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**‘Criminalising Sociability through Anti-Social Behaviour Legislation:  
Dispersal powers, young people and the police’**

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**Abstract**

This article explores the impact of dispersal powers introduced as part of the British government’s drive to tackle anti-social behaviour. It focuses especially on the experiences and views of young people affected by dispersal orders. It highlights the importance of experiences of respect and procedural justice for the manner in which they respond to directions to disperse. It considers the ways in which dispersal powers can increase police-youth antagonism; bring young people to police attention on the basis of the company they keep; render young people more vulnerable; and reinforce a perception of young people as *a risk* to others rather than as *at risk* themselves. It reflects on broader conceptions of youth and public space apparent within the anti-social behaviour agenda.

**Keywords**

Anti-social behaviour - dispersal orders – police-youth relations – respect – exclusion from public places

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In the UK in recent years, anti-social behaviour has become a major political focal point and policy concern. With its genesis in the management of public housing, we have witnessed the proliferation of a range of programmes and interventions formulated under the rubric of ‘tackling anti-social behaviour’ that have infused diverse areas of social life. Policy domains as extensive as education, parenting, youth services, city centre management, environmental planning, social housing and traditional policing increasingly can be said to be governed through a preoccupation with ‘anti-social behaviour’.

As commentators have noted the capacious definition of ‘anti-social behaviour’ extends to a wide range of activities, misdemeanours, incivilities and (sometimes quite serious) crimes (Ashworth 2004; Millie *et al.* 2005). In legislation it is defined as behaviour that ‘causes or is likely to cause harassment, alarm or distress’ to others. This broad characterisation is both subjective and context-specific as it rests on the perceptions of others. It is officially recognised that people’s understanding of what constitutes anti-social behaviour is ‘determined by a series of factors including context, location, community tolerance and quality of life expectations... what may be considered anti-social behaviour to one person can be seen as acceptable behaviour to another’ (Home Office 2004: 3). Despite its generic definition, however, in essence the anti-social behaviour programme and the subsequent ‘Respect’ agenda are concerned with the question of governing ‘troublesome youth’ (Squires and Stephen 2005). As a distinct policy field that intentionally transcends traditional distinctions between crime and incivilities, blurs civil and criminal processes, and connects interdisciplinary approaches, anti-social behaviour interventions dramatically refigure pathways into, through, and potentially away from, youth justice. Understanding the impact of the new technologies of control and the values that inform them, therefore, is central to an appreciation of the complex and contradictory dynamics that infuse contemporary youth justice and the unfolding shape of youth governance (Muncie 2006).

Echoing Wilson and Kelling’s (1982) ‘broken windows’ thesis the meaning of acts, behaviours or omissions derives less from what they are than from what their consequences are or might be, largely due to the ways in which they are interpreted by others. The shift in focus heralded, no longer entails a concern to know or account for

past or present incidences but rather to disrupt, re-order and steer possible futures. The preoccupation with governing anti-social behaviour has fore-grounded a concern with (adult) perceptions of insecurity as an important object of policy in its own right and a focus on early and pre-emptive intervention, to forestall the potential escalation of bad behaviour at both an individual and community level. Public reassurance has become a key aim of local services, demanding that they demonstrate visible efforts to address public anxieties (Crawford 2007). The *Respect Handbook* is clear in its guidance to practitioners: 'To win public confidence and reduce perceptions of anti-social behaviour people need to see action being taken... Communicating action taken is as important as taking action' (Home Office 2007a: 16-17). As such, much of the impetus behind anti-social behaviour-related initiatives derives from the symbolic messages and communicative properties they express, rather than from their instrumental capacity to regulate behaviour.

Stoked by sensationalist media representations of 'youth gangs' and 'feral children' terrorising Britain's streets and some high profile group-related murders, *Time Magazine* caught the mood with its cover story in April 2008: 'Unhappy, Unloved, and Out of Control - An epidemic of violence, crime and drunkenness has made Britain scared of its young' (Mayer 2008). In this context, therefore, it is perhaps not so surprising that in the politics of behaviour the age-old phenomenon of young people congregating in public places has been spotlighted as a key battleground. This has been encouraged by evidence from the British Crime Survey (BCS), that the percentage of people who identify youths hanging about in the street in their locality as 'a big problem' has grown by nearly two-thirds from 20% in 1992 to 33% in 2006/7 (Nicholas *et al* 2007). Poignantly, the BCS collects data only from those aged 16 and over. Consequently, it significantly ignores young people's experiences and views of crime and anti-social behaviour. Despite this, it has become the major barometer for understanding public perceptions of crime and insecurity, directly informing both policy formation and organisational performance measurement.<sup>1</sup>

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<sup>1</sup> Since their introduction in April 2007, Local Area Agreements that now structure central-local government relations contain a number of mandatory anti-social behaviour indicators of public perceptions against which local performance is to be measured. These include seven of the questions drawn from the BCS, one of which relates to the extent to which respondents perceive young people hanging around on streets to be a problem. Saliently, these surveys collect data from those aged 18 and over.

Being seen to be doing something tangible about public anxieties has become too easily conflated with policing gatherings of groups of young people.<sup>2</sup> The unsuccessful experience of child curfew orders, introduced by the Crime and Disorder Act 1998 (ss. 14-15 and extended by the Criminal Justice and Police Act 2001), but never used in England and Wales, prompted the introduction of new dispersal powers, first outlined in the *Respect and Responsibility* White Paper that informed the 2003 Anti-Social Behaviour Act (Home Office 2003: 53).

Unsurprisingly, much of the critical commentary and public debate about the anti-social behaviour agenda has centred on the ASBO, just under half of which are imposed on juveniles in England and Wales.<sup>3</sup> One clear finding from the research data thus far has been to expose the variability between localities and regions (and within them between differing organisations) in the meaning and measurement of anti-social behaviour as well as the use of diverse interventions (Burney 2005). Moreover, differences in application largely reflect local preferences and the familiarity of those in authority with different measures, rather than a direct correspondence with the particular types of behavioural problems in given localities or an objective assessment of what works with different types of perpetrators (NAO 2006; Solanki *et al.* 2006). The absence of research across the range of new powers introduced by the government as part of its strategy to tackle anti-social behaviour was roundly condemned by the House of Commons Committee of Public Accounts (2007: 12).

This article draws on the first major empirical study of the use and impact of dispersal powers in the UK to explore their practical implications for youth-police relations and the regulation of public spaces, as well as the messages they convey about the status of young people in society and the way they are regarded by adults. It presents evidence of young people's experiences and interpretations of dispersal powers and their implementation drawn from a number of case study sites.

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<sup>2</sup> This preoccupation is by no means new, young people in public spaces have long been the objects of police attention and public fears (Pearson 1983).

<sup>3</sup> Some 3,997 of the total of 9,853 ASBOs were recorded as given to juveniles up to the end of 2005; in 309 cases the age was unknown: <http://www.crimereduction.homeoffice.gov.uk/asbos/asbos2.htm>

## **Dispersal Powers**

Part 4 of the Anti-Social Behaviour Act 2003 (ss30-36) provides police in England and Wales with powers to disperse groups of two or more people from designated areas where there is believed to be significant and persistent anti-social behaviour and a problem with groups causing intimidation. Analogous (although slightly less extensive) powers are available in Scotland under the AntiSocial Behaviour etc. (Scotland) Act 2004.<sup>4</sup> The powers are exceptional in that they are both time-limited and geographically-bounded to specific areas that have been authorised for their use.

Within a designated zone a police constable or community support officer (CSO) may disperse groups of two or more where their presence or behaviour has resulted, or is likely to result, in a member of the public being harassed, intimidated, alarmed or distressed. The officer may give one or more of the following directions:

- i. require people in the group to disperse either immediately or at a stated time and in a stated manner;
- ii. require any people whose place of residence is not within the relevant locality to leave the area; and
- iii. prohibit any people who do not reside in the designated area from returning to the relevant locality for a period up to 24 hours.

No offence is committed if an officer chooses to use the power to disperse. If individuals refuse to follow the officer's directions, however, they will be committing an offence, punishable by up to 3 months imprisonment and/or a fine of up to £5,000.

The Act provides additional powers for dealing with those aged under 16 (s.30(6)). Where a police constable believes such a person to be in the authorised area between the hours of 9pm and 6am and without a parent or responsible adult, he or she may remove the child to their home address. Although commonly referred to as 'a curfew power', this element of the legislation differs significantly from earlier 'child curfew orders' (Walsh 2002). The power was the subject of an early legal challenge in the case of *R (On the Application of W) v Commissioner of Police of the Metropolis and Richmond Borough Council*.<sup>5</sup> As Stone (2005) reports, initially the High Court ruled

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<sup>4</sup> For an analysis of the differences between the legislation in Scotland and England and Wales, as well as an assessment of the case law development, see Crawford (2008).

<sup>5</sup> [2005] EWHC (Admin) 1586.

that the power to ‘remove’ did not allow for the use of reasonable force, on the basis that Parliament could not have intended the power to be coercive, but rather permissive. This prompted an initial moratorium on the use of the power. However, the Court of Appeal over-turned this decision, holding that the word ‘remove’ in the legislation does give rise to a coercive power and allows the police to ‘take away using reasonable force if necessary’.<sup>6</sup> The court held that the exercise of reasonable force in removing a young person to their home is conditional upon them either being at risk of, or vulnerable to, becoming the victim of anti-social behaviour and crime or actually causing (or at risk of causing) anti-social behaviour. The ruling does not confer an arbitrary power to remove children who are neither involved in, nor at risk of exposure to, actual or imminently anticipated anti-social behaviour. Nevertheless, it now seems premature to conclude that the courts in *R(W)* ‘savaged’ the government’s ‘anti-yob/anti-child policy’ (Stone 2005: 196). Rather, the courts sought to give slightly greater emphasis to the more concealed construction of youth ‘at risk’, which had become buried under the enforcement-focused construction of youth ‘as risk’. Given the existing powers of the police to ‘remove a child’ where they believe the young person to be likely to suffer significant harm, under the Children Act 1989 (s.46), practitioners often questioned the purpose of this element of the legislation. In Scotland, by comparison, no equivalent escort power exists, in large part because it was deemed to be unnecessarily coercive and in conflict with wider child-welfare policies.

In the aftermath of the Court of Appeal ruling in *R(W)*, the Home Office (2006) published new guidance and the then Minister, Tony McNulty, challenged police and local authorities ‘to take a more robust and unremitting approach to tackling anti-social behaviour by making maximum use of the dispersal powers available to them’.<sup>7</sup> Nevertheless, the research suggests that the powers remain little used in practice, in part due to the anomalies outlined above.

There are evident parallels between the British dispersal powers and anti-loitering laws in the US, albeit the latter tend to focus on ‘criminal street gang members’. In a

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<sup>6</sup> *R (W) v Commissioner of Police of the Metropolis and others* [2006] EWCA Civ 458.

<sup>7</sup> *Disperse Anti-Social Behaviour from our Streets*, Press Release 30 June 2006, London: Home Office; see <http://press.homeoffice.gov.uk/press-releases/anti-social-behaviour>

landmark judgement in the case of *Chicago v. Morales* the Illinois Supreme Court struck down Chicago's anti-loitering ordinance, asserting that it was unconstitutionally vague and provided law enforcement officials too much discretion to decide what activities constitute loitering.<sup>8</sup> In delivering the main opinion for the majority, Justice John Paul Stevens declared: 'If the loitering is in fact harmless and innocent, the dispersal order itself is an unjustified impairment of liberty', even if it did reduce crime. He went on to add: 'It criminalized status, not conduct... It allows and even encourages arbitrary police enforcement'. In a dissenting judgement, Justice Connor detailed how Chicago might have drafted the ordinance so as to withstand constitutional scrutiny. This was taken up by city officials who drafted a new 'dispersal order' which defined gang loitering in a narrower way to mean 'remaining in any one place in circumstances that would warrant a reasonable person to believe that the purpose or effect of that behavior is to enable a criminal street gang to establish control over identifiable areas, to intimidate others from entering those areas, or to conceal illegal activities' (Palomo 2002: 746). This revised dispersal power is defined noticeably more restrictively than its British equivalent, as well as being targeted at more serious forms of criminal behaviour.

Given the considerable restrictions on civil liberties that dispersal powers allow, their introduction has been controversial (Walsh 2003). Until recently little was known of their operation and impact. Whilst collecting limited data on the numbers of dispersal authorisations made,<sup>9</sup> the Home Office has preferred not to fund any evaluation of dispersal order use and impact. In the absence of Government-funded research, the Joseph Rowntree Foundation (JRF) commissioned a study of the use and impact of dispersal orders, on which this article draws (Crawford and Lister 2007). By contrast, the Scottish legislation required the Scottish Executive to conduct a study into the operation of dispersal powers and lay it before the Scottish Parliament within 3 years. The resultant Scottish research (Cavanagh 2007), published shortly after the JRF study, supports many of the latter's findings and together with an earlier small-scale

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<sup>8</sup> 527 U.S. 41 (1999). The 1992 ordinance had required police to order any group of people standing around 'with no apparent purpose' to move on if an officer believed at least one of them belonged to a street gang. Those who refused to obey could be arrested.

<sup>9</sup> Initially by way of annual survey of Crime and Disorder Reduction Partnerships (see Home Office 2007b), since April 2006 this data is now collected through quarterly police returns.



study of dispersal order implementation in Manchester (Smithson 2005) now provide a broader body of evidence from which to assess dispersal powers.

### **The Research**

Conducted over a 12 month period from April 2006 to March 2007, the research gathered data from three main sources. The first entailed a national overview of practice drawn from interviews conducted with practitioners from 13 police force areas across the UK, as well as national policy-makers. The second concerned two city-based studies in Sheffield and Leeds, and explored the development of strategies over time, the distribution of orders across a city and longer-term impacts. In support of this, interviews were conducted with police, local authority staff and others involved in the implementation of dispersal orders since their introduction. In addition, recorded police data on the use of dispersal powers across London during the 12 months were collected. The third source focused on two case study sites in North Yorkshire and Outer London; referred to by pseudonyms as Northton and Southby, respectively. In each a six-month dispersal order was investigated from instigation to completion. Surveys and focus groups were conducted with adult residents and pupils (aged 13-18) who attended a local school. These were supplemented with interviews with key local practitioners, residents and police.<sup>10</sup> In addition, police enforcement practices were observed.<sup>11</sup> Given the more detailed and nuanced data collected in the two case study sites, this article will focus particularly (but not exclusively) on the experiences of young people in those locations.

There were certain similarities between the two case study sites: both were characterised as reasonably low crime suburban localities with stable residential populations, hosting a small number of local shops and amenities, in which groups of young people had become associated with disorder and perceptions of insecurity, provoking complaints from residents and businesses. One of the sites hosted a number of pubs which were believed to add to the disorder problem by attracting people from

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<sup>10</sup> Surveys of 830 residents living in or adjacent to the two dispersal zones and 573 pupils from two schools located close to the dispersal zone boundaries were supplemented by 12 focus group interviews with a total of 104 young people and interviews with 57 police officers, council staff, youth workers and other key stakeholders, as well as local residents.

<sup>11</sup> Approximately 30 hours of police observations over 12 separate shifts were conducted, concentrating on the early weeks of each dispersal order when activity was at its most intense. For further information on the research methods, see Crawford and Lister (2007: 8).

outside the area and fostering drunkenness and underage drinking. Whilst the two sites cannot be taken as representative of all areas in which dispersal powers have been implemented, they reflect many of the salient issues raised by orders targeted at perceived problems generated by gatherings of young people, especially in residential locations.

### **National Findings**

According to Home Office estimates, between their introduction in January 2004 and April 2006, some 1,065 areas were authorised as dispersal zones across England and Wales (Home Office 2007b). This compares with their much more cautious introduction in Scotland where only six orders had been authorised by April 2006; a figure that subsequently increased to 14 by April 2007. The JRF research revealed considerable variation in the types of location in which dispersal orders were implemented and in the range of anti-social behaviour-related problems that prompted authorisation. However, dispersal orders are most commonly used in relation to perceived problems with groups of young people.

This is borne out by data from London on 85 orders that terminated between 1 April 2006 and 31 March 2007 which show that in nearly three-quarters of instances the reason given for authorisation related to either behaviour caused by groups or non-specific anti-social behaviour (Crawford and Lister 2007: 11-13). Over a third were authorised within residential areas, but the majority (51%) were located either in shopping areas or city/town centre locations. Nearly two-thirds ran for the maximum duration of 6 months. The data on the number of people dispersed in London were available for almost half the dispersal orders and show a highly variable pattern of use. Fewer than 5,000 formal dispersals were recorded across 42 areas. More than half of these were recorded in three dispersal zones. This reinforces the wider picture that the powers were generally used sparingly, but also underscores how some local police had more liberal recourse to the powers.

As with other anti-social behaviour-related interventions (Isal 2006), there is a general absence of rigorous data available on the relative use of formal dispersal powers by ethnicity. The only data available show that across London in 2004 (the year the powers were first introduced), 61 dispersal notices resulted in some 3,312 people

being dispersed and 116 arrested for breach. According to police figures, 20% of those dispersed were recorded as black (as compared with census data across London of 11%), as were 28% of those arrested (Crawford and Lister 2007: 11). These figures need to be treated with considerable caution as they are not based on self-ascribed ethnic status but police officers' judgements and the absolute number of arrests was low (to an extent that belies generalisations). In addition, comparisons with census figures ignore the fact that dispersal zones may be more likely to be authorised in areas with higher proportions of black and minority ethnic populations of an appropriate age and likely to use contested public spaces as relevant times. However, given the wide discretion that dispersal powers afford front-line police officers there is considerable scope for unwarranted discrimination. Justifiably this demands effective monitoring and evaluation to safeguard the impact of dispersal powers on the promotion of race equality.

The geographic and social map of dispersal order use does not correspond straightforwardly to the distribution of risks or victimisation. In Scotland, despite a slightly higher threshold for authorisation,<sup>12</sup> none of the initial 14 authorisations were in areas ranked as in the most deprived 5% according to the Scottish Indices of Multiple Deprivation, 2006 (Cavanagh 2007: 28). By contrast, one authorisation was ranked in the 10% of the **least** deprived areas in Scotland. In cities like Leeds and London the areas designated for dispersal powers were not necessarily those with the highest concentration of recorded anti-social behaviour. There is growing anecdotal evidence in England that dispersal orders are being used in areas with relatively low crime/ASB but high perceptions of insecurity. A police sergeant with considerable experience of implementing dispersal zones across a city noted: 'They're probably effective in better to do areas with lesser and lower levels of criminality'. The JRF research revealed evidence that the distribution of dispersal authorisations is shaped by a range of factors including: personal preferences and commitments of police managers, elected councillors and executive officers and the capacity of local groups and businesses to lobby for their introduction.

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<sup>12</sup> In Scotland the legislation requires that the history of anti-social behaviour is 'serious', as well as 'significant and persistent'.

The JRF research concluded that where the prior authorisation process includes the collation of extensive evidence and information on the nature and scale of the local problems, consultation with relevant local groups and long-term problem-solving with key stakeholders can lend a degree of legitimacy and public accountability to the subsequent use of dispersal powers (Crawford and Lister 2007: 15). Authorisation, where rigorously conducted can help ensure that the subsequent powers are an appropriate, proportionate and planned response as part of a wider strategy to repeated problems within a given locality. The required authorisation process highlights the exceptional nature of the powers and demands that all relevant alternative avenues are considered and all significant interests consulted. However, the research also found that consultation with youth groups or youth representatives was rarely seen as an essential part of the pre-authorisation process and that often the process was viewed as ‘boxes to be ticked’, rather than an essential bedrock of legitimacy upon which designation is founded (*ibid.*). In the two case study sites there had been no attempt to consult with young people living in, or attending school close to, the designated area.

### **Risk and Safety**

Young people are particularly vulnerable as the victims of crime and anti-social behaviour, more so than older groups of people. In the case study areas, young people reported higher levels of victimisation from anti-social behaviour in the area immediately around the dispersal zone than did adults residents. Some 38% in Northston and 40% in Southby said that they had been the victim of anti-social behaviour in the previous 12 months; this compares to 34% and 30% respectively of the adult residents surveyed.<sup>13</sup>

Of the young people surveyed in the two case studies, more than four-fifths (82%) said they felt safest in public places in groups (two-thirds of whom felt safest in large groups of six or more). By contrast, only 11% replied that they felt most safe out with one other person and 7% said they felt safest by themselves. Generally, girls were more likely to prefer large groups and boys were more likely to reply that they felt

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<sup>13</sup> This reinforces the findings of national *Offending, Crime and Justice Survey*, 2005, which reports that over a quarter (27%) of young people had been the victim of personal crime in the previous 12 months (Wilson *et al.* 2006: 67).

safest by themselves. Those aged 16 or over were more likely to feel safe out by themselves and those aged 13 to 15 were more likely to feel safe in groups.

This presents a paradox about which young people were evidently aware. On the one hand, they derive feelings of greater safety from being in a group. On the other hand, they experienced encountering large groups as potentially threatening. They recognised that in large groups they might appear intimidating to others. In focus group interviews young people tried to explain the ambiguous relationship between risk, safety and being in groups. One young male commented: 'If you're with a gang, you look intimidating but it's safer... safety in numbers'. Another suggested: 'You feel more safe when you're with more people, but other people don't feel safe when you're with more people'. Young people, therefore, were conscious of and sensitive to their unintentional capacity to prompt anxiety in others. Approximately half of all youths surveyed thought that they needed to take greater responsibility for the way their behaviour can intimidate others (56% in Southby and 49% in Northton). Most young people, however, did not consider hanging around in groups *per se* to be anti-social. This reinforces the findings of a national survey of over 700 young people conducted by YouthNet and the British Youth Council which found that 'hanging around with friends in public' was considered anti-social by only 2% of respondents' (Wisniewska, *et al.* 2006: 12). Young people in the JRF research were concerned with the manner in which gatherings of youths were automatically perceived as problematic by adults. A 13 year-old girl commented:

'I can see why people see a big group as a problem and some big groups are a problem, but then they think that every single big group is a problem. You could have a few people causing trouble and then the majority of people think that every young person hanging out in a group is going to try and cause trouble, it's like, stereotyping.'

The failure to differentiate between young people 'hanging around' and those engaging in acts of anti-social behaviour was a recurring theme. More fundamentally, this adult perception is entrenched and given legal authority in that the *presence* of groups in a dispersal zone, *per se*, may be sufficient to trigger dispersal 'where this

might be likely to result, in any members of the public being intimidated, harassed, alarmed or distressed'.<sup>14</sup>

Young people complained that they did not have safe and suitable alternative venues in which to congregate.<sup>15</sup> One 14 year-old boy articulated their dilemma as follows:

‘We have got nowhere to go anyway. We have got a youth club but it is only open three days a week... So where else are we going to go, apart from the park? If we go to the park [in the dispersal zone] we get in trouble, so we can’t do anything right.’

In the absence of alternative meeting places, the paradox for many young people was that dispersing them from safe, central locations and making them split up was likely to render them more, rather than less, vulnerable as they were both displaced to less safe areas and dispersed from the safety of groups. In the case studies, as elsewhere, the designated areas focused on key public spaces which hosted local amenities, shops, green areas, meeting places and transport hubs. By their very nature, these places tended to constitute safe places to congregate, in part due to the flow of pedestrians, presence of natural surveillance and good quality street lighting. Dispersing young people from these areas often resulted in them being pushed into less safe locations and poorly lit places. For instance, in Northton some young people began to congregate in a badly lit underpass and in Southby young people moved to peripheral areas of a nearby park, beyond adult surveillance. Such was the absence of safe meeting places for young people in Southby that the parents of one youth opened up their garage as a local meeting venue. Unsurprisingly, a government survey of over one thousand young people, commissioned to inform its Youth Task Force Action plan, found that when asked what they thought would prevent young people getting involved in anti-social behaviour, 77% said ‘more places to go and things to do’

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<sup>14</sup> In the case of *Marc Bucknell v DPP* [2006] EWHC 1888 (Admin) the High Court tried to qualify this by asserting that ‘a reasonable belief for the purpose of section 30(3) must normally depend, in part at least, on some behaviour of the group which indicates in some way or other harassment, intimidation, the cause of alarm or the cause of distress’ (per Lord Justice May, at para. 7-8). However, the court implied that each case should be judged on its own merits, and acknowledged ‘some sympathy with the Constable because he was put in the position of having to operate what, at the margins, is difficult legislation’.

<sup>15</sup> The majority of young people surveyed in both areas agreed that there were not enough public places for them to go to, 56% in Northton and 57% in Southby. The majority of adult residents in both areas concurred with this view.

(DCSF 2008a: 3). Failure to address underlying fundamental issues regarding the availability of suitable, safe venues for young people to congregate left dispersal orders nursing the symptoms rather than addressing the causes, as the following testimonies from police officers recognise:

‘The reason why they’re out on the streets is they’ve got to go somewhere, and kids will be kids... And what we’re doing is just sticking plasters over this.’

(Police sergeant)

‘There’s also a sense that it [the dispersal order] doesn’t alter their behaviour, it just moves them across the street. And so it doesn’t actually address the disease, it’s just a sticking plaster.’ (Police chief inspector)

There were concerns that splitting groups up would render young people more vulnerable. Girls, in particular, were concerned about their vulnerability if dispersed. This was a recurring theme in the focus group interviews. One 13 year-old girl raised the following rhetorical question: ‘I think it’s ridiculous because what if three people got split up and the one who goes on her own gets raped?’ Whilst all the police officers interviewed in the research insisted that they would not require a group of young girls to disperse separately, nevertheless, stories about this circulated amongst youths in both case studies. The fact that this might be a possible interpretation of the law highlights ambiguities in the legitimacy of dispersal powers. For many young people, it begs the question, why, if dispersal orders are in any sense intended to protect vulnerable young people, do they in effect render them more vulnerable?

### **Police-Youth Relations**

Police implementation strategies in both areas sought to emphasise the use of powers as a last resort where negotiation and dialogue failed to resolve matters. From the outset, police managers were keen to communicate the view that the dispersal order did not ‘ban groups from gathering’ and that the police would concentrate on dispersing groups committing anti-social behaviour. Across both sites, few groups were formally dispersed during the six month orders. According to police records, in Southby 105 dispersal warnings were given and no arrests were made for breach. One youth was escorted home and five young people were formally referred to a Positive Activities for Young People scheme run in conjunction with the council. In Northton,

where the police recording was less robust, at least 21 groups were dispersed and a further 18 groups were formally advised about the dispersal orders and eight offences were dealt with.

During the designated period there was a notable reduction of young people congregating in the dispersal zones.<sup>16</sup> However, the over-riding impact of the orders was to exacerbate fragile police-youth relations and encourage feelings of stigmatisation, social exclusion and unfair treatment among local young people. A considerable proportion of youths surveyed believed that the dispersal order was unfairly targeted at young people in general; 61% in Southby and 43% in Northton. Subsequently, a significant number of young people agreed that the order had increased conflict between young and old people (39% and 46% respectively). Of particular concern was the fact that dispersal orders adversely impacted on young people's perceptions of local police. In Southby more than half of young people (51%) said that the policing of the dispersal order had left them feeling more negative towards local police. In Northton the figure was nearer one in six. The following comment from a 14 year-old girl is illustrative of more widely held views:

‘Some of the powers... make it out that we're all doing something wrong. It puts across the message that every young person is delinquent. We're always portrayed for the bad things that some of us do, it's never the good things.’

As such, the powers were interpreted as conveying deeply engrained negative images of young people and stark messages about their status and how they are regarded by adults. These perceptions and their corrosive impact on inter-generational relations were also expressed by adult residents:

‘I believe that the dispersal order has given young people feelings of unfairness and injustice. It just gives them a reason to be angry... Older people see any gathering of young people as anti-social. In my understanding, the dispersal order has widened the misunderstanding between all.’

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<sup>16</sup> Approximately half of adult residents surveyed in both areas said that the dispersal order had been effective in reducing the number of ‘youths hanging around’. This was corroborated by observational and interview data. Just over a third expressed the view that the area had become safer as a result of the order, but a significant number agreed that the order ‘provided a short-term response that did little to address longer-term issues’ (49% in Southby and 63% in Northton).



### **Compliance and Procedural Justice**

In common with other anti-social behaviour interventions, such as ASBOs, dispersal powers constitute what Simester and von Hirsch (2006) term 'two-step prohibitions'. These have a number of attributes. First, they operate on a three-incident timeline: (i) the qualifying behaviour or presence (in the case of the dispersal order); (ii) the civil order or direction (to do or not do certain things); and (iii) the breach of the order or direction which gives rise to criminal sanctions. Most criminal wrongdoing has only one temporal location at which the *mens rea* and *actus reus* come together. Second, unlike other civil orders such as injunctions (breach of which is a civil offence), breach of a 'two-step' prohibition is a criminal offence. Third, the possibility of criminal sanctions arises only in respect of future conduct, not in relation to the conduct that gave rise to the order in the first place. The conduct that breaches the direction, under all other circumstances, may constitute legal behaviour. Fourth, in the 'two-step' process, principles of proportionality are decoupled from directly structuring the relationship between past acts and future constraints. In other words, for the purpose of the subsequent offence the seriousness (or otherwise) of the initial behaviour *or presence* becomes irrelevant. What is relevant is the failure to comply with the direction given (so long as it is legally justifiable). Furthermore, the interpretation of both the direction given and whether breach has occurred are devolved to front-line police officers and CSOs.

In this context, police decisions about non-compliance become bound up with judgments about the manner in which young people respond to officers' decisions or question their authority. The way in which young people react to warnings or directions to disperse is accorded crucial weight. A police inspector explained:

'As soon as the police become involved, it's not just low level anti-social behaviour any more because there's authority there in terms of the police. And you find [youths] react in one of two ways, they'll go somewhere else and carry on, or they'll take heed and go home... a lot of the time you can tell them to go home or disperse, and a lot of the kids who are responsible go home.'

This observation suggests, first, that the most acute curtailing of liberties may fall upon precisely those youths that police deem to be 'responsible'. This implies something of a perverse effect of dispersal powers, in that it impacts most on those

least anti-social. Secondly, ‘how someone responds to authority, whether with deference or defiance, becomes a, if not *the*, salient factor in subsequent authoritative assessments and decisions, more important potentially than the initial behaviour itself’ (Crawford and Lister 2007: 66). Thirdly, the idea of two types of compliance implicitly raises issues about the normative and instrumental bases for compliance and how policing might foster this.

The research suggests that generally young people complied with directions to disperse when asked. The manner in which they did so and the longer-term impact on compliance – beyond the time of the initial direction – were conditioned by young people’s experiences of the encounter and perceptions about the legitimate exercise of authority by the police. Where young people comply for instrumental reasons, because they fear the sanctions available to the police, many merely move ‘somewhere else’ and ‘carry on’. Instrumental compliance will only hold so long as the threat of sanction is evident. Once police officers have left an area, the threat of sanctions (and hence the levers of instrumental compliance) subsides. There was evidence that for some young people testing the boundaries of compliance and simultaneously the capacity of police to enforce the dispersal order became something of a ‘game’. Some youths who said that they had been dispersed described the ‘cat and mouse’ quality of interactions with the police as promoted by the dispersal order. They claimed to derive ‘fun’ out of provoking the police to chase them, then splitting up only to congregate again later. In this way, flouting authority became a routine pass-time. The research also revealed considerable displacement effects of crime and anti-social behaviour, notably in the Northton area where criminal damage increased by 290% on the same period the previous year in a neighbouring area, despite police efforts to forestall displacement (*Ibid.*: 50).<sup>17</sup>

More fundamental compliance is likely to have some normative basis. Normative compliance can be influenced through perceptions of procedural fairness in police-youth interactions. A significant body of research demonstrates that experiences of procedural justice can significantly affect perceptions of legitimacy and confidence in the police with implications for legal compliance (Tyler 2004; Sunshine and Tyler

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<sup>17</sup> Crime and anti-social behaviour in the neighbouring area returned to their pre-dispersal order levels in the six months after the order terminated.

2003; Hinds 2007). The apparent fairness of directions to disperse, the appropriate manner in which the police exercise their powers, explain their reasoning, listen to what those subject to the direction have to say and treat them with respect all influence young people's compliance. One 15 year-old boy who had been dispersed observed:

'As long as [the police] said "just keep your noise down" and stuff like that and "you can stay as long as you keep your noise down"... we'd say "Okay that's fair, that's fair" and you agree with them. But otherwise you start giving them lip.'

A 14 year-old boy articulated how a reasoned explanation for a particular course of action may have implications for young people's willingness to comply:

'You don't feel so hard done by when [the police] explain why they have got to do it, why they have got to split you up, if they just go: "right, you have all got to go back to where you come from", you feel a bit hard done by because you think, "oh, we haven't done anything wrong, why should we go back? Because some police officer decided that we had to?" But then, if they explain why they have got to split you up it is different. Isn't it? You understand.'

The theme of respect was pivotal for young people in terms of informing both police-youth encounters and more general relations with adults in positions of authority. The correlativity of mutual respect as articulated in the government's Respect catch-phrase 'give respect, get respect' was echoed by young people. However, many felt that the assumptions about youth embodied in anti-social behaviour strategies undermined respect for young people. One 15 year-old girl explained:

'If they had respect for us and didn't give us names and just think because we are a kid we are going to cause trouble, if they didn't do that then I think we would have a lot more respect for them, but as soon as they start giving you a name, then obviously you aren't going to respect them.'

A key element of respect was being listened to. The fact that there was no consultation with young people about the implementation of the dispersal order in either site reinforced the perception that young people's views did not count as far as adult decision-makers were concerned. A girl elaborated:

‘Some people might be doing things they shouldn’t but the majority won’t. The police need to listen to young people more and understand that we don’t go out to cause trouble... If respect works both ways then people are more likely to respect the police even more.’

It was felt by some that dispersal powers engender *disrespect* for young people in that they appear more concerned with adult assumptions about what young people might do than with what they have actually done. In this regard, dispersal powers by-pass the agency of individual youths. The precautionary logics of public reassurance that infuse anti-social behaviour legislation take precedence over genuine attempts to know or understand the individuals or their motivations. Hence, the subjective perceptions of adults are presented as trumping and silencing the actual motivations of youths.

### **Experiences of Dispersal**

For the police issuing a formal direction to disperse necessitated that the incident was recorded, reasons given and the names and addresses of all those involved taken.<sup>18</sup> From the perspective of young people, however, there was much uncertainty as to whether they had been formally dispersed. This was largely due to the fact that the police often spoke to youths and encouraged them to leave the area or split up without evoking their formal powers. Observational data collected over at least five evenings in each case study site confirmed the informal and flexible manner in which dispersal powers were implemented. The observational data also highlighted significant inconsistencies in police recording practices. Of 27 police encounters with groups of young people observed only four resulted in groups formally being dispersed. On some occasions, the names and addresses of those dispersed were neither requested nor recorded. None of the incidents resulted in an arrest during the periods of observation. One young person described the informal approach taken by police:

‘Since the dispersal, lots of special police people have been going around and saying “it’s getting late now, you should go home”. They just said “it’s coming up to the dispersal time, you’re going to have to split up or go home”.’

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<sup>18</sup> Some police forces issued notices to individuals when they were being formally dispersed. These notices were largely designed as evidential support in any subsequent contested court cases concerning breach of dispersal directions.

Thus policing ‘in the shadow’ of the formal powers was an evident aspect of implementation, and helps explain the relatively low recourse to formal dispersal as revealed by the data.

With these definitional caveats in mind, a total of 79 young people surveyed in the two areas said that they had been dispersed during the authorised period. They reported mixed experiences. Whilst two-fifths agreed that the police explained the reasons for exercising their powers, a similar number disagreed. Half disagreed that the police listened to what they had to say. Just over a third felt that the police had treated them with respect, but a similar figure disagreed. Two-fifths said that the experience had left them with less confidence in the police, albeit over a quarter disagreed with this statement. Unsurprisingly, those who reported feeling unfairly treated were most likely to say that the experience left them less confident in the police.

In contrast to the positive impact of experiences of procedural justice in police encounters, experiences in which this was absent were likely to have a negative impression. This reinforces the growing body of research that highlights the influence of having a bad experience through contact with the police in shaping people’s attitude towards the police and for subsequent legal compliance. Skogan’s (2006) research found the influence of negative contact with police – of which being treated unfairly is a major factor – is four to 14 times as great as that of having a positive experience. Paternoster *et al.* assert: ‘the most straightforward hypothesis is that perceptions of unfair procedural due process weaken support for the legal system which, in turn, reduces inhibitions against or proclivities towards future illegal activity’ (1997: 193). The impact of negative experiences in police encounters is likely to be more evident with regard to the formation of young people’s opinions, as Hinds’ research with 14 to 16 year-olds reveals: ‘Police legitimacy among young people is significantly lowered by negative assessments of police behaviour during encounters’ (2007: 206). The concern is that dispersal orders may institutionalise antagonistic relations between police and youths, fostering negative views of police among a generation of young people.

The impact of such encounters often extends beyond those directly involved. Tales of bad experiences with police were more likely to inform talk among networks of friends, such that these stories circulated as local folklore, influencing the way other youths came to perceive the police. A 14 year-old boy highlighted the perceived sense of shared indignity experienced by the police treatment of his friends:

‘If you hear one of your friends getting dispersed, you get angry. And you want to stick up for your friend, so the next time [the police] come up to you, you’re more reluctant to listen to the police.’

### **Inconsistent Implementation**

The discretionary nature of the powers leaves considerable scope for inconsistent implementation which further served to undermine young people’s perceptions of fairness. Young people were acutely aware of differences in styles of enforcement adopted by different police officers where these existed. Inconsistent implementation was most apparent where police were drafted into an area to bolster enforcement of the dispersal order through visible patrols. These officers invariably lacked important local knowledge about the area and the young people, as the following comment from a 14 year-old boy illustrates:

‘The ones who don’t know who you are and what you have been doing, they stick right by the rule book and that, but the ones that you do know, they reason with you, “stay out of trouble”, “don’t start getting rowdy” and they give you a chance.’

Shift changes also had the potential to result in contradictory application, notably where informal conditions of order had been negotiated between certain police officers and local youths only for these to be disregarded by a change in police personnel. Inconsistency served to underscore what many saw as the discriminatory and inequitable implications of the powers. It also left young people uncertain as to how police officers might respond to their presence in a dispersal zone. Some felt this allowed too much scope for the police to base their judgements on stereotypes of inappropriate clothing or demeanour:

‘It just depends how strict that police person is... I’ve been out quite late and the police car passed me and they don’t do anything. But it just depends... It’s like stereotyping that if they saw you probably in like sportswear, like in

trackies, they'd probably stop and ask you what you're doing. Whereas if you were wearing something different maybe not, but it is about stereotyping.'

Research confirms that items of clothing worn by youths, such as baseball caps and hooded jackets, can render individuals suspicious in the eyes of the police (Quinton *et al.* 2000).

Whilst the evidence suggests that the police generally implemented the powers in a more circumscribed way than the law might allow, the ambiguity between law and practice animated concerns among young people about the uncertain and unpredictable response police officers might have to their presence in a dispersal zone. Despite the police seeking to make it clear that the dispersal order did not 'ban groups from gathering', much confusion persisted over what behaviour or whose presence might trigger dispersal, on the part of young people and adult residents alike. Police found it difficult to answer specific questions about the grounds on which formal dispersal powers might be exercised. Official guidance to police provides little assistance in this regard, preferring to leave individual officers 'to exercise discretion in respect of any situation attended, thereby enabling the situation to be dealt with on an individual and specific basis' (ACPO/Centrex 2005: 18). For young people, the unpredictability of how a police officer might respond to their presence in a dispersal zone left them unable to know where they stood in relation to the law. A detached youth worker in Northton explained the frustrations experienced by many young people:

'What the young people also said they wanted was to posit certain scenarios: "If we were doing this would we get nicked?" That was a big thing for them. They didn't know, as nobody knows, which is part of the problem. You can't say you're going to get pulled for this, that and the other, because of the hugely significant point about interpretation... And that's what confuses young people... Of course, nobody can give them an answer and my experience is it depends on the old Bill that turn up!'

This uncertainty and lack of 'fair warning' further undermined the perceived legitimacy of the powers in the eyes of many young people.

### **Amplifying Deviance**

Dispersal powers not only engendered perceptions of unfairness among young people who felt wrongly stigmatised, but also may provoke active defiance and amplify deviancy. One way in which this occurred was by constructing the parameters of a 'game' in which young people tested the boundaries of the order, routinising adversarial police-youth relations, as mentioned earlier. In a related vein, failure to comply fully with police directions to split up or leave an area rendered previously acceptable acts – i.e. going to the shops or 'hanging out' in the park – deviant and potentially subject to a criminal sanction. A 15 year-old boy explained:

'If they didn't have a dispersal order, we wouldn't look as rebellious because we are just sat chilling, but if they split us up then we meet up again, so it makes us look like we are troublemakers.'

Thus normal activities become redefined as wilful challenges to authority leading young people into conflictual relations with the police more fundamentally than the conduct that triggered the encounter would suggest. It is on this basis that youth sociability can become criminalised. For young people at least, anti-social behaviour powers may themselves be anti-social. Where young people come to be labelled as problematic - to such a degree that their presence in public spaces is no longer tolerated - this may become internalised with implications for collective values and self-identity. Such interactions can foster the formation of anti-police youth subcultures and amplify deviance. A 15 year-old girl explained:

'It has made us get into trouble with the police a lot more as we get into trouble for being in a certain area or being in a group of five or more... Young people are behaving worse than before because they cannot hang around their own village.'

The group focus of dispersal powers means that for some young people their first adversarial contact with police and entry into police records may be on the basis of who they associate with and the locations where they 'hang out'. Research suggests that young people often first come to the attention of the police as a result of the company they keep (McAra and McVie 2005). Dispersal orders may exacerbate this effect by drawing to the attention of the police those who might otherwise not have come to their attention or only at a later stage. Whilst youth is undoubtedly a period of



heightened offending, most juvenile offences are fairly minor and young people mostly desist from such group-related activities as they grow older. Worryingly, research shows that increased and earlier formal contact with the police and youth justice system tends to reduce the likelihood of desistance (Klein 1986).

Despite their preventive intentions, the existence of dispersal powers can escalate intervention and draw young people more rapidly into the orbit of formal youth justice processes (Goldson 2002). First, dispersal orders intensify intervention by generating information on young people who the police encounter within a dispersal zone, where recorded. Secondly, the names of young people who were dispersed or came to police attention more than once were fed into multi-agency anti-social behaviour databases. These shared data were often used to inform or precipitate other interventions, including home visits, formal warnings and acceptable behaviour contracts.

In many senses, dispersal orders represent a formalisation and intensification of policing practices, rather than a fundamental change in the way in which young people are policed. Dispersing groups of young people 'hanging around' is by no means new to policing. What has changed is the way in which young people are represented and problematised (Sadler 2008: 69). The anti-social behaviour-informed justification of preventive intervention, or 'preventive exclusion' in the case of the dispersal order, provides a new legitimacy to the traditional targeting of youths as 'usual suspects'. This reinforces the conclusion that: 'The significance of dispersal orders derives as much from the symbolic messages and communicative properties they express, as from their instrumental capacity to regulate behaviour' (Crawford 2008: 753).

There is also a logic of de-differentiation of youth implicit in the dispersal order and its implementation. This extends beyond the 'usual suspects' of working class youth in deprived inner-city estates, to infect wider groups of young people by dint of their appearance, dress or the fact that they congregate in large groups. Young people generically are potentially affected by the problematisation of youth implicit in dispersal orders. This is reflected in the designation of dispersal powers not only in relation to high crime neighbourhoods that have traditionally been the focus of anti-

social behaviour interventions, but also in low crime/high insecurity villages, suburbs and town centres.

### **City Centre Locations**

The London data for 2006/07 show that one-third of the 85 zones were authorised in residential areas, whilst the majority were in shopping areas, town centre locations and around train/bus stations and car parks (Crawford and Lister 2007: 12). In these settings, dispersal powers were invariably targeted at identified groups of perceived 'troublemakers'. These groups were routinely informed of the powers and dispersed whilst other people using or visiting the areas were unaffected by, and often oblivious to, the existence of the order.

In one city centre location groups of teenagers were targeted as much for their appearance as anything else (*ibid.*: 36). The dispersal authorisation had been prompted by large gatherings of 'moshers' around the entrance to a shopping arcade. One young person articulated the sense of grievance felt:

'More trouble will be caused if these youths do not have a place to simply meet and talk. And people will simply find a new meeting place... In time people will probably decide that we can't congregate there either, and we will be stuck in this eternal game of cat and mouse... the people that choose to use the area as a meeting point should not be persecuted simply for the way they dress and the lifestyle they choose to follow. This is persecution of the lowest sort, and just because we aren't old enough to vote doesn't mean we should be disregarded and treated as criminals... This is an infringement of our civil liberties, and we shouldn't stand for it. Being young is not a crime.'

Senior police managers acknowledged that part of the problem was one of 'image' and their role in managing the appearance of places as conducive to business rather than actual levels of crime and anti-social behaviour caused by the youths:

'A lot of this is around the moshers... Actually, in terms of their involvement in crime and such, [there are] no issues at all, but they do cause, by their behaviour and the fact that they are gathering in very large groups up and around the [shopping arcade], a great deal of concern for certain groups of people.'

A shopkeeper within the arcade identified the wider economic pressures that informed the instigation of the dispersal order:

‘It’s not about youth, it’s not about how people look, it’s not even necessarily about how individuals behave, it’s about the slow death of the [shopping arcade]... The last 15 years has seen a slow succession of owners hiking the rents more and more and have made it even harder for us to survive. This year so far I believe four tenants have gone bust and at least three others are hanging on by the skin of their teeth. Now if you take that situation and plonk any mass group outside the front door that reduce the number of people coming into the centre, it’s just going to get worse.’

It was somewhat incongruous that congregations of pasty-faced teenagers ‘hanging around’ were being dispersed whilst groups of evening revellers and university students that visited neighbouring bars and clubs – whose drunken antics often took the form of anti-social behaviour - were courted and welcomed. The difference was that the latter came to spend money in the city’s burgeoning night-time economy; an accepted by-product of which appears to be the toleration of significant levels of crime and disorder (Hadfield 2006).

This reinforces the inherent messages that are emitted by dispersal orders about who is welcome within particular public places and whose presence is deemed inappropriate, less because of their behaviour and more because of the way others perceive them. It would appear, that dispersal orders fit within a wider trend of urban renaissance in which: ‘The culture of respect is manifest largely as a mode of conduct - namely, consumption’ and ‘the streets are being reclaimed through the exclusion of those who do not conform to this mode of conduct’ (Bannister *et al.* 2006: 924). The dynamics of exclusion previously confined to the insides of shopping malls and other examples of ‘mass private property’ gradually are spilling out into the public realm (von Hirsch and Shearing 2000). The tensions apparent there are now being exposed in public streets where dispersal orders are in operation in commercial areas. The liberality of the inclusive invitation to visit and consume is mirrored in a darker subaltern desire to eject ‘failed consumers’ and ban ‘undesirables’.

### **Enter the Mosquito**

In both case studies a number of developments reinforced this image of youth as problematic and young ‘non-consumers’ as unwanted. In Northton, after complaints about rowdy behaviour by young people in and around the local library, a decision was taken to change its opening hours such that it was no longer open after school hours, effectively excluding youths from the library. In addition, the same month that the dispersal order commenced, a symbolic landmark where groups of youths often congregated, the covered bus shelter in the centre of the neighbourhood, was demolished.

During the period of dispersal order designation in Southby, an ultrasonic device known as a ‘Mosquito’ was attached to a shop at the heart of the dispersal zone. The device emits high-frequency screeching sounds that carry over a distance of roughly 20 metres, which are audible only to those under about 20 years of age (Walsh 2008). Introduced into the British market in 2006, the Mosquito is now marketed through a company, Compound Security Systems, which claims to have sold over 3,500 units across the UK in the first year of sales. The product is now being marketed in Canada, USA, and the Netherlands. The company’s website proudly boasts:

‘The Mosquito™ ultrasonic teenage deterrent is the solution to the eternal problem of unwanted gatherings of youths and teenagers in shopping malls, around shops and anywhere else they are causing problems. The presence of these teenagers discourages genuine shoppers and customers from coming into your shop, affecting your turnover and profits. Anti social behavior has become the biggest threat to private property over the last decade and there has been no effective deterrent until now.’<sup>19</sup>

The device purports to afford a technological means of dispersing youths regardless of their motivation or behaviour in an impersonal and indiscriminate way.<sup>20</sup> It does so without any notion of what to say to them, how to engage and reason with them or even how to socialise them. It lacks any attempt to inculcate pro-social behaviour or moral values, but instead emits a droning noise that implicitly says ‘go away’. This

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<sup>19</sup> [http://www.compoundsecurity.co.uk/teenage\\_control\\_products.html](http://www.compoundsecurity.co.uk/teenage_control_products.html)

<sup>20</sup> To a certain degree, the Mosquito reproduces a more traditional strategy referred to as the ‘Manilow method’, whereby music that is deliberately unpopular with young people is played in public spaces, thereby causing them to move away.

would appear to reflect a rather hollow approach to young people on the part of adult society.

In February 2008, a national campaign entitled ‘BUZZ OFF’ was formed to seek a ban on the Mosquito product, led by the Children’s Commissioner for England, the National Youth Agency and Liberty. At the launch, Shami Chakrabarti, Liberty’s Director, posed the poignant question:

‘What type of society uses a low-level sonic weapon on its children? Imagine the outcry if a device was introduced that caused blanket discomfort to people of one race or gender, rather than to our kids. The Mosquito has no place in a country that values its children and seeks to instill them with dignity and respect.’<sup>21</sup>

Nevertheless, the device has been enthusiastically embraced by some retailers and police forces. In a statement issued in response to the above campaign, the government released a statement saying: “‘Mosquito alarms’ are not banned and the government has no plans to do so’.”<sup>22</sup>

## **Conclusions**

There are very different conceptions of childhood and youth contained in diverse policy initiatives, notably the goals set out in *Every Child Matters* (DfES 2003) and the implementation of the anti-social behaviour and ‘Respect’ agenda. At one moment, childhood and youth are defined as needing ‘protection’. In the next instance, it is adult society that needs protection from youths. More specifically, we are witnessing the extension of pre-adulthood – particularly where measured by commitments of work and family, which are generally being postponed, for some into their mid-twenties.<sup>23</sup> Associated with this, governments have introduced new (paternalistic) protections designed to prohibit young people from making ‘bad choices’ in the realms of social and education policy – such as raising the age at

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<sup>21</sup> <http://www.liberty-human-rights.org.uk/issues/young-peoples-rights/stamp-out-the-mosquito.shtml>

<sup>22</sup> <http://news.bbc.co.uk/1/hi/uk/7241527.stm>

<sup>23</sup> A significant factor in this has been the expansion in higher education, albeit that this has primarily affected the middle classes.

which young people can buy tobacco and plans to increase the school leaving age.<sup>24</sup> Conversely, in the realm of behaviour and criminal responsibility we have seen a process of ‘adulteration’, whereby children and young people are increasingly being treated ‘like adults’ (Goldson 2004; Muncie and Goldson 2006: 199). Most evident in the abolition of *doli incapax*,<sup>25</sup> this is also expressed in the erosion of the right to anonymity in criminal proceedings through the publicity attached to ASBOs<sup>26</sup> and the use of ‘behavioural contracts’ with children as young as 8. These and allied developments constitute further casualties in the assault on established ‘special’ youth protections. In matters of behaviour – clearly reflected in the implementation of dispersal orders – it is the construction of youth **as risk** that predominates. Young people are to be held responsible for their ‘bad’ behaviour, or their failure to comply with police directions, with little regard to the idea that they are in processes of evolving competencies and forging identities. Yet for many young people, meeting friends in public spaces is a fundamental aspect of developing their sense of identity and control, as well as providing space in which to forge their independent capacity to manage risk and danger. There is strong evidence to suggest that children and young people’s use of public spaces has declined significantly since the 1970s (Bradshaw and Mayhew 2005). Restrictions on young people’s ‘freedom to roam’ which are largely a product of adult preoccupations with safety are being exacerbated by contemporary efforts to revitalise or ‘aestheticise’ public space (Valentine 2004: 84).

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<sup>24</sup> The age at which young people can buy tobacco was increased from 16 to 18 in October 2007. In January 2007, the Department for Education and Skills confirmed plans to raise the school leaving age to 18 in England by 2013.

<sup>25</sup> The Crime and Disorder Act 1998 s. 34 removed the presumption that children aged 10-13 (inclusive) were *doli incapax* – incapable of wrongful intent. This presumption could be rebutted in court if the prosecution could show that the young person was aware that their actions were ‘seriously wrong’, as opposed to merely naughty or mischievous. Whilst the Act abolished the presumption that a child was *doli incapax*, the defence that a child might be *doli incapax* remains – see *Crown Prosecution Service v P* [2007] EWHC 946 (Admin). Furthermore, the court held that as the defence of *doli incapax* is a common law defence as opposed to a statutory one, as a matter of general principle the burden should remain on the Crown to prove that the child had the requisite understanding.

<sup>26</sup> Official guidance issued in the light of *Stanley v Brent* [2004] EWHC 2229 (Admin) ruling emphasised the benefits of publicity for effective ASBO enforcement and public reassurance (Home Office 2005). This extends to the use of ASBOs with juveniles, in relation to whom there has been a traditional principle of anonymity, due to concerns over the stigmatising potential of naming individuals involved in criminal proceedings. The 2003 Act revoked the established principle of anonymity in relation to ASBOs imposed following a criminal conviction (CRASBOs) before the youth court and the Serious Organised Crime and Police Act 2005 reversed the presumption in relation to reporting restrictions in cases of breach of ASBOs (s.141).

Spurred by various reports into a ‘crisis in childhood’ in Britain, most notably the UNICEF findings that place the UK last in a table of 21 advanced western countries for a variety of indicators of child well-being (UNICEF 2007), there are some signs that the government has belatedly recognised the scale of the problem. In December 2007 the government published its *Children’s Plan* (DCFS 2007) outlining goals to improve child well-being by 2020 and ‘to make England the best place in the world for children and young people to grow up’ (*ibid*: 5).<sup>27</sup> In announcing the Plan, Ed Balls grandly claimed: ‘We want to move away from the “No Ball Games” culture of the past so that public spaces in residential areas are more child friendly’.<sup>28</sup> It is hard to see where dispersal powers fit into such a cultural shift. Yet, the subsequent *Youth Taskforce Action Plan* (DCSF 2008) continues the enforcement and early intervention focus of the anti-social behaviour agenda.

In effectively saying to young people that they are not welcome in certain essential public places, we may not only be criminalising youth sociability and alienating swathes of young people on the basis of adult’s anxieties and assumptions about what young people might do, we may also be conveying stark messages about the status and value of young people in society. As a youth worker from the research noted:

‘We’re already paying the price for effectively demonising and criminalising a generation... Let’s not beat about the bush, the anti-social behaviour agenda and respect agenda are not targeted at the wider community. They are targeted at particular minorities within it; young people.’

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<sup>27</sup> The plan includes a commitment to spend £225 million over the three years to 2010–11.

<sup>28</sup> [http://www.dfes.gov.uk/pns/DisplayPN.cgi?pn\\_id=2007\\_0235](http://www.dfes.gov.uk/pns/DisplayPN.cgi?pn_id=2007_0235)

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