

NICCY Advice on: Proposals to amend the legislation to help tackle Anti- Social Behaviour

March 2024

Introduction

The Northern Ireland Commissioner for Children and Young People (NICCY) was created in accordance with 'The Commissioner for Children and Young People (Northern Ireland) Order' (2003) to safeguard and promote the rights and best interests of children and young people in Northern Ireland. Under Articles 7(2) and (3) of this legislation, NICCY has a mandate to keep under review the adequacy and effectiveness of law, practice and services relating to the rights and best interests of children and young people by relevant authorities. Under Article 7(4), NICCY has a statutory duty to advise any relevant authority on matters concerning the rights or best interests of children and young persons. The Commissioner's remit includes children and young people up to 18 years, or 21 years, if the young person is disabled or in the care of social services.

In carrying out his functions, the Commissioner's paramount consideration is the rights of the child or young person, having particular regard to their wishes and feelings. In exercising his functions, the Commissioner has regard to all relevant provisions of the United Nations Convention on the Rights of the Child (UNCRC).

The Commission was pleased to have engaged with officials from both Departments at an early stage, prior to the formal launch of the consultation, which enabled a number of key points to be raised / addressed in respect of the above proposals. In responding, NICCY will not be addressing every question as set out but rather wishes to highlight a number of key child rights areas which will require further consideration.

Children's Rights

The UNCRC is the most comprehensive, international human rights treaty enshrining specific children's rights and defines universal principles and standards for the treatment and status of children around the world. Children should be protected from all forms of discrimination. There should not be inequalities in basic living standards. This includes discrimination on the basis of their (or their parents') status or property (Article 2). Article 3 holds that in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration. Under Article 6, the UNCRC states that every child has the right to survive and develop and grow up in conditions that don't impact negatively on their physical and mental wellbeing. Article 12 holds that every child has the right to express their views, feelings and wishes in all matters affecting them, and to have their views considered and taken seriously.

State Parties undertake to assign the child *‘such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.’*

Further, State Parties shall ensure that *‘the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.’*

With regard to the minimum age of criminal responsibility (MACR) Article 40(3)(a) holds that States Parties shall *‘seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law, and, in particular the establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law.’*

In November 2019, the UN Committee published General Comment 24 on Children’s Rights in the Child Justice System which provides a helpful benchmark to assess the system.¹

Under Article 27 of the UNCRC, the State should ensure that every child has a standard of living which is adequate to allow them to develop fully - physically, mentally, spiritually, morally and socially. Whilst recognising the responsibilities that parents have, governments must ensure that they provide assistance to families to ensure that children’s essential needs are met - in particular, nutrition, clothing and housing.

The UNCRC states that public bodies should use the maximum available resources to ensure that all children have an adequate standard of living (Article 4). Children have a right to receive assistance through social benefits, depending on the circumstances of their families (Article 26).

Although the totality of the Convention is concerned with the protection of children and the promotion of life, provisions of relevance with respect to violence, abuse and neglect are included within Articles 3, 6, 19, 37(a) 39 and 34. As duty bearers of the UNCRC, the State has a particular obligation to safeguard children’s rights and to take protection measures when these rights are infringed.²

These rights must be considered in this consultation, as well as across government.

¹ UNCRC, General Comment 24 (2019). Available at: [General comment No. 24 \(2019\) on children’s rights in the child justice system | OHCHR, accessed on 29/2/24.](#)

² Convention on the Rights of the Child. Available at: [Convention on the Rights of the Child | OHCHR, accessed on 27/2/24.](#)

Concluding Observations – June 2023

The UN Committee on the Rights of the Child in its 2023 Concluding Observations following its examination of the United Kingdom (UK) State Party's compliance with the UNCRC included a number of areas that must be considered in relation to anti-social behaviour (ASB), youth justice, freedom of association and housing. Some of the most relevant are summarised below:

On the administration of justice:

- Take legislative and other measures to ensure that: (i) children are not prosecuted as adult offenders, without exception; (ii) the child justice system is applied to all children who were below the age of 18 years when the offence was committed; (iii) rehabilitation periods are determined on the basis of the date the offence was committed, not the date of conviction; (iv) detention is used as a measure of last resort and for the shortest possible period of time and is reviewed on a regular basis with a view to its withdrawal; and (v) life imprisonment is abolished for children and young people who committed offences when they were below the age of 18 years;
- To effectively enforce the prohibition of the use of non-statutory stop and search checks against children, prohibit their use in NI and ensure that the statutory use of stop and search checks are proportionate and non-discriminatory, alongside mandatory training for law enforcement officials, and improve the monitoring of such checks.
- That children who are 16 and 17 years of age are not always treated as children in the justice system;
- To develop early intervention for children and actively promote nonjudicial measures, such as diversion, mediation and counselling, for children accused of criminal offences and, wherever possible, the use of non-custodial measures for children, such as probation or community service; and
- To address the overrepresentation of children belonging to minority groups in detention and develop measures, in consultation with affected children and their families, to prevent racial profiling by law enforcement authorities.³

On freedom of association and peaceful assembly:

³ UN Committee on the Rights of the Child, 'Concluding observations on the combined 6th and 7th periodic reports of the United Kingdom of Great Britain and Northern Ireland : Committee on the Rights of the Child' (June, 2023), paragraphs 53, 54. Available at: [Concluding observations on the combined 6th and 7th periodic reports of the United Kingdom of Great Britain and Northern Ireland](#) ; accessed on 27/2/24.

- Prohibit the use of mosquito devices (acoustic youth dispersal devices) in public spaces;
- Ensure that children are not threatened for exercising their right to freedom of association and peaceful assembly, including for their involvement in climate activism.⁴

In relation to housing, they called on the UK State Party to:

- Strengthen measures, including by increasing funding, aimed at providing education, skills, housing and opportunities for independent living for children leaving alternative care;
- Address the root causes of homelessness among children, strengthen measures to phase out temporary and contingency accommodation schemes and significantly increase the availability of adequate and long-term social housing for families in need, with a view to ensuring that all children have access to affordable, quality housing;
- Ensure that the best interests of the child are given primary consideration in all eviction matters, that evictions are not targeted at families belonging to minority groups and that any evictions are always subject to adequate alternatives and;
- Strengthen measures to ensure that all asylum-seeking, refugee and migrant children have equal and prompt access to education, health-care services, housing, psychosocial support and social protection, including benefit entitlements.⁵

On the right to privacy, the Committee urged the UK State Party to:

- To effectively enforce the prohibition of the use of non-statutory stop-and-search checks against children, prohibit their use in Northern Ireland and remove provisions from the Public Order Act 2023 that ease restrictions on their use;
- To ensure that the statutory use of stop-and-search checks is proportionate and non-discriminatory, including by implementing the best use of the stop-and-search scheme and conducting mandatory training for law enforcement officials;
- To improve the monitoring of the use of stop-and-search checks on children, including through the collection and publication of related data, and investigate all allegations of their disproportionate or discriminatory use on children.⁶

EQIA and section 75

⁴ Ibid, paragraph 27.

⁵ Ibid, paragraphs 38, 45 & 46.

⁶ Ibid, paragraph 28.

NICCY is aware that the Department has produced an Equality Screening document alongside this consultation, however, no Equality Impact Assessment (EQIA) was deemed necessary and therefore screened out.

The consultation document states under the 'Equality Considerations' heading, that the 'Department will take account of the evidence gathered through this consultation in developing final policy proposals and revisit the equality screening if required'.⁷ NICCY does not accept that this is an appropriate way of assessing the potential impacts of the proposals under Section 75 of the Northern Ireland Act 1998, or for the realisation and promotion of children's rights.

The Department of Justice (DoJ)/Department for Communities (DfC) should have, in screening this policy, identified the clear potential for adverse impact on young people, including through direct consultation with children and young people themselves. The findings of the EQIA should then be used to inform the consultation, not after the consultation process where there is no opportunity to influence the proposals.

Section 75 is intended to be used as a policy formulation tool. The Equality Commission's, 'Guidance for Implementing Section 75 of the Northern Ireland Act 1998' is clear about the stage at which public authorities need to screen policy proposals and carry out EQIA's when required. The Guidance states that;

*Section 75 is important to policy formulation (new or proposed policies) and policy review (existing policies). It is important that public authorities use the assessment of policies for impact on equality of opportunity, including screening and equality impact assessment, as part of their policy development process, rather than as an afterthought when the policy has been established.*⁸

DoJ approved Equality Scheme also states that,

*Once a policy is screened and screening has identified that an equality impact assessment is necessary, the Department will carry out the EQIA in accordance with Equality Commission guidance. The equality impact assessment will be carried out as part of the policy development process, before the policy is implemented.*⁹

Section 75 is therefore not intended to be used when policy decisions have been taken, without adequate attention given to have due regard to the need to promote equality of

⁷ Department of Justice and Department for Communities, 'Consultation on Anti-Social Behaviour', p.37 Available at: [asb-consultation-final.pdf \(justice-ni.gov.uk\)](#), accessed on 27/3/24.

⁸ Equality Commission for Northern Ireland, 'Section 75 of the Northern Ireland Act 1998 A Guide for Public Authorities' (2010). Available at: [untitled \(equalityni.org\)](#), accessed on 27/2/24.

⁹ Department of Justice 'Equality Scheme for the Department of Justice' (2015). Available at: [DOJ Equality Scheme \(justice-ni.gov.uk\)](#), accessed on 27/2/24.

opportunity. It is unclear from the document that in the development of final policy proposals, whether another consultation would be required.

In the Equality Impact Screening document, children and young people are mentioned within the 'Age' and 'Dependents' categories. Under 'Age', despite the document recognising that 'younger people...may therefore be affected by the changes in the proposed policy', 'this S75 category may be impacted by the proposals', no Equality Impact Assessment has been conducted. Under 'Disability' the Departments have stated that 'it is widely reported that anti-social behaviour is frequently linked to mental health issues and/or addiction issues (drugs and alcohol). The document goes on to state that the 'positive requirements' proposals would 'assist in addressing the underlying causes of the anti-social behaviour'.¹⁰ There is little by way of statistical analysis offered as part of the statements made, and the document acknowledges that data is 'limited' throughout. It is therefore unclear how these conclusions have been reached, on Anti-Social Behaviour Orders (ASBOs), amendments of the Housing Orders and on-street drinking and how it relates to children and young people.

NICCY believes that where policies are developed using Section 75 as a policy formulation tool, policies which promote equality of opportunity and mitigate adverse impact are those which will achieve better outcomes. NICCY encourages both Departments to conduct a full Equality Impact Assessment and Child's Rights Impact Assessment (CRIA) on all the proposals contained within the consultation.

It is disappointing that there was no engagement with children and young people in relation to the consultation and its proposals, or a children and young people's version published. NICCY notes that an 'accessible' version was published online, however this is not specifically designed for children and young people to respond to or directed towards them for input. Given this, NICCY consulted with a small group of children and young people during this process, aged between 14 and 18 to inform our response.¹¹ Their opinions are reflected below.

ASBOs

NICCY previously provided advice to the 'Anti-Social Behaviour Legislation in Northern Ireland Review of the Current Legislative Framework'.¹² Since its introduction, the operation of the current legislation for addressing ASB in NI has shown that ASBOs are ineffective in terms of addressing ASB. We believe that the development of any similar, punitive legislative approach that applies to children and young people will also be fundamentally flawed.

¹⁰ Department of Justice, 'DoJ Section 75 Equality Screening Form: Anti-Social Behaviour'. Available at: [Screening flowchart and template \(justice-ni.gov.uk\)](https://www.justice-ni.gov.uk), accessed on 27/3/24.

¹¹ NICCY engaged with a group of 10 children and young people alongside Alternatives NI in North Down. The group consisted of six girls and four boys, all living in the Bangor area.

¹² See: [Anti-Social Behaviour Legislation Review - Niccy](#)

NICCY wishes to raise concern over the potential impact on children and young people that the threshold reduction could have, if they continue to apply to those under 18. The consultation document proposes to amend the definition of ASB from:

- *Conduct that caused or is likely to cause harassment, alarm or distress to one or more persons not of the same household as himself, to*
- *Conduct capable of causing nuisance or annoyance to a person in relation to that persons occupation of residential premises or*
- *Conduct capable of causing housing-related nuisance or annoyance to any person.*¹³

This would likely mean that ASBOs would be 'easier' to apply for, we have further concern about the impact that this could have on children and young people and those who have mental health and/or addiction issues. Of note, the most recent PSNI statistics relating to ASB incidents from 1st January 2023 to 31st December 2023 show that there were 45,963 anti-social behaviour incidents in NI.¹⁴ NICCY is unaware of any publicly available breakdown of alleged incidents or reports of ASB involving children and young people and would welcome such information. Despite the recorded data showing a decrease over time (a reduction of 2,167 reports on the previous year) - the lowest 12-month figure since the data series began in 2006/7 - there is clear *potential* for the rate of ASBO applications to increase with a lowered threshold.

It is concerning that the threshold could be 'capable of causing annoyance' given its subjectivity. Clarification on what constitutes 'annoyance' is required. Without information on any mitigation measures that would be considered, or any safeguards that the Departments are considering across all the areas relating to ASB it is difficult to be assured that suitable protections would be in place.

Within the consultation document, there does not seem to be any specific recognition on the current availability of early intervention and youth diversionary interventions in the justice system, the role of local councils and Policing and Community Safety Partnerships, or Anti-Social Behaviour Forums. NICCY wishes to draw the Department's attention to the inspection of community-based Youth Interventions and those delivered by the Youth Justice Service currently underway by the Criminal Justice Inspectorate NI (CJINI). It would be beneficial for the Department to examine the learning and recommendations resulting from this inspection to identify any potential legislative or operational changes needed, as more appropriate methods to deal with ASB by children and young people.

¹³ Department of Justice and Department for Communities, 'Consultation on Anti-Social Behaviour', p.18. Available at: [asb-consultation-final.pdf \(justice-ni.gov.uk\)](#), accessed on 27/3/24.

¹⁴ PSNI, 'Anti-Social Behaviour Incidents Recorded by the Police in Northern Ireland' (2024). Available at: [Anti-Social Behaviour Incidents Recorded by the Police in Northern Ireland Update to 31st December 2023 \(psni.police.uk\)](#), accessed on 27/3/24.

NICCY supports the use of alternative diversionary methods for children and young people from the justice system including Community Resolution Notices and referrals to restorative practice, which should be promoted and used more effectively. Early intervention work should also be a priority. A key theme from NICCY's engagement with children and young people on addressing ASB, and community safety, was the importance of relationships with the PSNI, specifically, through their Neighbourhood Policing Team, which is highlighted below.

Breaching an ASBO

It is NICCY's understanding that a breach of an ASBO can result in a criminal sanction, and this would stand in any legislative change further to this consultation. The penalty within the Anti-Social Behaviour Order (2004) Article 7(1) is as follows:

- a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both; or*
- (b) on conviction on indictment, to imprisonment for a term not exceeding five years or to a fine, or to both.¹⁵*

Whilst we are not aware if anyone in NI received custodial sentence for the breaching of an ASBO, NICCY is concerned that the reduction of the threshold of behaviour, coupled with the continued application of the civil Orders, granted on the civil standard of proof, to those under 18, could lead to the criminalisation of children and young people if they are breached. NICCY notes that the consultation does make it clear that the standard of proof the Court will apply when considering any breach of an order will remain at the criminal standard, as punishment for a breach will result in criminal sanction. Whilst this is welcome, we are concerned over the unintended consequences that this could have for children and young people coming into contact with the justice system and being criminalised, given our low minimum age of criminal responsibility of 10 years old. Indeed, under the current regulations, breaches of a technical nature can lead to a fine, with a breach of a 'fundamental nature' carrying penalties ranging from a community order to 6 months in custody and can be heard in either the Magistrates or Crown Courts as 'either way' offences.¹⁶

NICCY's consistent position in relation to ASBOs is that they should not apply to children and young people and therefore, legislative change must occur to increase the age of application to adults only. The limitations as described in the document include the ASBOs 'effectiveness for use in housing matters to the time and difficulty in preparing a file for court'. That their suitability in dealing with ASB itself does not feature as part of the

¹⁵ The Anti-Social Behaviour (Northern Ireland) Order 2004. Available at: [The Anti-social Behaviour \(Northern Ireland\) Order 2004 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukui/2004/1201/1), accessed on 27/3/24.

¹⁶ See: [Breach of Anti-social Behaviour Order.pdf \(judiciaryni.uk\)](#), accessed on 27/2/24.

consultation, which is a missed opportunity. Orders are not preventative – the behaviour has happened. Whilst in general an Order *may* prevent future behaviour from happening again or having a similar impact on a person or community, ABSOs are not an effective preventative tool in stopping behaviour. Further work is required across Government to reduce ASB itself, and NICCY does not agree, based on the evidence available, that the proposals contained within this consultation will achieve that end.

Positive requirements

While NICCY welcomes the Department considering proposals for addressing action and mental health issues surrounding ASB, we do not agree that these at this stage will assist in addressing root causes of ASB. There is minimal detail provided in the consultation document and Equality Screening on how the proposed positive requirements, rather than the current prohibitive ones, would operate, who would be responsible or how these would be resourced. Instead, the consultation asks the responder to consider how they would be funded and by whom. It would be beneficial to hear from those named within the consultation already for any informed decision to be taken, such as the PSNI, NIHE, Trusts and intended service delivery providers, as well as having associated costing requirements and resources.

Furthermore, the document states that ‘further consideration’ would be required should positive requirements be introduced but provides no detail or evidence of what this might look like, nor does it examine their success or failure in other areas. Evidence from other jurisdictions, including England shows that within the Behavioural Control Orders ‘positive requirements’ which are meant to provide access to interventions, programmes and positive diversions, often cannot be put in place due to a lack of resources and available services.

The *Justice* research also found that without proper accreditation, there is also a risk that certain types of ‘perpetrator programme’ or diversionary schemes can cause further harm. It also raised issues with the effectiveness of such a ‘positive order’, and a lack of guidance in their measurement. A common criticism on the Orders, including the positive requirements, is that they have over promised and under delivered.¹⁷ Further work is clearly required to determine on the merits of introducing positive requirements, learning from the experiences in other jurisdictions, and if they were introduced, would they only do so through the means of an ASBO.

Absolute grounds for possession

¹⁷ Justice, ‘Lowering the Standard: a review of Behavioural Control Orders in England and Wales’ (2023). Available at: [Modern-day ‘ASBOs’ highly discriminatory and fail to protect victims according to report from JUSTICE - JUSTICE](#), accessed on 27/2/24.

The consultation proposes to create a new statutory ground for possession along the lines of the “absolute grounds” for possession (AGP) which mirror the powers in England and Wales to make an order for possession where certain tests are met i.e.:

- *Has been convicted of an indictable offence;*
- *Has been found to have breached an injunction against ASB under Article 26 of the Housing (Northern Ireland) Order 2003, other than a provision requiring a person to participate in a particular activity;*
- *Has been convicted of the offence of breaching an anti-social behaviour order under Articles 3 or 6 of the Anti-Social Behaviour (Northern Ireland) Order 2004 and involved particular offences; or*
- *Has been convicted of an offence under section 65(9) of the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011, and the nuisance was in line with section 63(1)(i) of said Act.¹⁸*

Whilst not seeking to comment on the specifics of the prescribed list, NICCY wishes to raise concerns over potential unintended consequences of AGP.

The lack of information provided makes it difficult for consultees to provide full responses, especially over the potential impact that an AGP could have on children and young people. There does not appear to have been any assessment undertaken on impact, nor is there any indication of the position of NIHE bar the line ‘NIHE considers that the introduction of AGP *could in some cases* ensure that the court is in a position to determine applicants in a single, short hearing. This would offer better protection and faster relief for victims and witnesses of ASB, saving landlord costs, and freeing up court resources and time.’¹⁹ There is no information on the circumstances of these potential cases, nor the basis for the assertion that ‘this would offer better protection and faster relief for victims and witnesses of anti-social behaviour, saving landlord costs and freeing up court resources and time.’²⁰

Clarification would be required on the impact of not legislating to change ASBOs to apply to those 18 and over, and potential impact on their housing. If ABSOs continue to apply to children and young people, and a situation arises that a young person receives an ASBO and breaches it, and the new powers of AGP apply in relation to their housing, how will the young person’s rights be considered in this? For example, could they also be evicted from the home because of a breach of an ASBO? Furthermore, has consideration been given over the potential impact of an ABSO given to an adult family member of a child - could eviction proceedings be issued because of a breach or behaviour within the property, resulting in action taken against a whole family, including any children in the household? Clarity would also be required on children and young people being affected by AGP and injunction taken out against a responsible adult.

¹⁸ Department of Justice and Department for Communities, ‘Consultation on Anti-Social Behaviour’, p.35-6 Available at: [asb-consultation-final.pdf \(justice-ni.gov.uk\)](#), accessed on 27/3/24.

Specifically, clarification would be required on the changes being consulted on in relation to Articles 3 or 6 of the Anti-Social Behaviour (Northern Ireland) Order 2004 and if they would directly apply within the AGP context and the 'list' of AGP to be inserted in Part 1 of Schedule 3 to the Housing (Northern Ireland) Order 1983. We do recognise that injunctions under Article 26 of the Housing (NI) Order 2003 are only applicable to adults, however, it is unclear on whether this would include families, and if any mitigations are being considered when it comes to young people under 21.

NICCY considers that any human rights defence issued by the tenant, as outlined in 6.12 of the consultation document, including proportionality, should also include a child rights defence. It is also unclear from the consultation if there is an intention to introduce a statutory right to request a review of the landlord's decision to seek possession as is the case in England and Wales by secure tenants of local housing authorities.

Drinking in public

NICCY is aware that there have been issues identified with the bye-law system on public drinking, particularly in relation to the designation of areas, and allocation of enforcement and seizure/confiscation powers. We wish to draw the Departments' attention to aspects of the Criminal Justice (Northern Ireland) Order 2008 which require clarification beyond what is suggested in the documents.

The consultation invites views on the current system and the potential to make changes to the Criminal Justice (Northern Ireland) Order 2008. The current legal drinking age in NI is 18, and the 'Confiscation of Alcohol (Young Persons) Act 1997' provides the powers by which alcohol can be confiscated from those under 18.

The Criminal Justice Order 2008 Part 5, Articles 68-72 contains provisions which were intended to supersede the existing council bye-law system relating to the drinking of alcohol in public places, rectifying the perceived weaknesses and procedural difficulties.

These Articles remain uncommenced and concerns have been raised about their viability. It is unclear why this age range is contained within the legislation, given the existence of the Confiscation of Alcohol (Young Persons) Act 1997 and its application for all those under 18. NICCY requires further information from the Department prior to any changes being made to this Order, or the commencement of the regulations already contained within it as it would have an impact on those young people aged 16 and 17.

It is of note that there is no mention of the PSNI or Council's views on either the current bye-law system or if changes to the Criminal Justice (Northern Ireland) Order 2008 would enable the system to be effective relation to enforcement of drinking in public. This would be required for a fuller answer to be issued by respondents, alongside indicative costs and resources required. Again, we urge the Departments to discuss these proposals with

children and young people to ascertain their views and experiences with the PSNI and local authorities over ASB including drinking in public. We request clarification if any amendments made to the Criminal Justice (Northern Ireland) Order 2008 would necessitate changes to the PSNI's stop and search powers.

NICCY engagement with children and young people

In February 2024, NICCY staff met with a small group of (ten) young people in North Down alongside Alternatives NI staff, aged between 14 and 18 years old, from communities in Bangor.

We asked questions relating to ASB, how it affected them, or other children and young people they know. We discussed, for example, how people talk to them about it, how they perceive ASB and how the PSNI or other organisations treat and react to ASB in their local communities. We also wanted to find out what actions young people wanted the government to take in the future in relation to addressing ASB in their local community from their perspective.

When asked if they knew what ASB was, the response was mixed. Some stated that ASB could be 'loitering in private property'. 'Hanging around in the park' isn't loitering, as 'you can go there to sit in public'. Others stated that hanging about in a car park might be, depending on 'who you were affecting'. 'Stuff you shouldn't do in the public', like 'being too loud, littering, spitting and drinking in public' were also raised as potential ASB activities. A recurring theme was that none of the young people would 'hang out' or socialise in public within their own community – they would all go elsewhere. This was for a variety of reasons including lack of facilities or somewhere to go, that 'older people would shout at you' to move on, and that there was paramilitary type activity.

One of the young people stated there was '*more of a chance of paramilitaries influencing young people, so (its) not safe in your own community*'. '*You could get 'asked to do stuff*'. In trying to tease this out, the boys stated that there would be '*loads of stuff*' going on, '*younger people asked to do stuff for money – drug runs*'. It '*gives them something to do and the image and then turn round to your mates and say here look what I am doing*.' This was reflected by the young males as particularly affecting them. Mention was also made of the image that it could give you with girls as a potential motivation to get involved. In discussion on ASBOs themselves, none of the young people knew what they were, nor knew anyone who had had one. Other means of dealing with behaviour such as restorative practice and talking about impact of behaviour to gain a shared understanding were discussed.

Most of the young people had had experience of being told to move on from somewhere in public or been asked to leave a shop. This included a local toy shop when browsing for a present, or at a local fast-food premises, whereby we were informed that they could not sit in for food anymore and had to take food away. In both scenarios experienced, the young

people felt 'discriminated' against, as they were not behaving anti-socially, and were being judged because of their age.

All the young people knew who their local PSNI NPT officers are, were on first name terms with both officers, and talked about them in a positive light. They would feel comfortable if something was wrong in their communities to go and ask for help. This did not extend to officers that they did not know. One young person had been stopped by PSNI recently, although it was unclear if this was an official stop and search. The experience in his opinion was a negative one. They all recognised that they were part of their community and needed to be treated fairly by the Police.

Conclusion

NICCY recognises the need for Government to reduce the harm caused by ASB and taking effective, cross-Departmental and societal measures to reduce it. It does not, however, support the continuing use of civil, and in turn, criminal legislation to tackle it. For children and young people, reducing offending and reoffending and meeting welfare needs out of the formal justice system should be the priority. ASBOs should never be imposed on children under 18.

NICCY is deeply concerned about the potential impact that lowering the threshold could have on young people, those experiencing mental health and addiction issues. This must be addressed by the Departments.

Whilst there is merit in considering and implementing positive requirements, clarity is needed on the funding and resources required for them, as well as consideration of their effectiveness in other jurisdictions, all of which is not addressed in the documents provided.

NICCY is concerned about the impact of criminalising non-criminal behaviour, and the potential for these proposals to compound ASB and criminal behaviour, impacting on the community and the young people themselves. Moreover, the proposals contained in the consultation will do nothing to address the causes of anti-social behaviour, nor do they provide solutions to issues such as poverty, social exclusion and a lack of facilities in communities. A whole community approach is required, addressing the systemic issues.

As we have highlighted, NICCY is concerned that the potential for changes to injunctions under the Housing (Northern Ireland) Order 2003 and absolute grounds for possession may have unintended consequences on youth homelessness and housing uncertainty. Whilst we acknowledge the proposals contained in the consultation apply to those over 18, more information would be required on what assessment of potential impacts for children and young people i.e. those up to 21 within NICCY's remit if they are care experienced or have a disability, as well as those who may be victimised by virtue of a parent's or carer's

action, or the action of another person in the same household, potentially engaging UNCRC Article 2 rights.

NICCY welcomes the opportunity to respond to this consultation but reiterates that Departments to produce a children's and young people's version and engage directly with young people on the proposed changes and options being considered.