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Description automatically generatedIs there another way to approach anti-social behaviour?**

**Coalition for Racial Equality and Rights**

**November 2022**

This submission sets out CRER’s response to a Scottish Government consultation on approaching anti-social behaviour.

This consultation seeks to review the effectiveness of current approaches to anti-social behaviour and gather views on any necessary improvements. Race equality groups were identified as one of the key stakeholders for this consultation.

# **Question 1**

## **a) What changes should be made to the current approach or what further steps should be taken to help prevent ASB?**

To date, many of the approaches taken to preventing anti-social behaviour have been of limited effectiveness and often struggled to reduce engagement in and exposure to ASB for all parts of Scotland’s population, leaving some Black and minority ethnic groups more exposed to ASB but also disproportionately policed around it. These limitations and inequalities can be largely explained by a failure to effectively map the causes behind anti-social behaviour, an over-reliance on one-size-fits-all solutions, and a tendency to focus on penalisation-based deterrents rather than addressing its roots causes, such as material circumstances, social isolation, and poor community cohesion.

While there is limited data on the ethnicity of victims of anti-social behaviour in Scotland, literature suggests that Black and minority ethnic populations may be disproportionately victims of it. For instance, research by the Scottish Community Safety Network reveals that anti-social behaviour is most prevalent in urban areas and areas of increased socioeconomic deprivation, leaving many of Scotland’s Black and minority ethnic communities proportionately more exposed to anti-social behaviour.

Furthermore, anti-social behaviour in Scotland is often closely linked to racial discrimination, with Victim Support Scotland reporting that almost 98% of the ASB complaints they support victims with are related to hate crime.[[1]](#footnote-1) Such that, Black and minority ethnic people in Scotland are often more likely to be victims of ASB but are also at a high risk of their experiences of ASB being racially motivated, particularly in cases of neighbour dispute, vandalism and communications related forms of ASB.

This leads to Black and minority ethnic people living in Scotland reporting a reduced sense of belonging and safety in their neighbourhoods and reduced trust in their peers, contributing to social isolation and the marginalisation of some communities.[[2]](#footnote-2)

Within the context of current policy, hate crime and anti-social behaviour are often conceptualised as independent issues despite their significant overlap, with many of the circumstances involved in racist hate crimes also meeting the definition of ASB set out by the Antisocial Behaviour etc. (Scotland) Act 2004. Such that, approaches to preventing ASB either omit the significance of racial discrimination or fall into hate crime policy, which to date, is failing largely due to a lack of focus on community cohesion and prevention. Therefore, to better address the root causes of racially aggravated anti-social behaviour, both hate crime and anti-social behaviour policy alike must embrace community cohesion work to foster good relations between communities and tackle cultural racism in Scotland. Currently, there is no evidence of public authorities in Scotland undertaking this work, despite it being crucial to preventing both hate crime and racially aggravated anti-social behaviour.[[3]](#footnote-3)

Existing approaches to preventing anti-social behaviour have also had limited effectiveness at reducing BME communities’ exposure to ASB and supporting BME victims. Currently, as with many policy areas in Scotland, approaches to ASB policy rely on a one-size-fits-all approach to prevention and therefore consistently overlook the specific needs and experiences of BME communities and fail to address their concerns as disproportionate victims. However, the 2004 Act clearly recognises the equality issues central to ASB, with Scottish Government guidance[[4]](#footnote-4) around the Act stating: “ASBOs are intended to provide protection to individuals and groups whose quality of life is undermined by antisocial behaviour by others. Individuals who experience prejudice on the grounds of race, religion, gender, age, disability, or sexual orientation may also be more likely to be victims of antisocial behaviour.”

Thus, despite clear legislative recognition of ASB inequalities, Local Authorities and other organisations relevant to tackling ASB, such as Police Scotland, youth services, and housing associations, are failing to meet their obligation to observe equal opportunity requirements in ASB policy and practice. If future ASB policy wants to prevent all anti-social behaviour and better support all of its victims, approaches must depart from their ineffective, colourblind approaches and work to specifically consider the needs and safety of Black and minority ethnic communities in Scotland. Success will likely depend on policy makers embracing ideas of policy co-production to design and deliver culturally responsive and specifically anti-racist approaches to addressing ASB and fostering good relations.

Guidance on how to implement an anti-racist approach to policy design can be found in CRER’s ‘Anti-Racist Policy Making: Learning from the first 20 years of Scottish devolution’ report[[5]](#footnote-5). For detailed recommendations and rationale concerning community cohesion and its role in preventing anti-social behaviour and discrimination, policy makers may wish to refer to our ‘Fostering Good Relations’ report3.

Additionally, existing approaches to tackling ASB have had limited success due to an over-emphasis on penalisation-based deterrents, which are often ineffective at preventing ASB as they do not address its root causes. Furthermore, while data in Scotland is extremely limited, evidence from England and Wales reveals that this approach disproportionately penalises those from Black and minority ethnic groups, with 4% of those prosecuted for breaching dispersal orders being of Black African heritage, despite only accounting for 1.2% of the young adult population outside of London.[[6]](#footnote-6)

Research suggests that effectively preventing ASB requires policymakers to understand it as a social issue, requiring a shift away from punitive measures and instead, embracing more holistic approaches to prevention and early intervention, particularly amongst children and young people.[[7]](#footnote-7) These include providing more informal, supportive and person-focused services, such as therapeutic approaches to nurture positive emotional management and identity, mentoring systems, and improved public recreation services and facilities to provide more opportunities for people to learn new skills, interact with diverse groups, and engage in more productive and healthy uses of their time.

Further steps can also be taken to better support Scotland’s BME communities as disproportionate targets of anti-social behaviour, both within the existing policy and legislative context and that of an improved future approach. For instance, in addition to the preventative work with those at risk of perpetrating ASB, the use of Police Community Support Officers (PCSOs) or similar could significantly improve the ability of BME communities and individuals to report ASB where it impacts them.

The stakeholder engagement activities for the development of the Race Equality Framework for Scotland 2016-2030 identified that grassroots community groups were concerned about a breakdown in relationships with the police following the formation of Police Scotland. Prior to this, the work of Community Liaison Officers was regarded positively by these groups, and they expressed a wish to return to this model and develop closer relationships with specific, named officers to generate trust.

Additionally, while preventative work is key, existing police powers for tackling ASB can be used to protect Scotland’s BME communities from ASB and deal with racially aggravated threats to communities, such as the targeting of South Asian residents in Pollokshields, Glasgow and asylum seeker residents in Alloa, Clackmannanshire by far-right groups. For example, dispersal orders can be issued in areas of high risk of racially aggravated ASB, such as where intelligence suggests BME communities may be targeted under the guise of protest. Given the rising threat of far-right extremism and its close links to hate crime and anti-social behaviour, more must be done to protect at-risk communities and existing police powers under ASB policy could be a central mechanism for this.

Ultimately, the existing approach to preventing anti-social behaviour in Scotland has had limited effectiveness; it has lacked a focus on prevention, has failed to provide nuanced holistic support to both victims and perpetrators, and has failed to consider the varied needs of a diverse and multicultural population.

A new approach must recognise that a ‘one-size-fits-all’ approach to policy making will only contribute to and entrench racial inequalities in Scotland, and instead, must specifically address the unique needs, concerns, and experiences of Black and minority ethnic populations in relation to ASB. As disproportionate victims of ASB and consistently overlooked groups in Scottish policymaking, it is essential that Black and minority ethnic communities’ views, experiences, and expertise are centred within the design and delivery of future ASB policy in Scotland. An anti-racist approach to service design is crucial and at all stages of policy development, implementation and evaluation, a ‘not about us without us’ approach should be used.

# **Question 2**

## **b) What might the challenges – or the unintended consequences – be of making these changes?**

There are significant barriers to both our understanding of and our ability to take effective action on anti-social behaviour in Scotland, necessitating specific attention to improving the availability and quality of data surrounding ASB to design and deliver more effective policy interventions. Without a robust evidence base, policy development and implementation can become misdirected and difficult to evaluate.

A poor understanding of ASB, specifically regarding its perpetrators, victims, and social and criminal justice response, significantly limits our ability to design and deliver effective preventative and early intervention measures. Currently, despite the significance of racism in anti-social behaviour in Scotland, there is no publicly available data on the ethnicity of reporters or on those prosecuted under the Antisocial Behaviour etc. (Scotland) Act 2004, nor is there information on the proportion of ASB incidents with racial aggravation charges or the instances of racially aggravated conduct pre capita for each minority ethnic group. Therefore, it is prohibitively difficult to obtain a clear picture of the prevalence and distribution of ASB, limiting policy makers’ and interested groups’ ability to evaluate policy effectiveness and measure changes in ASB over time.

If Scottish Government seeks to sufficiently review and reform its approach to ASB, it must work to significantly improve the availability of data relating to ASB and ethnicity; ensuring that information is made available on the victims and perpetrators of ASB and how justice pathways vary with ethnicity. This should also expand to other areas of relevant legislation, such as charges of threatening and abusive behaviour under the Protection of Workers (Retail and Age-restricted Goods and Services) (Scotland) Act 2021.

Where small sample sizes may jeopardise the anonymity of data, techniques like data pooling can be used to combine multiple years’ worth of data without identifying individuals. Such work could tie into the ongoing ‘ethnicity compendium’ work carried out by the Cross-Justice Working Group on Race Data and Evidence. With a robust evidence base, policy interventions can deliver more effective priority-based outcomes and can be better evaluated over time to ensure best practice.

Preventative action can also become impeded due to an overemphasis on law enforcement and the criminal justice system as an effective method for tackling ASB in Scotland. To date, there is limited evidence of increased policing and surveillance preventing ASB, instead, they often contribute to more children and young people, people of lower socio-economic status, and Black and minority ethnic groups encountering and entering the criminal justice system to varying degrees.[[8]](#footnote-8) Some of these disparities are enabled, in part, by vagueness within the current legislation and in previous policy directives, which leave room for prejudice and bias in their implementation and corresponding policing responses due to their open-ended and overly subjective terminology. This can be particularly impactful on Black and minority ethnic populations, especially young people of Black African heritage, as they are consistently more likely to be perceived as threatening and have their behaviours codified as anti-social.8 [[9]](#footnote-9) [[10]](#footnote-10) [[11]](#footnote-11)

Therefore, future policy directives and legislation must be explicit, within reason, in describing what is considered anti-social behaviour to ensure that existing discriminatory misconceptions and biases are eliminated. This also calls for an expansion of equalities training and the implementation of specifically anti-racist training programmes among those working in relation to ASB to actively reduce discriminatory practices in penalisation and law enforcement.

While there are many areas surrounding the conceptualisation of ASB that need significant improvement to better prevent its occurrence in the long term, one of the biggest challenges to effective ASB policy is a lack of evaluation and accountability measures. Effective policy responses are built on a foundation of robust evidence and the poor-quality data environment surrounding ASB, particularly regarding ethnicity and hate, significantly limits the impact and success of policies tackling it. This should be a priority area for improvement.

# **Question 3**

## **c) How could we support people to better deal with ASB?**

In order to better support both those who engage in ASB and those who are victims of it, a more holistic, flexible and person-focused approach is crucial, demanding a more coordinated approach between relevant sectors, including education, social care, mental health, housing, and healthcare services. It is essential that multiple pathways for early intervention, resolution and victim support are made available and that communities are empowered to deliver their own culturally responsive supports and preventative solutions.

Victim Support Scotland states that almost 98% of ASB complaints they support people with are a result of hate crime1. In Scotland, the majority of hate crime charges contain a racial element, with racist hate crimes representing 55% of recorded hate crimes[[12]](#footnote-12), such that Black and minority ethnic populations are disproportionately victims of ASB. However, there are several barriers preventing BME victims from accessing and receiving effective and sensitive support in Scotland.

Currently, many forms of victim support are only made readily available after a crime has been reported. However, due to significant issues of underreporting and reduced levels of engagement with law enforcement among some BME groups and individuals, this leaves many victims of ASB without adequate support following what are often deeply traumatic events. Therefore, future approaches to dealing with ASB must revise existing formal approaches, ensuring that they are trauma-informed and recognise racism as an urgent public health issue transcending current framings of anti-social behaviour. Additionally, as seen in anti-racist approaches to mental health inequalities[[13]](#footnote-13), there must be a focus on flexibility, the provision of alternative informal support services, and enabling people to access care within their own community and trusted spaces.

A coordinated approach across the public sector is crucial, necessitating improved data sharing and linking capacities and the use of link workers or PCSOs to connect victims and those engaging in ASB to the most relevant supports at effective timescales. This may also require allocating additional resources to communities and local organisations to empower them to deliver their own uniquely positioned and culturally responsive approaches to providing support to victims of ASB alongside existing victim support systems.

Further, existing procedures in responding to ASB complaints, such as offers of mediation, have proved largely ineffective at reducing its recurrence, particularly amongst the significant proportion of ASB cases linked to racial discrimination.8 In some cases, failed and ineffective interventions like these can exacerbate poor relations between parties and incite escalation. Therefore, future policies must work on better addressing the root causes of racist ASB through commitments to community cohesion and fostering good relations. This may include developing initiatives which draw on contact theory, challenge notions of culture and ethnicity as a boundary and build skills which allow genuine understanding to develop through critical thinking, perspective taking, self-reflection and interpreting historical contexts, instead of simply policing attitudes and behaviour.

It has been suggested that interventions where people from different backgrounds within a local community work together may be effective in increasing cohesion, such as through sports or community food-growing projects. However, it is crucial to be mindful that interventions can have unexpected outcomes and unintended consequences and therefore need to be evaluated and adapted on an ongoing basis to ensure best practice. CRER is currently calling for Scottish Government to amend the Community Empowerment (Scotland) Act 2015 to require Community Planning Partnerships to act with a view to promoting community cohesion, as already required for socio-economic inclusion.

Ultimately, implementing an anti-racist and community co-production-based approach to policy design is essential to tackling anti-social behaviour at a systemic level and better supporting the Black and minority ethnic populations who are disproportionately victims of it. It is encouraged that policy makers refer to the details guidance and recommendations within CRER’s ‘Fostering Good Relations’ 3 and ‘Anti-Racist Policy Making: Learning from the first 20 years of Scottish devolution’ 5 reports.

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