

# Policy Briefing

## Putting Our Communities First: A Strategy for Tackling Anti-social Behaviour Consultation ends 11<sup>th</sup> September 2003

### INTRODUCTION

In June 2003 the Scottish Executive published their strategy for tackling anti-social behaviour *Putting Our Communities First: A Strategy for Tackling Anti-social Behaviour* for consultation. This consultation will be followed by the Anti-social Behaviour Bill which is expected to be introduced to the Scottish Parliament in the autumn. This briefing is designed to inform Children in Scotland members of the main points of the consultation document and to stimulate discussion of the key issues.

#### **The consultation document defines anti-social behaviour as follows:**

*In relation to Anti-social Behaviour Orders (ASBOS), Section 19(1) of the Crime and Disorder Act 1998 defines anti-social conduct (which includes speech) as "that which causes or is likely to cause alarm or distress to one or more persons not of the same household". In practice, anti-social behaviour covers a wide range of behaviours with different levels of intensity – from dropping litter to physical violence.*

### KEY POINTS

The Strategy identifies four themes under which the proposals are outlined:

#### **Protecting and Empowering Communities**

- Community planning will be the overarching framework for tackling anti-social behaviour with the police and local authorities jointly publishing a strategy on how they will deal with anti-social behaviour in the authority area.
- Increased emphasis on reparation through the introduction of Community Reparation Orders (CROs).
- Building on existing measures to protect victims and witnesses of anti-social behaviour (e.g. victim support services, the witness service, the Vulnerable Witnesses Bill) and greater use of professional witnesses.

#### **Preventing Anti-social Behaviour – Children and Families**

- Anti-social Behaviour Orders (ASBOs) will be extended to be applicable to those aged 12 and above (they currently only apply to those aged 16 or over).
- Encourage greater use of reparation in the Children's Hearings system.
- Electronic monitoring for under 16's as an additional disposal for the Children's Hearings system and the criminal justice system.

- The introduction of Parenting Orders requiring parents to undertake actions which should result in a reduction in the offending or anti-social behaviour of their child or improve the welfare of the child.

### **Safe, Secure and Attractive Communities**

- The consultation document refers to proposals currently being consulted on by the UK Government to introduce Housing Benefit penalties in relation to anti-social behaviour.
- The extension of the provision for landlords to convert a Scottish Secure Tenancy to a short Scottish Secure tenancy (giving the landlord an absolute right to possession at the end of the tenancy) to cases where an ASBO has been granted against a person under 16.

### **Effective Enforcement**

- Proposals to extend the range of offences for which Fixed Penalty Notices (FPNs) can be levied with the possibility of this applying to under 16s.
- Proposals to give police a new power to disperse groups of children and young people under the age of 16 in public places.
- Legislative changes to make ASBOs more effective.

## **FURTHER DISCUSSION OF KEY POINTS**

1. The Executive intend **community planning** to be the overarching framework through which agencies will work together to tackle anti-social behaviour. While the strategy proposes to extend existing duties (currently only applicable to local authorities and the police) to participate in this process to some other parties such as Registered Social Landlords (RSLs) there remains only an assumption that other agencies and local people will be involved. The strategy's proposal to encourage local authorities to set up 'anti-social behaviour units' may be one way in which this could be addressed.
2. The consultation document places a strong emphasis on the role of **restorative justice and reparation** as strategies for dealing with anti-social behaviour, in particular through the use of CROs as a disposal of first instance for offences defined as anti-social behaviour.
3. The **extension of ASBOs to under 16's** is intended to operate in a similar way to those granted against adults although the Executive are considering placing an additional duty on local authorities and RSLs to consult the Children's Reporter in the case of an application for an ASBO for a person under 16. In most cases the expectation would be that a young person would have been dealt with through the Children's Hearings system before an ASBO is applied for but there may be exceptions to this 'where the behaviour of the child is so immediately difficult'. Breach of an ASBO will be a criminal offence in which case the Procurator Fiscal would decide, in consultation with the Children's Reporter, on the most appropriate action. The strategy emphasises the potential role of Youth Courts (although it acknowledges that these are currently only at the pilot stage) in responding to breach of an ASBO and suggests that these could be extended to deal with those under 16 years of age.
4. The strategy outlines two options for the use of **electronic monitoring**:

*To limit electronic monitoring to young people who would otherwise be in secure accommodation using existing secure authorisations.*

*To introduce electronic monitoring in support of serious intervention for welfare or offending reasons within the hearings system with breach a new ground for secure accommodation.*

In the second option monitoring would be applied where an ASBO is breached and for those who continually indulge in anti-social behaviour. Other young people who are at risk due to persistent running away or prostitution may also be considered for monitoring in conjunction with an intensive community or residential placement. The strategy suggests that the electronic monitoring disposal should normally be reviewed after three months with breach of the arrangement constituting grounds for secure accommodation.

5. Local authorities and the Children's Reporter will be able to apply for a **Parenting Order** where it is considered that the behaviour of the parent in relation to their child is 'seriously deficient and where voluntary measures to improve that behaviour has not been successful'. The strategy suggests that Parenting Orders could also be made on welfare grounds. The Executive are considering how these Parenting Orders might work alongside existing legislation relating to a child's behaviour or attendance at school.
6. The strategy includes measures to place increased responsibility on landlords to respond to anti-social behaviour. It proposes the introduction of legislative measures to put **the regulation of private sector landlords on a legal basis** and suggests this can be done by giving local authorities the power to require all privately let property in a defined area to be registered. This would mean that no rental would be payable on unregistered property and that letting of this property would be illegal. Another option is that local authorities are given the powers to take over the management of individual properties and can then impose sanctions such as withdrawing Housing Benefit. The Executive will be working closely with the Department of Work and Pensions on the viability of imposing Housing Benefit penalties in cases of anti social behaviour.
7. In addition to proposals to **extend the provision for landlords to convert a Secure tenancy to a short Secure tenancy the strategy where an ASBO has been applied to someone under 16**, the strategy suggests that where someone is intentionally homeless and they or someone who resides with them is subject to an ASBO there will be no obligation on the local authority to offer accommodation other than non-tenancy (usually hostel) accommodation.
8. Views are sought on strengthening **police powers** and the introduction of a new power to disperse groups of children and young people aged under 16 and remove them to their place of residence where an officer has reason to believe that:

*Any members of the public have been intimidated, harassed, alarmed or distressed as a result of the presence or behaviour of groups of two or more persons in public places in any locality in their police area.*

*Anti-social behaviour is a significant and persistent problem in the relevant locality.*

See the Children in Scotland website ([www.childreninscotland.org.uk](http://www.childreninscotland.org.uk)), monthly magazine and monthly members bulletin for details of our consultation meetings.

The consultation document ***Putting Our Communities First: A Strategy for Tackling Anti-social Behaviour*** outlines a series of questions relating to the Scottish Executive's proposals and can be found at [www.scotland.gov.uk/consultations/social/pocf-00.asp](http://www.scotland.gov.uk/consultations/social/pocf-00.asp) or by contacting the Scottish Executive on 0131 244 4900.