

RECLAIMING THE COMMUNITY

A Cork Sinn Fein Discussion Document on Anti-social Behaviour

WHAT IS "ANTI-SOCIAL BEHAVIOUR"?

"Anti-social behaviour" is a phrase we use all the time, but what exactly do we mean when we talk about it? In fact, the term covers many different types of activity, from the simply annoying to outright criminality. "Anti-social behaviour" can mean a group of youths acting in a loud and rowdy manner in a residential area; or it can mean drug-dealing and death-riding. The targets of anti-social behaviour can be individuals, property, or the general ethos and well-being of a community.

Some of these kinds of activity are illegal, others are not. For example, to verbally abused another person in the street is anti-social, but in most cases it is not against the law. Similarly, where a resident of a particular estate does not take care of his/her home, refuses to paint the house and lets it fall into disrepair, most would consider this to be anti-social - but it is not against the law.

Moreover, what one person considers anti-social, another might find acceptable. Most people would not consider a group of young lads playing ball at the side of a house "anti-social behaviour" but the resident of that house might. Some people feel threatened by groups of youths congregating outside shops or petrol stations or in residential areas, others accept this. To some extent, the definition of "anti-social behaviour" depends on where you are standing: an elderly person living alone is likely to have a different notion of what constitutes anti-social behaviour to a young man in his twenties.

The fact is there is no one kind or simple definition of anti-social behaviour. The term covers a range of activities and behaviours which different people find offensive, threatening or disruptive. Perhaps the simplest definition is to say that anti-social behaviour is any activity that is offensive, intimidating or a cause of serious annoyance to those affected by it.

There is no straightforward or simple solution to a problem of such complexity and variety. The response to anti-social behaviour has to be at many different levels.

CRIMINAL V. NON-CRIMINAL ANTI-SOCIAL BEHAVIOUR

The most important distinction to be made is between anti-social behaviour that deserves to be treated as criminal and calls for a "law and order" response; and behaviour which belongs more to the category of "nuisance" or "annoyance" and for which other kinds of response are more appropriate.

At one end of the spectrum, drug-dealing and joyriding are crimes, both legally and morally. While the social problems which contribute to these activities needs

to be tackled, those involved also need to feel the full weight of the law. More effective and community-friendly policing is the key short-term policy response to tackling these crimes.

Threatening and abusive behaviour, vandalism and damage to property are also forms of anti-social behaviour where a law-and-order response - for example a more visible Garda presence - has to form part of the solution.

On the other hand, groups of youths acting rowdily outside shops or takeaways may be a nuisance and even cause some people to feel threatened; however, such behaviour is not "criminal" and those responsible should not be criminalised. A variety of other responses need to be developed to minimise such behaviour. Treating young people as criminals simply because they gather in groups, shout and play music will only alienate them and encourage them to engage in more serious forms of anti-social behaviour. Sinn Fein is therefore against proposals such as that of Fine Gael to impose curfew orders barring all under-18s from a particular area or to give Gardai increased powers to break up groups of young people loitering in a public place.

Between behaviour that is plainly criminal and that which is merely a nuisance, there remain many types of behaviour than can fall into either category, depending on the circumstances and an individual's viewpoint. A legal response (either in the form of by-laws or national legislation) can contribute to dealing with problems of underage and public drinking, neglected properties, graffiti or the persistent playing of loud music. However, a legal response on its own is not enough; and care must be taken to ensure it is proportionate and not heavy-handed. The knee-jerk response of many establishment politicians, that anti-social behaviour can be dealt with by the criminal law alone, is mistaken and seriously irresponsible. It serves only to divert attention away from the underlying social problems that are the legacy of the failed policies of successive governments. Criminalising a generation of young people, while leaving these problems to fester, will only lead to increased and more serious problems with anti-social behaviour down the line.

Anti-social behaviour needs to be tackled from two sides. On the one hand, better policing, more responsive to the needs of communities and a proper application of the existing law are required. On the other, the social problems which contribute to many forms of anti-social behaviour need to be recognised and addressed.

COMMUNITY POLICING AND RESTORATIVE JUSTICE

Community Policing: To tackle the problem of anti-social behaviour effectively, we need a new kind of policing - policing that works in partnership with the community. In too many of the communities where anti-social behaviour is most serious, the police are regarded as an "outside" force. Attitudes of hostility to, and alienation from, the gardai are prevalent, especially among the young. All too often, these attitudes reflect the reality that few or none of those who police the area are from it, and many do not understand its problems.

To solve these problems, we need a police force that is:

- Part of the community
- Responsive to the community

We need more Gardai recruited from large urban areas where the problems of anti-social behaviour are most acute. Their training also needs to change to make it more relevant to the reality of policy a modern urban centre. Garda training in Templemore should be replaced, at least in part, by training in a third level college where trainee Gardai mix with other students and live in an urban environment.

Gardai also need to be visible on the ground. Communities should be policed by Gardai walking the beat, not just cruising through in squad cars. More use should be made of community police who get to know a particular area and the people living there.

A partnership approach to policing must be developed. Sinn Fein is calling for community policing structures with real powers - not a toothless talking shop, but a body that gives communities a real say in how they are policed. To this end, we recommend the introduction in the South of the district policing partnerships outlined in the Patten Report on Policing in the North. At a more local level, community policing fora comprising public representatives, Gardai, representatives of residents and community groups, local authority officials and members of the public, should be established to offer residents an input into policing their own area.

Sinn Fein is calling for:

- A Garda recruitment strategy to ensure the force is representative of the communities it serves.
- Garda training to take place in an urban setting.
- More Gardai on the beat.
- District policing partnerships as outlined in the Patten Report to be extended to the South.
- Community policing fora to give residents a voice in how their communities are policed.

Implement the Existing Law: At present, both government and opposition are falling over each other with promises of new laws to tackle anti-social behaviour. However, there are already sufficient laws on the statute book to allow the Gardai to deal with the problem. The problem is not that the law is too weak, but that it is not being enforced.

To name just one instrument, under the Public Order Act 1994, it is illegal to:

- Use threatening, abusive or insulting language likely to provoke a breach of the peace.
- Engage in "offensive conduct" between 12 midnight and 7 a.m. "Offensive conduct" is defined as "unreasonable behaviour likely to cause

serious offence or serious annoyance to any person who is, or might reasonably be expected to be, aware of such behaviour" - a clause which would cover most varieties of anti-social behaviour.

- Be drunk in public to the extent of endangering oneself or others.
- Obstruct the free passage of a person or vehicle without valid cause in a public place (this would cover, for example, a situation where groups of teenagers are obstructing a public footpath or access to someone's property).
- Engage in a trespass likely to cause fear (which would cover individuals drinking on, or otherwise invading, someone's private property).

Under other laws, persistent harassment, violence in its various degrees, intimidation and stalking are all illegal.

The existing law should be adequate to deal with anti-social behaviour. Before passing further, draconian laws that are likely to be no more effectively enforced, the government should examine the reasons why the existing laws are not being put into practice, and resolve them.

Sinn Fein is calling for:

- The government to investigate why the existing laws on anti-social behaviour are not being implemented in practice.
- Effective implantation of the existing law.

Restorative Justice: Experience tells us that treating young people like criminals and dealing with them through the courts and prison system, where they encounter more hardened offenders, increases the likelihood of them getting involved in further criminality. If young offenders are automatically made to feel like outcasts from society, they will act accordingly. Instead, they need to be confronted with the consequences of their actions for the community: and this should form the basis for their punishment.

Restorative justice means forcing young offenders to give something back to the community, helping to make good the damage they have done and thereby making them reflect on it. This can involve helping to clean up the results of anti-social behaviour: removing graffiti, cleaning up areas, restoring vandalised property. It should also involve the offender making an expression of remorse and compensating their victim where this is possible. Besides the fact that such an approach is more likely to prevent re-offending and keep young people out of prison, there is also a financial incentive. Implementing community service orders costs about one-third of the cost of keeping an offender in jail.

Sinn Fein is calling for:

- A system of restorative justice to be put in place as the preferred option for dealing with young offenders.
- This system to be properly resourced.

Greater Use of By-Laws: Under the Local Government Act 2001, a council has the power to introduce by-laws "where in its opinion it is desirable in the interests of the common good of the local community that any activity or other matter should be regulated or controlled by by-law or that any nuisance should be regulated or controlled by by-law". Council by-laws have considerable potential as a tool to tackle anti-social behaviour, while at the same time they do not involve subjecting young people to the stigma of criminalisation. They are also extremely flexible and can take account of local conditions. For example, by-laws could be used to prevent ball-playing in an area after a certain time (say 10 p.m.), to prevent groups of youths loitering in certain areas where such groups are known to cause trouble, or to oblige owners of property to make sure it is properly secured. By-laws would also provide a mechanism whereby owners of residential property (whether landlords or owner-occupiers) could be made responsible for run-down properties when these affect the rest of the neighbourhood.

The City Council also has powers under the Derelict Sites Act to seize sites which have lain derelict for a certain period of time. Presently, the council utilises these powers fairly regularly over sites in the city centre, but not in the suburbs. A wider use of these powers by the council would reduce the number of derelict sites which are public eyesores and a magnet for anti-social behaviour; moreover, their subsequent development or sale would contribute to the council's budget.

Sinn Fein is calling for:

- The council to draw up a programme of by-laws targeting anti-social behaviour, after consultation with local communities.
- The council to make wider use of its powers under the Derelict Sites Act, particularly in the city suburbs.

Control "Company Cars": Efforts need to be made to tackle the problem of so-called "company cars" used by joyriders. It is already an offence to supply a vehicle to an underage driver. However, to make this offence effective, a system is needed for registering cars being withdrawn from use.

Sinn Fein is calling for:

- An effective system of registering cars being withdrawn from use.

Target Problem Tenants: Individuals and families face annoyance, harassment and intimidation daily from "neighbours from hell". This is sometimes spoken of as if it were just a problem of local authority estates. However, tenants in private rented accommodation can also create problems for their neighbours. The Residential Tenancies Act, section 16(h) declares it is the obligation of a tenant "not to behave within the dwelling, or in the vicinity of it, in a way that is anti-social or allow other occupiers of, or visitors to, the dwelling to behave within it, or in the vicinity of it, in such a way". Anti-social behaviour under the Act includes behaviour that interferes with other people's peaceful occupation as well as more serious behaviour that causes fear, danger, injury, damage or loss. If the

landlord does not enforce the tenant's obligations, any other person who is adversely affected as a result can bring a complaint to the Private Residential Tenancies Board about the failure. Sinn Fein believes there is an obligation on the local authority to ensure residents are aware of their entitlements under the Residential Tenancies Act and the obligations of the Act are enforced upon tenants in council property.

Sinn Fein is calling for:

- An information campaign to make residents aware of their rights under the Residential Tenancies Act.
- Effective enforcement of the Act on the part of the local authority.

Codify and Publicise the Law: The provisions of the existing law are more than sufficient to deal with anti-social behaviour - if they are enforced. However, there is considerable merit in the idea of codifying the existing law regarding anti-social behaviour - scattered as it is among many different statutes - under a single statute dealing specifically with the problem. It is also important that members of the public should be informed about the law and made aware of the protection it affords them. People should know that public drunkenness, abusive language, offensive conduct, trespass or harassment are criminal offences that they are not obliged to tolerate. The law on anti-social behaviour should be simplified and unified, and the public made aware of the rights and protections it affords them.

ANTI-SOCIAL BEHAVIOUR ORDERS

Recently, there has been much talk of Anti-Social Behaviour Orders (ASBOs) in politics and the media. Politicians of many parties are advocating ASBOs as the magic solution to anti-social behaviour. ASBOs are court orders aimed at preventing named individuals from engaging in stated forms of anti-social behaviour. They involve, for example, ordering an individual to keep away from a certain area or avoid associating with named individuals for a period of time. Because they are civil orders, the burden of proof is the "balance of probabilities" rather than the criminal one of "beyond reasonable doubt". Breach of the order, however, is a criminal offence, punishable with a fine or imprisonment.

In other words, ASBOs make an individual liable to conviction for a criminal offence, without that conviction being subject to the required standard of criminal proof. This in itself is worrying. So too is the fact that they apply criminal sanctions to forms of behaviour which, however offensive or annoying, would not normally be regarded as criminal. ASBOs in effect criminalise young people.

As this paper has already argued, there are already laws on the statute book to tackle almost any form of anti-social behaviour. But currently, these laws are not being enforced. Seriously tackling anti-social behaviour will involve introducing a range of measures at both local and national level, and across government departments ranging from health to education to environment to planning. The establishment parties plainly do not have the will to rise to this challenge. The current fuss about ASBOs suggests the establishment parties are more interested in capitalising on people's fears and being seen to be doing something about the

problem, than tackling its root causes.

BUILDING COMMUNITIES

The previous sections of this paper have focused on the legal and criminal justice response to anti-social behaviour. However, such a response does not tackle the root causes of this kind of activity. Anti-social behaviour involves, in essence, a rejection of the ties of community, neighbourliness and fellow-feeling that bind society together. Those who engage in it are giving the two fingers to those affected by their behaviour, and rejecting their fellow-citizens' claim on them for mutual respect and consideration. In other words, they are rejecting the conditions of social living; and it is in this sense that their behaviour is "anti-social". It is our belief that the root cause of anti-social behaviour is the absence of a sense of belonging to a community based on ties of mutual responsibility and obligation; an alienation from society and a rejection of its codes of conduct. The causes of this alienation lie in the nature of society as a whole and cannot be laid at the door of the young people who express it in vandalism, rowdiness, intimidation and thuggishness. It can only be overcome by building a sense of community and social obligation across society and by giving people a feeling of ownership and pride in their areas.

We must build neighbourhoods that people can be proud of, with the full range of services their residents require. But we must also build communities in an ethical and emotional sense, so that young people feel a sense of belonging to their neighbourhood and society and respect for others. This means facing up to our shortcomings as a society and examining the way we live and the values we are teaching our children. We live in a culture of rampant economic individualism, where the trappings of success are the measure of your personal value; where greed is God, and the devil takes the hindmost. Consumerism has taken priority over citizenship. The worst forms of anti-social behaviour are perpetrated by corporations who let nothing - the health of the environment, the rights of workers, the well-being of consumers, the law of the land or the principles of honesty and fair dealing - stand in the way of profit. Until we restore a social ethic and a sense of citizenship and responsibility towards others in society as a whole, we cannot seriously expect to challenge anti-social behaviour among the young.

Better Planning: Bad planning has played a major role in contributing to anti-social behaviour. The construction of huge areas of housing with no thought for the social and recreational needs of their future residents has led to a legacy of problems for the future. Conversely, improved planning can play a critical part in reducing anti-social behaviour. The demographic profile of residents, both present and future, needs to be taken into account by planners and appropriate facilities provided. For example, if the majority of residents in a new estate are expected to be young couples with children, a creche, playground and primary school are obvious examples of facilities that should be provided for the area. However, planning would also need to take into account the future growth of these children into adolescents, and make provision for sports facilities, a youth centre and secondary school. Provision of a community centre in an area can give it a focus and help to tie it together and build a sense of community.

The physical design of housing estates can also affect the level and type of anti-social behaviour likely to arise. Poor lighting, alleyways and unsupervised green areas (green spaces that are not overlooked by houses) provide an ideal environment for anti-social behaviour. Long open roads will encourage joyriding; winding roads through an estate with rumble-strips at intervals will serve to discourage joyriders.

Sinn Fein is calling for:

- Appropriate facilities to be included as part of all new developments. In the case of large private developments, provision of basic amenities (playing areas, a community centre, space for retail outlets) by the developer should be a condition of them receiving planning permission.
- The potential for anti-social behaviour to be taken into account in the physical design of all new housing estates.
- The council to set up Area Action Plans to look at the planning needs of existing communities. Area Action Plans would examine both the current and future needs of an area, study the population trends, unemployment rates, social profile and the current level of amenities. They would also involve real consultation with residents about their needs and wishes for their area. On this basis, they would recommend immediate steps to improve the infrastructure of areas, as well as putting in place plans to meet projected future needs.

A Proper Youth Policy: The lack of services and amenities for young people in many large residential areas is a major contributory factor in anti-social behaviour. Without any alternative outlet, young people end up hanging about outside shops, in fields and estates. This in turn can form the breeding ground for anti-social behaviour. Providing young people with an alternative is therefore a key requirement of any strategy designed to tackle the problem.

Sinn Fein is calling for:

- The council to appoint a dedicated youth officer, with responsibility for developing and co-ordinating youth policy across the city.
- The council to conduct a survey of the needs of young people and how these compare with existing facilities in Cork.
- Increased funding for programmes to educate young people about drug and alcohol abuse.
- The council to draw up a co-ordinated youth strategy for the city after widespread consultation with communities.
- The council to publish, free of charge, an annual directory of youth facilities and services for parents and young people.
- The government to support the development of "teen friendly" cafes and restaurants that would give young people an opportunity to meet their friends in a relaxed and safe environment.

Support for Community Groups: One of the best ways of preventing anti-social behaviour is to foster a sense of community, of pride in and belonging to one's

area. It follows that those working in the community and voluntary sectors are at the coalface of tackling ASB. Not only are many community organisations providing vital services to young people (sporting facilities, youth clubs, support in dealing with drugs, alcohol and other problems); they also play a crucial role in building a sense of community in an area. It is therefore vital that they be given all the support they need.

Sinn Fein is calling for:

- Community and voluntary organisations to be exempt from water and service charges.
- The council to take steps to ensure that all large residential areas have access to a community centre.
- Improved access to funding for sporting organisations.
- Measures to tackle the extortionate cost of public liability insurance. In the long-term, this will require national legislation and a restructuring of the entire insurance industry. In the short-term, Sinn Fein is calling on the council to establish a fund to aid events/groups that find it difficult to meet insurance costs. Local businesses would be invited to pay into this fund and their contribution would be publicly acknowledged by the council.
- Greater support and recognition for those who give voluntarily of their time and efforts to provide sports training for young people, run community and voluntary organisations, etc.

Full Implementation of the Childrens' Act: The Childrens' Act, in particular parts 2, 3, 5 and 10, aims to provide alternatives which ensure that children and adolescents who break the law are not criminalised by going through the ordinary court system. These include directing them (by means of a legal order) to early school leavers' programmes, vocational training, literacy classes, or drugs and alcohol rehabilitation programmes. It also introduces the idea of family conferences which would bring the relevant services together with the child's parents or guardian, family members and relatives to discuss how all involved can prevent similar behaviour in the future.

Critical sections of this Act, however, have not been implemented. Even where the measures have been signed into law, all too often the necessary resources have not been made available to render them effective. The reality is that when someone under the age of 18 comes before a court, the judge has little option but to release them or send them to prison, as no alternatives have been provided. The result is that such young people either receive no punishment from the courts and remain out of control, or are incarcerated with older offenders hardened by crime. In either case, the present situation does nothing to reduce the instance of anti-social behaviour and juvenile delinquency.

Sinn Fein is calling for:

- Full implementation of the Childrens' Act.
- The provision of a range of services for children at risk of being drawn

into anti-social behaviour and criminality, including early school leavers' programmes, literacy classes, and drug and alcohol abuse programmes.

- Support for Breakfast Clubs and other measures to reduce absenteeism from school.
- The establishment of a dedicated anti-social behaviour unit within the probation service. This would include a rapid response unit to go into areas where problems of anti-social behaviour have begun to emerge and work with young people themselves to develop alternatives.
- The development of special residential programmes to take young people involved in anti-social behaviour away from the affected area for a period of time.

Reduce the Availability of Alcohol: Much anti-social behaviour is fuelled by alcohol. In particular, there is a clear link between anti-social behaviour and underage drinking. Recent years have seen a dramatic growth in the number of off-licences in the city, particularly in residential areas. This is an important factor in making it easier for teenagers to get their hands on alcohol. Curtailing the opening of new off-licences, and holding existing premises accountable for those to whom they sell drink, must form part of any comprehensive strategy to combat anti-social behaviour.

Sinn Fein is calling for:

- A change in legislation, so that retail outlets are required to obtain planning permission to open an off-licence on their premises rather than simply requiring a licence, as at present.
- The city council to adopt a policy of objecting to any application for planning permission to open an off-licence in a residential area.
- The council to introduce by-laws prohibiting off-licences in residential areas to sell alcohol outside certain hours.
- The council to introduce by-laws requiring off-licences to stamp the name of the premises on each can or bottle of drink they sell.
- A "name and shame" policy towards pubs and off-licences that consistently sell alcohol to under-aged or intoxicated persons.
- A ban on the sale of alcopops in off-licences.

Support for Parents: Good parenting offers the strongest defence against anti-social behaviour. Inadequate parenting is a key cause of the problem. In today's society, parents are subject to a wider range of pressures than ever before as they attempt to raise their children. Family breakdown is on the increase. There are more single-parent families. In more households than ever before, both parents are forced to take up paid employment in order to make ends meet. There is less support from extended families in the upbringing of children. The attempts of parents to teach children their own values are challenged by peer pressure and the alternative messages of an all-pervasive popular culture mediated by TV, the internet, computer games, teen magazines and music. As smaller families become the norm, and parenthood is increasingly delayed until later in life, the transfer of parenting skills between generations is disrupted.

Parents are charged with what is arguably the most important task in our society - shaping the future citizens of our country. But in government policy and political debate, parenting gets little thought and even less support. We need government policies that are family-friendly and support parents in their task. Strong families will be the foundation of a strong society. Parents are in the front line of the battle against anti-social behaviour.

Sinn Fein is calling for:

- All government policies to be "family proofed" to take account of their effect in strengthening or undermining the family unit.
- Financial support to allow parents who wish to stay at home full-time to do so.
- Parenting courses to be more widely available and free of charge. These could be offered either through the school curriculum or as "adult education" courses. Special support courses should also be available for parents who feel they need them.
- A comprehensive system of free, state-supported childcare to be put into place.
- A network of parent and child groups, creches and homework clubs to be developed with government support.
- A ban on advertising directed at children under 12.
- Greater regulation of the content and tone of media directed at children and teens.