also many of the young people that we provide counselling for at Thorn Cross YOI say that there are very few people they can speak to.

As to developing a more preventative approach, young people need the opportunity to learn more about why they behave the way they do and the impact on themselves and other people. We firmly believe that services providing these opportunities are best delivered by youth centres, which have a non-stigmatising and open-door policy, as well as providing more targeted services for children who need more specialised professional advice and support. Such services need to be delivered in a variety of ways, whether this is through one-to-one support, through group work on specific issues, or through peer mentoring and support schemes. If it is clear that a child is at risk of significant harm, it is necessary for that child to work with child protection services, to ensure that the risks they face, and that other children in the family face, are removed.

Another area that needs additional resources is support for parenting. If a child is receiving support and advice from YOT practitioners but is returning home to a family where there is poor discipline, limited boundaries, little warmth and praise, and high levels of violence, it is no surprise if efforts to change their behaviour have limited success. The parents often come from dysfunctional families themselves, so it may also be necessary to provide support for them. By making parenting classes available to all those parents who need them, including those with teenage children, many of the difficulties described above could be managed more effectively. Our North Yorkshire service provides parenting support to families where a young person is referred to us through the YOT, so that behaviour issues are tackled in a multi-systemic approach with the whole family. This service costs around £600 per child/ family for a 12 week course, and uses a model developed from the Webster-Stratton programme, which is being evaluated⁹. This tailored programme of parenting includes enabling a young person to recognise the impact of their behaviour, learn coping strategies, reinforce parents' confidence and establish boundaries, and helping young person to develop enhanced thinking skills.

It is difficult to alter an individual's behaviour when they are surrounded by unresolved problems and difficulties. The current system is geared not to change behaviour, but to restrict it, not to address its causes but to control it.

Deferred Penalty Notice for Disorder (PND)

4. Is the proposed length of the agreement (three to six months) appropriate?

For the reasons outlined above, we do not agree with the proposals to impose a deferred penalty notice for disorder on young people who are on acceptable behaviour contracts.

5. Is the safeguard of consent sufficient to ensure appropriate use of the power?

⁹ This is currently being evaluated by an independent consultant. Also the project is using an internal evaluating tool developed by the European Foundation of Quality Management and has undergone a 'Value for Money' process.

It is unclear whether this question is referring to parental consent, the young person's consent or the practitioner's consent. We are also unfamiliar with the use of the term 'safeguard' in this context.

NSPCC can provide officials with examples of how best to obtain consent from young people when they are receiving treatment or therapeutic interventions, or when they are involved in child protection proceedings. We are also able to provide advice on how best to obtain consent from young people with learning difficulties or developmental delays (including social, emotional and behavioural difficulties) and the types of training that are needed for practitioners, including the police, to ensure that full, freely given and informed consent is granted, and also how to proceed if it is not. There must also be clear guidance on this.

6. How quickly could a decision whether or not to agree to comply with a Deferred PND be required?

7. Is it preferable to defer the PND (based on the individual's compliance with the terms of the agreement), or issue the PND for the original offence and then subsequently discharge the PND once the individual has successfully complied with the agreement?

As we do not agree with the principle of the deferred PND, we do not have answers to these questions.

8. Do you agree that the Deferred PND would be cost-effective?

Bearing in mind our principled objection to deferred PNDs, we would see such measures being cost-effective only if they genuinely reduced anti-social behaviours, which we firmly believe is only possible if the underlying causes of such behaviours are tackled. As mentioned above, this involves working with young people to help them develop some insight into their behaviour, to ensure that they are able to manage their behaviour more effectively and develop alternative strategies to triggers such as violence, anger or frustration.

It also involves working with the family. We are clear that some young people are not able to respond to ABCs without substantial in-depth targeted support, as their behaviours are very deeply entrenched, and may have been an aspect of their behaviour from an early age. Young people who have grown up in an environment of maltreatment, violence, chaos and substance misuse are not going to have the internal resources or the means to alter their behaviour without substantial long-term support, and such support is rarely available to a young person in the criminal justice system. This is why it is necessary to provide a multi-agency response to some children with anti-social behaviours.

General comments on Deferred PNDs

We have very real concerns about the ability of families living on very low incomes to pay this fine. We are also aware of the possibility that such an imposition may increase the risk of violence and harm to the young person. We are also clear that in many families the parents will not feel they have responsibility for their children as

they have limited contact with them. This may be due to them having problems of their own such as substance misuse or unmet mental health needs, so the parents are likely to be extremely unwilling or unable to pay a fine for their children's behaviour. Non-payment could lead to parents being criminalised unnecessarily. We are also unclear how deferred PNDs will operate when a child is in the care system.

We would like to see a much stronger emphasis on support for young people and their parents rather than outlining what the perpetrator should or should not do. We would like to see positive obligations in the ABC which are designed to tackle the underlying causes of the behaviour, as is the case with the little-used individual support orders, and we would like to see all ABCs issued alongside parenting contracts, with the emphasis on the parent attending parenting classes as well as addressing any underlying needs the parents and children have, as discussed above.

Bearing in mind these objections, we would like to make a further comment. The flowchart on page 12 states that it will be the responsibility of the police to assess suitability for a preventative agreement, based on prior knowledge and involvement in the case, in consultation with other agencies. We do not think it is appropriate for the service to have this role as many of these children will have come from families with multiple and complex needs. The assessment for suitability should be undertaken by a multi-agency team, preferably the YOT, and as part of the Common Assessment Framework. There will be individuals in the YOT who are alert to the additional needs of families and children in such circumstances, and will be able to ensure that other programmes of support are made available to the family. It is not sufficient for the police to inform local agencies concerned with prevention, as stated in the consultation.

Premises Closure Orders

9. Do you believe it would be useful to have this premises closure tool to deal with the broader issues of anti-social behaviour and disorder in your area?

10. Do you agree that the premises closure tool should be a tool of last resort and part of a multi-agency approach to tackle both the immediate and longer-term effects of anti-social behaviour?

11. Do you agree that the property should be closed and sealed for 12 weeks with the option of an application to court for an extension for a further 12 weeks in exceptional circumstances?

12. We seek your views on any other operational aspect of the proposals, for example whether this should solely be a police power.

We do not have any comments to make on these questions on premises closure orders.

13. We will build robust safeguards to protect the needs of any children or vulnerable adults in the households, but should there be any other limits on the use of the power?

We need to know what the proposed safeguards are and would welcome discussion on this issue. We are clear that the experience of being made homeless will be extremely traumatic for young people and is likely to dramatically increase the risks they face, as well as reducing their opportunities to fulfil their potential, as specified in the Outcomes Framework of the Every Child Matters agenda.

For further information on any of the matters discussed, please contact:

David Coulter
Policy Adviser, Youth Justice, Asylum and Social Exclusion
NSPCC
Weston House
42 Curtain Road
London EC2A 3NH
Tel: 020 7825 2742
Email: dcoulter@nspcc.org.uk.