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Situating Anti-Social Behaviour and Respect

Anti-social behaviour has become a major focus of political concern and public debate. The last decade has seen an unprecedented period of intensive activity and regulatory reform designed to tackle anti-social behaviour (ASB), which has seen the introduction of various new powers, tools and initiatives. Yet there has been little engagement and dialogue between practitioners and researchers about the evidence base for, and effectiveness of, many of the recent reforms. In this light, the Economic and Social Research Council (ESRC) funded a series of research seminars designed to bring together researchers and practitioners to discuss and exchange views on research findings and their implications for good practice. Deliberations of the ESRC research seminar series highlighted the following key findings:

- **Definitions:** ASB is defined in subjective and context-specific terms, which leads to inconsistent practice, generates variable public and professional understandings of the issue, impedes standardised data collection, and inhibits evaluative research.
- **A balanced approach:** There has been a shift from an initial over-emphasis on the use of enforcement powers to manage behaviour towards a more balanced approach involving supportive interventions to address the underlying causes of behaviour and preventive actions to help avoid the need for legal measures to be taken.
- **Implications for justice:** The implementation of ASB policies raise important issues of justice that need to be recognised and addressed, including: the impacts of enforcement on vulnerable young people; the appropriate response to the needs of victims and the wider communities; the impacts of ASB action on individuals and families with complex personal and social needs; the significance of the principle of proportionality in assessing the appropriateness of interventions and sanctions in responses to and regulation of ASB.
- **ASB and crime control:** There has been a shift in the use of the formal ASB powers from a means of regulating non-criminal behaviour through civil law sanctions to an additional method of crime control, via the use of ASBOs linked to a criminal conviction and the use of ASB sanctions to prevent or restrict potential criminal offending.
- **Partnership:** While effective partnership working is vital for identifying local problems and targeting preventive solutions, and there have been recent improvements in this regard, there is evidence of a lack of joined-up working among strategic partners and insufficient coordination of local service delivery – in particular in managing the tensions between victim and community interests and those of suspects and offenders.
- **Local variation:** Across the UK there exists significant variations in provision and approaches to ASB, often these reflect less differences in the nature of local problems but rather local preferences for certain approaches or the availability of particular services. There is much of value for policy makers and practitioners to learn from different approaches at national, regional and local levels throughout the UK and across Europe.
- **Research gaps:** There has been insufficient evaluation research into the use and impact of ASB powers and interventions, and there is a need for improved and standardised data collection systems that allow for better monitoring and evaluation, in particular with regard to factors of age, gender, ethnicity, location of residence and tenure-type.
- **Ways forward:** Research findings emphasise the importance of tailoring interventions to the needs of individuals in ways that are sensitive to the conditions in which people live and responsive to individuals' capacities for behavioural change; and of engaging with young people and their families through voluntary interventions in ways that accord importance to procedural fairness and mutual respect.

Series Overview

The purpose of the ESRC research seminar series was to bring together findings from contemporary practice and empirical research on the use and impact of diverse anti-social behaviour-related interventions. It sought to facilitate an interdisciplinary and inter-organisational dialogue between academic researchers, practitioners and policy-makers about how research can best inform practice and visa versa in ways that facilitate lesson-learning and problem-solving across the UK. The seminar series was managed by the University of Leeds and supported by a national steering group.

Between November 2007 and September 2008, five day-long research seminars were held around the country that focused on: (i) ASB and housing (in Sheffield); (ii) ASB in the contexts of schooling, parenting and the family (in Brighton); (iii) the regulation of ASB in urban spaces and the night-time economy (in Leeds); (iv) diversity and ASB (in Birmingham); and (v) comparative British and European experiences of governing ASB (in Leeds). A total of over 120 researchers and practitioners attended and contributed to the meetings, with a core group of some 20-30 delegates who participated throughout. In all, delegates heard from over 40 formal presentations and benefited from the input of ten international speakers on experiences outside the UK. Reserved places at each meeting were allocated to representatives from the National Community Safety Network (NCSN) and a number of early career and PhD researchers attended each meeting.

Background

Anti-social behaviour has become a major political concern and policy preoccupation in recent years. Crime and ASB have a considerable impact on the lives of many people in Britain with adverse implications for community life and the degradation of public spaces. Where people live is central to experiences and perceptions of ASB. Experiences of ASB compound other forms of disadvantage and are concentrated in areas of multiple deprivation. With its genesis in the management of social housing, a range of policies and interventions formulated under the rubric of 'tackling anti-social behaviour' now

inform diverse aspects of social policy from schooling to urban planning. The ASB agenda (launched in 2002) and Respect Taskforce (launched in 2005) have seen questions about civility and tolerance move to centre stage and prompted a flurry of government activity. Over recent years, a whole new local infrastructure of Crime and Disorder Reduction Partnerships (CDRPs), ASB teams and dedicated co-ordinators has been established. Alongside this has been the introduction of diverse new powers (see Table 1).

ASB has come to demarcate a distinctive policy field that blurs traditional distinctions between crime and disorder, as well as the appropriate use of civil/criminal and formal/informal responses. It constitutes a policy terrain in which diverse organisational interests, working assumptions, priorities and multidisciplinary approaches coalesce, sometimes in awkward combinations. At the same time, it introduces the important dimension of 'public perceptions' into issues of local order and safety, as a result of which fear of crime, public anxieties and community well-being have become prominent concerns in their own right. Public perceptions and levels of satisfaction are becoming increasingly important in measuring and judging the effectiveness of local authorities and police responding to and dealing with crime and ASB.

As a term, ASB is used to cover a wide range of activities, misdemeanours, incivilities and crimes (sometimes quite serious). It is recognised that people's understanding of what constitutes ASB is 'determined by a series of factors including context, location, community tolerance and quality of life expectations ... what may be considered antisocial behaviour to one person can be seen as acceptable behaviour to another' (Home Office, 2004: 3). In the Crime and Disorder Act 1998, ASB is defined as behaviour that 'causes or is likely to cause harassment, alarm or distress' to others. This broad definition is both subjective and context specific. This generates difficulties of measurement and meaning as ASB by its nature, does not lie within the remit of any single agency and cuts across traditional legal, organisational and social categories.

Table 1: New ASB-related Enforcement Powers and Tools

| Power | Legislative basis | Type |
|---|--|---|
| Acceptable Behaviour Contract | None | Voluntary agreement |
| Anti-Social Behaviour Order | Crime and Disorder Act 1998, s.1 | Hybrid court imposed prohibitions which become an offence if breached |
| Individual Support Order | Criminal Justice Act 2003, s.32 | Support element attached to ASBO for juveniles |
| Drug Intervention Order | Drug Act 2005, s.20 | Support element attached to ASBO for adults |
| Housing Injunction (ASBI) | Housing Act 1996, s.153A | Civil injunction |
| Parenting Contract | Anti-Social Behaviour Act 2003, s.25 | Voluntary agreement |
| Parenting Order | Crime and Disorder Act 1998, s.8 | Court imposed requirement to attend counseling or parenting sessions |
| Penalty Notice for Disorder | Criminal Justice and Police Act 2001, s.1-11 | Administrative fine with summary powers |
| Demoted Tenancy | Anti-Social Behaviour Act 2003, s.14-15 | Reduced tenancy rights; rendering eviction easier |
| Family Intervention Tenancy | Housing and Regeneration Act 2008, s.297 | Insecure tenancy with support agreement for Family Intervention Project accommodation |
| Housing Benefit Sanction | Welfare Reform Act 2007, Chapter 5, s. 31. | Reduction to housing benefit linked to grounds of anti-social behaviour. |
| Child Curfew Order | Crime and Disorder Act 1998, s.14 | Power to impose curfew; no direct criminal penalty |
| Dispersal Order | Anti-Social Behaviour Act 2003, s.30 | Police direction to disperse from designated area, offence if breached |
| Designated Public Places Order | Criminal Justice and Police Act 2001, s.13 | Exceptional two-step prohibition – police direction |
| Drinking Banning Order | Violent Crime Reduction Act 2006, s.1-14 | Court imposed banning order, offence if breached |
| Alcohol-related Directions to Leave an Area | Violent Crime Reduction Act 2006, s.27 | Police direction becomes an offence if breached (two-step prohibition) |
| 'Crack House' Closure Order | Anti-Social Behaviour Act 2003, s.1-11 | Temporary closure of premises regardless of tenure |
| Premise Closure Order | Criminal Justice and Immigration Act 2008, s.118 | Temporary closure of premises regardless of tenure |

A distinctive feature of ASB is that it constitutes acts and conduct that have cumulative effects. The collective impact derives from the repetitive and persistent nature of incidents and the manner in which a series of small scale acts compound each other to register far greater significance. Allied to this is the fact that certain forms of ASB are interpreted by people as having a greater impact on their sense of safety. These act as 'warning signals' about potential threats to personal safety and communicate messages about the nature of public space and local social (dis)order. Hence, seriousness is derived from the cumulative effects and the manner in which people interpret incidents' capacity to induce fear rather than the nature of the specific incidents themselves. As such, ASB is both consequential and incorporates subjective perceptions of what might happen.

Principal Themes

Living together with strangers in relations of mutual respect and tolerance has become one of the central challenges of the modern era. History reminds us, however, that the concerns of a given generation are often projected onto its youth, frequently associated with claims about declining social mores and rising incivility. Nevertheless, neighbourhoods have become more demographically diverse and socially heterogeneous than they were a generation ago. Alongside greater ethnic and cultural diversity, kinship and support structures have also become more varied, with social ties and bonds of mutual obligation and cultural interactions changing.

1. Defining ASB

The uncertain and elastic definition of ASB encourages differential implementation and inhibits coherent measurement of the extent of the problem, trends over time and the effectiveness of interventions. It creates considerable difficulties for partnership working, undermines the standardisation of data collection and inhibits research evaluations. Many practitioners, including the National Community Safety Network (NCSN 2005: 6), have argued for the development of a common definition of ASB with scope to distinguish between different forms of ASB. The lack of shared definitions undoubtedly impedes data collection and allows incompatible recording systems to persist both between areas and between partner organisations working within the same locality.

2. Partnership working

Different local agencies approach issues of ASB from different vantage points. Key stakeholders in regulating ASB include social landlords, local authorities, the police, youth offending teams, prosecution services, children's services and education authorities as well as local voluntary organisations and community groups. They have different expertise, knowledge, resources and levers that can be deployed to tackle ASB problems. Joint working, pooling resources and information sharing can have significant benefits in identifying need and targeting support. Effective partnership working is vital for identifying local problems and delivering preventive solutions. Where coordination is well-organised through effective partnerships, there are significant benefits to community safety. However, across the country there is considerable evidence of a lack of joined-up working and insufficient coordination of local service delivery, such that the same individuals or families may be the subjects of disjointed interventions by diverse local agencies.

There remain important tensions between the interests of the victims and wider community and those of suspects or offenders which need to be negotiated and balanced. However, these interests do not exist trapped in an inverse relationship. All community members benefit from procedural safeguards that require

people to be treated with integrity, not wrongly convicted and given proportionate sanctions or interventions, just as they benefit from prompt and judicious action being taken against those who perpetrate serious misconduct that blights neighbourhoods.

In England and Wales, the recent reorganisation of central government - with the creation of the Department of Children, Schools and Families (DCSF), the Department of Communities and Local Government (DCLG) and the Ministry of Justice (MoJ), present opportunities and challenges for those working to tackle ASB. The establishment of the Youth Taskforce in the DCSF potentially allows for a sustained focus on young people in the context of family life and education which provides opportunities to emphasise young people's potential in their transition to adulthood.

3. The Need for a Robust and Diverse Evidence Base

Within as well as between parts of the UK, there has been considerable local variation in the take-up and use of formal tools and powers. This is not linked directly to differences in the extent or type of behaviour, but appears to be due to local preferences for particular approaches to the balance between enforcement and support, the willingness of key individuals to experiment with new tools and the capacity of local interests to organise and promote an enforcement-led response. National policies are often resisted, refashioned and played out in different ways, as a result of which the expectations of Whitehall are modified and given concrete form in different local contexts. This is more evident in the context of devolved government. Consequently, there is insufficient knowledge about the differential impact of ASB powers, tools and interventions on diverse groups in the population, notably in terms of ethnic origin, gender, socio-economic background and geographic location. Police, local authorities and other relevant partners (including social housing providers and education authorities) need to ensure rigorous monitoring of ASB and the use of powers.

As well as research into specific interventions and powers it is important that research is conducted into the cumulative impact of the

ASB agenda on the criminal justice system. There are concerns that many of the new powers blur traditional boundaries between civil and criminal matters and between formal and informal interventions, whilst introducing forms of summary justice (Morgan 2008). What is clear is that the various new powers create new pathways into, through and away from the criminal justice system and realign the boundaries for entry into criminal justice. This raises normative questions about the robustness of the evidence, the appropriate level at which formal coercive interventions arise and the extent of procedural fairness and substantive justice in implementation. Proportionality as a principle of justice demands that the more serious the offence, the more onerous the sanction and the greater the procedural safeguards. By contrast, minor offences that involve less harm or for which the perpetrator is less culpable, are suitable for less onerous sanctions and relatively less formal procedure. It is vital that there is a genuine public debate about such matters and this should be informed by a solid body of research and knowledge. Hence, research is needed to assess the impact of ASB interventions on pathways into criminal justice (youth justice in particular) to ensure that ASB interventions are not being used to avoid procedural safeguards, dilute the burden of proof and reduce requirements of proportionality and due process.

4. Relations between Policy, Research and Practice

Despite British Government commitments to 'evidence-based policy', it is clear that relations between policy, research and practice are not as constructive as they could or should be. It is rare that new ASB policy initiatives are grounded in, and arise from, experiences that have been rigorously evaluated before being nationally implemented. Much of the policy preoccupation to date has been accorded to quantifying public perceptions of ASB (as recorded by the British Crime Survey) rather than measuring the extent and impact of different forms of behaviour. There has been far greater concern given to recording the numbers of times that new powers have been used (via annual CDRP surveys), than to evaluating the impact of given tools on different

groups of people. Consequently, the National Audit Office (2006) described a significant 'knowledge gap' with regard to ASB and the implementation of powers introduced to regulate it. Likewise, the House of Commons Committee of Public Accounts noted how the lack of published data on the effectiveness of different measures has led to variation in the extent to which local areas use the interventions available to them. As a result, it noted that decisions are frequently based on 'local preferences and the familiarity of those in authority with the different types of measures, rather than an objective assessment of what works with different types of perpetrators' (2007: 5). There is an urgent need for research evidence to inform the future development of ASB interventions. The evaluation of pilot schemes and demonstration projects provide a solid basis from which to consider and assess the replication of initiatives to other parts of the country and to learn lessons through practice innovations.

For a variety of reasons, researchers are not always keen to engage with practitioners or contribute to public debate and policy-making. Researchers need to engage with the worlds of policy and practice and seek to present research findings in ways that are of value to those who seek to improve practice and refine policy. Likewise, practitioners can be reluctant to embrace research findings that might not speak directly to their concerns or address their immediate needs. Similarly, policy-makers need to appreciate that there is often as much, if not more, to be learnt from research that highlights the complexity of the social world and the ineffectiveness of particular interventions, rather than seeing research as a means to legitimise prior decisions and established processes or strategies. There is considerable benefit to be derived from a robust dialogue between policy-makers, researchers and practitioners about the value and limitations of research in informing policy and practice, as evidenced by this ESRC seminar series, which highlighted the advantages to working beyond the narrow confines of organisational priorities and thinking across disciplinary boundaries.

The seminars provided insights into particular areas of work which are detailed below:

Housing and Anti-Social Behaviour

There is a key role for housing in the causes, manifestations and governance of anti-social behaviour and the social housing profession was instrumental in the development of New Labour's anti-social behaviour and subsequent Respect agendas. Tenure-related legal powers and housing management practices are central mechanisms to regulate conduct in residential neighbourhoods. There is a growing range of actors, including social and private landlords, tenants and residents, becoming involved in a more intensive multi-agency regulation of an increasing range of behaviours and this has significant consequences for housing resources, capacity and professional skills requirements. The contemporary regulation of anti-social behaviour through housing is characterised by the blurring of civil/criminal and public/private mechanisms; new forms of regulating public space, and populations using this space, through CCTV, ASBOs and Dispersal Orders; an emphasis on future conduct and an expansion in the use of contract and conditionality within housing management tools including tenancy agreements.

Urban Spaces and the Night-Time Economy

The city has a long history of heated debates over its mixture of dangers and fascinations. Commenting on current trends in urban development across Europe, Swyngedouw and colleagues (2003) have observed that cities remain 'brooding places of the imagination, creativity and innovation' but which at the same time are also 'rife with all manner of social and political conflicts'. In some ways, the current heated debate on anti-social behaviour and crime in our urban environments is but the latest in a long tradition of public disquiet over the urban condition. However, it is also evident that the changing character of urban sites today, both before and after 'dusk' – particularly, the rise of a new alcohol-fuelled, consumption-driven night-time economy - is re-shaping perennial forms of social disorder, incivility and inter-personal

violence, creating new pressures upon the urban environment. Correspondingly, novel attempts at managing these problems are emerging, from an increasingly variegated mix of agencies, including the public, private and voluntary sectors.

Current research shows that night-time public spaces remain contested arenas with radically different meanings for night-time consumers, leisure businesses, police, public health agencies, local residents, night workers, voluntary agencies and local government. The management of town and city centres has become a specialist occupation and multi-agency coordination of preventive efforts a pressing issue for all local authorities and police across the UK. Alongside the relaxation in licensing hours, it is sobering to note the plethora of new powers have been granted to local authorities and the police in the last five years in response to crime and ASB in the night-time economy. The post-2003 Licensing Act context remains a complex one involving the attempted balancing of the seductions of market and consumer freedoms with repression and concerns over security and voluntary and involuntary risk. Importantly, the debate on ASB in urban spaces and the night-time economy also raises key questions about the conditions necessary to realise the ambition for both civil and diverse urban spaces; put differently, we may ask where are we to find the 'social' in the debate on ASB in our towns and cities today? Have the optimistic visions of a more convivial night-time economy, so characteristic of public debate a decade ago now evaporated into grim cynicism concerning the nation's problematic relationship with alcohol?

Gender, the Family and Anti-Social Behaviour

Within official ASB discourses there is a clear emphasis on dysfunctional families. Amongst both policy makers and academics however, there has been a resounding silence on the gendered nature of the construction of the problem. A closer examination of the of the 'anti-social subject' reveals the way in which the focus on 'bad' parents serves to thinly disguise the fact that it is predominantly mothers who undertake responsibility for child care and indeed the

empirical evidence confirms that it is lone parent mothers who are one of the main target groups for ASB interventions. It is not only in the context of the family that women are the target of ASB interventions, equally in many areas enforcement measures such as ASBOs have been used to control street sex workers.

More recently there appears to have been a shift in the ASB policy focus, with increasing attention being paid to control measures involving women – these include but are not limited to ‘whole family’ approaches such as employed in Family Intervention Projects, parenting interventions and measures to deal with street sex workers. This changing government agenda brings into sharp relief the need for greater critical attention to be paid to the ways in which blame and culpability are apportioned. Initiatives designed to respond to anti-social behaviour provide particular challenges for social policy analysis. To date there has largely been a theoretical silence on the differential impact of government initiatives and in particular on the gendered nature of intervention. Redressing this imbalance provides us with a lens through which to track the genealogy of ASB whilst at the same time raising important questions about the roles and responsibilities of agencies charged with addressing ASB.

Youth and Anti-Social Behaviour

Anti-social behaviour management has formed a central element of the government’s efficiency, modernisation and ‘rebalancing’ agendas, yet this has also entailed legal and procedural questions which have received relatively little attention even as the ASB evaluation evidence base (perhaps belatedly) began to develop. Even though in the first published Home Office guidance young people were not envisaged as recipients of ASBOs, ‘youth’ and ‘anti-social behaviour’ soon became very closely associated in the public mind substantially raising public expectations. ASB has entailed new, sometimes very innovative, sometimes essentially quite problematic, forms of regulation. It has generated important definitional issues but, above all, has offered a new enforcement opportunity, predicated on risk and oriented towards future conduct and behaviour. In turn, this has given rise to criticisms associated with

over-criminalisation and net-widening. There are undoubted opportunities for crime prevention that accrue to targeted work with young people at risk through family interventions. Nevertheless, research shows substantial flows out of as well as in to the pool of children who develop chronic conduct problems. As such, targeted early intervention programmes raise important ethical and social issues.

Diversity Issues

Political and media discourse has tended to associate ASB with poorer White communities, and this has, to a degree, been reflected in much academic research and analysis. But, in a society that is increasingly diverse, it is important to consider the broader social and cultural context in which the ASB powers operate. In particular, when the acceptability or otherwise of distinctive practices arising from differences of gender, ethnicity, sexuality and disability are hotly contested, the need to be alert to the potential uses and abuses of the ASB powers is pressing. Such issues are under-researched, although there is emerging evidence of the gendered nature of some local ASB policy and practice, for example in regulating sex workers; of the need for a more informed approach to dealing with the ‘anti-social’ behaviour of people with mental health problems; and of the challenges of addressing ASB issues in areas with large ethnic minority populations. Advances in knowledge on these matters are, however, severely hampered by the inconsistency of official monitoring and analysis of data on the gender, ethnicity and other characteristics of individuals subject to ASB interventions.

Comparative Experiences and Insights

In comparative analysis the nation-state is frequently deployed as the unit and scale of comparison. This risks placing undue emphasis upon national developments and governmental initiatives. Much policy innovation emanates from local or regional levels, which may or may not filter ‘upwards’. Comparative lesson-learning is not restricted to nation-to-nation experiences. There are important cross-national city-to-city

and region-to-region connections, networks and circuits of policy transfer. Furthermore, national policies are differently implemented and interpreted, influenced by local cultures and traditions. The diversity of experiences across the constituent parts of the UK is testimony to the importance of devolved government and the salience of different interpretations of national policies. This is strikingly evident in the different use of enforcement powers and regulatory tools, such as ASBOs, dispersal powers, etc. Contrasts between Scotland and England, where similar ASB powers and tools exist (albeit within the context of different legal systems), reveal very different approaches to enforcement. In Scotland, by and large enforcement powers have been little used and the approach to young people with behavioural problems in Scotland departs significantly from that south of the border, with less emphasis on criminalisation as a means of managing youth problems. There are wider cultural and legal factors in Scotland that impinge upon the way in which interventions with young people and parents focus more evidently on needs rather than exclusively responding to misdeeds.

Looking further afield to experiences across Europe, the following conclusions can be drawn.

- There are common concerns about the use of public space, the nature of contemporary civility and levels of public tolerance, although

different kinds of locations are identified as being at greatest risk of ASB in different countries.

- There are considerable divergences between the approaches and strategies adopted in different countries. In continental Europe there is a stronger focus on welfare and education-based interventions with children and young people identified as having behavioural difficulties.
- The term 'anti-social behaviour' translates poorly into other European languages where different terms are used, such as 'incivilities' (Netherlands, Finland, Spain), 'difficult behaviour' (Germany) and 'public nuisance' (Belgium). In Finland, the literal translation of 'anti-social behaviour' has somewhat positive connotations as it implies someone who is reserved and not overbearing. This highlights the dangers of translation, both from one language to another and from one place to the next.
- However the English experience has begun to influence some policy developments, notably in the Netherlands, highlighting the extent to which the UK has become an exporter of public policies and regulatory innovations. Many of these trends, however, are resisted and reinterpreted in different European jurisdictions.

Steering Committee: Sarah Blandy (University of Leeds); Elizabeth Burney (University of Cambridge); Helen Carr (University of Kent); Adam Crawford (University of Leeds); John Flint (Sheffield Hallam University); Gordon Hughes (Cardiff University); Andy Mills (National Community Safety Network); Stephen Moore (Anglia Ruskin University); Judy Nixon (Sheffield Hallam University); David Prior (University of Birmingham) and Peter Squires (Brighton University)

Further Information:

For further information about the ESRC research seminar series visit the website: www.law.leeds.ac.uk/esrcASB or contact Anna Barker at: law6ab@leeds.ac.uk

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