



**RESPONSE TO 'BUILDING SAFER, SHARED AND
CONFIDENT COMMUNITIES': A CONSULTATION ON A
NEW COMMUNITY SAFETY STRATEGY FOR NORTHERN
IRELAND**

"you should leave young people alone, you only pick on young people"

APRIL 2011



Introduction

Include Youth promotes best practice with young people in need or at risk of social exclusion. We achieve this through the development and promotion of resources, the provision of training, information and support of practitioners and organisations. We also undertake activities aimed at influencing public policy and policy awareness – both locally and nationally.

Amongst the young people at risk with whom, and on whose behalf, Include Youth works are young people from socially disadvantaged areas, those with a learning disability, those with special needs, those who have been truanting, suspended or expelled from school, those from a care background, those who had a negative parenting experience, young people who have committed or are at risk of committing crime, misusing drugs or alcohol, undertaking unsafe sexual behaviour or other harmful activities, or of being harmed themselves.

General Comments

Include Youth welcomes the opportunity to respond to consultation on the development of a new community safety strategy. We submitted a detailed response to 'Together, Stronger, Safer' drawing on information from both children and young people, and practitioners. As you will be aware we raised a number of major concerns with the overall thrust of the proposed actions in Together, Stronger, Safer, and we heavily criticised what we saw as an anti-youth stance in much of the paper.

We are pleased that the new community safety strategy reflects the concerns that we raised and that the more punitive elements have been removed. We welcome the Minister's decision to remove Parenting Orders, Support Orders and Dispersal Zones. This is a positive step forward, and we commend the Minister for taking on board the objections which were raised by a number of children's rights organisations. We are also supportive of the efforts that have been made to engage with the wider public and stakeholders on the new strategy. We appreciate that genuine efforts have been made to seek the views of a wide range of people.

Include Youth is disappointed in the lack of specific reference made to the realisation of human and, more specifically, children's rights. We believe that this strategy presents a significant opportunity for the Department of Justice to demonstrate that a commitment to children's rights is not in opposition to making NI safer – indeed we would strongly argue that one leads to the other.

We welcome the inclusion of the need for early intervention and family support structures to be developed as well as the acknowledgement of the need to work in a co-ordinated and cross departmental way.

Promoting and ensuring community safety should not be left to the Department of Justice. All government departments have a role to play in keeping Northern Ireland safe. This strategy should provide an opportunity for government departments to sign up to an agreed way forward. The existing children’s planning framework provides a way of meeting these joint goals. We would urge the Minister for Justice to publish a cross-departmental Community Safety Strategy, one that clear outlines actions and responsibilities across a wide range of agencies.

We would welcome more detail on what the stated outcomes of the strategy are.

Include Youth recommends:

- That there is a specific commitment to fulfilling the rights of everyone in NI.
- In all cases where actions will impact on children, young people and their families the CSU should work in close partnership with the Children and Young People’s Strategic Partnership

Q1 – Q5: Anti-Social Behaviour Orders

Include Youth’s long standing opposition to the use of ASBOs against under 18s is well documented and is based on the following grounds amongst others:

- The definition of ‘anti-social behaviour’ is subjective
- As civil orders there is a lower burden of proof – hearsay and professional evidence is admissible in ASBO hearings
- Civil and criminal law are blurred
- Reporting restrictions can be lifted, raising child protection concerns and setting ASBO proceedings apart from other court processes involving under 18s
- ASBOs can be used in conjunction with a prison sentence, effectively resulting in a form of ‘release under licence’.

Similar concerns were identified by the young people Include Youth consulted with for its response to the Northern Ireland Office’s plans to introduce ASBOs in 2004; amongst the concerns they raised were fears regarding naming and shaming, further alienation from their communities, criminalising of young people, the disproportionate nature of the proposals and undue levels of discretion being accorded to the PSNI (Include Youth 2004).

Despite their extensive use against children and young people in England and Wales the use of ASBOs against children and young people in Northern Ireland has been significantly more limited, a result Include Youth would contend, of the vociferous opposition by NGOs and others to their introduction and subsequent close monitoring of their use. While concerns

had been expressed by the Criminal Justice Inspectorate NI (CJINI: 2008) that a pattern of increasing use had been emerging more recent figures from the Department of Justice would indicate that the proportion of ASBOs issued to under 18s has been decreasing: of the 39 ASBOs in place in Northern Ireland on 1 April 2010, 11 of these (28%) were issued against children and young people under 18 Minister for Justice, April, 2010). Given the lack of consistency to date in issuing of ASBOs across different District Councils in Northern Ireland it cannot be predicted with any certainty that the current pattern of usage will remain consistent.

Worryingly, research and consultations with young people and those who work with them would indicate that the threat of ASBOs is frequently utilised by the PSNI, with warning letters being issued:

“In one community, all groups interviewed stated that the police regularly threatened young people with [ASBOs]. While no ASBOs had been issued, some children and young people received warning letters for behaviour they did not consider to be anti-social. ASBOs, they argued, were used to threaten young people, based on the assumption that ‘hanging about’ was a precursor to anti-social behaviour ...in the experience of these young people, ASBOs had become another tool to regulate and control their behaviour...behaviour that involved merely standing or sitting in groups within their own neighbourhoods”. (McAlister et al: 2009: 77).

In this way it would appear that the ‘threat’ of an ASBO has been substituted for an ASBO and is being utilised to the same end of controlling and regulating young people’s behaviour. The use of ASBOs against children and young people has been heavily criticised by a wide range of both international and domestic human rights bodies. Both the United Nations Human Rights Committee in its 2008 Concluding Observations on the UK’s implementation of the International Covenant on Civil and Political Rights, and the UN Committee on the Rights of the Child in its 2008 Concluding Observations called upon the government to reconsider its position on ASBOs, with the UN Committee on the Rights of the Child recommending that *“ the State party conduct an independent review of ASBOs with a view to abolishing their application to children”* (UNCRC Committee, 2008)

The Northern Ireland Policing Board’s Thematic Review on Children and Young People devoted much attention to the issue of ASBOs and their use against children and young people, and concluded that the PSNI should *“ consider limiting applications for ASBOs to people over the age of 18 years old and should instead consider the alternative disposals available in respect of children”* . (NIPB, 2011)

Aside from the serious breaches of children and young people’s rights which ASBOs incur, research has concluded that they are also not effective, with young people considering them as a ‘badge of honour’. The Criminal Justice Inspectorate Northern Ireland concluded from its inspection of the operation and effectiveness of ASBOs that *“anecdotal evidence suggests that alternatives are as effective, if not more effective, than ASBOs. The use of alternatives*

appears to be critical in assisting individuals to change their behaviour patterns and therefore should be developed and used as a precursor to ASBOs". (CJINI, 2008)

Proposals currently being consulted on in England and Wales to replace ASBOs with new measures which will include Criminal Behaviour Orders and Crime Prevention Injunctions have been criticised by children and young people's organisations as simply being 'a rebranding exercise' and 'a missed opportunity to adopt a more effective approach for dealing with children and young people who are deemed to be anti-social". (Guardian 7th February, 2011)

Include Youth would concur with this assessment of these proposals – any 'solutions' being proposed need to end the demonisation and criminalisation of children and young people and need to begin to address the real reasons for anti social behaviour where it occurs.

It is regrettable that the Minister for Justice, David Ford, has indicated that he is monitoring developments in the UK with a view to developing similar proposals in Northern Ireland. There was a missed opportunity in the recent drafting of the Justice Bill (Northern Ireland) to amend the legislation so as to preclude the use of ASBOs against children. ASBOs have no place in a youth justice system based on the principles of children's rights and, in particular, the child's best interests, prevention, minimal intervention, diversion, reintegration and rehabilitation.

ASBOs have no place in a community safety system which is based on the principles of children's rights and in particular the child's best interests, prevention, minimal intervention, diversion, reintegration and rehabilitation.

The Anti-Social Behaviour (Northern Ireland) Order 2004 should be amended to prohibit the use of ASBOs against under 18s.

Definition of Anti-social behaviour:

We believe it is imperative that the term 'anti-social behaviour' is defined. There is a danger that this term is used subjectively and as a result children and young people can be wrongly accused of being engaged in criminal activity when all they are doing is 'hanging around' in a public space. This lack of clarity with regards to anti-social behaviour is open to immense discretion and interpretation because it describes the *consequences* of certain behaviour rather than the behaviour itself. We believe that a clear and tangible definition of an action is essential, not only for PSNI, Courts and other statutory bodies but also for members of the general public, not to mention those children and young people and their families, who may be accused of anti-social behaviour. The use of the term without any clear definition to its limits gives rise to concerns about the arbitrary application of sanctions.

What are alternatives to ASBOS?

Include Youth supports a community based response to “anti-social behaviour” in the form of community diversionary measures. We believe that there should be community based solutions to community problems, diverting young people from any contact with the criminal justice system. Include Youth defines ‘diversion from the formal criminal justice system’ as being diversion from all engagement with statutory criminal justice agencies, and processes prior to having been convicted for committing a criminal offence.

There is a body of international research that outcomes for children who have begun to get into trouble are significantly improved when they are diverted from the formal criminal justice system. It is essential to address the structural inequalities which pervade the lives of marginalised young people, families and communities, and to provide necessary support services in a non-stigmatising way enabling young people to reach their full potential and their families to be able to cope with the challenges facing them.

A longitudinal study which tracked 4,000 children found that targeted early intervention strategies actually widened the net in terms of criminalising young people. The systems appeared to damage young people and inhibit their capacity to change. As McAra and McVie state:

“The key to reducing youth offending lies in maximum diversion and minimum intervention. Accepting that, in some cases, doing less is better than doing more requires both courage and vision on the part of policy makers. A realisation of this vision in turn requires acceptance that youth justice agencies cannot, by themselves, make the public feel safer nor can they mend broken families and remake shattered communities. To the extent that systems appear to damage young people and inhibit their capacity to change, then they do not, and never will, deliver justice.”

Children’s behaviour will be dealt with more effectively through a non criminalising route, through for example, education, youth work, health support, housing etc. What is needed is not a criminal justice response but a welfare-based approach which seeks to support identified needs.

Include Youth supports the principles and ethos of restorative justice, and diversionary measures which seek to steer children and young people away from the criminal justice system. There is a positive role for community-based restorative Justice programmes in Northern Ireland within this process and the success of the existing programmes has been significant in a society emerging from conflict. Community based disposal measures which have the support and trust of local communities through the use restorative principles and practices are important contributors to transition. Processes such as Street by Street (East Belfast Alternatives) which are centred on strengthening and supporting young people, their families and communities are more likely to ensure prevention of offending and anti-social behaviour and the effective diversion from prosecution. Community-based restorative

justice (CBRJ) has played a pivotal role in the conflict transformation process that Northern Ireland is currently undergoing, not least as it affects policing and justice.

Include Youth recommends:

- Sustained support for the development of community-based restorative justice programmes across NI in a way that meets the needs of each community.
- Adequate resourcing to fulfil their important community functions including taking a central role in diversion from prosecution and formal criminal justice processes.
- The end of the use of ASBOs for anyone under the age of 18 years.

Q6 and Q7: Early Intervention

We concur that the development of early intervention and family support services is an essential component of delivering on the community safety strategy.

Children currently categorised as at ‘risk of offending’ often face a host of inter-related problems in their lives – for example in their family, at school and within their community. What is problematic is that currently the youth justice system has a role, and at times a significant and lead role, in providing responses to these children and their families. In part this has been because resources were available within the criminal justice system, and there exists an understanding among professionals within the youth justice system of the need to keep children out of the system. In addition, the Northern Ireland system has largely followed the previous UK government’s prevention agenda, which has resulted in net-widening. Early intervention services should be supported but not directed by the justice system in Northern Ireland – but rather through a partnership which is led by Department of Health, Social Services and Public Safety (DHSSPS) through Children’s Services, alongside Department of Education (DE), Department for Employment and Learning (DEL), Department for Social Development (DSD), and other relevant departments and agencies.

Priorities for action based on early intervention, prevention and the provision of services necessary to support children and young people in need/ at risk are essential to reduce the numbers of children and young people coming into contact with the criminal justice system. It is also vital that early intervention must not be equated with early years. Children and young people may require preventative and family support services at all stages (and ages) of their lives for example at times of transition or following a traumatic event.

It is Include Youth’s experience, supported by international research, which consistently demonstrates that young people’s offending, regularly reflects unmet complex needs. These combine to define and restrict their daily lives, leaving them with a sense of rejection and powerlessness. Many experience poor educational attainment (due to a disability or special educational needs, truanting or exclusion from school), misuse drugs or alcohol, engage in unsafe sexual behaviour, have been in residential care. They are often survivors of childhood

trauma such as physical or sexual abuse, domestic violence or living in unsafe neighbourhoods.

Despite evidence demonstrating the impact of these factors on children's lives, their behaviour is denounced as 'anti-social'. Mental ill health, regularly revealed through depression, self harm and suicide, is often undiagnosed or inappropriately treated. It is essential that the complexities of young people's lives are identified and understood and that appropriate, well-resourced support is provided through early intervention measures. This requires cross-departmental working and a commitment to an early intervention approach. This approach, targeted at promoting the well-being of all children and characterised by universal services, holistic approaches and 'decriminalising' responses' comprise the most effective and least damaging forms of intervention and will subsequently minimise the necessity for intervention by the criminal justice system.

Include Youth recommends:

- Adequate, appropriate and well-resourced early intervention and family support should be provided to identify, support and address the needs of children and their families.
- Services should not be delivered by criminal justice agencies but by a range of relevant government bodies led by Department of Health, Social Services and Public Safety (DHSSPS).
- Policy and practices should avoid stigmatising or criminalising children and young people for welfare based concerns.

Q8 and Q9: Reducing Crime

Designing out crime and addressing environmental factors:

We are concerned about the reference to working with the DoE to support the implementation of the Clean Neighbourhoods and Environment Bill. Include Youth, along with a number of other children's organisations including Children in NI (CiNI), Children's Law Centre and Playboard, made a number of representations to the DoE and the Environment Committee during the consultation stage of the Bill. We raised concerns about the potential of the legislation to have a detrimental impact on children and young people. We agree that creating a safe and clean environment is vital to the well being of all the people of Northern Ireland, including children and young people. We support the aims of the Clean Neighbourhoods and Environment Bill but are concerned that the actions suggested to reach this end will not be effective and most importantly, could actually result in children and young people being unfairly targeted and potentially being fast tracked into the juvenile justice system.

Additionally we are concerned that young people's views will not be taken into account when decisions are taken on alleygating.

Furthermore, we oppose the use of FPNs for children and young people. We are sceptical as to whether the approach favoured within the Clean Neighbourhoods and Environmental Bill, of using fines is the best method to address environmental crime. These steps will not succeed in addressing the root causes of minor youth offending, and furthermore, may actually increase the chances of young people obtaining a criminal record. The use of FPNs is a form of summary justice and as such removes the right to due process. There is a concern that overzealous application of FPNs could result in large numbers of young people being brought into the criminal justice system, through their inability to pay.

We would suggest that this section within the strategy be reviewed and expanded to think more creatively around how we tackle environmental crime. Linkages need to be made with those agencies working to support the right of children and young people to 'play' and access leisure opportunities within their community. Increasing the availability of safe spaces for young people to 'hang out' without being harassed or moved on, would be a vital step in reducing the incidences of environmental crime.

Include Youth Recommends:

- Fixed Penalties should never be used against children, young people or their parents as a proxy for children.
- Full consultation with regards to changes to the physical environment must be undertaken following full and meaningful consultations with young people
- Community resource audits must be undertaken ensuring a child's right to play which must include the provision of public "playgrounds" and "youth spaces" for children and young people of all ages.

Q10: Alcohol and Drug Misuse

The Department of Justice should continue to support the work of the DHSSPS on the New Strategic Direction for Alcohol and Drugs and should consider putting further resources into the development of the strategy. There is an on-going consultation for the next 5 years of this strategy which is due to end on the 31st of May. In view of the following statement we believe that the Community Safety Strategy must work alongside DHSSPS to ensure the effectiveness of the NSD.

"The NSD will continue to stress the importance of addressing those issues that fall within the domain of the law and criminal justice. As well as continuing those efforts aimed at reducing the supply of illicit drugs and irresponsible sale (particularly underage sales) of alcohol, the NSD will continue to support those justice and correctional initiatives that aim to reduce the level of harm associated with alcohol and drug use, such as the increased emphasis on diversion to treatment." (Consultation on the New Strategic Direction for Alcohol & Drugs Phase 2 (2011-2016))

Q15 – 19: Confident Communities

Empowering communities

We agree that local communities must be supported to build capacity to identify and address community safety issues. As we have previously stated we support the principles of community-based restorative justice.

Fear of Crime

We welcome the commitment to address wider issues and to focussing on the ‘fear’ of crime. The Community Safety Strategy must tackle what it acknowledges as a disproportionate fear of crime. This will involve playing a key role in supporting education within communities and across statutory agencies about the realities of the lives of young people – the role of the independent voluntary sector in this regard will be important. In addition, it is important that the Community Safety Strategy sets out clear objectives around challenging negative perceptions of young people and the role of the media in stoking tensions in this regard. Many members of the public rely on the media to for information regarding the levels of crime and we would argue that one of the primary reasons for the disproportionate levels of the fear of crime is media sensationalism.

The document makes no reference to the fear of crime that young people feel. Feeling unsafe is a daily occurrence for many of our young people. It is well known that young males are the group most likely to be the victim of crime and violent crime within this jurisdiction. There is a fundamental expectation on all societies to protect children and young people from discrimination and harm (UNCRC Articles 2 and 19) and we would ask that explicit reference is included to tackle this issue particularly with regards to the impact that the conflict continues to have in communities across NI, particularly our children and young people.

The issue of the demonisation of young people is central to addressing perceptions of crime, fear of crime and community beliefs on ‘anti-social’ behaviour. The community safety strategy must address the representation of children and young people in wider society.

Despite a cross-departmental 10 Year Children’s Strategy for Northern Ireland which includes ensuring that all children live in a society which respects their rights, there is increasing research evidence that children and young people in Northern Ireland are represented negatively, as a ‘problem’ which requires the identification of a ‘solution’. Unfortunately, solutions have largely failed to address the complexity of issues, instead focusing on greater regulation and criminalisation of children and young people. Examples of this increasing trend can be detected in recent policy initiatives which have proposed introduction of dispersal zones, fixed penalty notices for children, breached rights to privacy and protection through publication of images of children and permitted introduction of harmful mosquito devices by shopkeepers and others to discourage children and young people from gathering in the vicinity of their premises.

A more positive example in challenging the status quo has been the Northern Ireland Policing Board in its recent Thematic Review of Children and Young People, which recognised the pernicious role negative stereotyping plays in relation to policing and children and young people. The inclusion of the following pledge “that children and young people must be protected and respected and no longer subjected to unfair and inaccurate stereotyping” represents a very positive starting point for any organisation that is serious about respecting children and young people’s rights.

Include Youth’s Background Paper, *Developing a Manifesto for Youth Justice in Northern Ireland*, described negative stereotyping of children in conflict with the law as follows: “They are defined as ‘trouble-makers’ and labelled ‘delinquent’ or ‘criminal’. In Northern Ireland high profile incidents of serious violence have been represented by politicians and in the media as inevitable outcomes of an escalating ‘crisis’ in the criminal and anti social behaviour of children and young people. Internal community conflicts, claimed breakdown in parental responsibility and control, marginalised young people with increasing access to alcohol and drugs, and communities which are unable to self-regulate in the context of a deficit in official policing are “ portrayed as evidence of individual and social pathology with families labelled ‘inherently evil’, their children as ‘scum’”.

Include Youth has found it increasingly difficult to shift media and political debate away from sensationalist reporting and commentary to a serious discussion and examination of the underlying causes of anti-social and offending behaviour among some young people.

The media plays a significant and occasionally defining role in the negative stereotyping of children and young people. As a social group, children and young people are often represented negatively in media reports or political debates – as a threat, a nuisance or anti-social. Research by YouthNet and the British Youth Council in 2006 found that over 80% of young people considered that the representation of them as anti-social made it more difficult for them to communicate and interact with older people and led to a loss of respect.

Research has identified the impact of negative representations on young people including depression, anger, escapism through alcohol misuse; self-fulfilling prophecy; breakdown in inter-generational relations.

“Once you’re labelled a trouble maker, it’s really hard to shift that image – even if you’re trying not to get into trouble. The police will always come to you first if something has gone on in your area”. (Childhood in Transition and Social Justice Initiative, 2010).

Include Youth recommends:

- The Community Safety strategy includes specific reference to the victimisation of children and young people.

- The DoJ should consider adopting a positive pledge akin to that included in the NIPB's Thematic on Children and Young People, that children and young people must be protected and respected and no longer subject to unfair and inaccurate stereotyping

Q20 – 23 Delivering in Partnership

Include Youth is would urge the Community Safety Unit and Policing and Community Safety Partnerships to work alongside the broad range of initiatives currently working in communities to tackle disadvantage. These include Neighbourhood Renewal, Locality Planning (Children and Young Person's Strategic Partnership) as well as many others. Additionally we would urge the unit to take cognisance of the soon to be published recommendations from the Review of Youth Justice in NI.

All organisations and sectors have a role to play in ensuring the safety of communities in NI particularly the voluntary and community sector. We would argue that community-run activities and programmes are likely to be more successful and would urge DoJ to use this option whenever possible. It will be both more effective and efficient.

When considering outcomes and success of interventions we would suggest that the first point must be to undertake an evaluation of the impact of the resources expended by the community safety unit and partnership to date. From this point decisions can be made with regards to future expenditure.

The final strategy must include outcomes that are measurable and we applaud the DoJ for not be restricting themselves to crude measurements such as reduction of offending and would recommend a mix of indicators and measurements of success. Such measurements should include "hard" or quantitative data such as numbers engaged in activities and reduction of nuisance behaviour as well as "soft" or qualitative data such as feedback concerning attitudes to young people, feelings of safety and fear of crime.

Include Youth recommends:

- The Community Safety Strategy and delivery processes have to work in partnership with all relevant non-criminal justice partnerships
- The CSU must carefully consider the findings of the Youth Justice Review
- The Voluntary and Community sectors can be highly effective in community safety and community development and must be considered as partners and therefore receive adequate financial support and resources.
- Clear and specific actions and outcomes must be included within the Community Safety Strategy.
- Following an evaluation of the expenditure to date range of indicators and measurements must be used to measure success

Conclusion

Include Youth has welcomed the opportunity to respond to this consultation. Whilst we believe that there has been a noticeable improvement the publication of “Together, Stronger, Safer” we believe that further development is required before we can have a Community Safety Strategy that is both fulfils the rights of all children and young people in NI as well as making our communities safer.

Include Youth is very happy to continue to work with the DoJ on this matter and provide further information as is deemed necessary.

References

Childhood in Transition and Social Justice Initiative (2010) *Representations of children and young people, seminar proceedings*, Queen's University Belfast 13-14 September 2010.

Criminal Justice Inspectorate NI (CJINI), 2008, An Inspection of Anti Social Behaviour Orders: an inspection of the operation and effectiveness of ASBOs

Guardian Newspaper, 7th February 2011, Charities Condemn ASBO Rebrand.

DHSSPS, 2011, Consultation o the New Strategic Direction for Alcohol and Drugs Phase 2 (2011 – 2016)

Include Youth, 2004, Include Youth Response to Measures to Tackle Anti-Social Behaviour in Northern Ireland, Belfast: Include Youth.

Include Youth, Background Paper, Developing a Manifesto for Youth Justice in Northern Ireland, Belfast: Include Youth.

McAra, L. And McVie, S., 2010, Youth Crime and Justice: Key messages from the Edinburgh Study of Youth Transitions and Crime, *Criminology and Criminal Justice* 10(2), pp179-209.

McAra,L. and McVie,S., 2007, The Impact of System Contact on Patterns from Desistance of Offending, *European Journal of Criminology*, July 2007, pp 315- 345.

Northern Ireland Policing Board (NIPB), Human Rights Committee, 2011, *Human Rights Thematic Review Children and Young People*, Belfast: NIPB.

United Nations Committee on the Rights of the Child, 2008, Concluding Observations, UNCRC.

Youthnet and British Youth Council, 2006, *The Voice Behind the Hood: Young People's Views on Anti-Social Behaviour, the media and older people*, London: Youthnet/British Youth Council.