

## **CHILDREN AND YOUNG PEOPLE THEMATIC BACKGROUND AND TERMS OF REFERENCE**

1. Northern Ireland has a population of approximately 500,000 children and young people, one third of the population. Over 100,000 (20%) of those children fall below 60% of the median income threshold. In 1999, up to 20% of under-18s had a mental health issue.<sup>1</sup> In 2008, the UK Children's Commissioners reported that in Northern Ireland children and young people experience higher levels of stress than in Great Britain with a high level of self-harm and suicide. Furthermore, it appears that the cost of childcare is higher in Northern Ireland, but with the lowest provision of childcare in Europe.
2. The conflict post-1968 had a significant impact upon the realisation of children's rights under the United Nations Convention on the Rights of the Child (UNCRC). Policing and criminal justice, which are still reserved matters, are outwith the remit of the Children's Commissioner. According to the United Kingdom Children's Commissioners' Report of 2008 there remain "residual 'after-effects' for many children and young people. Sectarianism, paramilitary control, loss and bereavement result in an inability to cope or to access opportunities which all children should enjoy... for example, access to play and leisure, access to adequate health care, access to education etc, are often more difficult to achieve."
3. The number of children from minority ethnic communities is increasing rapidly. For them, racism and discrimination appears to be a fairly frequent experience. For example, Travellers and, increasingly, minority ethnic males are more likely to be stopped and searched than others. This trend is likely to be reflected in the use of anti-social behaviour orders (ASBOs) and dispersal orders against those groups.
4. All of the factors above are likely to combine to mean that measures which limit children's free access to public areas are felt more acutely in Northern Ireland and may have additional effects not experienced in Great Britain.

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<sup>1</sup> Chief Medical Officer's most recent report on the issue.

5. The UNCRC sets out the rights of all children and young people up to the age of 18 years. The UK ratified the Convention in December 1991 and is therefore obliged to ensure that every child has all the rights set out in the Convention. Importantly, however, it is not enshrined in domestic legislation and is therefore not directly enforceable. That may change with a Bill of Rights for Northern Ireland.
6. In 2005, the Northern Ireland Policing Board published a report prepared by the Institute for Conflict Research (ICR) into young people's attitudes and experiences of policing, violence and community safety in North Belfast. The ICR reported that the relationship between the Police Service of Northern Ireland (PSNI) and children and young people was a cause for concern, with many feeling harassed by the police. It recorded how children believed their age and appearance were the reasons for their harassment in a number of cases. The report indicated that many young people in the area had poor experiences and negative views of the police. Over 65% thought that the police did not understand the issues and problems experienced by them. There was suspicion of the police and continuing community tension. The report highlighted that of the calls routinely received by North Belfast police, 32% were for incidents of 'youths causing annoyance'.
7. It was clear that most interaction between young people and the police took place in the context of anti-social behaviour and public disorder. The report also noted, however, that young people often provoked the police and that adults felt intimidated and frightened by them. Alcohol consumption was seen as a key factor both in young people perpetrating violence but also in them being victims of violence.
8. In response to that report, the North Belfast District Command Team (now 'A' District) approached Include Youth, an independent grass roots voluntary organisation working with children and young people at risk of entering the care or criminal justice systems, to develop a joint project involving police officers and young people in North Belfast.
9. The Young Voices North Belfast Project was established in early 2006. It was funded by the PSNI Policing with the Community Fund and managed by Include Youth. A project

worker was appointed in April 2006. The model adopted by the project was undertaken in partnership with young people, local community/youth groups and the PSNI. The project was internally evaluated and that evaluation identified the strengths and weaknesses of the project. The positive aspects were its independence, its non-confrontational and non-directional approach, the willingness of young people to participate, the commitment of police and youth workers. It was considered weak, however, in that there was a lack of consultation and partnership with local communities, the rigidity of policing structures which resulted in police officers often not available to attend meetings etc, and a lack of engagement by police officers in some areas and insufficiency of resources.

10. In May 2008, the PSNI was involved in a round table discussion which resulted in the recommendation that more police officers (particularly from response units) should be enabled to participate in the project, a recommendation that the project should develop links with other services and organisations and that the project should be extended across the North Belfast area and more widely. The Young Voices North Belfast Project has created an environment in which police officers and children and young people working and living in North Belfast meet to discuss policing in the local area. The perceptions of police have been improved in the area as a result.
11. The PSNI has also introduced a number of very positive changes to policy. For example, the PSNI policy on policing with children and young people was reviewed and revised on 16 May 2008. The revised policy was the subject of internal and external consultation. External consultees included young people from PSNI's independent advisory groups. The policy is in a child friendly format and has been distributed widely. The policy provides guidance to police officers in managing children and young people coming into contact with the criminal justice system by providing a general framework for interaction. It is based on the aims and objectives of the Association of Chief Police Officers (ACPO) strategy for children and young people and seeks to apply the standards of the UNCRC. A summary of the UNCRC is attached to the policy as an appendix.

12. Police officers must always deal with children and young people in a way which reflects appropriately their vulnerability and with an awareness of the issues they face. The PSNI should include reference to the rights, vulnerabilities and issues faced by children and young people in operational briefings relating to anti-social behaviour, youths causing annoyance and other operations involving children and young people. The PSNI has addressed that. In its revised policy on policing children and young people a new paragraph has been inserted: “Prior to the commencement of any operation or engagement of resources to tackle matters relating to anti-social behaviour, youths causing annoyance etc. reference should be made to the rights, vulnerabilities and issues faced by those children and young people potentially involved through operational briefings. Advice should be sought from Community Safety staff, Youth Diversion Officers and anti-social behaviour officers.”
13. The PSNI engages regularly with external agencies such as Area Child Protection Committees, Area Children and Young People’s Committees and a protocol for joint investigations of child abuse by social workers and police officers. There are a number of small scale local initiatives such as the Young Voices North Belfast Project.
14. The PSNI will often use diversionary disposals (which generally relate to criminal behaviour) when dealing with children and young people. The purpose of such a disposal is to divert children and young people from the criminal justice system. The types of disposal available include advice from the investigating officer, letter to a parent or guardian and referral to an external agency. The disposals have been used for youths causing annoyance, general misbehaviour and alcohol related behaviour. The PSNI monitors the diversionary disposals given to children and young people, by category of misconduct.
15. PSNI Community Safety branch now collates and monitors information and data relating to young people involved in risk taking and/or criminal behaviour and works with the Youth Justice Agency. There is also a programme of youth consultation evenings and a partnership scheme with Include Youth, which consults with children and young people who have become marginalised.

# **CHILDREN AND YOUNG PEOPLE THEMATIC INQUIRY**

## **TERMS OF REFERENCE**

### **1. THE POLICING OF ANTI-SOCIAL BEHAVIOUR INCLUDING ANTI-SOCIAL BEHAVIOUR ORDERS AND A CONSIDERATION OF THE ‘NAMING AND SHAMING’ POLICY CURRENTLY IN ABUNDANT USE IN ENGLAND AND WALES, WHICH MAY EXTEND TO NORTHERN IRELAND.**

#### **ISSUES**

1.1 There is a perception that children and young people are responsible for the majority of anti-social behaviour. This may well not be the case. Such perception, however, may feed into a police officer’s assessment of a situation. For example, a collection of young people congregating near Belfast City Hall may be seen to pose a threat to public order. If the officer assumes the group is likely to be or become engaged in anti-social behaviour he or she is more likely to disperse the group. Furthermore, an officer’s assessment of the actual behaviour he or she is witnessing may be tainted by that perception. It may be more likely that children simply ‘horsing around’ will be dealt with under the anti-social behaviour provisions or viewed as criminals or potential criminals.

1.2 Applications for anti-social behaviour orders (ASBOs) can be (and often are) based upon hearsay evidence. There is no requirement that a ‘victim’ has been harassed, alarmed or distressed. The legislation is drafted specifically to encourage the use of professional witnesses; there need only be evidence that the behaviour is likely to cause harassment, alarm or distress. Such a test is highly subjective. The age, ethnicity or appearance of the person may affect an officer’s assessment of the nature of the behaviour. An ASBO is not limited to behaviour which is criminal. In fact, it has been stressed that they are aimed at low level nuisance. However, breach of the order will be a criminal offence. An interim order can be applied for and obtained without the child or young person being put on notice of the application. As soon as it is served, it takes effect. Orders with disproportionate, punitive or vague prohibitions can therefore be

imposed without the benefit of representations from a lawyer representing the child or young person.

1.3 It is important that the legislation is not used to quash behaviour which is no more than annoying, eccentric or bizarre.

1.4 Children and young people are 'rights holders' under the European Convention in the same way as adults; they are entitled for example to free association, to liberty, to free movement, to political opinion and to demonstrate peacefully. Any breach of those rights based upon age would also be in breach of article 14 the right not to be discriminated against.

1.5 Once an ASBO is made, it can be publicised. There is no automatic prohibition against publishing the details of a child (unlike with other criminal proceedings). It can be noted that while the proceedings for an ASBO are designated as civil proceedings, the proceedings for breach are criminal proceedings and will result in a criminal record. There is a presumption in England and Wales that the person who has received an ASBO will be 'named and shamed'. The courts in GB have not overturned the practice but warned that it must be proportionate and necessary. In Northern Ireland, given the still present sectarianism and vigilante activity, naming and shaming may be particularly harmful and dangerous. Scotland has not adopted the name and shame policy but attaches reporting restrictions to orders affecting children.

1.6 The PSNI does not routinely name and shame but there has certainly been one instance where leaflets were distributed and local stakeholders informed of the details both of the ASBO and the person against whom it was made.

1.7 In England and Wales, the use of ASBOs escalated to such an extent that the Youth Justice Board reported they were simply of no effect and had become a 'badge of honour' for youths. In a number of cases, they were being used against very young children and vulnerable people whose behaviour was, at best, disruptive. So far, in Northern Ireland their use appears to be much more restricted and proportionate. However, since the Criminal Justice Inspectorate's report and growing public interest, it is suspected that ASBOs will be used to a greater extent. In Northern Ireland half of all ASBOs were issued against people under 18.

1.8 It can be noted that in November 2008 the Youth Justice Board (GB) published its second independent evaluation of a programme that aims to prevent crime and make communities safer. The report indicates that over 25,000 children and young people in danger of falling into crime and anti-social behaviour had been reached by the Youth Inclusion Programme. There are 120 youth inclusion programmes in England and Wales based in the most deprived and high crime areas. They work with 8 to 17 year olds who are targeted according to factors such as exclusion from school. It involves a great degree of inter-agency working between police, social services, schools and youth offending teams. It has resulted in a decrease of 10% in the number of first-time entrants to the youth justice system.

1.9 In its 2008 Concluding Observations following an examination of the UK Government's compliance with the UNCRC, the committee emphasized its concern at the restriction on the freedom of movement and peaceful assembly of children by anti-social behaviour orders, 'mosquito' devices and dispersal zones. The committee recommended that the UK undertake a review of ASBOs with a view to abolishing them against children.

**2. A COMMUNITY SAFETY STRATEGY, WHICH MAY INCLUDE PROPOSALS FOR DISPERSAL ZONES, PARENTING SUPPORT ORDERS, PARENTAL COMPENSATION ORDERS, FAMILY INTERVENTION ORDERS AND POWERS TO CLOSE PREMISES (WHICH MAY INCLUDE RESIDENTIAL PREMISES AND YOUTH CENTRES).**

**ISSUES**

2.1 The Government proposes a five year strategy on community safety: "Together, Stronger, Safer – Community Safety in Northern Ireland". The strategy mirrors the strategy for England and Wales. The Strategy proposes to introduce a number of measures.

2.2 Dispersal zones – This will enable a senior officer (of Superintendent rank or above) to designate an area as a dispersal zone. Once designated a police constable may disperse a group of 2 or more within that zone where he or she has reasonable suspicion that their presence or behaviour has resulted, or is likely to result, in the public being alarmed, distressed, harassed or intimidated. The individuals can

be banned from returning to the area within 24 hours. Furthermore, the constable can remove a child or young person under the age of 16 years found within a zone between the hours of 9pm and 6am to their home or another 'place of safety' [however, in the domestic abuse thematic recently completed by HRPS committee it was clear that the home may be a place of danger to young people and the reason they are on the streets in the first place). Failure to follow a direction is a criminal offence.

2.3 Closing orders – This will enable the PSNI in consultation with the council (and NIHE if its property is affected) to apply to court for an order closing and sealing any residential premises or licensed property which is causing a significant, persistent and serious nuisance to local communities. If used in respect of residential premises, it is likely to result in homeless households. It can be noted that if a household is homeless as a result of a closing order the NIHE is unlikely to provide alternative accommodation as they will be deemed intentionally homeless. They are likely to be 'street homeless'.

### **3. ALTERNATIVES SUCH AS DIVERSIONARY DISPOSALS AND COMMUNITY RESTORATIVE JUSTICE.**

#### **ISSUES**

3.1 In an attempt to respond to children's and young people's involvement in crime and anti-social behaviour, while keeping them out of the criminal justice system and safe from punishment by paramilitaries, there were created a number of restorative justice programmes. The programmes are now working closely with statutory agencies including the PSNI.

3.2 The PSNI monitors the diversionary disposals (which generally relate to criminal behaviour) given by the PSNI to children and young people, by category of misconduct. The purpose of such a disposal is to divert children and young people from the criminal justice system. The types of disposal available include advice from the investigating officer, letter to a parent or guardian and referral to an external agency. The disposals have been used for youths causing annoyance, general misbehaviour and alcohol related behaviour.

3.3 PSNI Community Safety Branch now collates and monitors information and data relating to young people involved in risk taking

and/or criminal behaviour and works with the Youth Justice Agency. There is also a programme of youth consultation evenings and a partnership scheme with Include Youth, which consults with children and young people who have become marginalised.

3.4 In 2007, PSNI Community Safety Branch commissioned an independent evaluation of the PSNI Youth Diversion Scheme. That highlighted the need for additional training for Youth Diversion Officers. PSNI Community Safety Branch has carried out a training needs analysis on how to deal with mental health issues, disability and conflict within the context of the youth conference model. A new training module is being developed.

#### THE CONSULTATION PROCESS – A ROUNDTABLE WITH CHILDREN AND YOUNG PEOPLE

1. The consultation process will involve children and young people of various ages. Some will have direct experience of the issues, others will have none. They will be encouraged to express their experiences and perceptions of the police in a safe environment.
2. The consultation will explore whether anti-social behaviour orders and other measures make them feel stigmatised, frightened or, in fact, safer.
3. Children and young people will be consulted on the issues that they believe most affect or interest them. For example, do they feel the police take them seriously, listen to them, treat them properly?
4. Children and young people who have been involved in anti-social behaviour or criminal activity may discuss the reason(s) for it and what may have helped them out of it.
5. The consultation will explore the experiences of children and young people who have participated in the Include Youth (or similar) scheme and, if so, what they thought of it.
6. If any children or young people have been through the restorative justice process the consultation is interested to consider their experience of it.

7. An important element of the consultation is to listen to the main areas of concern children and young people have about their own safety and well-being.

8. Children and young people will be encouraged to express truthfully and openly their views of the PSNI in a safe environment without fear of recrimination.