

Youth Conduct Orders: Anti Social or Anti Youth?

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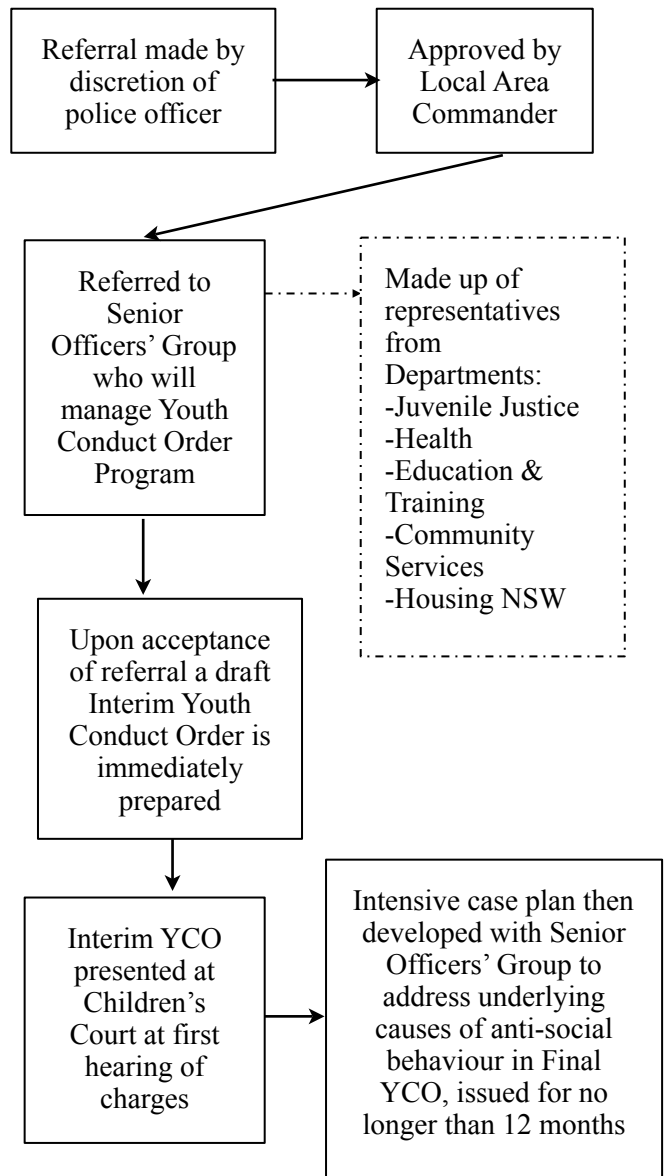
Youth Conduct Orders on trial

The NSW government has announced a proposal for a twelve month trial of Youth Conduct Orders. This program may impose restrictions on the behavior and movement of juvenile offenders as a strategy, aiming to curb anti-social behavior. This will form part of a broader strategy of achieving a reduction in antisocial behaviour as per the NSW state plan¹.

The trial is due to begin in December 2008 in the New England, Campbelltown and Mt Druitt local areas. These restrictions include curfews, school attendance requirements and non-association orders to prevent contact with 'bad influences or gang members'. The eligibility criteria for Youth Conduct Orders, which can last up to twelve months are:

- Aged 14 to 17
- Reside in or be a regular visitor to the Local Area of which the trial is occurring
- For young people who have been charged and/or found guilty of anti-social behavior offences
- Be at high risk of harm to themselves or the community
- Have complex needs
- Have not previously responded to interventions by a single agency

The proposed process of Youth Conduct Orders



*Note: The Children's Court will also be able to recommend a young person to be assessed for a YCO.

Youth Conduct Orders on trial or young people?

Youth Conduct Orders have their origins from the UK where they are known as Anti Social Behaviour Orders (ASBO's). The orders were a key part UK Labour's law and order policy with the election of the Blair government in the late 1990's.

The effectiveness of these are still today being debated and challenged across the UK. From the evidence, the success of the ASBO program in the UK is questionable. Reports about its abuse or misuse and

failures are widely reported and discussed since their introduction. Civil Rights activists and groups in the UK and abroad have been some of the loudest critics of their introduction of ASBOs in the UK. Even an article in the American newspaper² criticised the concept of ASBO “as devilishly dangerous because orders are easily obtainable and enjoy a broad spectrum of conduct”, the concept would simply be unconstitutional in the US.

The European civil liberties Network claims the problem with using ASBOs here is that “they don’t work! Every set of government statistics has shown a progressive increase in the percentage being breached. With almost half currently not adhered to they hardly inspire confidence in their capacity to protect us. At the same time there is no direct statistical evidence to indicate a rise in ‘anti-social behaviour’³

Youth Conduct Orders in Australia to date are being framed as a radical and tough new juvenile justice initiative to deal with the problems of reoffending youths, aiming to stop them turning into career criminals. However, a majority of the features of the proposed Youth Conduct Orders Program already exist under the Young Offenders Act, where young people who have committed anti-social offences are required to attend Youth Justice Conferencing, to steer young offenders away from the court and directing them towards alternative forms of intervention. How Youth Conduct Orders are a new and fresh response to juvenile crime is not clear.

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offenders may also be imprisoned for breaching Youth Conduct Orders, where the original offence was itself non-imprisonable. This raises serious questions if Youth Conduct Orders will actually reduce or increase the rate of young offending.

The NSW State budget from 2007 to 2008 already increased funding for additional juvenile custodial accommodation by \$9 million dollars for the rising need.⁴ With the introduction of Youth Conduct Orders, and detention as a possible consequence for breach of the orders, it is fair to question the obvious potential for further strain on the juvenile detention systems when overcrowding is already a serious problem.

Youth homelessness and Youth Conduct Orders?

The Youth Conduct Orders also extend the issues young people involved with the criminal justice systems who face accommodation issues and homelessness. Not only are homeless young people over represented in the criminal justice system, those who have an increased and chronic offending history also become at increased risk of homeless. Young people involved with the criminal justice also tend to be people with high and complex needs which the order is targeted at.

“The bewilderingly vague definition of what may attract an ASBO – ‘behaviour which (has) caused or is likely to cause harassment, alarm or distress to others’ – puts young homeless people at particular risk simply because they wish to live so much of their lives in public”⁵.

Laws and targeted police practices make young people criminals for behaviour

associated with homelessness, due to survival often relying upon theft, begging and fare evasion. Also for safety, young homeless people often associate in groups. However, frequently police ask these groups to move on as they are seen as a nuisance, and upon refusal be charged with a criminal offense. These are crimes that would may be considered anti-social behaviour and of which offenders would be considered eligible for a Youth Conduct Order. Criteria of these orders often include accommodation requirements and school attendance, which for young people living in crisis refuges, on the streets or couch surfing would find difficult to achieve in an already stretched system and a SAAP system that has serious capacity constraints. There are already problems for young people who are being held on remand with a lack of adequate and appropriate accommodation. Without supportive accommodation, young people who are homeless are likely to receive the harsher consequences of Youth Conduct Orders.

There are issues that need to be addressed to assist young people with an offending history, but it seems unlikely that Youth Conduct Orders are the 'silver bullet' for meeting the goals of the NSW State Plan. Common sense and sheer weight of evidence tell us the solutions lay more in addressing the systemic and driving forces behind youth offending and accompanying housing issues for young people. Evidence from the UK suggests that the ASBO program works most effectively when combined with other support programs for young people.

*"ASBOs work to reduce anti-social behaviour only when they are applied in conjunction with early intervention programs, support for behavioural change, education, programs that respond to the causes of the behaviour, and diversion programs for young people."*⁶

The Key concerns of Importing the ASBO concept to Australia summarized.

- Who defines 'anti-social behaviour' and How do you define it?

- Will young People will be easy targets and what if you are homeless?
- There is no presumption of innocence, checks and balances?
- Given the vagueness of the concept is there a potential for misuse?

"Laws and targeted police practices make young people criminals for behaviour associated with homelessness"

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