



Measures to Tackle Anti-Social Behaviour in Northern Ireland

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**Response to
NIO Consultation Document**

by Children in Northern Ireland

March 2004

1. Background

1.1. Children in Northern Ireland (CiNI) is the umbrella body for the children's voluntary sector in Northern Ireland. CiNI represents a large and diverse membership, many of whom work directly with children at risk of social exclusion and their families, offering a range of preventative, early intervention and support services which are child focused and aim to positively promote the position of children in society.

2. Introduction

2.1. CiNI recognises that anti-social behaviour is a concern for communities in Northern Ireland, impacting on the quality of life of everyone living in these areas, including children and young people. CiNI supports the right of everyone to live without fear for their own or others' safety in the areas where they live and, in particular, acknowledges the widespread concern about the safety of children on our streets and in our local neighbourhoods. CiNI endorses the emphasis placed in the Community Safety Unit's 'Creating a Safer Northern Ireland' Strategy document on working with young people to support them and divert them away from anti-social behaviour by addressing its underlying causes. However CiNI is concerned that the current proposals for tackling anti-social behaviour appear to diverge from the ideal that prevention is better than cure.

3. Operation of ASBOs in Northern Ireland

3.1. In considering whether anti-social behaviour orders (ASBOs) would be an effective means of dealing with anti-social behaviour in Northern Ireland CiNI believes that the starting point should be the development of measures that specifically address the particular circumstances of Northern Ireland, and which, after appropriate consultation, receive the support of communities across Northern Ireland. Furthermore the NIO must look to the United Nations Convention on the Rights of the Child (UNCRC), which the UK Government ratified in 1991, and ensure that in all policy development it meets its responsibility to children and young people as set out in the Convention. Fundamentally the main principles state that all children come under the protection of the Convention; in all actions concerning children, the primary concern must be the best interests of the child; and, in all situations the opinion of the child should be heard and taken into account.

3.2. An immediate concern in respect of the effectiveness of anti-social behaviour orders relates to the particular connotations associated with anti-social behaviour when applied in the Northern Ireland context, as it is widely acknowledged that paramilitaries can take a more punitive approach to dealing with perceived 'anti-social' behaviour in their communities. Given this situation CiNI is deeply concerned with the development in the Anti-Social Behaviour Act 2003 removing automatic reporting restrictions in youth courts. Essentially this means that when an ASBO is made against a young person this may be publicised. The

removal of reporting restrictions is in direct contravention of Article 40 (2) of the UN Convention on the Rights of the Child, and in its recent report to the UK Government on the implementation of the UNCRC the UN Committee recommended that state parties 'ensure that the privacy of all children in conflict with the law is fully protected in line with Article 40(2).

- 3.3. The actual and potential harm to the young person which may arise from the removal of reporting restrictions clearly has implications for both the young person's physical and mental well-being. In addition, placing an ASBO on a young person also has serious implications for the young person's emotional well-being, ASBOs have the potential to stigmatise young people and undermine their own self worth and self esteem. Young people registered their concern at societal attitudes towards them, highlighting this as one of the key issues children and young people in Northern Ireland would like to see addressed by the proposed strategy for Children and Young People, currently being developed by OFMDFM.

4. Evidence of effectiveness of ASBOs

- 4.1. Furthermore in considering whether ASBOs would be an effective way of dealing with anti-social behaviour in Northern Ireland CiNI is concerned with the lack of substantive evidence of the effectiveness of ASBOs in England and Wales. It appears that the operation of ASBOs is still problematic with the process seemingly lacking in consistency, clarity and efficiency. It is unclear whether in developing the proposals evidence of the impact of ASBOs on their recipients and subsequent re-offending patterns have been considered.
- 4.2. In responding to the Scottish Executive's Strategy for Tackling Anti-Social Behaviour (2003) children expressed their alarm at the measures being proposed which included Parenting Orders and powers of dispersal. Young people felt these would have a disproportionate effect on their age group and did not address their concerns.
- 4.3. A NOP Poll (2003) commissioned by a coalition of children's charities, asked children in England for their views on the new anti-social behaviour legislation. The majority of children were critical of the police power to disperse groups of young people and impose curfews, with children reporting that they hung out on street corners because they had no where else to go. Such powers will infringe on the child's right to freedom of association and freedom of peaceful assembly as provided for by Article 15 of the UNCRC.
- 4.4. Children living in Northern Ireland have similar concerns regarding places to 'hang out'. In an initial consultation on the development of the strategy for Children and Young People children identified the lack of appropriate recreational spaces and activities as being among the key issues which

they felt needed to be addressed to make Northern Ireland a better place to live. Children and young people highlighted the need for safe places to play and good quality, accessible, age appropriate facilities and importantly they asked to be involved in making decisions about these facilities. Under Article 31 of the UNCRC the Government must encourage the provision of appropriate and equal opportunities for recreational and leisure activity for children and young people.

5. Wider policy and legislative development in Northern Ireland

5.1. CiNI welcomes the positive advances made by the Government in advancing the rights of children and young people in Northern Ireland, including the appointment of Northern Ireland's first Commissioner for Children and Young People and the current development of a Children and Young People's Strategy for Northern Ireland. These advances alongside the passing of child focused legislation such as the Children (Leaving Care) Act (Northern Ireland) 2002 and the Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003 has ensured that children's rights have remained at the heart of the Government agenda.

5.2. However, CiNI notes with some concern the lack of recognition given in the consultation document to these wider policy and legislative developments in Northern Ireland and believes that the current proposals risk contradicting all of the positive work which has been done, and contravenes the Government's commitment to working with children and young people to promote their rights and needs which has been a central element of legislative and policy development under both the current and former administration. The Government in its recent 'Priorities and Budget 2004-06' document renewed its commitment to children by identifying as a priority outcome the need to 'safeguard the rights and interests of children'. This priority outcome is being pursued by OFMDFM through the development of a 10-year overarching strategy for Children and Young People. The NIO, as with all Government Departments, in Northern Ireland is actively engaged in the development of this strategy for children and young people which aims to put 'the rights and needs of children and young people at the heart of policy development' in Northern Ireland.

5.3. CiNI believes that the rights and needs of children and young people are not at the heart of the development of these proposed measures and would urge the Government in addressing the issue of anti-social behaviour to align its policy objectives with those of the strategy for Children and Young People.

5.4. One of the founding components of the strategy is the rights based whole child perspective which recognises the rounded, interconnected nature of children and young people's lives and highlights the fundamental importance of supportive relationships with family and community, but also with those statutory bodies which provide services for children and young people. All of these relationships have a critical role to play in

shaping the lives of children and young people so that they can realise their full potential.

- 5.5. CiNI would advocate that in considering measures to deal with anti-social behaviour it is simply not enough to look at the anti-social behaviour in isolation, rather a whole child perspective is required to identify why children and young people become involved in anti-social behaviour. This essentially means key agencies working together with children and young people and their families in a supportive role to identify their needs and meet these needs as fully as possible. The **Children's Services Planning** process operating at Health and Social Services Board level, stands as a model of good practice, as it espouses inter-agency, inter-sectoral working with children and young people. The process maintains a child focus so that their needs are met in a holistic way, supporting children to achieve their full potential and be socially included members of the community, as children and adults.

6. Parenting Orders

- 6.1. CiNI has particular concerns in relation to Parenting Orders, which following the introduction of the Anti-Social Behaviour Act 2003, can now be made when an ASBO is made against a young person under the age of 16. In initial consultation on the development of an over-arching strategy for Children and Young People adults and young people alike identified the need for parenting support programmes. These programmes are delivered working alongside parents who are actively and willingly engaged in the programme. Parenting Orders on the other hand impose requirements on parents and are contrary to the evidence based practice of organisations in the children's voluntary sector which endorse partnership working as an appropriate and effective response to the needs of families.

7. Youth justice process

- 7.1. The Review of the Criminal Justice System in Northern Ireland (2000) brought a number of positive advances in youth justice that are currently being implemented. In particular the system of youth conferencing for young offenders is welcomed as it espouses the active participation of the young person and takes a view of the young person's whole circumstances, engaging key interests and adopting a multi-agency response to developing a plan to deal with the young person's offending. CiNI believes that this system must be fully developed and implemented and is concerned that the introduction of ASBOs could devalue the system.

8. Civil Protections

- 8.1. CiNI believes that the NIO proposals lack substantive exploration of how the measures would be operated, this is particularly important given that

the evaluation in England and Wales raised concerns regarding procedures and protocols, and enforcement. For example, given that ASBOs are civil orders their application to children and young people must align with the civil protections afforded to children and young people in contact with the courts provided for under the Children (Northern Ireland) Order 1995, and in particular independent legal representation for the child or young person is crucial.

9. ASBO partners for the PSNI

9.1. The Northern Ireland Housing Executive is committed to tackling anti-social behaviour on its estates across Northern Ireland. Under the Housing (Northern Ireland) Order 2003 the power of the Housing Executive and registered housing associations to tackle anti-social behaviour has been extensively strengthened. The Order makes provision for introductory tenancies; increased powers to seek possession of dwellings; a power to seek injunctions against perpetrators of anti-social behaviour; power to treat applicants as ineligible for social housing if they are found guilty of anti-social behaviour; and, it allows the submission of hearsay evidence in court proceedings. As the former NIO Minister Des Browne highlighted during the House of Commons debate on the legislation these powers form 'a strong package of remedies' to deal with anti-social behaviour in social housing. Given that the Housing Executive has been given these relatively new and extensive powers it would be appropriate to monitor the integration of the measures into practice before further extending their powers.

9.2. CiNI believes that a full and proper assessment of the effectiveness of the Order must be made before any consideration is given to extending the powers of the Housing Executive further.

9.3. As noted in the consultation document District Councils in Northern Ireland have a more restricted range of responsibilities than Local Authorities in England and Wales who are a main partner of the police in applying for ASBOs. The evaluation of the use of ASBOs in England and Wales noted that there was considerable variation in the use of ASBOs by Local Authorities, and given that Northern Ireland has 26 District Councils there is a concern that similar problems would develop here, indicating again the need for the measures to be fully evaluated in England and Wales. In England and Wales the role of Local Authorities encompasses education, housing and social services, however CiNI would be adverse to giving the equivalent authorities in Northern Ireland a similar role in relation to ASBOs as it believes it would undermine the relationship between these service providers and children and young people and their families and would make it much more difficult to maintain a credible identity as a service provider meeting the needs of its users.

10. Acceptable Behaviour Contracts

10.1. The measures proposed include Acceptable Behaviour Contracts (ABCs), which may act as a precursor to ASBOs. As the consultation document indicates ABCs have elements similar to current restorative justice mechanisms such as restorative cautioning operated by the police and the statutory youth conferencing model. The difference being that both restorative cautioning and youth conferencing require that an offence is admitted to, where ABCs do not include such a requirement and are to be used to deal with lower level crime. CiNI would urge that the use of ABCs in England and Wales is monitored, and their effectiveness fully evaluated before consideration is given to extending their remit to Northern Ireland. While the principles of engaging key agencies with both the child and parents to look at the underlying causes of anti-social behaviour, with support offered through diversionary activities are very positive methods of addressing the issue of anti-social behaviour, CiNI is concerned that failure to meet the requirements of an ABC would result in the sanction of an ASBO, which is a severe sanction and would undermine the principles on which ABCs are founded. CiNI believes that the processes which already operate should be developed to deal with lower level crime rather than introducing a new system which is not supported by conclusive evidence of its effectiveness.

11. Equality Implications

11.1. CiNI is particularly concerned with the equality implications of the current proposals for children and young people. CiNI would urge the NIO to revisit the evidence it used to screen the proposals and ensure, in consultation with the relevant section 75 groups, that all appropriate evidence is considered and, if necessary, ensure that a full equality impact assessment is undertaken.

12. Conclusion

12.1. Finally CiNI acknowledges the concerns regarding anti-social behaviour in Northern Ireland and would urge the NIO in developing an appropriate response to ensure that consideration is given to the particular circumstances of Northern Ireland, and are based on conclusive evidence of what works best.

12.2. CiNI advocates that resourcing should be focused on preventative, early intervention, support strategies to divert children and young people away from anti-social behaviour, alongside the provision of quality, accessible, age appropriate recreational facilities. CiNI would advocate that in working with children at risk of becoming involved in anti-social behaviour processes such as the Children's Services Planning model are adopted thereby placing the needs of children and young people at the centre of policy development in Northern Ireland.

