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MORE EFFECTIVE RESPONSES TO ANTI-SOCIAL BEHAVIOUR - RESPONSE TO THE GOVERNMENT'S CONSULTATIONS

The Crime and Disorder Act 1998, defines anti-social behaviour in law as 'acting in a manner that causes or is likely to cause harassment, alarm or distress to one or more persons not of the same household'

The government's public service website; Directgov¹ describes anti-social behaviour as including things such as:

- rowdy, noisy behaviour in otherwise quiet neighbourhoods
- night time noise from houses or gardens, especially between 11.00 pm and 7.00 am
- threatening, drunken or 'yobbish' behaviour
- vandalism, graffiti and fly-posting
- dealing or buying drugs on the street
- litter and fly-tipping rubbish
- aggressive begging
- drinking in the street
- setting off fireworks late at night
- abandoning cars on the street

The Protection from Harassment Act 1997 does not define 'harassment' but stipulates that harassment includes behaviour (including speech) as more than one incident of-conduct which causes distress or alarm, which a reasonable person would regard as harassment.

The Association of Chief Police Officers (ACPO) has an agreed definition of Hate incidents and Hate Crime².

ACPO guidance defines a Hate Incident as:

¹ Direct Gov (no date) 'Anti-social behaviour' Online Available at: http://www.direct.gov.uk/en/crimejusticeandthelaw/crimeprevention/dg_4001652 (Accessed 10 May 2011)

² Hate Crime: Delivering a Quality Service (ACPO/Home Office March 2005).

'Any incident, which may or may not constitute a criminal offence, which is perceived by the victim or any other person, as being motivated by prejudice or hate'.

A Hate Crime is defined as:

'Any incident constitutes a criminal offence, which is perceived by the victim or any other person, as being motivated by prejudice or hate'.

At ³Sanctum Consultants, we deal daily with the real life problems, of real life people, let down by real life departments and agencies run by real life politicians from all parties. The definitions in various Acts of parliament and guidance illustrate that it is generally accepted that anti social behaviour can take myriad forms. Almost any type of behaviour can be considered 'anti social'. The definitions appear to be victim centered, giving potential complainants the impression that if they *feel*, alarmed threatened, distressed, frightened or upset by any behaviour, or if they feel the behaviour by alleged perpetrators to be *unreasonable or motivated by prejudice or hate* that action will follow by the relevant agencies.

It is our experience that alleged victims often feel let down by the response from different agencies. It is also our experience that despite the victim centered definitions, complaints are often dismissed as:

- not bad enough
- not loud enough
- not unreasonable enough
- low level harassment
- borderline
- just a neighbour dispute
- lifestyle differences
- culture clashes

And that complainants can often find themselves labeled as

³ Sanctum Consultants is an independent Environmental Health Consultancy providing a range of Environmental Health consultancy services including housing, food safety, healthy & safety, pollution, noise nuisance, noise impact studies, preparation of expert advice for planning and public enquiries and attendance at Court as expert witness. Sanctum Consultants also provide a variety of services to public sector and corporate clients which include Planning, Licensing, Trading Standards, Building Control, and Housing and ASB services. Sanctum Consultants provides two low cost advice lines Advice Direct and Noisedirect- National Noise Advice Line, where callers can obtain low cost fixed fee advice on noise and a range of public health related issues, including consumer rights.

- over sensitive
- unreasonably persistent
- aggressive
- hostile
- loud
- uncommunicative
- dilatory
- uncooperative

At Sanctum Consultants we have found that the response to complaints of anti-social behaviour can vary hugely and is often dictated by the resources available to each agency, the experience and training of those investigating complaints and the perception of investigators about complainant(s) and alleged perpetrator(s). The perception of politicians and enforcement agencies, who equate anti social behaviour as an inner city problem and not a real issue in suburbs or rural towns and villages, is an added factor.

At Sanctum Consultants, we believe that the proposals do not sufficiently address these issues or properly take account of the equality impact on certain groups or sufficiently address the issue of false or vexatious allegations.

We believe that effective training for all those investigating anti social behaviour along with standardised investigation procedures, incorporating robust evidence collation methods and recording procedures, must be introduced. Too often complaints of anti social behaviour are viewed as single incidents and not as an accumulating picture of patterns of unreasonable behaviour.

In other cases we have found that there is a failure, by agencies to properly assess any actual evidence of anti social behaviour, and simply act on hearsay allegations from 'pillars of the community' or 'local groups' and initiate disproportionate action, against alleged perpetrators.

We believe that information should be routinely shared between agencies, but only such information that has been gained through scrupulous and systematic evidence gathering. Professionals should employ in-depth analysis, throughout the assessment process of complaints, and be guided by experts and academics in the field of nuisance, hate crimes and public health. There should always be clear documented justification for action or inaction by professionals for all complaints of anti social behaviour. We believe that it is essential that victims of anti social behaviour, no matter where they live, should be entitled

to a consistent level of service and protection from anti social behaviour. We are concerned that the Community Trigger is a retrograde step and will result in only those complaints, being actioned that have group support.

Often single households or groups who are not seen as part of the wider community can be the target of anti social behaviour. We have real concerns that the Community Trigger could result in 'mob rule', with isolated households or individuals further marginalised.

We feel that the proposals for alternatives to Noise Abatement Notices 'for noise caused by an individual, believed to be deliberately anti-social' are confusing. Both common law noise nuisance and statutory nuisance are recognised and defined through case law and practice. We are concerned that the phrase 'deliberately anti social noise' could give rise to ambiguity and a variety of interpretations unless it is clearly defined by government as being different from noise nuisance.

Sanctum Consultants would like to see the following positive measures included in any review of anti social behaviour:

- **Require every single landlord, whether private or social, to declare at the beginning of every tenancy, whether any previous occupants have either made or received complaints about ASB at the property address.**
- **Require every local authority to maintain and keep a register available to members of the public recording all incidents of ASB, Criminal Behaviour Orders and Crime Prevention Injunctions (catalogued by road name) issued within its area.**
- **Require every individual investigating or visiting a property to assess ASB, to carry a numbered ASB triple carbon, tear out notebook. All visits should be recorded in the notebook, and fields indicating whether ASB has been witnessed or not witnessed and should be completed at the close of each visit. Copies of the visit and assessment should be left with the complainant and alleged perpetrator, with the original retained in the notebook. Data from the original should be transferred to a central database so that all agencies can accumulate a knowledge base of incidents and take appropriate action.**

- **Stop the postcode lottery for investigating ASB complaints. Where local authorities or other agencies fail to properly record complaints of ASB or carry out investigations in accordance with their statutory duties, then the Local Government Ombudsman and Independent Police Complaints Commission should be granted powers to impose a £25 fixed penalty victim fine payable to complainants, for each complaint, which is not properly recorded or investigated.**
- **The Community Trigger should be amended to allow individuals or community groups to take direct civil action to allow any person aggrieved by ASB in the vicinity of their dwelling, to apply to the local Magistrates Court for the abatement of ASB.**
- **Introduce legislation to allow any individual(s) to appoint and authorise independent Environmental Health Practitioners (registered with the Chartered Institute of Environmental Health) to act on their behalf to identify and assess ASB and issue ASB Awareness Notices, notifying alleged perpetrators of the intention of alleged victims to instigate legal proceedings for the abatement of ASB.**

Sanctum Consultants believe that these practical ideas for real change will make a difference to the real problems in real people's lives and help to deliver social justice in health. We believe that these ideas will help to deliver chances and opportunities for ordinary people to improve their health and wellbeing, and enable them to take positive action to address health inequalities. And help ordinary people feel that they live in a society, which not only cares about them, but empowers them to directly improve their health and environment.

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