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Crime and Policing Bill: Call for Evidence

Written evidence submitted by: Dr Vicky Heap, Dr Alex Black, Dr Benjamin Archer, Dr Ayse Sargin, and Joshua Whitworth (all Sheffield Hallam University)

1. Introduction

1.1. We are academics from the [Helena Kennedy Centre for International Justice](#), a leading centre for social justice and human rights. Based within the Institute of Law and Justice at Sheffield Hallam University, our multi-disciplinary team combines research expertise from the fields of anti-social behaviour (ASB), law, policing, community safety, human rights and social movement studies.

2. Respect Orders, Youth Injunctions, and Housing Injunctions (Part 1, Chapter 1)

2.1. Respect Orders (Clause 1)

2.1.1. The revisions to the powers that tackle ASB are welcome, but the proposals outlined in Clause 1 represent a missed opportunity for meaningful evidence-based reform. Clause 1 demonstrates very few changes to the current Civil Injunction, a power that has never been evaluated since it was enacted over a decade ago in the Anti-Social Behaviour, Crime and Policing Act 2014. Respect Orders retain many of the characteristics of the original Anti-Social Behaviour Order (ASBO), which reported high breach rates. For example, Home Office (2014) data shows that 75% of ASBOs were breached more than once.

2.1.2. Consequently, branding Respect Orders as ‘new powers to clamp down on anti-social behaviour’ (GOV.UK, 2024) is disingenuous and will raise public expectations that discernibly different action will be taken. Our research has shown that raising ASB victims’ expectations heightened their dissatisfaction and frustration when they were not met (Heap, 2021). Ultimately, this approach does not put victims first.

Recommendation 1: It is unlikely that Respect Orders will make a difference to ASB in England and Wales compared to the existing Civil Injunction, therefore Clause 1 should be removed.

Recommendation 2: Government should focus on creating measures to tackle ASB that are rooted in restorative principles and tackle the root causes of the problem, rather than the symptoms of the behaviour.

2.2. Should the government not accept recommendations 1 and 2, we wish the following evidence to be taken into consideration and recommendations 3-8 followed to ensure the new legislation is procedurally fair.

2.3. Duration (Clause A1(4)(b))

2.3.1. Retaining the potential for Respect Orders to remain in force 'until further notice' maintains a problematic clause that has been present since ASBOs were introduced in the Crime and Disorder Act 1998. It is disproportionate for an Order to be indefinite when the behaviour in question is not a criminal offence. Imprisonment for Public Protection sentences were abolished in 2012 due to their indefinite arbitrary nature and potential for psychological harm. The Crime and Policing Bill should follow suit and amend this clause.

Recommendation 3: Clause A1(4)(b) should state that Respect Orders can be imposed for a duration proportionate to the behaviour in question and for no longer than two years.

2.4. Requirements included in Respect Orders (Clause D1)

2.4.1. Whilst we support the notion of positive requirements in principle, to date there is no evidence about their effectiveness in solving the underlying ASB problem when included as part of a Civil Injunction. Therefore, provision should be made to assess the effectiveness of positive requirements. Furthermore, the designated 'supervisor' charged with ensuring an individual complies with a Respect Order must be appropriately trained and resourced to monitor the recipient, especially if the individual is vulnerable.

Recommendation 4: Clause 7 should be amended to include data collection that enables the monitoring of positive requirements for evaluation.

Recommendation 5: Clause M1 should set a competency standard which all Respect Order supervisors must meet.

2.5. Requirement to carry out a risk assessment (Clause J1)

2.5.1. Clause J1(2)(b) states that a risk assessment in relation to an application for a Respect Order is an assessment of 'any vulnerabilities of the respondent'. Neurodiversity should be explicitly recognised in this clause because the information processing, communication, social reciprocity, and sensory differences associated with neurodiversity can be perceived as ASB, as found previously with ASBOs (Bradley, 2009). Failure to identify or understand

neurodiverse behaviours can result in significant consequences, including inappropriate forensic assessments, flawed legal decisions, or misguided clinical investigations (Chown, 2010). This may also contribute to unjust outcomes, such as inappropriate guilty pleas.

2.5.2. Our research (Whitworth, forthcoming) suggests there is a need for proactive efforts in identifying autistic people (which could be extended to other neurodivergent conditions), improved staff training, and greater empathy shown towards neurodiverse people. This would respond to the findings of the Criminal Justice Joint Inspection (2021), which found ‘patchy and inconsistent’ support for neurodivergent individuals, resulting in ‘serious gaps, failings, and missed opportunities’ across the criminal justice system.

2.5.3. This evidence supports extending the statutory requirement to conduct risk assessments to other ASB powers such as Community Protection Notices (CPNs) and Public Spaces Protection Orders (PSPOs) (Heap et al., 2022a).

Recommendation 6: Insert ‘any neurodiversity of the respondent’ into Clause J1(2) as a stand-alone category.

Recommendation 7: Extend the scope of the requirement to carry out risk assessment in Clause J1 to include CPNs and PSPOs.

2.6. Guidance (Clause M1)

2.6.1. Producing guidance about Respect Orders presents an opportunity to significantly revise the current Statutory Guidance for Frontline Professionals (Home Office, 2023a). This should include evidence-based reforms based on recommendations from our research, for example relating to CPNs (Heap et al., 2022b) and PSPOs (Archer, 2023; Heap et al., 2022a). It also offers the chance to reintroduce the recommendation to safeguard people experiencing street homelessness that was removed in 2023.

2.6.2. Accountability measures must be brought in to ensure the relevant authorities adhere to the guidance, as our research has found compliance can be poor (Heap et al., 2022b).

Recommendation 8: Clause M1 should be removed and inserted as a new Clause in Chapter 2, with a commitment to revise the entire Statutory Guidance for Frontline Professionals to ensure it is evidence-based, safeguards the most vulnerable individuals, and is adhered to by the relevant authorities.

3. Other provision about anti-social behaviour (Part 1, Chapter 2)

3.1. Maximum period for certain directions, notices and orders (Clause 3)

3.1.1. Extending the length of directions, notices and orders, from 48 to 72 hours, will do little more than extend the period during which vulnerable citizens can be displaced from public spaces. Archer's (2023) research found that practitioners perceived dispersals as short-term responses to ASB, and as ineffective ways for addressing underlying issues causing ASB (e.g. alcohol or drug consumption, rough sleeping). Home Office (2023b) research reported similar findings, noting that short-term dispersals should be accompanied by long-term solutions towards understanding and addressing ASB.

Recommendation 9: Clause 3 should be removed unless evidence is provided to demonstrate that increasing the length of time from 48 to 72 hours will have a significant impact on decreasing ASB.

3.2. Fixed-penalty notices (Clause 4)

3.2.1. Increasing the value of a fixed-penalty notice (FPN) from £100 to £500 is an overly punitive response to ASB and is unlikely to deter such conduct. Heap et al.'s (2022c) research on people experiencing street homelessness found that neither FPNs nor fines following a court summons were paid, and the financial penalties did not act as a deterrent or prevent ASB. Moreover, Archer's (2023) research found that FPNs were used coercively against people experiencing street homelessness, and that practitioners used non-payment of FPNs for PSPO breach as evidence to support the issuing of a Criminal Behaviour Order (CBO).

3.2.2. The greater cost of an FPN increases the potential for such escalation on non-payment, meaning that these penalties will become shortcut tools of criminalisation for punishing behaviour that is oftentimes sub-criminal.

Recommendation 10: Clause 4 should be removed unless substantial evidence is produced to demonstrate that an FPN of £500 is sufficient in deterring ASB and will avoid unnecessarily criminalising vulnerable citizens.

3.3. Provision of information about anti-social behaviour to the Secretary of State (Clause 7)

3.3.1. *Prima facie*, we welcome this provision. Our work has consistently contained proposals for robust accountability following the enactment of the Anti-Social Behaviour, Crime and Policing Act 2014 (Archer, 2023; Heap et al., 2022a) and the lack of central government

oversight for ASB powers (Heap & Dickinson, 2018). Clause 7 suggests a level of transparency for ASB powers that has not existed since 2013, when ASBOs were repealed.

3.3.2. With that in mind, we deem it necessary for the central government to provide clarification around this provision to ensure that transparency and accountability are consistent among the relevant authorities.

Recommendation 11: Clause 7 should be amended to establish a requirement for relevant authorities to annually return the volume and type of ASB incidents, use of ASB powers and interventions and what for, and the number of ASB case reviews and outcomes. For equality monitoring, data concerning personal characteristics of victims and perpetrators should also be returned. Additional provisions should ensure these data are publicly available.

3.4. Seizure of motor vehicles used in manner causing alarm, distress or annoyance (Clause 8)

3.4.1. Warnings can offer a level of procedural fairness in decision making, as shown in relation to other ASB powers (*Halborg v Hinckley and Bosworth BC* [2021] 11 WLUK 544). This is particularly important in ASB policy where there is no objective definition of ‘alarm, distress or annoyance’ and where enforcement action can apply this definitional threshold inconsistently (Heap et al., 2023). Warnings offer an opportunity for individuals to understand the ‘anti-social’ context of their behaviour and desist from continuation or challenge evidentiary grounds.

3.4.2. In the context of vehicle seizure, the Explanatory Notes of the Police Reform Act 2002 state a warning is given ‘to enable its anti-social use to be stopped’ before enforcement action is taken. In addition, it also establishes a provision for vehicles to be seized where a warning is not required, ‘where it is impracticable to do so or where a warning has previously been given’. Therefore, removing this requirement in its entirety appears redundant, unnecessarily coercive and out of step with other ASB powers which require a warning, notice or court proceeding before enforcement action.

Recommendation 12: Clause 8 should be removed unless substantial evidence is produced to demonstrate that the current warning system is ineffective in deterring anti-social conduct.

4. Retail crime (Part 3)

4.1. Assault of retail worker: Duty to make Criminal Behaviour Order (Clause 15)

4.1.1. It is disproportionate to amend the Sentencing Act 2020 so that the court ‘must’ make a CBO for the assault of a retail worker, rather than ‘may’. It provides a pathway for enhanced punishment for this crime in ways which raise questions of distributive justice, given that breaching the CBO creates an additional criminal offence.

4.1.2. Current provisions are suitable as they allow the court discretion when determining the proportionality of issuing a CBO. Our concerns are heightened as the effectiveness of this tool in reducing anti-social conduct is yet to be formally evaluated (JUSTICE, 2023).

Recommendation 13: Clause 15 should be removed, and the Sentencing Act 2020 should remain as it currently stands unless evidence is shown that demonstrates a CBO would deter such behaviour from recurring.

5. Public order (Part 9)

5.1. Offence of concealing identity at protests (Clauses 86-88)

5.1.1. Protest is an essential feature of democracies, and its inhibition will harm democracy (Hadjimatheou, 2023). Especially for socio-economically marginalised and politically excluded groups (including the poor, racial/ethnic and gender minorities), activism can be a key mechanism for democratic representation, through which they voice their demands and influence policy (Weldon, 2011).

5.1.2. Clauses 86-88 are a disproportionate interference with the freedom of expression and freedom of assembly and association, under Article 10 and Article 11 of the European Convention on Human Rights (ECHR), potentially having ‘chilling effects’ on these rights.

5.1.3. Research highlights that protestors wear masks for many legitimate, expressive purposes: as political symbols (Riisgaard & Thomassen, 2016), to build and show solidarity (Goodin, 2023), to demand visibility (Ruiz, 2013) and to foster and convey protestors’ collective identity (Spiegel, 2015). Regarding Article 21 of the International Covenant on Civil and Political Rights on the right of peaceful assembly, the UN Human Rights Committee (2020, para. 60) states that ‘the anonymity of participants should be allowed unless their conduct presents reasonable grounds for arrest...’ and that ‘the use of disguises should not in itself be deemed to signify violent intent’. While Articles 10 and 11 of the ECHR are qualified rights,

research suggests that a commitment to pluralism guides the European Court of Human Rights' reasoning on these rights (Zysset, 2016).

5.1.4. The UN Human Rights Committee (2024, para. 52) recently expressed its concern regarding 'serious and undue restrictions on the right of peaceful assembly, criminalizing various forms of peaceful protest' and 'the increased use by police forces of facial recognition technology to monitor peaceful gatherings' in the UK. It is likely that banning face coverings in protests will further expand surveillance of protestors (Murray & Fussey, 2025). Research indicates that surveillance has chilling effects on protest (Aston, 2017; Murray et al, 2024).

Recommendation 14: Clauses 86-88 should be removed.

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