



House of Commons
Home Affairs Committee

Anti-Social Behaviour

Fifth Report of Session 2004–05

Volume I

*Report, together with formal minutes, annex
and appendix*

*Ordered by The House of Commons
to be printed 22 March 2005*

HC 80-I
Published on 5 April 2005
by authority of the House of Commons
London: The Stationery Office Limited
£17.50

Home Affairs Committee

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Footnotes

In the footnotes of this Report, references to oral evidence are indicated by 'Q' followed by the question number. All oral evidence for this inquiry is printed in Volume III. References to written evidence are indicated by the page number as in 'Ev 12' (written evidence published in Volume II is indicated as in 'Ev 12, HC 80-II', and evidence published in Volume III is indicated as in 'Ev 12, HC 80-III').

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Summary

We have carried out an inquiry into anti-social behaviour (ASB) and the response to it from central and local government. ASB is defined as behaviour that causes, or is likely to cause, harassment, alarm or distress. It thus covers a wide range of actions. In our inquiry, we decided to focus upon three manifestations of ASB: namely, ASB perpetrated by young people, neighbour nuisance and alcohol-related disorder. We conclude that in none of these areas can it be said that problems have been exaggerated by the Government or played up by the media. They are real and, if anything, the headline figures cannot convey a sense of the full impact of aspects of ASB on some people's lives. We welcome the fact that the Government has said that tackling ASB is one of its priorities.

We heard evidence that the current definitions of anti-social behaviour are too broad, leading to jurisprudential and other concerns. However, we conclude that the definitions should not be changed: they work well from a practical enforcement point of view, are helpful in focusing on the effect on victims and offer the flexibility that is essential to allow problems of ASB to be highlighted and tackled where they are felt—at a local level.

At the same time, we conclude that local residents need to be more fully involved in the process of defining locally what is to be treated as ASB. We also believe that there is a need for more effective communication as to the standards of behaviour that are to be expected—especially in relation to young people. We welcome the introduction by the Government of Community Justice Centres in Merseyside and Warwickshire, and recommend that it expands this pilot scheme into other areas. We call on local authorities and Crime and Disorder Reduction Partnerships (CDRPs) to develop mechanisms to ensure that local views are taken fully into account.

A successful ASB strategy must address all aspects of the response, including diversion, enforcement and support. We reject arguments that the Government's ASB policies are overwhelmingly punitive towards children; nor is it true that its strategy is skewed towards enforcement. On the contrary, we have seen much evidence that in many parts of the country, legal powers are used only relatively rarely.

Overall, the balance of the Government's strategy is about right. We welcome the resources put in by the Government into diversion and support, are satisfied that there are now enough powers in place to deal with ASB, and commend the Home Office Anti-social Behaviour Unit on its work to improve the response at local level. We welcome the suggestion from the British Crime Survey that there has been a fall in the number of people perceiving ASB to be a problem in their area, although we would need to see a consistent trend over time to draw any firmer conclusions.

However, we conclude that the Government's strategy is being undermined by different philosophies, methods and tactics amongst key players. In particular, we were disappointed to hear that some social services departments, local educational authorities, Children and Adolescent Mental Health Services, Youth Services and children's non-governmental organisations (NGOs) are often not fully committed to local ASB strategies. The failure to attend meetings of Crime and Disorder Reduction Partnerships is just one symptom of

this. Yet many perpetrators of ASB, both young and adult, are also the very people with complex support needs and therefore with whom these organisations are already, or should be, working.

We recognise the strain on budgets of social service departments and others, and discuss how some of the relevant difficulties could be overcome. But to the extent that non-participation reflects a rejection of the current ASB strategy as too punitive, we conclude that social services and others are foregoing the chance to influence the way in which it can be carried out at local level. We recommend that they reconsider whether, by attaching greater importance to tackling ASB, they could actually achieve more in relation to perpetrators of ASB with support needs than they are doing at present.

We recommend to the Government that it reacts to this key finding by incentivising partnership working, by working closely with ASB co-ordinators and by looking at whether the current power to share information might be changed into a duty.

We note that although the Government is investing very substantial resources that could assist in preventative work with young people and dysfunctional families, the funding streams are complex and we are not confident that the resources are always being targeted on those most in need of support. We therefore recommend that the Government should conduct a fundamental review of existing funding mechanisms with a view to allowing more flexible use of these funds at local level.

This notwithstanding, we also identify a number of areas where small amounts of extra Government funding would have a disproportionate impact on levels of ASB, especially ASB perpetrated by young people. These include small additional contributions to improve the availability of parenting classes targeted for parents whose children have been identified as being most at risk of future anti-social behaviour, funding for a significant expansion of the Youth Inclusion Programme, and extra funding for individual support orders and intensive family interventions.

We welcome the introduction of a number of new powers to deal with ASB, including housing injunctions and demotions, anti-social behaviour orders (ASBOs) and dispersal powers. These can provide much-needed relief for communities suffering from the impact of nuisance behaviour. However, in relation to the housing-based powers, we criticise the Government for failing to collect the data necessary to know whether they are being used or used effectively (although it does intend to begin collecting some data from this year). We recommend that qualitative research is commissioned as a matter of urgency to determine the take-up of the main housing powers, their effectiveness in tackling ASB and their impact on homelessness.

ASBOs are commonly seen as the central element of the response to ASB, although we emphasise that they are used only in response to a small fraction of incidents of ASB: in most cases, local authorities, housing associations and other agencies will try informal approaches first. We consider carefully the criticisms of ASBOs, but conclude that most are unfounded. However, we do recommend that the minimum term of ASBOs (currently of two years) be removed in relation to young people and consider that research is necessary to establish the reasons for those few ASBOs which have been issued inappropriately or contain inappropriate conditions.

Alcohol-related disorder is a growing problem, in particular in town and city centres on Thursday, Friday and Saturday nights, and despite many initiatives from Government, police, the alcohol industry and others. The Government's strategy currently focuses on irresponsible individual drinkers and individual premises. It has introduced new powers in relation to both and its licensing reforms are premised on the notion that there is a need to tackle irresponsible alcohol outlets. We note both, and make recommendations to improve them, but we conclude that, on their own, these measures will not solve the problem of alcohol disorder. This is because disorder and alcohol-related ASB occur most frequently in public spaces outside the control of even the best-run premises. The problems on the streets being experienced in many town and city centres must be seen as the aggregate effect of many people under the influence of alcohol criss-crossing in small areas with insufficient transport, toilet and other facilities, rather than as the exceptional behaviour of the irresponsible few.

We thus make two key recommendations in this area. First, we recommend that pubs and clubs in designated areas should pay a mandatory contribution to help solve local problems of alcohol-related disorder. The size of the contribution should vary according to the size of the premises. It should be completely unrelated to issues of fault: the principle should be that licensing mechanisms will be used to maximum effect to require every pub and club in the area to act responsibly, and a mandatory contribution will be taken to help pay for the aggregate effect of large-scale drunkenness in public space.

Second, we conclude that the problem of alcohol-related disorder must be addressed primarily through proper city planning, in its widest sense. We accept that not everything can change immediately: for instance, it will take time to reverse the over-concentration of licensed premises in some areas of towns and cities. However, some measures can and should be taken now. We recommend that all local authorities with designated disorder areas should have a duty to produce a plan indicating how they will provide the infrastructure to cope with the night-time economy and what would be needed to finance that plan. In addition, we conclude that adequate late-night transport is absolutely essential if a real impact is to be made on levels of disorder and ASB. We therefore recommend, as a matter of urgency, that the Government identifies 50 areas in which alcohol disorder is highest, works closely with local government in helping it to solve logistical problems relating to late-night transport, and assesses whether additional funding is needed (on top of the mandatory contributions from local licensed premises) to cover local transport costs.

1 Introduction

Details of inquiry

1. Anti-social behaviour (ASB) is defined in the Crime and Disorder Act 1998 as behaviour that is “likely to cause harassment, alarm or distress”. In practice, this covers a wide range of actions, from the dropping of litter on the streets at one end of the spectrum, through to the running of ‘crack houses’ by drug dealers at the other. In between, drunk and disorderly behaviour, nuisance noise, graffiti, intimidation and many other behaviours are included within the definition. The Government has stated repeatedly in recent years that tackling ASB is one of its priorities.

2. In July 2004, we decided to launch an inquiry into the Government’s strategy for combating ASB. The key aspects we announced as the basis of our inquiry were:

- the causes of anti-social behaviour;
- 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);
- issues of enforcement and co-ordination, looking at the respective roles of local authorities, different Government Departments, CDRPs, the police, the Crown Prosecution Service, housing authorities and landlords, and how they inter-relate;
- the impact of Government initiatives;
- the role of parenting support, youth and community services and the youth justice system in diverting young people from anti-social behaviour;
- disparities in levels of anti-social behaviour and in the use of powers to combat it across the country; and
- responsibilities of the private sector for tackling anti-social behaviour.

During the course of the inquiry we considered other issues, including questions surrounding the definition of ASB, the appropriate balance to be struck between diversion, non-formal, formal and family interventions and the way in which the response to ASB is determined in practice. We decided to focus upon three manifestations of ASB: namely, ASB perpetrated by young people, neighbour nuisance and alcohol-related disorder.

3. In total, we took oral evidence on six occasions and received 86 written submissions. We also received an informal presentation from Louise Casey, Director of the Home Office’s Anti-social Behaviour Unit.

4. In the first half of the inquiry, we wanted to hear from front-line practitioners with direct experience of dealing with the types of ASB upon which we were focusing. On ASB perpetrated by young people, we took oral evidence from Mr Reg Denley, Programme Manager of a Youth Works scheme in Bridgend Housing Estate, South Wales; Mr Neil Pilkington, Principal Solicitor of Salford City Council’s Community Safety Unit; Ms Honor

Rhodes, Director of Family and Community Care in the Family Welfare Association; and Ms Dawn Roberts, Deputy Manager of Birmingham Youth Offending Service. In relation to nuisance neighbours, we took oral evidence from Ms Sallie Bridgen and Ms Michelle Monaghan from the Shelter Inclusion Project in Rochdale; Mr David Copeland, Peterborough Mediation Service; Sergeant Paul Dunn MBE; and Mr Martin Lee, Head of Operations of Manchester City Council's Nuisance Strategy Group. On the subject of alcohol-related disorder, we took evidence from Mr Philip Doyle, Institute of Licensing; Mr Steve Green, Chief Constable of Nottinghamshire; Professor Dick Hobbs, Department of Law, University of Durham; Mr John Hutson, Chief Executive, and Ms Clare Eames, Director of Legal Services, JD Wetherspoon plc.

5. In the second half of the inquiry, we took oral evidence from 13 national representative organisations and from five Government Departments. We took evidence from the Association of Chief Police Officers, the Association of Directors of Social Services, Barnado's, Crime Concern, the Crime and Society Foundation, the Crown Prosecution Service, the Housing Corporation, Justice, the Local Government Association, the Magistrates Association, the National Landlords Association, the Social Landlords Crime and Nuisance Group, and the Youth Justice Board. We then questioned several Government ministers: the Minister for Sport and Tourism, Rt Hon Richard Caborn MP; the Parliamentary Under Secretary of State, Office of the Deputy Prime Minister, Yvette Cooper MP; the Minister of State for Rural Affairs and Local Environmental Quality, Rt Hon Alun Michael MP; the Parliamentary Under Secretary of State for Schools, Derek Twigg MP; and the Minister of State for Crime Reduction, Policing, Community Safety and Counter-Terrorism, Hazel Blears MP.

6. We are grateful for the assistance provided by our specialist advisor to this inquiry, Mr Jonathan Manning, a barrister specialising in ASB and housing law. We would like to place on record also our appreciation of the officials in the Home Office Anti-social Behaviour Unit for their help in responding to our written questions and subsequent queries.

The extent of ASB

7. In September 2003, the Home Office undertook a "one-day count" of ASB so as to try to get a snapshot of the extent of the problem. 66,000 reports of ASB were made to participating organisations (police, fire service and local authorities) in England and Wales. The Home Office estimates that this is "equivalent to approximately 13.5 million reports per year or one report every two seconds".¹ It is estimated that the cost of ASB to public services is £3.4 billion a year.² In addition to this direct cost, it is apparent that ASB has led to an increased fear of crime, quite apart from the day-to-day impact of nuisance behaviour on neighbours and communities.³

8. According to Home Office research—which examined findings from the 2003–04 British Crime Survey—76% of people perceived one or more of the 16 types of anti-social

1 For a summary of this exercise, see www.homeoffice.gov.uk/docs2/ASB_Day_Count_Summary.pdf

2 Home Office and Youth Justice Board, *Youth offending teams and anti-social behaviour: draft guidance*, 2004. This figure does not include the effect of alcohol-related disorder

3 Ev 4, HC 80-II; Wood, *Perceptions and Experience of Anti-social Behaviour*, Home Office Findings 252, 2004; Home Office, *Respect and Responsibility—Taking a Stand against Anti-social Behaviour*, Cm 5778, 2003, p13; Campbell, *A review of anti-social behaviour orders*, Home Office Research Study 236, 2002

behaviour listed to be a problem in their local area (albeit that traffic offences were included amongst this list of behaviours and these provoked the greatest response).⁴ 36% of people said that one or more types of behaviour was a “very big” problem. However, in a majority of cases (80%), perceived problems were not complained about or reported to anyone.

9. A breakdown of how many people felt each type of behaviour to be a problem, reproduced from the Home Office research, is shown in the following table. As well as providing a sense of the extent of the problem, it also serves to indicate the types of behaviour that are seen to be anti-social.

Type of anti-social behaviour	Percentage of people perceiving behaviour as a problem in their area:		
	<i>Fairly big problem</i>	<i>Very big problem</i>	<i>Total</i>
Speeding traffic	31	12	43
Cars parked inconveniently or illegally	22	9	31
Fireworks (not part of an organised display)	19	10	29
Rubbish or litter	20	9	29
Teenagers hanging around	19	9	28
Vandalism or graffiti	20	8	28
Drug use or dealing	18	9	27
Uncontrolled dogs and dog mess	18	8	26
People being drunk or rowdy	14	5	19
Abandoned cars	11	4	15
People being insulted, pestered or intimidated	9	2	11
Noisy neighbours	6	3	9
Racial attacks	5	2	7
Disputes between neighbours	4	2	6
People with airguns	3	1	4
People sleeping rough	2	1	3

4 *Perceptions and experience of antisocial behaviour*

10. The written evidence we received reached different conclusions on whether the problems of ASB have actually worsened. For instance, Barnardo's stated that many people would agree with the statement that "the morals of the children are ten times worse than formerly"—but they pointed out that this statement had in fact been made by Lord Ashley in the House of Commons in 1823. Barnardo's claimed that "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".⁵ According to Salford City Council, it is unclear whether ASB really is on the increase, whether tolerance for it has diminished, or whether it is simply given a greater profile.⁶ Professor Morgan, Chair of the Youth Justice Board, told us that he did not think that "the incidence of anti-social behaviour, however defined, is significantly worse today than it has been in the past, but there is no doubt that the public is concerned about it".⁷

11. On the other hand, Professor Hobbs, of Durham University Department of Law, writing specifically about alcohol-related disorder, was unequivocal that this is a new and serious problem with specific recent causes.⁸ Victim Support argued that ASB which can also be classed as criminal behaviour, such as harassment, criminal damage, racially motivated incidents and public disorder, has recently increased significantly.⁹ This was confirmed by a number of housing organisations, which reported that ASB has become an issue of increasing importance for tenants.¹⁰ The Local Government Association told us that "anti-social behaviour is a key issue for local communities and therefore for local government". It pointed to research in 2001 finding that local authorities identified ASB as "the top community safety issue they faced, both currently and in the future".¹¹

12. In general, there is little hard evidence as to the extent of ASB and whether this has changed over time. The Home Office currently does not measure actual incidents of ASB: it has argued that data relating to incidents would be inherently patchy and unreliable.¹² Instead, it uses the British Crime Survey (BCS) to measure *perceptions* of ASB. It does this by concentrating on seven types of behaviour commonly seen as anti-social, and asking people whether they consider these to be a very or fairly big problem in their area. The seven types of behaviour are as follows:

- Abandoned or burnt out cars
- Noisy neighbours or loud parties
- People being drunk or rowdy in public places
- People using or dealing drugs

5 Ev 13, HC 80-II

6 Ev 127, HC 80-II

7 Q 416

8 Ev 45, HC 80-II

9 Ev 139, HC 80-II

10 See, for instance, Ev 94, 135, HC 80-II

11 Ev 77, HC 80-II

12 Ev 168, HC 80-III

- Teenagers hanging around on the streets
- Rubbish or litter lying around
- Vandalism, graffiti and other deliberate damage to properties

13. According to the latest BCS figures, some progress has been made.¹³ The proportion of people estimated to perceive a high level of disorder in their local area fell from 21% in 2002–03 to 16% in 2003–04, and there were falls in relation to all seven of the specific indicators.

14. However, the figures also indicated the size of the task that remains: 29% of people saw litter as a very or fairly big problem in their area; 28% said the same about vandalism and graffiti; 27% highlighted teenagers hanging around on the streets and 25% highlighted people using or dealing drugs as a very or fairly big local problem.

15. The indication from the British Crime Survey that there has been a fall in the perception of ASB is a good sign, although there would need to be a consistent trend over a number of years to draw any firmer conclusions. The headline figures cannot convey a sense of the full impact of aspects of ASB on some people's lives. According to the BCS, only 9% of people in 2003–04 considered nuisance neighbours to be a very or fairly big problem in their local areas (down from 10% in 2002–03). In these areas, nuisance neighbours may be having a huge impact on the quality of lives of those around them.¹⁴ The BCS found that the number of people perceiving drunk and disorderly behaviour to be a big problem in their local area went down from 23% in 2002–03 to 19% in 2003–04. Our witnesses did not argue that there had yet been a significant improvement. Our inquiry highlighted the dramatic impact of alcohol-related disorder on public services and the wider public.¹⁵ The Minister for Sport and Tourism, Rt Hon Richard Caborn, admitted that, due to alcohol-related disorder, large numbers of people were staying away from town and city centres.¹⁶

16. Changing perceptions of the problem of ASB inevitably reflect the quality of the response at local level. From this year, for the first time, local authorities will be assessed on their performance in tackling ASB as part of the Comprehensive Performance Assessment.¹⁷ Inspections will focus on evidence that “the council contributes to successful outcomes in reducing ASB, in particular through effective partnership working”, and that it “takes a strategic approach, integrating its response to tackling ASB across all services it delivers”.¹⁸ Councils will receive a score of between 1 to 4, with a score of 1 indicating inadequate performance and a score of 4 indicating strong performance. However, this score will be given for all of its work in relation to “safer and stronger communities” and

13 Dodds et al, *Crime in England and Wales 2003/04*, Home Office Statistical Bulletin 10/04, 2004, pp18–9

14 See the evidence presented in Section 2, at paragraphs 54–60.

15 See the evidence at paragraphs 62–70 and at paragraph 295.

16 He argued that this was one of the main drivers for change on the part of the alcohol industry. See Q 595.

17 Through the “housing service block assessment”, local authorities and housing associations are also subject to service assessments in relation to ASB: this is generally timetabled and is based around self-assessment.

18 Audit Commission, *CPA 2005: Key lines of enquiry for corporate assessment (practitioner version)*, January 2005

not just for ASB.¹⁹ Full assessments will not be frequent or regular, although the worst performers are likely to receive follow-up contact. Whilst the inspection process considers a great deal of evidence, there are likely to be only short descriptions of ASB measures in the assessment reports.²⁰ The development of a targeted assessment of local authorities to ASB must be seen as a useful step forward.

17. The Government has also changed the way that police performance is measured so that public satisfaction is now an essential element of good performance. From April 2005, the comparative assessment of overall force performance will include the satisfaction of victims of crime about how easy it was to make contact with the police, how they were treated by staff, the actions police officers took and how they were kept informed of progress. According to the White Paper on police reform—*Building Communities, Beating Crime*—the Home Office is continuing to develop this work so that the views of victims of ASB can also be reflected in assessments of performance.²¹

18. In Section 2 of this report, we explore in more detail the types of behaviour that are seen as genuine problems by people in local communities and the impact these have on people's lives. We note there that although some behaviour falling within the definition of ASB has been contested as such, there has been ample evidence throughout this inquiry of the impact on residents, neighbours and communities of even apparently minor acts.

19. We do not believe that the problem of anti-social behaviour has been exaggerated by Government or played up by the media. It is a problem that has a day-to-day impact on residents, neighbours and communities. It seems clear to us that even apparently minor acts can have a huge and disproportionate impact on people who have no way of escaping persistent low-level nuisance behaviour. In that context, the nature of the response goes to the heart of what it means to live in a community.

20. There is currently a paucity of hard evidence as to whether the problem of ASB is being tackled effectively. We welcome the suggestion from the British Crime Survey that there has been a fall in the number of people perceiving ASB to be a problem in their area, although we would need to see a consistent trend over time to draw any firmer conclusions. We welcome the new Audit Commission arrangements: for the first time local authorities will be assessed on their performance in tackling ASB. Similarly, we welcome the measures contained in the White Paper on police reform according to which police performance will be assessed partially by reference to public satisfaction about the response to ASB; however, the police are only one body amongst many with responsibilities in this area.

21. We are concerned that some organisations that do not wish to tackle ASB are in danger of ignoring the needs of victims and witnesses. We bring ample evidence to justify this concern in later sections of this report. We recommend that regular ASB public satisfaction surveys are carried out by CDRPs to improve the evidence base in this area.

19 Audit Commission, *Proposals for comprehensive performance assessment from 2005*, December 2004. It is proposed that the scoring system will reflect "principles of continuous improvement" so that a council receiving a particular score one year will have to improve to retain that score in the following year.

20 Information provided by Audit Commission official.

21 Home Office, *Building Communities, Beating Crime*, Cm 6360, November 2004, p63

The Government's response to ASB

22. The Home Office has described, in general terms, its policy response to ASB:

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

The Government's 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.²²

23. Much of the publicity surrounding anti-social behaviour has surrounded the use of enforcement powers as opposed to the provision of "help and support". It is certainly true that the Government has legislated extensively to increase the powers available. Since 1997, new laws have introduced or extended the scope of: anti-social behaviour orders, fixed penalty notices, parenting orders, housing injunctions, demoted tenancies, possession orders, selective licensing schemes, closure powers in respect of premises used for Class A drugs and some licensed premises, and dispersal powers. The main legal features of some of these powers are set out in the table on the following page. This programme of legislation has been supported by the "TOGETHER" campaign, designed to spread awareness of the powers that are available and to encourage effective action to be taken against ASB at local level. It has further been supported by separate but complementary Government initiatives, such as the development of Crime and Disorder Reduction Partnerships and Youth Offending Teams, and the introduction of Community Support Officers and Neighbourhood Wardens. In addition, under section 17 of the Crime and Disorder Act 1998, each local authority now has a duty "to exercise its various functions with due regard to the likely effect of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area".

24. Attracting less publicity, but also forming a central part of the Government's strategy, has been the development of measures focusing on supporting or diverting perpetrators of ASB. Individual support orders have been introduced for children and young persons subject to ASBOs. Youth Inclusion Programmes and Youth Inclusion and Support Panels have been developed with the aim of targeting children most at risk of offending and addressing their particular risk factors. The Positive Activities for Young People programme has focused on the provision of activities during school holidays. Other initiatives such as the Children's Fund, Sure Start, Connexions, anti-truancy measures, and Splash have all been developed with the aim of helping to prevent ASB.

Power	Imposed by	Imposed against	Effect	Effect of breach
<i>Anti-Social Behaviour Order (ASBO)</i>	Magistrates on application of police, local authorities, RSLs or Housing Action Trusts (HATs).	Someone aged 10+ who has committed anti-social acts, where necessary to protect the public from further acts.	All acts specified in the order (on discretion of magistrate) prohibited for at least 2 years (as specified).	Criminal offence: possible 5 years imprisonment
<i>Acceptable Behaviour Contract</i>	Police, local housing office, schools, social services.	Anyone thought to be committing ASB.	Voluntary agreement to try to curb ASB informally, avoiding the need for an ASBO.	Agency may try to secure ASBO and use breach of ABC as relevant evidence.
<i>Fixed Penalty Notice (FPN)</i>	Police, CSOs, other persons accredited by the Chief Constable.	Anyone aged 16+ guilty of any of the listed offences, including drunkenness offences.	£50 fine (recently increased from £40) for most offences; £80 for more serious offences. No criminal record.	Non-payment would result in prosecution for the matter in which respect of which the notice was given.
<i>Individual Support Order (ISO)</i>	Magistrates, to accompany ASBO.	10-17 year olds who have been given an ASBO.	Aims to complement ASBO by addressing causes of behaviour. Can require attendance at 2 sessions per week for 6 months.	Criminal offence: possible level 3 fine (£1000 or £250 if child is under the age of 14 at time of conviction).
<i>Parenting Order</i>	Magistrates, to accompany ASBO or criminal conviction or else on application of YOTs.	Parents of anti-social children who have refused to co-operate on a voluntary basis	Emphasis on improving parental skills through attendance at a parenting programme. Can impose other requirements.	Criminal offence possible level 3 fine (£1000).
<i>Housing Act Injunction</i>	County or High Court, on application of RSLs, HATs or local housing authorities.	A person over the age of 18 who has acted anti-socially, used premises for unlawful purposes or breached terms of tenancy.	Conduct specified in the injunction prohibited	Contempt of court: possible 2 years imprisonment / unlimited fine.
<i>Demoted tenancies</i>	Court, on application of local authorities, RSLs and HATs.	A tenant guilty of anti-social conduct or unlawful activity	Secure or assured tenancy ended and replaced with a demoted tenancy	Possible possession proceedings, resulting in eviction.
<i>Licensing scheme</i>	Local housing authority with consent of national authority (Secretary of State or Welsh Assembly).	most private landlords within area specified (which must be an area with significant and persistent ASB problems)	Landlords required to obtain licence to let or manage residential property in the area. Licence conditions may include need to take reasonable steps to deal with ASB of occupants and visitors.	Criminal offence to operate without a licence where one is required: possible £20,000 fine. Criminal offence to fail to comply with the terms of licence: possible level 5 fine.
<i>Dispersal power</i>	Police officer or CSO	A group of people congregating in designated area (which must be an area with persistent ASB).	Police officer or CSO can require a group to disperse without evidence that it is causing ASB.	Refusal to follow the officer's directions to disperse is an offence: possible level 4 fine or three months imprisonment

25. In 2003 the Government established an Anti-social Behaviour Unit, based in the Home Office. The Unit's budget for 2004–05 is £25 million, and it has staff complement of 33, although—as of December 2004—it only employed 26 staff members. The Unit's main objective is “to add value to the existing measures to tackle anti-social behaviour and to drive forward new policy, practice and action”.²³

26. In this report, we assess the effectiveness of the Government's ASB strategy, focusing especially on how the response has been implemented at local level. In Section 2 of the report, we examine issues surrounding the definition of ASB and explore the ways in which different types of anti-social behaviour manifest themselves as problems in local neighbourhoods. In Section 3, we focus on youth nuisance: the competing philosophies of how to deal with young perpetrators of ASB and how this affects the local response, the challenges created by the need for agencies to work together at local level and the effectiveness and proportionality of the available powers. In Section 4, we look at “neighbours from hell”: the housing-related context of ASB, how the response to neighbour problems is likely to be determined in practice and the housing-based powers to combat unacceptable behaviour. In Section 5, the focus is on alcohol-related disorder, as experienced in town and city centres particularly on Thursday, Friday and Saturday nights. We examine the context of changes in licensing laws and new police powers in relation to licensed premises and anti-social individuals, before considering the measures that are needed in order for the problem to be tackled at root. In Section 6, we build on the evidence presented in the previous chapters and suggest what can be done to improve the response to ASB at a local level.

2 The problem of anti-social behaviour

Definition

27. A number of separate definitions of ASB are provided in statute. Under section 1 of the Crime and Disorder Act 1998, ASB is defined as behaviour that causes “or is likely to cause harassment, alarm or distress to one or more persons not in the same household”.²⁴ This is the definition that applies when, for instance, an application is made for an ASBO.

28. Different definitions of ASB are provided by relevant sections of the Housing Act 1996, which refer to conduct “capable of causing nuisance or annoyance to any person”,²⁵ and/or the use of premises for unlawful purposes.²⁶ These definitions are used for the purposes of triggering a variety of housing-related powers and duties: the statutory obligation on social landlords to prepare and publish policies and procedures in relation to ASB, applications for injunctions and demotion orders.²⁷

29. The key feature of each of these formulations (aside from the provisions dealing with illegal use of premises) is that they focus not so much on the behaviour itself as on its effects. None of the Acts attempt to provide a list of specific behaviours. The definitions of ASB are therefore flexible, capable of being interpreted differently by different people and indeed in different Home Office statements. For instance, in the 2003 Home Office White Paper, *Respect and Responsibility*, it is noted that—

Anti-social behaviour means different things to different people—noisy neighbours who ruin the lives of people around them, ‘crack houses’ run by drug dealers, drunken ‘yobs’ taking over town centres, people begging by cash-points, abandoned cars, litter and graffiti, young people using airguns to threaten and intimidate or people using fireworks as weapons.²⁸

30. In its memorandum to us, the Home Office provided a different list of what is included in the definition of ASB:

Anti-social behaviour ... 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.²⁹

24 The definition in fact derives from s4A and s5 of the Public Order Act 1986, and was also used in the Protection from Harassment Act 1997 (s7). As noted in Section 4 below, other definitions are used in other statutory contexts, such as under the Housing Acts 1985, 1988, 1996 and 2004.

25 Sections 153A(1), 153B(1) and 218A(8), inserted by the Anti-social Behaviour Act 2003, ss13 and 12 respectively. The second limb of this definition requires the conduct to relate to or affect, directly or indirectly, the housing management functions of the relevant landlord.

26 Inserted by the Anti-social Behaviour Act 2003, s13

27 The statutory obligation on social landlords to prepare and publish policies and procedures in relation to ASB is found in s218A of the Housing Act 1996. The injunction power is contained in s153A of the Act. Grounds to make orders for possession are listed in Schedule 2 of the Housing Act 1985. Demotion orders on grounds of ASB are provided for by s82A Housing Act 1985, inserted by s14 Anti-social Behaviour Act 2003. The statutory definition for the purposes of possession proceedings is similar, although with subtle differences. See Housing Act 1985, Schedule 2, ground 2; Housing Act 1998, Schedule 2, ground 14 (amended by Housing Act 1996, ss144 and 148).

28 Cm 5778, p6.

29 Ev 47, HC 80-II

31. Several organisations have criticised the breadth of the definitions. There are four main issues, centring around effectiveness, performance management, jurisprudence and consistency. First, the breadth of the definitions is seen as hindering an **effective policy response**. This was, for instance, the principal argument of the Crime and Society Foundation:

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.

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.³⁰

Shelter similarly argued that “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”.³¹

32. Second, it has been argued that the wide definition hinders **performance management**. Hull City Council argued that “a lack of clarity around the definition and measurement of ASB does not help” with effective performance management arrangements, and Salford City Council also highlighted this area as problematic.³² The Home Office acknowledged this problem of measurement; however, it argued that the benefits of the wide definition were more important than this.³³

33. Third, several organisations have focused on the **jurisprudential or human rights implications** of using a broad legal definition. For instance, the Law Society argued that without “a clear standard for enforcers, policy-makers and the public to measure behaviour against ... it will become increasingly difficult to justify legally any further interference with human rights”.³⁴ Liberty suggested that “in a democracy, if prohibitions and punitive sanctions are to be employed, a greater degree of clarity is required”.³⁵ According to JUSTICE, “the very wide definition of what can constitute anti-social behaviour is of great concern because perfectly lawful activities can become criminalised through the use of an ASBO”.³⁶ In addition, several organisations criticised the fact that the definition of ASB was wide enough to include behaviour that is already a criminal offence, arguing that this could lead to a twin-track approach by which criminal offences were effectively prosecuted according to a civil standard of proof, albeit that—as we will point out at paragraph 192—

30 Ev 30, HC 80-II

31 Ev 129, HC 80-II

32 Ev 67 and 128 respectively, HC 80-II.

33 Ev 168, HC 80-III

34 Ev 72, HC 80-II

35 Ev 74, HC 80-II

36 Ev 70, HC 80-II. See also Ms Hitchen's comments at Q 422.

the standard of proof in ASBO cases is actually indistinguishable from the criminal standard.³⁷

34. Fourth, it has been argued that the wide definition of ASB has led to **inconsistency**, with the potential for discrimination and for the unjustified targeting of particular groups. The Children’s Society argued that “many children and young people are telling us that they do not understand the term, but they feel that it is targeted towards them”.³⁸ It pointed to research indicating that young persons between 9 and 13 were unsure as to what behaviour they should avoid in order to escape having measures used against them. Several organisations have, more specifically, objected to the term “anti-social” being applied to children who are “merely hanging about in the street”.³⁹ Crisis objected to the equating of begging as anti-social, arguing that “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”.⁴⁰

35. In assessing the strengths and weaknesses of the current definitions of ASB, we were keen to establish how they have worked from the perspective of practitioners—those with direct experience of dealing with ASB and its consequences. In this respect—with the exception of the issue of performance measurement raised by Hull City Council and quoted above—the response has been overwhelmingly positive.

36. Practitioners have argued that there are three main benefits of retaining broad effect-based definitions of ASB. The most important benefit is **jurisprudential**: they have proved simple to use in terms of pursuing legal action. For instance, Mr Neil Pilkington, Principal Solicitor of Salford City Council’s Community Safety Unit, told us that the definitions “have not caused practical difficulties in terms of the application of legislation”.⁴¹ Mr Martin Lee, from Manchester City Council, agreed that they “are a very good umbrella for covering all [the] particular forms of anti-social behaviour”, observing also that the presence of two definitions has not caused any practical problems:

I think the definition to secure an anti-social behaviour order, which is that someone has to be acting in a manner “likely to cause harassment, alarm or distress”, will go before the magistrates who are familiar with that term from public order offences that come before them every day, and the “conduct capable of causing nuisance or annoyance” to get an injunction in the county court, where there is a lesser burden of proof, is one that county court judges are very familiar with. I think that umbrella, as I have said, covers everything. I do not think there is an incompatibility.

Sergeant Paul Dunn, from the Metropolitan Police Service, added that “the legal definition helps if enforcement action is necessary, and it has to be looked at from that point of view”.⁴²

37 See, for instance, the arguments of the Association of Directors of Social Services at Ev 11, HC 80–II, and Mr Garside at Q 289.

38 Ev 25, HC 80–II

39 Ev 10, 74, HC 80–II (ADSS, Liberty)

40 Ev 37, HC 80–II

41 Q 2

42 Q 96

37. Second, several witnesses have argued—in direct contrast to claims that the concept of ASB impedes an effective response to specific problems—that it actually generates a **more strategic response** and, indeed, has often encouraged a response where previously there was none. For instance, the Local Government Association argued that the “ASB focus from central government has led to an increase in focus within many localities” and that the inclusion of ASB as a national policing priority “has been particularly effective in gaining police recognition of “low level” crime as a local priority and provides the impetus for local joint working”.⁴³ The Northern Housing Consortium argued that “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”.⁴⁴ And in addition to anti-social behaviour co-ordinators, the emergence of local authority ASB units are further tangible evidence of the practical effect of utilising a broad concept of ASB.

38. Other witnesses have stressed the limited impact that the criminal justice system was having on low-level, persistent criminal or sub-criminal nuisance behaviours. For instance, Mr Chris Dyer from Crime Concern, told us:

Anti-social behaviour did not start when the Crime and Disorder Act was on the statute book and subsequent legislation since either. Prior to that there has been a ton of legislation around for donkeys’ years which has and has not been used—arguably probably not, actually—in the vast majority of cases to deal with the very issues that we are talking about.⁴⁵

39. Third, one theme that emerged strongly during the course of our inquiry is the benefit of **flexibility** offered by the definition of ASB. Thus far from inconsistency being a problem, many witnesses argued that this was absolutely necessary and appropriate, as the definition of ASB needs to be worked out at a local level. For instance, Mr David Copeland, head of Peterborough Mediation Service, emphasised the extent to which tolerance of behaviour varies from area to area:

What is acceptable in one street in Peterborough, if we moved within 200 metres would not be acceptable. It can change during the hours of the day. It is a variable.⁴⁶

40. Mr Chris Fox, President of the Association of Chief Police Officers, told us that the current definition of ASB is “fine as it is because what we need is a local agreement about what anti-social behaviour is because anti-social behaviour is exemplified locally in different ways”.⁴⁷ He then elaborated as to what this might mean in practice:

It might be to do with alcohol and binge drinking [...] in a town centre; it might be about motorcycling across parks or behaviour in children’s playgrounds in a public space in another totally different community. So I think we need to leave anti-social behaviour with a wide definition but working together [...] and locally agree what

43 Ev 81, HC 80-II

44 Ev 109, HC 80-II

45 Q 343

46 Q 109

47 Q 351

are the issues in that particular part of the world, which will require different people to be involved in the solution.⁴⁸

41. The Home Office agreed that the definition of ASB should be worked out locally. It argued that strict definitions of ASB by reference to particular types of behaviour or action would “run the risk of excluding some types of behaviour that are problematic or including others which may not be” an issue locally. It considered that the current wide definition allows local partnerships the flexibility to do this.⁴⁹

42. Overall, the concerns about effect-based definitions of ASB, particularly those related to jurisprudence (noted above in paragraph 33), appear to overlook a number of important matters. First, the definition employed for the purpose of taking out ASBOs has been in force since 1986 in the context of public order offences, appearing to have worked successfully. In ASBO cases, the conduct must be proved to the same, *i.e.* to the criminal, standard of proof. Second, the suggested difficulties in understanding, or agreeing, what may or may not properly be classified as anti-social, do not seem to be evidenced or supported by any significant numbers of appeals against ASBOs to the higher courts on the basis that the behaviour in question was not anti-social. Third, where enforcement action is being taken, it is the court (county or magistrates’) which will ultimately decide whether the conduct in question is anti-social and should be restricted. Courts are well used to balancing the rights of the community against the rights of individuals and are obviously capable of, and alive to the need to, protect the rights of alleged perpetrators, especially where they are young.

43. It is telling that those who criticised the current definitions of anti-social behaviour did not themselves propose any alternative definitions, whether by reference of a suggested list of behaviours which could properly be considered anti-social or by any other means.⁵⁰ This may well demonstrate the difficulty of adopting a different approach from that which forms the basis of the current legislation. Even if a list of behaviour could be prepared, different organisations and individuals would doubtless disagree about what behaviours should be included. Most importantly, a list-based approach would be unable to take account of the context, or the frequency, of the behaviour. In relation to conduct of the kind which is likely to fall within the rubric of anti-social behaviour, these factors are likely to be critical, which goes to the heart of notion that definitions must be worked out locally (see above, paragraphs 39–41).

44. We have listened carefully to criticisms of the current legal definitions of ASB as too wide. We are convinced, however, that it would be a mistake to try to make them more specific. This is for three main reasons: first, the definitions work well from an enforcement point of view and no significant practical problems appear to have been encountered; second, exhaustive lists of behaviour considered anti-social by central government would be unworkable and anomalous; third, ASB is inherently a local problem and falls to be defined at a local level. It is a major strength of the current

48 *Ibid.*

49 Ev 168, HC 80–III

50 The Director of JUSTICE, Mr Smith, did propose one minor change: to take out the non-objective element of the definition (“*is likely to cause harassment, alarm or distress*”) and replace it with a requirement that the behaviour did, in practice, cause harassment, alarm or distress. See Q 298.

statutory definitions of ASB that they are flexible enough to accommodate this. We would argue also that the definitions are helpful in backing an approach that stands with the victims of ASB and their experience rather than narrowly focusing on the behaviour of the perpetrators.

45. If it is accepted that what is seen and defined as anti-social will vary from community to community, then the key question becomes how this can and should be done in practice. In the next sections, we consider more closely the types of behaviour that are defined in practice as anti-social, with a particular focus on ASB by young people, neighbour nuisance and alcohol-related disorder. In relation to each, we are interested in the extent to which norms of behaviour are contested and the effect of behaviour on communities. We then return to address issues surrounding the definitions of ASB.

Anti-social behaviour by young people

46. At one end of spectrum, ASB by young people might include behaviour that is incontrovertibly intolerable and, sometimes, criminal. This includes joy-riding, drug-using and dealing, vandalism, racist abuse, bullying and graffiti. Whilst there may be youth-specific issues regarding the appropriate *response* to behaviour of this sort, there are no issues in relation to the *definition* of this behaviour as anti-social that do not also apply to adults.

47. None of the organisations that made representations to us, including those which are primarily welfare-oriented, denied that such behaviour caused misery in many communities. For instance, Barnado's wrote:

Barnado'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.⁵¹

County Durham Youth Engagement Service similarly recognised that “anti-social behaviour is highly significant for both individuals and communities”, arguing that it can cause “damage, fear, intimidation and paralysis”.⁵² NCH, the children's charity, stated that incidents of ASB “can cause misery to families, estates and communities”.⁵³

48. The Family Welfare Association drew our attention to a real case of a family that has made life intolerable for local residents.⁵⁴ Within this family, the children have been causing as much harm as the adults:

51 Ev 13, HC 80-II

52 Ev 29, HC 80-II. County Durham Youth Engagement Service is actually a Youth Offending Team—it was previously known as the County Durham Youth Offending Service, but changed its name to more closely reflect the nature of its work.

53 Ev 105, HC 80-II. Formally known as the National Children's Home, the charity is now simply called NCH.

54 All names have been changed. Ms Rhodes—Director of Family and Community Care, Family Welfare Association—estimated that there are, on average, 50 families like this in each local authority area. See Q 19.

The oldest brother, Fred, has driving related convictions (accomplice in car theft, driving without licence, driving without insurance); he was cleared in March '03 of several counts of burglary and going equipped.

The twins [Ged and Harry, aged 14] have received many cautions and have been bound over after breaches of the peace (football damage, threatening other young people, demanding money with menaces, school-related offensive behaviours). [... In addition,] they seem to lead a gang supposedly responsible for petty and serious vandalism and thefts/burglaries in the neighbourhood.⁵⁵

49. Victim Support described to us the effect on victims of ASB, noting that “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”.⁵⁶ It has provided support to a number of people who have suffered at the hands of ASB perpetrated by young people, including:

- Elderly people in wardened 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.

50. In the next section of this report, we consider how this type of problem behaviour by youths is addressed by local authorities and agencies. There has been considerable debate as to what ought to be the appropriate response. But the debate surrounding the definition of ASB perpetrated by young people has tended to centre on apparently less serious behaviour. In considering the boundaries of “youth nuisance”, several organisations have argued that behaviour characterised as ASB is frequently a matter not so much of bad behaviour as of a lack of tolerance or of understanding between generations. Playing football in the street, wearing hoods, or simply hanging around: all these have been cited as modes of behaviour that unjustifiably have been deemed anti-social.⁵⁷ Sergeant Paul Dunn told us that this reflects a decrease in tolerance:

55 Ev 161, HC 80–III

56 Ev 139, HC 80–II

57 Ev 10, HC 80–II (ADSS), Ev 70, HC 80–II (Justice), Ev 74, HC 80–II (Liberty), Q 15 (Ms Rhodes)

[Tolerance has decreased] towards certain generations and I have to say that young people are being targeted in relation to this. I read somewhere that the chief constable of West Midlands actually identified that many of the calls now coming into his control room are about groups of kids walking down streets. We have got to the point now where we just do not want them there. A MORI poll in this country identified that 75% of the adults asked wanted a lawfully enforced evening curfew for all teenagers in this country.⁵⁸

51. On the other hand, Mr Martin Lee, of Manchester City Council, emphasised that even playing football could have effects that no-one should have to tolerate:

Everybody is being remarkably tolerant. If I were to bring a football into this room and kick it against that wall for ten minutes—a garage door, and you were sat in your garden opposite—you would not be so tolerant. If you were sat in your garden in the summer and all you could listen to all day is scramble bikes churning up the local green, that is anti-social behaviour, it is not intolerance.⁵⁹

Similarly, as part of an evaluation of the Youth Works scheme in Bridgend, South Wales, a local resident described the disproportionate effect of apparently minor acts by youths:

“It was dreadful, absolutely dreadful. People wouldn’t come up to the shops if they could help it. The youths would try to intimidate us verbally and physically. It was a worry when we got our pension. They all sat on the wall, we couldn’t avoid them.”⁶⁰

52. We asked Councillor Clark, from the Local Government Association, how the balance should be struck between consulting locally as to what constitutes unreasonable behaviour and educating for greater tolerance. He told us:

That is difficult because you have hit a particular nerve there which is particularly relevant to young people. Lots of older people feel that a gathering of young people might be threatening and might be anti-social, when in fact it is something we all did when we were that age. ... To me it boils down to a very good understanding of a neighbourhood, about what is normal behaviour. ... That is about a negotiation—not a consultation—with the local people and negotiation about what it really is and who has some accountability for fixing it, because local people also have accountability for fixing it.⁶¹

53. It has been suggested to us that much anti-social behaviour by young people is really a matter of a lack of tolerance, or inter-generational conflict. We conclude that, for the most part, this simply is not true. In particular, behaviour which invites a formal response (such as the use of enforcement powers) is almost always serious, persistent, and non-contentiously anti-social. We bring evidence to support this claim in Section 3. The argument also underestimates the effect of even apparently minor acts on local

58 Q 112

59 Q 114

60 Ev 221, HC 80–III

61 Q 353

residents. However, we believe that there is a problem of communication in relation to young people, and return to this issue later in this section (at paragraphs 77-78).

‘Neighbours from hell’

54. Several housing organisations have stressed to us the significance of ASB for neighbours and local residents. The Housing Corporation—in a publication which sets out a framework for registered social landlords (RSLs) to manage nuisance and ASB—observed that ASB is increasingly an important issue for tenants:

In the past, whenever tenants were asked to name the most important service their landlord provided the answer was always repairs, repairs and repairs. This is no longer the case. How effectively their landlord deals with anti-social behaviour is now equally, if not more, important.

Now, tenants want to know how many neighbour nuisance complaints their landlord has had, how speedily they were dealt with and the action which has been taken as a result of those complaints.

More and more RSLs are now getting feedback from residents on what is important to them in ordering Best Value service reviews. Time after time dealing with anti-social behaviour appears in the top three priorities.⁶²

The Tenant Participation Advisory Service expressed its view that “ASB, if unchecked, poses the greatest threat to the future of social housing and the government’s aspirations for sustainable communities”.⁶³ The National Housing Federation agreed, noting that there has been “rising concern from landlords, tenants, politicians, media and the general public over the last few years in respect to anti-social behaviour”, and arguing that ASB has “a corrosive effect on the community as a whole and is detrimental to community cohesion”.⁶⁴

55. In our inquiry, we tried to establish the types of behaviour that have been causing problems between neighbours, focusing especially on the extent to which what is described as ASB tends to be incontrovertibly bad behaviour on the behalf of one of the parties or a matter of dispute between neighbours or contested standards of behaviour. We were also keen to get a sense of the effect on the victims of persistent ASB by neighbours.

56. We invited the creators of a dedicated website, called “Neighbours from Hell in Britain”, to send us a digest of neighbour nuisance cases.⁶⁵ In summing up, they argued:

Whether it is has started as a noise problem, boundary issue or parking concern, we do see the one continuous factor that nearly always appears is bullying, harassment

62 Housing Corporation, *Managing Nuisance, Harassment and Anti-social Behaviour: a framework for RSLs*, 2000.

63 Ev 135, HC 80-II

64 Ev 94, HC 80-II

65 The website address is www.nfh.org.uk

and intimidation from the NFH [Neighbour from Hell] towards the victim. This sadly can in some cases turn into assault and criminal damage.⁶⁶

57. Mr Copeland described to us the typical nature and impact of problems between neighbours that tend to be referred to Peterborough Mediation Service:

The sort of things that we deal with on a daily basis are noise and various other forms of nuisance—anything where there can be any interaction really: competition for shared facilities: driveways, boundaries, hedges. It might seem quite a small issue on some occasions but the actual effect this has on people... Because there is in fact no escape: if it is being caused by your neighbour or your flatmate it is going to be there all day every day and, albeit that most people interpret them as being quite minor issues, they do have a great effect.⁶⁷

58. As with youth-related nuisance, there was some debate amongst witnesses as to whether lower-level neighbour nuisance should properly fall within the definition of ASB. Ms Bridgen from the Shelter Inclusion Project told us:

I think we agree that there are certain things that are intolerable, and not being able to sleep because of noise until one o'clock in the morning is unacceptable, but there are also grey areas. In Scotland, I think, they did some research a while ago and the majority of complaints against neighbours were to do with elderly people who were hard of hearing having their televisions on too loud. We have had cases of that kind where somebody has fallen asleep with the television on too loud. It is not denying that that is a huge problem with the neighbour, and it needs to be addressed, but, going back to your first question, this is one of the problems of calling everything anti-social behaviour. It is fine as an umbrella title, but we need some distinctions within that because there are lots of grey areas.⁶⁸

59. But Mr Lee, from Manchester City Council, warned us that unacceptable behaviour is often treated as a dispute between neighbours, with an unwillingness to recognise fault on one side:

We need to be very, very wary of labelling cases as a “clash of lifestyles”. I have heard that given to a lady who has lived in a ground-floor flat for 80 years—which is a palace—a council flat—and a seventeen-year old moves in above her and starts playing loud music from two until four in the morning and the response that old lady gets from the housing landlord is, “Well, that’s his noisy party lifestyle and you’d better get used to it or move into sheltered accommodation.” Those are some of the very poor responses that people have had to so-called disputes.⁶⁹

60. In cases where behaviour could be viewed in more than one way: either as anti-social or as a clash of lifestyles or simply as a neighbour dispute, the key question then becomes who makes that decision. According to Mr Copeland, there is presently no direct community

66 Ev 192, HC 80–III

67 Q 94

68 Q 115

69 Q 107

input: the decision is “effectively taken by a group of professionals in a multi-agency panel”. He argued further though that the process of mediation itself could “improve levels of understanding, which will bring about levels of tolerance”.⁷⁰ This reaffirms our view that there can be no fixed definition of ASB: the process of responding to behaviour can itself change attitudes towards that behaviour.

61. In relation to most neighbour nuisance cases, it is similarly clear that these cannot be put down to a mere clash of lifestyles: in the majority of cases, one party is at fault, and the effect of his or her behaviour is magnified by the inability of the other party to escape from it. In some cases, it may be less clear-cut that behaviour is anti-social. In such cases, the key question is how the decision is made and by whom.

Alcohol-related disorder

62. In contrast to the areas of neighbour nuisance and ASB by young people, there is far greater consensus as to the extent of the problem of alcohol-related disorder—especially in towns and city centres on Thursday, Friday and Saturday nights.

63. As part of its alcohol harm reduction project, the Prime Minister’s Strategy Unit attempted to quantify the cost of alcohol-related harm.⁷¹ It estimated that the cost to the health service is between £1.4 billion and £1.7 billion per year; the cost to the workplace (in terms of absenteeism and reduced productivity) is somewhere between £5.2 billion and £6.4 billion per year; and there are also unquantifiable costs attached to street drinking and children affected by parental alcohol problems.

64. The Strategy Unit further estimated the extent of alcohol-related harm in terms of crime and disorder. It noted that each year there are approximately:

- 500 drink driving deaths
- 19,000 alcohol-related sexual assaults
- 360,000 victims of alcohol-related domestic violence
- 80,000 arrests for drunkenness and disorder

In addition, it observed that under the British Crime Survey 2001–02, 47% of all victims of violence described their assailant as being under the influence of alcohol at the time. The comparable figure in 2000 was 40%.

65. In total, the *estimated annual cost* of alcohol in terms of crime and disorder was put at **£7.3 billion**: this included £0.5 billion for the costs of drink driving, £1.8 billion cost to the Criminal Justice System, £3.5 billion direct cost to services as a result of alcohol-related crime and £1.5 billion cost to services in anticipation of alcohol-related crime. However, the figure did not include an estimated £4.7 billion to reflect the human costs of alcohol-related crime due to a lack of research in the field. If this is included, the total estimated

70 Q 109

71 Prime Minister’s Strategy Unit, *Alcohol Harm Reduction Project: Interim Analytical Report*, 2003

cost per year of alcohol-related crime is **£12 billion**, and alcohol-related harm overall comes to **£20.1 billion**.⁷²

66. On the “Together” website, the Home Office further describes the problem of alcohol-related ASB:

In 1999, there were an estimated 1.2m incidents of alcohol-related violence. More than half of those arrested for breach of the peace and nearly half of those arrested for criminal damage had been drinking. There are also significant impacts on the urban infrastructure, including broken glass, noise, litter from late-night fast-food outlets and, on occasion, human waste.

Street drinking can be perceived as intimidating by others. Alcohol misuse is linked to disorder and contributes to driving peoples fear of crime; 61% of the population think that alcohol-related violence on the streets is increasing, whilst 43% of women and 38% of men see drinking on the street as a problem.⁷³

67. Professor Hobbs emphasised to us the inability of public services to cope with the level of night-time disorder:

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-day weekend.

Night-time economies attracting over 100,000 customers are frequently policed by 15-20 Police Officers.⁷⁴

Similarly, Alcohol Concern drew our attention to polling evidence, according to which 70% of police officers believed that “attending alcohol-related incidents frequently diverted staff away from tackling other kinds of crime”.⁷⁵

68. Practitioners have told us of the scale of their task. For instance, Mr Green—Chief Constable of Nottinghamshire—said that “behind guns and drugs, drink-related violence is probably our next biggest threat, so it does influence operational deployment”.⁷⁶ Mr Doyle—licensing officer in Westminster City Council, and representing the Institute of Licensing—added that:

the problems are threatening the attractiveness of city centres as places to live in, work in and visit. They threaten the tourist industry, to some extent, because tourists do not want to be amongst drunken jobs; residents do not want to wake up in the

72 Two years ago, the Portman Group commissioned a study which criticised current methods of calculating the extent of alcohol-related violence and disorder (The Portman Group, *Counting the Cost: The measurement and recording of alcohol-related violence and disorder*, 2002). This was sharply criticised by academics (see, for instance, P Hadfield, “Review of Counting the Cost”, *British Journal of Criminology*, 2003, 43(2), p449).

73 <http://www.together.gov.uk/article.asp?c=119&aid=2067> [accessed 24 February 2005]

74 Ev 45, HC 80-II

75 Ev 1, HC 80-II

76 Q 194

morning and find vomit, urine and worse on their doorstep. [...] We know from the police in Westminster that a half of all violence and disorder caused to the police occur between just four hours of the day—and that is between midnight and 4am, particularly on a Friday and Saturday night.⁷⁷

69. Unlike other areas of ASB, no-one has tried to tell us that the problem of alcohol-related disorder is contested or raises problems of definition. Alcohol Concern stated that “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”. The Portman Group accepted the Government’s figures on the economic cost of alcohol-related harm, whilst arguing that “there is a need for a better understanding of the precise nature and extent of the link between alcohol and crime/violence”.⁷⁸ The Bar, Entertainment and Dance Association argued that “we have seen particular hot spots emerge where the benefits of an expanding late night sector fostering urban regeneration have given way to over-provision with too many venues chasing too few customers triggering discounting, increased alcohol consumption and related disorder and disturbance”.⁷⁹

70. Some uncertainty was expressed by witnesses over whether, in light of initiatives from Government, the police, local authorities and the alcohol industry, the situation has changed at all—whether for better or for worse—over the past few years.⁸⁰ Professor Hobbs suggested to us that it was impossible to know as measures that had been introduced had not been properly evaluated.⁸¹ But whilst there was debate surrounding this question, there was total consensus that alcohol-related disorder is a major problem.

The need for locally-based definitions of anti-social behaviour

71. In considering the evidence relating to the definition of ASB, we are struck by the extent to which ASB must be defined—no less than it is tackled—at local level. Indeed, we would go further and argue that the process of defining what constitutes ASB at local level must itself be seen as part of the response to ASB. It would be wrong to treat it as a purely theoretical issue, and indeed one clear feature of the evidence is the extent to which concerns about the definition of ASB are tied up with concerns about the response.⁸²

72. Several organisations supported this view. ACPO argued that for action against ASB to be effective in communities, “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”.⁸³ The Local Government Association argued that “the definition of

77 Q 195

78 Ev 114, HC 80-II

79 Ev 116, HC 80-III

80 Q 204

81 *Ibid.* See paragraph 295 for a fuller description of views of witnesses.

82 For instance, all three arguments against the current definition of ASB, described in paragraphs 31-34 above, can be seen also as concerns about the response to ASB. See also Mr Lee’s evidence at Q107 (quoted above) and the discussion amongst witnesses at Qq 290-299.

83 Ev 4, HC 80-II

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”.⁸⁴

73. Currently, the process of assessing what is to be treated as ASB at local level is done through the Crime and Disorder Reduction Partnerships (CDRPs). Under the Crime and Disorder Act 1998, “responsible authorities” are required to work with other local agencies and organisations to develop and implement strategies to tackle crime and disorder and the misuse of drugs in their area.⁸⁵ Currently, the police, local authorities (including social services and youth offending teams), fire authorities, police authorities and primary care trusts (or health authorities in Wales) are responsible authorities for the purpose of the legislation. CDRPs must work in co-operation with local probation boards and other bodies specified by the Secretary of State, and must invite the participation of a range of local private, voluntary, other public and community groups, as prescribed by the Secretary of State. The range of bodies currently falling within the legislation are shown in the following table.⁸⁶

Must co-operate with:	Must invite to participate in the exercise of statutory functions:
local probation boards	a registered social landlord
a parish council	the local Drug Action Team or Drug and Alcohol Action Team
a National Health Service Trust	a Training and Enterprise Council
the governing body of a school	a voluntary organisation operating in that local government area whose objects are to provide assistance to young persons through youth work or informal education
the proprietor of an independent school	the Crown Prosecution Service
the governing body of a higher education institution	a Court Manager of the Crown Court
	a magistrates' court committee
	a representative of Neighbourhood Watch Schemes in the local government area
	a member of a Victim Support Scheme
	service police and Ministry of Defence police
	a body which provides school transport
	a body which provides public transport and other specified transport bodies
	bodies which promote the interests of, or provide services to— respectively—women, the young, the elderly, the physically and mentally disabled, those of different racial groups, homosexuals and residents
	a body, one of whose purposes is to reduce crime and disorder
	a body established for religious purposes
	a local company or partnership
	a body established to promote retail business
	a trade union
	a registered medical practitioner
	a representative body of registered medical practitioners
a governing body of a higher education institution	
the chief officer of a local fire brigade	
the British Transport Police	

84 Ev 78, HC 80-II

85 Sections 5 to 7 as amended.

86 This list has been updated several times since the 1998 Act. The most recent update was provided through The Crime and Disorder Strategies (Prescribed Descriptions) Order 2004 (SI 2004, No. 118). All of the bodies listed must be located or exercise their functions in the relevant local government area.

There are currently 376 CDRPs in England and Wales.⁸⁷

74. Under section 6 of the Crime and Disorder Act 1998, CDRPs have a duty to formulate and implement a strategy for the reduction of crime and disorder in their area once every three years. Before formulating a strategy, they have to first carry out a review of the levels and patterns of crime and disorder, including ASB, in the area, and publish a report analysing the results of that review. As the Chair of the Youth Justice Board, Professor Morgan told us, it is this process which, in effect, provides a local definition of the problems of ASB:

[Under the 1998 Act, CDRPs] were required to undertake audits both of crime and other behaviour that now would generally be regarded as falling under the anti-social behaviour heading. I do not think there is a radical distinction between the problems we have been discussing in relation to anti-social behaviour and crime of a minor sort which could be criminalised. Every area has a natural ecology of crime and anti-social behaviour which means that what disturbs people, what they tolerate and what they complain about differs from one neighbourhood to another.⁸⁸

75. We heard a range of views as to whether the CDRP crime and disorder audits are sufficient in terms of enabling local residents to have their say in determining the types and standards of behaviour which are to be treated as anti-social. Professor Morgan argued that the CDRP audits are useful, telling us that “what one cannot really rely upon is attendance at public meetings and consultative groups because, as we all know, the people who tend to attend those meetings are usually not particularly representative of the wider public, so we must be careful”.⁸⁹ On the other hand, Mr Fox—President of ACPO—told us:

At the moment I do not think the public are connected to those; I think those often take a very broad view of a neighbourhood or a local authority area, where in fact anti-social behaviour may be very different on an estate or in a town centre. [...] So I think it has to be more local than that.⁹⁰

76. One further model of local involvement is the Community Justice Centres, currently being piloted by the Government. The White Paper on ASB, *Respect and Responsibility*, set out their main principles of these Centres:

The pilots would be able to deal with all low-level disorder offences, housing related matters, especially those relevant to tackling anti-social behaviour. Those who adjudicate would receive special training. The aim would be to facilitate better liaison and communication with the courts, thereby reducing delays in the listing of cases and producing more consistent breach sentencing due to increased awareness of local issues and the impact of anti-social behaviour.⁹¹

87 See <http://www.crimereduction.gov.uk/regions00.htm> (accessed 20 February 2005).

88 Q 423

89 *Ibid.*

90 Q 355

91 Cm 5778, p80

The first Community Justice Centre was officially opened in Warwickshire on 10 March 2005. It is described as the first in England and Wales to “house in one place the police, the Crown Prosecution Service, a magistrates’ court, a family court, the Probation Service, the Youth Offending Team and the Victim and Witness Support”.⁹² A similar Centre is being piloted in Liverpool: in this case, the Centre has been deliberately located in a restored derelict building in the heart of a neighbourhood with high perceptions of ASB in order to enhance its links with the local community.⁹³ Early research shows strong local support for this Centre.⁹⁴

77. We would argue that the process of defining what constitutes ASB at a local level must itself be seen as part of the response to ASB. We have been told that, in practice, this decision is largely made by groups of professionals responding to complaints, and—on a strategic level—by Crime and Disorder Reduction Partnerships. But it seems clear from the evidence we have received that—

- i. the definition of some behaviour as anti-social can be contested;**
- ii. tolerance is a variable and must, in part, be educated;**
- iii. there is a gap—especially in relation to children—in that what constitutes unacceptable behaviour is not always being communicated effectively; and that**
- iv. different problems of ASB are likely to concern residents of different local neighbourhoods even within local authority areas.**

In light of these points, it seems to us that it is inappropriate for these judgements to be made by professionals and by CDRPs alone. The ability of the courts to assist with such definitions (by deciding which applications will and will not succeed) does not in our view adequately address this issue. Courts only see those cases brought before them (which are likely to be the more serious) and cannot make strategic decisions or comment on the broader issues.

78. We welcome the introduction by the Government of Community Justice Centres in Merseyside and Warwickshire and recommend that it expands this pilot scheme into other areas so as to achieve a stronger basis for evaluation. In the meantime, we recommend that local authorities and CDRPs develop mechanisms for ensuring that the views of local residents are taken fully into account as an essential aspect of their response to ASB.

92 See the Criminal Justice Service website: www.cjsonline.gov.uk/the_cjs/whats_new/news-3129.html (accessed 15 March 2005)

93 Home Office Press Release CJ5007/2003, 11 September 2003. The Centre has not yet opened fully, although many of its services became available from December 2004.

94 See the Criminal Justice Service website: www.cjsonline.gov.uk/the_cjs/whats_new/news-3087.html (accessed 15 March 2005)

3 The response to youth nuisance

Youth nuisance in the context of the youth justice system

79. Any discussion of the appropriate response to ASB perpetrated by young people must be mindful of the wider context of youth offending. This is for two main reasons. First, there is a clear overlap in terms of the relevant behaviour and its causes (even discounting ASB which is also defined as criminal), with a likely progression from ASB to more serious offending if the initial behaviour is not challenged. Second, the response to youth ASB is inherently tied up with the youth justice system. Both these points will be developed in the course of this section of our report.

80. The Crime and Disorder Act 1998, in addition to legislating against ASB, also overhauled the youth justice system. For the first time, that system was given an explicit overarching aim: “to prevent offending by children and young persons”.⁹⁵ A new national agency—the Youth Justice Board—was established in order to help fulfil this aim at national level. Youth Offending Teams (YOTs)—multi-agency partnerships tasked with co-ordinating youth justice services within particular areas—were set up at local level.

81. In place of the previous arrangement of cautioning for first (and, in practice, often repeat) offences, there is now a structured system of reprimand followed by a Final Warning (unless the offence is serious) before prosecution for a third offence.⁹⁶ A Final Warning is likely to trigger intervention by the local YOT: there is currently a target for this to happen in 80% of cases, with an earlier target of 70% already met successfully.⁹⁷

82. In addition, a number of new sentencing options have been introduced. A young person who is prosecuted in the courts for the first time and pleads guilty is likely to receive a Referral Order: this leads to a contract designed to make the young person agree to make reparation to the victim or wider community and discourage him or her from further offending. A young persistent offender who merits a higher sentence can now be placed on an Intensive Supervision and Surveillance Programme (ISSP): this intensive intervention is intended to improve community-based alternatives to custody and to keep persistent young offenders in their homes, in school, in training or in a job. Between the first quarter of 2001 and the third quarter of 2003, the number of young people sentenced to custody fell by 17%.

83. Behind these changes lay a fundamental shift of philosophy in dealing with youth offending that stemmed from the perceived failure of previous interventions. This shift is summarised in a recent academic account as follows:

Two main consequences followed [from a perceived ‘crisis’ in governmental responses to offending by children and young people]. The first was a theoretical, ideological and legal swing away from ‘welfare’ understandings of crime and how to

95 Section 37

96 All the details in this and the next paragraph are taken from the recent report by the Audit Commission: *Youth Justice 2004: a review of the reformed youth justice system*, 2004.

97 In general, young offenders are much more likely to receive an intervention. In 2001, nearly one in four offenders said that nothing happened to them after they were caught by the police; by 2003, it was less than one in ten.

respond to it, centred around psychological and sociological explanations of why crime happened, assessment of the needs of the individual offender and the potential for ‘treatment’; towards a ‘justice’ discourse that emphasised the personal responsibility of the offender, the irrelevance of theories about what caused crime and the need for consistent and fair punishment regardless of individual circumstances. (Unsurprisingly, the contrast between the ‘welfare’ and the ‘justice’ schools of thought was especially sharply drawn in relation to children and young people, where welfare considerations had traditionally been even more paramount than with adult offenders.)

The second consequence was the development of more rigorous research into the effectiveness of different interventions.... The slogan is now ‘what works’.⁹⁸

84. The Youth Justice Board drew our attention to commissioned research, which concluded that “a considerable body of research has been identified demonstrating clearly that a firmly evidence-based approach to prevention of youth crime is both a realistic proposition and a strategy that can be confidently expected to be successful”.⁹⁹ It argued that 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—discrete characteristics;
- Offending risk characteristics overlap with other problems—substance misuse, teenage pregnancy and school failure
- Parenting capacity is both a key risk and a protective factor in preventing offending and anti-social behaviour.

The Board stated that the development of Youth Inclusion and Support Panels as well as Youth Inclusion Programmes—both considered later in this section of our report—was a direct response to these lessons.¹⁰⁰

85. Leading children’s charities and other bodies highlighted a number of issues to us specifically in relation to young people.¹⁰¹ In particular, they emphasised their concerns that:

98 Prior and Paris, *Preventing Children’s Involvement in Crime and Anti-social Behaviour: A Literature Review*, 2004. Paper produced for the National Evaluation of the Children’s Fund through the Institute of Applied Social Studies, University of Birmingham.

99 Ev 144, HC 80-II

100 Ev 144-5, HC 80-II

101 These include the Association of Directors of Social Services, Barnado’s, Centrepoin, the Children’s Society, the Howard League for Penal Reform, the National Association for Youth Justice and NCH.

- young people have been unjustly “targeted” by ASB measures, with punitive measures used in response to trivial behaviour or inter-generational conflicts of interest;¹⁰²
- the response to youth ASB has been expensive and ineffective, largely because it has concentrated on enforcement to the detriment of prevention;¹⁰³ and that
- the use of ASBOs has led to an unjustified increase in the number of young people in custody.¹⁰⁴

In addition, much concern was expressed about the use of enforcement by publicity, or “naming and shaming”, in relation to young people subject to an ASBO.

86. We discuss all these concerns later in this section of our report. We begin though with those young people who behave anti-socially: their likely backgrounds and support needs and their view of their own behaviour.

Characterising the perpetrators

87. Whilst there have been differences amongst organisations in terms of where to put the emphasis, the clear themes to have emerged from our inquiry are that that young perpetrators of ASB often:

- suffer from serious disadvantages and social exclusion, and
- have significant support needs, but
- frequently also have a disregard for the effects of their actions, and
- are likely to progress to more serious criminal activity in the absence of appropriate intervention.

The differences in emphasis have tended to reflect whether the organisation concerned is primarily ‘welfare’ or ‘justice’ oriented. As we shall demonstrate, it is likely that these differences colour the belief as to what is most appropriate by way of response to ASB, and indeed, has impacted upon that response on the ground.

88. Several organisations focused on the support needs of many young perpetrators of ASB. Centrepont made the point succinctly:

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

102 See, for instance, Ev 13, HC 80-II (Barnado’s), Ev 18, HC 80-II (Centrepont) and Ev 24–5, HC 80-II (Children’s Society)

103 This argument is considered fully at paragraph 97ff.

104 Considered at paragraph 196ff.

perpetrators of anti-social behaviour they need support to address and manage their behaviour.¹⁰⁵

89. Nacro agreed, pointing out the congruency between risk factors relevant to anti-social / offending behaviour and those relevant to the safeguarding and promoting of the welfare of children, and arguing that there “appears 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”.¹⁰⁶ This view was supported by Sergeant Dunn, who told us of the children with whom he had worked:

I have done 400 acceptable behaviour contracts. Not one of those young people were actually doing anti-social behaviour because they wanted to do it. A lot of them did not know it was anti-social behaviour; we had to re-educate them. In the lives of those 400 people, 10% were known to the youth justice system and were going through the courts and getting the support that they would be offered, but 69% were known to child protection due to drugs, drink, mental health issues, tenancy issues, domestic issues in the family, lack of parental guidance or peer group pressure. All these issues were underlying the consequences of the bad behaviour.¹⁰⁷

90. The Local Government Association pointed to research done by the Social Exclusion Unit, which categorised the risk factors that may influence the likelihood of an individual or group becoming involved in ASB. This is summarised in the following table:¹⁰⁸

<i>Family</i>	<i>Individual/peer</i>	<i>School</i>	<i>Community</i>	<i>Early adulthood</i>
Parental criminality	Alienation / lack of social commitment	Lack of commitment to school (truancy and exclusions)	Community disorganisation	Lack of skills or qualification
Poor parental supervision / discipline	Early involvement in problem behaviour	Disruptive behaviour (including bullying)	Availability of drugs	Unemployment or low income
Low family income / social isolation	Peer involvement in problem behaviour	Low achievement	Opportunity for crime / ASB	Homelessness / poor quality housing
Family conflict	High proportion of unsupervised time spent with peers	School disorganisation	High percentage of children in the community	
	Alcohol / drug misuse		Poor leisure facilities	
			Area abandonment	
			Media hyped profiling of ASB	
			Generational intolerance	

105 Ev 18, HC 80-II

106 Ev 86, HC 80-II

107 Q 97

108 Ev 78, HC 80-II

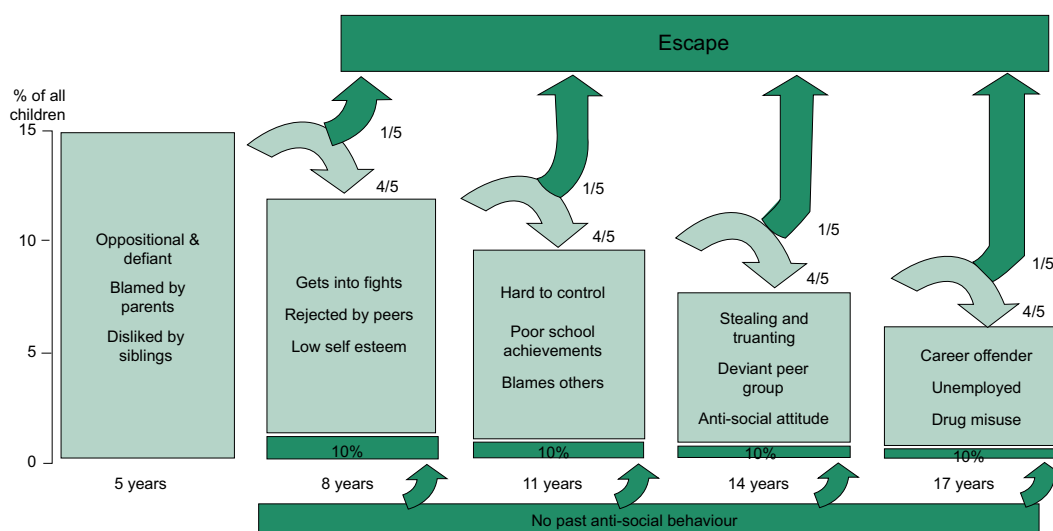
91. Other witnesses—whilst recognising that young perpetrators of ASB can have support needs—have painted them in a less charitable light. For instance, Salford City Council argued:

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.¹⁰⁹

92. Moreover, several organisations have drawn our attention to the link between ASB and crime. Birmingham Youth Offending Service stated that “it is apparent within our work that there is a clear overlap between crime and anti-social behaviour”. The Association of Chief Police Officers argued that “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”.¹¹⁰

93. In the 2003 Green Paper, *Every Child Matters*, a model of offending is cited that illustrates the nature of the likely progression from ASB to more serious criminal offending.¹¹¹

Continuity of anti-social behaviour from age 5 to 17



94. Some organisations cautioned that—in light of the wide variety of behaviours included within the definition of ASB—it is important not to group all youth perpetrators together: children who annoy residents by playing football in the street do not necessarily have the same characteristics as those who “terrorise” their local neighbourhoods. Ms Rhodes, from the Family Welfare Association, told us that many young people are simply looking for things to do and that there is a problem of inter-generational understanding.¹¹² This latter argument was echoed by JUSTICE, which was concerned that “an overly sensitive person

¹⁰⁹ Ev 128, HC 80-II

¹¹⁰ Ev 5, HC 80-II. This was confirmed in Home Office, *Young people, crime and anti-social behaviour: findings from the 2003 Crime and Justice Survey*, Home Office Findings 245, 2005

¹¹¹ Department for Education and Skills, *Every Child Matters*, Cm 5860, 2003

¹¹² Q 15

may object to children playing, as children do, in the common area of an estate, or on a street".¹¹³ Mr Denley told us similarly that many children are unlikely to be any worse than similar children a generation ago: what has changed is the communities in which they live:

The pressures of living in those communities now are far more, we keep coming back to playing football in the street, there are less opportunities, there are more "No ball game" signs, you are more likely to be moved on. People phone up and say "There are five youngsters at the end of my street," "What are they doing?" "Laughing!" "Well we will come out and arrest them for being in possession of a sense of humour!" All those things have come up over the years but it is easier now to try and label a problem than look at a solution I feel and I do not feel, having worked for 25 years in a youth service, any of the young people I am working with now are any different from the scallywags we dealt with 25 years ago.¹¹⁴

95. The fact that, as many witnesses pointed out to us, those most likely to be victims of ASB are themselves young people also undermines the argument that bad behaviour by young people is largely rooted in inter-generation misunderstanding.¹¹⁵ Ms Dawn Roberts, from Birmingham Youth Offending Service, drew our attention to research indicating that young people wanted similar things to adults: "they wanted to feel safe, they did not like certain behaviours in the community, they wanted clean streets and they wanted somewhere to go".¹¹⁶

96. We have heard evidence that young people acting anti-socially should not all be grouped together: there is a difference between a young person annoying residents by playing football and someone who is terrorising a local neighbourhood through a series of criminal and sub-criminal activities. We accept this: however, we emphasise that this does not mean that less serious ASB should be ignored. Activities such as playing football in the street are not necessarily harmless: persistent use of a garden gate, house wall or car or other inappropriate locations as goalposts—perhaps accompanied by abuse or threats when challenged—can amount to intolerable behaviour which should not be dismissed by the authorities.

Prevention and enforcement: a false dichotomy

The argument

97. We were struck by the number of organisations that made the following two-stage argument:

- a) the current response to ASB is skewed heavily towards punishment and enforcement measures, at the expense of preventative measures;

113 Ev 70, HC 80-II

114 Q 13. Barnado's argued similarly: see Ev 13, HC 80-II.

115 See, for instance, Ev 24, HC 80-II (Children's Society), Ev 102, HC 80-II (National Youth Agency), and Ev 105, HC 80-II (NCH).

116 Q 16

b) this should be reversed as prevention is far more effective at tackling ASB than enforcement—especially in relation to children.

98. There was unanimous agreement amongst witnesses—whether housing bodies, children’s charities, law reform organisations, local authorities or Government Ministers—as to the importance of preventative measures in tackling ASB. Rethinking Crime and Punishment—an organisation which aims to raise the level of debate about the best way to deal with offenders—provided a good overview:

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.
...

There is broad professional agreement that more constructive early intervention in the lives of young people most at risk could produce enormous dividends.¹¹⁷

99. Some organisations went further than this, arguing that there needs to be a stronger emphasis given to preventative measures with less attention given to enforcement. For instance, the Crime and Society Foundation argued that “the current anti-social behaviour strategy, which places so much of an emphasis on the imposition of the ASBO, should be rethought”.¹¹⁸ The Howard League for Penal Reform argued that “the current approach is punitive and is likely to exacerbate social exclusion”.¹¹⁹ JUSTICE questioned “whether the correct emphasis is being applied”, arguing that “the causes of anti-social behaviour are being neglected”.¹²⁰ Liberty condemned the “indiscriminate and excessive use of ASBOs”, arguing that this was undermining any benefit they might bring.¹²¹ NCH stated its concern that “government policy in this area has been dominated by enforcement measures with little attention on prevention”.¹²²

100. Moreover, several organisations argued that enforcement powers should be used only as a last resort. For instance, Barnado’s argued that “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”.¹²³ The Association of Directors of Social Services argued that “existing measures ranging from ASBOs to Dispersal Orders are essentially reactive and that tackling the root 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.”¹²⁴ NCH

117 Ev 124, HC 80-II

118 Ev 30, HC 80-II

119 Ev 62, HC 80-II

120 Ev 69, HC 80-II

121 Ev 76, HC 80-II

122 Ev 105, HC 80-II

123 Ev 15, HC 80-II

124 Ev 11, HC 80-II

agreed, concluding that “ASBOs should be the last resort, not the first form of intervention”.¹²⁵

101. **The evidence we received from a number of organisations—in particular, some children’s charities and civil liberties organisations, as well as the Association of Directors of Social Services—suggests that they assume there is a sharp distinction to be made between prevention and enforcement. We believe that this is ultimately self-defeating: instead, it seems to us that enforcement has a crucial preventative role in itself that needs to be recognised and which needs to be seen as the responsibility of everyone. We agree with those who stress the importance of all ways of dealing with ASB. We are deeply concerned about the potential effect on local ASB strategies if the enforcement element is resisted by agencies dealing with ASB at the front line.**

What actually happens in practice

102. Whilst it was a common view amongst witnesses that there is a current emphasis being placed on enforcement measures, our inquiry uncovered substantial evidence that this simply is not the case in practice.

103. At the most basic level, statistics indicate that enforcement action is comparatively rare. According to Home Office data, a total of 4,266 ASBOs were taken out from their introduction in April 1999 to September 2004, with 2,633 of these issued in the past year.¹²⁶ This compares to over 5,000 acceptable behaviour contracts being agreed in the last year,¹²⁷ to a caseload (i.e. ASB actually brought to the attention of local authorities) of 66,447,¹²⁸ and to the Government’s estimate of 13.5 million incidents of ASB per year.¹²⁹ In practice, the vast majority of young *offenders* do not have any contact with criminal justice agencies:¹³⁰ the assumption must be therefore that this is even more true of the larger category of *anti-social* young people.

104. Mr Richard Garside, Director of the Crime and Society Foundation, acknowledged that the figures imply that the vast majority of instances of anti-social behaviour are not dealt with through ASBOs, before commenting:

It clearly is the case that at one level they are a relatively small picture; but at another level they play very important rhetorical role. There are a lot of the messages from the Home Office. A couple of Octobers ago, in a speech to police, housing officers and local authorities, the Prime Minister said, “We have listened. We have given you the powers. It’s time to use them”. The Anti-social Behaviour Unit often talks about a “campaign” and how they are campaigning for people, amongst other things, to implement ASBOs. So there is a bit of tension there. ASBOs are, if you like, at the

125 Ev 106, HC 80-II

126 i.e. October 2003 to September 2004. See Home Office Press Release 336/2004.

127 Ev 155, HC 80-III

128 Ev 178, HC 80-III

129 Ev 48, HC 80-II. The estimate is based on a one-day count in September 2003.

130 See *Youth Justice 2004*, p8. This states that out of five and a half million 10–17 year olds in England and Wales, around one-quarter admitted to committing a criminal offence of some kind in the last 12 months (according to a MORI youth survey), yet only 268,500 young people were arrested for notifiable offences in 2002–03.

hard end of quite a wide wedge. At the other end you have some quite tough-talking rhetoric from politicians, which is not necessarily replicated on the ground.¹³¹

105. Some witnesses described the way in which ASBOs tend to be used as measures of last resort. Mr Denley described a four-stage process before an ASBO is issued in the Bridgend area:

We have got a four stage ASBO process which consists of a letter pointing out the behaviour first, of which I believe over 3,000 have gone out. The second part is a visit plus a letter from either the police officer or the new ASBO support worker on the YOT team, of which I believe there are 400 so far. The ABC contracts I think are around 30 and we may have two ASBOs in the Bridgend area at the moment [...]. I think the whole thing which comes out from the partnerships that I have been on is that although ASBOs are welcomed as a tool, they are an admission of failure in the fact that everything else has failed to address those things.¹³²

106. Mr Pilkington agreed, telling us that his view “from talking to most people around the country from CDRPs is that most agencies and most people will look at something before ASBO and therefore to go for an ASBO is a failure”. He then described the approach of Salford City Council:

You do get to the stage where regardless of what you have tried, regardless of all the resources that YOT have put in—the youth services, youth work, the voluntary agencies have put in—the behaviour does not change and therefore something has to be done and that is when the ASBO happens. Our threshold test is: is there anti-social behaviour, is it continuing, what have we done, is there anything else we can do? If the answer is yes to the first two, everything in the third and nothing in the fourth, then we go for an ASBO. It is at that stage where you say we have tried everything, we now have to protect the community.¹³³

Mr Pilkington further told us that “Salford has something of a reputation for enforcement, although it is not necessarily a reputation that is founded on the facts”, noting that the Council had only obtained three ASBOs on application that year. Overall, it had identified 600 young people who were responsible for ASB through multi-agency working on a neighbourhood basis—yet ASBOs had only been used for 8% of these.¹³⁴

107. Professor Morgan, Chair of the Youth Justice Board, agreed that the notion that there is an emphasis in practice on punitive measures is something of a caricature:

If you look at the imposition of ASBOs in most parts of the country, ASBOs have been resorted to relatively sparingly. Most local authorities would adopt a tiered approach whereby one investigates precisely what is happening, one moves from a

131 Q 318

132 Q 75. The notion that ASBOs are considered an “admission of failure” is echoed in the Children’s Society evidence at Ev 27.

133 Q 76

134 Q 29. See also the submission from County Durham Youth Engagement Service (Ev 29).

home visit to a warning letter to an ABC or whatever, and only if these interventions fail should one reach for an ASBO. Most local authorities clearly take that stance.¹³⁵

108. As Professor Morgan noted, there are sharp variations throughout England and Wales. Whilst Manchester City Council has secured some 4,500 successful legal actions to combat ASB, including 422 ASBOs, other councils have resorted to legal measures far less frequently. The following table highlights the variations in relation specifically to ASBOs:¹³⁶

Local authority area	ASBOs issued		ASBOs refused
	Number	Per 100,000 population (aged 10+)	
Avon and Somerset	85	6.5	0
Bedfordshire	26	5.3	0
Cambridgeshire	36	5.8	0
Cheshire	65	7.5	0
Cleveland	34	7.2	2
Cumbria	41	9.5	1
Derbyshire	36	4.3	0
Devon & Cornwall	43	3.1	0
Dorset	16	2.6	0
Durham	49	9.4	0
Essex	33	2.3	0
Gloucestershire	17	3.4	0
GLMCA / Metropolitan Police	268	4.3	9
Greater Manchester	509	23.5	5
Hampshire	72	4.6	4
Hertfordshire	50	5.5	0
Humberside	37	4.8	0
Kent	68	4.9	4
Lancashire	114	9.2	2
Leicestershire	17	2.1	0
Lincolnshire	11	1.9	0
Merseyside	109	9.1	5
Norfolk	44	6.2	1
Northamptonshire	22	3.3	0
Northumbria	66	12.0	0
North Yorkshire	28	2.3	0
Nottinghamshire	58	6.5	0
South Yorkshire	80	7.2	0

135 Q 427

136 Sources: HC Deb, 3 June 2003, col 89W and www.crimereduction.gov.uk. See Q 141 for Mr Lee's confirmation that other local authorities do not use housing injunctions as much as Manchester City Council, although he also said that things were "improving".

Local authority area	ASBOs issued		ASBOs refused
	Number	Per 100,000 population (aged 10+)	
Staffordshire	66	7.1	0
Suffolk	58	9.8	1
Surrey	25	2.7	0
Sussex	84	6.3	1
Thames Valley	50	2.7	1
Warwickshire	41	9.2	0
West Mercia	123	12.0	0
West Midlands	216	9.8	1
West Yorkshire	247	13.6	1
Wiltshire	11	2.1	4
Dyfed-Powys	16	3.7	0
Gwent	18	3.7	0
North Wales	28	4.8	0
South Wales	52	4.9	0
England and Wales	3069	6.7	42

109. Furthermore, although several organisations pointed out the risk of ASBOs being used to criminalise and even incarcerate children in response to trivial activities such as playing football in the street, we saw compelling evidence that this has not happened in practice. We consider this evidence later in this section at paragraph 196ff.

110. Finally, the argument that the Government's youth ASB strategy is weighted heavily towards enforcement is undermined by a consideration of the relevant expenditure on different areas of its strategy. In 2004–05, the Government has a planned expenditure of £9.4 million for CDRPs, £1.1 million for ASB Prosecutors and £0.8 million for the Together campaign—all measures primarily aimed at enforcement.¹³⁷ Yet these figures are dwarfed by the planned expenditure for services, substantial parts of which will be used for ASB preventative measures. For instance, in 2004–05, the Children's Fund will be £195 million, there will be £533 million spent on Connexions, £363 million on Youth Services and £890 million on SureStart. Even some of the specific grants for particular preventative programmes compare well to the money spent on enforcement: in 2003–04, £85.1 million was spent on the Behaviour Improvement Programme; whilst in 2004–05, there will be £7 million targeted for the Youth Inclusion Programme, £2.25 million for intensive family-based interventions, and approximately £10 million allocated for parenting classes.¹³⁸ It must also be relevant that in 2004–05, there will be a targeted grant of £67 million to the Child and Adolescent Mental Health Service and a total of £3.737 billion allocated to Children's Social Services. As the Law Society has observed, "the Government's emphasis

137 Ev 166, HC 80–III

138 For the two latter figures, see the Home Office's written memorandum providing details of the Parenting Fund (ASB 85). Other figures are derived from the relevant Departmental Annual Reports and from the Spending Review 2004.

has not been entirely punitive” (although it did have “serious concerns” about some of the measures).¹³⁹

111. We found most convincing those arguments which stressed the importance of *all aspects* of dealing with ASB. For instance, Crime Concern argued that “well resourced and targeted preventative action, especially early interventions, coupled with appropriate enforcement measures, are key to the success of ASB strategies”.¹⁴⁰ The Local Government Association argued in favour of a “three-pronged approach—that is prevention, enforcement and rehabilitation”.¹⁴¹ The Association of Chief Police Officers also stressed the need for both coercive and supportive measures:

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.¹⁴²

112. This was echoed by the Housing Corporation. Whilst it supported “the principle that prevention of ASB is better than cure”, it also noted that “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”.¹⁴³ Several other organisations backed this statement, including the National Housing Federation, Salford City Council and the Social Landlords Crime and Nuisance Group.¹⁴⁴

113. The Government has also stated its commitment to this approach. As the Home Office put it, “the work is not either/or—prevention and enforcement are two sides of the same coin”.¹⁴⁵

114. In the end, we do not consider that it is necessarily helpful or accurate to apply the labels of ‘prevention’ or ‘enforcement’ to the various measures which are available to deal with anti-social behaviour. ASBOs, for example, as an injunctive remedy, are not punitive in nature but designed and intended to prevent the repetition of anti-social behaviour. In that sense, they are properly to be seen as part of the range of preventative tools even though characterised by some organisations as part of the machinery of enforcement.¹⁴⁶

115. In addition, the criticisms made by some organisations based on the percentage of ASBOs which have been made against young people, indicating that in some way young people are being singled out for enforcement, do not seem to us to be well founded. First,

¹³⁹ Ev 73, HC 80–II; see also Ev 33, HC 80–II.

¹⁴⁰ Ev 32, HC 80–II

¹⁴¹ Ev 80, HC 80–II. Later in its submission, it did argue that there is “undue focus on enforcement rather than preventative activity”; however, this was in relation specifically to the Anti-social Behaviour Act 2003 rather than the Government’s overall strategy.

¹⁴² Ev 7, HC 80–II. See also the comments of Mr Fox at Q 362, stressing the need for tough sanctions to be accompanied by support measures.

¹⁴³ Ev 66, HC 80–II

¹⁴⁴ Ev 94, 126, 132, HC 80–II

¹⁴⁵ Ev 170, HC 80–III

¹⁴⁶ The House of Lords confirmed the preventative nature of ASBOs in *R (McCann) v Crown Court at Manchester* [2002] UKHL 39; [2003] 1 AC 787, HL.

we have already commented on the preventative nature of the ASBO. Second, these criticisms overlook the essential point that no other remedy (aside from criminal proceedings, or the eviction of the whole family) is generally available against people under the age of 18 who behave anti-socially. Seen in this context, the high percentage of ASBOs made against young people does not indicate that authorities are targeting young people rather than adults, but merely that adults are dealt with using a much wider variety of remedies, of which the ASBO is merely one. Third, it is unsurprising, in this context, that authorities have found the ASBO to be a particularly useful tool in dealing with young people, especially given that best practice is now generally considered to require the tackling of the behaviour in question rather than the eviction of the perpetrator—which may penalise an entire family and which will be likely simply to move the problem elsewhere, probably involving the occupation of private sector accommodation in which fewer controls are available.

116. Overall, the clear message of the evidence is that there is more to do in terms of all means of tackling ASB—whether through diversion, support or sanction. It is not the case that the Government’s ASB policies are overwhelmingly punitive towards children; nor is it true that its strategy is skewed towards enforcement. On the contrary, there is compelling evidence that in many parts of the country, legal powers are used only relatively rarely. We would emphasise therefore the need not to be led astray by rhetoric but to focus on what is actually happening on the ground.

Co-ordination and joint working at local level

117. ASB is a problem that is felt on a local level and which falls to be dealt with by local people and organisations. In relation to ASB perpetrated by young people, the need for a large number of local bodies to get involved in the response is all the greater. These bodies include:

- Local authorities: not only housing departments which normally take the lead when it comes to ASB, but also social services departments, local education authorities and environmental services departments.
- Police, including community support officers
- Fire authorities
- Primary care trusts (in England or health authorities in Wales), including Mental Health Trusts
- Probation officers
- Neighbourhood Wardens: this is the generic name for all Wardens. They provide a uniformed presence in residential areas with the aim of enhancing quality of life issues. Street wardens tend to concentrate on the physical appearance of an area and tackling environmental problems such as litter, graffiti and dog fouling.
- Housing Action Trusts, Registered Social Landlords and other housing associations, Arms Length Management Organisations, Tenant Management Organisations

- Private landlords: as several organisations have stressed to us, ASB is by no means confined to social housing estates.¹⁴⁷
- Youth Offending Teams
- Drug Action Teams or Drug and Alcohol Action Teams
- Schools and educational welfare officers
- Youth Services
- Pupil Referral Units
- Voluntary organisations such as welfare organisations and children’s charities
- Local businesses.

118. For the local response to be effective, it is clear that many or all of these organisations need to come together in partnership.¹⁴⁸ There are a number of statutory forums which provide a potential basis for effective joint working. The most important of these are Crime and Disorder Reduction Partnerships (CDRPs), also known as Community Safety Partnerships and described in paragraph 73 above. However, there are several other forums also relevant to tackling ASB at local level. Local criminal justice boards—non-statutory bodies set up in each of the 42 criminal justice areas in England and Wales and consisting of chief officers of police, Crown Prosecution Service, Magistrates’ and Crown Courts, Youth Offending Teams, Probation and Prison Service—are responsible and accountable for local delivery of CJS objectives, improvements in the delivery of justice, the service provided to victims and witnesses and securing public confidence. Children’s Strategic Partnerships—set up under section 10 of the Children’s Act 2004—are located within local authorities and must co-ordinate various services relating to the well-being of local children. Several bodies must be included in these partnerships, including the local police authority, Chief Constable, probation board, youth offending team, Strategic Health Authority, Primary Care Trust, provider of services to encourage or assist effective participation by young people in education or training, and the Learning and Skills Council for England.¹⁴⁹ In addition, it should not be forgotten that Youth Offending Teams are in themselves important in facilitating joined-up working. The Birmingham Youth Offending Service which provided evidence for this inquiry, includes seconded professionals from Social Services, Probation, Police, Education, Health, Connexions and the Young Person’s Drug Service. It told us of its work co-ordinating Youth Inclusion and Support Panels, which provide a further forum for statutory and voluntary agencies to work together in relation to 8–13 year olds most at risk of ASB and crime.¹⁵⁰

147 See Ev 20, HC 80–II (Chartered Institute of Housing), Ev 98, HC 80–II (National Housing Federation) and the discussion in paragraph 270.

148 As the National Housing Federation stated “the effectiveness of ... powers is much reduced when the various agencies work in isolation from each other”. See Ev 98, HC 80–II.

149 Although formally these partnerships were established under the Children’s Act 2004, many local authorities had already established such partnerships prior to the Act.

150 Ev 121–2, HC 80–III

119. In addition, as we noted in paragraph 37 above, it has become common for local authorities to set up specialist ASB teams, often including a specific position of anti-social behaviour co-ordinator. This is something that the ASB Unit in the Home Office has very much encouraged.¹⁵¹ Sergeant Dunn told us how this role has emerged:

The evolving role of the anti-social co-ordinator is identifying a multi-agency problem-solving group: who should be on it, how are we going to take this forward, how are we going to educate the courts into the new legislation and make sure we can iron out some of the issues? How can we get some of the agencies who are less supportive of multi-agency working and do not see it maybe from the point of view of other people? How can we build those relationships and get that trust?¹⁵²

120. Several organisations have argued that there has been some improvement in partnership working since 1998. The Northern Housing Consortium has argued that “since the Crime and Disorder Act 1998 all agencies tackling ASB have been working more effectively together”.¹⁵³ The Housing Corporation argued that “CDRPs generally seem to be working well”, adding that “many CDRPs have set up effective data sharing protocols, which have improved partnership working by associations and the police”.¹⁵⁴

121. However, other organisations have told us that—despite the opportunities that are available for joint working—this is not always being done well across the country. Several organisations have argued that the impact of CDRPs has been mixed. The Social Landlords Crime and Nuisance Group argued that, despite some success, problems remain:

There is no doubt that the introduction of [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.¹⁵⁵

All these points were echoed by the Chartered Institute of Housing and by the Housing Corporation.¹⁵⁶ ACPO added that “some agencies find it difficult to engage effectively as conflicting strategies and performance regimes draws them away”.¹⁵⁷

122. Ms Hitchen, representing the Association of Directors of Social Services, admitted that the involvement of social services varies across the country:

¹⁵¹ Louise Casey, head of the Unit, made this clear to us in her informal presentation.

¹⁵² Q 143

¹⁵³ Ev 109, HC 80-II

¹⁵⁴ Ev 65, HC 80-II

¹⁵⁵ Ev 133, HC 80-II

¹⁵⁶ Ev 21, 65, HC 80-II

¹⁵⁷ Ev 6, HC 80-II; see also Q 147.

Possibly the involvement of the welfare agencies, social services in particular, will vary across the country. Given that the majority of these young people are young people in difficulty, many of whom will be known to education, social services or the youth offending team, probably in some places action could be taken to make that work better and to integrate the children's agenda with the crime reduction agenda. I think that is one of the gaps. The two are not properly integrated at the moment.¹⁵⁸

Ms Hibbert, from Barnado's, agreed, urging that there ought to be "a much better, more robust requirement for a link between crime reduction partnerships and children's strategic partnerships in local authorities".¹⁵⁹

123. The Government is currently reviewing the effectiveness of CDRPs as part of a wider review of the Crime and Disorder Act 1998. This includes a specific review of the effectiveness of the duty contained in section 17 of the Act and the consequences of non-compliance with this duty.¹⁶⁰ In advance of that review, Ms Hazel Blears MP told us that the effectiveness of CDRPs varies from area to area: "some places have got really good CDRPs with proper targets, performance management and education very involved with social services on the preventative side; other areas, if I am frank about it, are not anything like as good", adding that "it is patchy across the country".¹⁶¹

124. Several organisations told us that issues surrounding the exchange of information are hampering joint working. There is some guidance, now almost seven years old, produced by the Home Office for CDRPs, as well as a "step by step" guide published as part of the Together campaign.¹⁶² In addition, section 115 of the Crime and Disorder Act 1998 grants to anyone a power to share information with an authority sitting on a CDRP for the purposes of reducing crime and disorder.¹⁶³ However, it is not clear that these powers have always had the desired effect. The Social Landlords Crime and Nuisance Group expressed its concern that not all CDRPs have implemented information sharing protocols, telling us that in some cases there are even "inconsistencies of approach between Divisions within the same Police force".¹⁶⁴ The National Housing Federation told us similarly that its members had voiced concerns around "the lack of more coherent information sharing protocols": in some cases, members who operate across several local boroughs have had to deal with different protocols for each.¹⁶⁵ The Local Government Association drew our attention to barriers surrounding the sharing of local knowledge and intelligence, especially between local authority ASB teams and the police, adding that "it is also important that local authorities have access to court information when dealing with specific cases".¹⁶⁶

158 Q 428

159 *Ibid.*

160 *Building Communities, Beating Crime*, p123-4

161 Q 555

162 Home Office, *Guidance on Statutory Crime and Disorder Partnerships*, 1999, and Home Office, *Step by Step guide on Information Sharing*, 2003

163 On 18 January 2005, this section was amended (through the commencement into force of section 219 of the Housing Act 2004) to allow all housing associations to receive information from other bodies to support their applications for ASBOs.

164 Ev 133, HC 80-II

165 Ev 98, HC 80-II

166 Ev 80, HC 80-II

125. The Chartered Institute of Housing pointed to the limitations of section 115 of the 1998 Act:

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.¹⁶⁷

ACPO agreed that “previous attempts such as section 115 of the Crime and Disorder Act have not produced the fundamental shifts in attitudes needed”, and recommended the issuing of clear guidance on sharing data for all agencies.¹⁶⁸ Mr Pilkington—from Salford City Council—supported this, telling us that it is “hard enough for lawyers to deal with in some respects and is a complete nightmare for a non-lawyer to pick through the rules and regulations”.¹⁶⁹ He added that “problems have arisen amongst those agencies—social services and health agencies—where issues about confidentiality and the sharing of information have led them to feel they cannot contribute to the debate”, arguing that this has led to a “black hole as to whether there are mental health problems within the family or health problems for a particular individual”.¹⁷⁰

126. We heard mixed views as to the effectiveness of local authority ASB co-ordinators. Sergeant Dunn argued that this depends critically on the individuals involved, telling us that “if you get the right person in who is passionate about it, you will move mountains with these individuals; [however,] if you don’t, it can be extremely damaging”.¹⁷¹ Mr Lee, from Manchester City Council, added that he was in favour of co-ordinators, “as long as they co-ordinate action, not meetings”.¹⁷²

127. On the other hand, Ms Hazel Blears, MP, argued:

The whole thrust of funding an anti-social behaviour co-ordinator for the CDRP is designed to [...] draw in all the resources of that community, whether it is police, housing, local authorities, local businesses (which have got a real role to play in tackling some of this as well in the private sector) and the voluntary sector. That is why we funded specifically a co-ordinator because one of the problems in this area in the past is that people got passed from pillar to post. It was never anybody’s responsibility. That was so frustrating for local people - that is the housing

167 Ev 22, HC 80-II

168 Ev 9, HC 80-II

169 Q 46

170 Q 39

171 Q 143

172 Q 146

department's job, that is the police's job, that is the council's job - so funding a co-ordinator was really important to our strategy.¹⁷³

128. We received some evidence that YOTs have not always been consulted before ASBOs were taken out against young perpetrators, despite existing guidance to this effect.¹⁷⁴ The importance of YOT involvement was stressed to us by the Youth Justice Board: it noted the composition of YOTs from a wide range of services and argued that this enables them to respond to the needs of young offenders in a comprehensive way in order to prevent further offending.¹⁷⁵

129. We heard differing explanations as to why YOTs are apparently not being consulted. The Housing Corporation accepted that housing associations were not always sufficiently engaged with the multi-agency approach to tackling ASB; however, it argued that there were often mitigating circumstances such as the small size of an association or the small number of stock owned within a particular borough by a larger association.¹⁷⁶ On the other hand, Mr Winter—from the Social Landlords Crime and Nuisance Group—denied forcefully that social landlords were responsible and placed the blame at the feet of social services departments:

In preparation for coming here I asked some members for their views and anything I should express, and one view expressed quite commonly was the difficulty in making that contact and keeping in contact with YOTs and social services, and the fact that they may be invited to meetings and not show. That was very frustrating. I have to ask, I think, whether or not the duty under section 16 and 17 of the Crime and Disorder Act is being complied with.¹⁷⁷

130. This leads on to the final barrier in the way of more effective joint working. We have received substantial evidence that the effectiveness of the local response is being undermined by the unwillingness of some groups to commit to tackling ASB, especially where it is perpetrated by young people. We have already noted evidence relating to the unwillingness of some social services and health agencies to share information (see paragraph 125 above) and the reluctance of some social services and education departments to participate fully in CDRPs (see paragraphs 121–122 above).

131. ACPO argued that:

Disagreements 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 response

173 Q 557

174 See Ev 35, HC 80-II (Crime Concern). Barnado's point to the guidance at Ev 14, HC 80-II.

175 Ev 144, HC 80-II. County Durham Youth Engagement Service similarly argued that “Youth Offending Teams and their partners are ideally placed to provide this support and it is therefore crucial that they are party to all ABCs [acceptable behaviour contracts] and resourced sufficiently to carry out this work” (Ev 29, HC 80-II).

176 Ev 65, HC 80-II

177 Q 478

to identified need, they give us our best chance of diverting vulnerable young people from later crime.¹⁷⁸

It recommended that fully integrated local strategies should 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”.¹⁷⁹

132. Earlier in this section, we noted that organisations have tended to have differences in emphasis in terms of characterising the perpetrators of ASB, and argued that it is likely that these differences not only colour the belief as to what is most appropriate by way of response to ASB, but in addition, have impacted upon that response on the ground. Ms Rhodes from the Family Welfare Association acknowledged to us that this has been a problem:

I think that we, in the voluntary sector, who are not youth justice orientated have got to do a huge piece of work in catching up. Suddenly there is a whole new lexicon that has been acquired by our colleagues and we are not up to speed with it, so we have to think about that.¹⁸⁰

133. Mr Pilkington expressed the challenge succinctly:

Is a mental health social worker going to be happy talking to a police sergeant when one is looking at treatment and health issues and the other is talking about possible enforcement proceedings?¹⁸¹

134. It is clear that different philosophies, methods and tactics are having a deleterious effect on the response to ASB at a local level. Too often, in our view, the focus appears to be on the needs of those who commit ASB rather than on the victims of their behaviour. The irony is that this very focus is also failing the perpetrators. Later in this section, we adduce substantial evidence showing that not only has this focus hampered efforts to tackle ASB effectively, but it has actually also led to perverse outcomes, with support needs of perpetrators sometimes going unaddressed.

135. We were disappointed to hear that social services departments and other key players such as local education authorities, the Children and Adolescent Mental Health Service, Youth Services and some children’s NGOs are often not fully committed to local ASB strategies. The failure to attend meetings of Crime and Disorder Reduction Partnerships is just one symptom of this. All these organisations are, or should be, working with many of the same young people: as the Association of Directors of Social Services has pointed out, anti-social young people frequently also have support needs. Whether these organisations are unable or reluctant to engage, it cannot be in the best interests of the young people they serve. We discuss at paragraphs 171-72 and 370-71

178 Ev 5, HC 80-II. Indeed, we have come across several instances of this “labelling” argument. See e.g. Ev 14, HC 80-II (Barnado’s), Ev 88, HC 80-II (Nacro) and Ev 91, HC 80-II (National Association of Youth Justice). On the other hand, Ms Roberts—Birmingham Youth Offending Service—told us that this was one of her initial concerns “but, often, they were already labelled. They are often out of schools”. See Q 43.

179 Ev 4, HC 80-II

180 Q 7

181 Q 39

how some of the problems faced by social services could be overcome. But to the extent that non-participation reflects a rejection of the current ASB strategy as too punitive, social services and others are foregoing the chance actually to influence the way in which it is carried out at local level.

136. It is clear that there are a number of misconceptions about the scope of data protection legislation. There is a need for some simple user-friendly guidance in this area, and we recommend that the Government should do more to publicise what it has already produced, disseminating its step-by-step guide to *all* agencies which have a responsibility for tackling ASB. We conclude also that section 115 of the Crime and Disorder Act is not having the desired effect. We recommend that the Government considers, as part of its review of that legislation, changing the power to share information into a duty in specified circumstances.

137. There is a clear need for youth offending teams to be involved in the response to young people who behave anti-socially—especially when formal measures are used. We were concerned to learn that Youth Offending Teams are not always consulted by those taking out an ASBO. We believe that they should be consulted as a matter of course before an application for an ASBO is made: not as a veto, but to ensure that sufficient thought has been given to support needs and to ensure that other measures are also taken if appropriate.

138. Overall, we conclude that more could be done to aid a joined-up response to ASB at local level. We recommend that the Government looks closely at ways in which performance regimes can be amended to reward partnership working. We welcome the Government's provision of funding for ASB co-ordinators—the introduction of these has often made a significant difference at local level—and recommend that it works to improve their performance through targeted national seminars and best practice guidance. We further recommend that the Government hosts a conference specifically for the voluntary sector to improve its response to ASB at local level.

Measures available to combat anti-social behaviour by young people

139. As we have made clear, we do not believe that it is useful to divide the response to ASB into separate categories of “prevention” and “enforcement”. Instead, there is a menu of options that can be used in order to combat unacceptable behaviour by young people, and the best local authorities are likely to use most or all of these in combination.¹⁸² The options for anti-social young people include diversionary schemes, family-based interventions and parenting orders, individual support orders, acceptable behaviour contracts, anti-social behaviour orders and dispersal powers. In this section, we consider each of these in turn.

Diversionary schemes

140. Diversionary schemes fall into three main groups. First, there are a number of Government initiatives that are specifically focused on children most at risk of offending or

¹⁸² This includes not just legal support measures such as individual support orders being used in conjunction with anti-social behaviour orders, but also the more informal measures being used together. An example pointed out to us is the use of Youth Inclusion Programmes in conjunction with acceptable behaviour contracts. See Q 54.

ASB. Second, there are wider Government initiatives, directed towards all children, that may also have the effect of helping to reduce ASB. Third, there are a number of schemes run by the voluntary sector that are aimed at reducing ASB and helping children in need. In this section, we focus on the first category—Government initiatives that are aimed specifically at reducing ASB. In doing so, however, we are keen to dispel any impression that other diversionary schemes do not play a valuable role. On the contrary, we heard compelling evidence as to the positive impact of voluntary schemes such as the Youth Works scheme in Bridgend—which achieved a 56% reduction in youth nuisance within two years—and of necessary Government measures such as increasing sport in schools and improving lighting in parks.¹⁸³

141. Some of the main Government initiatives to reduce ASB through diversion and support are summarised in the following table:

Behaviour Improvement Programmes: support for children most at risk of exclusion, truancy, criminality and anti-social behaviour examples, with the particular aim of improving poor behaviour and attendance.

Positive Futures: multi-agency projects that offer opportunities in areas such as sport, education or training and employment to young people living in deprived areas.

Positive Activities for Young People: diversionary and developmental activities for young people during school holidays and after school.

Sure Start: childcare and parent support specifically for 0-4 year olds and their families in areas of high deprivation.

Youth Inclusion Programmes: detached youth work and support for 13-16 year olds most at risk of offending in 70 of the most deprived/high crime estates in England and Wales. The Home Office recently announced that these would be extended to a further 30 areas.

Youth Inclusion and Support Panels: targeted support for 8-13 year olds at risk of offending or committing anti-social behaviour.

142. We received compelling evidence that Youth Inclusion Programmes (YIPs) and Youth Inclusion and Support Panels (YISPs), in particular, can have a very large impact on reducing ASB. Mr Howard—Chief Executive of Crime Concern, which has been directly involved with operating diversionary schemes on the ground—pointed to the success of both YIPs and YISPs nationally, with a 40–60% reduction in arrests. He also told us that the Government is not providing enough by way of funding:

These are incredibly effective early intervention measures. The problem is that, in the last spending review, I do not think that it is a State secret that the Youth Justice Board argued for at least 200 of these programmes to be put in place around the country. There are currently around 70. To a great fanfare, an announcement was

¹⁸³ See Qq 48–53 and Qq 60–63. See also Ms Hibbert’s arguments at Q 438.

made that there was a 50% increase; but a 50% increase of 70 is 30—and there are 100.¹⁸⁴

143. This was echoed by Professor Morgan, Chair of the Youth Justice Board, who also provided us with a precise indication of what is needed:

We have pioneered the development of a number of early prevention schemes which seek by one means or another to identify children who the key services perceive to be at risk of persistent crime or becoming criminal. That will include, incidentally, quite a lot of what will pass for anti-social behaviour. There is no clear-cut boundary between those two. There have been cost benefit evaluations of that and all the evidence shows that they are highly effective in reducing offending, reducing the seriousness of offending and the frequency of offending and the likelihood that children subject to those targeted interventions will subsequently be arrested. [...] There are relatively few of these projects. We are talking about 200/250 in the country. The Home Secretary has announced that there is going to be increased funding for those projects. We think there are possibly 1,300 difficult neighbourhoods / estates that could benefit from such schemes and at the moment we have a couple of hundred, so we could do with a lot of that.¹⁸⁵

144. We asked the Minister of State for Crime Reduction, Policing, Community Safety and Counter-Terrorism, Ms Hazel Blears MP, why more funding has not been made available for these programmes. She replied that “resources, inevitably, are limited; we do not have a bottomless pit and we have to decide where to target our resources where they can be most effective”.¹⁸⁶ She added that it was “relatively early days to be saying that this is the best and, almost, the only way of dealing with these issues; there is a whole range of diversionary activities that young people are involved in”.¹⁸⁷

145. However, these particular programmes differ from other diversionary activities because they are targeted at those young people most at risk and likely to act anti-socially or offend. Moreover, the success of the Youth Inclusion Programme in particular has been confirmed by an independent evaluation of its first three years.¹⁸⁸ This found that arrest rates for the 50 young people considered most at risk of crime in each programme had been reduced by 65%; that of those who had offended before joining the programme, 73% were arrested for fewer offences after engaging in a YIP; and that of those who had not been arrested previously but who were at risk, 74% did not go on to be arrested after engaging with a YIP. It also found that the seriousness of subsequent offences decreased.

146. We welcome the introduction of targeted diversionary and support schemes such as Youth Inclusion Programmes and Youth Inclusion and Support Panels. All the indications are that these schemes are extremely successful and cost-effective in terms of their impact upon ASB. In Section 6, we consider whether there might be scope for additional funding in relation to these.

184 Q 307

185 Q 438

186 Q 535

187 Q 538

188 Morgan Harris Burrows, *Evaluation of the Youth Inclusion Programme*, 2003, p10

Family-based interventions

147. To deal with failures of parenting, which often occur in cases of ASB by young people, parenting contracts and parenting orders are available. Parenting contracts are voluntary written agreements with the aim of preventing the child or young person from engaging or persisting in ASB or criminal conduct.¹⁸⁹ According to Home Office figures, 659 parenting contracts were agreed between April and December 2004, and there were also a further 4,551 voluntary parenting interventions.¹⁹⁰ Parenting orders, on the other hand, are coercive in nature (breach is a criminal offence, subject to a fine up to level 3), and can be imposed by a criminal court, family court or magistrate's court where:

- a child safety order has been made (i.e. for children under the age of 10);
- an ASBO or sex offender order has been made in respect of a child or young person;
- a parent has been convicted of failing to ensure their child attends school;
- a child or young person has been convicted of an offence; or where
- a referral order is made and a Youth Offender Panel refers a parent back to court for failing to attend panel meetings.

148. In addition, parenting orders are available on application to the adult magistrates' court by:

- a Youth Offending Team, where a child or young person has engaged in criminal conduct or anti-social behaviour and has been referred to the YOT;
- a local education authority, where a child has been excluded (permanently or for two fixed periods) from school on disciplinary grounds, or has truanted.

149. The core element of a parenting order tends to be a requirement of attendance at a parenting programme designed to help parents address their child's or children's misbehaviour.¹⁹¹ In addition, specific requirements can be imposed according to individual circumstances in order to help prevent reoffending: for instance, parents might be required to escort their child or children to and from school every day to ensure attendance, or to ensure that a child is at home during certain hours.

150. Since 27 February 2004 the courts have been able also to require a parent or parents to attend a residential parenting course, provided that it is likely to be more effective than a non-residential course and that any interference with family life is proportionate.¹⁹²

¹⁸⁹ They are similar in nature to acceptable behaviour contracts, but with statutory backing (section 25 of the Anti-social Behaviour Act 2003).

¹⁹⁰ Ev 228, HC 80-III

¹⁹¹ For an evaluation of the Youth Justice Board's parenting programme, see Ghate and Ramella, *Positive Parenting*, 2002.

¹⁹² section 18 of the Anti-social Behaviour Act 2003. These conditions are designed to ensure that the order is compatible with the requirements of Article 8 of the European Convention on Human Rights (the right to respect for private and family life).

151. C'mon Everybody—an organisation that delivers parenting programmes—described its work in piloting parenting orders:

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 the 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, [...] they must have gained some value by attending otherwise I am sure they would have packed up at the earliest opportunity.¹⁹³

152. Barnado's added that parents attending their programmes were "predominately mothers, a significant minority 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".¹⁹⁴ It argued that work with parents was an important preventative measure, and was particularly effective when used in relation to children at risk of anti-social or offending behaviour rather than post-conviction.¹⁹⁵

153. Other witnesses backed the effectiveness of parenting orders. Ms Rhodes, from the Family Welfare Organisation, told us that there were two main categories of family with which she worked: there were "the ones who are prepared to change, adapt and grow and use the regulatory mechanisms and the ones who are beyond it, who need to understand the consequences".¹⁹⁶ ACPO argued that "evidence suggests that ASBOs are most effective when combined with Parenting Orders".¹⁹⁷

154. On the other hand, Ms Hitchen, from the Association of Directors of Social Services, questioned whether a coercive order was normally necessary, telling us that "offering parents parenting help is a positive thing and a lot of parents would welcome that but I do not think you necessarily need an order to do that".¹⁹⁸

155. In addition, we heard from several witnesses that funding for parenting orders is inadequate. For instance, the Magistrates Association argued that:

When making an ASBO in respect of young people under-16, [magistrates] 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.¹⁹⁹

193 Ev 44, HC 80-II

194 Ev 15, HC 80-II

195 This was echoed by C'mon Everybody at Ev 44, HC 80-II.

196 Q 67

197 Ev 8, HC 80-II

198 Q 443

199 Ev 84, HC 80-II

This matched the observations of Ms Roberts from Birmingham Youth Offending Service, who told us of the variety of funding streams—including using some core funding from the Youth Justice Board, Social Services and education—and the insufficient and short-term nature of some of this funding, adding that “it is not something I know is always there, you are always having to think ‘Have I got money for this and where can I get some more if I lose it?’”.²⁰⁰ The Local Government Association also argued that funding is “inadequate”.²⁰¹

156. These arguments appear to be reflected in the relevant figures. Between April and December 2004, a total of 1162 parenting orders were made. But only 41 parenting orders were applied for by YOTs and only 13 by Local Education Authorities. Ms Hazel Blears MP told us that the Parenting Orders that are attached to ASBOs have been funded and classes are in place, yet between May and December 2004, only 20 Parenting Orders were made in conjunction with ASBOs. The vast majority of parenting orders were made following criminal convictions.²⁰²

157. In some cases, it is not just the child who is engaging in ASB, but his or her entire family. In these cases, a parenting order or contract may be less appropriate than a range of informal techniques.²⁰³ One such technique is family group conferencing. These are now offered to families in a wide range of circumstances by a number of different organisations, including local authorities, youth justice agencies and welfare organisations. Guidance material, published by a group of welfare organisations, describes the main features of family group conferences:

Family group conferences are a way of giving families the chance to get together to try and make the best plan possible for children.

The decision makers at a family group conference are the family members, and not the professionals. It is here that the mother or father or aunt or grandfather get together with the child or young person and the rest of the family to talk, make plans and decide how to resolve the situation.²⁰⁴

158. Ms Rhodes, from the Family Welfare Association told us that family group conferencing can be “remarkably effective”, although much depends on the family:

You say to a family "Let us get you all into one room so that everybody can bring to bear their ideas about the problem" and it is the professionals who are sitting outside waiting anxiously to hear what they will be summoned in to offer. Suddenly they will say "We want to see the social worker" and the social worker will come into the room and the family will say "What we want is respite care, one day a month, could you organise that? We have got a package we think will work if this child can have respite care say over a weekend or if we could all have a holiday together". It is a negotiated

200 Q 64

201 Ev 79, HC 80–II

202 Q 543 and Ev 228, HC 80–III. The Home Office expects that “numbers will increase as practitioners become more aware of the use of parenting orders linked to ASBOs and more familiar with them”.

203 The Family Welfare Association described to us its work with a real family and the use of techniques such as the use of videos to highlight parenting issues. Its Home Based Family Support is also commended in *Respect and Responsibility*, Cm 5778.

204 Barnardo's, Family Rights Group and NCH, *Family Group Conferences: principles and practice guidance*, 2002

contract process. It can be very effective for a group of families who are able to negotiate. It is not particularly useful for families who thrive on conflict, high expressed emotion, and where it is hard to regulate behaviour.²⁰⁵

The Association of Directors of Social Services backed interventions such as family group conferencing, arguing that these were preferable to imposing a parenting order.²⁰⁶

159. Poor parenting is often an important factor in ASB by young people. We note the observation by Barnado's that in many cases parents have been seeking help with their children's behaviour for some time, but assistance is rarely given. Whilst funding has been made available for all parenting classes attached to ASBOs, there is more limited provision for parenting classes as an earlier preventative tool.

160. We welcome the introduction of parenting orders: it is apparent that a coercive approach is sometimes necessary and can ultimately be of great benefit to the parents concerned. However, they are underused. We conclude that, although some concern has been raised about levels of funding, the main reason for this is that not everyone is committed to the notion that a coercive approach is sometimes necessary in order to help people to help themselves. Whilst family group conferences and other informal techniques can be successful, we believe that there must be a place also for a coercive order.

Individual support orders

161. Individual support orders (ISOs) were created by section 322 of the Criminal Justice Act 2003 for 10–17 year olds subject to ASBOs. ISOs are civil orders and became available on 1 May 2004. There is no formal procedure for applying for an ISO: the court can decide to impose one, or else the complainant might request one, in conjunction with an ASBO. The making of an order is mandatory where the court considers that the criteria for doing so are met.²⁰⁷

162. ISOs are intended to supplement the prohibitions of ASBOs with targeted positive requirements: for example, the order can require counselling for substance misuse or behavioural problems. Orders may last for up to six months and can require a young person to attend up to two sessions a week. Breach of the order without reasonable excuse is a criminal offence punishable by anything up to a level 3 fine (£1,000), thus mirroring the provisions relating to parenting orders, although the maximum fine is £250 for children under the age of 14 at the time of conviction.²⁰⁸

163. Many organisations told us that ISOs were potentially of great benefit. For instance, the Magistrates Association told us that they should be granted as a matter of course by magistrates if satisfied that they would help prevent repetition of the behaviour.²⁰⁹ The

205 Q 68

206 Ev 11–12, HC 80–II

207 The criteria are that an ISO would be desirable in the interests of preventing further ASB, that the defendant is not already subject to an ISO and that arrangements for implementing ISOs are available in that local area. See section 1AA of the Crime and Disorder Act 1998 (as introduced by section 322 of the Criminal Justice Act 2003).

208 In practice, it tends to be parents who are responsible for paying any fines for all children under 16.

209 Ev 84, HC 80–II

Local Government Association “warmly welcomed” them, arguing that their approach “fits firmly with the LGA vision to reducing anti-social behaviour”.²¹⁰

164. Others questioned whether ISOs were sufficient. For instance, County Durham Youth Engagement Service argued that the maximum length of ISOs of six months, with two sessions per week “may be insufficient to provide adequate measures of supervision and support”.²¹¹

165. The Home Office explained why, in its view, it would not be possible significantly to extend the length of ISOs:

The ISO provides a means by which a 10–17 year old with an ASBO receives interventions that address the cause of their anti-social behaviour. An order lasting 6 months was considered reasonable and proportionate with human rights legislation. To compel an individual to receive support on a longer term basis would infringe on their liberty and be considered a penalty rather than a support initiative.²¹²

166. The Home Office’s argument seems to us less than compelling, given that an ASBO is also defined in legal terms as a preventative, rather than a punitive, measure, that these can limit, for instance, freedom of movement and association, and yet last for a minimum of two years without any apparent incompatibility problems (although we recognise that ASBOs may only contain negative obligations whereas ISOs require positive steps to be taken). More convincing was the Home Office’s further argument that “in addition there is an expectation that the underlying causes of the anti-social behaviour—such as drugs, alcohol or anger management problems—should improve significantly over 6 months and therefore remove the requirement to continue receiving the support an ISO offers”.²¹³

167. The real problem again appears to be one of resources. Ms Roberts, from Birmingham Youth Offending Service, told us that ISOs had not been used in the West Midlands explaining as follows:

In terms of the legislation the responsible agencies are education, youth offending service or social services. As it is we have not set up any resources or any structures for that order. There is not any new funding; initially the Youth Justice Board said there was probably going to be funding. The Home Office Anti-social Behaviour Unit said the Youth Justice Board had the money and then we were told to go to our Crime and Disorder Reduction Partnerships. I have acquired some funding and with the Home Office money for this pilot, we will be able to offer a very limited service in the future.²¹⁴

Professor Morgan agreed that the number of ISOs has “so far been rather small and there is a funding problem”. He told us that “the original understanding about funding here was that the number of ASBOs to which they might be attached was going to be much lower

210 Ev 80, HC 80-II

211 Ev 29, HC 80-II

212 Ev 171, HC 80-III

213 *Ibid.*

214 Q 74

than is now the case”.²¹⁵ His points appear to be supported by the available figures: between May and September 2004, only 5 ISOs were made.²¹⁶

168. On the other hand, Ms Hazel Blears, MP, told us that each order costs an estimated £1,500 and that the Youth Justice Board had agreed to absorb £500,000 for these orders within its mainstream budgets. She also backed the notion that ISOs should be linked to ASBOs, arguing that this was “a more integrated way of looking at some of these problems”.²¹⁷ More generally, Ms Blears talked about the need for local authorities and agencies to re-focus their efforts and their expenditure:

We have never pretended that the Home Office money is going to solve the problem of anti-social behaviour because a lot of this is about local authorities and local agencies refocusing their efforts on tackling these problems: [...] refocusing their activities and their existing expenditure.²¹⁸

169. We asked Ms Hitchen, from the Association of Directors of Social Services, whether the fact that social services departments had not resourced ISOs (even though their budgets are not ring fenced, and this would be an option for them) was an indication that they are not engaged with dealing with anti-social young people. Ms Hitchen answered:

Many YOTs are part of social services and will be engaged with them but also they have a number of other initiatives to deliver. There is a question both for the YOTs and for the mainstream social services of how you divide up your resources. Social services departments are also working with children and child protection issues and delivering a front line service. They are also in the middle of implementing the Change for Children agenda which is a huge agenda. If you look at children’s services funding and the surveys done by the ADSS each year on that funding, you will see how much of that is taken by placements and associated costs of children looked after. There are real difficulties there about delivering what you might call the core functions both of the social services departments and of the YOTs that have already been set, a lot of which have been funded particularly through the Youth Justice Board with discrete streams of money for a particular preventative programme. The ISOs have not. That is the difficulty.²¹⁹

In response to an earlier question, Ms Hitchen also accepted the notion that in the majority of cases where an ASBO is issued to a young person, there will have been little or inconsistent prior involvement by social services.²²⁰

170. We welcome the introduction of individual support orders (ISOs): these usefully complement the aims of ASBOs in preventing ASB. We note, however, that take-up of these is not matching expectations. We believe that there are two main reasons for this.

215 Q 446. See also the written submission of the Youth Justice Board at Ev 149, as well as that of County Durham Youth Engagement Service at Ev 29, HC 80-II.

216 Ev 229, HC 80-III. The Home Office “expects that numbers will increase, as practitioners become more aware of the existence of ISOs and more familiar with their use”.

217 Q 540

218 Q 545

219 Q 449

220 Q 435. This was echoed by Professor Morgan at Q 439.

First, it is becoming accepted that ISOs should be used more widely than was originally anticipated, yet funding has not risen to match this. We consider how Government should respond in Section 6.

171. **Second, we have noted at paragraph 135 above our concern about the non-participation of social services and other agencies in ASB strategies. We recognise the strain on the budgets of social services departments and we recognise that they may often, quite legitimately, have other priorities. Nonetheless, the failure to participate is likely to undermine the success of ASB work and lead to young people not getting the assistance they require. We recommend that the Government should review urgently the barriers to participation and identify ways they can be overcome.**

172. **There is clearly very substantial investment by central government that is, or could be, designed to support young people likely to be involved in ASB, but this is distributed through a multiplicity of channels and departments. Some like Positive Futures, the Behaviour Improvement Programme and Connexions are designed for young people. Other generic funding streams like Neighbourhood Renewal might be expected to contribute to ASB strategies. We have two concerns: first, that there do not appear to be mechanisms in some cases to ensure that the young people who participate in these programmes are those in the greatest need of support; second, that little of this funding seems to be made available through social services even though they carry most criticism for not supporting ASB work. We consider further what the Government should do in relation to funding streams in Section 6.**

173. **Given the concerns expressed by the ADSS amongst others that the Government's ASB strategy is currently too punitive, we are somewhat disappointed that social services are not making greater efforts to fund support measures such as ISOs and Parenting Orders. We recommend that social services departments reconsider whether, by attaching greater importance to tackling ASB, they could actually achieve more in relation to perpetrators with support needs than they are doing at present.**

Acceptable behaviour contracts

174. **Acceptable Behaviour Contracts (ABCs) are written voluntary agreements between individuals (usually young people between 10 and 18) and the police or a number of other agencies. They have no statutory basis, but were introduced originally in Islington as a way of ensuring that ASBOs would be imposed only as a last resort. Whilst they have no direct legal effect, a breach may be used as evidence in a subsequent application for an ASBO.**

175. **Sergeant Dunn, who was instrumental in setting up the scheme in Islington, cited recent figures suggesting that ABCs have become a central part of the response to ASB—especially ASB by young people. In particular, he noted that over four in five CDRPs are using ABCs, with an estimated 5,383 agreed in the last year.²²¹ He suggested a number of reasons why ABCs have become so widespread, pointing to advantages of the informal approach in educating anti-social young people as to what was meant by ASB and persuading them to take responsibility for their unacceptable behaviour, the promise of a**

221 Ev 155, HC 80-III

sanction in the event of breach (threatening tenancy rights), and their flexibility allowing partnerships to intervene quickly. In respect of this last point, Sergeant Dunn argued:

Prominent individuals can be signed up within a matter of days rather than the months it takes to apply for orders through the courts. The scheme quickly identified that a pattern of underlying risk factors and social issues were at the root of bad behaviour and the scheme needed other agency involvement to assist in a more holistic problem solving and information sharing approach.²²²

176. The Home Office published a report earlier this year which evaluated the impact of the Islington scheme.²²³ This concluded that young people were less likely to come to the attention of the police and housing officers once they had been given a contract, that even those young people who continued with ASB and criminal offending were doing so at a reduced rate when under contract, and that overall 57% of contracts were not breached and 19% breached only once in a six month period. However, police and housing officers could not always be aware if contracts had been breached and there were some concerns that contracts were not enforced. Sergeant Dunn's evaluation of the scheme was even more upbeat: he told us that "as far as serious breaches where we had to take further action, we had almost a 98% success rate with the first 400. Not one of those ABCs resulted in any enforcement action being taken".²²⁴

177. Several other witnesses told us that ABCs were successful and should be used as part of a tiered approach, leading to ASBOs if breached. Mr Winter, from the Social Landlords Crime and Nuisance Group, told us that they became widely used "simply because they were working, and it was very much the experience that this was the first time that young people were being asked to address their behaviour".²²⁵

178. In its guidance document, the Home Office sets out the proper relationship between ASBOs and ABCs:

It is important that all concerned should understand that ASBOs and ABCs are in no sense competing for business. Both are potentially extremely powerful tools for dealing with cases of anti-social behaviour, and it will be very much a matter for the individual practitioner to decide which of them it might be appropriate to go for in any particular case. It is particularly important to dispel any impression that anti-social behaviour orders should be regarded as measures of last resort, only to be tried when other interventions such as acceptable behaviour contracts have already failed.

When an ABC is selected as the best option, it is recommended that it should contain a statement that the continuation of unacceptable behaviour may lead to an application for an ASBO. Where a contract is broken, that should be used as evidence in the application for an ASBO. It may also be possible to use the evidence

222 *Ibid.*

223 Bullock and Jones, *Acceptable Behaviour Contracts addressing antisocial behaviour in the London Borough of Islington*, Home Office Online Report 02/04, 2004

224 Q 165

225 Q 460

of anti-social behaviour which was originally collected for the ABC in any subsequent ASBO application.²²⁶

179. However, Manchester City Council does not use ABCs at all. It explained to us that, in relation to young people, it conducts formal warning interview, confirmed in writing. It argued that “because we have the justified reputation of taking legal action whenever necessary, our warnings are heeded more often than not”—indeed, in two-thirds of cases the warning is sufficient to stop the anti-social behaviour. It further argued:

Our observation of other areas’ use of ABCs does not lead us to consider adopting them. These areas do not use Injunctions or ASBOs and the ABC offers nothing to witnesses other than a potential prolongation of their distress.²²⁷

180. However, pressed further in oral evidence, Mr Lee from the Council told us that his main objection was not to ABCs *per se* but in relation to the reaction to a breach of an ABC: in short, “so long as there is a consequence”, he had no fundamental objection.²²⁸

181. We welcome the development of acceptable behaviour contract (ABC) schemes, which seem to have the multiple advantages of being cheap, easy to administer and apparently remarkably successful. We are clear though that these need to be used in appropriate cases rather than automatically as a first resort, and agree with the current guidance of the Home Office which is explicit on this point. We believe that the current approach is also correct in not placing ABCs on statutory footing: even those local authorities which do not use ABCs often tend to use warning interviews or similar written agreements. It is right to leave the exact details for individual authorities.

182. Our main concern in relation to ABCs is that there must be consequences for breaches for the sake of the victims of those breaches. We recommend that the Home Office commissions research to establish whether ABCs are being used in place of enforcement action, or whether they are indeed being used as part of a graduated approach to unacceptable behaviour.

ASBOs

183. The power to apply for an anti-social behaviour order, or ASBO, was introduced by section 1 of the Crime and Disorder Act 1998. The following authorities can apply for an ASBO to be taken out:

- Police
- Local authorities
- Registered Social Landlords (RSLs – through s64 Police Reform Act 2002)
- British Transport Police

226 Home Office, *A Guide to Anti-social Behaviour Orders and Acceptable Behaviour Contracts*, 2002

227 Ev 184, HC 80–III. Similarly, Mr Pilkington told us that Salford City Council refers to ABCs as “promises, which is the same thing”. See Q 71.

228 Q 168. Although Mr Lee did contrast ABCs unfavourably with ASBOs, arguing that ASBOs are the only orders that are entirely for the community, and not for the perpetrator.

- Housing Action Trusts
- County councils

184. In its written memorandum, the Home Office set out the main features of an ASBO:

ASBOs are civil orders, similar to injunctions. They prohibit individuals from specific anti-social actions and are available for any person aged ten 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.²²⁹

185. In fact, this description slightly understates the scope of an ASBO. Whilst an ASBO is indeed likely to prohibit specific anti-social actions, it can also prohibit any action judged as necessary to prevent further ASB. It can thus include, for instance, prohibitions against entering particular areas, congregating with particular people, or even wearing particular items of clothing. Examples of actual ASBOs are provided in an appendix to this report.

186. From a legal perspective, this flexibility as to the terms of an ASBO is strikingly similar to the injunctive remedies available in the civil courts, but there is one particular innovation: its combination of elements of civil and criminal procedure. The order itself is a civil order obtained through civil proceedings, with implications especially for rules of evidence, as well as for public funding.²³⁰ However, breach of an ASBO is a criminal offence, punishable by imprisonment for up to five years.

187. According to Home Office data, a total of 3,826 ASBOs had been made from their introduction in April 1999 to September 2004, with 2,186 of these made in 2003–04.²³¹ The following table and graph indicates vividly the way in which take-up of ASBOs has increased significantly since the start of 2003, coinciding with the establishment of the Home Office Anti-social Behaviour Unit.²³²

Period	Number of ASBOs taken out
April 1999 –March 2001 (two years)	317
April 2001 –March 2002	321
April 2002 –March 2003	492
April 2003 –March 2004	1,323
April 2004 –September 2004 (six months)	1,813

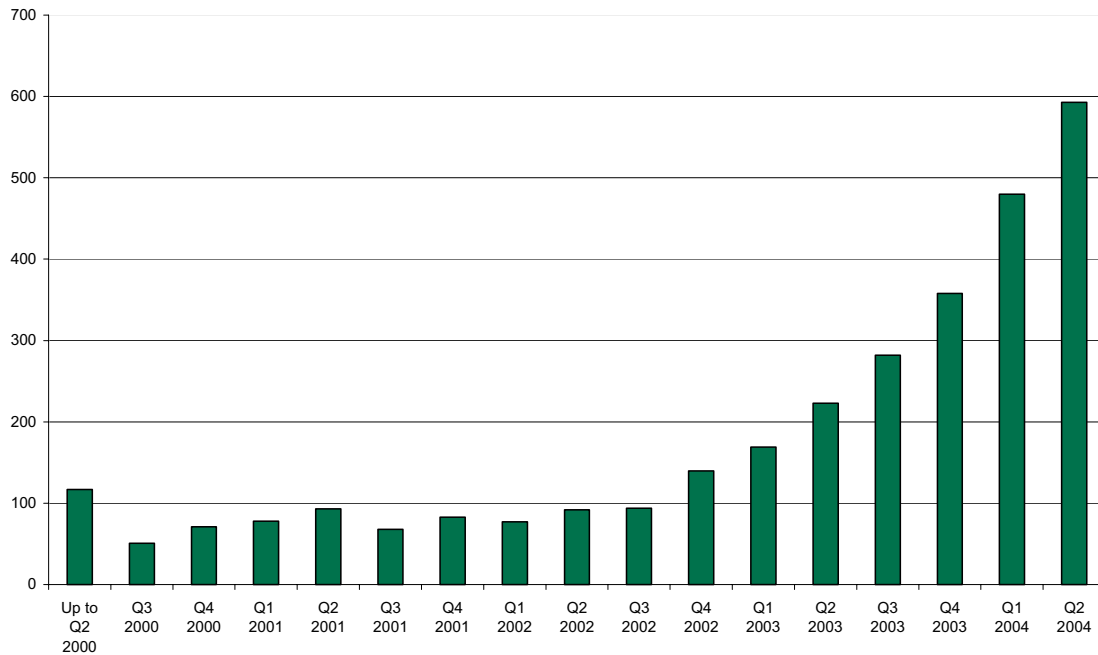
229 Ev 50, HC 80–II

230 For instance, hearsay evidence is admissible in civil proceedings but not criminal.

231 i.e. October 2003 to September 2004. See Home Office Press Release 042/2005 (1 March 2005).

232 HC Deb, 21 Dec 2004, col 1541W. The table was also provided to us by the Youth Justice Board: see Ev 146, HC 80–II. The increasing take-up also coincided with the coming into force of the amendments to the scheme introduced by the Police Reform Act 2002.

ASBOs issued per quarter in England and Wales



188. There has been a very large variation in the use of ASBOs across the country. For instance, a person is 12 times more likely to receive an ASBO in Greater Manchester than in Lincolnshire. There is a similar variation in terms of the number of ASBOs made in relation to particular age groups. It is estimated that 56% of ASBOs made in Magistrates Courts between April 1999 and September 2003 related to under 18s; however, the local figures ranged from 33% in Bedfordshire and Derbyshire to 100% in Dorset.²³³

189. In terms of the number of ASBOs breached, the Government has released figures up to December 2003. These indicate that there were just under 800 breaches altogether from June 2000 to December 2003—42% of the ASBOs issued. Of these breaches, 437 resulted in prison sentences. In most cases, however, it was rare for custody to be imposed for the breach alone—93% of custodial sentences imposed for breach of ASBO were also being imposed for other offences.²³⁴

190. The figures on breach need to be treated with a little caution: inevitably they only relate to those cases in which breach is detected and further enforcement action is taken. Even so, the figure of 42% compares well with other juvenile justice measures. An estimated 50% of Detention and Training Orders are breached.²³⁵ Referral orders are breached in 39% of cases.²³⁶ Intensive Supervision and Surveillance Programmes have a breach rate of 60%.²³⁷

233 Source: House of Commons Library

234 Home Office Briefing Note, March 2005

235 Youth Justice Board, *Detention and Training*, 2002

236 Cap Gemini Ernst & Young, *Referral Orders: research into the issues raised by the introduction of referral orders in the Youth Justice System*, 2003

237 Youth Justice Board, *ISSP: the initial report*, 2004

191. During the course of the inquiry, we heard extensive criticisms of ASBOs, from a number of sources, including children’s charities, think-tanks and civil liberties organisations. The following criticisms came up repeatedly:

- ASBOs blur the boundaries between civil and criminal law, with implications both for human rights, and for the possibility of a twin-track approach under which someone can be given an ASBO in response to criminal behaviour that— in a different part of the country—might lead to criminal prosecution;
- The use of ASBOs against young people runs the risk of net-widening: bringing more young people into contact with the criminal justice system, and especially increasing the number of young people in custody;
- ASBOs have been used inappropriately and several have included unrealistic conditions that have invited breach,
- ASBOs are ineffective in reducing ASB, because they are negative and do not address young people’s support needs;
- The practice of enforcement by publicity, or ‘naming and shaming’ is inappropriate and puts child safety at risk.

We deal with each of these concerns in turn, but note here that to some extent the specific points relating to ASBOs tend to reflect more basic perceptions. For some witnesses, an ASBO is seen essentially as a reactive punishment which serves largely to draw young people into the criminal justice system. For others, an ASBO is little different from an injunction which seeks to prevent rather than punish. Mr Winter, from the Social Landlords Crime and Nuisance Group, put this second view well: “they are asking people to amend their behaviour at the first stage—just a requirement to do what most people already do. In that sense they are not onerous”.²³⁸

“Boundaries blurred between civil and criminal law”

192. Although it was commonly argued that ASBOs blur the boundaries between civil and criminal law, we came across a great deal of confusion on this point. Several organisations wrongly thought that the standard of proof for ASBO hearings, because it involved the civil rather than the criminal standard, only required proof to be a bare “balance of probabilities”—i.e. 51%.²³⁹ In fact, following the *McCann* judgement, the standard of proof has been established as equivalent to the higher criminal law standard—i.e., “beyond reasonable doubt”.²⁴⁰ One organisation argued that it is wrong for a civil procedure to be used for breach proceedings, when the result of this could be incarceration. Again, this is inaccurate: proceedings relating to the *breach* of an ASBO are entirely criminal.

193. The Law Society recognised both points, but argued nonetheless that the ASBO procedures do raise human rights concerns:

238 Q 459

239 ADSS, Barnado’s, the Children’s Society, Rethinking Crime and Punishment

240 R v Crown Court at Manchester, ex parte McCann 17 October 2002 [2002] UKHL 39

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 [the right to a fair legal trial] 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 determining if the defendant is guilty of an offence, 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.²⁴¹

194. We note, however, that the House of Lords has already acknowledged and rejected this point (in the *McCann* case). Nor does the assertion of denial of article 6 rights, purely on the basis that the procedure is civil, hold water. If the assertion were correct, all county court injunction proceedings would breach article 6—a surprising proposition. In any event, the courts have repeatedly recognised that the victims of ASB also have human rights (principally under article 8) which they are entitled to vindicate. Even if the argument was valid that ASBOs involve a degree of punishment, this is true of all injunctive relief, and the priority must be to provide relief for and to protect the victims of the behaviour.²⁴² We agree with the comments of Mr Winter, National Organiser of the Social Landlords Crime and Nuisance Group:

On human rights, all the decisions of the courts have been indicative that we have got the balance right and nowhere is specified the fact that there is a community right. Most of the decisions made at court have understood the concept that the right of the individual is there, but that individual has not the right to impose his set of standards on the community at large and the courts have held such to date.²⁴³

195. The Home Office argued that the prospect of the same behaviour being treated variably through the civil or criminal route was not a matter for concern:

What is important is selecting the intervention that will best deal with the situation, providing an effective and swift remedy with further protection for individuals and the community.²⁴⁴

It added that injunctions and restraining orders had been used long before the new interventions were introduced, and that there are other fields in which civil and criminal remedies are employed together—for example, restraining orders or injunctions used in domestic violence cases alongside prosecution.

241 Ev 72, HC 80–II

242 This was backed by the Home Office at Ev 171, HC 80–III.

243 Q 517

244 Ev 168, HC 80–III

“Risk of net-widening”

196. Some witnesses expressed concern that ASBOs risk young children needlessly being brought into the criminal justice system. Others went further and argued that ASBOs have led to an increase in the use of custody for young offenders. The Howard League argued that this is counter-productive, likely to reinforce pre-existing tendencies towards criminality.

197. Between April 1999 and March 2004, 1,057 ASBOs were taken out against young people, approximately 45% of the total. Out of 850 ASBOs taken out against young people up to the end of 2003, 341 (40%) were breached. 179 of these (46%) resulted in custody, although only 30 young people were placed in custody solely for the breach of their ASBO—in all the other cases, custody was being imposed also for further offences.²⁴⁵ More recent, although limited, figures were given to us by the Youth Justice Board: these suggested that custody is becoming more common, with 195 young people entering custody either on remand or as their sentence as a result of an ASBO breach in the 18 week period between 3 May 2004 and 22 August 2004.²⁴⁶

198. Mr Neil Pilkington of Salford City Council told us that sometimes custody is a necessary outcome of persistent ASB—even if, on the surface, the relevant breach of the ASBO appears relatively trivial:

I do not see custody as being necessarily the outcome that we are looking for but it is saying, "You have reached the stage of having the ASBO because of serious and persistent conduct over a period of time" and the breach, even minor, now enables the court to put in far more significant resources from the YOT team to try and tackle that behaviour. People have been receiving custodial sentences for crossing the red line on the map and going into another area, and I know that causes concern, but the red line on the map can be outside the corner shop where they wreaked havoc for many years.²⁴⁷

199. The Youth Justice Board shared with us the findings of some recent research aimed at trying to get a profile of young people who breach ASBOs. Its most important findings were that:

- 95% of young people entering custody as the result of breaching an ASBO were already known to the Youth Offending Team.
- In the 43 cases where previous offence history was available, the young people had an average of 42 previous offences and, as such, would be considered prolific offenders.
- All the young people in this sample had been subject to various interventions prior to a custodial sentence.

245 Home Office Briefing Note, March 2005.

246 Ev 147, HC 80-II

247 Q 82

- On average the breach occurred within 6 months of the order being imposed. The majority of breaches involved restrictions with regard to geography and association with others.²⁴⁸

200. The Board cautioned against making firm conclusions from this research due to methodological limitations—a more robust follow-up study is due to be published in September 2005. In addition, Professor Morgan told us:

What we can ask from this study, because it was one of my key questions, is has the introduction of ASBOs as far as we can tell drawn into custody a lot of children who, prior to the introduction of ASBOs, would almost certainly not have got there? The best evidence so far is that is not the case. The most that might be the case is that they have been brought into custody rather quicker than would otherwise be the case. That shines through, but we need a much finer picture of how ASBOs are being applied in terms of conditions. We do not even know which specific conditions are being breached all the time here. We only know the broad outlines of that narrow sector of population.²⁴⁹

“Used inappropriately”

201. Several organisations argued that ASBOs have sometimes been issued in appropriate cases. For instance, the Howard League for Penal Reform drew our attention to the case of “Daisy”, who was 17 years old and “profoundly deaf”. She was issued with an ASBO for spitting, and on continuing to do so, was eventually remanded in custody and sentenced to an Intensive Supervision and Surveillance Programme for the breach of the ASBO.²⁵⁰ The Crime and Society Foundation also drew our attention to cases in which recipients of ASBOs appeared to have mental health problems.²⁵¹

202. In addition, we were provided with examples of ASBOs containing inappropriate conditions. These included:

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.²⁵²

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.²⁵³

203. Crime Concern argued that effective communication of the content of ASBOs was also important:

248 Ev 217–220, HC 80–III

249 Q 450

250 Ev 62, HC 80–II

251 Ev 132–3, HC 80–III

252 Ev 149, HC 80–II (Youth Justice Board)

253 Ev 27, HC 80–II (Children’s Society)

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 individual's life chances.²⁵⁴

204. We asked Professor Rod Morgan, Chair of the Youth Justice Board, whether it is common, in practice, for ASBOs containing inappropriate conditions to be issued. He replied:

Once again, I cannot answer the question definitively. My suspicion is that it is relatively uncommon. You will have noticed from our supplement that in those entering custody the YOTs report that they were not involved in a third of the cases in the ASBO breach proceedings. They had not been fully consulted. I think that is diminishing.²⁵⁵

205. We were told of several reasons for ASBOs being issued with inappropriate conditions. The Youth Justice Board referred to the scarce resources given to YOTs.²⁵⁶ Professor Morgan added that the failure fully to consult YOTs has also been a factor.²⁵⁷ Other witnesses blamed the failure of some mental health workers and social workers to engage with tackling ASB, arguing that their advice is critical in many cases and can help to avoid inappropriate conditions being sought.²⁵⁸ Mr Lewis, from the Crown Prosecution Service, told us that it has taken time for prosecutors to get used to the new orders, but that things are beginning to improve.²⁵⁹

206. Several organisations stated that the two-year minimum length of ASBOs was too long—especially in relation to children. The Association of Directors of Social Services noted that Referral Orders—often used for first-time criminal convictions—only last for between three months and one year.²⁶⁰ Ms Hibbert, representing Barnado's, agreed that two years was too long for a child, but argued that addressing the support needs of children subject to ASBOs is more important:

What we would like to see is some sort of guidance that says there has to be some assessment made of the child's ability to understand what is happening, to understand what the conditions are and to have some support in meeting those conditions, which is probably more important than the length of time. [...] If the purpose of an anti-social behaviour order is to stop anti-social behaviour, which we all assume it is, we really need to do everything to try and make sure that happens. It is not going to happen if we just make a long order on a child that bans them from

254 Ev 35, HC 80-II. The Children's Society also highlighted this issue of communication (see Ev 27, HC 80-II).

255 Q 451

256 Ev 149, HC 80-II

257 Q 451

258 Q 39 (Mr Pilkington). Q 478 (Mr Winter)

259 Q 401

260 Ev 11, HC 80-II

everything and does not give them any support in all the other areas that are going on in their lives.²⁶¹

207. On the other hand, Mr Lewis, representing the Crown Prosecution Service, told us:

On the whole we are only seeking these orders when the community has had a really difficult time and they want to see that there is a substantial order for a decent period of time, so they can have some respite from this. Also, if it is a young person and they do mend their ways then they can apply to vary the order. So we think that two years is about right, particularly so that we can say to the communities, “If we have responded to your problem we have a decent order for a decent length of time”.²⁶²

The Home Office added that “a minimum period of 2 years was made to reflect the need for the orders to bring respite to communities and for behaviour to be changed”, arguing also that “ASBOs are designed to protect the community not to punish the perpetrator; referral orders are for punishing and rehabilitating an offender. As such these are not directly comparable”.²⁶³

“Ineffective”

208. Several organisations argued that ASBOs were of little benefit, as they failed to address the support needs of many young people who commit ASB.²⁶⁴ In support of this argument, some pointed to the breach rate of ASBOs, which—according to the latest figures—stands at 42%.²⁶⁵ This is up from the previous figure of 36%.²⁶⁶

209. Professor Rod Morgan, Chair of the Youth Justice Board, argued that we do not yet have enough information to know the impact of ASBOs on young people and that most comment was based on anecdotal evidence.²⁶⁷

210. Other witnesses emphasised the fact that a 35% breach rate implied a 65% success rate.²⁶⁸ Martin Lee, from Manchester City Council, told us:

I want to say the ASBO is not for the perpetrator. Our ASBOs are 100% successful for the community and the witnesses. They are only 65% effective for the perpetrator, but that is pretty high. I think other interventions [...], if they are at that level, we are going on the right road.²⁶⁹

261 Q 436

262 Q 402

263 Ev 171, HC 80–III

264 Ev 18, 24, 104, HC 80–II (Centrepont, Children’s Society, NCH)

265 The figure goes up to the end of December 2003 and was reported in Home Office Press Release 042/2005, 1 March 2005.

266 Going up to the end of December 2002.

267 Q 433

268 This was the previous figure going up to December 2002.

269 Q 178. This sentiment was echoed by Mr Winter, National Organiser of the Social Landlords Crime and Nuisance Group at Q 520.

Mr Lewis added that the Crown Prosecution Service was targeting people it regarded as high risk, so it was inevitable and unsurprising that a proportion of them would re-offend.²⁷⁰ Hazel Blears echoed this comment, telling us that “the kind of people that tend to get anti-social behaviour orders are very often known to the criminal justice system”, with some of them prolific offenders.²⁷¹ We would add that the figures cannot take account of the number of incidents of ASB which the person breaching the order may have committed had the order not been made.

“Naming and shaming”

211. One particular issue bringing together concerns about effectiveness and human rights is the practice of publicising the details of individual ASBOs—sometimes referred to as ‘naming and shaming’.²⁷² Some of our witnesses opposed this practice, arguing that:

- it is inconsistent with the treatment of young people who have been convicted of a criminal offence (where a presumption in favour of reporting restrictions applies)
- it is counter-productive, leading to ASBOs becoming “badges of honour” and exacerbating problems of social exclusion, and
- it poses dangers to children.

212. In respect of the last of these points, the Children’s Society asked us—

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.²⁷³

We were told of one case where a violent father who was forbidden to see his child tracked down the address of that child following ASBO publicity.²⁷⁴

213. In addition, several organisations questioned the need for ‘naming and shaming’ in terms of enforcement. For instance, the Howard League argued that “individuals affected by the anti-social behaviour would be aware of what is happening without publicity”.²⁷⁵ Professor Morgan agreed, telling us:

if the argument for having publicity is to empower local communities that they should know that something is being done, frankly, in communities the complainants can be told that something is being done about the instance that they have concerns over. They know in those communities who the kids are that actions need to be taken about. They can be informed without necessarily releasing names

270 Q 400

271 Q 571

272 See, for instance, the submissions of the Howard League for Penal Reform and the Children’s Society.

273 Ev 27, HC 80-II

274 Q 184 (Ms Monaghan)

275 Ev 63, HC 80-II

and photographs to the press so that it is then extremely difficult to work positively with either those children or their families or carers.²⁷⁶

Sergeant Paul Dunn argued that we should try to control better who gets information on ASBOs, suggesting that “it is distasteful for someone in London to read about a 13 year old girl in Leeds who has ASBO”.

214. On the other hand, Mr Lee of Manchester City Council told us:

These orders are for the community and for them to police. It is not for the perpetrator. It is a community protection order. I cannot understand Parliament passing a law that said we will give you an order that stops somebody doing something, but we are not going to tell the public what the terms of the order are because they are the people who are supposed to police it.²⁷⁷

215. This issue was recently visited by the High Court which ruled in favour of Brent Borough Council in upholding the right of local authorities to publicise ASBOs through leaflets, whilst stating that each case would depend on its own particular facts.²⁷⁸ The court agreed with the principle that publicity is necessary to help with enforcement of an order: by informing local people of the prohibitions imposed by the order, they would be able to identify and report breaches to the police or other relevant bodies. It was held that an order could be of little use if only a few people knew of its existence.

216. Barnado’s and others, such as Professor Morgan, recommended that there should be a presumption against publicising details unless the magistrate or judge specifically adjudicates that it is in the public interest to do so.²⁷⁹ But it is not clear to us that this would make significant difference in practice if the principle is accepted that publicity is necessary for the enforcement of ASBOs.

217. We asked the Minister of State, Ms Hazel Blears MP, whether the practice of naming and shaming could be justified in light of concerns of child safety. She told us that publicity was crucial for community confidence, and commented that “if there are good reasons for not having publicity then the courts always have the power to impose reporting restrictions”.²⁸⁰ She also confirmed that there was no current research looking at the effects of publicity on those involved.²⁸¹

218. We welcome the introduction by the Government of ASBOs. The ASBO appears to be an effective tool which gives relief to communities and is more honoured in the observance than the breach, although we recognise that they are only just beginning to be used widely. We agree with witnesses who argue that ASBOs are little different from injunctions, which primarily seek to prevent rather than to punish: in essence, they require people to amend their behaviour to an acceptable and normal standard. We

276 Q 441

277 Q 183

278 *R (on the application of Stanley, Marshall and Kelly) v Metropolitan Police Commissioner and another* [2004] EWHC 2229 (Admin) QBD. The judges were Kennedy LJ and Treacy J.

279 Ev 15, HC 80-II

280 Q 577

281 Q 578

conclude that ASBOs are most likely to succeed in changing behaviour when used in conjunction with necessary support measures.

219. We welcome the suggestion from the recent Youth Justice Board research study that the use of ASBOs is not leading to the incarceration of young people who would otherwise have remained outside the criminal justice system. We note, however, that more work is being done in this area and recommend that the Home Office monitors closely the results of the September study. We would regret any evidence that the use of ASBOs has led to significant net-widening.

220. We do not consider that the inappropriate issuing of ASBOs, or the issuing of ASBOs containing inappropriate conditions, is a major problem in practice. We observe also that where the terms of an ASBO prove to be inappropriate, it is relatively straightforward to apply to the court which made the Order for the terms to be varied. There is also a right of appeal to the Crown Court against the terms of an order. Cases in which these options are not being taken highlight the variable quality of legal representation rather than any difficulties with the current provisions for variation and appeal. However, the reliance on anecdotal evidence is damaging, and we recommend that the Home Office commissions wide-ranging research in this area. The research should seek to establish not only the extent of inappropriate ASBOs, but—of critical importance—the reasons for failures of this kind.

221. In general, there is a clear need for all terms of ASBOs to be evidence-based, manifestly justified in terms of the prevention of ASB, and clearly communicated to the young person subject to the ASBO. In our view, the cases brought to our attention of inappropriate conditions highlight—if any further highlighting was needed—the absolute need for all the relevant agencies to be involved in the response to ASB. It seems probable to us that many such problems would not have occurred had co-ordination been adequate.

222. We agree with Barnado's and others that in relation to young perpetrators of ASB, it may be inappropriate to issue ASBOs that last for a minimum of two years. We recommend that, in the case of children under the age of 18, the law is amended so as to give magistrates greater discretion to set the duration of the ASBO.

223. We conclude that 'naming and shaming' is often essential to enforce ASBOs and accept that, with a free press, it is not possible to limit publicity to local communities. However, whilst we accept the presumption of publicity, there are clearly cases where publicity could be harmful to individuals. Issues of child safety should be raised in court where concerns exist and the discretion of magistrates in this matter is an important responsibility that they should exercise carefully.

224. According to latest figures, 42% of ASBOs are breached. We accept the point made by witnesses that this means that 58% are not breached and that relief is being provided to the community in these cases. This breach rate also compares favourably with other non-custodial youth justice interventions. Nonetheless, consideration must be given to ways of reducing the breach rate. We believe that a number of factors may be contributing to it, including the use of inappropriate conditions and the imposition of ASBOs for an inappropriately long time. We conclude that the most important factor is

likely to be insufficient support given to perpetrators who may have problems of addiction or of mental health or may be living in chaotic families. This underlines why the measures we outline in relation to support are so important.

Section 30 dispersal powers

225. Under section 30 of the Anti-social Behaviour Act 2003, a senior police officer can designate an area in which there is persistent ASB and a problem of groups causing intimidation.²⁸² This area could be as small as a cash point or shopping arcade where groups often gather, or it could be as wide as a whole local authority area, as long as there is evidence of anti-social behaviour. The local authority must also agree to the designation: usually this decision will be made as part of the strategic work of a Crime and Disorder Partnership. The decision to designate an area must be published in a local newspaper or by notices in the local area,²⁸³ and can last for up to six months.²⁸⁴ The designated area must be clearly defined, usually by a description of the streets or roads bordering the area.

226. Within designated areas the police and community support officers (CSOs) have the power to:

- disperse groups where the relevant officer has reasonable grounds for believing that their presence or behaviour has resulted, or is likely to result, in a member of the public from being harassed intimidated, alarmed or distressed. Individuals can be directed to leave the locality and may be excluded from the area for up to 24 hours.
- return home young people under 16, who are out on the streets and not under the control of an adult, after 9pm.

A refusal to follow the officer's directions to disperse is a summary offence, with a penalty on conviction of up to a level 4 fine or a possible three months' imprisonment (for adults).²⁸⁵

227. The section 30 dispersal powers have been available since 20 January 2004. By the end of September 2004, an estimated 418 dispersal orders had been made.²⁸⁶

228. Several organisations have criticised these powers. The Howard League for Penal Reform argued that the powers penalised children for simply using public space, and suggested that many children are there "as no organised or structured activities like youth clubs exist", with others choosing to spend time away from home due to the quality of their housing or domestic situation.²⁸⁷ Barnado's argued that the use of these measures has varied greatly: in some cases, they are tied to engagement projects; in others, they have

282 These dispersal powers are separate from the power to take out a local child curfew order, which is available on application by a local authority to the Home Secretary, and can force all children under 16 years of age to be in their homes by a certain time in the evening. In practice, local child curfews have been used very rarely.

283 Section 31(3) of the Anti-social Behaviour Act 2003

284 section 30(2) of the Act

285 section 32(2) of the Act

286 Ev 167, HC 80–III. The figure is according to CDRP estimates.

287 Ev 63, HC 80–II. This was echoed by the National Youth Agency at Ev 102, HC 80–II.

simply been imposed on children.²⁸⁸ Liberty considered the powers to be neither proportionate nor necessary.²⁸⁹

229. Other organisations have criticised the principle lying behind the powers, but said that it is too early to assess their real impact.²⁹⁰ JUSTICE noted that there were already public order offences contained in other legislation, arguing that these should be better enforced in preference to dispersing groups which have not committed an offence. It also argued that there was a wide potential for discrimination, although its Director—Roger Smith—conceded that there was no evidence of this as yet.²⁹¹ The Children’s Society argued that not only was it too early to assess the impact of the measures on the ground, but that the guidance from Government meant to accompany section 30 had not come out yet. It emphasised the importance of this: there had been Government assurances that the guidance would require police and local authorities to consult with the local community, including children and young people, prior to issuing an authorisation.²⁹² However, we have been told that the guidance has now been produced (by ACPO) and will be available shortly.²⁹³

230. We heard little evidence as to whether the section 30 dispersal powers are effective at local level, although they have now been in operation for over a year. We are concerned that this reflects a wider ignorance about the use of these powers, and recommend that the Home Office commissions research to examine issues of effectiveness and proportionality.

288 Ev 14, HC 80-II

289 Ev 75, HC 80-II

290 Many witnesses had no direct knowledge of these powers, including the Chair of the Youth Justice Board, Professor Morgan.

291 Ev 25, HC 80-II and Qq 326–334

292 Ev 26, HC 80-II. The requirement to produce guidance comes under section 34 of the Act.

293 As advised by a Home Office official.

4 Dealing with anti-social neighbours

Anti-social behaviour and housing

231. Prior to the Crime and Disorder Act 1998, the bulk of measures to deal with ASB were located in the specific context of housing. This reflects the fact that the issue first came to the fore when raised by social landlords who were facing increasing problems with persistent nuisance behaviour on housing estates. The subsequent change in legislative approach in which (according to a recent academic study) “the problem is not located in terms of housing or tenure but is more closely allied to a response based in criminal law, with criminal punishment against the individual perpetrator” reflects a growing recognition that ASB is not simply a social housing problem.²⁹⁴ Nonetheless, the Government has continued to introduce specific measures to deal with ASB which occurs in a housing context.

232. The Government has legislated regularly in the past few years in order to combat housing-related ASB. Part V of the **Housing Act 1996** strengthened landlords’ powers to deal with ASB by the introduction of three key provisions: the provision of introductory tenancies, extended grounds for possession and new forms of injunction. The **Crime and Disorder Act 1998** introduced multi-agency crime reduction strategies and ASBOs, and imposed a duty on local authorities to consider the effects of its policies on crime and disorder. The **Criminal Justice and Police Act 2001** strengthened witness protection powers. The **Police Reform Act 2002** introduced the interim ASBO, and the ASBO on conviction, extended the power to apply for ASBOs to registered social landlords (RSLs) and British Transport Police, and enabled applications for ASBOs to be made in county courts in connection with other proceedings (most commonly possession claims). The **Homelessness Act 2002** provided local authorities with the power to refuse to allocate social housing to any person or household guilty of serious ASB, in which case their rights to accommodation were effectively limited to whatever rights they may have as homeless persons. The **Anti-social Behaviour Act 2003** introduced a positive duty on social landlords to prepare and publish policies and procedures in relation to ASB, extended the scope of injunctions, allowed Housing Action Trusts and County Councils to apply for ASBOs and introduced the concept of “demoted tenancies”.²⁹⁵ The **Housing Act 2004** allowed for the extension of the introductory tenancy probationary period where behaviour is giving cause for concern, set up a selective licensing scheme for private landlords, with licences including conditions relating to the need to deal with ASB and penalties for operating without a licence or failing to carry out the terms of the licence, and permitted the right to buy to be suspended on the grounds of ASB.

233. It is, of course, true that many “neighbours from hell” with a disproportionate impact on the quality of life of people living around them happen to be children. Many of the comments we make in the previous section of this report—in relation to issues such as the need for a holistic response, problems of co-ordination and participation, and some of the

²⁹⁴ Hunter and Nixon, “Social Landlords’ Responses to Neighbour Nuisance and Anti-social Behaviour: from the negligible to the holistic?” *Local Government Studies* 2001, 27(4), 90

²⁹⁵ It also created a power of arrest which could be granted in conjunction with Local Government Act 1982, section 222 injunctions.

specific measures that relate to young people—are therefore also relevant in the housing context.²⁹⁶ In this section we focus on those interventions that apply specifically to nuisance neighbours. We begin by discussing the range of possible interventions before considering what determines the response in practice at local level.

The spectrum of possible interventions

No response

234. Sometimes there will be no response at all from local authorities to ASB-related problems. UK Noise Association claimed that this is typical of many local authorities in relation to noise nuisance:

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”.²⁹⁷

235. Mr Lee of Manchester City Council told us:

The biggest source of complaint at public meetings is: “How many diaries do I have to fill in”—well it *is* said—“before anybody on that top table does anything at all? Is it 61, Mr Lee? Is it 62? Just let me know when I get to the magic number because I will go to number 70 for you but I really want something done now.” Housing officers and police officers and wardens and environmental health officers who allow diaries to pile up on their desks when someone is writing: “I am in danger of losing my job now because of the loud music—I cannot get up to go to work and I have been disciplined this morning by the security manager—because I have had no sleep this week.” Those are real examples of what people have to put up with.²⁹⁸

236. The creators of the website, Neighbours from Hell in Britain, described common problems faced by complainants:

- Mediation is turned down by the other party.
- The police are not aware of the law/action to take, often saying it is a civil matter or a ‘domestic’ situation.
- The police are unable to respond due to lack of resources and staff; it can take a week in some cases for police attendance, if they arrive at all.

²⁹⁶ As an illustration of this, Sergeant Dunn told us that 85% of acceptable behaviour contracts—a measure largely used for teenagers—were nuisance neighbour cases.

²⁹⁷ Ev 138, HC 80-II

²⁹⁸ Q 110. The “diaries” to which Mr Lee referred are, in effect, records of incidents as they occur. Mr Winter, from the Social Landlords and Nuisance Group, recommended that they be called “incident logs” so as to imply that, if necessary, action will be taken on the basis of what is recorded.

- The EHO [Environmental Health Office] are understaffed and under-funded and often victims have to wait months for a chance to use noise recording equipment
- In some cases, the EHO out of hours number is not staffed and answer machines are in place: again this seems to be due to under-funding and staff shortages
- CAB [Citizen Advice Bureaux] are often unable to help due to the other party attending CAB for advice and it is seen as a conflict of interest—there is not always another CAB office in the area that people can attend.²⁹⁹

237. However, Mr Winter from the Social Landlords Crime and Nuisance Group, told us that in the past ten years, “the agenda has fundamentally changed from tolerating anti-social behaviour to tackling it. Most agencies have come fully on board with that agenda”.³⁰⁰

Family-based interventions

238. In some instances, the source of neighbour nuisance is not one individual but an entire family. Often such families have multi-faceted problems and are well known to all the relevant local agencies. The Family Welfare Association told us about one such family that has been causing major problems to its neighbours, and gave us details of the involvement of agencies and the remedial measures that had been attempted:

Education Social work interventions have stopped short of legal intervention although this has been threatened.

Social services have had to use child protection procedures after serious allegations about Lyn’s care and all three oldest children have spent time ‘looked after’ by local authorities although it is not clear to anyone what necessitated this and no records have followed the family.

Probation Services have been involved with Edward for many years.

Housing officers have visited to assess the safety of the property. They are repelled, as is anybody that comes from ‘the council’.

Noise abatement notices to remove cars and other large broken items from the roadside has also been thwarted.

YOT members are working hard to keep the twins involved in programmes of behavioural change and anger management: as this is not supported by the wider family any gains here are unlikely to be permanent.

A number of ‘acceptable’ agencies have offered support to the family and continue to do so: health visitors are generally seen by the parents as ‘all right’ provided they don’t challenge their parenting in a way that makes them feel uncomfortable. If they do so they are ‘sacked’

²⁹⁹ Ev 192, HC 80–III

³⁰⁰ Q 461

and never allowed to enter the house again.

Teachers and schools are usually ignored, as are letters. Both parents are illiterate. [...]

The father says ‘violence is a language to me’ and professionals believe it. The family is a byword for unprovoked, violent responses to reasonable approaches. [...] It is the extended nature of the family that seems to [most] intimidate professionals: one never deals with a single-family member, and all of them get involved immediately, called from all over the borough to ‘help out’. The extended family are equally and often more intimidating than that of the family under review.³⁰¹

239. According to Ms Rhodes, representing the Family Welfare Association, there are an estimated 50 families like these per local authority that attract the involvement of all the agencies.³⁰² This particular family was an especially difficult case because they were privately renting the property from another member of the extended family—hence many of the housing-based powers were unavailable to the local authority.

240. The Home Office has described the challenge of working with difficult families such as these, noting that “the perpetrators can play off one agency against another; avoid taking the help they need and not address their behaviour”. It argued:

In cases involving families, enforcement and support must be directed at both parents and children, making sure that work with parents reinforces, complements and links to work being carried out with the child. This involves multi-agency collaboration with every agency working to a common shared goal – the modification of the behaviour of the family for the benefit of all concerned.³⁰³

241. One project which works on this basis is the Shelter Inclusion Project. An interim evaluation of this Project—published in February 2004—stated the principle that lies behind it: that “in many instances behaviour deemed anti-social is due to unmet support needs. The service has therefore been set up to work with households who have had difficulty in complying with the terms of their tenancy agreements and aims to provide assessments and packages of support to address issues rendering households vulnerable to eviction and exclusion”.³⁰⁴ A multi-disciplinary team has been set up for this purpose. Ms Monaghan—Children and Young Persons’ Worker on the Project—told us:

When you are faced with a family sometimes that can be quite a chaotic environment to work with. We try to find out exactly what is happening. First of all, we might look at the complaints that have been made and see what is happening there, what is building up to that and really trying to put interventions in place immediately to stop that. We are concerned about the whole issue, so we do not want

301 Ev 161–3, HC 80–III

302 Q 19

303 Home Office, *Neighbour Nuisance – Background Briefing* (attached to Press Release 030/2005 (14 February 2005))

304 Housing Corporation and Shelter, *Shelter Inclusion Project: interim evaluation findings*, 2004. Unfortunately, it was too early for the interim evaluation to assess the effectiveness of the project in reducing ASB.

to see this behaviour continue. We want to see a long-term solution to it. A lot of my work is with the parents and I work with the children and young people. With the parents, it is about looking again at parenting skills. Over 60% of the households that we have worked with have identified a personal mental health illness. [...] We also liaise quite closely with other agencies in Rochdale. Parents would attend separate parenting courses and things like that. Sometimes we need to develop their confidence in order to do that.³⁰⁵

According to Ms Monaghan, the degree of intervention varies from case to case, with a general minimum period of two months.³⁰⁶

242. A full evaluation of this project is expected in 2006, including a cost-benefit analysis. In the meantime, with the exception of this and the Dundee Families Project, we have been told that there is “a dearth of good practice examples” of family-based interventions.³⁰⁷ Mr Salusbury, Chair of the National Landlords Federation, told us where these fitted in to the range of possible interventions to tackle ASB:

I think, as we have increased our ability and commitment to take enforcement action, we have become aware that there is a huge danger of recycling some of the most seriously dysfunctional families, and that those dysfunctional families do need rehabilitative work like the Dundee Families Project.³⁰⁸

243. The Government’s strategy in respect of dysfunctional families is two-fold. First, in February 2004, it set up a Neighbour Nuisance Expert Panel—consisting of experts from local authorities, the police, youth offending teams, social services and the voluntary sector—to advise local authorities and social landlords who can nominate their most challenging and difficult neighbour nuisance cases. This seems to have met with some success: in 66% of cases behaviour had improved and the problems curtailed.³⁰⁹ The Home Office announced that the work of the Panel will be continuing for a second year. Second, in September 2004, it introduced intensive parenting programmes in the 10 “TOGETHER trailblazer areas”. In February 2005, it was announced that these would be extended to 50 “action areas”, with £25,000 being given to each area—a total expenditure of £1.25 million.

244. Mr Rouse, Chief Executive of the Housing Corporation, commented on this figure:

The evidence of the Shelter project, for example, in Rochdale is it is the combination of mediation and acceptable behaviour contracts that set out the responsibilities of the various parties that is most effective. In that case, 88% of the referrals are still in their own property as a result. However, it is worth saying that the Rochdale project cost £300,000 per annum, and if you compare that to the £25,000 each that is going

305 *Ibid.*

306 Q 153

307 Ev 22, HC 80-II (Chartered Institute of Housing)

308 Q 490

309 Press Release 030/2005 (14 February 2005) However, the numbers are small: this figure is based upon only 67 cases in which the agency reported back out of the first 100 cases in which the Panel gave advice.

to the new 50 priority areas under the Home Office, it gives you some idea of what may or may not be doable with those resources.³¹⁰

245. We asked Ministers whether £25,000 would be sufficient for the priority areas identified. Ms Blears MP argued that most of the resources should come from local authorities and agencies, and that the redirection of activities and expenditure would result in some “long-term gains for local authorities”.³¹¹

246. We welcome the Government’s announcement that £1.25 million would be added to help fund intensive family-based interventions. It is clear that these types of intervention are essential if the deepest-rooted ASB problems are not simply recycled from area to area. However, we note that this is unlikely to be sufficient on its own and make further recommendations in this area in Section 6.

Mediation

247. One possible response to a complaint about neighbour nuisance is to try to explore the possibility of mediation between the two sides: Peterborough Mediation Service has argued that this “should be an integral part of any strategy to combat anti-social behaviour”.³¹² Peterborough Mediation, formed in 1998 as a registered charity, described to us the nature of its service:

The Service is provided free of charge to people who live within the geographical area covered by Peterborough City Council. People can contact the service themselves, in addition, agencies with which we have agreements can refer their tenants, clients or customers to us. We also provide a service on behalf of a number of other local authorities.

Whilst our core business is dealing with neighbour nuisance, we also undertake work in other areas, including victim / young offender mediation, preventing homelessness and community cohesion.

248. Mr David Copeland, Director of Peterborough Mediation Service, emphasised to us the benefits of mediation. Although he conceded that success is only likely if both parties are receptive from the outset, he told us that two out of three cases are resolved or there is improved communication or understanding. In addition, in 85% of cases there was a reduction in client contact with agencies, and “in many of those cases there is no further contact at all with actual agencies”. Mr Copeland argued that the reduction in agency workload allowed them to deal with “the more persistent offences of ASB” and to be “more proactive in terms of regeneration, cohesion work within their areas”.³¹³ Mr Lee, from Manchester City Council, similarly told us that 70% of neighbour nuisance cases brought to mediation were resolved successfully. Mr Winter from the Social Landlords Crime and Nuisance Group put the general figure at 80% of appropriate referrals, adding that

310 Q 498

311 Q 545

312 Ev 212, HC 80–III

313 Q 160

mediation is “a very important part of tackling neighbourhood disputes—inter-generational disputes particularly”.³¹⁴

249. There was disagreement amongst witnesses as to the type of case for which mediation is an appropriate tool. The Restorative Justice Consortium argued:

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.³¹⁵

250. However, others have argued that mediation is sometimes used inappropriately. For instance, the UK Noise Association considered that mediation was overused—a sign that local authorities and housing associations are “reluctant to attach blame”. It argued further that to use mediation in response to deliberate ASB “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. [...] In these circumstances the result of mediation would be to prolong the anti-social behaviour”.³¹⁶ Mr Lee agreed:

Mediation is appropriate for parking, boundary disputes, kids falling out in the street, younger kids. It is not appropriate to ask you to go and mediate with a neighbour who has subjected you to racist abuse or violence or burgled your property. Those are inappropriate referrals. I think they take up scarce resources that mediation has. I think that they could get on a lot more with the boundary disputes, parking issues and get them resolved, but I think there is a small minority of cases that go to mediation that are not appropriate. They should be taking legal action there.³¹⁷

Mr Winter, from the Social Landlords Crime and Nuisance Group, told us that mediation was inappropriate “if there is a power imbalance, if people are addicted to drink, drugs or whatever; if there can be no guarantee that when they wake up the next day they know what they have agreed to, that is not an appropriate case to mediate—those sorts of things”.³¹⁸

251. On the other hand, Mr Copeland considered that mediation could be used more widely:

I think our scope of cases is far wider than the examples Martin has given. They might not be appropriate when the initial incident occurs, but they might become appropriate later on in the process when the initial action has been taken. [...] At the end of the day the victim - for want of a better word - his views are paramount. If they want to try and resolve this and want to try and build some form of a

314 Q 497

315 Ev 121

316 Ev 138

317 Q 161

318 Q 499

relationship with their neighbour, then mediation can be appropriate further down the line and just because it is very serious at the start point I do not think - in fact I know - that should not exclude mediation further down the line.³¹⁹

252. Given the level of disagreement surrounding the type of case which would constitute an appropriate referral, an important question is how cases are referred in practice. New Forest, Southampton and SW Hants Mediation told us of an agreement reached with Southampton City Council housing offices according to which they make an initial assessment of all complaints made to determine whether the complaint is appropriate for mediation. Under this approach, over 80% of cases had been resolved at this stage and within 15 working days of the initial complaint.³²⁰ Other local authorities have decided to follow this approach, including Portsmouth City Council, Lambeth Council and Haringey Council. We note, however, that as a case is deemed successful “if the same complaint does not return to the housing office within 6 months”, it is quite possible that complainants dissatisfied with the response and who therefore turn elsewhere for assistance are included in this figure of 80%.

253. In other cases, referral arrangements seem to be guided largely by the views of the local authority. According to Mr Copeland, the use of mediation has been increasing, largely on account of the duty under the Anti-social Behaviour Act 2003 for registered social landlords, the police and local authorities to devise and implement ASB strategies. However, Mr Copeland criticised the current funding arrangement as “ad hoc”, adding:

Clearly mediation is still quite vulnerable in some parts of the country. Only 60% of the country has effective coverage at the moment. If it was going to be seen to be almost, shall we say, statutory, for want of a better word, or a requirement that it will be part of the process then clearly that needs perhaps to be a lead from Government; there needs to be funding accessible via regional development agencies or the GOs or whatever. [...] As you say, some Local Authorities do not see that it is a priority for some reason.³²¹

254. We conclude that mediation is an important tool that is cost-effective and can help to deal efficiently with neighbour nuisance cases. However, according to the Director of Peterborough Mediation Service, mediation is underused, with only 60% of the country currently having effective coverage. This is a cause for concern, as are claims that mediation is sometimes used inappropriately.

255. In our view, the solution to the problems both of under-use and inappropriate use is to make the referral mechanism far more systematic throughout the country. New Forest, Southampton and SW Hants Mediation offers one model in taking over the complaints of local authorities so as to assess the prospects for mediation, although we believe that research is needed to establish whether it is as successful as it claims. We recommend that this is done and that the Government works with local authorities to spread this or another referral mechanism as an example of best practice.

319 Q 163

320 Ev 199, HC 80-III. New Forest told us that a case is deemed successful if the same complaint does not return to the housing office within 6 months.

321 Q 157

Enforcement powers to deal with social tenants

256. Social landlords now have a range of powers to deal with anti-social tenants.³²² In addition to ASBOs (considered earlier, at paragraphs 183-222), these powers include different types of housing injunctions, introductory and demoted tenancies, and possession orders. The powers tackle behaviour in different ways: injunctions prohibit ASB directly, and breach is a contempt of court; demotion orders and introductory tenancies work by linking behaviour to security of tenure, making it easier for the landlord to seek possession if behaviour does not improve. A detailed description of the main legal features of these powers is provided in an annex to this report.³²³ Here, we concentrate on the extent to which they have been used in practice and to what effect.

257. The development of new powers to deal with social tenants has been welcomed by several housing-based organisations.³²⁴ The Chartered Institute of Housing noted the limitations of previous arrangements such that “traditionally, possession action was the only tool social landlords had to tackle ASB”. It argued that “as an all or nothing power its effectiveness was limited”.³²⁵ The Housing Corporation stated that “associations have in the past found it difficult to make full use of their injunctive powers” and welcomed the changes made in the 2003 Act.³²⁶ The Northern Housing Consortium concluded that social landlords “have sufficient powers at their disposal to tackle ASB”, although arguing that issues surrounding these powers (such as co-ordination and resources) remained.³²⁷ Mr Winter, Chief Executive of the Social Landlords Crime and Nuisance Group, told us the view of officials at the London Borough of Camden:

They said, “The legislation is great. There are no excuses now. We cannot see the need for new remedies.” That is a serious player who is saying that.³²⁸

258. In commenting further on the application of these powers, the main concern of each of these organisations has been how they can operate more effectively. The Northern Housing Consortium argued that the main barrier to using powers was a lack of resources, stating that “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”.³²⁹ It added that “resources remain a key problem, with demand for tenancy enforcement services continuing to outweigh the capacity of ASB teams”.³³⁰ Mr Rouse, Chief Executive

322 “Social landlord” is a generic term that includes local housing authorities, Housing Action Trusts and registered social landlords.

323 At page 134 below.

324 See Ev 94, HC 80-II (The National Housing Federation), Ev 65, HC 80-II (the Housing Corporation), Ev 80, HC 80-II (LGA), Ev 132, HC 80-II (Social Landlords Crime and Nuisance Group), Ev 108, HC 80-II (the Northern Housing Consortium). Several of these organisations stated that it is too early to tell how well the power of demotion is working—e.g. Housing Corporation (Ev 65), Social Landlords Crime and Nuisance Group (Ev 133), Chartered Institute of Housing (Ev 21).

325 Ev 21, HC 80-II

326 Ev 65, HC 80-II

327 Mr Rouse, Chief Executive of the Housing Corporation, and Mr Winter, National Organiser of the Social Landlords Crime and Nuisance Group, supported this conclusion. See Q 513 and Q 517.

328 Q 517

329 Ev 110, HC 80-II

330 *Ibid.*

of the Housing Corporation, agreed with this, telling us that the cost of securing ASBOs and injunctions is often too high, and arguing that the Home Office and Department for Constitutional Affairs have a responsibility to see if procedures can be streamlined.³³¹

259. In addition, Mr Rouse pointed to the inconsistency of decisions made by magistrates—a view shared by the Social Landlords Crime and Nuisance Group, which told us that its members “are continually frustrated by the perversity of some judgments and the lack of consistency between Courts. Often the effect of such inconsistency is seen to work to the advantage of the perpetrator”.³³² Both allegations—of inconsistency and of favouring the perpetrator—were, however, sharply rejected by Ms Barnett representing the Magistrates Association. She told us:

From the view of inconsistency I think it must be stressed—and it cannot be stressed too heavily—that each individual case before each individual court is exactly that, individual, and there is no such thing as an automatic Anti-Social Behaviour Order, nor is there such a thing as an automatic sentence for a breach of that; each case has to be looked at in terms of its individual circumstances. [...] I do not accept - I am sure you will not be surprised to hear - that it is a question of our - if that is the implication - favouring the perpetrator, not taking it seriously enough or not having the sense to deal with it sensibly. What we have found in very many cases is that the standard of prosecution, if I can put it that way, or presentation of information to the court, has similarly been extremely variable across the country. And the other basic and fundamental principle is that we can only deal with what is before us in court; we cannot deal with guesses or hypothesis, it has to be the evidence that is there.³³³

260. On the other hand, some organisations have criticised the extension of housing powers, with particular concern about their potential impact on homelessness. Several suggestions have been made as to how such an impact may be diminished. The Law Society argued that eviction and demotion should be distinguished. It recommended that legislation should require landlords, on application for a demotion order, to produce a plan to support a tenant’s rehabilitation; however, a claim for possession should be seen as an attempt at a final resolution.³³⁴ Shelter similarly recommended that demotion should come with support, and that there should be guidance to this effect.³³⁵

261. Centrepont went further in its criticisms of both injunctive and demotion powers:

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.³³⁶

The Crime and Society Foundation supplied us with a number of cases where ASB legislation had impacted negatively on the vulnerable, although in many of these cases cited

331 Q 513. This was backed by Mr Winter at Q 517.

332 Q 513, Ev 133, HC 80-II.

333 Q 369

334 Ev 73, HC 80-II

335 Ev 131, HC 80-II

336 Ev 20, HC 80-II

the people do not seem actually to have been evicted, and arguably would not have been by the court. The following is one example:

A woman was undergoing possession action for nuisance. When Shelter obtained copies of the evidence, it emerged that almost all the incidents involved her partner threatening, beating and, in one instance, raping her (this was witnessed by neighbours). She obtained an injunction with a power of arrest against her partner. Shelter offered to help her fight the possession action. However, she declined this and decided to leave and find alternative accommodation instead.³³⁷

262. Other witnesses told us that there is a place for eviction in the most serious cases. Sergeant Paul Dunn said that, in appropriate cases, it was about “sending a message that certain things ... will not be tolerated”. Ms Bridgen, representing Shelter, agreed, although adding that it should be used “as a last resort”. Mr Lee told us that Manchester City Council had not evicted often—in total, around 230 families in the past ten years—however, there were some “criminals and racists who needed to be evicted, full stop”. Mr Lee added that “people who are using our properties for illegal drugs and so on, they have to go or we do not have any credibility”.³³⁸ All witnesses emphasised the importance of using ASBOs whenever a possession order is sought to ensure that the evictee does not then reappear “two streets away when they have been evicted from a council property and carry on the same behaviour”.³³⁹

263. In assessing all these arguments, we have been hampered by a lack of relevant data. We did gather some anecdotal evidence. For instance, the Crime and Society Foundation pointed to academic research carried out in relation to one local authority which alleged that “housing agencies are more readily resorting to eviction”, citing evidence that “the stock transfer from the local authority to a housing association had led to an increase in evictions, and an unwillingness to take ‘risks’ with young people and families with high support needs”.³⁴⁰ Another academic study, published in 2001, suggested that “it was not uncommon for landlords to initiate possession action in order to gain a response from the social services”.³⁴¹

264. We also learnt about the approach of Manchester City Council, which has used injunctions and ASBOs extensively and has not tended to seek possession. Mr Lee told us:

You raised the issue of displacing people to the private rented sector, that is why in Manchester we do not do that many evictions, because we know that they will just move into the private sector.³⁴²

Criminals and racists need to go from council properties to send out the message to other people that we will not have that sort of behaviour. In other cases, as I think we have said, we prefer injunctions and ASBOs because we recognise this: people are

337 Ev 134. The source for the case is Shelter.

338 Q 131

339 Qq 128–130

340 Ev 127, HC 80–III

341 Hunter and Nixon, “Social landlords’ responses to neighbour nuisance and anti-social behaviour: from the negligible to the holistic?” *Local Government Studies* 2001, 27(4), pp89–104

342 Q 128

going to lodge somewhere eventually, they are going to live somewhere. It is about changing people's behaviour towards other people. Injunctions and ASBOs set a line. If you cross it, you go to prison, but that is your choice.³⁴³

265. The Government does not collect data relating to the use of housing injunctions or possession orders.³⁴⁴ There is thus no objective means of assessing the extent to which powers have been used, the level of variation around the country, whether there is a tendency for particular powers to be used in combination with other powers or the impact of the new possession powers on homelessness.

266. We asked the Parliamentary Under Secretary of State for the Office of the Deputy Prime Minister, Yvette Cooper MP, how it was possible to know whether the Government's strategy was working on the ground, given the non-availability of relevant statistics. She admitted that the Government does not have "a lot of the information that we ought to have", although she claimed that "there is a lot more happening than there was" and that "RSLs are already using some the powers that they have".³⁴⁵ She agreed that eviction should be used as a measure of last resort, but was unable to know how often eviction had been used in response to ASB in the absence of more detailed figures.³⁴⁶ Overall, the Minister agreed that "we do not have evidence on the way in which the measures are being used at the moment and the impact they are having", although she argued that this was partially because a lot of the measures are new.³⁴⁷

267. The Office of the Deputy Prime Minister then provided us with some additional information:

A number of injunctive powers are available to local authorities seeking to deal with ASB under the Housing Act 1996 and the Local Government Act 1972. It is the Department's view that asking local authorities to supply information on the type and numbers of actions requested would place an undue burden on them and could not easily be justified. This information will of course be held locally. The Housing Corporation do not require this information from RSLs and nor do they have any plans to do so at this stage.³⁴⁸

It added that, recognising the importance of measuring take-up and the effectiveness of these measures, it would "examine the possibility of carrying out sample snapshot surveys as well as research on the effectiveness of these and other measures in the longer term".³⁴⁹

268. We welcome the introduction of the new housing-based powers, in particular, the powers of injunction and demotion. However, it is unsatisfactory that the Government has created these powers but not collected the data necessary to know whether they are

343 Q 131

344 See HC Deb, 18 March 2002, Col 29W. Similar answers were given by Ministers in 2003 (HC Deb, 8 April 2003, Col 245W) and 2004 (HC Deb, 23 April 2004, Col 689W).

345 Qq 560, 563

346 Q 564

347 Q 569

348 Ev 231, HC 80-III

349 *Ibid.*

being used or used effectively. Despite the fact that several of the powers, such as possession orders and housing injunctions, have been in force for several years, the Government does know how or how often they are being used, whether eviction is being used appropriately, or the impact of its ASB measures on homelessness. We note that the Government has now committed to collecting data relating to possession orders, with first figures to be published in 2006, and we welcome this. However, it has no plans to do the same in relation to housing injunctions, despite recognising that this information is already available locally and that data relating to ASBOs—a not dissimilar legal power—is collected. We do not believe that asking local authorities and registered social landlords to keep and supply records of their injunction applications would place an undue burden on them, and we recommend that the Government asks them to do so. In addition, we recommend that in-depth qualitative research studies should be conducted as a matter of urgency to determine take-up of the main housing powers, their effectiveness in tackling ASB and their impact on homelessness.

269. It is essential that the available powers and tools are used together in the most effective manner. We return to this point in Section 6. We have heard, for instance, of the strong advantages of offering adequate support in conjunction with demotion orders and of using ASBOs in conjunction with possession orders, and we recommend that both of these points are promoted by the Government as examples of best practice.

Private tenants and selective licensing schemes

270. Although the response to ASB was originally located in the context of social housing, it is clear that many nuisance neighbours are not social tenants but private tenants or owner-occupiers. In respect of private tenants, some of our witnesses argued that landlords often act irresponsibly. For instance, the Housing Corporation stated that “there have been too many cases of tenants of social housing being evicted due to their ASB and then moving into a privately let property”.³⁵⁰ The Northern Housing Consortium told us that a “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”.³⁵¹ On the other hand, the National Landlords Association stated that it is important not to demonise all landlords:

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.

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

350 Ev 66, HC 80-II. This was echoed by Mr Salusbury at Q 504.

351 Ev 110, HC 80-II

line between legitimate perusal of a tenant for bad behaviour and harassment is very thin.³⁵²

In addition, the Association argued that all local authorities ought to provide landlords with reference checks on potential tenants and vet their previous records on behaviour, as is done already in some areas.

271. Mr Salusbury, Chair of the National Landlords Association, told us that in practice, a private landlord ought to respond to ASB on the part of his tenant by contacting the local housing department or ASB officer and asking for some support (the housing department would have no responsibility for that property). This is because “it is not the property that is causing problems; it is the occupants”, and because the local authority is more likely to know people who might have responsibility in this area.³⁵³

272. The Government has responded to concerns about ASB simply moving on to the private sector by introducing new powers for local authorities.³⁵⁴ The Housing Act 2004 provides for the licensing of private landlords, so that they can be required to combat ASB in their properties. An area can be designated by local housing authorities if they are satisfied that:³⁵⁵

- a) the area is experiencing a significant and persistent problem caused by anti-social behaviour;
- b) some or all of the private sector landlords who have let premises in the area (whether under leases or licences) are failing to take action to combat the problem that it would be appropriate for them to take; and
- c) making a designation will, when combined with other measures taken in the area by the local housing authority, or by other persons together with the local housing authority, lead to a reduction in, or the elimination of, the problem.

273. Once an area has been designated, private landlords must normally apply for licences. Licences must be granted only to people who are “fit and proper”. Conditions can be attached to licences, including “conditions requiring the taking of reasonable and practicable steps to prevent or reduce anti-social behaviour by persons occupying or visiting the house”.³⁵⁶

274. None of these powers is yet in force, and the Government is currently consulting on how best to implement the Act. Mr Salusbury criticised the consultation and the principles behind the Act, although he also told us that he is keen to work with the Government:

The first consultation round is now completed, and I have the list of questions here that were sent to my organisation, amongst others, and there are no fewer than 55

352 Ev 100, HC 80-II

353 Q 504

354 In addition to the selective licensing scheme described here, Part 2 of the Act provides for the licensing of Homes of Multiple Occupation, and Part 4 provides for local authorities taking over the management of private sector properties.

355 Section 80(6) of the 2004 Act.

356 Section 90(2)(b)

questions in this document, and each question is multi-choice. There are over 200 questions, which suggests to us that the Government does not really know how it wishes to implement this; it is asking us to suggest how it might be implemented when we have advised throughout that licensing is not the answer for the private rented sector; it is likely to be bureaucratic, very expensive - and disproportionate, I think, is the word.³⁵⁷

275. Other witnesses were more enthusiastic about the new selective licensing arrangements. Mr Rouse, from the Housing Corporation, told us:

We think it is going to be very helpful in dealing with, for example, absentee landlords who have effectively lost control of an area, or are in the housing market renewal areas where there is a significant number of empty properties which are not being properly controlled. So we welcome the introduction of selective licensing, while recognising that it will not apply to the vast majority of landlords who are doing a very good job, but in some areas it is a good thing.³⁵⁸

Mr Winter, from the Social Landlords Crime and Nuisance Group agreed, telling us that selective licensing “is potentially very useful”. Mr Rouse added that licence conditions could be used to help ensure the participation of some of the larger private landlords with the CDRPs.³⁵⁹

276. We welcome the principle behind the new powers for selective licensing of private landlords. The Government is right to believe that ASB is not a problem related solely to social housing. However, we note that the success of the new scheme will depend very much on how it is implemented and that the proposals are still to be fully developed. It is important that the scheme is as unbureaucratic as possible and that local authorities have appropriate guidance so that they use discretion in a way that will target the unscrupulous landlords rather than those who are victims of their tenants’ behaviour.

277. We accept that most private landlords cannot be expected to operate the full range of management responses to ASB that are expected of social landlords. Nonetheless, prompt and effective action by private landlords could help to tackle many problems at an early stage. We recommend that police and local authorities work together with representatives of private landlords to produce local codes of conduct that set out how responsible private landlords are expected to respond to nuisance complaints and the support they can expect from public bodies.

Dealing with owner-occupiers

278. In paragraphs 231-232 above, we noted the social housing context to many of the initial ASB measures and the incremental introduction of new powers in recent years. Several organisations have argued, however, that these new powers have neglected one particular group: anti-social owner occupiers. For instance, the Tenant Participation Advisory Service argued that there is a “clear and urgent need to address the seeming

357 Q 481

358 Q 483

359 Q 496

vacuum of measures for dealing with anti-social owner occupiers".³⁶⁰ In addition, the Chartered Institute for Housing noted that suggestions for further work to tackle ASB in the owner occupied and privately rented sectors were made in the Social Exclusion Unit's report of Policy Action Team 8 but that there had been no further developments.³⁶¹

279. We asked Mr Lee, from Manchester City Council, what tools were available to local authorities to deal with anti-social owner-occupiers. He told us:

Thank God for the ASBO. [...] What did we have before the Anti-Social Behaviour Order to deal with anti-social behaviour in private tenancies and owner-occupiers? We were relying entirely on private landlords to effectively evict people, but in parts that means they just move in two streets away to another private tenancy, so we have to be clear: that is why the ASBO is fantastic. Otherwise owner-occupiers would be handing in their keys to building societies in the dead of night hoping that they did not catch up with them to move to another address.³⁶²

Yvette Cooper also pointed to the availability of ASBOs and acceptable behaviour contracts, adding that local authorities and housing associations have powers to take out injunctions if the owner-occupier's behaviour is in an area which they broadly manage and if the problem is relevant to their ability to manage their properties.³⁶³

280. We conclude that no new powers are needed in relation to anti-social owner-occupiers: ASBOs and other powers are already available and ought to be sufficient.

360 Ev 137, HC 80-II

361 Ev 22, HC 80-II

362 Q 139

363 Q 567

5 Alcohol-related disorder

281. The definition of ASB as behaviour that causes “or is likely to cause harassment, alarm or distress” is sufficiently broad to include alcohol-related disorder and violence. The Home Office included the subject of alcohol-related disorder in its White Paper on ASB, *Respect and Responsibility*, and in its written memorandum as part of this inquiry.

282. Nonetheless the issues surrounding binge and underage drinking and the problems these cause to town and city centres (especially at night-time) are in many ways quite separate from the other issues surrounding ASB. The distinct nature of the issue is highlighted by the fact that the Home Office tackles the problem primarily through the Alcohol Team of its Violent Crime Unit rather than through its Anti-social Behaviour Unit.

283. In Section 2 of this report, we set out the scale of the problem of alcohol-related disorder in towns and city centres. We noted not just the Government’s estimate of £12 billion per annum cost of crime and disorder, but also the very real costs in terms of the inability of public services such as police and A&E Departments to cope, and the impact on victims of violence and local residents.

284. Professor Hobbs, from Durham University, traced the rise of alcohol-related disorder directly to the development of the night-time economy:

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.

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.

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

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 into 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.³⁶⁴

³⁶⁴ Ev 45, HC 80-II. This was backed by the Bar, Entertainment and Dance Association, quoted in paragraph 69 above, as well as by the Government in Cabinet Office (2004) *Alcohol Harm Reduction Strategy for England*, p45.

Professor Hobbs also noted other research studies showing a “statistically direct correlation between city centre licensed capacity and street assault”, and indicating that “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”.³⁶⁵ He told us that “the concentration of licensing in city centres is immense and that is really where drinking takes place, and particularly drinking which is concentrated at one particularly vulnerable group of the marketplace, which is the under-25s”.³⁶⁶

285. In this section, we first provide an overview of the Government’s policy response to alcohol-related disorder, before considering specific areas of policy in greater detail: policing and enforcement powers, the new system of licensing, the proper responsibility of the alcohol industry and city planning.

Government policy: overview

286. The Government’s response to alcohol-related disorder is currently founded upon an assumption that the problem can be defined in terms of, and traced to, irresponsible individuals and individual premises. This assumption has informed nearly every aspect of Government policy in this area. It has led to the creation of a large number of new powers and drives for improved enforcement at local level.³⁶⁷ It underlies the preference, in relation to the alcohol industry, for negotiation and voluntary agreements over measures imposed by Government, as it is assumed that it would be disproportionate to punish the many reasonable traders for the behaviour of the few who are irresponsible. It runs through many of the licensing reforms, and, indeed, informs the belief that licensing has a central role to play in reducing disorder.

287. The Government’s philosophy in respect of tackling alcohol-related disorder is set out in the Alcohol Harm Reduction Strategy, published by the Prime Minister’s Strategy Unit in March 2004, and accepted by the Government in full. The Strategy document argued that “a strategic approach to managing the night-time economy incorporates three key principles”:

- individuals are responsible for making choices about their behaviour in an informed way, and responsible for the consequences of those choices;
- local establishments are responsible for giving accurate information, minimising the harm caused by alcohol misuse and working with local agencies to help tackle the consequences; and
- Government is responsible for ensuring that information is provided, for protecting individuals and communities from harm caused by the behaviour of others, and for ensuring a fair balance between the interests of stakeholders.³⁶⁸

³⁶⁵ *Ibid.*

³⁶⁶ Q 199

³⁶⁷ As we will show in paragraphs 297-299, most of these powers relate to irresponsible individual drinkers or premises, with very few powers dealing with issues of public space.

³⁶⁸ Cabinet Office (2004) *Alcohol Harm Reduction Strategy for England*, p48

288. It then set out what was needed in relation to each of these areas. In relation to “individual responsibility”, the document pointed to existing powers and noted that enforcement was weak. It proposed greater use of fixed penalty notices (FPNs), consideration as to whether further powers are needed and more concerted enforcement based upon a “partnership approach”.³⁶⁹ These proposals have been implemented by the Government through its Summer 2004 Alcohol Misuse Enforcement Campaign and a follow-up campaign in December 2004, considered below at paragraph 304, and through a Home Office consultation document, issued in January 2005, that set out a number of proposed new powers.³⁷⁰ In general terms, there has already been a great deal of emphasis on improving the enforcement of alcohol-related disorder: in addition to the two enforcement campaigns, measures have included the introduction of fixed penalty notices (FPNs), the introduction and extension of closure powers and designated public places orders (to allow local bans on street drinking) and stronger powers to review and modify licences and to enforce the breach of licence conditions.

289. In relation to the responsibility of the alcohol industry, the Strategy outlined two main measures: first, a negotiated code of practice which would address issues such as age identification, the need for reasonably-priced soft drinks, better training of bar staff and design of premises; second, depending on the outcome of consultations, a financial contribution scheme under which local alcohol outlets would contribute to a local fund. There was a warning, however, that the success of the voluntary approach would be reviewed early in the next Parliament, with legislation considered if no progress was being made.³⁷¹

290. In relation to Government responsibility, the Strategy document pointed to changes in planning rules which would make it more difficult for non-alcohol outlets to change use and become a pub or bar, the new licensing regime (discussed below), existing provisions relating to litter and noise and good practice examples in the area of late-night transport. It committed the Office of the Deputy Prime Minister to provide guidance to all local authorities in England on managing the night-time economy as part of existing local strategies by Q3/2004, and the Home Office to serve as the focus of good practice on alcohol-related crime and disorder, with the Anti-social Behaviour Unit driving better enforcement.³⁷²

291. By the time the Strategy was published, the Government had already legislated to reform licensing laws through the Licensing Act 2003—laws which again point to the belief that controlling the behaviour of the few irresponsible traders and premises is the best way to tackle disorder. When the Act comes fully into force, the licensing authorities will be local authorities rather than licensing justices, and both a premises licence and a personal licence will normally be required for the supply of alcohol. The Act will increase fines, as well as introducing the potential suspension for up to six months or forfeiture of personal licences held by people working at particular licensed premises, following conviction for offences of allowing disorderly conduct there or allowing sales of alcohol to people who are

369 At pp48–50.

370 Considered below at paragraph 293.

371 At pp50–3.

372 At pp53–6

drunk. Licence conditions will be able to include crime and disorder measures. Under section 4 of the Act, licensing authorities have the duty to promote the four “licensing objectives”: the prevention of crime and disorder, public safety, the prevention of public nuisance, and the protection of children from harm. Under section 5 of the Act, they are required to draw up a statement of licensing policy every three years, following consultation with relevant parties. Opening hours will be proposed by the applicant in the licence application, rather than prescribed by statute, allowing for the possibility of 24-hour opening.

292. The Department for Culture, Media and Sport pointed out that the purpose of licensing law is to control access to and behaviour on licensed premises, and does not have a direct role in controlling behaviour away from the vicinity of licensed premises.³⁷³ The only recognition that, in practice, problems occur most frequently away from premises came in its backing for the new flexible licensing hours:

For the first time, the 2003 Act will introduce the positive benefit of flexible licensing hours as a means of helping to reduce alcohol-related crime and disorder currently experienced when large numbers of customers concentrate on the streets immediately following fixed closing times; and will help to reduce the heavy and accelerated consumption presently taking place before time is called.³⁷⁴

293. On 21 January 2005, the Government announced a series of new proposals for tackling alcohol-related disorder. The proposals—contained in a consultation that ran until 28 February—included:

- Seeking to recover costs from pubs and bars which cause the most disorder by introducing new ‘Alcohol Disorder Zones’. A Zone would cover premises in an area where there is a continuing problem of anti-social drinking. After an eight week warning period, if there were no improvement, those premises would contribute towards policing and other local costs of dealing with alcohol-fuelled disorder;
- Introducing an immediate 24-hour banning order on selling alcohol, where there is evidence that a premises is persistently selling to underage drinkers;
- Introducing ‘Drinking Banning Orders’ for anyone who has been issued with three fixed penalty notices or has had three alcohol and disorder related criminal convictions. The order would exclude them from pubs and bars within a specified area for a fixed period of time;
- Extending fixed penalty notices to cover young people attempting to buy alcohol under age and staff in licensed premises who serve people who are drunk;
- Reviewing the penalties associated with alcohol related offending; and

373 Ev 139, HC 80–III

374 *Ibid.* This argument is considered below at paragraphs 318ff.

- Supporting a code of practice being developed by the alcohol industry giving guidance to owners and operators on banning irresponsible drinks promotions that encourage speed drinking and excessive consumption.³⁷⁵

294. The proposals are entirely consistent with the main thrust of the Alcohol Harm Reduction Strategy and the considerations underlying the new licensing regime in that they are based upon the principle of tackling individuals and individual premises that are acting irresponsibly. The proposal for new Alcohol Disorder Zones might be seen as a more radical shift: it moves away from the “voluntary approach” set out in the Alcohol Harm Reduction Strategy and appears to move away from the general focus upon individuals and individual premises that are perpetrating or encouraging disorder. However, it is made clear in the consultation document that the contribution towards local costs of policing would only be required if individual alcohol outlets fail to take necessary measures to improve their approach to tackling disorder. The assumption that the problem of alcohol-related disorder can be traced, to a large extent, to the irresponsible behaviour of some individual premises, stands also at the base of this proposal.

295. We asked witnesses whether the initiatives from Government, the alcohol industry, police and others have had a significant impact on the extent of the problem of alcohol-related disorder. Their replies varied. Professor Hobbs, from Durham University, argued that “I do not think we know because it has not been properly evaluated”. Mr Steven Green, Chief Constable of Nottinghamshire, told us, “I think it has not got better. I cannot objectively prove it has got worse”. Mr Doyle from the Institute of Licensing and Mr Hutson, Chief Executive of JD Wetherspoon plc, both argued that there was now a “greater awareness of the problem”. Mr Hutson believed that this had had a “positive effect”. However, neither was able to point to a dramatic reduction in disorder.³⁷⁶

296. The Government’s response to alcohol-related disorder is currently centred around one main principle: the assumption that the problem can be defined in terms of, and traced to, irresponsible individuals and individual premises. We also note that the Government’s emphasis on individuals making informed choices and being responsible for the consequences of their actions contrasts with moves to restrict smoking in public places. Unless it becomes clear that alcohol-related disorder is being reduced to a really significant extent, we believe that we should ask whether the Government should be so reliant on its emphasis on the role of individuals.

Powers and policing

297. There are many legal powers available to combat alcohol-related disorder, falling broadly into three groups. The majority of powers are directed against *individuals*. Prosecutions can be brought for a variety of offences, including being drunk on a highway, other public place or licensed premises,³⁷⁷ the consumption of alcohol by a person under the age of 18,³⁷⁸ and disorderly behaviour while drunk in a public place.³⁷⁹ In practice, it is

375 DCMS, Home Office and ODP, *Drinking Responsibly: the Government’s Proposals*, January 2005

376 Q 204

377 Section 12 of the Licensing Act 1872

378 Section 169E of the Licensing Act 1964, soon to be replaced by s150 of the Licensing Act 2003. Other offences relating to minors include selling alcohol to a minor, purchasing on behalf of a minor and delivering to a minor.

now more common for fixed penalty notices—payment of which discharges all liability for the relevant offence—to be used for these and other similar disorder offences.³⁸⁰ Exclusion orders can be imposed on individuals convicted of a violent offence on licensed premises, banning them from that and other specified premises.³⁸¹ The proposed ‘drinking banning orders’ would be similar to exclusion orders but available in a wider set of circumstances.³⁸² Anti-social behaviour orders and acceptable behaviour contracts can already be used to try to affect the behaviour of individuals and to prevent them entering licensed premises.

298. Second, there are now an increasing number of powers targeted at *licensed premises* that are acting irresponsibly. The most important of these in practice is likely to be power to review licences following a breach of licence conditions. This is considered with the other licensing changes below at paragraph 317ff. In addition to this, there are prosecutable offences that are relevant to licensed premises—such as selling alcohol to a person who is drunk, selling alcohol to minors and allowing disorderly conduct on licensed premises.³⁸³ In serious cases of disorder or nuisance, as well as in relation to excessively noisy premises and premises associated with the supply of Class A drugs, closure orders can be used to close down premises for up to 24 hours (soon to be extended to 48 hours), and the proposed 24-hour banning orders would extend this to individuals found to be persistently selling alcohol to minors.³⁸⁴

299. Third, there are a small number of powers that are targeted not so much at individuals or individual premises, but at *public space*. Designated public places orders can be used by the police, in conjunction with a local authority, to ban street drinking in defined areas.³⁸⁵ A magistrates court, on the application of a senior police officer, has the power to close all premises within a specified geographical area which is experiencing disorder.³⁸⁶ The proposed “alcohol disorder zones” would allow for areas to be designated in which licensed premises would be forced to contribute to policing and other local costs for dealing with alcohol-related disorder.

300. Several of these powers have yet to come into force: these include the licensing powers, some of the closure powers and the powers proposed by the Home Office as part of its consultation in January 2005. In considering those powers which are currently available (and some have been for a very long time), we were concerned with two main questions: the extent to which they have been used at local level, and their effect on alcohol-related disorder.

379 Section 91 of the Criminal Justice Act 1967

380 Fixed penalty notices were introduced through the Criminal Justice and Police Act 2001. They were originally available for 11 disorder offences. Following the Criminal Justice and Police Act 2001 (Amendment) and Police Reform Act 2002 (Modification) Order 2004 (SI 2540/2004), made on 27 September 2004, FPNs are now available for 21 disorder offences. Fifteen of these carry the higher £80 penalty; the remaining six carry a £50 penalty.

381 Under the Licensed Premises (Exclusion of Certain Persons) Act 1980.

382 *Drinking Responsibly: the Government's Proposals*

383 See Part 7 of the Licensing Act 2003.

384 Sections 161–170 of the Licensing Act 2003 set out the main closure powers. Powers to close excessively noisy premises are contained in section 40 of the Anti-social Behaviour Act 2003. Powers to close premises where there is evidence that Class A drugs have been sold on the premises and that there is associated disorder are contained in Part I of the Anti-social Behaviour Act 2003.

385 Chapter 2 of the Criminal Justice and Police Act 2001

386 Section 160 of the Licensing Act 2003

301. Many powers appear to have been underused—often strikingly so.³⁸⁷ For instance, exclusion orders have been used infrequently. Recent figures are unavailable: however, figures for the 1990s reveal that the orders were uncommon and declining in use. In 1991, 70 exclusion orders were imposed; in 1996, there were only 23. Although in the Government White Paper on licensing reform it was proposed that exclusion orders would be made mandatory on the courts, this was not included in the Licensing Act 2003.³⁸⁸

302. Equally striking are the figures relating to prosecutions for alcohol offences. In 1980, there were a total of 124,380 drunkenness offenders in the UK—a rate of 221 per 100,000 people. In 2001, however, the total (this time including those cautioned) had fallen to 43,356—a rate of just 74 per 100,000. In 1992, 627 minors were found guilty or cautioned of under-age purchase of alcohol in England and Wales. In 2002, the equivalent figure was only 33. Similarly, the number of people found guilty or cautioned of selling alcohol to a minor has remained low throughout the past decade: 276 in 1992 falling to 162 in 2002.³⁸⁹

303. Other powers appear to have been used more. Designated public places orders had been introduced by 130 local authorities as of August 2004.³⁹⁰ An estimated total of 27,513 fixed penalty notices were issued in the calendar year 2004 specifically in relation to alcohol offences.³⁹¹ The Association of Chief Police Officers welcomed the introduction of FPNs and argued that they could be used “still more effectively as a tool for dealing with ASB”.³⁹²

304. In July and August 2004, in order to try to improve the use of enforcement powers at local level, the Police Standards Unit of the Home Office together with ACPO launched a summer campaign. In total, 92 Basic Command Units (representing 39 forces throughout England and Wales) and 46 Trading Standards departments participated. The Home Office described the conduct of the campaign:

During the campaign over 30,000 visits to licensed premises were conducted by participating partners i.e. Trading Standards, Fire Service, Environmental Health and Police and such visits resulted in over 1,200 offences being detected. Around 1,800 Test Purchases operations were conducted with over a third resulting in an offence being committed. Over 4,000 fixed penalty notices were issued and over 9,500 alcoholic containers were confiscated, with more than one-third of these being confiscated from children.³⁹³

305. A follow-up campaign was conducted in the last two weeks of December 2004. During these two weeks, police and trading standards officers carried out “sting operations”

387 It is not possible to reach any conclusion in relation to closure powers, as figures are not collected centrally.

388 Home Office, *Time for Reform: Proposals for the Modernisation of Our Licensing Laws*. Cm 4696, 2000. A variety of reasons were given for not including the provision, including human rights considerations and issues of enforcement. See Baroness Blackstone, HL Deb, 4 March 2003: Col 722–3

389 All these figures are recorded in Home Office, *Criminal Statistics England and Wales 2002*, 2003. They are collated and commented upon in the Institute of Alcohol Studies fact sheet: IAS, *Alcohol-related Crime and Disorder*, 2004.

390 Ev 52, HC 80–II. However, the figure is 120 according to Hazel Blears at HC Deb, 8 Dec 2004, Col 624W.

391 Figures provided by the Home Office. Of these, the vast majority (24,597) were for drunk and disorderly behaviour. A further 2,291 FPNs were issued for being drunk in the highway, and 455 were issued for consumption of alcohol in a designated public place.

392 Ev 7, HC 80–II

393 Home Office, *Lessons from the Summer 2004 Alcohol Misuse Enforcement Campaign*, 2004, p7

against nearly 1,000 licensed premises, issued nearly 4,000 fixed penalty notices and confiscated alcohol from 1,290 adults and 1,560 under-18s.³⁹⁴

306. Both campaigns uncovered examples of irresponsible trading. In the summer campaign, 45% of on licence and 31% of off licence premises visited were found to be selling to under-18s. In the December campaign, the figure for both types was 32%. In both cases, the figures need to be treated with a little caution: premises were specifically targeted on the basis of intelligence. The more significant figure might therefore be that out of 30,500 premises visited in the summer, 4% were found to have committed an offence; whilst out of 31,000 premises visited in the December campaign, just over 1% were found to have committed an offence.

307. The effects of the Summer 2004 Alcohol Misuse Enforcement Campaign in terms of its impact on alcohol-related disorder and violence appear to have been mixed. The following table, published by the Home Office, indicates the percentage change in recorded crime from July/August 2003 to July/August 2004:³⁹⁵

	Common Assault	Harassment	Violence against the person	Other wounding	Wounding / endangering life
<i>91 BCUs which participated in the campaign³⁹⁶</i>	-8.4%	28.1%	1.5%	8.3%	-9.2%
<i>All other BCUs</i>	-12.8%	20.2%	5.5%	13.3%	1.3%

308. Mr Steven Green, Chief Constable of Nottinghamshire, told us of the limited effect of a similar drive to cut alcohol-related disorder in Nottingham in 2001:

We did a major initiative in 2001 where we did everything. We did enforcement; we did education; we did proactive work with licensees; and we achieved a reduction in violent crime over the year of about 11%; but then the money ran out, because it was a Home Office funded project, and the following year the violent crime went back up again. Whilst we were able to achieve some benefit it was extremely short-lived, and now the violent crime figures are as high as they were before it was done.³⁹⁷

309. Alcohol Concern described the summer campaign as “a welcome step forward in this area”. It recommended:

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

394 Ev 222, HC 80–III

395 Home Office Press Release 391/2004 (17 December 2004). The source is iQuanta.

396 Excluding the British Transport Police

397 Q 204

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 (both from retailers and individuals) is no longer to be accepted.³⁹⁸

310. We asked Ministers why biannual enforcement campaigns are used in relation to alcohol disorder, in contrast with other areas of ASB (where the Together campaign drives performance all year round). In response Ms Hazel Blears, MP, highlighted the success of the alcohol misuse enforcement campaigns in improving partnership working and the quality of enforcement; however, she did not explain why the “Together” approach is not used in relation to alcohol disorder.³⁹⁹

311. In seeking to understand the potential for increased powers and penalties to make a serious impact on alcohol-related disorder, it is crucial to know why prosecutions for existing drunkenness offences have been so low. Professor Hobbs shared with us the findings of his research, arguing that the low ratio of police to drinkers has created perverse incentives away from enforcement:

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.⁴⁰⁰

The Chief Constable of Nottinghamshire, Mr Green, confirmed this when he estimated that on an average Friday night “there would have been between 80,000 and 100,000 people in Nottingham city centre and about 40 police officers maximum policing them”. He told us that “when the pubs and clubs turn out an awful lot of people are criss-crossing the city trying to get their transport, go to the one public toilet that exists in the city centre, get a pizza or whatever it is they are trying to do”.⁴⁰¹

312. Professor Hobbs told us that, even if there were significantly more police on the street, they could not possibly prosecute or issue fixed penalty notices to everyone who was drunk and disorderly:

If police officers in Nottingham or anywhere else were to arrest or apply a fixed penalty notice to everyone who was drunk at midnight you would be opening up special camps to deal with them. If someone is out at midnight and they have been out since seven or eight o'clock at night and they have been drinking alcohol

398 Ev 2, HC 80-II

399 Qq 589–90

400 Ev 45, HC 80-II

401 Q 225

consistently, let us be clear: they will be drunk. Officers therefore have to use their discretion.⁴⁰²

313. On the other hand, there have been some calls for greater powers to be given to the police—in particular, for greater powers to close problem premises. ACPO have argued that “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”.⁴⁰³

314. We welcome many of the new powers that have been introduced to target individuals who are committing alcohol-related disorder. Fixed penalty notices, in particular, have been helpful to the police, and have allowed them to deal with more drunk and disorderly behaviour than they were doing previously. We believe also that the designated public places orders are useful powers, and have the benefit of encouraging joint working between police and local authorities. We accept the need for greater powers to tackle underage drinking.

315. In addition, we welcome the Summer Alcohol Misuse Enforcement Campaign and its follow-up in December 2004. However, we note the contrast between these campaigns and the more general approach towards ASB which is all-year-round. We believe that the drive for better enforcement must be sustained if it is to achieve any longer-term reductions in alcohol-related disorder and recommend that this is done.

316. Better enforcement is a necessary part of the response to alcohol-related disorder; however, we conclude that on its own it is insufficient. Even if enforcement was to improve dramatically, we believe that this would have a limited impact. This is because the problem is not primarily about a handful of irresponsible individuals: it is what happens when tens of thousands of individuals under the influence of alcohol are milling about in public areas. The central solution lies elsewhere.

Licensing laws and dealing with problem premises

317. The most important aspects of the Licensing Act 2003 were described earlier.⁴⁰⁴ These include more flexible licensing hours, the new statements of licensing policy, new provisions to enforce licence conditions and the requirement for local policy to follow the four licensing objectives.

318. Mr Steven Green, Chief Constable of Nottinghamshire Police, told us that “in every sense of the word the jury is still out” on the likely effect of the Licensing Act 2003. He argued that there are “a huge number of unknowns”, including the legal robustness of the new regime, whether it would be possible to introduce ‘saturation zones’ and whether police powers would go far enough.⁴⁰⁵ On the question of extended licensing hours, Mr Green told us:

402 Q 240

403 Ev 8, HC 80-II

404 Above at paragraphs 291-292

405 Q 205

If you look at the behaviour of drinkers, those who are committed drinkers as it were, even if you staggered opening hours people will move from premises to premises and will try and stay out as long as they can. This idea that staggering hours makes it easier to police I think has not been proven in practice, certainly not in this country. At the moment, as things stand, as you say we have a fairly concentrated range of hours so I know if I focus my resources on that time and probably an hour afterwards, by three o'clock in the provinces I can start scaling down and get people off to bed, preparing for the following day. The longer the hours then the greater the risk I have to police in the course of the night. I think what we are going to see is a pulling of resources out of day-time policing into night-time policing to cover those risks.⁴⁰⁶

319. Other witnesses agreed that, although there has been much media and other attention relating to the possibility of 24 hour drinking, the liberalisation of licensing hours is unlikely to lead to large-scale adoption of this. Instead, there is more likely to be incremental changes, with uncertain impact in practice. Mr Doyle, a licensing officer in Westminster City Council and representing the Institute of Licensing, told us that there had not been great demand for large-scale extensions of operating hours, although licensees did want “greater flexibility in their ability to operate”.⁴⁰⁷ He predicted that they would be most likely to ask for extended opening hours on Friday and Saturday nights. Mr Hutson confirmed that JD Wetherspoon would be looking to “extend hours moderately”, but that this would depend on location and would be unlikely to extend as far as 24-hour opening.⁴⁰⁸

320. Mr Fox, President of ACPO, told us that the debate about licensing hours missed the point:

Our view is simply this, that in the late '90s a number of parts of the licensing mechanism abrogated their responsibilities and town centres were planned for night-time economies and licences were issued inappropriately, with over-saturation, in the face of massive legal combat by the industry itself. So we find ourselves in a position where we have saturated areas of alcohol. This is not about extended hours, this is about behaviour that exists now, and we have to deal with that and that means dealing with it across the piece.⁴⁰⁹

321. In statutory guidance, produced under section 182 of the Licensing Act 2003, the Government “strongly recommends that statements of [licensing] policy should recognise that longer licensing hours with regard to the sale of alcohol are important to ensure that the concentrations of customers leaving premises simultaneously are avoided. This is necessary to reduce the friction at late night fast food outlets, taxi ranks and other sources of transport which lead to disorder and disturbance”.⁴¹⁰ The assumption seems to be that, with longer hours, people would go home at different times, dissipating gradually, rather

406 Q 207

407 Q 208

408 *Ibid.*

409 Q 379

410 Department for Culture, Media and Sport, *Guidance issued under section 182 of the Licensing Act 2003 issued by the Secretary of State for Culture Media and Sport*, July 2004, section 3.29.

than all leaving at once. If a licensing authority was concerned, however, that many people may still leave at closing time, it is not clear how much ability it would have to stagger the closing hours of premises so that different premises in an area have different closing times. Certainly, the Guidance does not state that licensing authorities should stagger these hours, and if an authority adopted a fixed policy that, say, some premises should be allowed to open until 2am and others until 4am, it could be subject to legal challenges.⁴¹¹

322. In general, Mr Green expressed uncertainty as to whether the Licensing Act 2003 would prove legally robust:

I think how robust the actual regulatory regime is, in the face of what will undoubtedly be sustained and well-resourced assaults by legal representatives of different companies, does remain to be seen. The test for me will be, will the local authority have the power to be able to design the kind of town or city centre that it wants to create; or will it be at the mercy of the legal process where decisions have been overturned in the courts, and is unable to achieve what it sets out to achieve? That is a great unknown.⁴¹²

323. A further concern expressed by witnesses related to the ability of local licensing authorities to introduce “saturation” policies that take into account the cumulative impact of a concentration of licensed premises. This is not mentioned in the Licensing Act itself, although the guidance under the Act does deal with it. Mr Doyle told us that “if there is a policy of saturation, it will not be possible for a local authority to bring that into effect unless or until objection is made” either by a member of the public or by a responsible authority.⁴¹³ He added:

the policy in the authority I work in at Westminster has a saturation element to it in certain parts, such as Soho and Covent Garden. Very often what will happen is that the members will apply their policy not to grant any further late night drink-led entertainment in that particular area. They will not be able to do that routinely because all that has been taken away by the Licensing Act 2003 unless there is an objection. What will happen often is that that decision will be appealed and will go to the courts and the evidence to the court will include the fact that Westminster's policy approach is driven in part by section 17, but the courts are not bound by that, of course.⁴¹⁴

This point is confirmed in section 3.14 of the statutory guidance.⁴¹⁵

324. On the other hand, other features of the new licensing regime were more unreservedly welcomed by witnesses. These include the duty on local licensing authorities to prepare statements of licensing policy, the greater powers to enforce or vary licence conditions,⁴¹⁶

411 This could be on the basis that an authority had adopted a fixed policy and therefore fettered its discretion; it could be on the basis that it had acted inconsistently or perversely by permitting one establishment to remain open for longer than another.

412 Q 205

413 Q 209

414 Q 228

415 *Guidance issued under section 182 of the Licensing Act 2003 issued by the Secretary of State for Culture Media and Sport*

416 Q 278. Mr Doyle described this as “one of the best things about the Act”.

the ability to use licence conditions to force alcohol outlets to contribute to local crime and disorder initiatives, powers to close premises,⁴¹⁷ and the encouragement in the Act for premises which go beyond “simply stand-up drinking”, such as “comedy clubs and places where one can eat, drink and be entertained”.⁴¹⁸ Professor Hobbs told us that the issue of diversity was crucial:

Speaking to local authority officers and city centre managers over the last two years they see some of the changes in the licensing law as a possible opportunity to introduce diversity. At the moment it is for the under 25s. Most of the officers I speak to are middle aged, usually men, and they are looking for somewhere to drink themselves and they are getting rather disappointed because there is nowhere to go and use themselves as examples. The issue of diversity is crucial. It is going to be very difficult to introduce diversity. It is going to be very difficult to introduce a wine bar, a real ale bar or a comedy club once the licence is awarded and there are going to be some real battles over that.⁴¹⁹

325. The Government has committed to monitoring the effects of the Licensing Act 2003 and has stated that, if necessary, it will introduce further legislation to alter or strengthen any provisions. In the meantime, however, it has expressed confidence that the new licensing provisions will have a major impact on alcohol-related disorder. Mr Caborn told us:

I think you will see significant changes particularly when the 2003 Act comes into operation fully [...]. It will be later this year and in a couple of years' time we will look back and say, 'What was all the fuss about?'⁴²⁰

326. Professor Hobbs, however, was sceptical as to how much impact the new licensing arrangements can have, arguing that the focus should move away from individual premises:

With the changes in licensing law, there is a great hope that individual premises must be well run and if they are not we will close them down. Individual licensees—which is the personal licence awarded to those running the premises—will get their licence taken away from them if they serve under-age drinkers or if they run a disorderly house etc. This emphasis on individual premises is a red herring. The problem is in public space. The problem is the numbers who have been drinking in public space. A few years ago we had problems when people were coming out into public space at 11 o'clock and increasingly now it is 1.30 to 2.00, with extensions into three or maybe four o'clock. If we go to 24 hours it is going to get worse and worse, putting more people on the street; there will be no transport; there will be no urinals for young men who have been drinking gallons of beer; there will be no cabs; there will be no buses; so basically no facilities whatsoever. The problem we should be focusing on, I feel strongly, is on public space.⁴²¹

417 *Ibid.*

418 Q 213 (Mr Doyle)

419 *Ibid.*

420 Q 594

421 Q 213

327. We welcome many features of the Licensing Act 2003 as sensible measures that are likely to have a positive impact on reducing alcohol-related disorder. In particular, we welcome the transfer of functions to local authorities, the introduction of statutory licensing objectives, the duty on local licensing authorities to prepare statements of licensing policy and the greater powers to modify and vary licence conditions and to enforce breach of those conditions. As we argue below, in paragraphs 341–2, we believe that imaginative use can and should be made of these powers. We note, however, that the effectiveness of all these measures will depend on how they are implemented.

328. We were concerned to hear that licensing authorities will be unable to make use of their saturation policies unless they receive an objection to an application. This flies in the face of logic and runs the risk of exacerbating problems in the very areas that are struggling the most with disorder. We recommend that the Government legislates to reverse this situation before the Licensing Act 2003 comes fully into force. We recommend further that the Government publicises clearly to members of the public what their rights are under the Act and how they can object to licence applications.

329. We are concerned also about the legal robustness of the Licensing Act 2003. We have heard of potential for challenges in relation to saturation and diversity and believe that there may be a possibility of legal challenges to decisions about closing hours. We welcome the Government's commitment to keep the Licensing Act 2003 under review, and urge it to act quickly and decisively if there is any evidence that there are difficulties in these areas.

330. We conclude that there is no clear-cut evidence as to whether more flexible licensing hours will make current problems worse or will improve the situation. We accept that there is unlikely to be wholesale moves towards 24 hour opening as such, but it is to be expected that many licensed premises will after a time apply to stay open longer, and in some cases much longer than currently. Moreover, once one place does extend its opening hours then others in the area are likely to follow suit because of competition. Staggered drinking hours may reduce some flashpoints, but the changes may make it more difficult for the police in an operational sense to predict where and when officers need to be deployed. We recommend that local licensing authorities work closely with police to ensure that this is addressed. In the meantime, we urge the Government to monitor the situation on the ground extremely closely and to seek to change the law if necessary.

331. Overall, we conclude that aspects of the new licensing regime, such as the role to be played by local authorities, will have a useful contribution to make. This is not least because it is clear—from the results of the Summer Alcohol Misuse Enforcement Campaign and elsewhere—that some premises are acting irresponsibly and contributing directly to local drunkenness and disorderly behaviour. However, we agree with witnesses that the ability of the licensing regime to change *fundamentally* the nature of town and city centres is likely to be limited. This is because the central problem does not rest in individual premises, but in public space. As Professor Hobbs mentioned (at paragraph 284), research has shown a correlation between city centre licensed capacity and street assaults.

The responsibility of the alcohol industry

332. As part of its Alcohol Harm Reduction Strategy, the Government has been pursuing informal contacts with the alcohol industry and hopes to agree a voluntary code by June 2005. The Government has promised to review early in the next Parliament the question of whether the voluntary approach is having sufficient impact on alcohol-related harm.

333. The Bar, Entertainment and Dance Association shared with us some best practice examples of what some pubs and clubs have been doing. These included:

- contributing to the cost of local schemes designed to improve the general environment (for instance, paying for additional police officers (Newcastle), funding late night buses (Chichester) or supplying additional CCTV cameras or street lighting (Camden));
- strict policies on promotions (a club called Mood, Carlisle);
- dispersal policies: for instance, a bar called “Shout” in Newport now offers a service for all customers to wait for a taxi inside the venue. Customers can book a taxi through the club and purchase snacks and coffee whilst they wait inside.⁴²²

334. In addition to these individual schemes, Pubwatch is a good example of a national voluntary scheme intended to promote good working relationships between individual licensed premises and the police. Under it, the licensees of the premises involved:

agree on a number of policies to counter individuals who threaten damage, disorder, and violence or use or deal in drugs in their premises. Normally, action consists of agreeing to refuse to serve individuals that cause, or are known to have caused, these sorts of problems. Refusal of admission and service to those that cause trouble has proved to be effective in reducing anti-social behaviour. To work effectively any Pubwatch scheme must work closely with the police, licensing authorities and other agencies.⁴²³

335. Mr Hutson, Chief Executive of JD Wetherspoon, told us what his company has been doing to reduce disorder. This has included the training of management and bar staff, and the provision of food on premises. Mr Hutson told us that the latter had “a moderating effect on the whole atmosphere of the premises”.⁴²⁴ He later added that JD Wetherspoon was careful not to use irresponsible promotions, so that, for instance, “a double is twice the price of a single and if you want two bottles it is twice as much as one”.⁴²⁵

336. On the other hand, Mr Green argued that, in relation to irresponsible promotions, little had changed since research flagged up the dangers of these in 1999. He showed us some examples of unacceptable promotions, such as a “skint card”, where you get 25% off all drinks, and one advertisement which read “All drinks £1 all night; drink the bar dry”.

422 Ev 118, HC 80–III

423 *Guidance issued under section 182 of the Licensing Act 2003 issued by the Secretary of State for Culture Media and Sport*, at paragraph 2.16

424 Q 243

425 Q 245

Mr Green concluded that “whilst the nature of the promotion might have changed, this idea of the open market place driving down the price of drinks, incentivising people to drink more and price being a feature of promotion, has not gone away at all”.⁴²⁶

337. Whilst it may be possible for licensing authorities to tackle irresponsible promotions such as these through licensing conditions, there are legal complexities as to how far they can go in this respect. Chapter I of the Competition Act 1998 prohibits agreements by “undertakings” (defined broadly to include trade associations as well as individuals and individual companies) which have the purpose or effect of preventing, restricting or distorting competition. The most serious types of agreement covered by the Chapter I prohibition are price-fixing agreements: if found to have knowingly participated in such agreements, companies are likely to be fined heavily and their directors imprisoned.⁴²⁷

338. The Office of Fair Trading (OFT) advised us that under the Competition Act 1998, the Secretary of State is empowered to make an order to exclude the application of the Chapter I prohibition from an agreement or category of agreements, where there are “exceptional and compelling reasons of public policy” for doing so. However, the OFT argued that it was not in favour of this in respect of alcoholic drinks:

It is unlikely that a minimum pricing agreement would facilitate production or distribution or promote technical and economic progress. Moreover, it is unlikely to be of benefit to consumers as it may only serve to bolster the profits of publicans and shield inefficient operators from competition. It is also likely to result in an across board price increase for the majority of consumers who may not consume excessive amounts of alcohol.⁴²⁸

Significantly, however, it added that there is a critical difference between minimum prices imposed by authorities and prices agreed by trade associations or individual pubs and clubs:

However, where minimum prices are imposed at the sole instigation of a public authority such as the police or a local authority (which may not in any event be considered as undertakings within the meaning of the Act in relation to agreements of this nature) there is unlikely to be an agreement between undertakings that can be the subject of a challenge under the Act. It is important to differentiate this from a situation in which licensees actively and jointly participate in the determination of minimum prices in a meeting or other joint forum, facilitated by the police or local authorities and licensing officials. This latter scenario is likely to fall within the Chapter I prohibition.

339. This advice did not appear to have been known by the local government representatives who gave evidence to us. Mr Doyle told us that “the local authority’s power to impose conditions on licensees around their pricing policy is non-existent at the moment”.⁴²⁹ Similarly, Councillor Clark, from the Local Government Association, told us

426 Q 246

427 The latter sanction was introduced in the Enterprise Act 2002.

428 Ev 207, HC 80–III. It further argued that other methods ought to be tried prior to imposing blanket minimum prices, such as better use of existing police powers and better enforcement of existing laws

429 Q 250

of an attempt to broker a voluntary agreement between pubs and bars to set minimum prices that failed because of competition law.⁴³⁰

340. Although sections of the alcohol industry are working to try to improve the contribution of local pubs and clubs to tackling local disorder and to reduce the number of irresponsible promotions, we conclude that there are still far too many examples of pubs and clubs acting irresponsibly. We were particularly concerned to hear from the Chief Constable of Nottinghamshire that little has changed in the last six years in this regard.

341. We believe that imaginative use needs to be made of new licensing powers by local licensing authorities. In particular, we note that some pubs and clubs have voluntarily adopted dispersal policies and that many licensed premises are members of Pubwatch, although not all are. We recommend that the Government pushes hard for local licensing authorities to use licence conditions as a mechanism for achieving a far more widespread introduction of these types of action in areas which have been experiencing problems of disorder. In addition, we see the licensing framework as the best mechanism for tackling irresponsible promotions and recommend that the Government produces strong guidance in this area.

342. One route to tackling irresponsible promotions is the introduction of minimum pricing policies. We have heard a great deal of confusion on this point: several witnesses told us that local authorities are currently unable to introduce such policies; however, the Office of Fair Trading has advised that competition law is not necessarily a barrier as long as prices are fixed by local authorities and not by trade associations or individual pubs and clubs. We recommend, if it has not already done so, that the Office of Fair Trading clarifies this point directly to local authorities and that local authorities consider seriously the benefits of such a scheme, implemented through licence conditions and used in areas characterised by high levels of disorder.

Mandatory contribution to local policing

343. We considered whether local pubs and clubs should have to pay a mandatory contribution to local policing and other costs of dealing with alcohol-related disorder. As was noted above in paragraph 289, the Government has so far preferred the “voluntary approach”, although it promised to review this early in the next Parliament. In addition, it recently proposed ‘alcohol disorder zones’: as we have observed, however, contributions inside these zones would be sought only where alcohol outlets are at fault in some way.⁴³¹ We asked Ms Hazel Blears MP whether this would make them difficult to use. She replied:

The idea behind the alcohol disorder zones is to get behaviour change because what we will do is give a warning to people that unless you change your behaviour we will declare you an alcohol disorder zone and then you will have to pay. Hopefully in that

430 Q 388

431 At paragraph 294.

period when they get the warning they will then have an action plan to address the problems that we do not need to declare the orders at the end of the process.⁴³²

344. Several witnesses argued that there should be a mandatory contribution from the alcohol industry. Mr Green told us:

If the infrastructure is insufficient to cope with that, then somebody somewhere has to pay. It seems to me that the obvious people to pay are the industry because the benefits to them are likely to be so great. From my point of view I would welcome a situation where, as part of building a regime in a local town or city centre, a contribution could be required from a licensed premise on that basis which could be directly seen to go into providing a stronger infrastructure to deal with the kinds of problems that have been described.⁴³³

Mr Green also rejected the argument that the alcohol industry already paid their fair share in taxation, arguing that “simplistically, they still take far more out than is put in”.⁴³⁴ Both Mr Fox, President of ACPO, and Councillor Clark, representing the Local Government Association, told us that they were in favour of the principle of “polluter pays”. Alcohol Concern argued that “the role and responsibility of the industry in tackling alcohol related anti-social behaviour needs to be highlighted”.⁴³⁵

345. Professor Hobbs told us that he was in favour of contributions, and described problems with current voluntary arrangements:

There have been experiments with regard to the night time economy and operators paying for, for instance, police overtime to police their particular part of the night strip. This leads to disputes. If police officers are aware, for instance, that there is a fight 100 yards away from the strip that they are being employed to police on behalf of licensed premises, of course, they are obliged to attend that disorder, they are obliged to assist their colleagues. That means they are stepping outside the contract that has been made with those particular operators on that particular strip. This is quite a serious problem.⁴³⁶

346. However, Mr Hutson, Chief Executive of JD Wetherspoon plc, opposed the idea of fixed contributions, noting that many premises were already forced to contribute to disorder through licence conditions (requiring actions such as the employment of door staff), before arguing that fixed contributions would be unfair:

My final point is that the notion that the licensee should pay more or less assumes that the licensed premises in the city centre are all the same. Wetherspoon spends millions of pounds on training. We have six trained managers per pub on average. We have far fewer incidents of violence and disorder arising from our premises than other premises. We would argue that you cannot just apply one simple tariff to every

432 Q 596

433 Q 229

434 Ev 165, HC 80–III

435 Ev 3, HC 80–II

436 Q 234

licensed premise when it is quite obvious that certain licensed premises are run to a much higher standard than others and maybe a lot more care and attention should be paid to those premises that are not basically running a good ship.⁴³⁷

347. We welcome the acceptance of the principle that clubs and pubs ought to contribute more to the cost of disorder in some circumstances, as contained in the proposals for alcohol disorder zones. However, we are concerned that these proposals may be difficult to operate in practice. They seem to rest on the premise that individual licensed premises must be at fault for surrounding disorder; however, it is clear to us that problems of disorder can occur even if all the surrounding licensed premises are operating perfectly responsibly.

348. The extension of licensing hours works in the industry's favour and is likely to increase its profits. In return, we believe that pubs and clubs in areas designated by local authorities, in conjunction with the police, should pay a mandatory contribution to help solve local problems of alcohol-related disorder. Local authorities should have the discretion to decide whether this should be used to contribute towards the cost of local policing, the cost of late-night transport or other necessary facilities linked to the effects of night-time drinking. We believe that the size of the contribution should vary according to the size of the premise. It should be completely unrelated to issues of fault: the principle should be that licensing mechanisms will be used to maximum effect to require every pub and club in the area to act responsibly, and a mandatory contribution will be taken to help pay for the aggregate effect of large-scale drunkenness in public space.

City planning: the need to reclaim town and city centres

349. We have argued in relation to every aspect of policy considered so far—enforcement powers, policing, licensing and alcohol industry contribution—that whilst improvements can and should be made, this would be unlikely to make a fundamental impact on the problems of disorder in town and city centres. Professor Hobbs told us that existing policy, with its “emphasis on individual licences for individuals and individual premises is something of a red herring”. He argued instead that the emphasis should be entirely different:

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.⁴³⁸

437 Q 232

438 Ev 46

350. The notion that proper city planning must be the central part of the response to alcohol-related disorder was echoed by several other witnesses. The Chief Constable of Nottinghamshire, Steven Green argued:

It is all about planning in its wider sense, it seems to me. We can do what we want in policy terms but we have to plan for it. What worries me is that we seem to have taken a policy decision which says, "We want a more liberal regime in terms of licensing and the business side of it but what we have not done is guarantee that the infrastructure will be put in place for that to happen. Professor Hobbs' point about infrastructure on transport, on toilets, on police officers, on medical workers, on ambulances, on all those things is very important. Routinely I find that on a Saturday night my police officers are ferrying people to casualty because they have run out of ambulances.⁴³⁹

351. ACPO recommended that "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".⁴⁴⁰ It gave specific examples, including the need for the town centre layout and practices to 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".⁴⁴¹ In general terms, it noted that "good design has a critical role to play in prevention, both in the built environment of town centres and in licensed premises themselves."⁴⁴² Its President, Mr Fox, told us that it is rare in practice for town and city centres to have the necessary facilities to cope with the night-time economy:

There may be shining examples, but there are not many centres where you can find the toilets open at midnight, buses home after midnight, places where you can get non-alcoholic drinks and food—they are very, very limited.⁴⁴³

352. We think that it is important to distinguish between things that can be done now and things that will take some time to develop. An example of the latter is the need for greater diversity in terms of the type of establishment in an area and, as a corollary to this, the need to reverse the over-concentration of licensed premises aimed at the under-25s.⁴⁴⁴ In this respect, the ODPM's recent 'How to' guide points to changing in planning law which tightens up permitted changes of use for A3 (food and drinks) premises and points to the need to assess the cumulative impact of development in deciding planning applications.⁴⁴⁵ We note also that a new Planning Policy Statement 6 is about to be published which may encourage greater diversity.

439 Q 226. Mr Doyle contrasted this with planning in the narrow sense, which he described as not necessarily central to the issue (Q 212).

440 Ev 6, HC 80-II

441 *Ibid.*

442 Ev 8, HC 80-II

443 Q 381

444 Professor Hobbs described this as "crucial" at Q 213.

445 ODPM, *How to Manage Town Centres*, March 2005, section 1.4 (available at www.cleanersaferegreener.gov.uk)

353. In the meantime, there are things that can and should be done immediately. For instance, several witnesses stressed the importance of adequate night-time transport. Professor Hobbs argued:

Transport is the big one to get people out of the city centre. We are very good at getting people in at seven o'clock in the evening but usually the last bus leaves about quarter past 11 just when people are moving on to the club or to late night licensed premises. [...] I think that transport is absolutely top of the list.⁴⁴⁶

This was backed by ACPO and Mr Green.⁴⁴⁷ More generally, measures mentioned above such as the adequate provision of police, ambulance and A&E services, the introduction of sufficient public urinals, the incorporation of crime reduction principles into town and city centres and proper placing of taxi ranks are all measures that could be implemented immediately.

354. Under section 17 of the Crime and Disorder Act 1998, local authorities already have the duty to consider the effects of their decisions on crime and disorder. We have heard, however, that this has been ineffective in leading to the type of city planning that would be necessary if a major impact was to be made on alcohol-related disorder.⁴⁴⁸ In addition, Mr Doyle has told us that the courts are not bound by section 17 in their considerations.⁴⁴⁹

355. Under the Local Government Act 2003, local authorities have the power to invite local businesses to contribute to extra services in areas known as Business Improvement Districts (BIDs). The proposer would develop a proposal describing the additional services and the cost to ratepayers. All ratepayers in the BID area would then vote on the proposal in a ballot, with approval for the proposal having to meet two tests: first, a simple majority of those voting must vote in favour; second, those voting in favour must represent a majority by rateable value. This “dual-key” mechanism is intended to protect against large firms forcing through a proposal against the wishes of small firms, or vice versa.⁴⁵⁰ But whilst the introduction of BIDs may have some potential to assist with problems of disorder in town centres, they are not directed specifically to those premises (on or off licensed) which sell alcohol.

356. Overall, the problem of alcohol-related disorder must be addressed through proper city planning, in its widest sense. We accept that not everything can change immediately: it will take some time to reverse the over-concentration of licensed premises in some areas of towns and cities; equally, it will take time to introduce a greater diversity of premises into an area. We note in this respect that a new Planning Policy Statement 6 is anticipated which may deal with some of these issues: the test will be whether it enables local authorities to introduce greater diversity. However, some measures can and should be taken immediately.

446 Q 218

447 Ev 8, HC 80-II, Q 226

448 Q 220 (Professor Hobbs), Q 221 (Chief Constable Steven Green). Chris Fox, President of ACPO, made the same argument at a conference to discuss the effects of the Summer Alcohol Misuse Enforcement Campaign.

449 Q 228

450 See the Business Improvement Districts (England) Regulations 2004 (SI 2004, No. 2443)

357. We recommend that all local authorities with a designated disorder area should have a duty to produce a plan indicating how they will provide the infrastructure to cope with the night-time economy and what would be needed to finance that plan, taking into account the mandatory contributions from the alcohol industry.

358. In addition, we conclude that adequate late-night transport is absolutely essential if a real impact is to be made on levels of alcohol-related disorder. We recommend, as a matter of urgency, that the Government identifies the 50 areas in which alcohol-related disorder is highest, and works closely with local government in helping it to solve any logistical problems. We recommend also that in these 50 areas, the Government should assess whether mandatory contributions from the alcohol industry are likely to be sufficient to cover the cost of local transport and provide additional funding if necessary.

6 Building a successful anti-social behaviour strategy

Overview of the Government's strategy

359. We have described in paragraphs 22-25 above the Government's responses to ASB and the work of its recently established Anti-Social Behaviour Unit. We asked practitioners whether they had found the Unit responsive or effective. Their response was extremely positive. Mr Lee, from Manchester City Council, said that "they have been fantastic, seriously".⁴⁵¹ Sergeant Dunn told us that he agreed with that, arguing that "the reason why ... they have been fantastic is that they have listened to practitioners". He added:

They have set up the Manchester helpline, which has a fantastic reputation of giving good quality information back, or having a network of individuals within the country who have answers. I feel it is like we are on a train and I think we are really going at 150 miles an hour at the moment. I think this is a priority to everybody.⁴⁵²

Ms Rhodes, from the Family Welfare Association, described the Unit as "very helpful".⁴⁵³ Mr Denley, Director of the Youth Works scheme in Bridgend, complimented its co-ordination efforts.⁴⁵⁴

360. We commend the Home Office Anti-social Behaviour Unit on its work. Its image amongst practitioners is particularly impressive. We recognise its achievement in raising the awareness of ASB and in improving the response of local actors. The achievement is all the more notable given the relatively small budget from which the Unit has worked.

361. We believe that much of the work of the Anti-social Behaviour Unit: the engagement of local partnerships, the close contacts with local authorities and other key local actors, the close monitoring of the use of enforcement powers with work to identify and tackle barriers to their effectiveness on the ground, and the use of seminars and other training events to drive awareness would make a difference in helping to reduce alcohol-related disorder. We note that in the Alcohol Harm Reduction Strategy, it was intended that the ASB Unit should take on the enforcement role in relation to alcohol disorder, and recommend that it be given significant responsibilities in this area.

362. In addition, we recommend that the ASB Unit should take over some of the responsibility for promoting and monitoring the housing-based injunctive powers. Whilst we accept that re-organisation should not be done for its own sake, we believe that it would be particularly valuable to extend the "Together" approach here given the

451 Q 149

452 *Ibid.*

453 Q 45

454 Q 46

similarity of these powers to ASBOs and our earlier observations about the current level of knowledge in this area.

363. The Minister of State for Crime Reduction, Policing, Community Safety and Counter-terrorism, Ms Hazel Blears MP told us that in order to tackle ASB effectively, it was necessary to have a “twin-track approach” with tough enforcement combined with support and early intervention for young people. She then outlined what an effective ASB strategy from Government should look like:

First of all, identify the issues that people are concerned about locally; secondly get the partnership together and get the principles right on which you are operating, so you do not get confusion; thirdly, have a communications plan to tell the public what it is you are doing, in very simple, straightforward language, and, fourthly, have an action plan. [...] and, finally, we evaluate what we have done, learn from the success and spread the good practice and learn the lessons.⁴⁵⁵

364. In the course of this report, we have commented and made recommendations in relation to several of these steps. We have suggested ways to improve how local people are consulted about ASB concerns. We have highlighted things that are getting in the way of better partnership working and made recommendations. We have looked at what works and considered in detail several of the existing diversionary and support measures.

365. In relation to some of these diversionary and support measures—in particular, the Youth Inclusion Programme and Youth Inclusion and Support Panels, parenting classes, individual support orders and intensive family-based interventions—we noted that concerns have been raised about levels of funding, recorded the levels of funding currently being provided and assessed what would be needed for expansion of these schemes. We also considered carefully the point made by Ms Hazel Blears MP that funding should come primarily from the budgets of local authorities and agencies and that the Government was pushing for a redirection of some of their resources.⁴⁵⁶

366. We received substantial evidence relating to how different powers should inter-relate in responding to ASB. Crime Concern argued that there is no blueprint for a successful response—this has to be locally tailored:

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.⁴⁵⁷

The Chartered Institute of Housing agreed that “a mechanistic approach is unlikely to prove effective”.⁴⁵⁸

367. Whilst this must be true, we also heard a surprising degree of consensus that a tiered approach works best in terms of application of enforcement powers, with ASBOs and

455 Q 533

456 Q 545, quoted in paragraphs 168 and 245.

457 Ev 33, HC 80-II

458 Ev 21, HC 80-II

housing powers used if other measures have failed.⁴⁵⁹ The one exception was Manchester City Council, which argued that injunctions and ASBOs should be used extensively in order to protect communities. Mr Rouse, Chief Executive of the Housing Corporation, told us that whilst he preferred a tiered approach, “there will be occasions, and Manchester is absolutely right, when actually the key is to protect the community, and urgent and immediate action is required, and going straight to an ASBO is a legitimate approach”.⁴⁶⁰ Mr Winter, national organiser of the Social Landlords Crime and Nuisance Group, went further, arguing that the approach of Manchester City Council was having a “substantial impact” and was operating as an effective preventative measure.⁴⁶¹

368. The Home Office has published guidance on the proper relationship between ASBOs and acceptable behaviour contracts.⁴⁶² However, there is little guidance on the housing-based powers and on which should be used when. The need for a strong understanding of how these powers work and inter-relate was clear when we explored with witnesses the proper response to particular types of case.⁴⁶³ Yet it was equally clear to us that not everybody had the necessary level of understanding.

369. We would encourage the Government to continue to produce guidance on the most effective tactics and strategies for tackling ASB. We note the strength of the evidence we have received in favour of a tiered approach to tackling individual problems, but we also stress the overriding importance of seeking to protect local communities and witnesses. We believe that local ASB strategies should not hesitate to move swiftly to introduce preventative measures and sanctions if these can bring quick relief to local people.

370. We welcome the Government’s commitment to the prevention of ASB through diversionary and support measures and believe that the balance of its strategy is about right. We conclude that substantial resources are already being made available that could assist in preventative work with young people and dysfunctional families. However, the funding streams are complex and we are not confident that the resources are always being targeted on those most in need of support. Services which are required to play a key role in ASB strategies, like social services and Children and Adolescent Mental Health Service do not always seem to have access to additional funding, whilst other activities funded through DCMS or DfES may not be reaching the right people.

371. We recommend that the Government undertakes a review of these funding mechanisms with a view to allowing more flexible use of these funds at local level. We believe that this move would be in keeping with the general direction of children’s policy.

372. Notwithstanding this, we have also identified four specific areas in which we believe that a small amount of additional Government spending will have a

459 See Mr Winter at Q 459 and much other evidence.

460 Q 474

461 *Ibid.*

462 Home Office, *A Guide to Anti-social Behaviour Orders and Acceptable Behaviour Contracts*, 2002

463 See, for instance, the exchange at Qq 137–8 for a discussion relating to a tenant whose property is being used as a base for drug dealing, but who is powerless to prevent this.

disproportionate impact on reducing ASB. First, we urge the Government to listen to the arguments put forward by the Youth Justice Board and recommend that additional funding be provided for a very significant expansion of the Youth Inclusion Programme in particular, with extra funding for Youth Inclusion and Support Panels awaiting the outcome of full evaluation. We believe that this would ultimately be a cost-saving decision. Second, we welcome the introduction by the Government of a Parenting Fund and welcome the provision of £1.5 million during 2003–04 to the Youth Justice Board for additional parenting work associated with ASB. We recommend that this £1.5 million becomes a regular investment in order to allow parenting programmes to be targeted for parents whose children have been identified as being most at risk of future anti-social behaviour. Third, we recommend that £0.5 million be invested (to match the £0.5 million already being provided by the Youth Justice Board) so as to improve the take-up of individual support orders. We believe that additional investment would reduce the breach rate of ASBOs and therefore again be a cost-saving measure. Fourth, we welcome the £2.25 million investment for targeted family interventions: however, we recommend that the Government increases this in order to help ensure that the deepest-rooted ASB problems are not simply recycled from area to area.

373. In the remainder of this final section, we consider two further issues: how far the Government itself is co-ordinated in its approach to ASB and what redress is available to members of the public if authorities are not responding to their concerns.

Co-ordination within Government

374. Several organisations have suggested that the response to ASB at central Government level is incoherent. One of the main concerns is the alleged conflict between the approach of the Department for Education and Skills (as set out in the Green Paper, *Every Child Matters*) and that of the Home Office. The Association of Directors of Social Services argued:

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.⁴⁶⁴

This matches our findings in terms of the segregation of children's agencies from criminal justice agencies at local level, discussed at paragraph 122 above. We recall the argument of Ms Hibbert, from Barnado's, that there ought to be "a much better, more robust requirement for a link between crime reduction partnerships and children's strategic partnerships in local authorities".⁴⁶⁵ In addition, the Law Society pointed to conflicting

464 Ev 10, HC 80-II

465 *Ibid.*

guidelines from the Home Office and the ODPM on enforcement in respect of anti-social young people.⁴⁶⁶

375. On the other hand, the Parliamentary Under Secretary of State for Schools, Derek Twigg MP, told us that the two Departments “complement each other”, and argued:

There are two ways of approaching this: obviously we want to be preventative and stop children getting into trouble and protect them and keep them out of harm and actually committing anti-social behaviour and other issues. At the same time, obviously, there is the justice element which has to come into play here, which, with some young people, unfortunately, is what they will end up in. I think where we are coming from is that of the well-being of the child and how we have early interventions, as I mentioned earlier, in terms of Early Years and Sure Start, the *Every Child Matters* agenda and getting collaborative teams working together – whether that be youth offending teams, health service, education or schools – to try and help vulnerable families and young people, to prevent them getting into difficulties and trouble in the first place. So I do think that that complements what the Home Office is doing.⁴⁶⁷

376. In addition to the comments about the Government’s policies in respect of young people, there have been suggestions as to how funding streams and initiatives might be rationalised more generally. ACPO recommended that ODPM’s “Safer and Stronger Communities” Fund needs 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”. It also recommended a cross-cutting PSA target and rationalisation of Home Office units.⁴⁶⁸ Shelter argued that lead responsibility on ASB should pass to ODPM so that it sits alongside the Neighbourhood Renewal Unit, Social Exclusion Unit and Homelessness and Housing Support Directorate.⁴⁶⁹

377. The Safer and Stronger Communities Fund, to which ACPO referred, was established under the Spending Review 2004. It brings together provision from existing programmes—the Liveability Fund, Neighbourhood Wardens, Neighbourhood Management and Single Community Programme from ODPM, and the Building Safer Communities funding stream from the Home Office. According to the Spending Review, it aims “to empower local areas to tackle anti-social behaviour, improve public spaces and reduce crime. It will allow some local services to be provided by the voluntary and community sector where this makes most sense”.⁴⁷⁰

378. Ms Hazel Blears, MP, denied that the Government’s strategy on ASB is incoherent:

466 Ev 74, HC 80-II

467 Q 552

468 Ev 9, HC 80-II

469 Ev 129, HC 80-II

470 HM Treasury, *2004 Spending Review*, July 2004, p64

I do not accept that at all. In fact, I think the anti-social behaviour agenda is one of the best examples in government of cross-departmental working. It is very rare that you get five ministers in this way all focused on what can we bring to make a difference, to help communities in this way. We have obviously got structures at national level in that we have got an inter-ministerial working group. Cleaner, Safer, Greener, on which we are all represented and making a difference; we have got officials groups, again, across government, and although the lead is with the Home Office and the Anti-Social Behaviour Unit, housing is a key partner to us, as is the environment, as is sport, as is education. I feel that rather than this being incoherent, this is one of the best examples of that kind of integrated approach, and I wish that we could tackle more things in government in the way that these issues are currently being addressed.⁴⁷¹

In addition, Yvette Cooper, MP, told us that she was content with the Home Office taking the lead in this area, arguing that the location of it does not matter “as much as the partnership you have in place”.⁴⁷²

379. We conclude that, in responding to ASB, Government Departments have been working together in a generally coherent manner. However, we have also identified areas in the course of our inquiry in which co-ordination could be improved further. We note also that there are now a number of local partnership arrangements, each being promoted by their respective Departments. These include Crime and Disorder Reduction Partnerships, local Criminal Justice Boards, Children Strategic Partnerships, Children’s Trusts and Local Strategic Partnerships. We recommend that the Government should look closely at the links between these partnerships and ensure that there are no unnecessary overlaps.

Improving the redress for individuals

380. We were keen to establish what individuals could do if they found that their concerns were not being taken seriously at local level. Currently, there are a number of available mechanisms for redress. In relation to local authorities, people can turn to the complaints procedures of local authorities themselves and, if these prove unsatisfactory, the Local Government Ombudsman. Ultimately, of course, as Yvette Cooper MP pointed out, local authorities are also accountable through democratic elections.⁴⁷³

381. In relation to other agencies, the Government has recently proposed the creation of a “trigger power”. The White Paper on police reform—*Building Communities, Beating Crime*—sets out why such a power is needed:

The Government does not want to see local communities being left to fend for themselves because they have not been able to get a response from local agencies. Neither do we want the police or local authorities to be left to deal with recurring

471 Q 550

472 Q 559

473 Q 530

problems because they cannot get one or more of their partners to take action to resolve them.⁴⁷⁴

The White Paper sets out a number of options. One is to enable local councillors to trigger action on the part of the police and other relevant agencies when presented with acute or persistent problems of crime and ASB to which local communities have been unable to get an effective response. According to the White Paper, “this would not be about individual complaints—nor could it be triggered by individuals—but rather by community groups, after persistent efforts to secure action have come to nothing”.⁴⁷⁵ A second and more radical option mooted in the White Paper is for powers to trigger an inspection.

382. One issue that came up frequently in our inquiry was what happens if professional judgements differ from community views as to the standard of behaviour that ought to lead to intervention. Yvette Cooper, MP, argued that it was simplistic to assume that there is one single professional view and one single community view and that these are in conflict: it will vary from case to case. She then set out how local communities are able to express their views:

Obviously, there are intermediate ways [...] in between local elections for local communities to express their views, whether it be through complaints procedures, as Hazel has said, or through local councillors playing a stronger role as champions. [...] Many areas already have local neighbourhood managers who are much more responsive to the local community as well, and it means that people can just go and talk to them and they can go and chase up the agencies that are not taking a problem seriously enough or not moving fast enough. As Hazel said, we are exploring this idea of the trigger mechanisms, where if a particular service falls below a certain standard could that operate as a trigger? This is work in progress. I think the bottom line is there is accountability through local government and through democratic accountability but we think we need to go further at a very local level to give communities a stronger voice.⁴⁷⁶

383. We welcome the actions of the Government in improving the redress of individuals and communities whose concerns around ASB are not being addressed. In particular, we welcome the proposals in the White Paper on police reform for trigger powers to force local agencies to respond to ASB. We recommend that, if these proposals are adopted, the Government ensures that the use of the trigger powers is closely monitored and used to feed into the evidence base about the quality of local responses to ASB.

474 Home Office, *Building Communities, Beating Crime*, November 2004, p71

475 *Ibid.* As part of this, it is proposed also that there should be a statutory duty “to co-operate”

476 Q 530

Conclusions and recommendations

1. We do not believe that the problem of anti-social behaviour has been exaggerated by Government or played up by the media. It is a problem that has a day-to-day impact on residents, neighbours and communities. It seems clear to us that even apparently minor acts can have a huge and disproportionate impact on people who have no way of escaping persistent low-level nuisance behaviour. In that context, the nature of the response goes to the heart of what it means to live in a community. (Paragraph 19)
2. There is currently a paucity of hard evidence as to whether the problem of ASB is being tackled effectively. We welcome the suggestion from the British Crime Survey that there has been a fall in the number of people perceiving ASB to be a problem in their area, although we would need to see a consistent trend over time to draw any firmer conclusions. We welcome the new Audit Commission arrangements: for the first time local authorities will be assessed on their performance in tackling ASB. Similarly, we welcome the measures contained in the White Paper on police reform according to which police performance will be assessed partially by reference to public satisfaction about the response to ASB; however, the police are only one body amongst many with responsibilities in this area. (Paragraph 20)
3. We are concerned that some organisations that do not wish to tackle ASB are in danger of ignoring the needs of victims and witnesses... We recommend that regular ASB public satisfaction surveys are carried out by CDRPs to improve the evidence base in this area. (Paragraph 21)
4. We have listened carefully to criticisms of the current legal definitions of ASB as too wide. We are convinced, however, that it would be a mistake to try to make them more specific. This is for three main reasons: first, the definitions work well from an enforcement point of view and no significant practical problems appear to have been encountered; second, exhaustive lists of behaviour considered anti-social by central government would be unworkable and anomalous; third, ASB is inherently a local problem and falls to be defined at a local level. It is a major strength of the current statutory definitions of ASB that they are flexible enough to accommodate this. We would argue also that the definitions are helpful in backing an approach that stands with the victims of ASB and their experience rather than narrowly focusing on the behaviour of the perpetrators. (Paragraph 44)
5. It has been suggested to us that much anti-social behaviour by young people is really a matter of a lack of tolerance, or inter-generational conflict. We conclude that, for the most part, this simply is not true. In particular, behaviour which invites a formal response (such as the use of enforcement powers) is almost always serious, persistent, and non-contentiously anti-social... The argument also underestimates the effect of even apparently minor acts on local residents. (Paragraph 53)
6. In relation to most neighbour nuisance cases, it is similarly clear that these cannot be put down to a mere clash of lifestyles: in the majority of cases, one party is at fault, and the effect of his or her behaviour is magnified by the inability of the other party to escape from it. In some cases, it may be less clear-cut that behaviour is anti-social.

In such cases, the key question is how the decision is made and by whom. (Paragraph 61)

7. We would argue that the process of defining what constitutes ASB at a local level must itself be seen as part of the response to ASB. We have been told that, in practice, this decision is largely made by groups of professionals responding to complaints, and—on a strategic level—by Crime and Disorder Reduction Partnerships. But it seems clear from the evidence we have received that—
 - i. the definition of some behaviour as anti-social can be contested;
 - ii. tolerance is a variable and must, in part, be educated;
 - iii. there is a gap—especially in relation to children—in that what constitutes unacceptable behaviour is not always being communicated effectively; and that
 - iv. different problems of ASB are likely to concern residents of different local neighbourhoods even within local authority areas.

In light of these points, it seems to us that it is inappropriate for these judgements to be made by professionals and by CDRPs alone. The ability of the courts to assist with such definitions (by deciding which applications will and will not succeed) does not in our view adequately address this issue. Courts only see those cases brought before them (which are likely to be the more serious) and cannot make strategic decisions or comment on the broader issues. (Paragraph 77)

8. We welcome the introduction by the Government of Community Justice Centres in Merseyside and Warwickshire and recommend that it expands this pilot scheme into other areas so as to achieve a stronger basis for evaluation. In the meantime, we recommend that local authorities and CDRPs develop mechanisms for ensuring that the views of local residents are taken fully into account as an essential aspect of their response to ASB. (Paragraph 78)
9. We have heard evidence that young people acting anti-socially should not all be grouped together: there is a difference between a young person annoying residents by playing football and someone who is terrorising a local neighbourhood through a series of criminal and sub-criminal activities. We accept this: however, we emphasise that this does not mean that less serious ASB should be ignored. Activities such as playing football in the street are not necessarily harmless: persistent use of a garden gate, house wall or car or other inappropriate locations as goalposts—perhaps accompanied by abuse or threats when challenged—can amount to intolerable behaviour which should not be dismissed by the authorities. (Paragraph 96)
10. The evidence we received from a number of organisations—in particular, some children’s charities and civil liberties organisations, as well as the Association of Directors of Social Services—suggests that they assume there is a sharp distinction to be made between prevention and enforcement. We believe that this is ultimately self-defeating: instead, it seems to us that enforcement has a crucial preventative role in itself that needs to be recognised and which needs to be seen as the responsibility of

everyone. We agree with those who stress the importance of all ways of dealing with ASB. We are deeply concerned about the potential effect on local ASB strategies if the enforcement element is resisted by agencies dealing with ASB at the front line. (Paragraph 101)

11. Overall, the clear message of the evidence is that there is more to do in terms of *all* means of tackling ASB—whether through diversion, support or sanction. It is not the case that the Government’s ASB policies are overwhelmingly punitive towards children; nor is it true that its strategy is skewed towards enforcement. On the contrary, there is compelling evidence that in many parts of the country, legal powers are used only relatively rarely. We would emphasise therefore the need not to be led astray by rhetoric but to focus on what is actually happening on the ground. (Paragraph 116)
12. It is clear that different philosophies, methods and tactics are having a deleterious effect on the response to ASB at a local level. Too often, in our view, the focus appears to be on the needs of those who commit ASB rather than on the victims of their behaviour. The irony is that this very focus is also failing the perpetrators. (Paragraph 134)
13. We were disappointed to hear that social services departments and other key players such as local education authorities, the Children and Adolescent Mental Health Service, Youth Services and some children’s NGOs are often not fully committed to local ASB strategies. The failure to attend meetings of Crime and Disorder Reduction Partnerships is just one symptom of this. All these organisations are, or should be, working with many of the same young people: as the Association of Directors of Social Services has pointed out, anti-social young people frequently also have support needs. Whether these organisations are unable or reluctant to engage, it cannot be in the best interests of the young people they serve. We discuss at paragraphs 171–72 and 370–71 how some of the problems faced by social services could be overcome. But to the extent that non-participation reflects a rejection of the current ASB strategy as too punitive, social services and others are foregoing the chance actually to influence the way in which it is carried out at local level. (Paragraph 135)
14. It is clear that there are a number of misconceptions about the scope of data protection legislation. There is a need for some simple user-friendly guidance in this area, and we recommend that the Government should do more to publicise what it has already produced, disseminating its step-by-step guide to *all* agencies which have a responsibility for tackling ASB. We conclude also that section 115 of the Crime and Disorder Act is not having the desired effect. We recommend that the Government considers, as part of its review of that legislation, changing the power to share information into a duty in specified circumstances. (Paragraph 136)
15. There is a clear need for youth offending teams to be involved in the response to young people who behave anti-socially—especially when formal measures are used. We were concerned to learn that Youth Offending Teams are not always consulted by those taking out an ASBO. We believe that they should be consulted as a matter of course before an application for an ASBO is made: not as a veto, but to ensure that

sufficient thought has been given to support needs and to ensure that other measures are also taken if appropriate. (Paragraph 137)

16. Overall, we conclude that more could be done to aid a joined-up response to ASB at local level. We recommend that the Government looks closely at ways in which performance regimes can be amended to reward partnership working. We welcome the Government's provision of funding for ASB co-ordinators—the introduction of these has often made a significant difference at local level—and recommend that it works to improve their performance through targeted national seminars and best practice guidance. We further recommend that the Government hosts a conference specifically for the voluntary sector to improve its response to ASB at local level. (Paragraph 138)
17. We welcome the introduction of targeted diversionary and support schemes such as Youth Inclusion Programmes and Youth Inclusion and Support Panels. All the indications are that these schemes are extremely successful and cost-effective in terms of their impact upon ASB. (Paragraph 146)
18. Poor parenting is often an important factor in ASB by young people. We note the observation by Barnado's that in many cases parents have been seeking help with their children's behaviour for some time, but assistance is rarely given. Whilst funding has been made available for all parenting classes attached to ASBOs, there is more limited provision for parenting classes as an earlier preventative tool. (Paragraph 159)
19. We welcome the introduction of parenting orders: it is apparent that a coercive approach is sometimes necessary and can ultimately be of great benefit to the parents concerned. However, they are underused. We conclude that, although some concern has been raised about levels of funding, the main reason for this is that not everyone is committed to the notion that a coercive approach is sometimes necessary in order to help people to help themselves. Whilst family group conferences and other informal techniques can be successful, we believe that there must be a place also for a coercive order. (Paragraph 160)
20. We welcome the introduction of individual support orders (ISOs): these usefully complement the aims of ASBOs in preventing ASB. We note, however, that take-up of these is not matching expectations. We believe that there are two main reasons for this. First, it is becoming accepted that ISOs should be used more widely than was originally anticipated, yet funding has not risen to match this. (Paragraph 170)
21. Second, we have noted at paragraph 135 above our concern about the non-participation of social services and other agencies in ASB strategies. We recognise the strain on the budgets of social services departments and we recognise that they may often, quite legitimately, have other priorities. Nonetheless, the failure to participate is likely to undermine the success of ASB work and lead to young people not getting the assistance they require. We recommend that the Government should review urgently the barriers to participation and identify ways they can be overcome. (Paragraph 171)

22. There is clearly very substantial investment by central government that is, or could be, designed to support young people likely to be involved in ASB, but this is distributed through a multiplicity of channels and departments. Some like Positive Futures, the Behaviour Improvement Programme and Connexions are designed for young people. Other generic funding streams like Neighbourhood Renewal might be expected to contribute to ASB strategies. We have two concerns: first, that there do not appear to be mechanisms in some cases to ensure that the young people who participate in these programmes are those in the greatest need of support; second, that little of this funding seems to be made available through social services even though they carry most criticism for not supporting ASB work. (Paragraph 172)
23. Given the concerns expressed by the ADSS amongst others that the Government's ASB strategy is currently too punitive, we are somewhat disappointed that social services are not making greater efforts to fund support measures such as ISOs and Parenting Orders. We recommend that social services departments reconsider whether, by attaching greater importance to tackling ASB, they could actually achieve more in relation to perpetrators with support needs than they are doing at present. (Paragraph 173)
24. We welcome the development of acceptable behaviour contract (ABC) schemes, which seem to have the multiple advantages of being cheap, easy to administer and apparently remarkably successful. We are clear though that these need to be used in appropriate cases rather than automatically as a first resort, and agree with the current guidance of the Home Office which is explicit on this point. We believe that the current approach is also correct in not placing ABCs on statutory footing: even those local authorities which do not use ABCs often tend to use warning interviews or similar written agreements. It is right to leave the exact details for individual authorities. (Paragraph 181)
25. Our main concern in relation to ABCs is that there must be consequences for breaches for the sake of the victims of those breaches. We recommend that the Home Office commissions research to establish whether ABCs are being used in place of enforcement action, or whether they are indeed being used as part of a graduated approach to unacceptable behaviour. (Paragraph 182)
26. We welcome the introduction by the Government of ASBOs. The ASBO appears to be an effective tool which gives relief to communities and is more honoured in the observance than the breach, although we recognise that they are only just beginning to be used widely. We agree with witnesses who argue that ASBOs are little different from injunctions, which primarily seek to prevent rather than to punish: in essence, they require people to amend their behaviour to an acceptable and normal standard. We conclude that ASBOs are most likely to succeed in changing behaviour when used in conjunction with necessary support measures. (Paragraph 218)
27. We welcome the suggestion from the recent Youth Justice Board research study that the use of ASBOs is not leading to the incarceration of young people who would otherwise have remained outside the criminal justice system. We note, however, that more work is being done in this area and recommend that the Home Office

monitors closely the results of the September study. We would regret any evidence that the use of ASBOs has led to significant net-widening. (Paragraph 219)

28. We do not consider that the inappropriate issuing of ASBOs, or the issuing of ASBOs containing inappropriate conditions, is a major problem in practice. We observe also that where the terms of an ASBO prove to be inappropriate, it is relatively straightforward to apply to the court which made the Order for the terms to be varied. There is also a right of appeal to the Crown Court against the terms of an order. Cases in which these options are not being taken highlight the variable quality of legal representation rather than any difficulties with the current provisions for variation and appeal. However, the reliance on anecdotal evidence is damaging, and we recommend that the Home Office commissions wide-ranging research in this area. The research should seek to establish not only the extent of inappropriate ASBOs, but—of critical importance—the reasons for failures of this kind. (Paragraph 220)
29. In general, there is a clear need for all terms of ASBOs to be evidence-based, manifestly justified in terms of the prevention of ASB, and clearly communicated to the young person subject to the ASBO. In our view, the cases brought to our attention of inappropriate conditions highlight—if any further highlighting was needed—the absolute need for all the relevant agencies to be involved in the response to ASB. It seems probable to us that many such problems would not have occurred had co-ordination been adequate. (Paragraph 221)
30. We agree with Barnado's and others that in relation to young perpetrators of ASB, it may be inappropriate to issue ASBOs that last for a minimum of two years. We recommend that, in the case of children under the age of 18, the law is amended so as to give magistrates greater discretion to set the duration of the ASBO. (Paragraph 222)
31. We conclude that 'naming and shaming' is often essential to enforce ASBOs and accept that, with a free press, it is not possible to limit publicity to local communities. However, whilst we accept the presumption of publicity, there are clearly cases where publicity could be harmful to individuals. Issues of child safety should be raised in court where concerns exist and the discretion of magistrates in this matter is an important responsibility that they should exercise carefully. (Paragraph 223)
32. According to latest figures, 42% of ASBOs are breached. We accept the point made by witnesses that this means that 58% are not breached and that relief is being provided to the community in these cases. This breach rate also compares favourably with other non-custodial youth justice interventions. Nonetheless, consideration must be given to ways of reducing the breach rate. We believe that a number of factors may be contributing to it, including the use of inappropriate conditions and the imposition of ASBOs for an inappropriately long time. We conclude that the most important factor is likely to be insufficient support given to perpetrators who may have problems of addiction or of mental health or may be living in chaotic families. This underlines why the measures we outline in relation to support are so important. (Paragraph 224)

33. We heard little evidence as to whether the section 30 dispersal powers are effective at local level, although they have now been in operation for over a year. We are concerned that this reflects a wider ignorance about the use of these powers, and recommend that the Home Office commissions research to examine issues of effectiveness and proportionality. (Paragraph 230)
34. We welcome the Government's announcement that £1.25 million would be added to help fund intensive family-based interventions. It is clear that these types of intervention are essential if the deepest-rooted ASB problems are not simply recycled from area to area. (Paragraph 246)
35. We conclude that mediation is an important tool that is cost-effective and can help to deal efficiently with neighbour nuisance cases. However, according to the Director of Peterborough Mediation Service, mediation is underused, with only 60% of the country currently having effective coverage. This is a cause for concern, as are claims that mediation is sometimes used inappropriately. (Paragraph 254)
36. In our view, the solution to the problems both of under-use and inappropriate use is to make the referral mechanism far more systematic throughout the country. New Forest, Southampton and SW Hants Mediation offers one model in taking over the complaints of local authorities so as to assess the prospects for mediation, although we believe that research is needed to establish whether it is as successful as it claims. We recommend that this is done and that the Government works with local authorities to spread this or another referral mechanism as an example of best practice. (Paragraph 255)
37. We welcome the introduction of the new housing-based powers, in particular, the powers of injunction and demotion. However, it is unsatisfactory that the Government has created these powers but not collected the data necessary to know whether they are being used or used effectively. Despite the fact that several of the powers, such as possession orders and housing injunctions, have been in force for several years, the Government does not know how or how often they are being used, whether eviction is being used appropriately, or the impact of its ASB measures on homelessness. We note that the Government has now committed to collecting data relating to possession orders, with first figures to be published in 2006, and we welcome this. However, it has no plans to do the same in relation to housing injunctions, despite recognising that this information is already available locally and that data relating to ASBOs—a not dissimilar legal power—is collected. We do not believe that asking local authorities and registered social landlords to keep and supply records of their injunction applications would place an undue burden on them, and we recommend that the Government asks them to do so. In addition, we recommend that in-depth qualitative research studies should be conducted as a matter of urgency to determine take-up of the main housing powers, their effectiveness in tackling ASB and their impact on homelessness. (Paragraph 268)
38. It is essential that the available powers and tools are used together in the most effective manner... We have heard, for instance, of the strong advantages of offering adequate support in conjunction with demotion orders and of using ASBOs in

conjunction with possession orders, and we recommend that both of these points are promoted by the Government as examples of best practice. (Paragraph 269)

39. We welcome the principle behind the new powers for selective licensing of private landlords. The Government is right to believe that ASB is not a problem related solely to social housing. However, we note that the success of the new scheme will depend very much on how it is implemented and that the proposals are still to be fully developed. It is important that the scheme is as unbureaucratic as possible and that local authorities have appropriate guidance so that they use discretion in a way that will target the unscrupulous landlords rather than those who are victims of their tenants' behaviour. (Paragraph 276)
40. We accept that most private landlords cannot be expected to operate the full range of management responses to ASB that are expected of social landlords. Nonetheless, prompt and effective action by private landlords could help to tackle many problems at an early stage. We recommend that police and local authorities work together with representatives of private landlords to produce local codes of conduct that set out how responsible private landlords are expected to respond to nuisance complaints and the support they can expect from public bodies. (Paragraph 277)
41. We conclude that no new powers are needed in relation to anti-social owner-occupiers: ASBOs and other powers are already available and ought to be sufficient. (Paragraph 280)
42. The Government's response to alcohol-related disorder is currently centred around one main principle: the assumption that the problem can be defined in terms of, and traced to, irresponsible individuals and individual premises. We also note that the Government's emphasis on individuals making informed choices and being responsible for the consequences of their actions contrasts with moves to restrict smoking in public places. Unless it becomes clear that alcohol-related disorder is being reduced to a really significant extent, we believe that we should ask whether the Government should be so reliant on its emphasis on the role of individuals. (Paragraph 296)
43. We welcome many of the new powers that have been introduced to target individuals who are committing alcohol-related disorder. Fixed penalty notices, in particular, have been helpful to the police, and have allowed them to deal with more drunk and disorderly behaviour than they were doing previously. We believe also that the designated public places orders are useful powers, and have the benefit of encouraging joint working between police and local authorities. We accept the need for greater powers to tackle underage drinking. (Paragraph 314)
44. In addition, we welcome the Summer Alcohol Misuse Enforcement Campaign and its follow-up in December 2004. However, we note the contrast between these campaigns and the more general approach towards ASB which is all-year-round. We believe that the drive for better enforcement must be sustained if it is to achieve any longer-term reductions in alcohol-related disorder and recommend that this is done. (Paragraph 315)

45. Better enforcement is a necessary part of the response to alcohol-related disorder; however, we conclude that on its own it is insufficient. Even if enforcement was to improve dramatically, we believe that this would have a limited impact. This is because the problem is not primarily about a handful of irresponsible individuals: it is what happens when tens of thousands of individuals under the influence of alcohol are milling about in public areas. The central solution lies elsewhere. (Paragraph 316)
46. We welcome many features of the Licensing Act 2003 as sensible measures that are likely to have a positive impact on reducing alcohol-related disorder. In particular, we welcome the transfer of functions to local authorities, the introduction of statutory licensing objectives, the duty on local licensing authorities to prepare statements of licensing policy and the greater powers to modify and vary licence conditions and to enforce breach of those conditions... We note, however, that the effectiveness of all these measures will depend on how they are implemented. (Paragraph 327)
47. We were concerned to hear that licensing authorities will be unable to make use of their saturation policies unless they receive an objection to an application. This flies in the face of logic and runs the risk of exacerbating problems in the very areas that are struggling the most with disorder. We recommend that the Government legislates to reverse this situation before the Licensing Act 2003 comes fully into force. We recommend further that the Government publicises clearly to members of the public what their rights are under the Act and how they can object to licence applications. (Paragraph 328)
48. We are concerned also about the legal robustness of the Licensing Act 2003. We have heard of potential for challenges in relation to saturation and diversity and believe that there may be a possibility of legal challenges to decisions about closing hours. We welcome the Government's commitment to keep the Licensing Act 2003 under review, and urge it to act quickly and decisively if there is any evidence that there are difficulties in these areas. (Paragraph 329)
49. We conclude that there is no clear-cut evidence as to whether more flexible licensing hours will make current problems worse or will improve the situation. We accept that there is unlikely to be wholesale moves towards 24 hour opening as such, but it is to be expected that many licensed premises will after a time apply to stay open longer, and in some cases much longer than currently. Moreover, once one place does extend its opening hours then others in the area are likely to follow suit because of competition. Staggered drinking hours may reduce some flashpoints, but the changes may make it more difficult for the police in an operational sense to predict where and when officers need to be deployed. We recommend that local licensing authorities work closely with police to ensure that this is addressed. In the meantime, we urge the Government to monitor the situation on the ground extremely closely and to seek to change the law if necessary. (Paragraph 330)
50. Overall, we conclude that aspects of the new licensing regime, such as the role to be played by local authorities, will have a useful contribution to make. This is not least because it is clear—from the results of the Summer Alcohol Misuse Enforcement

Campaign and elsewhere—that some premises are acting irresponsibly and contributing directly to local drunkenness and disorderly behaviour. However, we agree with witnesses that the ability of the licensing regime to change *fundamentally* the nature of town and city centres is likely to be limited. This is because the central problem does not rest in individual premises, but in public space. As Professor Hobbs mentioned (at paragraph 284), research has shown a correlation between city centre licensed capacity and street assaults. (Paragraph 331)

51. Although sections of the alcohol industry are working to try to improve the contribution of local pubs and clubs to tackling local disorder and to reduce the number of irresponsible promotions, we conclude that there are still far too many examples of pubs and clubs acting irresponsibly. We were particularly concerned to hear from the Chief Constable of Nottinghamshire that little has changed in the last six years in this regard. (Paragraph 340)
52. We believe that imaginative use needs to be made of new licensing powers by local licensing authorities. In particular, we note that some pubs and clubs have voluntarily adopted dispersal policies and that many licensed premises are members of Pubwatch, although not all are. We recommend that the Government pushes hard for local licensing authorities to use licence conditions as a mechanism for achieving a far more widespread introduction of these types of action in areas which have been experiencing problems of disorder. In addition, we see the licensing framework as the best mechanism for tackling irresponsible promotions and recommend that the Government produces strong guidance in this area. (Paragraph 341)
53. One route to tackling irresponsible promotions is the introduction of minimum pricing policies. We have heard a great deal of confusion on this point: several witnesses told us that local authorities are currently unable to introduce such policies; however, the Office of Fair Trading has advised that competition law is not necessarily a barrier as long as prices are fixed by local authorities and not by trade associations or individual pubs and clubs. We recommend, if it has not already done so, that the Office of Fair Trading clarifies this point directly to local authorities and that local authorities consider seriously the benefits of such a scheme, implemented through licence conditions and used in areas characterised by high levels of disorder. (Paragraph 342)
54. We welcome the acceptance of the principle that clubs and pubs ought to contribute more to the cost of disorder in some circumstances, as contained in the proposals for alcohol disorder zones. However, we are concerned that these proposals may be difficult to operate in practice. They seem to rest on the premise that individual licensed premises must be at fault for surrounding disorder; however, it is clear to us that problems of disorder can occur even if all the surrounding licensed premises are operating perfectly responsibly. (Paragraph 347)
55. The extension of licensing hours works in the industry's favour and is likely to increase its profits. In return, we believe that pubs and clubs in areas designated by local authorities, in conjunction with the police, should pay a mandatory contribution to help solve local problems of alcohol-related disorder. Local authorities should have the discretion to decide whether this should be used to

contribute towards the cost of local policing, the cost of late-night transport or other necessary facilities linked to the effects of night-time drinking. We believe that the size of the contribution should vary according to the size of the premise. It should be completely unrelated to issues of fault: the principle should be that licensing mechanisms will be used to maximum effect to require every pub and club in the area to act responsibly, and a mandatory contribution will be taken to help pay for the aggregate effect of large-scale drunkenness in public space. (Paragraph 348)

56. Overall, the problem of alcohol-related disorder must be addressed through proper city planning, in its widest sense. We accept that not everything can change immediately: it will take some time to reverse the over-concentration of licensed premises in some areas of towns and cities; equally, it will take time to introduce a greater diversity of premises into an area. We note in this respect that a new Planning Policy Statement 6 is anticipated which may deal with some of these issues: the test will be whether it enables local authorities to introduce greater diversity. However, some measures can and should be taken immediately. (Paragraph 356)
57. We recommend that all local authorities with a designated disorder area should have a duty to produce a plan indicating how they will provide the infrastructure to cope with the night-time economy and what would be needed to finance that plan, taking into account the mandatory contributions from the alcohol industry. (Paragraph 357)
58. In addition, we conclude that adequate late-night transport is absolutely essential if a real impact is to be made on levels of alcohol-related disorder. We recommend, as a matter of urgency, that the Government identifies the 50 areas in which alcohol-related disorder is highest, and works closely with local government in helping it to solve any logistical problems. We recommend also that in these 50 areas, the Government should assess whether mandatory contributions from the alcohol industry are likely to be sufficient to cover the cost of local transport and provide additional funding if necessary. (Paragraph 358)
59. We commend the Home Office Anti-social Behaviour Unit on its work. Its image amongst practitioners is particularly impressive. We recognise its achievement in raising the awareness of ASB and in improving the response of local actors. The achievement is all the more notable given the relatively small budget from which the Unit has worked. (Paragraph 360)
60. We believe that much of the work of the Anti-social Behaviour Unit—the engagement of local partnerships, the close contacts with local authorities and other key local actors, the close monitoring of the use of enforcement powers with work to identify and tackle barriers to their effectiveness on the ground, and the use of seminars and other training events to drive awareness—would make a difference in helping to reduce alcohol-related disorder. We note that in the Alcohol Harm Reduction Strategy, it was intended that the ASB Unit should take on the enforcement role in relation to alcohol disorder, and recommend that it be given significant responsibilities in this area. (Paragraph 361)

61. In addition, we recommend that the ASB Unit should take over some of the responsibility for promoting and monitoring the housing-based injunctive powers. Whilst we accept that re-organisation should not be done for its own sake, we believe that it would be particularly valuable to extend the “Together” approach here given the similarity of these powers to ASBOs and our earlier observations about the current level of knowledge in this area. (Paragraph 362)
62. We would encourage the Government to continue to produce guidance on the most effective tactics and strategies for tackling ASB. We note the strength of the evidence we have received in favour of a tiered approach to tackling individual problems, but we also stress the overriding importance of seeking to protect local communities and witnesses. We believe that local ASB strategies should not hesitate to move swiftly to introduce preventative measures and sanctions if these can bring quick relief to local people. (Paragraph 369)
63. We welcome the Government’s commitment to the prevention of ASB through diversionary and support measures and believe that the balance of its strategy is about right. We conclude that substantial resources are already being made available that could assist in preventative work with young people and dysfunctional families. However, the funding streams are complex and we are not confident that the resources are always being targeted on those most in need of support. Services which are required to play a key role in ASB strategies, like social services and Children and Adolescent Mental Health Service not always seem to have access to additional funding, whilst other activities funded through DCMS or DfES may not be reaching the right people. (Paragraph 370)
64. We recommend that the Government undertakes a review of these funding mechanisms with a view to allowing more flexible use of these funds at local level. We believe that this move would be in keeping with the general direction of children’s policy. (Paragraph 371)
65. Notwithstanding this, we have also identified four specific areas in which we believe that a small amount of additional Government spending will have a disproportionate impact on reducing ASB. First, we urge the Government to listen to the arguments put forward by the Youth Justice Board and recommend that additional funding be provided for a very significant expansion of the Youth Inclusion Programme in particular, with extra funding for Youth Inclusion and Support Panels awaiting the outcome of full evaluation. We believe that this would ultimately be a cost-saving decision. Second, we welcome the introduction by the Government of a Parenting Fund and welcome the provision of £1.5 million during 2003–04 to the Youth Justice Board for additional parenting work associated with ASB. We recommend that this £1.5 million becomes a regular investment in order to allow parenting programmes to be targeted for parents whose children have been identified as being most at risk of future anti-social behaviour. Third, we recommend that £0.5 million be invested (to match the £0.5 million already being provided by the Youth Justice Board) so as to improve the take-up of individual support orders. We believe that additional investment would reduce the breach rate of ASBOs and therefore again be a cost-saving measure. Fourth, we welcome the £2.25 million investment for targeted family interventions: however, we recommend that the Government increases this in order

to help ensure that the deepest-rooted ASB problems are not simply recycled from area to area. (Paragraph 372)

66. We conclude that, in responding to ASB, Government Departments have been working together in a generally coherent manner. However, we have also identified areas in the course of our inquiry in which co-ordination could be improved further. We note also that there are now a number of local partnership arrangements, each being promoted by their respective Departments. These include Crime and Disorder Reduction Partnerships, local Criminal Justice Boards, Children Strategic Partnerships, Children's Trusts and Local Strategic Partnerships. We recommend that the Government should look closely at the links between these partnerships and ensure that there are no unnecessary overlaps. (Paragraph 379)
67. We welcome the actions of the Government in improving the redress of individuals and communities whose concerns around ASB are not being addressed. In particular, we welcome the proposals in the White Paper on police reform for trigger powers to force local agencies to respond to ASB. We recommend that, if these proposals are adopted, the Government ensures that the use of the trigger powers is closely monitored and used to feed into the evidence base about the quality of local responses to ASB. (Paragraph 383)

Annex

Legal basis of main social housing powers

Sections 153A-E of the Housing Act 1996 (as inserted by s13(1) of the Anti-social Behaviour Act 2003) set out three main powers of injunction. In each case, the injunction prohibits the conduct that constitutes the grounds for imposition. An injunction is granted by a court on application of a local authority, RSL or HAT. Prior to the 2003 Act, only local authorities could apply for one of the injunctions then in force; local authorities and RSLs could apply for the other.

Section 153A provides for an anti-social behaviour injunction. This can be imposed if two conditions are met:

- The defendant has engaged, is engaged or is threatening to engage in conduct that (a) is capable of causing nuisance or annoyance to any person and (b) directly or indirectly relates to or affects the housing management functions of the landlord;
- The conduct is capable of causing nuisance or annoyance to a person who is a member of at least one of four specified groups.⁴⁷⁷

It is immaterial where the conduct occurs: the only condition is that it must be connected (directly or indirectly) to the landlord's housing management functions. If imposed, an injunction prohibits the relevant conduct. Breach of the injunction is treated as a contempt of court, with a potential sanction of two years imprisonment, an unlimited fine or sequestration of assets.

Section 153B provides for an injunction against unlawful use of premises. It allows social landlords to apply for an injunction where someone has used or threatened to use social housing accommodation for an illegal purpose. This type of injunction would typically be used to prohibit drug dealing or the running of a brothel.

Section 153D provides for an injunction against breach of tenancy agreement. This allows social landlords to apply for an injunction on the grounds that a tenant is:

- Engaging or threatening to engage in conduct that is capable of causing nuisance or annoyance to any person, or
- Allowing, inciting or encouraging any other person to engage or threaten to engage in such conduct.

The main advantage of this power (from the perspective of the social landlord) is that it does not necessarily need to relate to the housing management function. For example, if a tenancy agreement contained a prohibition against threatening any member of the

⁴⁷⁷ These are: a person with a right to reside in accommodation owned or managed by the landlord or in the neighbourhood of such accommodation, persons engaged in lawful activity in the neighbourhood of housing accommodation and employees of the applicant.

landlord's staff, then this part of the injunction could still be used, even if the member of staff threatened had nothing to do with the landlord's housing management function.⁴⁷⁸

In addition, ss153C and 153D(2-4) permit the court to exclude a person from a particular property or area, including his or her place of residence, and/or to attach a power of arrest to provisions of an injunction which has been granted. These additional powers are available only if the relevant conduct includes the use or threatened use of violence or if there is a significant risk of harm to any person.

All these provisions came into force on 30 June 2004, although more limited forms of injunction have been available since 1996.

In dealing with ASB by social tenants, an alternative to directly prohibiting the behaviour through injunctions is to threaten their security of tenure. The precise legal mechanism to do this depends on the status of the tenant. Under Chapter 1 of Part 5 of the Housing Act 1996, all *new tenants* of local housing authorities and housing action trusts (but not RSLs who may be able to achieve a similar effect by the use of assured shorthold tenancies) can be subject to an introductory tenancy scheme. Introductory tenants are effectively on probation: they do not have security of tenure and the landlord can evict them more easily. At the end of the probationary period (usually of one year, although the Housing Act 2004 allows for it to be extended by a further six months where there are continuing concerns about the tenant's behaviour), the tenancy automatically becomes a secure tenancy, unless the process of obtaining possession has been commenced.

If the perpetrators of ASB are secure tenants, social landlords can attempt to stop the behaviour by applying for a demotion order: essentially, this brings a secure or assured tenancy to an end and replaces it with a new demoted tenancy which does not enjoy the security of tenure during the demotion period of 12 months. It can be imposed by a county court on application from the social landlord if:

- The tenant or another resident of, or visitor to, the tenant's home has behaved in a way which is capable of causing nuisance or annoyance; and
- The court is satisfied that it is reasonable to make the order.

The period of demotion is extended if the landlord serves notice to seek possession of the property during this period, until the resolution of the proceedings. The tenant's right to buy is also suspended during this period.⁴⁷⁹ The demotion regimes for local authority tenants and RSLs are different, although the effect is broadly comparable.

The ultimate sanction available to a social landlord is to look to evict the tenant by applying for a possession order. Where tenancy is secure or assured, such an order will be granted only if the social landlord can prove in court that:

- grounds for possession have been met; and that

⁴⁷⁸ Example taken from the Together website: www.together.gov.uk

⁴⁷⁹ Tenants of a registered social landlord (as opposed to local authority tenants and Housing Action Trusts), whose tenancy began after 15 January 1989, usually hold an *assured tenancy* (rather than a secure tenancy). In these cases, the effect of a demotion order will be to change its status to a "demoted assured short-hold tenancy", which removes the restrictions on the landlord obtaining a possession order during the first six months of the tenancy (assuming that the required notice is given).

- possession is “reasonable”.

One of these grounds for possession relates to anti-social behaviour.⁴⁸⁰ However, concerns were expressed that courts in different parts of the country were acting inconsistently, and so the Government has tried to facilitate consistent and predictable results by providing a clear structure for the exercise of judicial discretion as to whether eviction would be reasonable: in making this judgement, the court must give particular consideration to the actual or likely effect which the ASB has had or could have on others.⁴⁸¹ These factors ought always to have been taken into account, but the position is now put beyond doubt.

Even with this change in law, it remains far easier for social landlords to evict introductory or demoted tenants who persist in committing ASB. In such cases, the social landlord would have to:

- Serve notice on the tenant of its intention to start court proceedings
- Carry out a review of the decision (local authority only)
- Apply for a possession order

As long as the landlord can show that the notice was valid and correctly served, the judge *must* grant a possession order—this is not discretionary. A failure to carry out the review correctly does not give the court power to refuse a possession order, but may lead to the possession proceedings being stayed pending an application for judicial review, which can of course cause delay.

480 Ground 2, set out in Schedule 2 of the Housing Act 1985

481 Section 16 of the Anti-social Behaviour Act 2003

Appendix

Examples of ASBOs

The following examples are taken from the Crime Reduction website: www.crimereduction.gov.uk

Example 1

The defendant is prohibited from:

1. Engaging in conduct which causes or is likely to cause harassment, alarm or distress to other residents to [x] and the surrounding area; such area being bounded by [x] and shown marked edged in red on the plan attached hereto.
2. Using foul, offensive or racist language which is or is likely to be threatening, abusive or insulting to residents of or visitors to the said area.
3. From assaulting, threatening or intimidating residents of or visitors to the said area.
4. From threatening to cause, attempting to cause or causing criminal damage to property or premises within the said area.

For 3 years

Example 2

1. Not to act or incite others to act in an anti-social manner, that is to say, a manner that causes or is likely to cause harassment, alarm or distress to one or more persons not of the same household.
2. Not to use or incite others to use threatening, insulting or abusive words or behaviour in any place to which the public have access within the borough of [x]
3. Not to approach or communicate directly or indirectly with any witnesses within these proceedings, save for those witnesses who are police officers or representatives of the Youth Offending team or representatives of [x] County Council Education Services.
4. Not to associate with any of the following listed below in any place to which the public has access within the borough of [x] [5 individuals named; dates of birth supplied]
5. Not to enter the exclusion zone marked red on the plan attached hereto save when travelling on public transport on the routes marked in blue.
6. Not to enter or go within 25 metres of any of the following premises save when travelling on public transport on the routes marked in blue: [3 shops listed]

Order made for 2 years

Example 3

The defendant is prohibited within the city of [x] from

1. Being under the influence of intoxicating liquor in any public street or open place.
2. Voluntarily being in the company of [x] in any location to which the public have access.
3. Consuming intoxicating liquor in any public street or open place.

4. Remaining on any shop, commercial or hospital premises if asked to leave by staff.
5. Entering any shop or commercial premises from which he has been barred.
6. Assaulting, harassing, intimidating, threatening or abusing any person.
7. Damaging, taking or interfering with the property of others; except with their express permission.
8. Inciting or encouraging others to commit any act prohibited by this order.

For 30 months beginning with the date of this order

Example 4

The defendant is prohibited from:

1. Using, demonstrating or threatening violence towards any person, not of the same household as himself.
2. Using threatening, abusive or foul language in public towards another
3. Damaging or threatening damage to property
4. Carrying weapons as defined by statute in a public place
5. a) intimidating any person or congregating in groups of people in a manner causing or likely to cause any person to fear for their safety

Or

- b) congregating in groups of more than 6 persons in an outdoor public place
6. Entering the area outlined on the attached plan.

The above prohibitions relate to the [x] area of [x] outlined on the attached plan.

Until further order

Example 5

The defendant is prohibited from:

1. Soliciting or loitering in any road, street or public place for the purposes of prostitution.
2. Committing any lewd or obscene act in any public place.
3. Entering the areas bounded by and including [x], as shown on the map annexed.

For a period of 2 years.

Formal minutes

Tuesday 22 March 2005

Members present:

Mr John Denham, in the Chair

Mr James Clappison
Mr Gwyn Prosser
Bob Russell

Mr John Taylor
David Winnick

The Committee deliberated.

Draft Report (Anti-Social Behaviour), proposed by the Chairman, brought up and read.

Ordered, That the Chairman's draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 383 read and agreed to.

Annex agreed to.

Summary agreed to.

A paper was ordered to be appended to the Report.

Resolved, That the Report be the Fifth Report of the Committee to the House.

Ordered, That the Chairman do make the Report to the House.

Ordered, That the provisions of Standing Order No. 134 (select committee (reports)) be applied to the Report.

Ordered, That the Appendices to the Minutes of Evidence taken before the Committee be reported to the House.

* * *

[Adjourned to a day and time to be fixed by the Chairman.]

Witnesses (page numbers refer to Vol III)

Tuesday 30 November 2004

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Mr Reg Denley, Programme Manager, Youth Works Scheme, Bridgend, South Wales, **Mr Neil Pilkington**, Principal Solicitor, Community Safety Unit, Salford City Council, **Ms Honor Rhodes**, Director of Family and Community Care, Family Welfare Association, and **Ms Dawn Roberts**, Deputy Manager, Birmingham Youth Offending Service.

Ev 1

Tuesday 7 December 2004

Mr David Copeland, Service Manager, Peterborough Mediation, **Sergeant Paul Dunn MBE**, ASB Team, Metropolitan Police Service, **Mr Martin Lee**, Head of Operations, Nuisance Strategy Group, Manchester City Council, **Ms Sallie Bridgen**, Regional Manager, North West Regional Office, Shelter, and **Ms Michelle Monaghan**, Children and Young Persons Worker, Shelter Inclusion Project, Rochdale.

Ev 19

Tuesday 21 December 2004

Mr Philip Doyle, Licensing Officer, Institute of Licensing, **Mr Stephen Green**, Chief Constable of Nottinghamshire Police, **Professor Dick Hobbs**, Department of Law, University of Durham, and **Mr John Hutson**, Chief Executive, and **Ms Clare Eames**, Director of Legal Services, J D Wetherspoon.

Ev 40

Tuesday 18 January 2005

Mr Roger Howard, Chief Executive, and **Mr Chris Dyer**, Senior Consultant, Crime Concern, **Mr Richard Garside**, Director, and **Mr Will McMahon**, Senior Associate, Crime and Society Foundation, and **Mr Roger Smith**, Director, and **Mr Jim Skelsey**, solicitor and member, JUSTICE.

Ev 57

Mr Chris Fox, President, Association of Chief Police Officers, **Mr Peter Lewis**, Director (Business Development), Crown Prosecution Service, **Councillor Chris Clark**, Deputy Chair, and **Mr Stuart Douglass**, Policy Adviser, Local Government Association, and **Cindy Barnett**, Deputy Chairman, and **Mr John Fassenfelt**, Deputy Chair, Youth Courts Committee, Magistrates' Association.

Ev 68

Tuesday 22 February 2005

Professor Rod Morgan, Chair, Youth Justice Board, **Ms Cecilia Hitchen**, Assistant Director, Children and Families Committee, Association of Directors of Social Services, and **Ms Pam Hibbert**, Principal Policy Officer, Barnardo's.

Ev 80

Mr Tim Winter, National Organiser, Social Landlords Crime and Nuisance Group, **Mr Jon Rouse**, Chief Executive, Housing Corporation, and **Mr David Saulsbury**, Chairman, National Landlords Association.

Ev 88

Tuesday 8 March 2005

Rt Hon Richard Caborn MP, Minister for Sport and Tourism, Department of Culture, Media and Sport, **Rt Hon Alun Michael MP**, Minister of State for Rural Affairs and Local Environmental Quality, Department of Environment, Food and Rural Affairs, **Derek Twigg MP**, Parliamentary Under Secretary of State for Schools, Department for Education and Skills, **Ms Hazel Blears MP**, Minister of State for Crime Reduction, Policing, Community Safety and Counter-Terrorism, Home Office, and **Yvette Cooper MP**, Parliamentary Under Secretary of State, Office of the Deputy Prime Minister.

Ev 99

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Reports from the Home Affairs Committee since 2001

The following reports have been produced by the Committee since the start of the 2001 Parliament. Government Responses to the Committee's reports are published as Special Reports from the Committee or as Command Papers by the Government. The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

Session 2004–05

First Report	Rehabilitation of Prisoners	HC 193 (<i>Cm 6486</i>)
Second Report	Work of the Committee in 2004	HC 280
Third Report	Home Office Target-Setting 2004	HC 320
Fourth Report	Police Reform	HC 370

Session 2003–04

First Report	Asylum and Immigration (Treatment of Claimants, etc.) Bill	HC 109 (<i>Cm 6132</i>)
Second Report	Asylum Applications	HC 218 (<i>Cm 6166</i>)
Third Report	The Work of the Home Affairs Committee in 2003	HC 345
Fourth Report	Identity Cards	HC 130 (<i>Cm 6359</i>)
Fifth Report	Draft Sentencing Guidelines 1 and 2	HC 1207 (<i>HC 371</i>)

Session 2002–03

First Report	Extradition Bill	HC 138 (<i>HC 475</i>)
Second Report	Criminal Justice Bill	HC 83 (<i>Cm 5787</i>)
Third Report	The Work of the Home Affairs Committee in 2002	HC 336
Fourth Report	Asylum Removals	HC 654 (<i>HC 1006</i>)
Fifth Report	Sexual Offences Bill	HC 639 (<i>Cm 5986</i>)

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First Report	The Anti-Terrorism, Crime and Security Bill 2001	HC 351
Second Report	Police Reform Bill	HC 612 (<i>HC 1052</i>)
Third Report	The Government's Drugs Policy, Is it Working?	HC 318 (<i>Cm 5573</i>)
Fourth Report	The Conduct of Investigations into Past Cases of Abuse in Children's Homes	HC 836 (<i>Cm 5799</i>)