

# Response to consultation

## Shelter Scotland's response to 'Putting Our Communities First: A strategy for tackling anti-social behaviour'

From the Shelter policy library

August 2003

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# Shelter

The Scottish Executive has made anti-social behaviour a priority for this term of parliament. Shelter welcomes that priority, given the serious nature of the problem in Scotland. We agree that the problems facing some neighbourhoods, especially the most disadvantaged neighbourhoods, are intolerable. Finding lasting solutions to anti-social behaviour will be a major challenge for the government, and will require a strategic approach that strikes a balance between prevention of the problem and effective responses.

This paper responds to the consultation paper 'Putting Our Communities First: A Strategy for Tackling Anti-Social Behaviour', and sets out Shelter's views on specific proposals in the strategy. Many of the government's proposals are in areas that are not directly within Shelter's sphere of expertise – and we do not comment further on those. But some suggestions directly impact on the way in which households access and retain housing. Further, we have some observations about the overall approach to anti-social behaviour in the paper.

## **Shelter's work responding to anti-social behaviour**

- Through our housing aid and support services, Shelter works with many households who have lost their homes as a result of anti-social behaviour. We work with individuals who have carried out acts of anti-social behaviour and have been evicted, or have failed to sustain a tenancy due to anti-social behaviour, and we work with households who are without a home as a result of experiencing anti-social behaviour.
- Shelter provides advice and advocacy to households who are homeless. We also provide direct support to families who are homeless as a result of failing to sustain a tenancy. Our Families Projects, based in Edinburgh, Glasgow and South Lanarkshire work with households to resolve behaviour that has led to homelessness. Our support workers provide direct support in many forms to parents to sustain tenancies. Our specialist child support workers engage with the children of homeless families, who often have been affected most by the trauma of being homeless. In Dumfries and Galloway, Shelter runs a similar support project, but focused on single people. Finally, throughout the north of Scotland, Shelter runs a Prisoner's Project aimed at preventing homelessness among ex-offenders.
- Shelter's 'Inclusion Project' in England is designed specifically to help sustain the tenancies of families alleged to have carried out anti-social behaviour (See Annex A).

## **The policy context**

Both parties in government prioritised anti-social behaviour in their election manifestos and in the government's Partnership Agreement.

The consultation strategy reflects a political decision to tackle the problem, and bring forward responses that are seen to be a 'quick fix' to the problem. Shelter is pleased that the Executive has chosen to publish its proposals as part of a strategy document, rather than simply introduce a bill to parliament. But we are concerned at the lack of an evidence-

base for what works or might work in the strategy; at the set timescale for the strategy; the language used in parts of the strategy and the lack of attention paid to resources. All of these problems bear the hallmarks of a consultation paper that has been prepared with swift solutions in mind, rather than a long-term strategy to tackle the problem.

## **Timescale**

The strategy has been damaged by the timescale set for the consultation period. While Shelter accepts the urgency of the problem, and the need for solutions to anti-social behaviour, these solutions must be effective, and therefore require time for their development.

The Partnership Agreement, launched in May 2003 prioritised anti-social behaviour. It was announced that legislation would be introduced, with consultation over the summer. At the time, a separate consultation was ongoing which had been launched in March 2003 regarding community-based approaches to anti-social behaviour. Shelter responded positively to many aspects of that consultation and looked forward to a community-based approach being central to a government strategy to tackle the problem. The Executive began this consultation within weeks of the closing deadline on community-based approaches. The strategy document is far less community-centred in terms of solutions, and gives legal and enforcement measures prominence. In a matter of months, the government's focus had changed from community-based approaches to hard-line measures to tackle the problem.

The government's decision to hold the consultation over the summer has undermined opportunities for public dialogue on the issue. Parliament has been in recess for the consultation, preventing debate on the strategy by our politicians, and the media is in 'silly season' mode, preferring to focus on feature-type stories, that invariably sensationalise anti-social behaviour, rather than presenting potential solutions. Shelter hopes that the government will spend sufficient time considering the responses to this consultation before introducing a bill to parliament. Given the need for active discussion on the proposals we would suggest that at least three months is needed before introducing a bill to parliament. Anything less would undermine the responses to this consultation and imply that the bill had been prepared irrespective of the responses.

## **Language**

The tone and language used in the consultation document suggests that the government is only committed to punitive measures for certain groups: tenants in the social and private sectors, young people, and (potentially) those on benefits. The strategy contains a commitment by the government to be 'firmly on the side of communities'. However, there is no recognition that those who carry out anti-social behaviour are also, inevitably, members of a community, and their behaviour should be tackled within that local context.

Shelter is concerned that the strategy changes the spirit of earlier progressive work. In describing the conclusions of the Homelessness Task Force (p.54) it presents the option of non-tenancy accommodation as a punishment for misbehaviour, rather than, as was intended, a way of ensuring that households are not displaced from the housing system, and given every opportunity of eventually gaining a tenancy.

The government clearly commits to the introduction of legal measures to tackle anti-social behaviour. However the language is less resolute regarding non-legal proposals; the government proposes to *encourage* wider use of Acceptable Behaviour Contracts, rather than to guarantee their introduction. Respondents are asked by the government to comment according to a set of fixed questions. However in some cases respondents are not asked *whether* they would support particular proposals, rather *how* they would ensure its introduction, i.e. 'How should ASBOs be extended to under-16s?' Such an approach suggests that the government has already decided its approach on many proposals and the consultation is undermined as a result.

In 2000, the Scottish Executive published a major review of civil legal remedies for neighbour nuisance. There is little evidence in that report of the need for new legal powers. The key to action lies in better implementation of the powers that already exist. Despite this, successive governments continue, almost on an annual basis, to change the legislative context in which already hard-pressed practitioners operate. The government has published a strategy that claims to present the big picture; however the centrepiece is yet more legislation, with other proposals little more than window-dressing.

The Executive might argue that action is needed quickly: hence the emphasis on an early bill. But placing swiftness above effective responses is a risky course to follow. If, the strategy, as is claimed, is to be the landmark that makes a positive difference to beleaguered communities, it needs to be sure of delivering. If it does not, then confidence in a public policy solution will be further undermined, leaving communities grasping at ever more hard-line responses.

### **Case Study 1: Applying simplistic solutions to complex problems**

An elderly man contacted one of our Housing Aid Centres when his local authority informed him that they were pursuing eviction action on grounds of anti-social behaviour. The man's neighbours had complained to the council about noise and intimidation.

The man was physically disabled and had manic depression. A group of young people in the local area had agreed to 'help' him, but were having drinking parties in his flat. The young people were 'borrowing' money from him when they went to do his shopping. The man felt physically intimidated, and that he could do nothing to stop the behaviour of the young people.

Shelter contacted the council on the man's behalf, and eviction action was suspended. The social work department agreed to do a community care

assessment, and appropriate support was put in place. The tenant was no longer dependent on others for help, and managed to keep the young people from his door. The eviction action was not pursued, and the tenant was given a transfer to sheltered housing by same landlord.

## **An evidence-based approach**

A strategy to tackle anti-social behaviour must be focused on what works. Shelter is not convinced that the government has spent enough time considering the evidence base for their proposals. A consensus has yet to emerge among policy makers and practitioners in England as to whether tagging young offenders actually works. The proposals to dock housing benefit, mentioned in passing in the strategy, contain no evidence as to the effectiveness of such sanctions in changing behaviour.

Many of the current legal remedies to anti-social behaviour are underused in Scotland. In its response to the consultation paper on community-based approaches to anti-social behaviour in May, Edinburgh City Council cited the court process as an obstacle to solving the problem, 'the length of time to get a case through court when it is defended does cause a great deal of upset and frustration for witnesses...there is a clear need to look at the court processes for dealing with such cases'. As already mentioned, research carried out for the Scottish Executive in 2000 argued that existing legal remedies are sufficient to solve anti-social behaviour<sup>1</sup>. Shelter believes that the government should take account of the findings of its own research, and the responses to its own consultations. Increased investment to make legal remedies more effective is needed. Such an approach is missing from the strategy, despite the evidence from local government in previous consultations.

The government has not spent sufficient time investigating successful solutions to anti-social behaviour. Local government and the voluntary sector are working together and in parallel to develop innovative and lasting solutions to the problem of anti-social behaviour. Support projects that engage with perpetrators to amend their behaviour based on an examination of its causes, have high success rates in dealing with the problem. Despite the development of innovative responses to the problem, the government has chosen to focus its strategy on approaches that are about punishment changing behaviour. This should not be at the cost of initiatives that have proved to be effective. More time should have been spent looking at the impact of existing approaches, before designing a strategy of this kind.

### **Case Study 2: Supporting people to change behaviour**

A woman with one son contacted one of Shelter's Families Projects following notice from her local authority that the authority was pursuing eviction action on ground of anti-social behaviour.

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<sup>1</sup> Atkinson et al *The Use of Civil and Legal Remedies for Neighbour Nuisance in Scotland*, Scottish Executive, 2000.

Neighbours had complained about the behaviour of the woman's partner who was suspected of drug dealing. Neighbours had told the local authority that the police had made several calls to the house. The complaints also centred on her son (14) who was apparently pulling up plants in people's gardens and generally being out of control.

The project worked closely with the local authority housing officer, agreeing that the behaviour was unacceptable, but convinced the officer that the project could succeed in finding a solution. Shelter provided support for her son to look at the behaviour as well as support to the mum to talk to the neighbours about her situation and background.

The woman was experiencing domestic abuse by her partner and felt she could not control his behaviour. The neighbour's animosity had mainly been a reaction to his behaviour. The project helped her try to explain this to the neighbours and they became more sympathetic. They grasped the complexity of her situation as well as her vulnerability. The son began to attend school more and attend other activities outwith the house that helped settle things down.

The Families Project carried on supporting her and the council took no further action as the complaints reduced - she was better able to resolve things with her neighbours at the first sign of any trouble.

## Resources

The strategy claims to set out to tackle anti-social behaviour, yet there is no sense in the consultation paper of how much the proposals will cost, or whether the Scottish Executive intends to make any funds available for the proposals.

At present, the funding mechanisms for projects and initiatives to tackle the problem are unwieldy, and investment tends to be short-term. At a discussion day, hosted by Shelter on behalf of the ASB Bill Network, many organisations, both in local government and the voluntary sector highlighted their concerns. This echoes similar concerns on the issue of funding in the consultation on community-based initiatives. Shelter reiterates those concerns. The funding earmarked for potentially successful community-based initiatives such as Community Wardens Schemes is time-limited for two years. A strategy that intends to provide lasting solutions to anti-social behaviour will require more long-term funding.

## **The ASB Bill Network**

Shelter is one of the founder members of the Anti-Social Behaviour Bill Network. The organisations involved share a common concern about the serious problem of anti-social behaviour in Scotland and are committed to real and lasting solutions. The organisations share reservations about the Scottish Executive's proposals to tackle anti-social behaviour on the basis that they fail to offer sufficient additional relief to communities and families affected by anti-social behaviour. The ASB Bill network will work to present an alternative perspective to the Anti-Social Behaviour (Scotland) Bill.

The network is made up of over forty organisations, including Shelter, Child Poverty Action Group, Poverty Alliance, SACRO, National Autistic Society, Scottish Refugee Council, Edinburgh Tenants Federation and the Scottish Tenants Organisation.

## **Specific proposals contained in the government's strategy**

### **ASBOs for under-16s**

Shelter supported the use of anti-social behaviour orders in the Crime and Disorder Act 1998 as a potentially constructive and effective approach to anti-social behaviour. An ASBO impacts directly on the behaviour of the perpetrator, and not other members of their household. However, during the passage of the Housing (Scotland) Act 2001, a provision was introduced which linked ASBOs to security of tenure, resulting in a situation whereby a household's full tenancy would be converted to a short tenancy, with far less security of tenure. Shelter opposed linking ASBOs to security of tenure on the grounds that it would lead to homelessness, and result in punishment of a whole family on the basis of the behaviour of one individual.

Extending ASBOs to under-16s would mean that the behaviour of a child could result in a household having their tenancy converted to a short tenancy. Under a short tenancy, a landlord can evict without relying on grounds at the contractual end of the tenancy, even if the reason for eviction was quite separate from the premise on which the tenancy was converted. A situation could therefore exist whereby an ASBO is served on a twelve year-old child, the family could have their tenancy converted to a short tenancy, and could in turn be evicted for a separate reason, such as rent arrears. Bad behaviour by a child could result in eviction for a whole household, and a family made homeless. Shelter is very concerned at the potential for such a scenario, and for this reason opposes the extension of the use of ASBOs to under-16s.

It is worth remembering that the option of u-16 ASBOs was examined and rejected in Scotland in 1998 at the same time as being introduced in England. The logic was the presence of the distinctive children's hearing system in Scotland.

## Legislation on Housing and Homelessness

Shelter is very concerned at the change in the government's approach to housing and homelessness policy that is evident in the consultation paper. During the passage of the Homelessness etc. (Scotland) Act 2003, there was an acceptance on the part of the government, and all political parties that homelessness is not acceptable, and all households should be supported to sustain a full tenancy. This progressive approach has made Scotland the envy of social justice campaigners across the UK. However, in the consultation paper, a suggestion is made that housing and homelessness legislation can be used to deal with anti-social behaviour, instead of its policy intention, to end homelessness.

The provision that linked ASBOs to security of tenure in the 2001 act was promoted as an opportunity to help homeless families gain a full tenancy, through their engagement with housing support within tenancies. However, due to the government's 'no tolerance' attitude towards anti-social behaviour in the strategy, the short tenancy is now being promoted as a tool with which to evict people from their homes, as it is possible for a landlord to evict a tenant from a short tenancy without relying on grounds. Both the language, and policy intention of the original provision has fundamentally changed, to the potential detriment of homeless people.

Shelter advocates using support to help families sustain tenancies. However, from the experience of our projects, such support can only succeed with the agreement of the household. We encourage the Scottish Executive to see support as one mechanism to help perpetrators change their behaviour and gain a full tenancy, but not a prerequisite for gaining a tenancy in the first place.

Our experience of supporting families and single people to address problems is that it works. Some of the families that we work with have had very disrupted housing histories: sometimes having been evicted several times for various reasons, ranging from seemingly uncontrollable children to addiction. The very fact that eviction is a serial occurrence offers us no reassurance that one can punish people into being better. If, on the other hand, one can try to get at the root of problems (including working directly with the children of families) then our experience is that it works.

### **Case Study 3: Successfully supporting anti-social families**

Shelter's Families Project was supporting a family to move from homelessness into a permanent tenancy. Within four months, their social landlord began eviction proceedings on the grounds of the anti-social behaviour of the children (vandalism/threatening behaviour to other local tenants). The family was made up of the parents, three boys and a girl. All of the children were aged between 7 and 12. All four children were subject to supervision orders from Children's Panels.

Unfortunately, the housing officer had failed to contact either Shelter's Families Project or the social work department prior to starting eviction



proceedings, to investigate the causes of the anti-social behaviour, or suggest how it could be tackled without eviction.

The RSL accepted Shelter's contention should have communicated better with the other agencies working with the family before beginning proceedings. It has been agreed that in future, the agencies will work closer together to help the family sustain their tenancy. Shelter is now working to prevent the eviction from going ahead.

### **Acceptable Behaviour Contracts**

In our response to the government's consultation on community-based initiatives to tackle anti-social behaviour, Shelter welcomed the introduction of Acceptable Behaviour Contracts (ABCs). We see the contracts as encouraging perpetrators to take responsibility for their actions. However, their potential for success depends on how they are designed. The contracts must be jargon-free and easy to understand. Individuals must be encouraged to sign up, rather than coerced. The consequences of breaching the contract must be thoroughly explained to the individual. Breaching the contract cannot in itself lead to eviction, but can be used as a ground in a court process when seeking, for example, an anti-social behaviour order, or an eviction. Islington Borough Council in England introduced ABCs in November 1999. Accompanying the contract is a seven-page Good Practice Guide for housing and police officers to ensure that the individual who signs the contract is given the best chance of adhering to the terms. Islington's ABC is a model contract which has received the support of Shelter in England.

### **Rewarding good tenants**

Shelter understands and supports the principle of rewarding good tenants. Shelter suggests that encouraging communities to work together to organise community events themselves would be a better use of scarce resources.

The strategy proposes better repair services for good tenants. The suggestion that tenants who are well behaved should get a superior repair service is very concerning. For the health and safety of the whole community, *everyone* should receive an efficient and effective repair service. To do otherwise could result in the perverse situation where a landlord was weakening the fabric of the property it owned or undermining good practice in cyclical maintenance or planned improvement programmes. Shelter believes that poor environmental conditions can exacerbate some forms of anti-social behaviour like noise nuisance. Leaving some tenants with a poor repair service will only worsen anti-social behaviour and impinge on attempts to build a sense of community pride in an area.

### **Anti-social behaviour and housing**

The Scottish Executive rightly recognises that anti-social behaviour is a cross-tenancy problem. However, the consultation document does not always offer cross-tenancy solutions. It focuses on tackling the anti-social behaviour of *tenants* in Scotland. There are

few proposals in the document that would respond to the behaviour of anti-social homeowners.

The Criminal Justice (Scotland) Act 2002 gave RSLs the power to apply for ASBOs and increased their role in tackling anti-social behaviour. The act also placed a duty on local authorities to produce an anti-social behaviour strategy in conjunction with the police in the area. RSLs should be involved in the production of these strategies, to reflect the new duties of RSLs in tackling homelessness and anti-social behaviour as introduced in the Housing (Scotland) Act 2001, and the new criminal justice legislation.

In the consultation document the government proposes giving local authorities the power to require all privately let property in a *defined* area to be registered. Shelter questions the potential effectiveness of this proposal. Specific criteria would have to be set out which would dictate how local authorities define an area. These criteria would be difficult to define and defend, especially in light of a challenge from landlords affected by new regulation. The government has given no indication in the consultation of how these criteria would be developed. We believe a more effective solution would be to introduce a mandatory certification scheme for all private landlords. In this case, all landlords would have to be certified before they could legally let out their property. All landlords would therefore have to register their own contact details so that the local authority or police could contact them should their help be required in managing the behaviour of a tenant. Shelter recommended such a scheme to the Housing Improvement Task Force earlier this year and we believe it would be simpler to administer than a patchwork of varying local schemes.

While Shelter accepts the reasoning behind giving local authorities the power to take over the management of individual properties, such a proposal has not worked in the case of HMOs, and we believe will be equally difficult to administer in terms of other private property. There is also a problem of principle: responses to anti-social behaviour should not be applied differently for owners than for tenants. It is the behaviour that matters, not the tenure.

Shelter is disappointed that the Scottish Executive does not recognise the importance of good house conditions in tackling anti-social behaviour. A recent survey carried out by Shelter Scotland found that 40% of urban flat dwellers have had problems of neighbour noise, with 14% facing constant noise from neighbours. Shelter sees this as a problem that has arisen from decades of poor building standards, and is campaigning for the Scottish Executive to introduce a standard for noise insulation as part of its work introducing a standard of social housing, and implementing the recommendations of the Housing Improvement Task Force.

Achieving these better standards means putting more money into housing. However, the need for more housing investment is missing from the strategy document. In a recent press statement the Minister for Communities claimed that 'massive' investment to improve housing is being undermined by anti-social behaviour. Shelter strongly challenges this on

the basis that housing investment has been one of the fault-lines in an otherwise generally progressive housing policy. Investment has only slowly climbed from the historic low point of 1997 and is still below what the 1979-1997 governments spent. To successfully tackle anti-social behaviour, the Executive needs to recognise the link between investing in housing and increasing the standard of living within communities.

## **Anti-social behaviour and housing benefit**

Shelter responded to the DWP's recent consultation on withdrawing housing benefit for anti-social tenants. We oppose the proposals in the consultation on the grounds that they would be ineffective in tackling anti-social behaviour, and will result in increased debt, poverty and homelessness. We are also concerned at a perception by the Department of Work and Pensions that only those people on benefits carry out anti-social behaviour. These proposals would do nothing to prevent or alleviate anti-social behaviour carried out by homeowners or those not receiving benefits. Shelter calls on the Scottish Executive to ensure that these proposals would not be applied in Scotland. The progressive social justice agenda in Scotland, evident in the passage of the recent homelessness legislation, requires that local authorities house all homeless individuals and families. The DWP proposals would undermine some pioneering work in Scotland.

### **Case Study 4: Housing Benefit and ASB**

A domestic violence social worker referred a woman to Shelter who had been re-housed on the grounds of domestic abuse but was facing homelessness due to rent arrears. Her ex-partner had found her and had begun abusing her again.

Neighbours complained about her husband banging on the door and noise nuisance and alleged that he was living there. As a result, her housing benefit was stopped. Eviction proceedings were instigated on the grounds of nuisance but were put on hold as the social worker provided reports from the police stating that she was in danger of being killed by her husband. The council then issued proceedings on the basis of rent arrears caused by the loss of housing benefit.

Shelter intervened and managed to get her housing benefit reinstated and backdated in full so there were no further arrears. The council then activated possession on nuisance grounds. At this point the council's legal department said they would not pursue possession unless housing and social services departments could agree on the right way forward. Following negotiations, our client was re-housed in a different area and there have been no problems since.

Although, in this instance, benefit sanctions were applied for reasons other than anti-social behaviour, it does illustrate what a blunt instrument it was.

## Conclusion

Shelter shares one of the government's starting points. Anti-social behaviour is a serious problem that blights communities and can result in individual households being locked into a cycle of homelessness, fleeing harassment and violence. However, we do not share the Executive's prescriptions. There are some positive suggestions in the paper; but these are undermined by an over-reliance on unproven legalistic responses. An alternative approach to a strategy on anti-social behaviour should be founded on three strands.

1. Minimise the causes of conflict. This would involve things like: upgrading the housing stock (especially some of the poorest stock built between the 1950s and 1970s) to minimise noise; funding community-led improvements in the infrastructure of areas; and putting mediation services on a sound footing (although mediation services have expanded in recent years, they are still woefully over-stretched).
2. Seek lasting resolution to conflicts where they arise. Many instances of anti-social behaviour can be addressed through support, even if the right kind of support can take several attempts to determine. An important principle of support is that the family or person must be willing to engage.
3. Strands 1 and 2 will tackle many of the problems. However, some people will be unwilling to engage and for them, the efforts of specialist services, such as units within local authorities, should be directed. The tools at this level should focus on implementation of effective and targeted measures, such as ASBOs and interdict and should place little emphasis on blunt measures such as eviction or use of short tenancies.

The advantage of this kind of approach is that it focuses the really specialist approaches on the relatively small number of people who cause havoc within communities.

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## ANNEX A: Rochdale Inclusion Project

Shelter has worked in partnership with Rochdale Metropolitan Council to develop a new housing solution to the many problems caused by anti-social behaviour. The project began accepting clients in September 2002. The Shelter Inclusion Project provides support to people who are homeless, or at risk of homelessness, due to alleged anti-social behaviour. This will provide often vulnerable people with the support needed to bring about the changes in their behaviour necessary to sustain a tenancy. The project also works with households who have already become homeless due to the alleged anti social behaviour to enable them to take up and maintain a new tenancy in a structured and supported way. The project has a steering group of key local stakeholders.

The Policy Action Team Social Exclusion report on anti-social behaviour proposed managing anti-social behaviour through a model of prevention-enforcement-resettlement. In

this context, Shelter and Rochdale MBC believe that this combined approach will be the most effective in tackling the issues of anti-social behaviour and contributing to sustainable communities and have therefore been working together to develop an innovative model of service delivery to address this issue. The aim of the project is to provide an innovative model of 'prevention-enforcement-resettlement' to address the issues of anti-social behaviour and its impact on households, perpetrators and landlords. Recognising and attempting to address the unmet support needs that often underlie behaviour that causes difficulties to neighbours, landlords and households themselves is a fundamental tenet of this new service.

The objectives of the service are:

- prevention and resettlement by addressing the needs of households who have been excluded (or suspended) by social landlords
- to prevent exclusion and provide a route back in to the social housing sector.

It is anticipated that the team will work with approximately 30 households at any one time. The main referral criterion is that a household is homeless or threatened with homelessness due to anti-social behaviour. An assessment takes place with the household to identify the issues that need to be resolved and the support required to achieve this. A comprehensive support plan is jointly produced based on a multi-agency approach. It is critical that the household signs up to this support plan and agrees to work with the service to achieve the identified outcomes. Support is offered for a period of up to twelve months and will be reviewed at regular intervals.

Shelter believes that the service will contribute to:

- reduction in homelessness and exclusions
- reduced void levels or tenancy turnover
- improved management of finances, drug and alcohol use, mental health, childcare by households with a history of difficulties in these areas
- numbers of households newly engaged in training, work or positive social and community based activities
- development of new skills and peer education
- ultimately, a reduction in agency input.