

# **COMMUNITIES COMMITTEE**

Wednesday 10 December 2003  
(*Morning*)

Session 2

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## COMMUNITIES COMMITTEE

### 11<sup>th</sup> Meeting 2003, Session 2

#### CONVENER

\*Johann Lamont (Glasgow Pollok) (Lab)

#### DEPUTY CONVENER

\*Donald Gorrie (Central Scotland) (LD)

#### COMMITTEE MEMBERS

\*Scott Barrie (Dunfermline West) (Lab)  
\*Cathie Craigie (Cumbernauld and Kilsyth) (Lab)  
\*Patrick Harvie (Glasgow) (Green)  
\*Campbell Martin (West of Scotland) (SNP)  
\*Mary Scanlon (Highlands and Islands) (Con)  
\*Elaine Smith (Coatbridge and Chryston) (Lab)  
\*Stewart Stevenson (Banff and Buchan) (SNP)

#### COMMITTEE SUBSTITUTES

Shiona Baird (North East Scotland) (Green)  
Christine May (Central Fife) (Lab)  
Shona Robison (Dundee East) (SNP)  
Mike Rumbles (West Aberdeenshire and Kincardine) (LD)  
John Scott (Ayr) (Con)

\*attended

#### THE FOLLOWING GAVE EVIDENCE:

John Blackwood (Scottish Association of Landlords)  
Rose Devine (Pollokshields Tenant Management Co-operative)  
Campbell Kinloch (Cumbernauld Housing Partnership)  
Rachel McCreath (Pollokshields Tenant Management Co-operative)  
Shirley-Anne Somerville (Chartered Institute of Housing in Scotland)  
Danielle Walker (Joseph Rowntree Foundation)

#### CLERK TO THE COMMITTEE

Steve Farrell

#### SENIOR ASSISTANT CLERK

Gerald McNally

#### ASSISTANT CLERK

Jenny Goldsmith

#### LOCATION

Committee Room 2



## Scottish Parliament Communities Committee

Wednesday 10 December 2003

(Morning)

[THE CONVENER opened the meeting at 10:00]

### Items in Private

**The Convener (Johann Lamont):** I call the meeting to order. I ask members to agree to consider in private item 3 on our agenda, which relates to evidence given today and at last week's meeting. Is that agreed?

**Members** indicated agreement.

**The Convener:** I ask members further to agree to consider in private at the end of each meeting evidence that has been received on the Antisocial Behaviour etc (Scotland) Bill. Is that agreed?

**Members** indicated agreement.

## Antisocial Behaviour etc (Scotland) Bill: Stage 1

10:01

**The Convener:** Item 2 on the agenda is consideration of the Antisocial Behaviour etc (Scotland) Bill. I welcome the first panel of witnesses. Shirley-Anne Somerville is the policy and public affairs officer for the Chartered Institute of Housing in Scotland. John Blackwood is the director of the Scottish Association of Landlords. Danielle Walker is the director of policy and practice development for the Joseph Rowntree Foundation. Thank you for coming along today.

**Mary Scanlon (Highlands and Islands) (Con):** The Scottish Executive has stated that its consultation process leading to the bill was unprecedented in terms of the number of community organisations and individuals taking part. How effective do you think that the process was?

**Shirley-Anne Somerville (Chartered Institute of Housing in Scotland):** We welcomed the consultation process. The new way in which the Executive approached the process—by going out into communities—was to be welcomed. My only concern relates to the speed at which the bill appeared. The fact that it appeared even before the consultation period had ended suggested that the Executive had many of its thoughts already in place.

**John Blackwood (Scottish Association of Landlords):** The Scottish Association of Landlords echoes those comments. We appreciated being consulted privately by the Executive, although we, too, think that things have happened rather quickly. We hope that we will be able to discuss some of our slight concerns about the bill later.

**Mary Scanlon:** In its written evidence, the Chartered Institute of Housing in Scotland states:

"The Executive's consultation paper recognised that anti-social behaviour must be dealt with on a number of different fronts; prevention, management, enforcement and rehabilitation. Despite this fact most of the paper goes on to focus on punitive enforcement measures."

It also urges us

"to remember that punitive measures which do not tackle the causes of the behaviour are likely to allow that behaviour to continue in the same or another neighbourhood."

The consultation process focused on four issues: prevention, management, enforcement and rehabilitation. Do you believe that the balance between those changed when the bill appeared? You seem to be expressing concerns about that.

**Shirley-Anne Somerville:** Although the consultation paper recognised the four strands to dealing with antisocial behaviour, it focused on punitive measures. That focus was carried through into the bill. However, I will give the Executive the benefit of the doubt and say that the bill is only part of the process. There will be a wider strategy for dealing with antisocial behaviour. I realise that the committee is in a difficult position, because at the moment it is scrutinising legislation and not the wider strategy. That puts us all at a disadvantage, as the bill is only one cog in the wheel, rather than all the parts. The Chartered Institute of Housing in Scotland is making a plea to members to realise that the problem of antisocial behaviour will not be solved once the bill is enacted and that many other parts of the strategy that do not require legislation are equally important.

**John Blackwood:** I have nothing to add to that.

**The Convener:** There has been a mixed reaction to the bill and you accept that it is part of a broader strategy. If the bill alone is not the answer, what work did the organisations that you represent do on antisocial behaviour to promote proposals for tackling the problem before the Executive addressed it?

**John Blackwood:** The Scottish Association of Landlords is keen to promote good landlord practice—that is why we exist. Since the end of our conference this time last year, we have campaigned heavily to get our members to give us any evidence that they have of antisocial behaviour among their tenants. We have consulted widely on that throughout the year. We are keen to promote good practice and to do as much as we can to support getting rid of bad landlords, which is in our interest.

**The Convener:** What proportion of landlords do you represent?

**John Blackwood:** We have a widely mixed membership, ranging from professional landlords to amateur landlords who have perhaps just one or two properties. A lot of our members are from rural communities and do not have a support network, which is why they value being part of our organisation. We benefit greatly from that.

**Shirley-Anne Somerville:** We do a lot of good-practice work, both in our Edinburgh office and from a United Kingdom perspective, so that we can learn from the different countries in the UK. We also do a lot of research. We have carried out work on antisocial behaviour orders and we are looking at housing tribunals and the housing courts to see whether they are a better way of dealing with cases than the courts process is. We are also doing some work on antisocial behaviour in the private sector. We share all that work with the Executive, with which we have a lot of private meetings and which is open to discussions with us.

**The Convener:** Your submission says that

“anti-social behaviour is a blight”.

Apart from the proposals in the bill, what can we do to address antisocial behaviour, which is a serious consideration even in the planning of housing? Rather than hearing that the bill will not work, I would like to know what you advocated prior to the bill's publication.

**Shirley-Anne Somerville:** Elements of the bill will work, to a certain extent, but they are not the full picture. The Executive is picking up a lot of the other parts and is looking at good-quality housing through the work of the housing improvement task force. The Executive is open to a lot of ideas on the issue and is considering how antisocial behaviour orders will work. We are always keen to show the good-practice work that we are gathering, whether in Scotland or in England, and to forward that to the Executive.

**Stewart Stevenson (Banff and Buchan) (SNP):** I will start with the question that I have asked each week. Are you satisfied with the definition of antisocial behaviour in the bill, which repeats the definition in the Crime and Disorder Act 1998? The bill defines antisocial behaviour as being when someone

“acts in a manner that causes or is likely to cause alarm, distress, nuisance or annoyance”.

Does your experience suggest that that definition will work? I ask Danielle Walker of the Joseph Rowntree Foundation to answer first, as she has not spoken yet.

**Danielle Walker (Joseph Rowntree Foundation):** We have not done any specific work on antisocial behaviour. However, in our work throughout England, Wales and Scotland, we have found that there is a huge variety in the interpretation of the phrase and that what communities understand by it is incredibly woolly. In some ways, that is a comment on the consultation process. Quite often, community groups and others are not clear what the definition means. Unfortunately, therefore, I cannot give a research-based answer on the suitability of the definition, although I recognise that the concept of antisocial behaviour can be woolly and slippery.

**John Blackwood:** We agree that the definition is rather broad and wide ranging and we believe that there needs to be more of a definition, although we do not have a policy on it yet.

**Shirley-Anne Somerville:** We have not had any feedback from our members saying that the definition in previous legislation has been a problem. Nevertheless, we are consulting on that at the moment, because we are aware that you have been asking that question. We will get back to you if we identify any problems.

**Stewart Stevenson:** Thank you.

The policy memorandum on the bill suggests that community planning is to be the framework for tackling antisocial behaviour in local areas, with local authorities' chief constables having a statutory duty to participate and the Scottish ministers having the power to direct registered social landlords to participate. Does that approach find favour with you?

**Shirley-Anne Somerville:** Yes, I think that it does. It would be unfair to put a statutory duty on all RSLs to take part. RSLs are, in the main, eager to take part, but we must recognise that there are many differences between a large national RSL, which can cover perhaps 16 local authorities, and a small one with only about 100 houses. It would be unfair to place the same statutory duty on both kinds. Community planning, and community safety in general, is the way forward. We are keen to ensure that antisocial behaviour is seen not just as a housing issue but as something wider.

**John Blackwood:** We are keen that antisocial behaviour should be seen as a community issue rather than as being specifically oriented to certain tenure groups. The broader the definition is, therefore, the better.

**Danielle Walker:** Our extensive research and development work on area regeneration suggests that the inclusion of antisocial behaviour strategies within the wider context of strategies for communities would be the most appropriate approach. We would welcome the inclusion of people facing discrimination and possibly antisocial behaviour in that process and we urge the committee to support moves to strengthen that involvement beyond the consultation towards involvement in solutions and implementation. We would advocate the involvement of RSLs.

**Stewart Stevenson:** Do you support what the bill says on information exchange? Do you have practical experience of difficulties in information exchange?

**Shirley-Anne Somerville:** Information exchange is one of the problems that everyone faces. The police and some local authorities and RSLs work well together to ensure that barriers are broken down. Other organisations do not see information exchange as such a priority or are not fighting to break down the barriers. We are keen to ensure that greater information exchange comes about through good practice. I am not sure whether the bill goes far enough. We are currently consulting our members and we will get back to the committee before the end of stage 1. I would not like to say any more before we hear from our members.

**Stewart Stevenson:** Are you suggesting that there are no barriers, other than a lack of

willingness—or a lack of preparedness—in certain areas to work together so that the necessary information exchange takes place? In other words, does the bill do anything, in legislative terms, to change what is currently restricting proper information exchange?

**Shirley-Anne Somerville:** I think that it does. It will help that RSLs will have the power to apply for an antisocial behaviour order. Many of them still do not realise that they can share information with the police and the police are hesitant about giving information to them, so the bill will help in that respect. I am aware that the various protocols that are being worked through from the community safety partnership angle will help in that process, but we have not yet had feedback on whether that goes far enough.

**John Blackwood:** To be honest, I think that there is a lack of detail in the bill. One problem that tends to arise is a breakdown in communication—or in some cases a lack of communication—between landlord organisations and local authorities. We feel that much poor landlord activity—for want of a better expression—could perhaps be dealt with through information and advice, which could ultimately be provided by the local authority. Something more concrete needs to be in place to say what information and advice is available to the wider community and not just to the particular tenant or landlord.

**Stewart Stevenson:** You said that there is a lack of detail in the bill, which is about legislation rather than about practice. How do you propose that the bill might be amended to bring it up to the standard that you think it should meet?

**John Blackwood:** We need to go away and consider that further. We do not have that detail yet, but the issue is something that we have come across as we have considered the bill.

**Stewart Stevenson:** It would be helpful if you could put specific proposals before us. We would then know whether we agreed with you.

**John Blackwood:** Okay.

**Cathie Craigie (Cumbernauld and Kilsyth) (Lab):** On that point, the bill gives local authorities, the police and RSLs the opportunity to share information. That information is sometimes very sensitive. Are you saying that we should involve the wider community, rather than just the people who would be involved at a statutory level or at landlord level?

10:15

**John Blackwood:** One of the main factors in how antisocial behaviour develops through tenant and landlord activity is that poor information—if not no information—is made available to tenants and

landlords. Local authorities should have a huge role in mediating and in providing advice and information to both parties to make them aware of their rights and responsibilities. Greater thought must be given to how that role is carried out, but there is scope for it and it is required. That issue might be teased out in the bill at a later stage.

**Cathie Craigie:** You can let us have your views, then.

**John Blackwood:** I would be happy to do so.

**Donald Gorrie (Central Scotland) (LD):** We have found the Joseph Rowntree Foundation's research into community policing in New Earswick in York helpful. Are there any lessons from that experiment for us in combating antisocial behaviour?

**Danielle Walker:** There are strong lessons about the use of policing that involves reassurance and about the use of an increased police presence. The background to the experiment was that, acting in our capacity as an RSL, we bought in policing for a community that felt that there was an increase in antisocial behaviour. We ran an evaluation throughout the three-year intervention and found that, by the end of the experiment, reported crime and anxiety about crime had increased.

In some ways, that rise was a result of the implementation. The lessons are about the expectations both of the RSL and the community about what policing can do to address antisocial behaviour. The issue links to the comment that I made about the definition of antisocial behaviour in the wider community. There is a lack of clarity about what type of behaviour the police will be able to intervene on and a lack of understanding of the way in which the police management structure operates. In essence, the management structure of the police did not support our intervention. For example, the rota system cut across our need to have officers on the ground and other interventions elsewhere in York would pull police officers away.

In essence, the intervention did not work, although it was useful because it was evaluated rigorously. That is not to say that such interventions can never work; I am saying that more clarity is needed and more work needs to be done before such interventions are introduced to make them successful.

**Donald Gorrie:** Politics is all about failing to fulfil expectations. Have you done any research on private rented housing that is relevant to our study of antisocial behaviour?

**Danielle Walker:** We have done some work as part of a larger commission on the future of the private rented sector and we have made

representations to the UK Parliament on the Housing Bill for England. The issue is wide and touches on areas about which the other witnesses will be concerned. Our research suggests that it is hard to separate the issue of antisocial behaviour from that of private sector landlords and housing management more generally. Tackling antisocial behaviour is a housing management process.

We urge the committee to think broadly and not to focus solely on antisocial behaviour but to encourage the introduction of legislation that will deal with housing management in an effort to professionalise private landlords. Our proposal is to create a compulsory course for private landlords, although members of the institutions represented today would be exempt from that. We should require landlords to go through a process that includes greater familiarisation with measures to tackle antisocial behaviour. Research indicates that many of the existing remedies for antisocial behaviour are effective but not well used. That was a key finding of the research, which goes back about three or four years.

Our proposal is to tackle the problems of housing management by professionalising the entire sector and introducing a carrot-and-stick approach. The carrot would be tax exemption for some of the income from private renting; the stick would be that someone would not be able to be a landlord without having gone through a process. That proposal has some currency with the UK Parliament but, because it touches on reserved powers, it would require movement at the Treasury as well as more broadly in the UK.

**Donald Gorrie:** I have one more question specifically for you, although your colleagues may wish to comment. You did some research that suggested that you had improved the quality of life in a rather unpopular social rented area, reducing the stigma and attracting more tenants there. Do you think that such measures would be relevant to tackling antisocial behaviour? Did having a mixture of tenures reduce antisocial behaviour?

**Danielle Walker:** There is a perception among the community in New Earswick that there is still antisocial behaviour there. According to North Yorkshire police, however, New Earswick does not figure as a priority area for intervention, because they feel that the level of crime there is low. There is a mismatch between perceptions of antisocial behaviour and the reality in terms of police accounting. Having a mixture of tenures probably reduces the incidence of outright crime, but expectations begin to rise when the community is used to functioning at quite a high level—the blips of antisocial behaviour are felt to be more serious by the community than by the police.

**Donald Gorrie:** Are there any other questions that I should have asked about Joseph Rowntree

Foundation research that is relevant to our activities? If so, perhaps you can write to us.

**Danielle Walker:** Goodness—that will be a long answer. I will let my colleagues comment and I will get back to you on that if I think of anything.

**Stewart Stevenson:** I put to Danielle Walker something that the Chartered Institute of Housing in Scotland said. The institute welcomes the Executive's wish to introduce registration in the private rented sector but suggests that the discretionary registration scheme that the consultation document mentions would not be adequate to tackle the problem. In the light of what you have said, do you believe that there should be compulsory registration for all landlords? Does your research indicate specific benefits that would be derived if that were to happen?

**Danielle Walker:** We would concur with the Chartered Institute of Housing on that point, although there is concern that many landlords would leave the private rented sector and that the sector would shrink if every landlord needed to register. The intervention that we propose, which has carrots alongside the stick, might balance the situation out in favour of responsible landlords whom we know and who are trained or professionalised. They would stay in the sector and the quality of private rented sector housing management would be increased.

**Stewart Stevenson:** Does the Chartered Institute of Housing wish to make a brief comment?

**Shirley-Anne Somerville:** We welcome the scope of the bill as it stands on that issue and believe that the proposals would be a good first step. However, we do not think that the bill tackles the issue in its entirety. We must look at the sector as a whole—the concerns are not only about antisocial behaviour, but about payment for common repairs. We need a mandatory system with a register for all.

The institute would go one step further and urge that, in the long term, some sort of self-certification system be adopted whereby someone does not simply register as a landlord and give their details, but is required to fulfil certain minimum requirements in relation to antisocial behaviour, housing management and house conditions. We recognise that the bill is perhaps not the place to introduce such a system, but we should consider the matter in the longer term as part of a more strategic response to the problems in the private rented sector.

**Stewart Stevenson:** Does the Scottish Association of Landlords support compulsory registration?

**John Blackwood:** Yes. We have campaigned for compulsory registration for the past two years

through the housing improvement task force. Compulsory registration is important. However, an issue that has arisen in our policy discussions is that mandatory nationwide registration would perhaps best be introduced through a new housing bill rather than through antisocial behaviour legislation. Bringing in compulsory registration through the Antisocial Behaviour etc (Scotland) Bill might mean that it will be seen as a negative measure, whereas we see it as a positive step for the industry and the sector as a whole. We would prefer compulsory registration to be included in another bill at a future stage.

**The Convener:** If we were to say to you that there is an urgent need to address the fact that some tenants in local communities are not being managed by anyone and that there is collusion in some cases between landlords and tenants in respect of antisocial behaviour, which is fragmenting communities and making them collapse, would it be reasonable and understandable to believe that we should try to address such matters in the bill?

**John Blackwood:** I entirely agree with what is currently stated in the bill. However, our policy is that we should go further than that and widen the scope. Perhaps the matter could be dealt with in another housing bill at a later stage. We would see that as a positive step.

**Cathie Craigie:** Many people in communities are particularly affected by antisocial behaviour problems that result from the high proportion of private landlords. I am not talking about professional private landlords; I am thinking of people who buy up properties. In fact, the overall property market in an area can be affected by people buying up properties cheaply. People tell me that, unless we tackle problems that result from private landlords, antisocial behaviour will be impossible to deal with in some areas. It can be difficult to track down private landlords—housing officers and the police can spend hours, days, weeks or months trying to track them down. All private landlords should be licensed and they should register their properties. What are your views on a licensing scheme?

**John Blackwood:** That depends on how licensing is defined. A definition would need to be tweaked out.

**Cathie Craigie:** Taxi drivers require to be licensed to drive taxis, so private landlords should be required to be licensed to rent out their properties.

**John Blackwood:** We have campaigned on these issues for a long time. As has often been said, a person can come out of Saughton tomorrow and set up as a private landlord, but they cannot open a pub. There is an issue there

and we believe that there should be some sort of licensing procedure. Perhaps at this stage, we should consider a registration procedure for all landlords. The public interest is involved. There should be a means by which we can find out exactly where landlords are, who they are and to what extent the industry exists in Scotland. Currently, we do not have that information to hand. As a landlord organisation, we would be keen on such a procedure from an organisational and policy point of view. We have always thought that such a procedure would be in the interests of the wider community and of landlords themselves.

**Cathie Craigie:** Perhaps the Chartered Institute of Housing representative would like to comment on the proposals in part 8 of the bill, which deals with discretionary registration and designated areas. Will those proposals help or will they shift problems elsewhere?

**Shirley-Anne Somerville:** I think that they will help in certain areas. There are specific estates, particularly those with ex-right-to-buy stock, where private landlords have bought up houses and rent them out. Perhaps such areas could be easily designated and actions could be taken in them.

As you say, the danger is that problems will move somewhere else—if people cannot rent a property in a couple of streets, they will rent a property in the next estate. That is a concern. Therefore, we are looking for something at a national level whereby there is full information so that such problems do not arise. It is too easy to say that antisocial behaviour happens only in certain areas; the problem is that it happens in every community to a greater or lesser extent.

**Cathie Craigie:** If we tried to address that subject in the Antisocial Behaviour etc (Scotland) Bill, would it be fair and right to deal with conditions in the private rented sector in another bill?

**Shirley-Anne Somerville:** Yes. As John Blackwood said, good private landlords also want to take part in positive work and it would be unfair to attach some of that to a negative bill about antisocial behaviour. You are right to say that the problem of antisocial behaviour needs to be tackled, but that must happen nationally.

**Cathie Craigie:** Part 7 concerns antisocial behaviour notices. Are the provisions right or would you change anything?

10:30

**Shirley-Anne Somerville:** We welcome the policy intention behind antisocial behaviour notices, but concerns have been expressed about how they will work in practice. We are concerned that the measures are punitive and that some

private landlords want to tackle the issue but cannot. For example, we have been told about a private landlord who had one property that she inherited. Unfortunately, she rented it to one of Scotland's more infamous antisocial families. She was terrified to do anything herself, although the local authority told her to do something. She was frightened and did not know what to do. However, once the local authority approached her constructively and gave her advice and assistance, the family was evicted and the problem was dealt with.

The bill focuses on punitive measures when perhaps advice and assistance would help. We are concerned that a local authority could issue a notice without having to give advice or assistance first. Perhaps that could be addressed through amendments.

We have general concerns about the ease with which a notice could be served when a landlord cannot be identified. That further strengthens the need for a mandatory national scheme.

We are also concerned about how the system will work in practice. When a notice is issued, the culpability of the tenant who commits an antisocial act does not have to be proved. Unfortunately, some neighbours report on single mothers, black or minority ethnic families and gay couples, and the fear is that some malicious intent might be involved. Some proof that antisocial behaviour is happening must be required before a notice is issued.

**John Blackwood:** We largely echo those comments. We take on board the fact that the bill is intended to deal with bad landlord activity, which is reflected in the policy memorandum, but we should recognise that many good landlords try to take action to get rid of bad tenants—we are talking about bad tenant behaviour. The bill contains nothing to empower landlords to tackle that through their responsibilities.

When a notice is served, all that a landlord can do is somehow end the tenancy and take action through the sheriff court to raise proceedings for repossession. In practice, that takes an awfully long time, which can be up to a year in some cases. In the meantime, the landlord has a tenant who continues to annoy the neighbours and to disrupt the local community. The experience of most landlords is that bad tenants are not only bad neighbours, but tenants who do not pay their rent or who destroy property. It is in nobody's interest for them to continue in a property, but the bill does not address that.

We whole-heartedly support the provision in the bill to give notices that tell landlords what they need to do, but where do we go once that has been done? The provision has no substance

behind it. Our concern is that the bill deals just with landlords who choose to do nothing.

**The Convener:** That is quite a good start.

**John Blackwood:** Exactly.

**Cathie Craigie:** I accept that the issue is complex.

If a licensing registration scheme were introduced, who would finance it? Should it be self-financing, as the liquor licensing and taxi licensing schemes are? Under those schemes, an application fee is paid for a licence. Should a scheme for licensing private landlords operate in the same way?

**John Blackwood:** I see no reason why such a scheme could not be self-financing—as long as the registration fee, or whatever it will be called, is not prohibitive. The last thing that we want to do is drive landlords, especially good landlords, out of the market. There is concern that we in Scotland rely on the private rented sector to provide housing. Whether it is right or wrong that we do is another argument, but such is the case at the moment. We do not want to lose the sector; we want to encourage it. The fee should not be prohibitive but, as I said, I think it would be perfectly reasonable to expect such a scheme to be self-financing.

**Danielle Walker:** Our view is that such a scheme would be self-financing, but that it would also be offset by potential tax breaks in the longer term. It would be a matter of paying a bit at first, but getting more income from the rental property in the longer term. That would provide an incentive.

**Cathie Craigie:** Why did you think that such an incentive is needed? Various professional people must apply and pay for licences without any tax incentive, so why did you make that recommendation? What research did you gather that backed up that decision?

**Danielle Walker:** As far as paying for the actual course was concerned, we felt that people needed a bit of encouragement to go through the process, like getting a sort of MOT before obtaining a licence. Filling out a form and ticking the boxes is one thing, but we felt that people also needed to go through a process of learning actively about using their existing powers. If those are augmented by the bill, that will be wonderful, but people should be using existing remedies and activities to manage their properties. They might not be using them and they might not be aware of them. The idea was for people to go through a process. In exchange for that, they would have some of their rental income disregarded for tax purposes.

**Elaine Smith (Coatbridge and Chryston) (Lab):** I wish to ask the panel about antisocial

behaviour orders. The bill as introduced extends ASBOs to people aged between 12 and 15. Do you think that that is an appropriate sanction to take against that age group?

**Shirley-Anne Somerville:** We understand why that policy proposal has been made; there is recognition that the children's panel system is not working as effectively as it could. A small minority of young people cause complete havoc in certain communities and their behaviour must be dealt with. The next questions are about how we deal with that, and whether we do so using the children's panel system.

Organisations other than ours will be more able to comment on whether the extension of ASBOs offers the right way forward. We are concerned that the measure is a punitive one. It must comprise not only application and granting of an antisocial behaviour order against a young person, but support measures. Only if all those support measures fail should we use the ultimate sanctions, such as secure accommodation. That is really for organisations other than us to discuss, however. We see that there is a gap, and we understand why the extension of ASBOs is coming in, but they must be introduced together with support.

There is concern about the part of the bill that says:

"Where the sheriff makes an antisocial behaviour order"

in respect of an under-16,

"the sheriff may require the Principal Reporter to refer the child's case to a children's hearing."

There may be reason to examine that wording and to consider whether it should instead say that the sheriff "has to require"—rather than "may require"—the case to be referred to a children's panel. We will look into the matter further before we consider whether to encourage lodging of an amendment to that effect.

**Elaine Smith:** Your written evidence touches on that. It says:

"there can be no doubt that ASBOs for under-16s would seem to be a new policy solution which would deal with the problem. However ... if adequately resourced, the Children's Panel system should be able to deal with both low-level and persistent cases of anti-social behaviour."

You have said today that ASBOs will be successful only if they are accompanied by an increase in resources to allow adequate funding of the necessary support mechanisms. What exactly did you mean when you referred to support mechanisms?

**Shirley-Anne Somerville:** That relates to what we see when the child's needs, as well as their deeds, are considered—as they are supposed to be—at children's panels. We recognise that

ASBOs deal only with behaviour, and that the family's needs have also to be considered. There should be a joint package along those lines.

The children's panel system, if properly resourced, may be able to provide for that, which would mean that antisocial behaviour orders may not be required. The institute does not feel that it can decide on that issue, but some of our members feel that the committee should consider the matter further and perhaps reassure us that ASBOs are the way forward.

**Elaine Smith:** Are you reassured by the policy memorandum, which states:

"For cases involving under-16s, an additional duty is being placed on local authorities and registered social landlords to consult the Reporter before applying for an ASBO."?

You mentioned sheriffs. The memorandum states:

"In considering an application, the sheriff would take account of the Reporter's views, what is happening to the child in the hearings system and the best interests of the child."

It continues:

"The children's hearing is the most appropriate forum to consider the broader needs of the child and to decide what support measures should be put in place."

Does that give you any comfort?

**Shirley-Anne Somerville:** It gives us comfort, but our specific concern is that, in the event of an ASBO being issued, the bill states only that the case may be referred to the children's panel for further support. We would like such cases to have to be referred. However, we recognise the parts of the policy memorandum that support the bill.

**Elaine Smith:** Do other panel members have comments on that issue?

**Danielle Walker:** I have no comments.

**John Blackwood:** We recognise that many problems with antisocial behaviour arise among people who are under 16—the issue has been reported to us. However, like the CIHS, we are not the best organisation to comment on remedies for the problem. As a former children's panel member, I think that the hearings system would probably be the best system to deal with the problem, if it were adequately resourced. I cannot go further than that.

**Elaine Smith:** I will move to a specific question about housing and antisocial behaviour orders. The policy memorandum states that the Executive intends

"that ASBOs for under 16s will be linked to the provisions in the Housing (Scotland) Act 2001",

which will mean that social landlords will be able to

convert the tenancy of an individual who has been issued with an ASBO to a short Scottish secure tenancy. What is your opinion of that provision?

**Shirley-Anne Somerville:** Organisations such as Shelter Scotland have concerns about that provision, but the institute supports the move. We recognise that the measure is a grave one to take against a family, but as a move to an SSST for antisocial behaviour requires the local authority to provide support for the family, it is not necessarily all bad. We would not want local authorities to take that action in all cases, but in bad cases eviction and demotion to an SSST may be the right way forward.

**Elaine Smith:** What about situations in which the behaviour of a child impacts on the rest of the family?

**Shirley-Anne Somerville:** The authority would have to measure whether the problem is a result only of the behaviour of the child or whether the parents are also responsible. The institute has not commented on the proposed parenting orders. Antisocial behaviour is not only the child's problem; the entire family must be involved in dealing with it. I am sure that the behaviour of such children affects their families as much as their neighbours. We must recognise that a tenancy is for a family, not only for the person who is named on the tenancy agreement.

**Elaine Smith:** On that issue, your evidence states that you

"are concerned that an ASBO granted for a non-housing related issue can still lead to the demotion of a tenancy from a Scottish Secure Tenancy ... to a Short SST."

Will you comment further on that point?

**Shirley-Anne Somerville:** We have a general concern that, although at present most ASBOs are given for antisocial behaviour in a house or in the locality of a house, ASBOs can be taken out for a wide variety of other behaviour. For example, ASBOs can be used to ban people from shopping centres or to move prostitutes on from tolerance zones. Our concern is that anyone who lives in the social rented sector who has an ASBO taken out against them would get a hit against their tenancy, even though their behaviour does not impact on the tenancy. A person's tenancy agreement should be demoted if their behaviour impacts on their tenancy, but if the behaviour of a person who lives in the social rented sector does not relate to their house or the immediate locality, it is unfair that they should take that secondary hit, which no one else would take.

**Elaine Smith:** You said earlier that the bill seems to concentrate on punitive measures, but from what you say about demotion to an SSST, you do not see that only as a punitive measure because intervention and assistance go hand in hand with it. Is that correct?

**Shirley-Anne Somerville:** Yes.

**Patrick Harvie (Glasgow) (Green):** It has been argued that multiple evictions are very much at the heart of the experiences that cause antisocial behaviour and other problems for families, and that anything that makes eviction more likely would undermine the effectiveness of support-based interventions and exacerbate the problem. Will you comment on that argument?

10:45

**Shirley-Anne Somerville:** You are absolutely right to say that a lot of persistent antisocial behaviour, particularly that which is caused by families, moves around the country, from neighbourhood to neighbourhood or from local authority to local authority. There are well-known cases of families who have moved around Scotland. One local authority is quite happy to wash its hands of a family, which moves on to another authority's patch. If someone's behaviour is impacting on their home surroundings, the ultimate sanction of that person's losing their home has to be in place.

In saying that, the institute thinks that local authorities should consider putting in place the very intensive support packages like the Dundee families project, which is very well known, or the City of Edinburgh Council's neighbourhood services team. The Dundee project and the Edinburgh team look at severe and persistent cases of antisocial behaviour. They have turned around the behaviour of families, which is a help not only to their communities but to the families themselves.

Only a small minority of local authorities have those services. We have to ensure that that provision is in place so that all local authorities can offer such intensive management projects. They may be expensive to run, but they save money in the long run by ensuring that there are no court processes for eviction. As I said earlier, they also benefit communities.

**The Convener:** In your submission, you say that evidence shows that,

"ASBOs for under-16s are used widely in England".

Is it reasonable to assume that, if ASBOs for under-16s have been used widely, it is because they have been found to be effective? If that is the case, surely there is no reason why they should not be extended to Scotland—regardless of whether we have a children's hearings system? I presume that youngsters in England express antisocial behaviour in the same way as do youngsters in Scotland—there is nothing about the border that makes antisocial behaviour different on either side of it.

If ASBOs for under-16s are seen to be a reasonable and effective measure and it is established that they work, would not they offer a reasonable extra opportunity to address antisocial behaviour in our communities?

**Shirley-Anne Somerville:** You are absolutely right. As you say, a comparison between the two systems is difficult because of the fact that we have a children's hearings system and England does not. The institute has not carried out research into whether the children's hearings system is a better way of dealing with antisocial behaviour than the system in England is. I am not sure whether the Joseph Rowntree Foundation has done so.

**The Convener:** Even though we have the hearings system, if it were shown that ASBOs work, surely there is nothing to stop us from using ASBOs for under-16s as an extra measure. Surely the children's hearings system is not a barrier to using ASBOs for under 16s?

**Shirley-Anne Somerville:** No, not if it was shown that the systems in Scotland could not cope with persistent antisocial behaviour in young people. We would welcome further steps, whether that be antisocial behaviour orders for under-16s or any other measure.

**Campbell Martin (West of Scotland) (SNP):** I will ask a question primarily of Shirley-Anne Somerville as it relates to the use of antisocial behaviour orders in respect of some work that was undertaken by her institute. At a previous committee meeting, we took evidence from Scottish Executive officials. Through questioning it became clear that, although the officials were aware of the large variance in the use of ASBOs between local authorities, they did not know why that was the case. From the research that your institute undertook, can you tell us why some local authorities use ASBOs and some do not?

**Shirley-Anne Somerville:** Unfortunately I cannot. The research that the institute carried out was commissioned by the Scottish Executive. We are commissioned to carry out research on the numbers of ASBOs but not to carry out analysis on the reasons behind the numbers. Anything that I say would be based not on true research but on supposition.

**Campbell Martin:** I have said that it is strange that the Executive was prepared to move on and extend the scope of ASBOs without knowing why some local authorities do not use the powers. As you have confirmed, the Executive did not ask the institute to answer that question. I say again that I find it strange that it did not do so.

The institute has done a good piece of research. Will you flag up some of the other significant findings of the research that the institute undertook?

**Shirley-Anne Somerville:** There are two issues that concern us. The first is that, as you rightly said, about half the local authorities make no ASBO applications. We do not know the reasons behind that: they might have other services, but we are concerned that they are not at least considering ASBOs or applying for even one. We would find it surprising if the use of an ASBO did not fit even one case in those areas.

That is only a general concern. The other important aspect to consider is the cross-tenure basis of antisocial behaviour and the fact that the vast majority of ASBOs are made against tenants in the social rented sector, whereas they are not made against owner-occupiers or private tenants, and not many are made against housing association tenants. The social rented sector is not the only sector in which antisocial behaviour is found, but, for whatever reason, there is a propensity to take out ASBOs against tenants in that sector. I think that that is down to antisocial behaviour having been considered in the past to be a housing management issue, which led to antisocial behaviour teams being placed in housing departments. We are carrying out further research to try to answer some of the questions. From speaking to local authorities, we have found that many of the antisocial behaviour teams are funded through the housing revenue account—tenants' rents—and not the general fund through council tax. We are concerned about that, because it encourages local authorities not to think strategically, but to think of antisocial behaviour as a housing management issue.

**Patrick Harvie:** I will discuss the dispersal of groups. I am interested in all the witnesses' views, but especially those of the Chartered Institute of Housing, which stated in its written evidence that the police already have sufficient powers to disperse groups that commit antisocial acts, but that those powers are not being used. Will you expand on that?

**Shirley-Anne Somerville:** If groups are behaving antisocially, the police have powers to move them on and to deal with the behaviour. However it is a different concern if groups are not behaving antisocially but communities feel threatened by them. We are uneasy about the Executive's response on that matter.

I was at a recent Shelter conference where I heard from an antisocial behaviour adviser to the metropolitan police, who went through a vast array of examples of how he worked with young people. In one estate, he asked young people why they hung about in a certain place, and they came up with simple reasons such as, "We feel safe there—it's the place we can gather where there are escape routes if we get attacked", or "It's the only place for us to hang about." Through

consultation with those young people, youth shelters were built close to that place. The young people congregated about those youth shelters and left the alleyways open to the estate, so that people felt safer and the young people felt happy because there was something for them to do.

That approach does not work in every area, and of course there are problems with groups behaving antisocially, but we must consider the wider aspects, find out why young people lurk where they do and try to work with them to find out whether the perception and fears are greater than the actual crime.

**Patrick Harvie:** You mentioned alternative provision, such as youth shelters, in your written submission. Is that one of the aspects that you have described as "prevention"? You have commented that the bill seems to contain only enforcement measures; prevention is not addressed.

**Shirley-Anne Somerville:** The bill is obviously not the place to legislate for youth shelters. We realise that that is why they are not in the bill, but we hope sincerely that the Executive is considering something like youth shelters in its wider strategy. They have been shown to work only if they are used with the participation of the community and the young people; however, they have been shown to work.

**Patrick Harvie:** Would you support a move to require the police to demonstrate that alternative provision existed before designating an area for use of the dispersal power?

**Shirley-Anne Somerville:** I am not sure. That would be administratively difficult, so we would have to go back and discuss the matter. I am aware that the subject was raised at the committee last week, but we have not discussed it with the institute's members. Personally, I would be uneasy about that, but we will have to see what the board thinks when it meets in January.

**Danielle Walker:** I reiterate the point about the use of existing powers across the board. Evidence from the latest report in 2000 shows that existing powers for social landlords, private landlords and the police are not necessarily being used. We have to understand the barriers to the use of existing powers before we introduce additional powers.

**John Blackwood:** We echo that. There are a number of existing powers that, for one reason or another, are not used in some communities. Perhaps that should be the first point of call.

**The Convener:** I will give an example that I have cited before of an area in my constituency that is effectively an outdoor youth club. People are dropped off outside people's homes and they

gather in groups of about 30 or 40-strong. When they are dispersed, there is evidence that there has been underage drinking and sex and there is graffiti and broken bottles. There is evidence from people round about who have phoned the police to report disturbance and noise, so it is not that people have been scared just because they have seen 40 youngsters. Rather, they are scared because they have had their tyres slashed and damage has been done to their properties. The problem is that, the youngsters can return because the police are not able to catch them committing the offences. Some members of the community are intimidated by the thought of giving evidence in those circumstances.

Why do you think the police do not use the powers that they have? How do you address the problem of such group gatherings? That kind of situation is not about unreasonable, intolerant witnesses to such gatherings, but people who have reasonable fear about what is happening to them. The evidence is in their properties.

**Danielle Walker:** Our research tries to understand the realities of what those young people are doing there. Dispersing them might not solve the problem of underage drinking or the other problems that you cite. Getting under the skin of what is going on in those communities and getting among those young people and finding out what the drivers of antisocial behaviour are is an important step.

Part of the work that we have been doing, as I mentioned the last time I met the committee, relates to preventive activity through Communities that Care—that is one particular intervention. We need to understand what prevention is needed before young people gather in the way that you describe. We also need to look at interventions that can address some of those issues now.

We will publish a report in May next year that will look at detached youth work and evaluation of a number of interventions to do with vulnerable young people as well as those who exhibit a variety of antisocial behaviour. We found that there is evidence that detached youth work can reach and change the behaviours of some vulnerable people and young people who are acting out. That is just one example of different kinds of intervention that could be used to tackle some of the underlying causes.

There is a range of reasons why the police do not use dispersal—it would be interesting to hear evidence on that from them. Part of the reason might be the lack of alternatives for young people. We have evidence of that from our experience as an RSL. If the police disperse young people, they know where they will go and what they will do and, in some ways, there is a sense that there is no point in dispersing them. That sense influences

police practice to a certain extent in some localities.

**The Convener:** In the case of my example, the area has become such a problem for the community that the community is undermined by it. People are beginning to feel that they want to move away from the community and that there is a poor perception of the area. In those circumstances, it is reasonable to say that when people are dispersed, they will not come back because even if that measure does not address the needs of the youngsters who cause the problem, it addresses the needs of the people who are unable to let their children out of their houses. That is a reasonable part of addressing the needs of everyone in the community.

**Danielle Walker:** That is right. Community mediation is one of the interventions that we have put in place to try to get conversation going between young people and the community about what represents acceptable behaviour. That often yields some results. I cannot say that it works in every case—the case to which you referred sounds like an extreme one that needs to be tackled by the very end of the continuum of intervention. I advocate that that continuum should remain, as opposed to going in with a sledgehammer in all cases.

**The Convener:** The bill does not suggest going in with a sledgehammer; it mentions an approach in extreme circumstances. In such circumstances, do you see that there is a possible case at the extreme end?

**Cathie Craigie:** As we know, the police have powers to move people on, but, as Johann Lamont said, a problem is that people keep going back to the same place and the police have to go back and forwards to that place on the same evening or throughout the week. Although the provision on dispersal seems to have raised quite a few issues for various organisations, it is actually a power to stop people returning to an area. Perhaps the provision should be called something other than the power of dispersal.

11:00

**Shirley-Anne Somerville:** We accept that there is a significant problem with antisocial young people in certain areas, but the question is, if a group is dispersed from outside a particular facility, will those people cease to meet as a group, or will they just meet four streets down, outside somebody's shop or underneath a block of flats, for example? Danielle Walker spoke about talking about the problems. I am fully aware that that does not help the people in the affected community, but neither will the bill help the people in the community if groups just congregate somewhere else, four streets down.

We understand that there is a problem and that something has to be done about it, but we are uneasy over whether the bill offers a long-term solution or whether it will simply move the problem somewhere else.

**Cathie Craigie:** Are you consulting your members on the issue?

**Shirley-Anne Somerville:** Yes.

**Cathie Craigie:** We will hear what comes back from that consultation.

**Scott Barrie (Dunfermline West) (Lab):** I want to turn to part 4, on closure of premises. As you know, the provision gives the police and the courts the power to seal off both residential and non-residential premises that have become the focus for antisocial or criminal activity. The institute's written submission states that you support the provision but that you have some reservations about how it may work in practice. Will you elaborate on that?

**Shirley-Anne Somerville:** We understand the policy intention. Certain areas and properties are used as drinking dens or crack houses and that problem has to be dealt with. We are concerned about how the provision would work in an occupied residential area. I think that you heard from someone last week who said that many tenants are vulnerable and can be taken advantage of and that their houses can be overrun. In those circumstances, the tenant needs assistance so that they do not lose their home. We are concerned about what would happen to that person.

Perhaps the provision should refer to residential or non-residential premises, but not to occupied residential properties unless support measures are put in place. I am afraid that you have caught us out with our consultation; we have not reported back yet. However, we are keen to consider this provision, because we are concerned about how it will work in practice.

If someone is in a house and is either paying the rent or receiving housing benefit, will they be able, if they are moved on somewhere else, to claim two housing benefits? Will they be able to apply twice? How can they have two homes at once? We have raised our concerns with the Executive and I know that it is considering them to see whether it can reassure us. From what we hear, the Executive does not have a closed mind on the matter.

**Scott Barrie:** As was said during our discussion on the dispersal of groups, such an intervention would not necessarily be the first option. The procedures that would have to be gone through would mean that the intervention would be used only for persistent difficulties. In such cases, would you feel that the provision was worthy of serious consideration?

**Shirley-Anne Somerville:** I would not like to state a conclusion on that from the institute's point of view. As I said, we have not yet heard back from our members. We have concerns, but I would not like to say more than that at the moment. Sorry.

**Scott Barrie:** I look forward to hearing the results of your consultations.

Does anyone want to add anything?

**Danielle Walker:** No, we have done no research on the matter.

**Scott Barrie:** The submission from the Chartered Institute of Housing in Scotland states clearly and succinctly:

"The Institute supports the introduction of fixed penalty notices for anti-social behaviour in public areas."

Why is that the case?

**Shirley-Anne Somerville:** There is a perception that a lot of police time is used up in taking cases to court, so the fixed penalty notice system might save time. Other organisations might be in a better position to comment on that, but our members certainly think that the notices would help in dealing immediately with antisocial behaviour. Communities often want an instant solution and fixed penalty notices would offer instant punishment.

**Danielle Walker:** We are planning a project that will consider not necessarily fixed penalty notices, but more straightforward, smaller loops in relation to the justice system and in particular community intervention. If that is the intention that underpins the provision for fixed penalty notices, there seems to be anecdotal evidence that they are a good idea. Our project will be relevant; in three years' time we will be able to report our findings to the committee.

**John Blackwood:** We do not take issue with fixed penalty notices if they are used as a final option, when no other measure is available. Like the Chartered Institute of Housing in Scotland, we would be keen for preventive measures to be considered; perhaps work needs to be done in that area.

**Scott Barrie:** Given that fixed penalty notices would be a response to what might be termed lower-level antisocial behaviour, do you think that they would prevent problems from escalating to the extent that previous witnesses talked about?

**John Blackwood:** Yes. That takes us back to how we define antisocial behaviour and nuisance and where we draw the line. Behaviour that might not, in its early stages, be considered antisocial by one person might be regarded differently by another. Unless such behaviour is tackled in a constructive and coherent way, the situation might

escalate and the behaviour might reach a level that no one would dispute was incredibly antisocial. The solution lies in early and effective intervention.

**Stewart Stevenson:** I believe that when the police issue fixed penalties or on-the-spot fines to tackle motoring offences, they can do so only when the driver can produce a driving licence to confirm their identity. It is envisaged that the fixed penalty notices under the bill will be issued in the street, where there will be no requirement to confirm—or no ready way of confirming—the identity of the person concerned. Is the system likely to work? Will personation become a big issue?

**Shirley-Anne Somerville:** We do not feel that it is for us to comment on that; it might be a matter for other organisations.

**John Blackwood:** I echo that.

**The Convener:** We will take that as a pass.

**Mary Scanlon:** In your submission, you contend that the Scottish Executive should consider strengthening building standards as way of reducing noise nuisance. Will you comment on that?

**Shirley-Anne Somerville:** Again, that relates to the prevention of problems: if we build secure, good-quality homes, we might prevent problems from arising in the first place. We are concerned that the Executive might have ruled out such measures during the consultation process.

In England, building standards have just been strengthened. We have not had time to compare in detail the English technical standards with ours and I am not sure that we could do so before the bill is passed. However, we would like the Executive at least to commit to considering the matter. In housing, much low-level antisocial behaviour relates to noise nuisance, and there should be further investigation into how that might be prevented.

**Mary Scanlon:** In new-build flats, noise nuisance is a terrible problem, so strengthened building standards would be a positive measure.

**Danielle Walker:** Anecdotal evidence suggests that construction methods, as well as construction standards, affect the quality of noise insulation. Even when high standards are used, a range of building methods—prefabrication, for example—have an effect, so that should also be considered. There is some research evidence for that too, but not as much as we would like.

**Mary Scanlon:** You said that new regulations have recently come into force in England. However, I have received complaints from people in the Highlands concerning bagpipes and bagpipe

music; those complaints would not really apply in England. The complaints have come from tenants who live near souvenir shops in Highland villages—I do not want to be too explicit.

**Cathie Craigie:** It was not people in the Scottish Parliament headquarters, then? *[Laughter.]*

**Mary Scanlon:** The bill talks about a permitted level of noise; however, you cannot turn down the bagpipes. Section 47 deals with the seizure of equipment. Although we can sit here and laugh, the letters that I have received talk about bagpipe music being played for eight to 10 hours a day. Those people love bagpipe music—as I do—but they do not want to hear it for eight to 10 hours a day. They are tenants who like the place where they live. If a tenant complained to you about the volume at which bagpipe music was being played, would you consider the playing of that music to be antisocial behaviour under the bill?

**Shirley-Anne Somerville:** I have actually managed to think of an answer to that. It all comes down to lifestyle clashes and the fact that everyone has to be considerate towards their neighbours, whether the issue is the bagpipes, loud music or anything else; that is where mediation and community service come in. It would be excessive for anyone to play any musical instrument or music for eight to 10 hours a day, and it could be for mediation to solve that problem.

**Mary Scanlon:** Could the bagpipes be seized? How would mediation work? I understand why visitors want to hear the bagpipes.

**Shirley-Anne Somerville:** There is a difference between what people want to hear and what their community wants to hear, and the individual has to respect the wishes of the community as well. The wishes of the majority may outweigh those of the individual.

**Mary Scanlon:** Would it be considered excessive for a tenant to have to listen to bagpipe music for eight to 10 hours a day?

**Shirley-Anne Somerville:** Yes. Listening to any music for that length of time would be excessive and that would be a household problem.

**The Convener:** Surely the issue would be the level of noise, the persistence of the problem and the reluctance of the person to listen to others. It would not matter what the instrument was. The issue is not whether it is nice music; it is the fact that the music is loud.

**Cathie Craigie:** If the person had a flat right next door to the local bagpipe shop, they might expect things like that to happen.

**Mary Scanlon:** I just thought that I would raise that issue. I would not consider that to be antisocial behaviour under the terms of the bill, although some people might.

**Shirley-Anne Somerville:** Yes. I think that it would come under the definition of noise nuisance.

**Mary Scanlon:** We will need to be aware of that.

**Donald Gorrie:** If the bagpipers who stand outside the Scottish Parliament learned to play better, it would be a great improvement. They are absolutely awful.

**The Convener:** In my experience, when people object to noise they are not making a critique of the type of music or the quality of the playing. It is a matter of whether it disturbs their ability to watch "Coronation Street" or to get the children to sleep.

**Mary Scanlon:** Your written submission argues that, in the financial memorandum on the bill,

"the Executive does not recognise the resource implications of the Bill"

and that there is a

"danger of raising public expectation to a level which cannot be met".

Will you elaborate on your concerns?

**Shirley-Anne Somerville:** Yes. The Executive is investing £65 million over two years, of which £30 million will be for community initiatives and so on, but there is concern that that might not be enough—although I know that you probably hear that from every organisation on every issue.

When the Highland Council gave evidence to the Local Government and Transport Committee, it said that it would cost about £160,000 to introduce a mediation service throughout the Highlands. The funding that the council was given as part of the building safer communities programme and for the community wardens initiative was £65,000. That money is only for community mediation, however; it does not include the provision of intensive support or any other packages. It would be very difficult for local authorities to provide full services for that sum.

Ring-fenced Executive money may not be the way forward; it may just be a question of bearing the issue in mind through the annual local authority agreements. It is for local authorities to choose to make antisocial behaviour a higher priority, but it is a concern if it is thought that £30 million will solve the problems and fill the gaps in service provision, because it will not. Public expectations might be raised.

11:15

**Mary Scanlon:** There seem to be two different points of view. You are saying that if no additional resources are forthcoming, there is a danger of raising public expectations. There is no doubt that local authorities and RSLs will need additional

resources. Paragraph 246 of the financial memorandum states:

"There will be a small additional administrative cost for registered social landlords (RSLs) ... Participation of RSLs is considered to be part of their responsibilities as good landlords and will benefit their tenants."

Although you say that additional resources will be required, the financial memorandum says that any additional administration would be regarded as good practice and that additional resources would not be required. Do you agree with the financial memorandum?

**Shirley-Anne Somerville:** Although it should be good practice to provide many of those services, that is not being done at the moment. It is a question of how to introduce the provision of the services in question. If you are saying that all RSLs and local authorities should provide every service, there will have to be extra funding or rents or council tax will have to rise to pay for that. Such provision has to be paid for somehow.

We are concerned about smaller RSLs who simply cannot afford to have an antisocial behaviour team, professional witnesses and so on. Many of them have not yet set up service level agreements with their local authority to buy into the services of that authority, so there is a concern that some RSLs might not be considering providing those services.

**Mary Scanlon:** You are saying that landlords would all wish to adopt good practice and that the provision of such services is good practice. Regardless of the existence of the bill, you would hope that any good practice that would benefit the landlord and, more important, the tenants would be adopted in any case, but your point is that that cannot be done without a major input of resources.

**Shirley-Anne Somerville:** That should be done in any case. The issue is from where the input of resources comes—from central Government funding, from the diversion of local government funding from other areas to antisocial behaviour, or from rent increases.

**Cathie Craigie:** I have another question for Shirley-Anne Somerville. You should have extra water, because you have done most of the speaking.

Many of your members who work in my area tell me that much of their time is spent dealing with antisocial behaviour issues that are not specifically to do with housing. You mentioned that your money to deal with antisocial behaviour comes out of the housing revenue account. That is a fair point.

Your written submission recognises the bill's many good aspects. Do you accept that, if we get things right on the ground, resources will be

channelled in another way and it will not be a given that we will need to plough loads of resources into implementing the bill? If we manage that, it will mean that the existing resources, supplemented by the additions that the Executive is saying will be put to better use in early intervention, will work to remedy the problem.

**Shirley-Anne Somerville:** To an extent, that is right, but we have to bear in mind the larger projects, which are expensive. I refer to the Edinburgh neighbourhood services support team, for example, which costs a great deal of money each year to run. Although it deals with only about 150 families, in the main it solves those problems. It would not be possible to fund that team without a large transfer of resources from some other area of local government. I am sure that other areas of local government would argue that they need the funding that they have. It is a question of whether an appropriate balance would be achieved in practice.

**Elaine Smith:** I want to ask about the provision that the bill makes for equal opportunities. That issue ties in with the question of the bill's definition of antisocial behaviour, which Stewart Stevenson mentioned, and relates to the issues that Mary Scanlon was talking about—although perhaps not to bagpipes.

In the paragraphs on equal opportunities in the policy memorandum, the Executive notes that it is aware of a variety of concerns that have been raised regarding equal opportunities. One example that is mentioned is children with special needs who could be subject to ASBOs because of their behaviour. If you read the definition in the bill, you will see why people have concerns about that. The Scottish Executive stated categorically in its evidence to the committee that it was confident that the bill would not discriminate against any such groups.

Do you have any comments on the equal opportunities aspects of the bill? Have the rights of such groups been safeguarded by the policy memorandum and by the way in which the bill has been written?

**Shirley-Anne Somerville:** I think that they have. A lot of it comes down to good practice in a local authority and to whether the local authority recognises equal opportunities issues and realises that it should not be taking out ASBOs on such groups. When a case gets to the level of coming before a court, a sheriff should take into account the reasonableness of what has been happening. That should be enough at that stage. Again, that comes down to the training of sheriffs. We are aware that sheriffs throughout Scotland give out different opinions on antisocial behaviour issues, depending on the cases involved.

**Elaine Smith:** That goes back to our discussion about children's hearings and so on.

Can I ask about the landlords' position on the issue?

**John Blackwood:** Largely, we echo those comments. We have concerns based on our recent experience of neighbours complaining about tenants' behaviour. Landlords have come to us to ask what they can do about such complaints, which often concern gay couples; such situations arise largely because the neighbours do not like gay people living next door. An autistic child has also been an issue in one situation. More recently, the neighbours wanted the landlord to evict a tenant because the tenant had got a disabled parking space outside their front door; the neighbours felt that it was unreasonable that tenants should have that right, because they were only tenants.

Such situations are unacceptable, but those are the day-to-day experiences that landlords tell us about. My bigger concern is that all those landlords—I appreciate that this might be contrary to the experience elsewhere—come to us saying, "I do not want to upset my neighbours and I do not want there to be a problem." I often say, "Hang on a minute—you have to think about your tenant. It is not reasonable for your neighbours to act in that way." I encourage the landlord to get into some sort of mediation with the neighbours, but I question whether that is their role when the complaints are completely discriminatory.

A line should be drawn to ensure that people cannot be discriminated against on the grounds of race, sexual orientation or disability, because communities are engaging in such discrimination. We feel that that issue has been addressed adequately in the bill, but my concern goes back to local authority practice. I hear different stories from different local authorities. I am also concerned that when private sector tenants and private sector landlords go to the local authority, the authority says that it is not interested. It remains to be seen whether the bill will address that inequality of access and information, but we have serious concerns about the issue.

**Elaine Smith:** Is that also a training issue?

**John Blackwood:** Yes.

**Danielle Walker:** It was mentioned earlier that there is not a whole strategy. In essence, the bill addresses one part of the matter so we cannot see how it fits into the broader context. That means that we welcome the comments that are made in the bill, but we find it difficult to judge whether they fit into a broader strategy and are reflected across the piece.

**Elaine Smith:** The committee can consider putting that point to the Executive.

**The Convener:** Given the Executive's commitment to equality and social inclusion, it would be reasonable to expect that it would not promote a bill that could be used maliciously. Equally, the fact that someone may attempt to use legislation maliciously is not, in itself, grounds for not having the legislation to deal with people who have reasonable and serious complaints.

Thank you very much for giving evidence to the committee. The Chartered Institute of Housing has indicated that it will come back to us with further comments. If you want to raise further issues with us, we will be more than happy to hear from you. We have found your comments very useful.

11:24

*Meeting suspended.*

11:35

*On resuming—*

**The Convener:** I call the meeting back to order and welcome our second panel of witnesses. From Pollokshields Tenant Management Co-operative we have Rachel McCreath, the chairperson, and Rose Devine, the secretary. From the Cumbernauld Housing Partnership we have Campbell Kinloch, the estates manager. I thank you all for coming along today.

During the session, we hope to get a sense of some of the evidence that was given to us when we visited local communities. We do not intend to give you a grilling, but we want to hear those voices.

If there are questions that you do not have a response to or that you do not feel are appropriate for you to respond to, please say so. Everyone is going to be on their best behaviour. We are keen to get a sense of your experience, but without talking about specifics, because we appreciate that the specifics are about what people are living with and we do not expect you to talk about that. We want you to give us a general feel for some of the issues that are being experienced and that came across to us quite strongly when we were out in the communities. I hope that you do not find the session to be an ordeal and that you will still be talking to us at the end. We genuinely appreciate both groups coming to the meeting.

The Scottish Executive has clearly said that the issue is a priority and it has spoken to people throughout the country about it by engaging in a big consultation. How big a problem do you think antisocial behaviour is generally? Is it reasonable for the Scottish Executive to make it a priority? How much of a problem is it in your experience?

**Campbell Kinloch (Cumbernauld Housing Partnership):** It is a problem and it is becoming an ever-increasing problem, especially in blocks of flats. There was consultation in Cumbernauld and my bosses spoke to Cathie Craigie.

Our evidence is more anecdotal than that of the previous panel. Antisocial behaviour is increasing on the street, and it is increasingly difficult for housing officers to deal with it.

**Rose Devine (Pollokshields Tenant Management Co-operative):** It is a big problem, especially in our area. Sometimes it is quite frightening because of the youths that are causing all the problems.

**Rachel McCreath (Pollokshields Tenant Management Co-operative):** My experience is just the same as Rose's. I stay in a deck-access property and there is a big problem with youths hanging around the corridors. I think that someone on the previous panel mentioned thicker walls; our walls are paper thin, so every morning at 8 o'clock my neighbour gets us out of bed.

We have a big problem with youth disorder. Antisocial tenants tend to stem from their families.

**The Convener:** What impact does it have on your tenants? Is there evidence of how it has affected them?

**Rachel McCreath:** It has a big impact on our tenants. We have tenants who are complaining all the time, tenants who are moving away and tenants who are taking private lets and paying extortionate rents just to get away from it. It just gets unbearable. There is a wide scale of antisocial behaviour, from graffiti to murder.

**Stewart Stevenson:** I want to draw out what kind of behaviour you think is antisocial behaviour. The bill has to say what it is. I will not repeat what the bill says, because I do not think that that matters to you too much. I would like examples of what you think is antisocial behaviour—you started us off with one or two—so we get a sense of what you, from the perspective of your communities in Cumbernauld and Glasgow, think the Parliament should be concerned about when it is making new laws.

**Rachel McCreath:** If you put it like that, antisocial behaviour is 101 things. It includes noise pollution, bagpipe playing, loud music, neighbours who shout at their children—in my corridor just having children is antisocial—graffiti and ball games. For someone to be deemed an antisocial person, their behaviour would have to be pretty severe, such as playing loud music at half past 4 in the morning in the knowledge that the neighbours are elderly or have young children. Screaming up at people's verandas at 4 o'clock in the morning is not polite either. People who are

antisocial do not have any respect for other people or for themselves, because they just do not consider other people's circumstances, such as that people have young children or have an elderly parent or grandparent staying with them. They do not care; they just want to play their music at stupid o'clock in the morning.

**Stewart Stevenson:** So, in a sense, it is not necessarily the behaviour itself: boys and girls kicking a ball around is okay, but it is not okay when it is done in the corridor at 4 o'clock in the morning. The same is true with music. Loud music being played out in a big field is okay, but it is not okay if it is being played next door late at night.

**Rachel McCreath:** In the deck-access properties, the corridors run above and below bedrooms, so I chase the children off the corridor if they are playing ball games or using roller skates. Sometimes there is ridiculous behaviour such as screaming, singing and banging on doors right above people's bedrooms. People are up and awake, but they do not want to go out, because of the screaming and shouting.

**Stewart Stevenson:** This is quite a hard question. Do you think it is possible to change the behaviour of the people who are not thinking about the effect on the decent people in an area, so that they start to become part of the normal group of people who live decently? Alternatively, do you think that many such people are incapable of changing?

**Rachel McCreath:** Do you want my opinion?

**Stewart Stevenson:** Yes.

**Rachel McCreath:** I do not think that people who do not respect themselves and do not respect others will ever change. I do not think it makes a difference where we put them or what type of house we give them; it will never be enough. We could give them a five-bedroom house with en-suite bathrooms in every bedroom and it would still not be enough. They would still vandalise the property and annoy their neighbours by blasting out music. I do not think they will change, but introducing procedures to make them change might work.

**Stewart Stevenson:** Are there any other behaviours, which Rachel McCreath did not mention, that Rose Devine and Campbell Kinloch would like to add to the list? Is it your experience that people can change?

11:45

**Rose Devine:** The majority of tenants on our estate are elderly. They have stayed there for more than 30 years. In the past five or six years, all of a sudden, all the idiots, as I would call them, want to do just as they please. I can go into detail

about that. They have attacked people, there have been attempted murders and there has been a murder. At one time, I stayed in a deck-access flat on the ground floor and the corridor was above my bedroom. Every Friday and Saturday night there was a fight. I would be lying in my bed while those bodies were all knocking lumps out of each other at the top. It is not nice. When you phone the police, the response time is ridiculous, and sometimes they do not come out.

**Stewart Stevenson:** Do you think that that has anything to do with misuse of drugs or drink, or would that happen anyway?

**Rose Devine:** They could do it sober; they did not need to be drunk. Sometimes, we are talking about kids of 14. They are out until 5 o'clock in the morning, smashing in all the glass-panelled doors in the drying areas. When they are drunk, they just go along and smash every door they see. That comes out of our repair budget, which is very small.

The elderly people are afraid to go out at night. They stop going to their clubs in the community halls, and that is just not right. It is terrible. In January, there were 10 days between the two attempted murders. Those boys are still living there and running about mad at night. There is something wrong.

**Stewart Stevenson:** Is Cumbernauld different, Campbell?

**Campbell Kinloch:** No, it is much the same. In Cumbernauld, the partnership has a strategy for dealing with antisocial behaviour and we categorise the cases. Extreme cases are those involving drug dealing, serious harassment or violence. Serious cases are those involving frequent disturbance or vandalism. Nuisance cases are those involving issues such as stair cleaning and control of pets. The majority of cases that come to us could be described as nuisance cases but, unfortunately, if they are not resolved they can escalate to serious cases. We do not have the same number of murders as my fellow witnesses have experienced in their communities. When that happens, we rely heavily on police involvement. That is not something that the housing officer would get involved in.

**Mary Scanlon:** My question is primarily for Campbell Kinloch of the Cumbernauld Housing Partnership. As a registered social landlord, have you ever applied for an antisocial behaviour order to be made? If so, what was your experience of the process?

**Campbell Kinloch:** We have not asked for an antisocial behaviour order, but we have been involved in providing evidence when an order was taken out against one of our tenants. The evidence that prompted the antisocial behaviour

order was given to the police, the local authority and the antisocial behaviour task force. It did not come across our desks. However, when the antisocial behaviour order was in place, we were asked to comment regularly on whether there was anything that was causing a breach of the order. Thankfully, nothing happened and the tenant has kept her home. The antisocial behaviour appears to have stopped.

**Mary Scanlon:** Given the new provisions and the extension of antisocial behaviour orders, would you consider initiating this process in future?

**Campbell Kinloch:** I would consider using the antisocial behaviour orders that relate to the home. At the same time, however, we rely on the lease for dealing with such issues. If the antisocial behaviour orders are extended to deal with situations outwith the home and away from the vicinity of the home, there would be little that housing officers can do to prevent the antisocial behaviour. That would be a police matter.

**Mary Scanlon:** Rose Devine mentioned the havoc created by 14-year-olds. The bill would enable antisocial behaviour orders to be used in relation to those aged 12 to 15. Do you think that they are an appropriate sanction to be taken against that group?

**Campbell Kinloch:** Yes. The most recent cases that we have dealt with in Cumbernauld have involved children under the age of 16, against whom it is extremely difficult to take proper action.

**Mary Scanlon:** How young were they?

**Campbell Kinloch:** They were 14.

We can take action against the tenant whose children are causing the problem, but in cases where the tenant is not controlling their children, the action that we have taken has been largely unsuccessful and the antisocial behaviour has continued. If the tenant was threatened with having an ASBO imposed on the child, I am sure that that would make a difference.

**Mary Scanlon:** Do you think that the end-of-the-line sanction of locking up the parents could be appropriate in some circumstances, when all else has failed?

**Campbell Kinloch:** I would certainly hope that that would never happen. Like the previous witnesses, I would hope that the children's panels would come into force at that point, as well as the social work department. In my time as a housing officer, we have only once deprived someone of their tenancy because of antisocial behaviour. It took a long time to come to that conclusion.

**Patrick Harvie:** I would like to ask about the dispersal of groups. The bill would give police the power to designate a local area—we do not know

how large or small it would be—within which they would have the power to disperse groups of two or more people and it would make it an offence for those people to return. Do you feel that that power is appropriate for your communities? Is the gathering of groups a problem that you face? If so, would the new power solve the problem and make the individuals less likely to offend elsewhere?

**Rachel McCreath:** We have a good relationship with the community police in the area. Last winter, the police moved on youths who were congregating in certain parts of certain corridors. The difficulty that the police had was that two or three of the youths who were congregating lived in those corridors. There is a limit to what the police can do. You cannot chase somebody from their own front door, and his friends can reasonably claim that they are just visiting him. The police would have their hands tied in such a situation.

**Patrick Harvie:** I am not sure that the power would apply in that situation. It relates to public places. I do not know whether such a corridor would count as a public place.

**Rachel McCreath:** In the deck-access properties, the stairwells and the centre pieces of the corridors are classed as communal properties. People phone the police when a large group congregates at the end of the corridor, which is only metres away from somebody's front door.

**Patrick Harvie:** It might be useful if we could find out whether the power would cover such situations.

Could you tell me whether, in general terms, you feel that it would be appropriate for the police to have the power to disperse groups that were gathering in public places?

**Rachel McCreath:** If the youths do not hang around in the corridors, they tend to hang around outside the local shop, which is open till midnight, or the Chinese, which is further down the road. If there is a large number of them, the people in the shop call the police and the police come and shift them along. Where they go to, I do not know. I think that the police should be given more powers. I do not know whether it would be possible to put time limits on children of a certain age, or whether they should be taken home. A lot of them are under 16.

**Patrick Harvie:** For particular gathering points, the police would have the power to designate specific times of the day or night, or specific days of the week, during which it would be an offence for anyone to come back to that gathering point. Would that be a positive step?

**Rachel McCreath:** Yes. Large groups of youths should not be allowed to gather in one place. It is intimidating if you need to go to the shop and 20 youths are standing on the corner.

**Patrick Harvie:** A criticism of the Executive's approach is that young people will seek to gather at places such as that because they feel safer, because they are well lit and because they do not have anywhere else to go. In your community, why are people not using alternative facilities? Is it because there is only one place they can go?

**Rachel McCreath:** East Pollokshields has no youth facilities. That has been discussed at a number of different community meetings. A youth group was started about six months ago, on Thursday and Friday evenings. It was meant to be for youths from 14 to 25, but some children in that age bracket would not go because Joe Bloggs from down the road went. They deliberately stayed away.

As Rose Devine said, 60 per cent of the people in our community are elderly. They are frightened to go to the shop for milk, especially on winter nights when it gets dark around 3.30 or 4 o'clock. That is when the young people come out. Even when there are only two or three of them, they can be quite rowdy and abusive for no reason at all. You do not have to say anything to them for them to start screaming and shouting at you.

**Campbell Kinloch:** Previously, in Cumbernauld, the police targeted certain areas and called them hot spots. They simply moved the youths on. Primarily, the youths were gathering round licensed premises, but we found that they simply moved en masse across one of the bridges to another area. Another pressure group would then complain about them, and they would move on again.

In recent months, they have congregated in specific areas. Everybody knows that they are there and, to a large extent, that has simply been accepted. The police may be quite happy about that, because at least they know where they are.

**Patrick Harvie:** Why are the new locations more acceptable? Is it because they are further away from residential property?

**Campbell Kinloch:** I do not know. Perhaps it is because the youths can buy drink easily.

**Patrick Harvie:** Do people feel that that is less of an offence in the new locations, or less of a disturbance? Is that what you are saying?

**Campbell Kinloch:** No. People have simply accepted that crowds will congregate there. It has become a habit.

**The Convener:** Patrick Harvie asked about public places. Section 22 of the bill lists places that would be deemed public places. Subsection (1)(a) specifies

"the doorways or entrances of premises";

subsection (1)(b) specifies

"a road";

subsection (1)(c) specifies

"any common passage, close, court, stair or yard pertinent to any tenement or group of separately owned houses";

and subsection (1)(d) specifies

"any place to which the public do not have access but to which persons have unlawfully gained access".

Those subsections cover the definition of public place, so we then have to consider the history of the behaviour in the area before being able to justify deeming an area to be a problem area. Obviously, if there is a problem outside somebody's front door, there might be other ways of dealing with it, such as talking to the person inside the front door who is tolerating their son or daughter behaving as they are.

**Scott Barrie:** Good afternoon. I wish to address the part of the bill that proposes the closure of premises. You might know that in certain circumstances the police and the courts would be given the power to seal off residential and non-residential properties that had been shown historically to be engaged in antisocial and criminal activity. Would that be of assistance in the circumstances that you face?

12:00

**Rachel McCreath:** I am sorry, but I have not read the bill.

**Scott Barrie:** Well, the bill seeks to give the police and the courts the power to seal off a property if it is being used habitually for, say, drug dealing or for other antisocial behaviour or criminal activity. Would that be an advantage?

**Rachel McCreath:** Yes. We have a private let with a problematic family in it. Last year there were court proceedings to have them evicted, because the situation got right out of hand. It would be a positive step if the police could seal off a property and close it down.

**Rose Devine:** There were so many kids in that house.

**Rachel McCreath:** It is a difficult situation. That court case came to an end when the person who owned the property became conscious of how many children were going to be put out, even though the children were problematic as well. It would be good if the power that you mentioned existed.

**Scott Barrie:** Do you agree?

**Rose Devine:** Yes.

**Campbell Kinloch:** As a last resort, yes, I agree. However, our concern is about the tenant. Would the tenant be made homeless? I hope that

other remedies would be used before we reached that stage, but the partnership agrees with the use of the power as a last resort.

**Donald Gorrie:** We would find it helpful if you could give us your opinion on whether a fixed-penalty system might work. The Executive proposes in the bill that, just as people get fixed penalty fines for parking or speeding and the case does not go to court, the police could impose a fixed penalty for vandalism, breach of the peace, various issues to do with drink, and for making a noise with music after the person has been asked to stop. From your experience at the sharp end, do you think that that would work? Is it a good idea?

**Campbell Kinloch:** Yes, if it is applied across the whole spectrum of society and not just levied against RSLs. In light of equal opportunities, the measures would have to apply to everyone. If the measures hit people in their pockets right away, it would stop antisocial behaviour in its tracks. For more serious cases, the police will always have to be involved to a far greater extent, but for the perpetual nuisance cases that occur day in, day out, the measure is a good idea.

**Rose Devine:** It would be quite good.

**Rachel McCreath:** If you have a youth who intimidates their parent, it will put the parent in an awkward position. I do not think that giving a youth an on-the-spot fine for blasting music and drinking in public will help, because the parent will have to pay the fine and you do not know the parent's circumstances. I have young children. I hope that when my son and daughter are older they will not behave like that—I am teaching them not to—but if they did, they would not be able to pay the fine, so they would come to me and I would have to pay the fine, even though I had done nothing wrong.

**Rose Devine:** The tenant is supposed to be responsible for everyone who lives in their house, whether they are family or not.

**Rachel McCreath:** My opinion is that an on-the-spot fine is not a good idea for a certain kind of family. If we do not know about people's background or home life, we should not give them a fine for drinking in the street.

**Donald Gorrie:** I should have made it clear that that is proposed only for people aged over 16. Does that make any difference?

**Rachel McCreath:** Yes, because they can get a job and pay the fine themselves.

**Donald Gorrie:** In theory, yes. I am interested in what you have to say. Do you think that it is reasonable—

**Rachel McCreath:** I think that the fine is reasonable for someone who is over the age of 16. Above that age, people can be held

accountable for their actions and an on-the-spot fine would hit them hard in the pocket, but for under-16s, no.

**Cathie Craigie:** To extend that point, the fine could also apply to someone who is persistently playing loud music, fly tipping or even disregarding the arrangements that are in place in communal bin areas. Therefore, the fine does not focus only on young people, but takes into account the whole spectrum of antisocial behaviour that occurs day to day. Does that affect your hesitancy?

**Rachel McCreath:** That makes it a bit clearer. Over-16s should be responsible for their actions and made to pay for them, but that should not apply to under-16s.

**Campbell Martin:** Noise nuisance is a huge problem for a lot of people and, as Rachel McCreath flagged up earlier, it comes down to people not taking the people around them into consideration. A huge range of things, including loud music and people screaming and shouting, constitute noise nuisance.

There are provisions in the bill to tackle noise nuisance, including powers for environmental health officers, the police and wardens to issue warning and fixed-penalty notices. The bill also gives local authority officials the power to seize noise-producing equipment such as stereos, and it would extend the service to cover 24 hours a day, seven days a week. In your experience, do you think that those provisions would be effective in dealing with noise nuisance problems? Are there other things that could be included in the bill to tackle noise problems?

**Campbell Kinloch:** The North Lanarkshire antisocial behaviour task force already has those powers. It has seized stereos and musical instruments and that has proved to be effective. When we are called to noise pollution cases, we tell people that if the noise persists, it might not be us who come back for a nice friendly chat and that, if it is late at night, it will be the antisocial behaviour task force and the police, who have the power to remove the stereos. That works.

**Campbell Martin:** In your practical experience, does that stop the problem or do people just get another stereo from somewhere else, so that the noise level goes up again?

**Campbell Kinloch:** It is rare for the problem to persist once the equipment has been removed.

**Rachel McCreath:** We are tenants, so we do not hear about all the problems. If we have a problem with noise, we contact the office and put in a complaint.

**Campbell Martin:** Is the problem dealt with?

**Rachel McCreath:** The office would send out a letter to the person and, if the problem persisted, the office would deal with it.

**Campbell Martin:** Are you quite happy that the problem is dealt with?

**Rachel McCreath:** Yes. If it is midnight or 2 o'clock in the morning, we would phone the police and they would deal with it. Environmental health officers have been called in a few times to monitor noise levels, but the walls in our properties are paper thin. I can hear the washing machine in the flat downstairs and two across.

**Cathie Craigie:** The bill proposes to give local authorities powers to designate an area in which private landlords would be required to register with the local authority. I probably know Campbell Kinloch's views, but will he share them with the committee?

**Campbell Kinloch:** Cumbernauld Housing Partnership is strongly in favour of registration for private landlords, not just in designated areas but in all areas. We feel that designating some areas simply moves the problem to the non-designated areas. The partnership feels that private landlords should be treated in the same way as registered social landlords. Everybody should be registered. That would certainly help us when dealing with instances of antisocial behaviour perpetrated by tenants of private landlords, whether they are nuisance cases or serious cases.

In the majority of cases with which we deal, we do not know who the landlord is, which makes it difficult for us to take any real action. The cases simply fizzle out, and nothing happens in the majority of them. We believe that, like us, private landlords have a responsibility to do what they can to stop antisocial behaviour. We think that they should influence the behaviour of their tenants. We strongly advocate landlord registration in all areas.

**Cathie Craigie:** Is antisocial behaviour in the private rented sector a problem in the area that you deal with?

**Campbell Kinloch:** Yes, and it is becoming increasingly difficult to deal with it, because properties are being bought up cheaply by private landlords, and we do not know who they are. The majority of the problems with which we now deal relate to the tendency of private landlords to avoid repairs, which they are reluctant to invest in. Water penetration in high-rise blocks is deemed to be antisocial because it affects a lot of people. It is rare that we can find out quickly who the landlord is in order to make them effect repairs. That is becoming more of a problem, month by month.

**Cathie Craigie:** Are there any schemes, in Cumbernauld or other areas, involving public community organisations such as yours working

with the private sector to address such problems?

**Campbell Kinloch:** A working party was once set up, and one or two private landlords sat on it, but they are not the problem, as we know who they are. The problem is with the hidden private landlords, whom we do not know how to contact. Working parties and community groups will always bring out the good private landlords, like the chap who was sitting here earlier. We have never had a problem with such people, whom we can contact. They are always helpful and they will always do repairs when we ask them to.

**The Convener:** Does Rose Devine want to comment on any issues to do with private landlords in her area?

**Rose Devine:** We do have problems with them. I know of a few private landlords who have let property where there is vast overcrowding. I am thinking of one three-bedroom flat in particular. There is a kitchen and a bathroom, of course, but two of the bedrooms are just boxrooms. Eight kids are living there with three or four adults, I think. They are living out of bin-bags in the drying area—they keep their clothes in them, because there is no other room. That is wrong.

**The Convener:** And your tenant management co-op would not, under any circumstances let such a flat to a family with that number of members.

**Rose Devine:** Not at all. Such a property would be for four people.

**The Convener:** Are you aware of what has happened when tenants in such situations have tried to raise issues with the landlord? How successful has that been?

**Rose Devine:** It was not successful in that case. An eviction order was made against the parents—not the kids—but the order was stopped by the social work department because of the kids. The landlady refused to evict the family because there were so many kids. The flat is not big—I lived in a similar flat. It has four rooms, but it has all those kids in it. That is not right and not healthy.

12:15

**Campbell Kinloch:** We have come across that situation in Cumbernauld. We report overcrowding to the local authority, but in many cases the tenants of private landlords ask us not to do so, because they will lose their home. However, we have a duty to pass on the information to the local authority.

**The Convener:** In my experience, one cannot let a property to a family if it will be overcrowded, but if the property becomes overcrowded after the tenants have moved in, that is not a ground for eviction. A family can cause problems because of

overcrowding, but if when the tenancy was agreed the property was not overcrowded, that is acceptable. That is a problem.

**Elaine Smith:** Campbell Kinloch mentioned the antisocial task force in North Lanarkshire, which has its office in Coatbridge in my constituency of Coatbridge and Chryston. He said that, instead of him going along for a chat, the police or the antisocial task force might go, perhaps to take away equipment. However, the antisocial task force has a role in mediation, and I find in my communities that, on the whole, people's experience of the task force is positive—they are complimentary about its work. Perhaps the group is a model for other areas. Have you used the task force for mediation?

**Campbell Kinloch:** Personally, I have not asked the antisocial behaviour task force to mediate, but I know that it does so. We have a service-level agreement with the task force, under which it steps in during out-of-office hours to mediate on issues. We get a lot of feedback from the task force. Two or three times a week, we get a fax first thing in the morning to tell us what action the task force has taken and to refer cases to us so that we can take action. We have a good relationship with the task force.

**Elaine Smith:** So the task force tries mediation first.

**Campbell Kinloch:** Yes. The removal of stereos and musical instruments is a last resort.

**Elaine Smith:** Equal opportunities concerns arise about children with special educational needs, who might be subject to an ASBO because of behaviour that results from their condition, although the Scottish Executive thinks that the bill will not discriminate against any group. Rachel McCreath said that the definition of antisocial behaviour has a lot to do with perception. For example, something that is okay at 4 o'clock in the afternoon might not be okay at 4 o'clock in the morning. The bill does not use the concept of reasonableness or intent in the definition of antisocial behaviour. Should the Executive think about including those concepts in the definition? Do you have concerns about the behaviour of children with special educational needs such as autism, which might be interpreted as antisocial behaviour?

**Rachel McCreath:** I know only one tenant who has a child with special needs. It would be unfair to chastise her because of her daughter's illness. For equal opportunities reasons, the bill should state exactly what is classed as antisocial behaviour. The little girl is lovely, but when she goes off on one, she could raise the roof of this building. However, to have a go at the little girl's mum because of the girl's behaviour would be unfair.

**Cathie Craigie:** Do you know whether any neighbours have ever made an official complaint about the tenant?

**Rachel McCreath:** I do not think that any official complaint has been made. I know of only one child who has special needs and I do not know of any complaint that has been made.

**Elaine Smith:** Earlier, the convener rightly pointed out that the Executive has made a huge commitment to equal opportunities through the equality unit, and the Executive has stated that it is confident that the discrimination that we are discussing will not happen. Obviously, there are processes and hearings to go through. My colleague Stewart Stevenson spoke about mention being made of reasonableness. However, some parents are still concerned. If a complaint were made against someone as a result of their disability or special needs, is it possible that those complaints could result in steps being taken against that person? Do you understand why people who express such concerns have those concerns?

**Rachel McCreath:** I do. To be fair, those who live around such people must be considered, but the path that you mention would be a long and tedious path to go down. It would not be fair on the neighbours, a little girl or a little boy. Outside help would be needed in such instances. The little girl whom I mentioned sleeps for only around four hours. She goes to respite so that her mum and the neighbours can get a bit of peace. There have not been any complaints about her, but I would prefer not to comment further on the matter.

**The Convener:** So in your local community, people distinguish between a child who has special needs and youngsters who cause broader problems. People already filter out such things and do not complain.

**Rachel McCreath:** It would be unfair if Mrs Smith complained about Mrs West's child who has a disability and unfair for anybody to have to write to her and say, "By the way, do you know the little child you are complaining about has such-and-such." However, it is also unfair that Mrs Smith should be disturbed. Some way must be found of tackling such problems and keeping everybody happy.

**The Convener:** That is a good example of a case in which it could be arranged for people to talk to each other. There would be grounds for mediation. People could discuss what caused the problem and how it could be dealt with.

**Campbell Kinloch:** We whole-heartedly agree. Such things are unfair but, unfortunately, they happen. Equal opportunities impact on all aspects of housing management nowadays, but in such circumstances, we would hope to use common

sense and mediation. Our housing officers have been trained in mediation and we would expect them to talk not only to the perpetrator, but to the neighbours and to make them aware of the situation. Obviously, that protection impinges on such cases, but we would expect the neighbours to have a full understanding of why the perceived antisocial behaviour is occurring. People should talk to each other.

**The Convener:** As there are no more questions, I thank the witnesses for coming along. You have been very helpful. If you want to make any further points when you have thought about what you have said, we would be more than happy to hear from you. You could either phone or write to the clerks. That would be welcome.

We now move into private session.

12:24

*Meeting continued in private until 12:50.*



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