

Parenting Contracts and Orders

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The Legislation

The 2 main pieces of legislation are the Crime and Disorder Act 1998 and the Anti-Social Behaviour Act 2003 - plus the 2006 Education and Inspections Act and The Police and Justice Act 2006 Sections 23-25.

Parenting Orders were introduced in the Crime and Disorder Act 1998. A parenting order has two components: an 'order' which requires a parent to do certain things to control the child's behaviour which can last up to a year and a 'guidance and counselling' element which can last up to 3 months. In this act the 'counselling and guidance' element was limited to one session a week non-residential. This was amended in the Anti Social Behaviour Act 2003 to allow for a residential element and sessions more than once per week.

In the Crime and Disorder Act parenting orders can be made by a court in cases:

- a) where a child safety order is made
- b) where an ASBO is made against a young person
- c) where a sex offender order is made in respect of a child
- d) where there is a conviction related to non-attendance at school.

In cases of conviction the court is obliged to explain why they are not making a parenting order if they choose not to.

The Anti Social Behaviour Act developed the concept as follows:

- a) Parenting contracts were introduced for both crime/asb and education-related.

Schools and LEAs were able to propose 'voluntary' parenting contracts in cases of exclusion (temporary and fixed) and non-attendance.

YOTs were enabled to propose 'voluntary' parenting contracts in cases "if a member of that team has reason to believe that the child or young person has engaged, or is likely to engage, in criminal conduct or anti-social behaviour" (Section 25 of ASB 2003 Act).

A parenting contract is very similar to an order except that it is voluntary. However; in both cases the refusal of a parent to accept a 'voluntary' agreement can be used as evidence to support an application for an order, as can breach of a 'voluntary' agreement. In cases where a court can impose a parenting order use of a voluntary agreement may well just be an administrative convenience rather than anything genuinely voluntary.

b) Parenting Orders in case of exclusion from school (temporary or permanent)

Schools and LEAs were able to apply to a court in cases of exclusion from school. This is a significant development because exclusion from school is not a judicial process. Yet on the basis of such an exclusion a court can be required to make a parenting order. The powers of professionals - in this case school heads - is massively increased. By excluding a student they also obtain the power to obtain a parenting order against the parents. Individuals can be subject to parenting orders without any due process - since the fact that their child has been excluded - by a non-judicial process - is itself all that is required for a successful application to a court for a parenting order.

c) Parenting Orders when a young person is referred to a YOT -

Anti-social Behaviour Act 2003 Section 26

A YOT can apply to a court when a young person is referred to them. A 'referral order' is an order made by the courts for most first-time youth offences. Young people given a referral order are put into the clutches of the local youth offending teams for periods of 3 – 12 months.

It is also the case that the authorities sometimes refer young people to Youth Offending Teams even if they have not committed any offences and have not been convicted in court. Whether or not this legislation allows for youth offending teams to apply for ASBOs in these cases is unclear to me. The legislation does not make it clear whether it is using 'referred' to mean via a referral order which is in fact a court disposal or 'informally'.

d) Parenting Orders required in case of ASBO

Section 85 of the 2003 Anti-Social Behaviour Act requires a court to impose a parenting order when it makes an ASBO against a young person under the age of 16 or explain in open court why not.

In the Criminal Justice Act 2003 the law was changed so that courts were not required to make a Parenting Order in the case of a referral order. (This is an order which refers a young person to a youth offender panel; an order which also imposes a requirement on parents).

e) Parenting contracts and orders under the 2006 Education and Inspections Act

This act amended the 2003 Anti-Social Behaviour Act to extend the powers of schools and LEAs to seek parenting contracts and parenting orders in cases of misbehaviour at school and indeed in places "in which it would be reasonable for

the school to regulate his conduct." (Section 97).

This allows a school to get a parenting order on a parent, which is quite a substantial order involving possibly a 'residential commitment' which in effect means imprisonment, with a significant (Level 3 - £1000.00) fine if its terms are broken, on the basis that a teacher thinks a student is misbehaving.

This gives school teachers enormous power over parents.

f) The Police and Justice Act 2006 Sections 23-25

This legislation allows social landlords to seek parenting contracts and apply for parenting orders where a child has 'behaved anti-socially'. The sole legal test is that the court believes that the child has behaved in an anti-social manner and that an order is 'desirable in the interests of preventing the child from engaging in further anti-social behaviour'. Social landlords can also apply for an order when they are engaged in proceedings against a party who is a parent of a child whose behaviour is a factor in the proceedings (such as eviction).

The Evidence

The government commissioned the Policy Research Bureau in 2002 ² to conduct research into parenting programmes. This research reported some benefits and this claim has been used by the government to further promote Parenting Orders. For example in the YJB/Home Office Guidance for Practitioners document. (Section 2.4).

The research in fact found no tangible evidence that parenting orders helped to reduce youth offending. This is essentially admitted by the researchers in the body of the document but a positive spin has been put on the findings in the Executive Summary in a process well-known from the WMD scandal.

The YJB states "An evaluation of the Youth Justice Board's parenting programmes by the Policy Research Bureau showed that they have a positive impact both on young people's perception of their parents and on their behaviour." This claim, with respect to young people's behaviour cannot be sustained by the research evidence.

The PRB report attempts to look at how the offending rates amongst young people may have been impacted by their parents' being on parenting programmes. A self-reporting exercise in fact showed no discernible drop in offending by young people at all.

The PRB attempted an analysis of re-offending based on the PNC. But, due to the complex nature of the analysis only a small sub-sample was used. The PRB writes "These results should thus be regarded at this stage as preliminary and approximate." (No mention of that in the YJB citation).

The PRB goes on to say "Because this was not a controlled experiment, there was no comparison group available for us to compare with the young people whose parents had been on the Parenting Programme. We are thus restricted in the extent to which we can attribute changes in officially recorded convictions to the parenting projects *per se*. In order to be definite that any positive benefits were actually the result of family involvement in the Parenting Programme, we would have needed a separate sample of young offenders who were similar in all respects, except that their families did not attend the Programme."

This is correct; and it begs the question why no proper study with a control group was carried out. This would be possible using historical data.

Working with a sub-sample that due to various technical limitations was small and somewhat skewed, for example only the more serious offences which resulted in a court disposal were counted for measuring re-conviction rates as only these are recorded in the PNC, the PRB found that re-offending rates amongst young people whose parents had been on a parenting programme were

61.5%. Prior to the programme the conviction rate was 89%.

The PRB continues "While the caveats on use of these types of data without a comparison group have to be emphasised, this is a hopeful finding and one that begs further research. Of course it is possible that young offenders would have begun to cease offending of their own accord around this time irrespective of any other factors (since the peak age for offending by young men is at fifteen years), but at least *absolute* levels of conviction went down, rather than up."

The report states that prior to the parenting programme intervention 89% had been convicted – not re-convicted. After the intervention 61.5% were **reconvicted**. Since you can't be reconvicted without being convicted what this appears to be saying is that 61.5% of the 89% (263) of the original sample (296) who were convicted were reconvicted (162).

It seems rather a pathetic plea to make to say that 'at least the absolute levels went down rather than up'. But, as the PRB admits freely this finding could also be explained by a natural falling off in offending which would have happened anyway.

In claiming that even this figure is 'statistically significant' as they do the PRB researchers are being a little disingenuous. Without a control study one can do no more than make a plea 'at least the absolute levels of conviction went down', which is hardly science. This is where a control group study would have come in.

Since the PRB did not do a control study we made a very rough attempt. For 2000 (a period which overlaps without exactly fitting the period used by the PRB) the overall figures for reconviction excluding (like the PRB study) pre-court disposals are 68.8% ³

As it stands then the reconviction rate of 61.5% connected with parenting programmes does in fact appear to be slightly lower than the overall national figure, based on this very approximate comparison.

Anecdotally it seems plausible that a programme which genuinely increased the 'skills' of parents to supervise and manage their children could lead to a drop in offending by those young people.

We note that the PRB study **did not** produce this evidence.

The PRB itself in its summary of the research glosses over the fact which it admits in the body of its report that it provided no solid scientific evidence at all that parenting orders contribute to a reduction in youth offending. The YJB in its use of this study cites the actual figures for a drop in offending without mentioning one of the numerous caveats with which the researchers qualified their findings let alone the fact of a natural drop-off rate in offending. Government

ministers have cited 'research' that parenting orders work. One wonders if this is the research referred to? If so that is a lie.

The PRB study also included a study of how young peoples' perceptions of their parents changed over the course of the programmes. The PRB sexed up its own meagre findings in its Executive Summary: "Although short-term programmes aimed at parents may be thought unlikely to have much immediate impact on young people's behaviour, there were some encouraging signs for young people associated with the Parenting Programme. These included mild improvements in young people's perceptions of the parent-child relationship, and drops in official reconviction rates."

In the body of the report the 'encouraging signs' of improved communication with parents reported by young people are in fact qualified "However, it must be said that most evaluators did not unearth much supporting evidence and were of the view that since projects did not generally work directly with young people themselves, there was probably little scope for change at the level of the child – and certainly not change that would be visible in the immediate term - other than the indirect benefit that might accrue from improvements at the parent level." Yet it is the positive gloss put on this finding in the Executive Summary which is repeated by the YJB.

This is the same process as was at work in the infamous WMD dossier on Iraq. A chain of people telling the higher-ups what they want to hear leads to a misrepresentation of the actual evidence.

Nonetheless our haphazard attempt at a comparative study and common sense suggest that it is at least plausible that parenting programmes **could** reduce youth offending.

The Ethics

That parenting orders **might** work is taken by the government as sufficient justification for their existence.

There are two unexamined aspects to this naïve position.

The programmes are deemed to have been successful if they reduce the youth reconviction rates. (There is a simplistic criticism here; according to the PRB study young people reported that they were committing crimes at the same level as before, creating the grounds for the conclusion that better parents made for better offenders - who don't get caught - rather than reducing criminality).

More seriously; the reliance on this kind of measurement - inevitable if a centralised organisation wishes to justify its existence - creates a way of looking at those who are so measured which is blind to their humanity. Young people become dehumanised as they are seen through what is essentially an auditing process of stock quality control. Martin Heidegger discusses the disastrous implications of a technological world-view leading us to see the world and even human beings as 'standing-reserve' - a resource to be used. ⁴The desire to apply the objective measuring standards of physics to children which we see evidenced in the PRB report and the kinds of 'scientific' study it refers to is unhealthy. This is not simply a criticism at an academic level. Young people know that they are being weighed and measured by statisticians. This does not make them feel good. It creates 'disaffection'.

Applying however an analogy from physics - if one part of a two part system is 'disaffected' it is best understood that both elements in the two part system have moved apart rather than seeing one as a fixed reference point and the other as wholly responsible for the gap between them.

I would suggest that just this kind of 'scientific' approach to young people is creating the 'disaffection' which it then claims to study objectively.

The second unexamined element in the government's position is an argument from effectiveness. The position is that if parenting orders work then how could you possibly oppose them? After all; surely you can't be arguing in favour of youth offending, not least because that does not help the young people.

But chopping off people's heads would also work.

That something 'works' (if it does) is not in fact usually taken in ethics as sufficient justification for it at all. In fact this measure of an action's soundness is the one used by baby murders, for example. I killed the baby to stop him crying. That justified my action.

Tony Blair's Anti-social Behaviour campaign (currently being branded as the 'Respect' campaign) has moved into wholly new territory for politicians and government. It is about adjusting people's behaviour rather than tackling crimes. Up till now behaviour has been the concern of parents, families, neighbours, possibly communities - basically other affected individuals. Now the resources of the state are being directed at personal behaviour.

Whether or not this is effective does not in itself address the philosophical question as to whether we want the state to intervene in the realm of personal behaviour.

Historically, the organisation which has addressed itself to personal behaviour is the church. The state has been content to deal with the *consequences* of what the church might see as immorality. The state would punish the act of thieving but the church would be concerned with the moral state of the individual.

To some extent at least the Respect campaign is a neo-religious movement. Individuals are *wrong* or *dysfunctional* (a term now used freely by ministers) - malefactors. It is no longer just the actions of the individual that the state claims to protect us from but the individual himself. Like the church the proponents of parenting orders also claim to be saving people from themselves. An ASBO looks more like an ex-communication from society than a criminal penalty. In some respects this is a regression not so much to Victorian piety with its distinctions between the deserving and undeserving poor but to Tudor times where malefactors were branded.

Do we want the state to tell people how to act as parents? When this happens boundaries are shifting. The state is appointing itself as the manager of behaviour rather than (or as well as) the prosecutor of crimes.

One question which might be asked is - does the state have any expertise in this area? The next section looks at how parenting programmes are (and this is legislated for) a disorganised mishmash of therapies. The moral guidance of the church is here replaced with the folk wisdom of counselling and therapy. Indeed the PRB study reports that parents found 'tips to take home and try' 'especially helpful'.

One wonders what the government is doing providing, compulsorily, unscientifically validated 'tips to take home and try'.

But, what right does the state have to describe a parent as failing? Or to prescribe a hotchpotch of questionable therapies as the solution?

The government defends its Respect legislation by saying that people who criticise it do not know the 'misery' that 'Anti-social behaviour' causes. But this argument whether or not it is true that there is a large problem of anti-social

behaviour causing 'misery' is no more philosophically convincing than the 'it works' argument. It is not a response to the philosophical questioning of the state moving into the area of behaviour management.

The state has shifted the boundaries and has moved into the realm of behaviour management outside of (though making use of for enforcement) the criminal justice system. The government has not justified this shift at an ethical or philosophical level.

Critics are 'shamed'. See for example a typical response which David Blunkett made to mild words of caution about parenting orders made by the then Lord Chancellor Lord Irvine in 2003 while the Anti Social Behaviour Act was still a Bill. The Home Office released a statement saying:

"When the home secretary introduced the Anti-Social Behaviour [*sic* - quoted from the BBC Online Web site] he made it plain that those people who have no experience of the misery that anti-social behaviour can bring should not stand in the way of those people wanting to take measures to do something about it. That remains his position." ⁵

This response is characterised by its complete absence of debate of the philosophical question - a feature of New Labour's handling of criticisms and a feature of the Nazi regime in Germany.

The Content of the Programmes

A parenting order is made up of two components. One is a set of orders about maintaining control of their children, the other is a "A counselling or guidance programme". This programme can be residential and can require attendance more than once per week and may last up to three months.

What is the content of these 'counselling or guidance' programmes?

In document 'Parenting' produced for the YJB by the PRB and Trust for the Study of Adolescence ⁶ we read "The content and delivery of the programmes should be based on clear theoretical principles, on evidence of effective practice and on knowledge of the needs of the parents for whom the programme is provided."

The kinds of programmes described seem to involve a mixture of counselling group work and 'skills teaching'. The report cite above repeatedly emphasises the need to be sensitive to different cultural norms; thus perhaps showing sensitivity to the possibility that the parenting programmes might end up telling people how to bring up their children according to one social group's criteria. 'Psychodynamic' work focussing on children is eschewed.

There is no national frame-work for a parenting programme of this sort and no recognized curriculum or staff qualification. This would seem to raise questions about parents being obliged by the courts into attending programmes which have not been responsibly evaluated. At least as far as psychotherapy is concerned its 'theoretical principals' are seen by many critics as dangerous, demeaning and irrational. (Jeffrey Masson, *Against Therapy* 1998. Professor Frank Furedi, *Therapy Culture* 2003. , *Decline and Fall of the Freudian Empire*, 1986). There are questions about the government making programmes which may be influenced by psychotherapy which has not been scientifically validated compulsory for parents. There are further questions about enrolling parents on programmes where they may be required/expected to divulge personal information to a group. It is re-assuring to see the YJB eschewing 'psycho-dynamic' therapy, the kind which is directly based on Freud, but given the lack of a national programme which can be subject to scrutiny doubts must remain.

Notably lacking from the whole concept of parenting programmes and indeed in the ASB culture as a whole, is anything at all about poverty.

A case of 'Anti-social behaviour' documented on the Together web site (<http://www.together.gov.uk/article.asp?c=475&aid=3592>) describes how two families living in small flats side by side with a large number of teenage sons contributed to 'a corridor of hell' for the neighbours. All the boys got ASBOs. But, the fact is, anyone would find parenting teenage boys in the conditions described (2 small flats on an estate corridor) a tough job. It is harder to be a parent when

you have no money and no space. Rather than addressing social inequality New Labour has, shamefully, chosen to pick on poor families, in a new version of the Victorian gimmick of giving the poor religion (therapy) rather than justice. Further; the programmes which these parents have been put on have not been shown to achieve their primary aim - of reducing the offending of their children.

The Figures

The following are taken from the Youth Justice Board 2005/6 Statistics report.

Parenting Orders (crime related)	1,069
Parenting Orders (education related)	213*

*The YJB states that this is likely to be under-reported.

This seems surprisingly few given that parenting orders should as a rule (according to the legislation) be issued when a young person is convicted or given an ASBO.

For example; 1555 ASBOs were made against Young People in 2005. If the standard practice was for a parenting order to be made at the same time one would expect to see 1555 parenting orders.

This could be due to a lack of provision of parenting programmes.

From the respect.gov.uk web site ⁷ we have the following information for parenting contracts:

2005/06: 2,268 parenting contracts

References

1. YJB/Home Office Circular 24/2/2004 'Parenting Orders and Contracts for Criminal Conduct or Anti-social behaviour'
2. The Policy Research Bureau Study 'Positive Parenting'. September 2002.
3. Re-offending of juveniles: results from the 2004 cohort
Reconviction Analysis Team, RDS-NOMS. Elizabeth Whiting. Lucy Cuppleditch
June 2006
4. Martin Heidegger. Critique of Technology. The Question Concerning
Technology. 1949. Cited from Martin Heidegger, Philosophical and Political
Writings. Continuum. Ed. Manfred Stassen. 2003.
5. http://news.bbc.co.uk/1/hi/uk_politics/2962563.stm
6. Parenting. Edition 1. Key Elements of Effective Practice. Youth Justice Board
7. <http://www.respect.gov.uk/members/article.aspx?id=9822>