

# one small thing

## **One Small Thing's response to the Government's consultation on community safety partnerships review and antisocial behaviour powers, May 2023**

### **About One Small Thing**

One Small Thing's vision is a justice system that can recognise, understand, and respond to trauma. Our mission is to redesign the justice system for women and their children.

We want a compassionate system that recognises the vicious cycle of trauma and disadvantage at the root of justice involvement and allows people to recover from trauma and thrive. Our core focus is on women and their children because of the additional discrimination and disadvantage they face.

How:

- Redesign the way the justice system responds to women and their children in a way that can be replicated and scaled nationally.
- Educate people within the justice system on the impact of trauma, and draw on our knowledge and expertise to help build capacity within organisations.
- Influence politicians and policy makers to encourage culture change across the justice system and the people who work within it.

### **Response Summary**

We welcome the opportunity to respond to the *Community safety partnerships review and antisocial behaviour powers* consultation.

In our response we have focused on the questions related to ASB powers rather than the Community Safety Partnerships Review, as this is most relevant to our work supporting women and their children in the community and justice system.

Overall, we do not agree that the proposed expansion of police and local authority powers around ASB is the answer. Proposals such as increasing fines, drug testing in public, making it easier to evict tenants, and applying Community Protection notices to under 16's, will lead to more women, young people and marginalised groups getting caught up in the justice system without addressing the root causes.

If the Government is serious about tackling antisocial behaviour and making communities safer and stronger, it needs to invest in services in the community that support local people with a range of issues such as mental health, domestic abuse, substance use, and safe housing, that prevent women becoming trapped in a cycle of criminalisation and homelessness.

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## **Response to key points in the *Community safety partnerships review and antisocial behaviour powers consultation***

### **Civil Injunctions**

We are concerned about the proposal to expand the power of arrest for Civil Injunction breaches, and the potential this has to increase women's involvement in the justice system.

The way Civil Injunctions are currently being applied often has severe problems, and can disproportionately target people with mental ill health who are often unable to follow the stipulations of the injunction issued against them<sup>1</sup>. Worryingly, women make up 27% of people jailed for anti-social behaviour, despite only making up 4% of the prison population<sup>2</sup>. TBIJ highlighted in their research that, '*In one instance a woman was moved directly from a mental health hospital to a six-month prison stretch*', and that, '*Police even applied for an injunction to stop a suicidal woman from standing on a bridge, meaning an attempt to kill herself would have been contempt of court and could have ended in her imprisonment*'<sup>3</sup>.

With someone in court facing a prison sentence every eight days for breaching a Civil Injunction, and with the average sentence being just 86 days<sup>4</sup>, it suggests that Civil Injunctions are already being overly, and inappropriately used.

*'I do not think the power of arrest should be extended to all breaches of civil injunction. Arresting people and locking them up in a police station cell for such a short time to only then release them is traumatic and can have a huge impact on mental health.'* Lilly Lewis, Women's Involvement Advisor at One Small Thing

The government should rethink their proposal to expand the power of arrest over civil injunction breaches, and focus on solutions that reduce involvement in the justice system and increase support in the community. Prison has devastating effects on women and their children, and many women in prison should not be there, themselves victims of crimes more serious than the ones they are convicted for. 68% of women in prison have committed a non-violent offence<sup>5</sup>, and half receive sentences of six months or less<sup>6</sup>. In this time, they can have their children removed or be separated from them and lose their homes and their jobs. This proposal risks more women being caught up in the justice system on very short sentences for non-violent crimes.

Considering the high proportion of women and those experiencing mental ill health who are imprisoned for antisocial behaviour, it is vital that the Government seeks to understand how current policy is driving this disproportionality if it hopes to find evidence-based solutions. However, we are aware that comprehensive data is not collected on when and how antisocial behaviour injunctions are used or what

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<sup>1</sup> <https://www.thebureauinvestigates.com/stories/2022-08-21/jailed-for-feeding-pigeons-the-broken-system-of-antisocial-behaviour-laws>

<sup>2</sup> Ibid

<sup>3</sup> Ibid

<sup>4</sup> Ibid

<sup>5</sup> Prison Reform Trust, Bromley Briefing Prison Factfile, January 2023, p38

<sup>6</sup> Ibid, p39

happens when they are breached<sup>7</sup>. It is unclear where the evidence lies for the Government's proposal to extend the power of arrest to all breaches of a Civil Injunction. It is vital that the Government collects data to understand who their current practices impact, and what their outcomes are before making this change.

### **Expansion of drug testing on arrest**

We agree with the Government that everyone should be able to feel safe in their communities, free from the harm of drugs. However, we do not believe the proposals put forward in this paper, or the ASB Action Plan will adequately address this issue. Expanding the types of drugs that can be tested for, and drug testing powers could lead to criminalisation in place of support, with particular concern for the impact on women, young people and racially minoritised groups.

Considering that the factors behind women's involvement in drug-related crime are often rooted in poverty, trauma, violence and coercion, we are concerned that these proposals will not be an effective intervention and may even hinder women accessing support. Particularly the proposal to expand where drug testing can take place, including on the spot and in public, which can single people out and shame them publicly in their communities.

*'Drug testing people in public would be degrading and could see people being targeted by the police. I am aware there are different forms of drug testing, but they are all intrusive. When drug testing takes place in custody you are usually woken up around 6.30am before you have had chance to go to the toilet, you are taken to a porta cabin or open toilet, the officer has to see your hands at all times and they can hear you. This is so degrading and I felt a loss of dignity when this happened to me.'* Lilly Lewis, Women's Involvement Advisor at One Small Thing

We are concerned that these new proposals will disproportionately affect women, young people and racially minoritised groups. Considering the racial disparities that exist now in how drugs are policed, there is a notable lack of explanation of how these new proposals around tackling drug related ASB will address current unequal outcomes and institutionalised racism in policing and sentencing. Analysis of Ministry of Justice data by Agenda and Women in Prison shows that *'For every 100 white women sentenced to custody at crown courts for drug offences... 227 black women received custodial sentences'*<sup>8</sup>.

*'When it comes to black and minoritised communities, I feel you may see specific areas targeted and more racial profiling under these new proposals.'* Lilly Lewis, Women's Involvement Advisor

### **Public Spaces Protection Orders (PSPO) and Community Protection Notices**

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<sup>7</sup> <https://www.thebureauinvestigates.com/stories/2022-08-21/jailed-for-feeding-pigeons-the-broken-system-of-antisocial-behaviour-laws>

<sup>8</sup> ["Double disadvantage" The experiences of Black, Asian and Minority Ethnic women in the criminal justice system](#), Agenda and Women in Prison, 2017

Whilst the overall aim to ensure communities can peacefully enjoy public spaces is commendable, we are concerned that these proposals may disproportionately affect those most vulnerable – by criminalising poverty and intersecting needs through anti-social behaviour legislation.

The consultation states that, *'We do not think that the 2014 Act provides sufficient powers to deal with nuisance begging and rough sleeping issues once the Vagrancy Act has been repealed.'* We support the repeal of the Vagrancy Act, and the acknowledgement that led to this repeal that criminalisation does not resolve the root causes of homelessness and can push people further away from services. For women experiencing homelessness and domestic abuse this can be a vital issue of safety, as criminalisation can push them further away from the local services who have been working to build up trust and support access to safe housing. PSPO's and Community Protection Notices should not be strengthened to take the place of the Vagrancy Act.

It has been widely reported that, in part because of the vague definition of what constitutes antisocial behaviour, PSPOs have already been used by councils as a method to criminalise rough sleeping and begging. Research conducted in 2022 describe how *'many PSPOs contain prohibitions that directly target people experiencing street homelessness such as begging, street drinking and erecting tents and shelters'*<sup>9</sup>.

Considering the problems with how councils are currently using PSPOs, we are concerned at the proposals to extend this power to the police – and the suggestion that this could be done with a much-reduced consultation process as is required of councils. This is particularly worrying considering research which describes police enforcement of PSPOs to range *'from supportive to verbal and physical abuse, emotionally impacting on the participants and resulting in antagonistic relationships and further ASB'*<sup>10</sup>. The proposal to increase the fixed penalty notice for breaches PSPOs from £100 to £500 fails to recognise the reality of vulnerable people who are targeted by PSPOs, and that their inability to pay the fine will lead to further involvement in the justice system.

*'Many people who are being served with fines are unlikely to have the means to pay regardless of if the amount is 100 or 500, this just creates further debt for those on the lowest incomes. This can eventually see people being incarcerated because of poverty.'* Lilly Lewis, Women's Involvement Advisor

These new proposals have the potential to deepen hardship for, and further criminalise justice involved women. The Rough Sleeping in London report<sup>11</sup> showed that a third of people seen rough sleeping in 2015 to 2016 had experience of serving time in prison, and in May 2022 it was reported that 65% of women were leaving Bronzefield, the largest women's prison in the UK, without safe and sustainable accommodation<sup>12</sup>. This is the same prison that was found in 2016 to be

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<sup>9</sup> [https://shura.shu.ac.uk/30783/1/LivingwithinaPSPO\\_FullReport\\_Sept2022.pdf](https://shura.shu.ac.uk/30783/1/LivingwithinaPSPO_FullReport_Sept2022.pdf), p13

<sup>10</sup> Ibid, p15

<sup>11</sup> <https://data.london.gov.uk/dataset/chain-reports?resource=db4d244e-ab51-44e1-96dd-c8bafa65a62a>

<sup>12</sup> Independent Monitoring Board Report, HMP/YOI Bronzefield, July 2021

giving tents and sleeping bags out to women on release<sup>13</sup> (as mentioned above, many PSPOs contain prohibitions that prevent erecting tents and shelters).

We do not support the age limit being lowered for Community Protection Notices to under 16 as our Women's Involvement Advisor Lilly suggests:

*'The age limit should not be lowered below 16 this would further criminalise young children. Already children in the care system are excessively penalised with police being called to care homes more than children who live with parents. Anti-social behaviour is often associated with trauma and mental health, and children who have experienced trauma may appear to be behaving anti-socially. A trauma informed approach is always needed when addressing ASB.'*

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## Wider Impacts

By focusing on predominantly punitive approaches in the Anti-Social Behaviour Action Plan - expanding police powers, increasing fines, making it easier to evict tenants, and even enabling more under 16s to be criminalised - these proposals do not acknowledge the reality of how current antisocial behaviour powers are impacting those with multiple, intersecting needs, and does not address how these new proposals may involve people in the justice system where other support is more appropriate.

This is particularly true for women who were found to make up 27% of people jailed for anti-social behaviour, despite only making up 4% of the prison population<sup>14</sup>. There are also concerns about how ASB powers may criminalise tenants experiencing domestic abuse, most of whom are women, who are four times more likely to have ASB complaints made against them. This concern is reflected across the housing and domestic abuse sector in response to the ASB Action Plan, with the National Housing & Domestic Abuse Policy and Practice Group strongly advising against plans to relax ASB eviction grounds, making it easier to evict tenants, when in fact they may need support for domestic abuse<sup>15</sup>.

*'Any type of antisocial behaviour, drug misuse, mental health problems can see a woman being evicted, forcing her back to abusive partners or the risk of being housed in bed and breakfast or hostels.'* Lilly Lewis, Women's Involvement Advisor

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## Conclusion

If the Government is serious about tackling antisocial behaviour and making communities safer and stronger, it needs to invest in services in the community

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<sup>13</sup> Report on an unannounced inspection of HMP & YOI Bronzefield by HM Chief Inspector of Prisons, November 2015

<sup>14</sup> <https://www.thebureauinvestigates.com/stories/2022-08-21/jailed-for-feeding-pigeons-the-broken-system-of-antisocial-behaviour-laws>

<sup>15</sup> [https://www.dahalliance.org.uk/media/11261/daha-national-group\\_asb-da-briefing.pdf](https://www.dahalliance.org.uk/media/11261/daha-national-group_asb-da-briefing.pdf)

that support local people with a range of issues such as health, domestic abuse, substance use, and homelessness.

Instead of focusing on policies that create novel routes into the justice system, we urge the government to invest similar energy and resources into current strategies that aim to increase access to support services, and reduce involvement in the criminal justice system. One of the strategic priorities of the Female Offender Strategy is fewer women coming into the criminal justice system, however the National Audit Office has reported that the government has not prioritised investment in this work, and has allocated limited funding and resources towards achieving the strategy's aims<sup>16</sup>. The Lammy Review set out clear recommendations to tackle racial disproportionality in the justice system that should also be drawn upon for any new proposals in this area<sup>17</sup>. Importantly, we would like to see the government take a trauma informed approach to how they respond to ASB.

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We welcome the opportunity to share more information and discuss our response further.

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<sup>16</sup> [Improving outcomes for women in the criminal justice system](#), National Audit Office, 2022

<sup>17</sup> <https://www.gov.uk/government/publications/tackling-racial-disparity-in-the-criminal-justice-system-2020>