



Conditionality Briefing: Anti-social Behaviour

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Addressing anti-social behaviour (ASB) has been a key priority for successive UK and Scottish governments. In England, the Coalition Government is introducing the *Anti-social Behaviour, Crime and Policing Bill* which consolidates and extends existing legal powers and is aiming to ‘turn around the lives’ of 120,000 families during this Parliament supported by the *Troubled Families Programme*. In Scotland, the 2009 Framework, developed by the Scottish Government and the Convention of Scottish Local Authorities (COSLA) – ‘*Promoting Positive Outcomes*’ continues to underpin policy and practice addressing ASB.

Key points

- Conditionality is inherent to a range of mechanisms addressing ASB, including social housing tenancies, Parenting Orders, Anti-social Behaviour Orders and Acceptable Behaviour Contracts.
- Despite research evidence highlighting the importance of early, supportive, holistic and whole-family interventions, and the limitations of legal remedies, sanctions and ‘non-negotiable support’ continue to comprise key elements of interventions.
- Debates and discourses about ASB interventions have identified different perspectives about the respective role of agency and structure as causal explanations of ASB and competing emphasis on the balance between individuals’ rights and responsibilities.
- An important recent development in policy and practice has been the emphasis on ensuring the take up of support by individuals or households engaged in ASB and the extent to which non-take up of support should itself be subject to sanctions.
- There is a considerable research evidence base, including evaluations of key intervention mechanisms, but debates have been characterised by significant disagreement between researchers, practitioners and policymakers about research methods, interpretation of findings and the causal links between interventions and outcomes.
- There are diverse theories of change that seek to explain how and why individuals’ conduct alters and the role of ASB interventions in this change. Although rational/economic and cost-benefit frameworks have often been applied to evaluations and underpin the rationales of some intervention mechanisms, evidence increasingly suggests that other factors, such as emotion, environment and the role of key workers are essential, particularly in achieving earlier sequential developments and ‘softer’ outcomes that are the prerequisite of transformative, and more measurable, change .

Background

Addressing ASB was a major priority for the New Labour governments and the Scottish Executive/Government (see Flint, 2006; Millie, 2009a, 2009b, Respect Task Force, 2006; and Squires, (2008) for overviews of this period). New Labour's governance of ASB became equated with a 'triple-track' approach of prevention, support and enforcement or what has been termed 'coercive welfare.' New statutory requirements for local authorities and registered social landlords to tackle ASB were introduced, supported by a range of new mechanisms, including Anti-social Behaviour Orders, Parenting Orders, Dispersal Orders, Acceptable Behaviour Contracts, enhanced powers of eviction, introductory or probationary tenancies and Family Intervention Projects. ASB has remained a high priority, with periodic escalations in governmental and media interest driven by events such as the death of Fiona Pilkington and her daughter in 2007 and the riots in urban England in 2011. The current UK Coalition Government is introducing a new Anti-social Behaviour, Crime and Policing Bill which consolidates and extends existing legal powers and the Government is also aiming to 'turn around the lives' of 120,000 families during this Parliament supported by the Troubled Families Programme (Communities and Local Government, 2012a, 2012b, 2012c). In Scotland, the 2009 Framework, developed by the Scottish Government and the Convention of Scottish Local Authorities (COSLA) – 'Promoting Positive Outcomes' continues to underpin policy and practice addressing anti-social behaviour.

Key policy developments on conditionality

Conditionality linked to appropriate conduct has always been present in key mechanisms, such as housing tenancy agreements (in the social and private sectors) and education. However, since 1997, there has been an increase in the range, scope and forms of conditionality related to ASB, with growing numbers of legal and non-legal mechanisms to enact this conditionality and a wider range of conduct and welfare provision being subject to regimes of conditionality. New forms of tenancy have been introduced, strengthening the powers, range and remit of eviction, with probationary, introductory and, in Scotland, Short Secure Tenancies, being developed to ensure that access to, and sustainability of, a tenancy is conditional on appropriate behaviour. Anti-social Behaviour Orders (ASBOs) required individuals to desist from, or adhere to, a range of behaviours. These were envisaged as being balanced by supportive interventions, delivered through Individualised Support Orders, though this was very varied in practice. Mechanisms such as Acceptable Behaviour Contracts and Good Neighbour Agreements sought to codify the rights, roles, responsibilities and actions of individuals and agencies. Parenting Orders, and initiatives such as the Pilot of Housing Benefit Sanction, introduced a further mechanism of conditionality, whereby individuals could be sanctioned for their failure to engage with packages of support. Family Intervention Projects became an increasingly prominent mechanism for tackling anti-social behaviour (Batty and Flint, 2012). Although

engagement with such projects was often a condition of individuals remaining in social housing tenancies, the projects were based on holistic, whole-family interventions coordinated by a key worker and often delivered by charitable organisations, with support and voluntary engagement, rather than punitive sanctions, being their main focus. There has also been a renewed emphasis on early intervention, seeking to address inter-generational problems and avoid problematic behaviour from escalating.

In England the Coalition Government has advocated a 'rehabilitation revolution' focused on prevention and a 'second chance society.' In a critique of New Labour governance, the Coalition argued that current formal powers impose stringent conditions to stop future ASB but don't address underlying causes (Home Office, 2012). There is a more explicit recognition of economic arguments for intensive intervention and a critique of enforcement-focused measures such as ASBOs. However, the current government's approach retains key elements of the previous regime, including an emphasis on early intervention, intensive whole family projects, sanctions and a belief in 'non-negotiable' support. The Coalition Government continues to support the use of Parenting Orders and to believe that sanctions act as a deterrent. The new powers to be introduced through the Anti-social Behaviour, Crime and Policing Bill actually broaden the range of behaviours that may be defined as 'anti-social', lower thresholds and burdens of proof, increase requirements for conditional positive behaviours and extend the geographical reach of intervention. A new discretionary ground for possession will be created where a tenant or person living with them has been convicted of an offence committed at the scene of a riot anywhere in the UK (House of Commons Library, 2013). The Coalition Government has recently focused on rogue landlords as a causal element of criminality and ASB. Existing legislative powers include Mandatory Licencing of Houses in Multiple Occupation and Additional Licencing of Houses in Multiple Occupation, discretionary selective licencing and Special Interim Management Orders. There is also an emphasis on enhancing the responsibilities and capacities of private landlords to regulate conduct and manage ASB.

It is important to note that there are key differences between Scotland and England and Wales relating to the Children's Hearing System in Scotland; different social work and criminal justice frameworks; the new unitary police force in Scotland (and not introducing Police and Crime Commissioners) and homelessness legislation. In Scotland the 2009 Framework 'Promoting Positive Outcomes' continues to drive the approach to tackling ASB, based on four key pillars of prevention, intervention, engagement and communication. Key principles include an emphasis on early intervention, addressing causes as well as symptoms; and promoting positive behaviour (through role models and mentors). As in England, Family Intervention Projects have been a key mechanism for addressing the problems of the most vulnerable households. The forthcoming Housing Bill in Scotland will introduce a qualifying period before succession to a tenancy, allow a minimum period to be put in

place before anti-social tenants are eligible for the allocation of social housing, allow landlords to use Short Scottish Secure Tenancies for applicants and tenants with a history of anti-social behaviour and simplify evictions for tenants convicted of a serious offence. However, the focus on Scotland is on sustaining tenancies, the Bill will include tenants' rights for evictions cases to be reviewed, and the Scottish Government has decided not to introduce an initial probationary tenancy for all new social housing tenants.

Key arguments for and against conditionality in anti-social behaviour policy and practice

Commentators in favour of conditionality, and increased conditionality, in ASB interventions argue that access to welfare services, as limited and rationed goods, has always required minimum behavioural requirements (for example, social housing tenancies and children's attendance and behaviour at school) and have always been premised on a contractual and reciprocal basis. Secondly, they argue that ASB has a direct and significant negative impact on other citizens such that forms of intervention, including conditional access to welfare, are justified. Commentators also argue that the efficacy of ASB interventions (including support elements) is enhanced by forms of conditionality and sanction as these can act as triggers or frame decision-making such that conduct is improved. These can be framed in moral terms, whereby, for example, the threat of sanction results in an individual engaging with support services, resulting in subsequent positive behaviour change and outcomes.

Those who object to increased conditionality in ASB interventions argue, firstly, that the multi-faceted and often intergenerational vulnerability underpinning ASB be addressed rather than focusing on problematic conduct per se. They argue that sanctions (including fiscal penalties) merely exacerbate vulnerability and reduce the propensity of individuals to engage with agencies and support. Thirdly, they argue that conditionality or sanctions (for example linked to access to or sustainability of a social housing tenancy) risk harming third parties (such as children) for the actions of others. Commentators also challenge the efficacy of conditionality and sanction-based interventions, for example, arguing that rational and economic models of decision-making do not reflect the lives of anti-social individuals, or that models of intervention based on a holistic, supportive and voluntary ethos are more effective than punitive, sanction-based approaches.

Conclusions

The future stages of our research project will enable us to investigate further, and establish empirical evidence about, the key debates highlighted above. These include the extent to which dominant rationales underpinning existing ASB interventions (rationality, economics, cost-benefits) reflect the reality of individuals' lives; how complex assemblages and packages of support interact with sanction

mechanisms, how a new emphasis on proactive and positive conduct are mechanised through new forms of sanction; how ASB interventions are linked to other social policy interventions in housing, education and offending; and how a more nuanced and sophisticated moral and ethical framework may be applied to the diverse range of mechanisms, and differentiated outcomes, for individuals subject to ASB-related interventions.

About the Project

Welfare Conditionality: Sanctions, Support and Behaviour Change is a major five year programme of research funded under the Economic and Social Research Council's Centres and Large Grants Scheme, running 2013-2018. The project aims to create an international and interdisciplinary focal point for social science research on welfare conditionality and brings together teams of researchers working in six English and Scottish Universities i.e. University of Glasgow, Heriot-Watt University, University of Salford, Sheffield Hallam University, University of Sheffield and the University of York, which acts as the central hub for this collaborative partnership. Central to our work is a desire to inform international policy and practice through the establishment of an original and comprehensive evidence base on the efficacy and ethicality of conditionality across a range of social policy fields and diverse groups of welfare service users.

For further information about the project please visit www.welfareconditionality.ac.uk or contact the Project Manager, Fleur Hughes on 01904 321299 or email info@welfareconditionality.ac.uk

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