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# **The Tiered Approach to Youth Anti-Social Behaviour in Swansea**

Swansea University School of Law  
Final Report: February 2010

Swansea University School of Law

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# ABBREVIATIONS

List of abbreviations used in this report.

ABC – Acceptable Behaviour Contract (alt. Acceptable Behaviour Agreement)

ASB – Anti-social Behaviour (in context)

ASBI – Anti-social Behaviour Injunction

ASBO – Anti-social Behaviour Order

BCS – British Crime Survey

CDA 1998 – Crime and Disorder Act 1998

CDRP – Crime and Disorder Reduction Partnership

CSP – Community Safety Partnership

FGC – Family Group Conferencing

ISO – Individual Support Order

LCJB – Local Criminal Justice Board

RSL – Registered Social Landlord (formerly housing association)

SSP – Safer Swansea Partnership

TAC – Team Around the Child

WAG – Welsh Assembly Government

YIP – Youth Inclusion Programme

YISP – Youth Inclusion and Support Panel

YJB – Youth Justice Board

YOT – Youth Offending Team

# Executive Summary

## Executive Summary

1. The problem of how to deal with chronic low-level disorder and anti-social behaviour has been given priority in recent public policy, including in Wales. The *One Wales*<sup>1</sup> document identifies tackling anti-social behaviour as a key objective. It is apparent that anti-social behaviour is commonly associated with the activities of young people. Since many forms of anti-social behaviour also constitute low-level crimes, anti-social behaviour by young people may be dealt with using either youth justice or anti-social behaviour interventions. These two regimes lack a formal interface, which can result in young people being duplicitously and disjointedly dealt with.
2. Both the Home Office's *Youth Crime Action Plan*<sup>2</sup> and the *All Wales Youth Offending Strategy*<sup>3</sup> recognise the importance of preventive intervention, diversion away from the criminal justice system, and non-custodial sentencing. Early youth justice interventions, such as reprimands and warnings, are intended to minimise the risk of a young person becoming involved in more serious criminal activity. The location of existing formal (court based) anti-social behaviour interventions (in particular the Anti-Social Behaviour Order) outside the regime of reprimands and warnings can result in the diversionary ethic of the youth justice system being undermined. But equally there is the opportunity to use the range of informal (non-court based) anti-social behaviour interventions that are available to reinforce the diversionary ethic of the youth justice system. This would meet with the Welsh Assembly Government's aim of diverting young people at risk of offending away from the criminal justice system. Anti-social behaviour policy and practice accordingly offers an opportunity for the WAG to devise and implement its own distinctive agenda and policy toward low-level criminal youth anti-social behaviour in Wales.
3. The research described in this report focussed on the approach to anti-social behaviour interventions developed and implemented in Swansea and referred to as the 'tiered', or 'staged', approach. This approach establishes a series of staged interventions in the case of a young person involved in anti-social behaviour – with each of the staged interventions seen as progressively more coercive. The methodology adopted in the study is qualitative, paying attention to participants' perceptions and understandings of why it is that the staged approach is effective in dealing with youth anti-social behaviour.

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<sup>1</sup> Welsh Assembly Government, 2007.

<sup>2</sup> Home Office, 2008.

<sup>3</sup> Welsh Assembly Government, 2004.

4. The procedure that has been adopted for dealing with youth anti-social behaviour in Swansea takes account of established policy objectives for reducing offending, as well as for youth offending. The formal structure established by the Safer Swansea Partnership for dealing with youth anti-social behaviour involves the Youth Offending Team and other agencies, with a clear bias toward multi-agency working and early intervention. This structure ensures consistency and accountability by coordinating and directing the activities of relevant partner agencies, whilst also being sufficiently adaptable to accommodate the needs and take account of the experience of partner agencies.
5. Although partner agencies have different priorities and perspectives, there is widespread agreement that a multi-agency partnership approach is necessary if youth anti-social behaviour is to be tackled effectively. The benefits of multi-agency partnership are identified as: pooling of expertise and resources; more informed decision-making; a wider range of support services; and, collective responsibility.
6. Reasons advanced for the success of the multi-agency approach in Swansea include: the skill and enthusiasm of relevant personnel; allied to stability; and, consistent leadership. Challenges to the multi-agency approach were identified as: the non-representation of certain agencies, in particular Education and Social Services; information-sharing; and, under-resourcing.
7. The research found widespread agreement and concern about the breadth of the statutory definition of anti-social behaviour, and the potential that this will lead (and has led) to greater levels of intolerance of young people today than in previous generations. In Swansea the use of anti-social behaviour interventions against normal adolescent behaviour is strongly discouraged; and intergenerational work aimed at confronting negative perceptions of young people is actively promoted. This aspect of the Swansea approach contributes to the advancement of the stated policy objective set out in *One Wales* of achieving a just and inclusive society.
8. The research shows that relevant agencies in Swansea are committed to a tiered approach with prevention a key objective shared by all partner agencies. There was an obvious commitment to tackling youth anti-social behaviour in Swansea by engaging with young people and providing them with support to address their underlying needs, with enforcement seen as a last resort. This is significant, given that enforcement action will have greater legitimacy if agencies have first attempted to address the underlying problems contributing to the behaviour. Criminological research has found that sanctions which are perceived as illegitimate are more likely to produce defiance, resulting in weaker bonds to the sanctioning agent and community, unacknowledged shame and more frequent and/or serious misconduct.

9. The research has shown that youth anti-social behaviour may be approached through the adoption of multi-agency working where all partners are committed to the principle of diversion away from the criminal justice system. It highlights the importance of the provision of support to young people to the success of such an approach, and to the use of relevant anti-social behaviour interventions. Our recommendations are based on these and other conclusions which are set out in the report.

## List of Recommendations

1. In order to take advantage of the range of expertise available at local level for dealing with youth anti-social behaviour we see it as vital that all relevant agencies be given a participatory role in resolving the problems which often underlie anti-social behaviour, and therefore we recommend that they are included within a partnership approach (Chapter Four: paragraph 117).
2. In order for partnerships to work effectively we consider it essential that agencies are not deterred from multi-agency working because of budgetary constraints (Chapter Four: paragraph 118).
3. In order to promote effective partnership working we recommend that partner agencies establish suitable structures and procedures to enable information-sharing (Chapter Four: paragraph 118).
4. In order to encourage greater tolerance of young people we recommend that the WAG discourages relevant agencies from utilising anti-social behaviour interventions in response to normal adolescent behaviour and that it actively promotes intergenerational work aimed at confronting negative perceptions of young people (Chapter Five: paragraph 172).
5. In order to enhance the possibility of utilising anti-social behaviour interventions to divert young people from the youth justice system we recommend that the WAG advises relevant agencies, in particular the police, that cases which could be dealt with as either anti-social behaviour or low-level crime should where possible be construed as anti-social behaviour (Chapter Five: paragraph 173).
6. We note the importance of providing suitable recreational facilities to the aim of preventing youth anti-social behaviour, and recommend this type of provision as part of a strategic approach to dealing with low-level criminal anti-social behaviour (e.g., graffiti, the improper use of off-road vehicles) (Chapter Five: paragraph 174).
7. In order to minimise the possibility of disparity of treatment of young people, and to avoid prosecution of a young person where diversion away from the criminal justice is an alternative, we recommend that the

WAG uses the Swansea Youth Bureau as a model for the introduction of similar decision-making panels in the rest of Wales (Chapter Five: paragraph 176).

8. The experience of dealing with youth anti-social behaviour in Swansea by engaging with young people and to address their underlying needs has confirmed the importance of adopting a support-based approach. We accordingly recommend that the WAG endorses such an approach as preferable to an enforcement-led agenda at the outset (Chapter Six: paragraph 236).
9. Enforcement action will have greater legitimacy if agencies have first attempted to address the underlying problems contributing to the behaviour. For this reason, we recommend that ASBOs should only be employed where other informal interventions have been tried and failed (Chapter Six: paragraph 237).
10. In order to maximise the potential for ABCs to contribute to the management of anti-social behaviour by young people we recommend that the WAG explores the possibility of introducing guidance on an enhanced system of ABCs to incorporate reference to Family Group Conferencing and support packages (Chapter Six: paragraph 238).

# INTRODUCTION

## Context

1. According to the *British Crime Survey 2008/09* (BCS) one in six people perceive there to be a high level of anti-social behaviour in the area in which they live. The problem of how to deal with chronic low-level disorder and anti-social behaviour has been given priority in recent public policy.
2. In Wales the Welsh Assembly Government's *One Wales*<sup>1</sup> document identifies tackling anti-social behaviour as a key objective (as an aspect of the overall objective of delivering a fair and just Wales).
3. There are a number of anti-social behaviour interventions available to relevant agencies tasked with the management of anti-social behaviour, such as local authorities, the police and Registered Social Landlords (RSLs). These range from informal (non-court based) interventions such as oral or written warnings, mediation and Acceptable Behaviour Contracts (ABCs), to formal (court-based) remedies such as Parenting Orders, Anti-Social Behaviour Injunctions (ASBIs), and Anti-Social Behaviour Orders (ASBOs). Sanctions are provided for non-compliance with formal remedies, including criminal penalties in the case of Parenting Orders and ASBOs.
4. Many forms of anti-social behaviour also constitute low-level crimes. This is evident from the BCS (e.g., interviewees are asked whether they

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<sup>1</sup> Available at:  
<http://new.wales.gov.uk/about/programmeforgovernment/strategy/publications/onewales/?jsessionid=vWjLKyBF6Fz24T7CccvnpGvF3mJPhbS6yJKQ5Gf8pLydJThHQ0QZI614714359?lang=en>

perceive there to be a high level of drunken disorder, drug misuse and criminal damage in the area in which they live) and from the Home Office's typology of anti-social behaviour (which includes public disorder, intimidation or harassment and soliciting as well as drunken disorder, drug misuse and criminal damage).

5. It is also clear from the BCS that anti-social behaviour is commonly associated with the activities of young people. Low-level criminal anti-social behaviour by young people may therefore be dealt with using either youth justice or anti-social behaviour interventions. Yet these two regimes lack a formal interface. As a consequence, young people may be duplicitously and disjointedly dealt with.
  
6. The approach to youth justice set out in the Home Office's *Youth Crime Action Plan (2008)*<sup>2</sup> recognises the importance of preventive intervention, diversion away from the criminal justice system, and non-custodial sentencing. Early youth justice interventions are intended to minimise the risk of a young person becoming involved in more serious criminal activity.
  
7. The *All Wales Youth Offending Strategy*<sup>3</sup> emphasises that 'prevention is better than cure' in the case of young people at risk of offending. In the context of youth justice prevention is also an aim set out in the *One Wales* document.

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<sup>2</sup> Available at: <http://www.homeoffice.gov.uk/documents/youth-crime-action-plan/>

<sup>3</sup> Available at: <http://www.yjb.gov.uk/en-gb/News/AllWalesYouthOffendingStrategy.htm>

8. Under the existing system, a child will generally receive a reprimand for a first offence which may be followed by a warning where there is further offending behaviour. The issue of a warning triggers the intervention of the local Youth Offending Team (YOT), whose role is to assess the child's needs and identify programmes which can be employed to address these needs with the intention of preventing further offending.
9. There is a danger that the location of most existing formal anti-social behaviour interventions outside the regime of reprimands and warnings could in practice operate to undermine the diversionary ethic of the youth justice system. For example, in some areas in England and Wales the classification of the ASBO as a civil order may mean that a young person avoids contact with the YOT until an Order is imposed, or even breached.
10. A study completed by the Youth Justice Board (YJB) for the Home Affairs Committee found that in one-third of applications for ASBOs against young people the applicant agency had not consulted with the YOT.<sup>4</sup> This led the former chairman of the Youth Justice Board to suggest that the ASBO may be seen by some enforcement agencies as a way of fast-tracking problem young people into custody.<sup>5</sup>
11. At the same time, there is also the opportunity to use the range of informal anti-social behaviour interventions that are available to reinforce the diversionary ethic of the youth justice system. Such an approach would meet with the Home Office and Welsh Assembly Government's

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<sup>4</sup> Memorandum submitted to the Home Affairs Committee inquiry *Anti-Social Behaviour* (5<sup>th</sup> Report of 2004-05) HC 80 (London: The Stationery Office, 2005) vol III, Ev 219.

<sup>5</sup> Rod Morgan, 'Anti-social behaviour: getting to the root of the problem' (2005) 23(1) *Howard League Magazine* 13.

(WAG) aim of diverting young people away from the criminal justice system. Anti-social behaviour policy and practice provides the opportunity for the WAG to devise and implement its own distinctive agenda and policy toward low-level criminal anti-social behaviour in Wales.

## **Report Focus**

12. This report focuses on an approach to youth anti-social behaviour which has been implemented by relevant agencies across Wales, and is referred to as the 'tiered approach'. The report's particular focus is on the operation of the tiered approach in Swansea.
  
13. Based on a partnership approach involving local agencies Swansea has established a series of staged, or tiered, interventions. Research was carried out with key participants in Swansea's tiered approach to provide insights into the operation of the scheme including: the identification and classification of anti-social behaviour alongside typologies of criminal behaviour; the role of various agencies in dealing with complaints of anti-social behaviour; the priorities established for the Swansea scheme; aspects of the diversionary approach; the relevance of enforcement in a diversionary scheme; and, the benefits and problems of partnership working and the relevance of the partnership agenda.
  
14. Based on an assessment of evidence from interviews carried out with key participants in the processes for dealing with youth anti-social behaviour in Swansea, this report makes a series of grounded generalizable recommendations to contribute to the development of a distinctive policy agenda in Wales.

## Chapter Layout

15. Chapter One deals with the structure of youth justice and youth anti-social behaviour in England and Wales. It focuses on the role of relevant agencies and on the principles which govern, in general terms, approaches to dealing with youth anti-social behaviour, including anti-social behaviour which also amounts to an infringement of the criminal law.
  
16. The aims of this study and the methodology used are explained in Chapter Two. This includes information on participants, investigation methods and data analysis. Chapter Three outlines the objectives and structure of the Safer Swansea Partnership and describes Swansea's tiered approach to youth anti-social behaviour. Chapters Four to Six report on the evidence and are introduced with a summary of the issue identified for discussion. The evidence is discussed thematically in chapters and is reported by agency. These chapters provide our conclusions and relevant recommendations. The final chapter sets out our main conclusions.

# CHAPTER ONE:

## STRUCTURAL ISSUES

### Introduction

17. Whilst criminal justice and youth justice remain outside the scope of devolved powers, devolution has provided government in Wales with autonomy in the areas of community safety and youth wellbeing. This offers an opportunity for Wales and the WAG to develop a distinctive approach to tackling youth anti-social behaviour. In so doing the WAG must work within existing structures for dealing with youth offending and anti-social behaviour.
  
18. This chapter begins by introducing the inter-agency structures established for dealing with low-level crime and disorder, anti-social behaviour and youth crime. It then briefly highlights the importance of prevention and early intervention in efforts to tackle anti-social behaviour and youth crime. This is followed by a discussion of youth policy in a Welsh context. The chapter also sets out the main interventions available to agencies dealing with youth anti-social behaviour, as well as diversionary interventions within the youth justice system: these are referred to in context later in the report.

### Partnership Working

19. In order to co-ordinate local approaches to dealing with low-level crime and anti-social behaviour inter-agency structures have been established. Crime and Disorder Reduction Partnerships (CDRPs) in England, and

Community Safety Partnerships (CSPs) in Wales, consist of representatives from the police, local authorities, fire and rescue authorities, police authorities and health services.

20. The 22 CSPs in Wales have a statutory duty to develop and implement strategies to tackle crime and disorder, including anti-social behaviour.<sup>1</sup> CSPs will work closely with Local Criminal Justice Boards (LCJBs) which, amongst other responsibilities, are required to deliver national targets for bringing offences to justice. Membership of LCJBs comprises chief officers of police, the Crown Prosecution Service, the Court Service, the local YOT, prisons and the Probation Service.
  
21. The Crime and Disorder Act 1998 (CDA 1998) establishes a duty on every local authority to set up a YOT.<sup>2</sup> YOTs have a statutory responsibility to co-ordinate the provision of youth justice services for all those in the authority's area who need them, and to carry out the functions assigned to the YOT in the youth justice plan formulated by the local authority.<sup>3</sup> In order to coordinate services to prevent anti-social behaviour the local YOT will establish a Youth Inclusion and Support Panel (YISP), or similar forum. Panels are made up of a number of representatives of different agencies (e.g. police, schools, health and social services). The main emphasis of a panel's work is to ensure that children and their families, at the earliest possible opportunity, can access mainstream public services.<sup>4</sup>

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<sup>1</sup> The remit of CDRPs/CSPs was extended to cover anti-social behaviour by section 22 and paragraph 3 of Schedule 9 of the Police and Justice Act 2006.

<sup>2</sup> Section 39.

<sup>3</sup> Ibid.

<sup>4</sup> <http://www.yjb.gov.uk/en-gb/yjs/Prevention/YISP/>

## Prevention and Early Intervention

22. The Home Office's *Youth Crime Action Plan* (2008) set out a 'triple-track' approach to tackling youth crime, consisting of enforcement and punishment where behaviour is unacceptable, non-negotiable support to the families at greatest risk of serious offending, and better and earlier intervention to prevent offending.
  
23. A range of interventions are available to agencies in England and Wales to tackle anti-social behaviour. Home Office guidance on the use of these tools and powers emphasizes early intervention in dealing with youth anti-social behaviour in order to prevent escalation, in particular through work with families.<sup>5</sup> Guidance on anti-social behaviour more generally also advocates an incremental approach in which informal, less coercive, measures are deployed first before more formal court-based sanctions are applied.<sup>6</sup> The principal anti-social behaviour interventions available to relevant agencies are detailed below.
  
24. The Youth Justice Board (YJB) has published guidance for YOTs on their role in dealing with anti-social behaviour.<sup>7</sup> The guidance encourages the use of early intervention programmes targeted at young people identified as being at high risk, or on the point of becoming involved in anti-social behaviour and crime. These include Youth Inclusion Programmes (YIPs), mentoring programmes and YISPs. Such interventions target the risk factors that make it more likely that a young person will become involved

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<sup>5</sup> *Youth Crime Action Plan* (2008).

<sup>6</sup> Home Office *A Guide to Anti-Social Behaviour Tools and Powers* (London: Home Office, 2008), p1.

<sup>7</sup> *Anti-social Behaviour: A guide to the role of Youth Offending Teams in dealing with anti-social behaviour* (London: Youth Justice Board, 2005). Available at: <http://www.yjb.gov.uk/Publications/Scripts/prodView.asp?idproduct=212&eP>

in crime or anti-social behaviour. The guidance also promotes the use of restorative justice and reparation. It explains that the role of the community is crucial in dealing with anti-social behaviour, explaining that better relationships are encouraged and anti-social behaviour is reduced when the community feels that young people who were previously involved in anti-social behaviour are now making a positive contribution.

## **Youth Offending in the Context of Devolution**

25. The powers of the WAG do not extend to policing and criminal justice, and so those aspects of the Action Plan which are police-led and which involve local YOTs apply to England and Wales. But the responsibilities of the WAG do include education, health, housing, social services, community safety and social well-being, and youth policy. Measures aimed at early intervention and the prevention of youth crime through the involvement of other agencies therefore fall with the Assembly's remit.
  
26. In the case of young people at risk of offending, the *All Wales Youth Offending Strategy* (2004) emphasises that 'prevention is better than cure'. The *One Wales* document also states that prevention is a policy objective in the context of youth justice.

## **Anti-social Behaviour Interventions**

### *Non-statutory warnings*

27. Written or verbal warnings may be used to make it clear to a young person that their behaviour is unacceptable. Guidance from the YJB notes that making young people aware of the impact of their behaviour

and the threat of enforcement can be a deterrent, causing individuals to change their behaviour.<sup>8</sup>

#### *Acceptable Behaviour Contracts*

28. ABCs are written agreements made between an individual and one or more local agencies designed to engage a young person in acknowledging their anti-social behaviour and recognising its effect. An ABC can also be used to establish standards of acceptable behaviour. The young person may agree to stop their behaviour as well as to fulfil positive requirements (such as attending support services and/or school). The agencies involved may agree to support a young person to meet their obligations under the ABC. Guidance on ABCs suggests that these should make clear the repercussions of breach for the young person and their family.<sup>9</sup>

29. Guidance from the YJB states that failure to comply with an ABC should be acted on quickly, possibly through more formal enforcement action, and should reflect the consequences set out in the document.<sup>10</sup> Failure to comply with an ABC can be used as evidence when applying for an ASBO.

#### *Parenting Contracts*

30. Parenting Contracts are intended to provide a structured way for parents/carers to work voluntarily with relevant agencies.<sup>11</sup> A Parenting Contract will contain a statement from the parent/carer of the child that

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<sup>8</sup> Ibid.

<sup>9</sup> Ibid.

<sup>10</sup> Ibid.

<sup>11</sup> Ibid.

they will comply with the requirements specified in the contract for a specified period. The aim of the requirements must be to prevent further anti-social behaviour. As well as requirements which seek to address the child's behaviour – for example, an undertaking to ensure that the child stays away from a particular area (where he has acted anti-socially in the past) unless he is supervised, to ensure that the child is effectively supervised at certain times of the day, or to ensure that the child attends school regularly – there will normally also be some requirements which seek to provide support to the parent/carer. Most contracts will contain a parenting programme. And this may be supplemented by other support such as family group conferencing, literacy classes, benefits/drugs/alcohol advice and provision of a key link worker for the parent/carer. As well as terms imposing requirements on the parent/carer, the contract will also contain an undertaking from the agency to provide support for the purpose of ensuring compliance with the contract.

31. The agencies which may enter into a Parenting Contract are the YOT, the local authority, RSLs (where the young person has engaged in anti-social behaviour that relates to or affects social housing) and local education authorities and school governing bodies (where the young person has been excluded from school or been truanting).<sup>12</sup>

#### *Local Child Curfew Scheme*

32. This scheme allows the local authority or the police to ban children under 16 from being in a particular public place during specified hours (between 9pm and 6am) unless they are under the supervision of a parent/carer or

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<sup>12</sup> Anti-Social Behaviour Act 2003, ss19, 25, 25A & 25B.

responsible adult.<sup>13</sup> These orders have two purposes: to protect the interests of residents in areas where children engage in anti-social or criminal behaviour; and, to protect children by ensuring that they are at home under adult supervision at night.

#### *Dispersal Orders*

33. The police have the power, with the agreement of the local authority, to designate an area where persistent anti-social behaviour is taking place or where groups are causing intimidation.<sup>14</sup> Within the designated area the police and community support officers have the power to disperse groups and/or return home young people under 16 who are on the streets and not under the control of an adult after 9pm. The decision to designate an area may be made as part of the strategic work of a CDRP (England) or CSP (Wales).

#### *Anti-Social Behaviour Orders*

34. An ASBO is a civil order which imposes prohibitions which are necessary for the purpose of preventing further anti-social acts. The prohibitions may prohibit repetition of the individual's anti-social behaviour, or may be preventive (imposing a curfew or exclusion zone, or forbidding association with specified individuals).<sup>15</sup> The YJB states that whilst an ASBO is not directly intended to address a young person's needs it should be informed by an assessment of those needs.<sup>16</sup> The YJB sees the ASBO as having a role in dealing with particularly problematic

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<sup>13</sup> CDA 1998, s.14.

<sup>14</sup> Anti-social Behaviour Act 2003, ss30-36.

<sup>15</sup> Crime and Disorder Act 1998, s.1.

<sup>16</sup> By 'fully understanding the individual, family and social factors behind a young person's behaviour, the ASBO can be tailored to have maximum effect in producing positive outcomes for the young person and to limit the likelihood of it being breached and the young person entering the Criminal Justice System', above n.7, p.23.

individuals ('ringleaders') or patterns of behaviour that have a serious impact due to their cumulative nature.<sup>17</sup>

35. The YJB insists that it is crucial that other agencies should work closely with the YOT to address issues of concern at an early stage. The YOT will then be in a position to support other agencies and avoid disputes over ASBO applications. Where an ASBO is pursued without the YOT's agreement it nevertheless has a responsibility to support the implementation of the order.

36. A court may also make an ASBO following conviction for a crime, at the request of the prosecutor or of its own volition.<sup>18</sup> Although it is expected that there will be consultation prior to the obtaining of a post-conviction ASBO, the YJB study found that there tended to be less consultation with the YOT than with ASBOs on application.<sup>19</sup> The YOT does, however, have a duty to recommend suitable penalties and interventions in its pre-sentence report.

37. ASBOs imposed on a young person (including those made post-conviction) are made in open court and are not generally subject to reporting restrictions. The information is in the public domain and the media is entitled to publish details, although the court can impose reporting restrictions under section 39 of the Children and Young Persons Act 1933 if it finds there are grounds for doing so.<sup>20</sup> The impact of publicity on a young person should be considered when deciding how to

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<sup>17</sup> Ibid.

<sup>18</sup> CDA 1998, s1C.

<sup>19</sup> Aikta-Reena Solanki, Tim Bateman, Gwyneth Boswell & Emily Hill *Anti-Social Behaviour Orders* (London: Youth Justice Board, 2006), ch. 5.

<sup>20</sup> *R (T) v St Albans Crown Court* [2002] EWHC 1129 (Admin).

inform people about the order. The effect of publicity on vulnerable family members, such as younger siblings or parents/carers with mental health issues, is a factor that should also be borne in mind.<sup>21</sup>

38. Breach of an ASBO is a criminal offence, and so a young person who contravenes the terms of an ASBO is liable to be prosecuted.

#### *Individual Support Orders*

39. A magistrates' court imposing an ASBO on application on a young person aged between 10 and 17 years is obliged to make an Individual Support Order (ISO) if it takes the view that it would help prevent further anti-social behaviour.<sup>22</sup> ISOs impose positive requirements to address the underlying causes of the anti-social behaviour. An ISO is overseen by a responsible officer from the local YOT, local education authority or social services department. A responsible officer's role includes making arrangements for the delivery of the requirements of the order and explaining the order, its purpose and the practicalities to the young person.

#### *Parenting Orders*

40. The YJB maintains that parents/carers have a responsibility to deal with their children's unacceptable behaviour, and to support them in changing it. Parenting Orders are available where a parent/carer refuses to engage with this process on a voluntary basis and may require parents/carers to attend a parenting programme for up to three months. They can also place specific requirements on parents/carers to prevent further criminal

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<sup>21</sup> Home Office *Publicising Anti-Social Behaviour Orders* (London: Home Office, 2005).

<sup>22</sup> CDA 1998, ss1AA & 1AB.

or anti-social behaviour. Where a child or young person is made the subject of an ASBO or is convicted of an offence, or there is a breach of a Child Safety Order (below) a court can make a Parenting Order at its discretion.<sup>23</sup> YOTs have a role in recommending when a Parenting Order will be effective and can also apply to the magistrates' court for an Order.<sup>24</sup>

### *Child Safety Orders*

41. Child Safety Orders allow compulsory intervention with children under 10 years of age.<sup>25</sup> The child is placed under the supervision of a responsible officer from either a YOT or social services department, and is required to comply with a set of requirements.

## **Criminal Justice Diversionary Interventions**

### *Reprimands and warnings*

42. A young person may be given a reprimand where s/he has committed their first offence and this is not sufficiently serious to merit a warning.<sup>26</sup> A reprimand operates as a one-off intervention with further offences being dealt with by warning or prosecution. A reprimand is usually given in a police station with an appropriate adult present. No further action is taken once a reprimand is given.

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<sup>23</sup> CDA 1998, s8.

<sup>24</sup> Anti-social Behaviour Act 2003, s.26. Applications will be granted if the magistrates' court is satisfied that a child or young person has engaged in criminal conduct or anti-social behaviour, and that making the order would help prevent such behaviour.

<sup>25</sup> CDA 1998, s11.

<sup>26</sup> CDA 1998, s65.

43. A warning is given for a more serious first offence or a second offence where the young offender has already received a reprimand.<sup>27</sup> A second warning will not be given within two years. All offenders given a warning are referred to the YOT.<sup>28</sup>
44. In the case of both reprimands and warnings the police must have sufficient evidence to be able to prosecute a young person for a criminal offence: the offender must also admit the offence.<sup>29</sup>

#### *Penalty notices*

45. These are included here as they operate as a form of warning to the young person. Penalty notices can be used by the police as the first stage of intervention for many forms of low-level disorder offences.<sup>30</sup> The offender receives an immediate sanction which does not constitute a criminal record. Penalty notices are designed for minor offences where the offence does not form part of a pattern of offending behaviour, and greater intervention is not required. Home Office guidance for the police recommends that YOTs should be informed of the issuing of a penalty notice to a 16 or 17-year-old.<sup>31</sup>

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<sup>27</sup> Ibid.

<sup>28</sup> CDA 1998, s66.

<sup>29</sup> CDA 1998, s65.

<sup>30</sup> Criminal Justice and Police Act 2001.

<sup>31</sup> Home Office, *The Use of Penalty Notices for Disorder for Offences Committed by Young People Aged 16 and 17*, available at:  
<http://www.crimereduction.homeoffice.gov.uk/youth/youth50.htm>

# CHAPTER TWO:

## AIMS AND METHODOLOGY

### The Issue for Research

46. The existing youth justice scheme of reprimands and warnings aims to divert young people from the youth justice system and minimise the risk of young people becoming involved in more serious criminal activity.<sup>1</sup> However, most anti-social behaviour interventions sit outside this scheme. In particular, in some areas in England and Wales the civil classification of the ASBO means that a young person may avoid contact with the YOT until an Order is imposed, or even breached.
47. Studies have found that in many areas there is little meaningful consultation with the YOT, or none at all, before applications for ASBOs are submitted.<sup>2</sup> This undermines the diversionary ethic of the youth justice system, which is particularly significant given that it has been suggested that in some areas the ASBO is seen as a way of fast-tracking problem young people into custody.<sup>3</sup>
48. Across Wales youth anti-social behaviour is dealt with using a 'tiered approach'. This approach establishes a scheme of staged interventions, with each tier comprising a package of programmes built around a

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<sup>1</sup> See: CDA 1998, s37.

<sup>2</sup> Home Affairs Committee *Anti-Social Behaviour* (Fifth Report of Session 2004-05); Aikta-Reena Solanki, Tim Bateman, Gwyneth Boswell & Emily Hill *Anti-Social Behaviour Orders* (London: Youth Justice Board, 2006).

<sup>3</sup> Rod Morgan, 'Anti-social behaviour: getting to the root of the problem' (2005) 23(1) *Howard League Magazine* 13

common methodology based on partnership approaches. This report takes as its focus the operation of the tiered approach in Swansea.

49. Quantitative data, including data received from the ASB Case Manager on the use of anti-social behaviour interventions in Swansea, shows that the tiered approach has not only been effective in tackling anti-social behaviour, but has also been successful in minimising the use of formal court-based anti-social behaviour interventions against young people. Information provided shows a high rate of attrition between each of the four stages of the tiered approach to dealing with anti-social behaviour. In almost all cases involving young people, the anti-social behaviour is resolved without recourse to formal, court based interventions. Indeed, the data shows that in the vast majority of cases the anti-social behaviour is resolved before recourse is even had to an ABC (see Appendix 1). Data reveals that between 2002 and 2004, and in 2007, Wales had a lower rate of ASBOs for persons aged 10-17 years than England: this reversed for the years 2005 and 2006 (see Appendix 3). Swansea however had a significantly lower rate of ASBOs in this age group than either England, or Wales as a whole, for the entire period 2004 to 2007 (see Appendix 3).
50. The quantitative data highlights the opportunity that exists for the WAG to implement a distinctive approach towards youth anti-social behaviour which makes use of the range of informal anti-social behaviour interventions in order to promote and reinforce the diversionary ethic of the youth justice system – furthering the stated objective of the Home Office to divert young people at risk of offending away from the youth justice system. It also provides an opportunity for the WAG to promote its

own policy objectives by emphasising a strong focus on a diversionary ethic in youth justice underpinned by a focus on social justice.

## Research Aims

51. The aims of the research study were:

- To examine the relationship between available criminal justice and anti-social behaviour interventions in the case of young people engaged in low-level criminal anti-social behaviour in the Swansea area.
- To investigate the operation of the tiered approach to anti-social behaviour in Swansea, including inter-agency partnership working.
- To examine the reasons for the observed rate of attrition in the use of anti-social behaviour interventions, such that formal interventions are minimized and young people are diverted away from the youth justice system.

52. The purpose of the research was to enable researchers:

- To assess the extent to which anti-social behaviour policies implemented within Wales provide the opportunity to further the objective of diverting young people away from the youth justice system.
- To consider modes of practice meeting the objective of diverting young people away from the youth justice system.

And:

- To provide a set of grounded recommendations to support the *One Wales* objective of diverting young people away from crime and engagement with the youth justice system.

## Methodology

53. Having regard to the structure of the partnership approach to dealing with youth anti-social behaviour in Swansea, and the possibility of multi-level complexity introduced by different organisational and individual perspectives of the tiered approach in operation, it was decided to adopt a qualitative research methodology. This provides the opportunity to investigate understandings of the issues which arise for different agencies involved with tackling anti-social behaviour, including as a consequence of partnership arrangements. Relevant quantitative data (above paragraphs 49 and 50) is set out in the Appendixes.
  
54. The empirical evidence was acquired by means of semi-structured interviews with key participants in the Swansea tiered approach. These were identified by reference to documents provided by the YOT and the Safer Swansea Partnership (SSP) on the structure of the Swansea tiered approach, and confirmed with individuals closely involved in its operation.
  
55. The individuals interviewed were from the YOT, the police, and the SSP. Broadly speaking interviewees divided into operational and strategic personnel. The former are directly involved in work with young people whilst the latter's role is more inclined toward organization, prioritization and management - with responsibility for coordinating responses and monitoring structural arrangements. The interviewees were:

<b>Name</b>	<b>Ref.</b>	<b>Organization</b>	<b>Designation*</b>
Eddie Isles	EI	YOT	S
Phil Bowen	PB	YOT	O
Jude Jones	JJ	YOT	O
Graham Fay	GF	YOT	S
Mark Mathias	MM	Police	S
Alison Yeandle	AY	Police	O
Nicci Southard-Stuart	NS	SSP	S/O <sup>4</sup>
Jeff Davison	JD	SSP	S

\* Strategic/managerial = S  
Operational = O

56. In addition to those directly involved with the implementation of the tiered approach interviews were carried out with a further three individuals.

These were:

- Barbara Wilding (Police)(S)(ref. BW), Chief Constable of South Wales Police. Ms Wilding was interviewed for her perspective on the role of the police in dealing with anti-social behaviour, and for her views on the tiered approach.
- Janice Hall (YOT)(S/O<sup>5</sup>)(ref. JH), Family Group Conferencing coordinator. Ms Hall works closely with the YOT and is based at the YOT offices in Swansea.
- Eirian Davies (Local Authority)(S/O<sup>6</sup>)(ref. ED), Team Around the Child (TAC) coordinator, based at Pentrehafod School in Swansea. Ms Davies was interviewed as the TAC will on occasion deal with young people engaged in anti-social behaviour.

<sup>4</sup> In some case the interviewee's role was both strategic and operational, denoted by S/O.

<sup>5</sup> Ibid.

<sup>6</sup> Ibid.

57. The interviews were carried out using a thematic approach with interviewees asked questions relating to: agency role in dealing with anti-social behaviour; perceptions of anti-social behaviour and agency priorities and approaches; the partnership agenda and its influence, in particular its impact on agency role and priorities; and, the operational approach to youth anti-social behaviour, focusing on attitudes toward the use of the various interventions, influential factors when dealing with anti-social behaviour by young people, and views on the suitability of the Swansea approach in dealing with youth anti-social behaviour.
  
58. The thematic approach was also adopted in analysis of the interview data. The interview narratives were read with a view to establishing interviewees' views on the particular issues under investigation in order to identify trends reflecting intra-organisational perspectives and shared inter-organizational perspectives, as well as discontinuities between and amongst interviewees.
  
59. For the purposes of reporting on the evidence: Barbara Wilding's interview is discussed alongside the evidence from other police interviewees; Janice Hall's evidence is discussed alongside the evidence from members of the YOT; and Eirian Davies' evidence is discussed separately since the TAC is not part of the formal structure of the tiered approach.

# CHAPTER THREE: THE SAFER SWANSEA PARTNERSHIP

## The Safer Swansea Partnership

60. The SSP is a multi-agency group set up to meet the statutory obligation to establish a CSP.<sup>1</sup> The agreed remit of the SSP is to work as a partnership to 'build a city which is safe and where people feel safer'.<sup>2</sup> The inclusion of building a feeling of safety, as well as actual safety, gives the SSP a broader remit than that contemplated by the legislation.

61. The SSP is committed to improving community safety, which includes tackling crime and anti-social behaviour and the fear of crime and anti-social behaviour.<sup>3</sup>

62. The SSP is made up of a wide range of organisations and individuals.

Statutory partners are:

- City and County of Swansea
- South Wales Police
- Mid and West Wales Fire and Rescue Service
- National Probation Service
- Local Health Board

These organisations are under a legal duty to work together to tackle community safety issues in Swansea.

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<sup>1</sup> Crime and Disorder Act 1998, ss5 & 6.

<sup>2</sup> <http://www.saferswansea.org.uk/index.cfm?articleid=19187>

<sup>3</sup> Ibid.

63. The SSP has a number of other partner organisations which include the YOT. During the course of the research it became evident that the structure of the SSP has evolved since it was first established over 10 years ago, but also that it is flexible and able to adapt to the changing needs of partner organizations. This has included adopting and changing processes for dealing with anti-social behaviour, and in particular youth anti-social behaviour, on the initiative of the YOT.

## **Organizational Structure**

64. Whilst the structure of the SSP for dealing with anti-social behaviour is flexible and can adapt to meet the demands of practice, it is in essence a hierarchical model with responsibility for strategic decision-making lying at the higher levels.
65. Day-to-day operational matters are handled by the Anti-Social Behaviour Unit (ASB Unit). In cases of youth anti-social behaviour, the ASB Unit consists of four members: the Anti-Social Behaviour Reduction Co-ordinator (employed by the SSP); the Anti-social Behaviour Reduction Officer (a police officer seconded to the ASB Unit); and the Anti-Social Behaviour Case Manager and Acceptable Behaviour Project Worker (both employed by the YOT). The ASB Reduction Co-ordinator and ASB Reduction Officer are both based at the SSP's joint agency office at Sketty police station in Swansea. The agency office provides an environment where the partnership agencies are able to share resources and sensitive information in a secure environment.

66. Any issues relating to protocol, policy or procedure are considered by the Core Group. This group meets monthly (or as required). The group consists of representatives from the SSP (the Community Safety Manager and the ASB Reduction Co-ordinator), the police (the Community Safety Chief Inspector and the Community Safety Inspector), the Fire Service, housing, Swansea Council Legal Department and the YOT.
67. The Core Group feeds into the overarching Steering Group. Any changes to protocol, policy or procedure recommended by the Core Group are considered by the Steering Group. The Steering Group is made up of a number of thematic task groups (of which anti-social behaviour is one). It meets quarterly, and consists of lead members of the statutory partners.

## **Aims and Objectives**

68. The procedure for dealing with youth anti-social behaviour in Swansea needs to take account of the formal responsibilities placed on relevant agencies, and in particular the YOT, as well as the general policy objectives of the Home Office and the WAG.
69. Swansea YOT and the SSP have established a common agenda with the shared aim of reducing offending and anti-social behaviour by children and young people to the lowest possible level. This objective is linked to the aim of reducing overall offending by shortening the duration of offending careers and reducing the number of persistent offenders.

70. The SSP has produced a Procedural Guide (the 'Guide') intended to give effect to the aims and objectives of the SSP by setting out standards of practice relating to incidents of anti-social behaviour in the administrative area of the City and County of Swansea. The Guide begins by adopting the definition of anti-social behaviour set out in section 1 of the CDA 1998. It gives as examples of anti-social behaviour: unruly or drunken behaviour; threatening and abusive language in a public place; graffiti or criminal damage; and, other kinds of behaviour which prevents others from enjoying a normal life.
71. The Guide states that the SSP (referred to as the Crime Reduction Partnership) will adopt a more 'constructive approach to the issue of achieving a reduction of crime and disorder in the area than simply resorting to the enforcement mechanism of the ASBO.'<sup>4</sup> Significantly it is clearly stated that the ASBO is regarded as 'a necessary step only where all other more constructive approaches have failed.'<sup>5</sup>

## **The Tiered Approach to Youth Anti-social Behaviour**

72. The SSP has established a four-stage process for dealing with cases of anti-social behaviour. It should be noted that this is of general application to all cases of anti-social behaviour in Swansea, whatever the age of the perpetrator. The focus of this report is on the application of this process to young people.

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<sup>4</sup> SSP Procedural Guide, p.1.

<sup>5</sup> SSP Procedural Guide, p.1.

### *The referral process*

73. Information on anti-social behaviour is acquired by partner agencies in the discharge of their various functions. Referrals are made to the ASB Reduction Co-ordinator from partner agencies. Any member of the public may make a complaint about anti-social behaviour by contacting a relevant agency, such as the police or the local authority. The majority of complaints about youth anti-social behaviour are made to the police.
74. The partner agency is responsible for deciding whether or not to submit information to the ASB Reduction Co-ordinator and, if so, what information to submit. Partner agencies are encouraged to pass on information where this might be of value to the SSP or other partner agencies. The referring agency can recommend what action should be taken. This is not binding but will be taken into account in deciding the appropriate course of action.
75. On receipt of a referral the ASB Reduction Coordinator will carry out an evaluation of the reported incident(s). The possible responses on initial referral are:
- No action - this will apply where the complaint/information is unsubstantiated, the behaviour complained of is of a minor nature or the source of the information is unreliable. If nothing further emerges within a period of six months from the date of receipt of the information by the SSP the information will be deleted from the SSP database.
  - Standard staged procedure – this is outlined below.
  - Fast tracking - in the case of more serious incidents the referring agency or the ASB Reduction Coordinator may feel that it is appropriate to move

straight to the case conference stage. Whilst it is the ASB Reduction Coordinator who will ordinarily call a meeting of key agency partners (including a representative of the referring agency), in the case of a young person the YOT is responsible for making the necessary arrangements for administrative purposes.

*The tiered approach*

76. In cases which are not dealt with as fast-track cases, the procedure is as follows:

- Stage one: A letter is sent to the young person, warning of the consequences of any further incident. In the case of those under 16 years a letter is also sent to their parent or guardian. The incident and personal details are recorded on the SSP database.
- Stage 2: If a second incident is reported within six months of the first letter a second warning letter will be sent to the young person concerned (and, where applicable, his parent/guardian). Arrangements will also be made for a personal visit to the young person in his/her home. The visit is conducted by the ASB Case Manager, accompanied by the ASB Reduction Officer. The visit normally takes place within 10 days of the new occurrence being reported. If the ASB Case Manager and ASB Reduction Officer are fully satisfied that the individual is responsible for the behaviour referred, the young person will be asked to sign a Personal Warning. The object of the visit is two-fold: first, to warn the young person that his behaviour is unacceptable and that an improvement is required; and second, to seek more information about the young person and his circumstances to attempt to identify any factors which could be relevant to his conduct. This visit may lead to the young person being offered

specialist services to assist with his identified problems. If the young person rejects all offers of assistance a full record of the interview will be kept but no further action will be taken.<sup>6</sup>

- Stage 3: A stage 3 case conference (drawing together all relevant agencies and the individual concerned) will be called where there have been further incidents of anti-social behaviour following a stage 2 warning letter or where there has been a significant pattern of persistent and serious anti-social behaviour which requires fast-tracking to stage 3.<sup>7</sup> At the case conference a range of informal interventions will be considered, including Family Group Conferencing, an ABC and a Parenting Contract. The available documentation recognises that it cannot be prescriptive as to how the conference is called and/or conducted (having regard to the fact that the conference may need to fulfil a number of different requirements, depending on the age and circumstances of the individual). The ASB Case Manager is responsible for calling a case conference and will arrange for relevant parties to attend. One possibility is to make a referral to FGC, which the young person will be invited to attend along with his/her family. The FGC will work with the family of the young person to produce an Action Plan. Members of the ASB Unit will continue to be fully involved and must attend all meetings. The Action Plan must include timescales for FGC to work towards. The Action Plan will include a range of interventions aimed at stopping the anti-social behaviour. The interventions will be agreed between the family, the FGC Team and the ASB Unit. Alternatively, it may be decided at the case conference that the young person should be asked to sign an ABC. The signing of an ABC by a young person and, if appropriate, his parent or guardian, will be

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<sup>6</sup> The exception is if the conduct at the time of interview is such that it amounts to anti-social behaviour.

<sup>7</sup> SSP - Case Conference Guidance.

preceded by a meeting attended by those individuals and other relevant agencies, always including the YOT and the police and usually Social Services and Education.

- Stage 4: The final stage is to apply for an ASBO (with the added possibility of a Parenting Order and/or Individual Support Order). An application for an ASBO is a last resort, to be considered only where all other measures have failed or where the behaviour is so serious that there is a pressing need to place restrictions on the behaviour. In all but the most urgent cases a Stage 3 case conference will be held prior to the ASBO application. The conference should comply with the requirement to consult all relevant agencies.

77. As well as the tiered approach, the SSP also actively carries out other work aimed at addressing anti-social behaviour. This work includes the provision of diversionary activities, such as community centres, and inter-generational work (for example, at PACT meetings).

## **The Adaptability of the Tiered Approach**

78. During the course of the research it became evident that the referral process had undergone revision. Two significant examples are:

- Formerly, stage 2 visits were conducted by just the ASB Case Manager. However, during the course of some visits he found that the referrals had errors in them. Now he is accompanied by the ASB Reduction Officer, who checks the referral prior to the visit.
- In December 2008 it was agreed by the Core Group that stage 3 case conferences involving young people would henceforth be coordinated

through the YOT. This change sought to provide a structured process for targeting multi-agency preventative work.

79. Neither of these changes introduced any fundamental alterations to the four-stage tiered approach. The changes were initiated to accommodate the needs of practitioners and ensure that agencies' work with young people is not inhibited by structural requirements.

## **Conclusions**

80. The procedure that has been adopted for dealing with youth anti-social behaviour in Swansea takes account of the general policy objectives for reducing offending, as well as the more specific objectives relating to youth offending. The formal structure established by the SSP is intended to provide a response to anti-social behaviour, whilst the modified process and involvement of the YOT in cases involving young people has resulted in a clear bias toward multi-agency working and early intervention. Later chapters will consider the underlying ethic informing such intervention.
81. In order to ensure consistency and accountability for actions it is apparent that formal structures need to be in place to coordinate and direct the activities of relevant partner agencies dealing with young people involved in anti-social behaviour. At the same time, it is important that these structures are sufficiently adaptable to accommodate the needs and take account of the experience of partner agencies. The changes which have been introduced to the process for dealing with young perpetrators of anti-social behaviour in Swansea were initiated to reflect local practice.

This ensured that the work of local agencies is not hindered by structural requirements.

# CHAPTER FOUR:

## MULTI-AGENCY PARTNERSHIP

### Introduction

82. The Home Office encourages relevant agencies to work together at a local level in a partnership or multi-agency approach to dealing with anti-social behaviour. The *Respect Action Plan* emphasises that perpetrators of anti-social behaviour frequently have a number of underlying problems, and that these problems will not be resolved by short-term interventions from individual agencies acting in isolation:

*“Many individuals have multiple problems in addition to their anti-social behaviour. Mental health, alcohol, and drug problems, poor basic and life skills, domestic violence, poor school attendance, poverty and worklessness are recurrent issues that cannot be solved through short-lived actions from single local agencies. A recurring theme from research is that action needs to be concerted across local services and sustained for as long as necessary”<sup>1</sup>*

83. In a multi-agency approach different agencies contribute different expertise, resources and skills. However, different agencies also have different perspectives and priorities when dealing with young perpetrators of anti-social behaviour. As one interviewee not directly involved with the SSP’s approach to youth anti-social behaviour explained to us, this has much to do with organizational culture:

*“It isn’t just the police, it’s a culture for health and social services and education. I think we all have different training, we all have different ideals, we have different views” (ED)*

84. This study examined how multi-agency partnership working is regarded by relevant agencies in Swansea. It sought interviewees’ views on both the benefits of a multi-agency approach and its practical difficulties.

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<sup>1</sup> *Respect Action Plan* (London: Home Office, 2006), p.21.

## The Multi-agency Approach

YOT

85. YOT interviewees agreed that it is right to adopt a multi-agency approach to tackling youth anti-social behaviour. One interviewee explained that a range of expertise is essential given the wide variety of underlying factors that can contribute to anti-social behaviour:

*"[The partnership approach has been] very useful I think because there's a lot of specialist knowledge out there that can be used. I think particularly with dealing with antisocial behaviour you can't deal with it on your own because there's so many issues, I couldn't deal with those specialist issues you need those other agencies for support"* (JJ)

86. Another interviewee explained how pooling the different perspectives and insights of the members of different agencies enables more informed decisions to be made about how best to proceed:

*"I think that each agency can bring a slightly different outlook on the young person and their needs, they can provide extra resources that we can use over and above what one has. There's the sharing of expertise and I think that's very important where you sit down around a table and talk, you're more likely to come up with a rational explanation and way forward that way than one person dictating it"* (PB)

87. At the same time, interviewees did state that different agencies within the partnership have their own priorities and organizational agendas: "... all of the organisations have changing priorities and agendas that don't all match and meet" (JH). One interviewee explained that this is partly due to the agencies' different operational roles. In particular, he suggested that police officers' experience of anti-social behaviour during day-to-day policing causes them to emphasise the need for quick results:

*"Sometimes the police maybe are at the forefront and so they can see what that young person is doing first hand and therefore they feel stronger action is needed than we do because we know that long term prevention or education will work but it doesn't solve the problem immediately for that police officer"* (PB)

88. Interviewees did state, however, that notwithstanding the differing priorities of different agencies, relevant agencies in Swansea are committed to multi-agency working. One opined that the reason for this commitment is a shared desire to do what is best for the young person – “I think everybody that you get around that table is trying to do the best for that young person even the police” (PB) – although this may on occasion involve the YOT persuading other agencies to their point of view:

*“I find that once you explain to them [the police] 9 times out of 10 they will come around onto our side because they really do want the best for that young person” (PB)*

89. Another interviewee suggested that agencies’ commitment to multi-agency working stems from their understanding that without this commitment a multi-agency approach would not function: “We’re dependant on the overriding ethos being maintained and when a threat comes along that a key agency doesn’t run to the bunker” (JH)

90. Interviewees stated that reaching a consensus can be a difficult process of negotiation and compromise which requires hard work:

*“When you have different agencies coming from different view points it’s a lot more working to get to that point, getting to that point in agreement. Sometimes we have to go through a lot of play making and people adopting certain roles saying this is my stance here etc and you have to go through that” (GF)*

91. However, if issues are discussed openly and partners respect and value each others’ contributions, it is possible to move forwards:

*“There are different expectations on each of the agencies, social services have a different work but I think as long as you’re talking sense and you’re listening to them you can come up with a way forward” (PB)*

92. Interviewees offered a number of reasons for why they believe the multi-agency approach has worked well in Swansea. One interviewee attributed it to the enthusiasm and dynamism of the key personnel:

*“You’ve had personalities around the table who want to take things forward and make things happen and that’s been key. I think even from the outset that we’ve had very enthusiastic people and that’s important” (GF)*

93. Other interviewees stressed that there has been stability and consistency in the representation of relevant agencies, explaining that this has facilitated the development of relationships of trust:

*“I think also that there’s been a significant degree of stability at a tier 3 level, so people know each other and trust each other and there’s a real willingness to work with each other and I think that’s a very serious issue which is underestimated. Part of how these things work is the personal level of contact and again the bigger you get as an authority area the harder that becomes” (E1)*

94. It was also suggested that Swansea’s demographics are well-suited to multi-agency working:

*“Swansea is at that optimal size. The population is at a quarter of a million. It has a single police division. Everything is tight within a unity authority area and its easy to navigate. Some of my colleagues as YOT managers are having to work across quite complex areas where they’ve got 2 or 3 unitary authorities and that means they’ve got 2 or 3 Community Safety Partnerships and 2 or 3 of everything else and I think that becomes quite difficult and you’re less likely to try new things if you’ve got to sustain multiples of the same thing” (E1)*

95. Interviewees also identified two further challenges for the multi-agency approach. The first was the non-representation of certain agencies. Whilst the interviewee that identified this point recognized that the police, the local authority and the YOT are all involved, he pointed out that certain other agencies which could make an important contribution are not, including education and social services:

*“One of the weaknesses you do have is that you don’t have agencies that you need on board. Within the Swansea sector, the key players are the police, housing, ourselves and that’s all linked in around the*

*ASB teams ... but what you don't have is a strong representative in terms of education, social services. It's difficult to engage them in that process and when you're talking about young people and the family and actions you might want to take with young people and families, it would be good if they were on board in terms of a core representation but they're not there" (GF)*

96. The second challenge that was identified was the fact that, on occasion, some agencies have taken action against young people unilaterally. When asked whether there have been cases in which the YOT has been working with a young person, and then discovered that another agency has taken action against that young person unilaterally, one interviewee replied:

*"It happens. We've had a couple of instances where young people have been taken into the court system [by the police]... but at court we've intervened and had it turned around ... I have to say we had to make a judgement about how we handled it and we didn't raise objections at the court ... it wasn't repeated" (EI)*

97. The possibility of the police taking action to prosecute young people for offences which might otherwise be dealt with as anti-social behaviour using the staged approach was recognized by YOT interviewees as potentially problematic. One interviewee commented:

*"There are times when housing and the police have taken actions that we don't know about and we never know about it and that's difficult to work with" (PB)*

#### *Police*

98. In terms of tackling anti-social behaviour, police interviewees described their role as being to work in conjunction with other agencies to deal with the problem: "I personally see the police role as being part of a number of agencies, which includes the community, in resolving antisocial behaviour" (MM)

99. Like the interviewees from the YOT, police interviewees recognized that different agencies within a multi-agency partnership have different priorities and agendas:

*“There will be different opinions with different agencies, because of my background I’m very enforcement led and I do think that there is a place for enforcement and in certain circumstances it works really well. Perhaps the YOT have the same agenda but naturally they’re not enforcement led and at all costs they’d like to see the child modify their behaviour” (AY)*

100. One interviewee even noted that different units within the same agency may have different priorities, especially where there is an assumption that the agency will adopt a particular operational ethos:

*“I suppose its natural there are going to be conflicting views [from different units within the police force]. I think some people would perceive anti-social behaviour and the role we’ve adopted as a bit pink and fluffy, as we perceive the YOT to be on occasion” (AY)*

101. In spite of the fact that the police’s priorities may differ from those of partner agencies, police interviewees expressed their commitment to partnership working:

*“We’re all very mindful now that we’re working in partnership and we do rely on other partners to assist us in what we do. If there are other decisions to be made we send out an invitation to a multi-agency conference to bat it out around the table. There are different options and there are going to be because of court backgrounds and the nature of how we work and as you know lots of agencies are target driven as well and that can have a bearing on outcomes or certainly on individual ideas on how to deal with things, but it’s imperative that we do sit around the table and before any decision is made that does happen” (AY)*

102. The ASB Reduction Officer recounted her experience of case conferences, explaining how all perspectives are considered and that it is normally possible to reach agreement through discussion. Importantly, underpinning the discussion and the different perspectives is a shared concern for the interests of the young person:

*“I think we’re all adults and we deal with this really well, we sit around a table and discuss different viewpoints and come to a conclusion that is acceptable to all at the end of the day with the interest of the young person or the adult in mind at all costs” (AY)*

103. One interviewee stated that a key benefit of the multi-agency approach is that agencies share collective responsibility for dealing with perpetrators of anti-social behaviour. Previously there was a tendency for individual agencies to abdicate their responsibility by shifting cases onto other agencies. Giving the example of a situation where a police officer might have concerns about the safety of a young person who is committing anti-social behaviour, this interviewee contrasted the position previously with the position under a multi-agency partnership approach:

*“Before it was easy to ... send it to social services so you basically throw the monkey to social services so they have the decision. Where we’re going is that is not the decision of the social services, its not the decision of the police, it’s the decision of us all because we’ve all got to work together on this and if it goes wrong its going to be on us all” (MM)*

104. One interviewee commented on the strength of the partnership links in Swansea compared to those she had experienced in London, suggesting that one of the reasons for this is that Swansea enjoys a greater degree of stability:

*“What really struck me when I first came here is just how strong partnership links were, far stronger than I had seen certainly in London, and I might add not surprising really given the transient nature of a substantial part of London. So I felt that we could put our trust in, and build further on, those partnerships and that we could make a real positive impact there” (BW)*

105. Like the interviewees from the YOT, police interviewees also said that an important reason for the success of the multi-agency partnership approach in Swansea was the vision and dedication of the personalities involved. One interviewee remarked “I think in reality it has been quite important ... I’m not bragging but yes it has been important” (MM).

106. Two particular challenges to multi-agency working which interviewees highlighted were resourcing and information-sharing. One interviewee opined that the biggest challenge to multi-agency working is “budgeting and finance ... because whatever we do has a cost implication” (AY), and then added that multi-agency working can also be undermined if agencies are unwilling to share information:

*“We have loads of partner agencies signed up to this protocol to share information together and work together and that has to come pretty high up on the agenda as well. If people aren’t committed to this and if there are perhaps internal politics or something like that going on then it could become fragmented and the whole system generally doesn’t work as well” (AY)*

107. The importance of information-sharing was also emphasised by two senior police interviewees. One stressed the importance of having protocols in place to ensure that information is shared, and hinted that there are some people who are wary of sharing information with the police:

*“When you are looking at young people and what’s happening to them it is about making sure you get the right response in there. And so if it is health, if it’s housing, if it’s debt management, if it is mental health, if it’s the fact that there is a schedule one offender in the household or whatever it is, that is all part of the picture. So it is absolutely important that we identify the right people to share information about and then that protocols are in place to absolutely do that ... I would like to think that we, as a service, are moving beyond people’s suspicion of the fact that we are just going to use the information to our own ends as it were, like Big Brother” (BW)*

108. The other interviewee also stressed the need for effective sharing of information. He explained that without this different agencies (or different individuals within agencies) could end up taking uncoordinated action against the same individual:

*“As it happens now is that the practitioners, housing, social services actually come from the tactical group so they’re starting to understand what’s happened and therefore going to share information. A lot of the*

*time they weren't aware. We've had 2 police officers in the same meeting talking about the same individual but none of them knew what I knew, they've both put forms in, done what they need to but nobody's sat down and nobody's correlated it, so I think that'll take some time. When I talk about how we're not quite there yet it's about that coordination" (MM)*

#### *Safer Swansea Partnership*

109. As with the YOT and police interviewees, interviewees from the SSP pointed out that the agencies within a multi-agency partnership will have different operational objectives: "I think there's always been challenges and I think we've got our own priorities to work to" (NS). This interviewee summarised some of the relevant agencies' priorities and noted the potential for these to conflict:

*"I think the police are traditionally enforcement. I think their ways of thinking are now coming around to being very community based, they've got the policing pledge, if you complain about something they are going to do something about it, they're victim focused. YOT are very perpetrator focused. You have got to be into that system first, I know they are becoming more of a supportive role now but traditionally they've been more enforcement led, undertaking warnings. Housing's priorities are to their community, to their estates. Looking at their housing management function, is the behaviour of the individual affecting their housing management function? Social services, their priority is to keep families together. So we've got a lot of conflicting priorities" (NS)*

110. Given these different priorities, another interviewee emphasised the importance of the Core Group.<sup>2</sup> This provides a forum for key personnel from partner agencies to meet, discuss policy-related issues, and identify shared objectives. Importantly, all members of the Core Group are committed to partnership working:

*"Well I think we tried to iron out any fundamental or serious differences through the core group ... Thinking back over the time we've been engaged in this activity I can't think of any serious differences of opinion over that period of time" (JD)*

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<sup>2</sup> See further chapter 3.

111. In addition to the benefits already mentioned in this chapter, one interviewee pointed out that the multi-agency approach also prevents individuals from playing one agency off against another. This is in part thanks to the sharing of information which gives agencies a more complete picture of a perpetrator's background and misconduct, but also because it allows agencies to establish a consistent approach to anti-social behaviour and communicate this to the community:

*"We're all a very small part of a jigsaw and I think the police have one set of information, housing have another set of information, other agencies have information and its not until we put all that together you can get the whole picture ... [Multi-agency working] sends a consistent message out to the community and to the young person that even though it's a housing officer, a neighbourhood support warden, a police officer who stops you, all the information is going to end up in the same place, you can't be playing one off against the other. You can think 'it was a neighbourhood support person who stopped me last time, it's a police officer this time they're never going to find out about it' and what we've found particularly with young people, it's the big brother thing, they're always taken aback thinking 'how do you know that? I told a police officer, how do you know that?' and it does work with them thinking 'I can't get away with this I can't push one against the other and move away they're all coming together'" (NS)*

112. The reasons SSP interviewees gave for the success of the multi-agency approach in Swansea echoed those given by interviewees from the YOT and police. One interviewee stressed the importance of stability, explaining that this facilitates the building of relationships with members of partner agencies:

*"I think there is a lot to do with personalities and relationships that you build up and I know I can ring certain people within housing to give me information and it does take a while again when somebody leaves and moves on to build those" (NS)*

113. Another interviewee also emphasised the importance of agencies having consistent leadership:

*"One of the strengths we have is consistent leadership. If you look ... [the ASB Reduction Co-ordinator] has been in post since the beginning, [the Youth Offending Service Manager has] been there for a long time, our head of housing ... If we had the same degree of*

*turnover of leading important personnel in the partnership that we had in the police that would be a significant weakness instead of the strength that we've had consistency" (JD)*

## **Conclusions and Recommendations**

114. There is widespread agreement that a multi-agency partnership approach is necessary if anti-social behaviour is to be tackled effectively. Perpetrators of anti-social behaviour commonly have a range of underlying problems which cannot be resolved by individual agencies acting alone. Whilst the interviewees in this study acknowledged that the partner agencies have different priorities and perspectives, they explained that with meaningful dialogue and negotiation and a commitment to the partnership approach it is possible to reach agreement on how to deal with young people who have perpetrated anti-social behaviour.
  
115. Interviewees identified a number of benefits of multi-agency partnership: the pooling of expertise and resources enables more informed decision-making and a wider range of support services; agencies share collective responsibility where previously they may have sought to shift responsibility to other agencies; and it prevents perpetrators of anti-social behaviour from playing one agency off against another.
  
116. A number of reasons were advanced for the success of the multi-agency approach in Swansea: the key personnel within relevant agencies are skilled, enthusiastic and dynamic individuals; the stability in terms of key personnel within relevant agencies has resulted in consistent leadership and allowed working relationships to develop between agencies; and

Swansea's demographic characteristics are well-suited to multi-agency working.

117. Interviewees also identified future challenges. One issue to be addressed is the non-representation of certain agencies, in particular Education and Social Services. Given the important role these agencies can play in resolving some of the problems which often underlie anti-social behaviour, we recommend that they are included within the partnership approach.
  
118. Other issues which were identified were resourcing and information-sharing. It is essential that: (1) agencies are not deterred from multi-agency working because of budgetary constraints; and (2) that suitable structures and procedures are in place to enable information-sharing between partner agencies.

# CHAPTER FIVE:

## WHAT IS ANTI-SOCIAL BEHAVIOUR?

### Introduction

119. The principal statutory definition of anti-social behaviour is found in section 1(1)(a) of the CDA 1998.<sup>1</sup> It states that a person acts anti-socially when he acts “in a manner that caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household as himself”. This definition has been the subject of much attention.<sup>2</sup>
120. Since its focus is the effect of the behaviour on others, the definition depends largely on people’s behavioural expectations and norms of aesthetic acceptability, and so can be both very context and temporally specific.<sup>3</sup> It has been strongly criticized by some legal commentators, who have argued that it is unacceptably vague and broad.<sup>4</sup>
121. In terms of youth anti-social behaviour, one danger of a broad definition is the possibility of net-widening. Agencies may be able to take formal action in circumstances in which they would not previously have done so. This study accordingly investigated relevant agencies’ understanding and

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<sup>1</sup> A further definition of anti-social behaviour is found in section 153A(1)(a) of the Housing Act 1996. This defines it as conduct that is ‘capable of causing nuisance or annoyance to any person’.

<sup>2</sup> See in particular Home Affairs Committee *Anti-Social Behaviour* (Fifth Report of Session 2004-05) HC 80 and Millie, Jacobson, McDonald & Hough *Anti-Social Behaviour Strategies: Finding a Balance* (Bristol: Policy Press, 2005).

<sup>3</sup> Millie ‘Anti-social Behaviour, Behavioural Expectations and an Urban Aesthetic’ (2008) 48 *British Journal of Criminology* 379.

<sup>4</sup> See, for example: Ashworth et al ‘Neighbouring on the Oppressive: The Government’s “Anti-Social Behaviour Order” Proposals’ (1998) 16 *Criminal Justice* 7; and Macdonald ‘A Suicidal Woman, Roaming Pigs and a Noisy Trampolinist: Refining the ASBO’s Definition of Anti-Social Behaviour’ (2006) 69 *Modern Law Review* 183.

application of the definition. The findings are presented in the first half of the chapter.

122. The definition of anti-social behaviour in the CDA 1998 straddles the criminal/non-criminal distinction. It is capable of encompassing much conduct that is not criminal, as well as much conduct that is criminal. The second half of the chapter focuses on the overlap between crime and anti-social behaviour.
123. The chapter identifies the practical difficulties caused by this overlap and examines how agencies attempt to distinguish anti-social behaviour from crime. Of particular significance here is the introduction in Swansea of a Youth Bureau. The Bureau is a decision-making panel staffed by members of the YOT and police. When a young person appears before a police custody sergeant accused of a criminal offence, the custody sergeant will bail the case to a future date and refer the matter to the Bureau if three criteria are met:
  - (1) the young person has no previous convictions;
  - (2) the young person admits his involvement in the offence;
  - (3) the offence has a gravity rating of 3 or less (e.g., theft, public disorder).
124. Before a case is considered by the Bureau members of the YOT write a full report assessing the incident and the circumstances of the young person and his/her family. The report will recommend what action should be taken. When it considers the case the Bureau has a range of options, ranging from no further action to prosecution. Voluntary restorative action could be agreed, as could the provision of support services. The

aim is to divert young people from the youth justice system, so prosecution will be avoided if possible.

## **The Definition of ‘Anti-social Behaviour’**

125. This section reports interviewees’ understanding and opinions of the statutory definition of anti-social behaviour.

### *Youth Offending Team*

126. The concerns of legal commentators about the breadth of the statutory definition were echoed by interviewees. Referring to the behaviour of young people, one interviewee said that the definition is “quite wide ranging” and covers a “huge range of behaviour”, and usefully illustrated this by reciting the details of two recent cases which involved: (1) the throwing of water bombs into cafes; and (2) messing around in McDonalds, a supermarket and a disused building. (PB)

127. Another interviewee explained that:

*“[The definition encompasses a] whole range of issues from the normal adolescent issues of coming together as a group and milling around with no constructive leisure opportunities, a tendency of sitting on walls to walls being broken, fences being broken, kids being pushed through them, all of those sorts of issues. We move through then to alcohol and drugs related issues, kids congregating in parks, sometimes drinking underage ... There’s a whole range here we’re looking at in terms of behaviours.” (EI)*

128. This interviewee opined that the breadth of the definition means that it “just isn’t very useful”, expressing concern that some innocent and normal activities of young people will fall within its scope. The interviewee stated that “there’s a gross confusion about anti-social behaviour, even in the criminal justice agencies”, and that this has resulted in criminal behaviour

being dealt with as anti-social behaviour: “If you start to look at referrals that we’ve seen for antisocial behaviour it embraces behaviour which is clearly criminal.” (EI)

129. The interviewee went on to say that the vagueness of the definition has allowed a shift in focus:

*“The Government’s attitude has gone from anti-social behaviour being about families from hell to anti-social behaviour being all about children and young people, so the distinction about where it’s targeted has changed absolutely from not being about young people to being 100 percent about young people ... [The Government] is trying to extend [the definition] in different directions all the time so there’s no clarity about what it actually means. I think it means 100 different things to 100 different people.” (EI)*

130. The interviewee thought that the focus on young people had been concretized by the relocation of the Respect Academy:

*“[T]he shift of the Respect Academy from the Home Office and moving it across to the Youth Taskforce in the Department of Children, Schools and Families I was not pleased to see as it emphasised this idea that anti-social behaviour is something that applies to children and young people. We have clear references under the Crime and Disorder Act of 1998 that it wasn’t; it was about the families from hell who made lives impossible for neighbours and for communities.” (EI)*

131. Interviewees explained that the focus on young people means that referring agencies have to distinguish between behaviour that is anti-social and behaviour that is merely adolescent:

*“We have to arbitrate whether the behaviour is anti-social or whether it is more adolescent behaviour which is not accepted by adults but may not constitute being anti-social.” (EI)*

132. Interviewees stated that agencies do sometimes make referrals in respect of behaviour that is adolescent, but not anti-social. The ASB Unit, and in particular the ASB Reduction Co-ordinator, thus have a key role:

*“It’s the [Anti-Social Behaviour Unit’s] job, [the job of the Anti-Social Behaviour Reduction Co-ordinator] really, to look through the referrals*

*and move those on that have [caused] genuine alarm and distress.”*  
(PB)

133. According to interviewees, the nebulosity of the concept of anti-social behaviour has also had an effect on how the public perceive young people. It was suggested that the numerous referrals for typical adolescent behaviour were the result of greater levels of intolerance today than in previous generations:

*“Interestingly one of the most common referrals that we had when we started this process was kids playing football in the street. When I was a kid this was accepted standard – ‘Go out and play in the street’. Now it’s under no circumstances play in the street.”* (EI)

134. This was reiterated by another interviewee, who felt that the greater levels of intolerance are in part due to the influence of the media:

*“I think that some of the things that are referred to us are young people being young people. Young people will gather on the corner and that kind of thing and they’re not doing anything. I think the older generation are far less tolerant of young people than they were in my day and unfortunately with the media we have and the way information and messages are passed to people, it flies around so quickly, so the instances of behaviour in one area gets transported to another quite quickly and causes fear. I wouldn’t want to be a young person now, if I was a young person I would probably be a top candidate for an ASBO ... We are not as tolerant of young people and I don’t think that Swansea is providing enough alternative either for them.”* (PB)

135. It is therefore necessary that agencies responsible for tackling anti-social behaviour attempt to confront negative perceptions of young people. Intergenerational work was seen as having an important role to play here:

*“[T]here’s hardly anybody who gets through adolescence without committing anti-social behaviour or crime and for the majority of people it’s not a continuing behaviour ... That jangle of chemicals and emotions that you get inevitably challenges against adult authority through teenage years ... The tolerance levels of the community have diminished ... [A]s people get older they forget about adolescence and the torture of it and what we’re trying to do is reconnect them with their own experiences.”* (EI)

## **Police**

136. The focus of the statutory definition is on the effect the behaviour in question has on other people; behaviour that causes, or is likely to cause, others (not of the same household) harassment, alarm or distress is anti-social. This point was emphasised by one interviewee, who said that what distinguishes anti-social behaviour from other forms of misconduct is its effect on the wider public:

*“Technically as the definition goes it’s any behaviour that causes harassment, alarm or distress to one or more persons not of that same household, so that distinguishes very clearly between things like domestic violence and anti-social behaviour because if it’s affecting you and your family you have to deal with that yourself or call the police and they’ll have to deal with that under another umbrella. If your behaviour is affecting somebody else in the community and causing them harassment, alarm and distress then it’s dealt with as anti-social.” (AY)*

137. This focus on the effect of the behaviour on others contributes to the breadth of the definition. It has been criticised by some legal commentators, who have opined that there are inadequate safeguards for cases in which the alleged victim is oversensitive, intolerant, or even bigoted.<sup>5</sup> As noted above, interviewees from the YOT felt that the breadth of the definition encourages greater intolerance of young people, as behaviour which is merely adolescent is claimed to be anti-social. In a similar vein, an interviewee from the police described the statutory definition as “draconian” (MM) and explained that problems are caused by the public wrongly perceiving some forms of behaviour to be anti-social:

*“We have specifics in the police service where we record anti-social behaviour if it’s in certain categories. Those certain categories would come under the National Crime Recording Standards and under National Incident Recording Standards and there are definitions, for example, kicking a football against a wall would not come under any*

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<sup>5</sup> See n 4 above.

*anti-social behaviour definition within both of those but some members of the public will see that as anti-social behaviour and that is some of the difficulties.” (MM)*

138. This was echoed by another interviewee, who also suggested that today’s society is less tolerant of young people:

*“What I will say as well is we’ve become less tolerant as a society. When I was young I remember kicking a tin can around. Everybody in the street knew you and they were prepared to accept that noise in the evening and nobody said anything about it but now people will ring up. I feel that people are very intolerant towards young people and their perception is that all young people are bad.” (AY)*

### **Safer Swansea Partnership**

139. Members of the Safer Swansea Partnership also drew attention to the breadth of the statutory definition. One interviewee commented that “the temptation would be for it to become a bit of a dumping ground”, adding that:

*“It’s very difficult for people sometimes to appreciate the difference between what the legislation intends and a convenient dumping ground for things they’re generally not happy with.” (JD).*

140. This interviewee opined that the anti-social behaviour legislation was not intended to apply to forms of behaviour (such as noise nuisance) for which there are already specialist procedures in place:

*“What I’m talking about is to have this [Anti-Social Behaviour] Strategy and Unit as something which is distinct so that we can pick up things ... which would otherwise fall between the cracks and to try to use the partnership approach to solve the problems. Now here’s the key thing – the purpose is to solve problems rather than to inflict punishment and I’d say that was distinct from a lot of the other things which can be turned into anti-social behaviour.” (JD)*

141. In keeping with the comments from interviewees from the YOT and police, members of the SSP expressed concern at the focus on young people. There was particular concern that anti-social behaviour

interventions should not be used to widen the net of the youth justice system. One interviewee warned that we must be “very careful of not criminalising behaviour which really is a rite of passage for the want of a better way of putting it” (NS). This interviewee pointed to greater levels of mistrust between generations and the influence of the media:

*“I think historically we’ve all gone out and hung around parks and worn hoodies and everything else and I think for some reason it was suddenly propelled up the political agenda and what we ended up with was quite a lot of policy and law which seemed to me to be quite a knee jerk reaction to something that for some reason had been propelled up the agenda ... [T]here seems to be more intimidation associated with gangs of young people but I think a lot of it was a self-fulfilling prophecy because the media picked up on it and as soon as young people have this role to fulfil I think they’re going to step in and fulfil this role. There are people who are intimidated by groups who probably wouldn’t have been until this policy came in.” (NS)*

142. Another interviewee suggested that, when young people do cause others harassment, alarm or distress, this is usually not deliberate but is instead the result of poor empathic skills. The absence of a *mens rea* requirement in the statutory definition is therefore critical:

*“Very rarely do you find young people as a category will set out to intimidate or to harm but they will set out to do their own thing, not necessarily giving a moment’s consideration to the impact on others, so it’s very often not with malice or forethought – which is something noticeably absent from the definition of antisocial behaviour.” (JD)*

## **Distinguishing Anti-social Behaviour from Crime**

143. This section examines the overlap between the statutory definition of anti-social behaviour and crime. It details agencies’ attempts to differentiate between the two.

### ***Youth Offending Team***

144. The potential overlap between criminal offences and anti-social behaviour interventions was noted by several interviewees. An example given by

one interviewee was the illegal use of off-road motorbikes (PB). Although it is possible to utilize anti-social behaviour interventions in cases involving off-road motorbikes – for example, guidance issued by the Home Office and by the Judicial Studies Board states that ASBOs may be imposed in cases involving such vehicles<sup>6</sup> – in Swansea such cases are dealt with using the criminal law power of seizure and removal found in section 59 of the Police Reform Act 2002.

145. Another example, given by a different interviewee, was the similarity between the statutory definition of anti-social behaviour and the offence contained in section 5 of the Public Order Act 1986:

*“The words harassment, alarm or distress are also contained in the Public Order Act offences. So on one side you have anti-social behaviour and on the other you have a public order offence. It’s a very fine line sometimes ... I think that causes difficulty in terms of when people are referring incidents on. Say, for example, police officers who are saying ‘is this anti-social behaviour or is this an offence?’”*  
(GF)

146. Some interviewees did attempt to draw a qualitative distinction between anti-social behaviour and crime. Like the police interviewee mentioned in section 4.2.b above, one YOT interviewee stated that the hallmark of anti-social behaviour is its effect on other people. If behaviour causes others (not of the same household) harassment, alarm or distress it should be dealt with as anti-social behaviour, whereas if it did not it should be dealt with under the criminal law:

*“That’s the key that we stress to [the police]. When you’re looking at an incident, can you see alarm and distress caused by the young person and to whom – then its anti-social behaviour. If it isn’t ... you go down [the criminal] route.”* (PB)

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<sup>6</sup> *A Guide to Anti-Social Behaviour Orders* (Home Office, 2006); Judicial Studies Board *Anti-Social Behaviour Orders: A Guide for the Judiciary*, 3<sup>rd</sup> edn, 2007.

147. By contrast, another YOT interviewee suggested that the key to deciding whether to deal with misconduct as anti-social behaviour or crime lies instead in the mindset of the young person:

*“I think it’s about the impact it has had on people, the level of whether it’s criminal intent or just mischief. Is it behaviour that young people do because they’re young people? Sometimes they do stupid things not realising they could be seen as having some consequences to them. The element of criminal intent should be there ... Criminal matters have that intent to cause harm, that element of ‘I want to do that’ rather than ‘I did it and didn’t realise’.” (GF)*

148. Another YOT interviewee suggested a more pragmatic, instrumental approach to deciding whether misconduct should be construed as anti-social behaviour or crime. This interviewee suggested that the police will only categorize behaviour as criminal if they believe that it is appropriate for the young person to enter the youth justice system: “What the police officers I talk to tend to suggest is the case is whether the kid warrants being dragged into the criminal justice system” (EI).

149. Whilst there were different views on how to categorise behaviour as anti-social or criminal, all interviewees agreed that there is an overlap between crime and anti-social behaviour, as the following remark illustrates:

*“The problem we’ve experienced in the past is that [some forms of behaviour] come down both routes ... Some [instances] are anti-social behaviour, some are a criminal matter.” (GF)*

150. Moreover, there was agreement that this overlap results in a disparity of treatment of young people:

*“I’ve seen similar incidents with young people with similar backgrounds which have been dealt with one with anti-social behaviour where they attract no future record at all and one in the criminal justice system where they’re on the police national computer, where they’ve been swabbed, their DNA has been taken and those things are retained forever. You can’t have those two operating. There has to be a clear way in which you say it’s one thing or another. A gradation takes*

*place, it may escalate over time with repeated incidents, but you shouldn't have a starting point where a similar profile leads to completely different outcomes.” (EI)*

151. Given the different consequences for a young person, there was a widespread feeling that this disparity of treatment is unfair. Referring to an incident which might be treated as either criminal damage or anti-social behaviour one interviewee commented:

*“It's about parity of treatment. With one person it's a criminal offence and another it's anti-social behaviour, and the fact that the criminal stuff stays with you forever but the anti-social behaviour stuff, [a stage 1 letter] disappears, you don't have to have that on your personal record when you're 50” (JH)*

152. One interviewee also explained that, in a case which could be construed as either anti-social behaviour or crime, there are advantages in dealing with it as anti-social behaviour. Anti-social behaviour interventions were recognised as inherently more flexible and allowing greater opportunity for providing support (in contrast to a reprimand under the youth justice system of reprimands and warnings, which were regarded as not resulting in any meaningful engagement). Commenting on anti-social behaviour interventions this interviewee noted:

*“It enables us to (as long as it's appropriate) have much more flexibility in what we do ... [The] reprimand was no YOS intervention at all, simply the police telling a young person or parent 'Don't do it again next time and off we go' so no victim engagement whatsoever, no real way of dealing with the youngster or parent around the issue, and the failure rate on reprimands in terms of speed of re-offending by a young person has been notorious really.” (EI)*

153. In Swansea the ASB Unit has an important role to play in ensuring that young people are not dealt with disparately in cases which could be construed as either anti-social behaviour or crime. After receiving a referral in such a case, the ASB Unit will decide whether to proceed with an anti-social behaviour intervention or whether the case should be

filtered out and dealt with under the criminal law. This goes some way towards ensuring consistency. However, cases only reach the ASB Unit if a referral is made. This fact did not go unmentioned by YOT interviewees. One interviewee pointed out that some cases with similar facts might be dealt with differently by different police officers – one police officer might choose to make a referral to the ASB Unit, while another might choose to deal with the matter under the criminal law. By way of example this interviewee made reference to graffiti:

*“I think that’s very much up to the police to be honest. I could receive a referral for graffiti. It’s up to the police officer how they deal with it because it is criminal damage so it could be both but it depends how they decide to deal with that.” (JJ)*

154. Interviewees were uncertain how common it is for cases which would ordinarily be dealt with as anti-social behaviour to be dealt with under the criminal law. One explained that “We have difficulty monitoring that because that’s out of our reach” (PB). This interviewee did, however, say that the converse sometimes occurs – that behaviour which would ordinarily be dealt with under the criminal law is referred to the ASB Unit:

*“Sometimes [the police] go for the softer option. It doesn’t happen very often but occasionally they put a referral in for ASB when they should have gone down a criminal route. Maybe they think that’s the best approach for that young person.” (PB)*

155. Interviewees explained that one of the reasons for the introduction of the Swansea Youth Bureau was to ensure consistency in cases in which the criminal law and anti-social behaviour interventions overlap and in which there has been no referral to the ASB Unit. When considering a case, one of the options open to the Bureau is to transfer it to the ASB Unit to be dealt with as anti-social behaviour. One interviewee explained that “the intention is to use [the Bureau] to ensure that young people do not unnecessarily get hoovered up into the criminal justice system” (EI)

## **Police**

156. Some instances of anti-social behaviour will be too low-level to be capable of also being construed as crime. This was recognised by one police interviewee who commented that:

*“Anti-social behaviour itself doesn’t have to be criminal at all; it’s just continued persistent nuisance behaviour that the community are fed up of. So perhaps they’re not doing anything criminal, it could be a case of standing outside somebody’s house every night making faces, poking fun generally, kicking a ball against a wall, not causing any damage but causing alarm and distress persistently. If this happens over 6 or 7 months people get very intimidated and fed up and you can’t do them for anything criminal really.” (AY)*

157. However, as another interviewee remarked, often there is “a fine line between anti-social behaviour and crime” (MM). This interviewee gave the following example:

*“Rowdy behaviour can actually be tantamount to harassment and therefore you could actually arrest them or give them a verbal warning or an official warning for harassment.” (MM)*

158. In any given case, a police officer deciding whether to make an anti-social behaviour referral or invoke the criminal law will have regard to a number of factors. One of these is the guidance issued by the commander of the Basic Command Unit:

*“In relation to your normal beat officer it’s mainly at the direction of myself as the Chief Super BCU commander. They will take their lead from me in terms of what my policy is. My policy is engagement, support and enforcement comes last.” (MM)*

159. Another interviewee stated that the criminal law will be invoked where the behaviour is considered too serious to be dealt with using an anti-social behaviour intervention:

*“At the end of the day it’s up to the officer who has experience of this behaviour, who has taken a witness statement saying this is what’s happening ... If they feel anti-social behaviour is not appropriate and they’ve gone above then we can issue a fixed penalty for alarm and distress.” (AY)*

160. Conversely, a police officer might choose to make an anti-social behaviour referral where evidential difficulties preclude action being taken under the criminal law:

*“If it’s low level damage and you can’t prove who’s involved apart from this particular gang and they were all there and no one witnessed the damage caused we can deal with it under the umbrella of anti-social behaviour.” (AY)*

161. A third interviewee suggested that regard should be had to whether the effects of the behaviour are reparable and whether the behaviour harms the interests of the community (as opposed to just a private individual). Explaining that a young person who destroys a bus shelter should be prosecuted, whereas a young person who graffiti’s a person’s garden wall should be dealt with using an anti-social behaviour intervention, this interviewee said:

*“Smashing a bus shelter up is criminal damage and you should go down the crime route with that ... A bus shelter would have to be, someone has got to repair it, it is a cost, it is owed, it is quite clearly owned by someone and it is a community asset isn’t it, a bus shelter. Someone’s garden wall is not seen in the same context and it can be cleared off, it is not damaging that wall, it’s not pushing the wall over, someone doesn’t have to repair that sort of thing. I think there is a distinction on someone who has wilfully gone out to do something to shatter a community asset and that’s going to cost some community money to put it right.” (BW)*

162. When an anti-social behaviour referral is made, the ASB Unit will examine the case and decide whether an anti-social behaviour intervention is appropriate:

*“When any referral comes through ... [the Anti-Social Behaviour Reduction Co-ordinator and the Anti-Social Behaviour Reduction Officer] will filter if they have to be dealt with criminally, whether it is acceptable to deal with it in an anti-social behaviour way.” (AY)*

163. For those cases in which the police officer has chosen to invoke the criminal law and not make an anti-social behaviour referral, the introduction of the Swansea Youth Bureau was regarded as beneficial.

One interviewee described the benefits of the Bureau as “massive”, explaining that:

*“[Young people] are going to get the assistance and support they need without the criminal tag that comes with it. So out of it all the biggest benefit of the Bureau is to that young person and if that young person turns into a positive member of society then obviously we benefit.”*  
(MM)

164. However, interviewees did note that there are some issues surrounding the Bureau which need to be resolved. One explained that targets for detections of criminal activity may not be met if diverted through the Bureau, while another pointed to possible geographical disparities:

*“Even with the Bureau there are still some issues ... There are issues surrounding equality. So in other words if you commit an offence in Swansea, nothing happens to you, but if you commit an offence in Neath or Port Talbot you get reprimanded.”* (MM)

### ***Safer Swansea Partnership***

165. According to one interviewee, the purpose of the Anti-Social Behaviour Strategy and Unit is to “pick up things ... which would otherwise fall between the cracks”.<sup>7</sup> Therefore, “most anti-social behaviour is not criminal, otherwise the criminal law would supersede” (JD). Examples given by this interviewee were noise nuisance (“There are in fact quite well defined legislative paths and procedures”), the illegal use of off-road motorbikes (“You wouldn’t really expect that to be dealt with by anti-social behaviour legislation”) and drunken disorderly conduct (“There are existing legislation and procedures. You could be drunk and disorderly but there are always those procedures and legislation”). The interviewee explained that “we don’t have the capacity or intention under this procedure to duplicate or marginalise existing structures” (JD).

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<sup>7</sup> See further section 4.2.c above.

166. However, the interviewee went on to say that a different approach has been taken to graffiti. The interviewee acknowledged that “Graffiti is criminal damage in the normal method of going about things”, but explained that the presence of graffiti in an area can have a significant effect on how those living in the area perceive it:

*“There is existing criminal law to deal with it, but the reason that we’re particularly concerned with graffiti is because it does have a significant impact on local communities in terms of the fear of crime. It’s what we call the signal crime. So if you go into an area, you move to a new part of Swansea, and you find that there’s a lot of graffiti everywhere you will automatically think ‘Well actually this place gives me the impression that the law doesn’t apply and anything goes, so if its ok for that person to scribble and graffiti on the walls its ok for me too’” (JD)*

167. So instead of dealing with graffiti using the criminal law, a “youth engagement” approach had been adopted, whereby authorised sites are made available to young artists:

*“We have a well-developed, long-established and I would argue very effective method of dealing with anti-social behaviour in the form of graffiti and that is by youth engagement ... So graffiti is quite a good example of ... what would be criminal if we didn’t engage in a positive way and preventative way to turn that engagement away from a negative enforcement ‘No you cant do it and we’ll make it a punishment’ approach to ‘Don’t do it there guys, why don’t you do it here, we’ll make it easy for you, then we don’t all fall out and actually get some benefit from it and perhaps some kudos’.” (JD)*

168. The Anti-Social Behaviour Reduction Co-ordinator stated that the Anti-Social Behaviour Unit does sometimes receive referrals for behaviour that would ordinarily be dealt with under the criminal law. Before transferring such cases to the criminal justice system, the Unit will examine why action was not taken under the criminal law:

*“Yes we will get criminal behaviour referrals through. If that happens I will pass them on to [the Anti-Social Behaviour Reduction Officer] who may ring the appropriate agencies and say ‘why haven’t you taken criminal action?’ Or it could be that I’ll go onto NICHE the police system if there’s an occurrence number and I’ll see maybe there are reasons why criminal action has not been taken.” (NS)*

169. If, however, the case could appropriately be dealt with using an anti-social behaviour intervention or under the criminal law, the Anti-Social Behaviour Unit will assume from the fact that a referral was made that the referring agency wishes for the case to be dealt with using an anti-social behaviour intervention. In this sense, then, the decision how to categorize the behaviour in such cases effectively rests in the referring agency:

*“If it is both [crime and anti-social behaviour] and referrals come through to me I’ll assume they want me to send a letter. They being the referring agency are fully aware of what we’re all about, they know how we work, we hold training sessions to update them on how we work, so if they’ve sent a referral through I’ll assume they want a letter sent.” (NS)*

170. The introduction of the Swansea Youth Bureau was also commended. One interviewee stated:

*“It can only be a good thing that every child is treated equally on what they do throughout ... I do know previously one officer may have arrested for minor criminal damage and another office may have given them a telling off on the street and they’re on their way, there’s inequalities there. What the Bureau is trying to do absolutely can only be the right way forward.” (NS)*

## **Conclusions and Recommendations**

171. There was widespread agreement that the definition of anti-social behaviour in section 1(1)(a) of the CDA 1998 is excessively broad. Interviewees stated that there are greater levels of intolerance of young people today than in previous generations, and that as a result typical adolescent behaviour is now frequently claimed to be anti-social. This is encouraged by the statutory definition’s focus on the effect of the behaviour in question on others; any behaviour that causes other people (not of the same household) harassment, alarm or distress is deemed anti-social. So, for example, one category of perceived anti-social

behaviour measured by the BCS is “teenagers hanging around on the streets”.

172. We recommend that the WAG: (1) discourages relevant agencies from utilising anti-social behaviour interventions in response to normal adolescent behaviour; and (2) actively promotes intergenerational work aimed at confronting negative perceptions of young people (not only will this improve understanding and perceptions of young people, it will also seek to develop young people’s empathic skills so that they have a better understanding of the effect of their behaviour on others). This will advance the stated policy objective of achieving a just and inclusive Wales as promoted by the *One Wales* document.

173. There is undoubtedly overlap between the statutory definition of anti-social behaviour and many criminal offences. Examples include public disorder, graffiti and the improper use of off-road vehicles. The possibility of utilising anti-social behaviour interventions in such cases provides an opportunity to advance the policy objective of diverting young people from the youth justice system.<sup>8</sup> This is further supported by the statements from YOT interviewees that anti-social behaviour interventions are more flexible and offer greater opportunity for the provision of support than the youth justice system of reprimands and warnings. We accordingly recommend that the WAG advises relevant agencies, in particular the police, that cases which could be dealt with as anti-social behaviour or low-level crime should where possible be construed as anti-social behaviour.

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<sup>8</sup> *All Wales Youth Offending Strategy*.

174. We also note the importance of providing suitable recreational facilities to preventing youth anti-social behaviour. Swansea's "youth engagement" approach to graffiti is one example.<sup>9</sup> We recommend that this is used as a model for the provision of further facilities aimed at reducing other types of low-level criminal anti-social behaviour (e.g., the improper use of off-road vehicles).
175. The overlap between the statutory definition of anti-social behaviour and criminal offences can result in a disparity of treatment of young people. Many interviewees commented on this and regarded it as unfair. In Swansea, all anti-social behaviour referrals are examined by the ASB Unit, which goes some way towards achieving greater consistency. However, cases only reach the ASB Unit if a referral is made. So in many cases the initial decision effectively rests with the police; if a decision is made to prosecute a young person the case will not reach the ASB Unit, even if an anti-social behaviour referral would normally have been made in such a case. The introduction of the Swansea Youth Bureau is therefore to be welcomed, as it will ensure that cases that should be dealt with using anti-social behaviour interventions are transferred away from the youth justice system to the ASB Unit.
176. We recommend that the WAG uses the Swansea Youth Bureau as a model for the introduction of similar decision-making panels in the rest of Wales. In addition to the benefits already outlined, this would also further the objective of diverting young people from the youth justice system by promoting greater opportunities for voluntary restorative justice.

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<sup>9</sup> So too is Cardiff's CMX Centre (for users of off-road vehicles).

# CHAPTER SIX:

## THE TIERED APPROACH

### Introduction

177. In a tiered approach to tackling anti-social behaviour informal, non-court based interventions are utilised first, with formal, court based interventions only resorted to if necessary. Home Office guidance encourages agencies to adopt such an approach to anti-social behaviour interventions, stating:

*“Not only is there a wide range of tools and powers available, but, to be at their most effective, it is essential that the right intervention, or combination of interventions, is used at the right time ... Where applicable, these interventions should be used incrementally as independent reports have shown that this is what works”<sup>1</sup>*

178. The tiered approach adopted in Swansea has four stages. (For a detailed account of Swansea’s four-stage approach, see chapter 3). At stage one a warning letter is sent to the perpetrator (and, in the case of those under 16, the parents/guardians). At stage two a second warning letter is sent, and arrangements are made to visit the perpetrator in his/her home. At stage 3 a case conference is convened. In cases involving young people, the case conference will determine what interventions are appropriate having regard to the young person’s assessed capacity to respond. Issues such as age, maturity, level of understanding and social circumstances are considered and balanced against the impact of the young person’s behaviour on others in the community and the need to prevent further instances of such behaviour.

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<sup>1</sup> *A Guide to Anti-Social Behaviour Tools and Powers* (London: Home Office, 2008), p.1.

A range of informal interventions are available, including Family Group Conferencing, ABCs and Parenting Contracts. The fourth and final stage is to apply for an ASBO.

179. Where a young person has perpetrated serious anti-social behaviour, the referral process provides for the possibility of fast-tracking cases straight to a stage 3 case conference. This means that, in such cases, agencies are able to make earlier use of the range of available interventions.
  
180. The Procedural Guide produced by the Safer Swansea Partnership states that the tiered approach represents a “more positive and constructive approach to the issue of achieving a reduction of crime and disorder in the area than simply resorting to the enforcement mechanism of the ASBO”. ASBOs are regarded as “a necessary step only where all other more constructive approaches have failed”.<sup>2</sup>
  
181. This chapter examines the operation of the tiered approach. The first part outlines interviewees’ views on the underlying ethos of the staged approach. The second part details interviewees’ comments on particular interventions, focussing in particular on their opinions on what factors influence whether or not the various interventions succeed in addressing the anti-social behaviour.

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<sup>2</sup> SSP Procedural Guide, p.1.

## The Ethos of the Tiered Approach

### YOT

182. Interviewees agreed that the YOT's primary objective is to prevent further anti-social behaviour. When asked what the YOT's priorities are when dealing with a young person who has been acting anti-socially one interviewee replied, "The main priority is prevention of further anti-social behaviour" (GF). The interviewee went on to explain that the YOT seeks to prevent further anti-social behaviour by providing support and addressing the underlying needs of the young person and his/her family:

*"The role of the YOT, being youth focused, is to address all the needs of young people and their families ... to reduce the likelihood of anti-social behaviour happening again"* (GF)

183. Another interviewee explained that, whilst the YOT's objectives include addressing the young person's anti-social behaviour, it is also concerned to divert as many young people as possible from the criminal justice system:

*"I suppose what we're keen to do is to ensure that we keep young people out of the criminal justice system wherever possible, but we address the behaviour that is causing concern"* (E1)

184. This interviewee warned against an approach that is solely enforcement-led, stating that such an approach is "unfair" and "is not accepted by young people", and so will provoke a negative reaction (E1).

185. A third interviewee described how there is a desire in Swansea to try and tackle the problems underlying a young person's anti-social behaviour and avoid them progressing through the staged approach:

*"In some areas a young person can move very swiftly through the whole system ... In Swansea I guess there's less of a desire to process young people upwards through the stages without trying to*

*tackle the problems or the underlying problems that are contributing to the behaviour” (JH)*

186. This interviewee felt that such an approach is just, since it gives the young person an opportunity to address their problems and modify their behaviour before any enforcement action is taken, so that enforcement only becomes an option once this opportunity is provided:

*“I think it’s right that young people have the opportunity to do that before they are met with their [ABCs] or their enforcements. I think they need to have the opportunity to address and own the problem and the solution.” (JH)*

187. This interviewee also stated that supportive interventions are more likely to be effective if they have been undertaken voluntarily:

*“So they’ve agreed ‘Yeah, that’s happening’ but they haven’t been told ‘You WILL go to the community mental health team’, ‘You WILL make an appointment in the next month’ – ‘No, I’m going to counselling, I’ve seen my GP and I’m going to try that’. So they are accepting the issue but they’re resolving it with an element of choice, they’re more likely to go to the counselling” (JH)*

188. The notion that interventions are more effective where the young person accepts the need for support was something on which members of the YOT were in general agreement. This interviewee did add one caveat however, namely that voluntary support only works if the individual is actually motivated to address the problem:

*“We have had cases where we have had families who have signed up to our support ... and look at me like they have no intention whatsoever. They say ‘yes’ to get out of the room, to get out of that situation and think ‘I’ll deal with that later’ and the intention is absolutely not, so it’s a no go, it doesn’t happen” (JH)*

### **Police**

189. Senior members of the police force strongly endorsed a supportive, multi-agency approach. One explained that she had always regarded it as “a

sign of failure if you got to an ASBO ... We should have an early identification and intervention approach that allows the right agencies to put the right support around not just the child but the family” (BW).

Another stated:

*“I think the approach I’m seeing now where you’re trying to assist, trying to support, trying to negotiate and bring other agencies around the table to resolve these issues are far more meaningful and more successful so I’m certainly a supporter” (MM)*

190. Whilst the police interviewees gave their backing to the provision of support to young people involved in anti-social behaviour, one interviewee also stressed that, in her opinion, enforcement has an important role to play:

*“As an enforcement officer I do feel that enforcement has a lot to do with this. In my experience even when the enforcement is voluntary ... it gives them clear boundaries ... Sometimes these children don’t get given boundaries at home, they’ve never been told the difference between right and wrong and why they shouldn’t do something so I do feel that ... enforcement does have a great part to play in the system” (AY)*

191. This interviewee did point out that enforcement action can sometimes interfere with the provision of support:

*“I suppose it can interfere. I think it’s the perception of the person who’s involved. If they think enforcement action has been taken it can alienate them from the whole system and they think ‘Well they’re taking me to court so why should I get involved in this’ so I suppose that’s a downfall” (AY)*

192. However, she also pointed out that if anti-social behaviour continues despite the provision of support, there comes a point at which it is necessary to turn to enforcement:

*“[There’s] lots of support there but if they persist in committing these acts of anti-social behaviour there comes a time when you have to draw a line in the sand because you only have limited resources and it’s only fair that the resources are taken from them and put into other needy causes and other children whose behaviour can be modified ... We’ve got time to measure the behaviour to put interventions in to get them involved in everything we can think of that would take them*

*off the streets and stop them committing these acts and then we sit around a table and think 'We've given this a fair crack and now we've got to go down this route'. It's not something everyone likes doing but at the end of the day we've got to look at the impact on the community which is the priority for us" (AY)*

193. So if the young person has been given a fair opportunity to engage with the support on offer and to modify his/her behaviour, but has not done so, an enforcement-led approach will be adopted:

*"The whole ethos of the ASB system is that you put interventions in and work with people whether they're youths or adults until you can work with them no longer. You've given them opportunities, created all the diversions and then at some stage if their behaviour isn't modified the enforcement system kicks in. That's what generally happens, where people will throw their hands up in despair and say 'We've given this every angle and I think now we're going to have to go down the enforcement route because nothing else has worked thus far'" (AY)*

### **Safer Swansea Partnership**

194. One interviewee described the aim of the Safer Swansea Partnership as follows:

*"Our overall brief is the reduction of crime and disorder generally and the reduction in the fear of crime ... The aim of the Safer Swansea Partnership is what it says on the tin, it's a safer Swansea. It isn't just to achieve the objective of crime reduction ... but it's one that's more difficult to achieve and that's one of a community where people feel safer as well. That includes young people feeling safe, feeling they're positively engaged and feeling like it's fair" (JD)*

195. This interviewee explained that youth annoyance is one of the forms of anti-social behaviour complained about most frequently. The interviewee explained that the approach taken by the SSP to reducing anti-social behaviour is primarily one of engagement and problem-solving:

*"The purpose of [anti-social behaviour] legislation is to change people's behaviour to reduce the instances of anti-social behaviour and that's what we're doing ... Our approach is one of engagement, it's one of problem solving and it's where enforcement comes last and not first and we've devised appropriate measures and methodologies with this in mind" (JD)*

196. However, when discussing the balance to be struck between supportive interventions and enforcement another interviewee was keen to point out that there is flexibility. Cases are assessed on an individual basis – Swansea is not wedded to a particular form of response:

*“We take the most appropriate route. So we’re not going to say ‘We must take both routes [enforcement and support] at the same time’. We’re not going to say one is better than the other. There’s always going to be one that’s more appropriate than the other so we’ll take the most appropriate route and it could be that enforcement at that point is the way to go or it could be that there have been times where we’ve said we should step back from the enforcement side of things, lets work on the intervention and support first and see if that has any effect” (NS)*

## **The Tiered Approach in Operation**

YOT

197. When asked why such a high proportion of young people desist from anti-social behaviour after receiving a stage one letter, one interviewee explained:

*“When they suddenly get a letter, that’s why I think the system works, it’s a short sharp shock to them and they realise that somebody is watching their behaviour and they need to do something about it” (PB)*

198. In those cases in which the young person moves on to stage two, the warning letter is accompanied by a visit from the ASB Case Manager and the ASB Reduction Officer. At the stage two visit the young person is told of the action that will be taken if his/her anti-social behaviour persists:

*“I give them the warning, which is basically describing what will happen to them. It’s quite a forceful message ... I meet them face to face. I talk to them and make sure I dissuade them, so I give the worst scenario about going to prison and the effect of the ASBO on their lives and that they should stop it” (PB)*

199. It was explained that the visit also provides an opportunity for an informal assessment of the young person’s support needs, so that appropriate services can be offered to the young person (and his/her family) on a

voluntary basis. At this stage the ASB Case Manager also seeks to build a relationship with the young person:

*“I do a lot of individual work with the young people. I will take them out on activities, I’ve taken them to football, I take them fishing and I find that getting them out on their own is an excellent way of chatting things through and building up a relationship with them so that there’s a little bit more to it, so they feel they’re letting me down as well as their parents” (PB)*

200. These diversionary activities provide a further motivation for desistance, to supplement the deterrence-based warning about the possible future consequences of continued anti-social behaviour.

201. When asked whether diversionary activities are effective, the ASB Case Manager saw the outcome of engagement with diversionary activities as largely positive for young people, stating that:

*“[For] the majority of them it [is]. It gives them something. A lot of them have been taken to the Army Cadets and they’ve gone into that and that’s given them a good discipline and again something they can put on their CV. I think the Duke of Edinburgh is one we’ve got to get into a little bit more, we don’t really use that, but there are others” (PB).*

202. The third stage is a critical one, since it is the last stage before an application for an ASBO – which is a formal court-based remedy, breach of which results in a criminal penalty (and therefore entry into the criminal justice system). When a case reaches stage three the ASB Case Manager arranges a multi-agency case conference at which a range of options are discussed, including a Family Group Conference, an ABC and a Parenting Contract. It is also possible to organise another stage two letter and visit, to send another stage one letter, or even to dismiss the case altogether.

203. The ABC is a key intervention. In many cases the ABC is likely to be the last intervention before an application for an ASBO. Home Office guidance describes the ABC as “a written, voluntary agreement between a person who has been involved in anti-social behaviour and one or more local agencies whose role it is to prevent such behaviour”.<sup>3</sup>

204. Most interviewees reiterated that ABCs are voluntary. For example, one interviewee explained that “You can’t enforce it on anyone because they’ve got the right to say they don’t want it” (GF).

205. However, interviewees were more equivocal when asked whether young people perceive ABCs as voluntary. Although one answered the question “Do you think a young person entering into an ABC regards it as a voluntary agreement?” by saying:

*“Well I’d like to think so because that’s what we tell them it is. It’s something we’d like to agree to but they have the right to say yes or no at the end. They’re fully aware of it”* (GF),

another interviewee replied “I think they feel that they have to [sign up]” (JJ). In fact, some interviewees said that they downplay the voluntary nature of ABCs in order to ensure that young people enter into them. For example, one interviewee said “I don’t think we bang on about it being voluntary to them because if they think ‘I don’t have to do this’ they won’t want to do it” (JJ), whilst another said:

*“We try not to give them that impression [that ABCs are voluntary]. It will be explained but it’s mentioned at the end because we’re trying to work with that young person, so we say ‘you need to do this’ and a lot of them when they get to this stage they do knuckle down and work with us”* (PB)

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<sup>3</sup> *Acceptable Behaviour Contracts and Agreements* (London: Home Office, 2007), p.1.

206. Another interviewee suggested that the influence of parents and/or peers could result in a young person perceiving an ABC as less than voluntary:

*“I’m sure that many young people would consider it less than voluntary when their parents are saying ‘You will do it’ but we exist in a world where parents all the time tell their kids to do things that are less than voluntary” (EI)*

207. Interviewees did stress that they do not use threats of an application for an ASBO to coerce young people into signing an ABC: “If we can’t work towards persuasion, there’s no threat to elevate it to ‘If you won’t accept this ABC you’re going on an ASBO’.” (EI)

208. However, whilst not used as a threat to induce entry into an ABC, young people are always informed of the long-term consequences of not entering into, and not complying with the terms of, an ABC (regardless of whether they are willing to enter into the ABC or not). Interviewees explained that it is important that young people are aware of the consequences of their decisions:

*“Young people respond a lot better when they’re aware of what’s happening around them and where it’s going to lead. With young people you’ve got to get that message over quite regularly and often” (PB)*

209. It was also recognized that the stage at which an ABC is entered into is crucial, and that it is important for the young person that they comply and that their parents respond by taking their parental responsibilities seriously:

*“I think that it’s very important to get that message over because ... albeit a voluntary action it can have consequences later. It’s very important they are aware of what’s going to happen ... and it’s very important to enforce parental responsibility at that point” (GF)*

210. Interviewees explained that, broadly speaking, ABCs have two objectives. The first is the provision of support. Having entered into an

ABC, the young person works with the Acceptable Behaviour Project Worker, whose role it is to build a supportive relationship of trust with the young person. Specialist services are also available to address any particular needs that that young person may have, such as anger management or substance misuse.

211. Second, the ABC clearly identifies the behaviour that is unacceptable and sets boundaries. The norm in Swansea is for an ABC to contain six terms, including both negatively worded prohibitions (e.g., “I will not use abusive or intimidating language”) and positive obligations (e.g., “I will take responsibility for my own actions and I will work with the Safer Swansea Partnership”). One interviewee explained that drafting and agreeing the terms of an ABC is not intended to be an enforcement-led process; rather, it is designed to educate the young person:

*“In terms of child development, one of the last things that develops and is slower with boys than girls is the ability to think yourself into a situation. So when we talk about victim empathy, it’s not really something that develops within the consciousness of teenagers until they’re in their late teenage years. So sometimes we’re going to be looking at people who are 14-15 years of age who, when they say they’re not aware of their actions, they’re not just saying that – they really are not. What we’re seeking to do is create a situation in which we educate them. We’re not talking necessarily about an enforcement regime which prevents them doing things by curfew, etc” (E1)*

212. The interviewee went on explain that, by educating the young person about the consequences of their behaviour – for themselves, for their family, and for the victim(s) – an ABC nurtures self-discipline, which is more effective than a solely enforcement-led approach:

*“Like any form of restraint in terms of social restraint it’s best if it’s applied by the person themselves. So if they become self-disciplined about doing things it’s better than having discipline enforced on them. So the whole process of the ABC is to get to that point where we work through the education element. It’s restraint but its education-led and its education within a social context rather than education process” (E1)*

213. The interviewee also stressed the importance of ensuring that the ABC does not simply prohibit the behaviour in question, but seeks to replace it with some other activity:

*“If you’re going to stop a particular behaviour you have to concentrate on what you can achieve as a substitute. So there is an aspect of trying to achieve that, trying to put kids into activities to take up their time*

*...*

*Frequently one of the aims of the ABC is ... to substitute a different behaviour ... There’s a necessity to find something that we do want them to do to occupy their time.” (EI)*

214. Interviewees explained that, when a young person abides by the terms of an ABC, one of the principal reasons is the relationship they strike up with the ASB Case Manager or ABC Project Worker:

*“[The principal motivation for them to comply] is having somebody like a personal worker. They’ve got the project worker working with them and they’ve got somebody they can relate to, somebody that will listen to them, that kind of thing. Sometimes these young people just need a little bit of support to get over this and that’s what happens. They build up a very good working relationship with the Project Worker or [the Case Manager]” (PB)*

215. The Acceptable Behaviour Project Worker explained:

*“[The relationship I try to establish is] a relationship of trust and rapport. I don’t want to say friend because I’m not their friend, but someone they can trust and talk to and build a relationship with, a supportive relationship I suppose. I’m not there to tell them off and have a go because they just won’t engage with that approach I don’t think. So it’s more having a chat to them about what’s been happening and trying to from that get them to see the consequences for themselves” (JJ)*

216. Another reason that interviewees identified was that after entering into an ABC, the young person realises that their actions will have consequences: “I think it’s realisation of what they’re doing and what can happen and the effect their behaviour is having” (JJ). Another interviewee noted that young people come to the realization not only of the impact of their behaviour, but also of the consequences if it is continued:

*“I think in a lot of cases when you’re actually speaking to them, they do take on board, ‘Yes I’ve been doing all this behaviour’ and there comes a point when it’s unacceptable and there comes a point where they start realising there’s going to be consequences.” (GF)*

217. In addition, this interviewee noted the capacity for an ABC to operate to reinforce parental responsibility:

*“I think there’s a point then where with parents they realise ‘There’s consequences for me’. I think it’s that realisation really. I think especially the strong factor that if I don’t change my behaviour I might lose my house and it’s a very strong factor especially if they’re in LA accommodation, it’s a strong factor.” (GF)*

218. Parental responsibility is particularly important given that ABCs only last for six months. One interviewee explained that the ABC is designed to be a “very brief intervention ... We’re about stopping the behaviour but achieving that in a longer term sense has to be about the young person and the parents taking ownership of the issues that have been raised and taking over the behaviour” (EI). Another interviewee opined that there are currently problems with the ABC in this respect:

*“A young person’s behaviour is very often linked to their family circumstances so just working on an ABC with a young person may not solve the issues that are going on. A more rounded approach like family conferences – which is what I’d like to come in – it would deal with that so it would put in support and an action plan for the whole family rather than that young person” (PB)*

219. The interviewee accordingly suggested that there should be a two-tier system of ABCs (an idea which has already been implemented in some other areas<sup>4</sup>). His suggestion was to have a first-tier ABC which involves the whole family and includes family group conferencing, and (for those cases in which the anti-social behaviour continues) a second-tier ABC which focuses on the young person.

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<sup>4</sup> For example the Newham Chance scheme (which incorporates the ABC+) and Camden’s yellow and red warning ABCs (see further *Acceptable Behaviour Contracts and Agreements* (London: Home Office, 2007)).

220. Interviewees explained that where a young person refuses to enter into an ABC, or fails to abide by its terms, this information will be used to build evidence for a possible ASBO application. As one interviewee explained, since section 1(1)(b) of the CDA 1998 states that an ASBO should only be imposed if it is necessary, such evidence is likely to be significant – “The more we’ve shown we’ve engaged with the young person or tried to engage with them, the more likely we are to get the ASBO at the end of it” (PB).

### **Police**

221. Like the ASB Case Manager, the ASB Reduction Officer explained that on a stage two visit the young person is given a strong warning about the possible future consequences of his/her behaviour, and this often persuades them to desist:

*“The stage 2 warning is basically another shot across the bow saying that you’ve been identified in this behaviour and you’re representing your parents when you went on the streets. If the parents live in local authority housing we tell them that you could be evicted not just you, your whole family ... And the threat of being drawn into the criminal system as they know people who have been in the system prior to them and it’s no laughing matter once they have a criminal record. So I would say that the majority of young people are prepared to listen to that and pay heed to what we say.” (AY)*

222. How this information is conveyed to the young person was regarded as important. The interviewee emphasised that it is not presented as a threat:

*“I don’t really like the word threat. We do talk to them about the 4 stage process. The last of the stages is the full blown ASBO. I do say to them having an Anti-Social Behaviour Order is like a prison sentence in your own home because the list of prohibitions could be endless and I explain to them if we see them hanging about with a group of friends causing anti-social behaviour we can stop them hanging out with those friends. If you’re wearing a hoodie, the favourite piece of clothing in your wardrobe, we can stop you wearing*

*that – that’s how severe an Anti-Social Behaviour Order is. We can control every aspect of your life if they’re actions you are using to intimidate people in the community. I don’t like the word threat but we do tell them about the process and that is the last stage and if they don’t curb their behaviour it’s obviously something that can happen.”*  
(AY)

223. The interviewee also stressed the importance of parental responsibility, and highlighted Parenting Contracts as one method of achieving parental engagement:

*“A lot of people would argue that we’re living in the culture of a nanny state. We’re babysitting these children at the end of the day. The onus has to be put back on the parents to assume responsibility for the child’s behaviour. Alongside the ABC we can link on a Parenting Contract which specifically says you must ensure that this curfew that is in existence is adhered to. So we do try and put the onus on the parents to engage with us. In the main they agree to do that.”* (AY)

224. Like the interviewee from the YOT mentioned above, one police interviewee expressed some concern that the existing system of ABCs provides insufficient support. She explained:

*“There’s a gap between the [ABCs] and the ASBOs because if they break the contract and you give them an ASBO they are likely to break that as well aren’t they without a great deal of support ... I would like there to be something you could do in-between ... What is the point of putting them before a court for an ASBO when they are probably going to break that as well, because there’s something more deep seated?”*  
(BW)

### **Safer Swansea Partnership**

225. One interviewee opined that the high proportion of young people that desist from anti-social behaviour after receiving a stage one letter is linked to young people’s poor empathic skills:

*“In the vast majority of cases [young people do not set out] to annoy, to intimidate, but rather [are] ignorant and innocent and naïve in the impact of their behaviour on others ... Stage 1 brings to the attention of the young person the impact of their behaviour on others. We can evidence the fact that in the vast majority of cases the behaviour changes and I think demonstrates quite categorically that the young person hadn’t considered, and the objective wasn’t to upset people*

- otherwise they would ignore stage one and carry right on. Most people don't do that. Most people change at stage 1" (JD)*
226. Like the interviewees from the other agencies, this interviewee stated that, whilst the possibility of escalation should not be used as a threat to induce engagement, young people should be told about the possible future consequences of their behaviour:

*"[It's] the fairness aspect. We're talking about engaging with a young person and we've already said that they're going to be less sophisticated in their knowledge and consideration of their impact on others and you're talking about the criminal law and consequences and I think its really important to be upfront and honest with them. This should be an exchange of information and it shouldn't be perceived as an out and out threat, the purpose being to frighten them into changing their behaviour, but rather saying lets look at this and put all the options on the table, let's give you your choices and explain to you the outcome of the decisions that you make. So it isn't just wagging the finger, it isn't threatening, it isn't purely a coercive measure, it's rather being frank, giving information in a frank and straightforward way that perhaps they hadn't come across" (JD)*

227. So whilst this interviewee stated that ABCs are voluntary in nature – “They are voluntary, you can't enforce them. I think that's the bottom line” (JD) – he went on to say that the information provided to the young person is likely to prove compelling:

*"I'm sure that a lot of them think this is a good choice, its voluntary in that they aren't going to strap me down and force my hand to sign this but I can see a very persuasive argument for doing this. To that degree, do we voluntarily pay our taxes? Yes we do to a degree and not to another. So I like to think they can see a very good reason for engaging and joining in the ABC process ... I dare say the argument for participating is so strong it's almost involuntary" (JD)*

228. Like the interviewees from the YOT, the principal objectives of an ABC were identified as being the provision of support and the setting of clear boundaries:

*"I think from my perspective with the ABCs, we're looking to put in boundaries which perhaps they haven't had up until now. We're looking to say 'Right this behaviour is acceptable, this behaviour isn't acceptable' and I think young children can relate to that ... [C]oupled with the ABC, we say 'You're going to do this for us, we're going to get you on this scheme you want to go on, we're going to take you here, we're going to try and get you these rewards for sticking with the ABC',*

*so I think [it's about both enforcement and support]. I think there's boundary setting which is fairly enforcement I suppose and you've got the support things as well" (NS)*

229. The importance of diversionary activities was also highlighted:

*"I think the interesting thing about the ABC isn't the fact that it seeks to prohibit but it does seek to divert and it does seek to have a positive engagement. You see a lot of ABCs will be, for example, rather than 'You agree not to hang around the chip shop at 2 o'clock in the afternoon' but rather 'You agree to go to school' where you should be in the first place. It's to try to move away from the ABC being seen as a punitive approach but rather be perceived as a behaviour modification approach" (JD)*

230. Interviewees identified two principal reasons why young people choose to abide by the terms of their ABC. The first was that by this stage they are aware that their behaviour will have consequences: "Where they abide by it I think that the primary motivation is the understanding, perhaps for the first time, of the consequences" (JD). One interviewee commented:

*"I think by ABC stage a young person realises we really are quite serious about sorting this behaviour out ... From the outset we're saying to this young person 'An ASBO isn't cool, it's not a badge of honour, it's draconian really, its going to stop you going places and meeting your friends and doing things'. I think it's always in the back of their minds that they don't want this actually, I think they will work with us" (NS)*

231. The second was the relationship with the ASB Case Manager or Acceptable Behaviour Project Worker:

*"They've had someone sit down with them, give them a bit of respect, give them a bit of time, look at them in the eye and listen to them, talk to them and engage with them" (JD)*

232. An important feature of the relationship identified by one interviewee was the constancy of the support provided:

*"It's a matter of building up the trust and the relationship and making sure there's a continuous service. It's no good [the Project Worker] going in there once one week and not having any contact for a month and when something happens she's suddenly there again being the enforcer. She needs to be a constant support" (NS)*

233. This interviewee also highlighted the importance of parental engagement and responsibility:

*“It’s important to have parents on board. If parents aren’t supportive we can put in family group conferencing, we can put in the CAST (Child and Adolescent Support Team). We can look at all those but if a parent isn’t on board it’s very difficult to motivate a child to do anything because at some point – initially an ABC is only 6 months – so at some point we’re going to tell this parent ‘It’s over to you, we’ve done this work for 6 months with you’. We will extend that if there are continuous breaches but the parent has got to be responsible for their child” (NS)*

234. If a young person reaches stage three, and further interventions fail to successfully address his/her anti-social behaviour, consideration will be given to escalating to stage four – an application for an ASBO. This, however, will be regarded as a failure:

*“I think if we’ve got an ASBO we’ve failed because we haven’t stopped the behaviour and we haven’t made them understand why they need to modify their behaviour” (NS)*

## **Conclusions and Recommendations**

235. There was unanimous agreement that a staged approach to tackling youth anti-social behaviour is the right one. Prevention of anti-social behaviour is a key objective shared by all partner agencies.
236. In its 2006 study the Youth Justice Board found that, although the prevailing view in most areas in England and Wales is that there should be a tiered approach to anti-social behaviour interventions, in practice in many areas “the use of alternative programmes prior to obtaining an ASBO was not always seen as possible, essential or desirable”.<sup>5</sup> In contrast, those interviewed for this study expressed their commitment to tackling youth anti-social behaviour in Swansea by engaging with young

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<sup>5</sup> Aikta-Reena Solanki, Tim Bateman, Gwyneth Boswell & Emily Hill *Anti-Social Behaviour Orders* (London: Youth Justice Board, 2006), p.99.

people and providing them with support to address their underlying needs. Only if this support-based approach has not resulted in a modification of the young person's behaviour should agencies resort to an enforcement-led approach. Experience has shown that this approach is successful in tackling anti-social behaviour effectively.<sup>6</sup> We accordingly recommend that the Welsh Assembly Government endorses such an approach.

237. Where (as is usually the case<sup>7</sup>) there are underlying problems contributing to a young person's behaviour, the provision of support services gives the young person a meaningful opportunity to address and modify his behaviour. Interviewees suggested that to resort to formal, court-based interventions without first providing the young person with this opportunity is unjust, and is regarded by young people as unfair. Enforcement action will therefore have greater legitimacy if agencies have first attempted to address the underlying problems contributing to the behaviour. This is significant, given that criminological research has found that sanctions which are perceived as illegitimate can generate defiance, resulting in weaker bonds to the sanctioning agent and community, unacknowledged shame and more frequent and/or serious misconduct.<sup>8</sup> For this reason, we recommend that ASBOs should only be employed where other informal interventions have been tried and failed. It should be pointed out, however, that it is important that agencies are willing to resort to the ASBO if truly necessary. Research in other

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<sup>6</sup> See further the data in Appendix 1.

<sup>7</sup> See the findings of the Youth Justice Board's study (Aikta-Reena Solanki, Tim Bateman, Gwyneth Boswell & Emily Hill *Anti-Social Behaviour Orders* (London: Youth Justice Board, 2006)).

<sup>8</sup> Lawrence W. Sherman 'Defiance, Deterrence and Irrelevance: A Theory of the Criminal Sanction' (1993) 30 *Journal of Research in Crime and Delinquency* 445

contexts has found that voluntaristic, persuasive modes of regulation are more effective when they are backed up by the prospect of inexorable escalation to severe sanctions in the case of non-compliance.<sup>9</sup>

238. A National Audit Office study found that 65% of people who agreed an ABC did not re-engage in anti-social behaviour (compared to 45% for ASBOs).<sup>10</sup> However, the proportion of young people reengaging in anti-social behaviour following an ABC was considerably higher than for adults (61% compared to 27%). The reasons suggested for this were that some young people had not engaged in the process of setting the conditions of their Contracts, while others agreed conditions which it was very difficult for them to achieve.<sup>11</sup> The study emphasised the need for practitioners to engage with young people and provide them with support to enable them to comply with the conditions, and to ensure that support is in place as the Contracts come to an end. It is therefore to be welcomed that: (1) in Swansea young people are meaningfully engaged in the process of agreeing the terms of ABCs; and (2) that the interviewees in this study saw the purpose of an ABC as being to provide support as well as to identify the behaviour that is unacceptable and set clear boundaries. We do, however, note the possibility of further developing the system of ABCs, as some areas in London have done (e.g., the Newham Chance scheme<sup>12</sup>). The focus of an ABC is currently on the young person, and so many ABCs could usefully be supplemented by family group conferencing and a separate support contract involving

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<sup>9</sup> Ian Ayres & John Braithwaite *Responsive Regulation: Transcending the Deregulation Debate* (New York: OUP, 1992).

<sup>10</sup> National Audit Office *Tackling Anti-Social Behaviour* HC 99 (2006).

<sup>11</sup> National Audit Office *Tackling Anti-Social Behaviour* HC 99 (2006), p.20.

<sup>12</sup> See n4 above.

the whole family. We recommend that the WAG explores the possibility of introducing an enhanced system of ABCs along these lines.

239. Interviewees identified three factors which contribute to the success of ABCs: (1) the process of drafting an ABC educates young people, causing them to realise the consequences of their actions, not only for themselves, but also for their families and those affected by their behaviour; (2) the relationship of trust that the young person builds up with the ASB Case Manager/Acceptable Behaviour Project Worker; and (3) the importance of not merely prohibiting certain behaviour, but seeking to replace it with some other constructive activity. Each of these factors depends on sufficient resources being available: time must be spent engaging young people in the process of drafting the ABC so that they learn about the consequences of their behaviour; those working with the young people must be trained, skilled professionals whose caseloads are not so large that they are prevented from regular contact with the young people they are working with; and diversionary activities must be available. As well as sufficient resources being made available, it is also important that ABCs are carefully targeted.

240. ABCs are a short-term intervention. They normally last for six months.<sup>13</sup> Interviewees accordingly stressed the importance of taking steps to ensure that the anti-social behaviour will not restart once the Contract expires (i.e., of having an exit strategy). Here the role of parents was regarded as critical. Interviewees explained that once an ABC ends

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<sup>13</sup> Home Office guidance does provide for the possibility of an ABC being renewed. It also points out that, since an ABC is not a legal document, a duration of six months is not mandatory (*Acceptable Behaviour Contracts and Agreements* (London: Home Office, 2007) pp.8-9).

parents must take responsibility for ensuring that the young person does not act anti-socially. It is therefore important to engage parents from the outset. Where parents are unwilling to engage, interviewees said that a Parenting Contract could be considered. In our view, the importance of parental engagement provides further support for the introduction of an enhanced system of ABCs.

## CONCLUSIONS

241. One of the central objectives of the tiered approach to tackling youth anti-social behaviour operated in Swansea is to address the underlying needs of young people who act anti-socially and their families. This emphasis on prevention and early intervention is in keeping with the policy objectives articulated for Wales in documents such as *One Wales* and the *All Wales Youth Offending Strategy*.
242. The multi-agency/partnership approach is vital to the success of the approach adopted in Swansea. If the underlying problems of young perpetrators of anti-social behaviour and their families are to be addressed it is essential that agencies pool their resources and expertise, to allow more informed decision-making and a wider range of support services. Multi-agency working has also contributed to the adoption of the diversionary ethic by a range of agencies within Swansea. The stable presence over time of key personnel within relevant agencies has ensured consistent leadership and has allowed for working relationships to develop between agencies. The commitment of these senior officers to the diversionary ethic has contributed to the success of the tiered approach in Swansea. We believe that the WAG can make a significant contribution in this respect by providing leadership at policy level, to promote a diversionary ethic through guidance and direction to relevant bodies engaged in prevention and youth offending work throughout Wales. Whilst suggesting a strong leadership role for the WAG in developing relevant guidance, we also note that during the course of the research it became apparent that formal structures must be capable of being adapted to meet the needs of local practitioners.

243. We also see the WAG as able to take the lead in promoting greater levels of tolerance for activities of young people which may cause others annoyance or even anxiety but is in fact nothing more than normal adolescent behaviour. Our research highlighted concerns about the breadth of the definition of anti-social behaviour. The WAG is in a position to provide information and guidance to relevant agencies, first, on work to achieve greater levels of tolerance for young people's sometimes challenging behaviour and, second, on the content and meaning of anti-social behaviour.
244. We are particularly concerned that the overlap between the statutory definition of anti-social behaviour and low-level criminal offences can result in a disparity of treatment of young people. Many interviewees commented on this and regarded it as unfair. In Swansea, all anti-social behaviour referrals are examined by the ASB Unit, which goes some way towards achieving greater consistency. However, cases only reach the ASB Unit if a referral is made. So in many cases the initial decision effectively rests with the police; if a decision is made to prosecute a young person the case will not reach the ASB Unit, even if an anti-social behaviour referral would normally have been made in such a case.
245. In our opinion the introduction of the Swansea Youth Bureau is an initiative to be welcomed. If it operates as anticipated it will ensure that cases that should be dealt with using anti-social behaviour interventions are transferred away from the youth justice system to the ASB Unit. Once again we see a leadership role for the WAG to monitor the work of the Bureau and to promote the introduction of similar decision-making

panels in the rest of Wales. The WAG is in a unique position of being able to ensure that lessons learned in Swansea are disseminated throughout the Welsh policy community.

246. It is apparent from the quantitative data that there is a high rate of attrition between informal and formal anti-social behaviour interventions (see Appendix 1). This is evidence of the success of the tiered approach. It demonstrates the potential for the tiered approach to be used to divert young people who have committed low-level criminal anti-social behaviour from the youth justice system. A tiered approach provides young people with an opportunity to engage with support in order to help them modify their behaviour. In our view enforcement action will have greater legitimacy if agencies have first attempted to address any underlying problems which are contributing to the behaviour. If this approach is not adopted and sanctions are deployed too soon these may be perceived as illegitimate and generate defiance, resulting in weaker bonds to the sanctioning agent and community. We see the WAG as able to take a lead in promoting a support-led agenda and discouraging the use of formal sanctions such as the ASBO unless informal supportive interventions have been tried and failed.

247. Our research has shown that the ABC can be an effective tool in avoiding escalation of anti-social behaviour interventions with young people to formal intentions such as the ASBO. We welcome the fact that in Swansea young people are meaningfully engaged in the process of agreeing the terms of ABCs; and that the interviewees in this study saw the purpose of an ABC as being to provide support as well as to identify the behaviour that is unacceptable and set clear boundaries. We do,

however, raise with the WAG the possibility of further developing the system of ABCs to include provisions relating to family group conferencing and/or to incorporate a separate support contract involving the whole family. The WAG should explore the possibility of introducing an enhanced system of ABCs along these lines.

**Appendix 1: Operation of the tiered approach in Swansea**

		2004	2005	2006	2007	2008
Stage 1 letter	All ages	1180	1281	1377	720	624
	Young people	Data not available				
Stage 2 letter	All ages	215	282	158	91	119
	Young people	Data not available	148	94	69	73
Acceptable Behaviour Contracts with a young person		9	18	10	3	0
Anti-Social Behaviour Orders on application against a young person		0	3	0	0	0

Note: Applications for CrASBOs fall outside the tiered approach and so are not included in these figures.

## Appendix 2: Data on the use of ASBOs in England and Wales

**Table 1: Number of ASBOs issued at all courts, as reported to the Home Office by the Court Service, by CJS area and year, April 1999 to December 2007 (from Home Office website, includes ASBOS issued in criminal proceedings)**

CJS Area	Total issued	Apr 99 - May 00	Jun 00 - Dec 00	2001	2002	2003	2004	2005	2006	2007
Avon and Somerset	285	9	3	19	10	31	89	61	34	29
Bedfordshire	138	-	-	4	4	16	18	40	31	25
Cambridgeshire	152	5	1	2	2	15	26	50	31	20
Cheshire	288	-	-	2	13	33	62	98	43	37
Cleveland	261	1	4	4	5	14	28	60	80	65
Cumbria	176	1	1	1	13	22	31	49	31	27
Derbyshire	200	3	7	6	2	11	46	60	41	24
Devon and Cornwall	257	1	-	10	3	13	81	73	46	30
Dorset	105	-	2	3	-	17	36	19	15	13
Durham	141	-	5	9	8	16	31	27	26	19
<b>Dyfed Powys</b>	<b>51</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>12</b>	<b>8</b>	<b>15</b>	<b>8</b>	<b>8</b>
Essex	252	-	-	-	2	23	79	88	32	28
Gloucestershire	105	-	2	2	1	7	26	30	21	16
Greater London	1,808	9	19	15	21	139	446	532	358	269
Greater Manchester	1,642	10	2	25	78	236	430	458	225	178
<b>Gwent</b>	<b>148</b>	<b>-</b>	<b>-</b>	<b>2</b>	<b>2</b>	<b>8</b>	<b>27</b>	<b>33</b>	<b>49</b>	<b>27</b>
Hampshire	430	1	2	6	10	43	100	112	66	90
Hertfordshire	214	1	1	9	6	17	40	73	35	32
Humberside	430	-	9	4	4	10	72	138	115	78
Kent	214	-	3	17	16	25	54	44	29	26
Lancashire	580	5	5	11	14	54	126	148	115	102
Leicestershire	209	1	4	-	1	15	45	71	42	30
Lincolnshire	68	-	-	2	2	7	12	20	17	8
Merseyside	489	8	3	7	22	44	96	128	94	87
Norfolk	180	6	-	12	9	7	43	46	27	30
<b>North Wales</b>	<b>333</b>	<b>-</b>	<b>1</b>	<b>-</b>	<b>7</b>	<b>15</b>	<b>42</b>	<b>103</b>	<b>87</b>	<b>78</b>
North Yorkshire	147	4	-	7	-	9	41	34	27	25
Northamptonshire	121	1	2	5	1	6	39	32	13	22
Northumbria	426	7	5	9	16	25	75	181	70	38
Nottinghamshire	410	1	4	11	2	21	91	126	70	84
<b>South Wales</b>	<b>251</b>	<b>-</b>	<b>1</b>	<b>4</b>	<b>3</b>	<b>29</b>	<b>46</b>	<b>64</b>	<b>54</b>	<b>50</b>
South Yorkshire	380	3	1	7	19	34	80	104	83	49
Staffordshire	239	-	4	6	12	30	59	59	35	34
Suffolk	253	3	-	4	5	25	78	53	35	50
Surrey	154	-	2	2	2	7	48	50	26	17
Sussex	371	3	4	3	16	31	97	95	73	49
Thames Valley	263	1	1	7	6	16	77	57	44	54
Warwickshire	135	-	1	2	15	11	28	30	27	21
West Mercia	313	5	8	39	30	28	58	72	40	33
West Midlands	1,168	11	28	58	30	121	243	307	189	181
West Yorkshire	1,122	4	2	14	14	97	305	260	217	209
Wiltshire	63	-	-	-	1	9	20	22	4	7
<b>Total E&amp;W</b>	<b>14,972</b>	<b>104</b>	<b>137</b>	<b>350</b>	<b>427</b>	<b>1,349</b>	<b>3,479</b>	<b>4,122</b>	<b>2,705</b>	<b>2,299</b>

Note 1: Previously issued data have been revised.

Note 2: Every effort is made to ensure that the figures presented are accurate and complete. However, it is important to note that these data have been extracted from large administrative data systems generated by the courts. As a consequence, care should be taken to ensure data collection processes and their inevitable limitations are taken into account when those data are used.

Prepared by OCJR Evidence & Analysis Unit.

**Table 2: Number of ASBOs issued to PERSONS AGED 10-17<sup>(1)</sup> at all courts as reported to the Home Office by the Court Service, by CJS area and year, April 1999<sup>(2)</sup> to December 2007 (from Home Office website, includes ASBOS issued in criminal proceedings)**

CJS Area	Total issued	Apr 99 - May 00	Jun 00 - Dec 00	2001	2002	2003	2004	2005	2006	2007
Avon and Somerset	89	..	2	7	4	10	30	18	8	10
Bedfordshire	49	..	-	1	2	8	6	11	10	11
Cambridgeshire	49	..	-	1	2	10	3	14	15	4
Cheshire	103	..	-	2	5	14	28	32	6	16
Cleveland	123	..	4	3	5	9	15	28	32	27
Cumbria	73	..	-	-	5	8	12	26	12	10
Derbyshire	75	..	-	3	2	3	14	26	16	11
Devon and Cornwall	66	..	-	5	1	4	8	18	17	13
Dorset	54	..	2	3	-	10	18	9	7	5
Durham	66	..	2	5	5	8	13	11	12	10
<b>Dyfed Powys</b>	11	..	-	-	-	-	2	4	2	3
Essex	110	..	-	-	2	4	40	41	13	10
Gloucestershire	48	..	1	2	-	5	14	17	6	3
Greater London	568	..	10	10	5	41	107	192	107	96
Greater Manchester	819	..	2	17	54	145	209	203	105	84
<b>Gwent</b>	78	..	-	2	2	4	12	20	24	14
Hampshire	199	..	-	3	8	22	47	44	36	39
Hertfordshire	93	..	1	4	6	11	16	26	16	13
Humberside	199	..	2	3	2	5	35	65	57	30
Kent	101	..	2	15	4	12	22	22	15	9
Lancashire	243	..	2	4	13	37	53	48	45	41
Leicestershire	75	..	4	-	-	8	12	29	10	12
Lincolnshire	20	..	-	2	1	3	2	8	4	-
Merseyside	247	..	1	4	18	23	48	57	47	49
Norfolk	49	..	-	6	3	4	12	12	5	7
<b>North Wales</b>	138	..	1	-	4	9	23	40	43	18
North Yorkshire	53	..	-	4	-	4	13	6	11	15
Northamptonshire	37	..	2	4	1	3	11	7	2	7
Northumbria	169	..	2	3	12	9	36	63	32	12
Nottinghamshire	179	..	3	2	1	11	28	61	38	35
<b>South Wales</b>	84	..	-	1	1	17	12	24	13	16
South Yorkshire	173	..	1	4	10	13	41	42	32	30
Staffordshire	100	..	-	3	7	12	28	28	16	6
Suffolk	86	..	-	3	5	9	24	18	13	14
Surrey	65	..	-	2	2	3	25	18	9	6
Sussex	158	..	4	2	10	16	45	39	24	18
Thames Valley	61	..	-	3	2	5	21	10	3	17
Warwickshire	68	..	-	2	10	6	11	11	14	14
West Mercia	125	..	3	21	12	13	26	23	19	8
West Midlands	366	..	9	28	13	26	57	89	75	69
West Yorkshire	537	..	2	9	11	60	156	115	81	103
Wiltshire	22	..	-	-	1	4	5	6	1	5
<b>Total E&amp;W</b>	<b>6,028</b>	<b>..</b>	<b>62</b>	<b>193</b>	<b>251</b>	<b>628</b>	<b>1,340</b>	<b>1,581</b>	<b>1,053</b>	<b>920</b>

(1) Where age is known.

(2) No age details available for the period April 1999 to May 2000.

Note 1: Previously issued data have been revised.

Note 2: Every effort is made to ensure that the figures presented are accurate and complete. However, it is important to note that these data have been extracted from large administrative data systems generated by the courts. As a consequence, care should be taken to ensure data collection processes and their inevitable limitations are taken into account when those data are used.

Prepared by OCJR Evidence & Analysis Unit

**Appendix 3: Rate of ASBO use against persons aged 10-17 (England and Wales 2004-2007)**

		Population estimates by age 10-17 (thousands)	Total number of ASBOs issued against persons aged 10-17	Number of young people per ASBO issued against a 10-17 year old
2004	England	5184	1291	4015
	Wales	314.3	49	6414
	Swansea	22.2	1	22200
2005	England	5164.7	1483	3483
	Wales	312.2	98	3186
	Swansea	22.0	4	5500
2006	England	5119.6	971	5273
	Wales	309	82	3768
	Swansea	21.7	0	No ASBOs
2007	England	5087.1	869	5854
	Wales	306.8	51	6016
	Swansea	21.0	1	21000

Note: Data includes figures for CrASBOs.