British Psychological Society response to the Joint Committee on Human Rights consultation

Scrutiny of Government legislation

About the Society
The British Psychological Society, incorporated by Royal Charter, is the learned and professional body for psychologists in the United Kingdom. We are a registered charity with a total membership of just over 50,000.

Under its Royal Charter, the objective of the British Psychological Society is "to promote the advancement and diffusion of the knowledge of psychology pure and applied and especially to promote the efficiency and usefulness of members by setting up a high standard of professional education and knowledge". We are committed to providing and disseminating evidence-based expertise and advice, engaging with policy and decision makers, and promoting the highest standards in learning and teaching, professional practice and research.

The British Psychological Society is an examining body granting certificates and diplomas in specialist areas of professional applied psychology.

Publication and Queries
We are content for our response, as well as our name and address, to be made public. We are also content for the Joint Committee on Human Rights to contact us in the future in relation to this inquiry. Please direct all queries to:

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About this Response
This response was prepared for the British Psychological Society by:

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We hope you find our comments useful.

Dr Peter Banister CPsychol FBPsS
Vice-President, British Psychological Society
The British Psychological Society (the Society) thanks the Joint Committee on Human Rights for the opportunity to respond to this consultation. The Society would welcome the opportunity to address the Joint Committee on Human Rights on some of these issues.

Anti-Social Behaviour, Crime and Policing Bill

General Comments:

1. Effective strategies to reduce anti-social behaviour have the potential to enhance human/children’s rights. (Should the bill name specific strategies on how this is done?)

2. The bill needs to consider how the person is presenting, specify models of care and consider how this is measured, audited/presented back.

3. Child defendants, or adults with brain injuries, learning disabilities, communication difficulties, mental health problems and low literacy may have difficulty in engaging with the procedures and obligations of the Justice System. They may not understand what is expected of them, and what will happen if they fail to comply. Therefore prosecuting authorities should identify the needs of defendants early in the judicial process. This Bill should include an obligation to take full account of age, maturity and intellectual and emotional capabilities of the defendant.

4. The UK government is required by the United Nations Convention on the Rights of the Child (UNCRC) to ensure that children, who are in trouble with the law, are provided with support to reintegrate into society. According to the Office of the Children’s Commissioner, there are concerns about current mechanisms for dealing with anti-social behaviour and their impact on children’s rights, which are not substantially addressed by the measures in the Bill:

4.1. The Injunctions and orders will be available for all children over 10 years: using formal orders to hold children to account for their behaviour in the same way as adults. The UN Committee is clear that “a minimum age of criminal responsibility below the age of 12 years is considered by the Committee not to be internationally acceptable”. Furthermore, there is no requirement to consider children’s best interests, specific needs or learning difficulties or to demonstrate that all possible alternative routes for addressing problem behaviour have been considered (therefore few apparent incentives to pursue informal avenues in order to tackle problem behaviour). This is not age appropriate and is in breach of the UNCRC requirement, that children’s best interests must be a primary consideration in decisions affecting them.

4.2. The Draft Bill proposes custodial sentences for breach of new Criminal Behaviour Orders, which are set to replace Anti-Social Behaviour Orders (ASBO). Custody should be reserved for only the most dangerous and serious young offenders. The use of custody as a sanction for breach of orders, which do not meet the threshold for criminal prosecution, is not in accordance with the UNCRC requirement that children should be imprisoned only for the most serious offences and as a matter of last resort. Furthermore, because there is
a high breach rate of ASBOs, particularly by juveniles, these proposals could result in more vulnerable defendants with cognitive problems (e.g. difficulties remembering where to be etc.) receiving custodial sentences.

4.3. There is no mechanism for review of interventions - The Bill should include an annual review of all formal interventions imposed on under 18 year olds to ensure that restrictions are not continued unnecessarily if behaviour has changed.

4.4. Young people’s identity can be influenced by labels at a formative stage in their lives. ASBOs have been both a stigma and a badge of honour - both can undermine the effectiveness of the intervention. It is important that education is provided to the public as well as agencies working with young people.

5 The bill makes no mention of a mechanism for reporting if there is a child or adult who believes their rights have been violated.

Part 1 Injunctions to Prevent Nuisance and Annoyance

6 Power to exclude person from home in cases of violence or risk of harm.

Note: The section only provides for the exclusion of someone from their home if they are a risk to people, in which case, they should probably not have access to children anyway. What is unusual here is that provisions are only made for the case of local authority housing but if the person is a risk to others, then surely it should apply in private housing, although maybe another act/law comes into effect here.

Part 2 Criminal Behaviour Orders

7 Special Measures for Witnesses.

Part 3 Dispersal of Powers

8 Authorisations to use Powers under Section 33.

Part 4 Community Protection

9 Remedial Orders.

Part 6 Local Involvement and Accountability

93 The Community Remedy Document.
94 Anti-social behaviour etc. Out-of-Court Disposals.
95 Criminal Behaviour: Conditional Cautions.

10 These sections allow victims to choose from a list of punishment options, agreed with their local Police and Crime Commissioner (PCC). * However, victims are unlikely to be aware of an offender’s personal circumstances, including that they may have an ABI (or other developmental disorder/ mental health difficulty), and (b) it is likely that their selection of “appropriate punishment” may not be entirely appropriate for someone with any of the above.

Note *: However, the bill does state that “P must invite A to carry out that action unless it seems to P that it would be inappropriate to do so.”
Care Bill


11 Similar to the Bill, this Bill makes no mention of a mechanism for reporting if there is a child or adult who believes their rights have been violated.

Part 1 Care and Support

12 Promoting individual well-being

Note: Although the idea of addressing psychology is addressed here, the profession and its applied specialties are not mentioned.

13 Cooperating Generally

The bill states that a local authority must cooperate with each of its relevant partners, and each relevant partner must cooperate with the authority. While this is welcome, there is no mention of how to monitor whether this is taking place, or what to do if this is not taking place.

Note: There’s lots of talk about co-operation between services but what about integration? Schools and universities are not mentioned as relevant partners.

14 Co-operating in Specific Cases

15 Assessment of an Adult's needs for Care and Support

Where it appears to a local authority that an adult may have needs for care and support, the authority must assess. While this is welcome, there is no mention of how to monitor whether this is taking place, or what to do if this is not taking place.

16 Care and Support Plan, Support Plan

A care and support plan must be drawn up and provided to the individual or carer. However, there are no provisions for review and monitor of this plan and its recommendations.

17 Continuity of Services under other Legislation

This Bill provides for continuity of services during the transition from childhood to adulthood, this is particularly relevant to vulnerable groups such as those with developmental disabilities or ‘Looked After Young People’. However, there are no provisions for monitoring this or what to do if this is not taking place.

18 After Care

Note: This relates to amendments of another act.

Offender Rehabilitation Bill


19 Supervision of certain young offenders after release from detention

Note: Again this refers to amendments to a different act

End