

COMMUNITIES COMMITTEE

Wednesday 7 January 2004
(*Morning*)

Session 2

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COMMUNITIES COMMITTEE

1st Meeting 2004, 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:

Tam Baillie (Barnardo's Scotland)
Joe Connolly (NCH Scotland)
Ellen Donnelly (Barnardo's Scotland)
Shelley Gray (Children in Scotland)
Lisa Hogg (YouthLink Scotland)
Christine MacKechnie (Glasgow Children's Panel)
Mike Mawby (Gael Og Mentoring Project)
Debbie Noble (Barnardo's Scotland)
Marion Pagani (Glasgow Children's Panel)
Mike Rodger (YouthLink Scotland)
Emma Small (Barnardo's Scotland)
Jennifer Turpie (Children in Scotland)

CLERK TO THE COMMITTEE

Steve Farrell

SENIOR ASSISTANT CLERK

Gerald McNally

ASSISTANT CLERK

Jenny Goldsmith

LOCATION

Committee Room 1

Scottish Parliament

Communities Committee

Wednesday 7 January 2004

(Morning)

[THE CONVENER *opened the meeting at 10:02*]

Antisocial Behaviour etc (Scotland) Bill: Stage 1

The Convener (Johann Lamont): I open the meeting and welcome everybody to this first meeting of the Communities Committee in 2004. I wish everyone every good wish for 2004 and hope that you had a good break.

We move immediately to agenda item 1, which is consideration of the Antisocial Behaviour etc (Scotland) Bill. I welcome the witnesses on our first panel. From the Gael Og mentoring project we have Mike Mawby, who is the project manager, and from NCH Scotland we have Joe Connolly, who is assistant director of children's services. From the challenging offending through support and intervention—CHOSI—project in Motherwell we have Ellen Donnelly, and with her is Tam Baillie, who is assistant director of policy. We also have with us Debbie Noble, who is children's services manager for Barnardo's Scotland, and Emma Small, from the Cluaran project in Falkirk. We appreciate your being here today.

I appreciate that some of you will not have been before a committee like this before. If you think that any questions are inappropriate, or if you feel that you are unable to answer any questions, please feel free to say so. Equally, if at the end of the session there are things that you wish to add that we have missed, we will be more than happy to communicate with you after the committee is over.

I will kick off with questions on the bill's consultation process. You might be aware that the Scottish Executive has said that the number of communities, organisations and individuals that participated in the consultation process that led to the bill was unprecedented. How effective did the panel think the consultation process was? Perhaps someone who represents a project might kick off.

Tam Baillie (Barnardo's Scotland): I am happy to say that the consultation process involved a comprehensive range of neighbourhoods and agencies. Barnardo's noted that it would have been helpful to have a specific strategy for

consulting young people, so we made efforts to involve young people in the consultation. In general, the process was thorough.

The Convener: During the consultation, did your organisation hold a parallel consultation within its structures that involved talking to young people about the issues that were flagged up, which might not necessarily have been at the Scottish Executive's instigation, but was undertaken simply because the Executive held its consultation?

Tam Baillie: Yes. Part of our internal process involved our services, and through our services, young people were involved in the process. However, it would have been helpful if young people had been consulted directly by the Scottish Executive and Parliament, rather than consulted only through agencies.

Stewart Stevenson (Banff and Buchan) (SNP): We are dealing with a bill on antisocial behaviour, so it is important that we understand what your experience suggests that antisocial behaviour is, because it covers a wide range of behaviours. The bill uses the definition in the Crime and Disorder Act 1998, which refers to a person who

"acts in a manner that causes or is likely to cause alarm or distress".

I would like to ask about your experience on the ground. Do young people in particular think that that definition describes antisocial behaviour? Could it be described in another way? Is that definition good enough? I would like to start with Emma Small, because she is the youngest person on the panel. What do you think antisocial behaviour is?

Emma Small (Barnardo's Scotland): Antisocial behaviour is things such as people sitting around and drinking.

Stewart Stevenson: Does that behaviour impact on young people, old people or people of all ages?

Emma Small: The impact is mostly on young people.

Stewart Stevenson: What are the effects on young people?

Debbie Noble (Barnardo's Scotland): It is fair to say that a range of behaviours have an impact on all of us. Tolerance levels are different and experiences are different. Different communities and groups are more intolerant of some behaviour than others are. The difficulty with young people is that their personal experience has an impact on whether they believe certain behaviour is antisocial. When it is normal to be loud and to drink, or when a community has experienced that,

young people have difficulty in recognising that such behaviour might alarm other people. Where such behaviour is or is not tolerated is not always consistent for young people. That is why it is difficult for them to recognise that their behaviour has an impact on all or some members of their community.

Stewart Stevenson: I will turn that round. We have a handle on the policy issues, but we are interested in practical matters. I approach the issue from two sides. How does antisocial behaviour affect young people? Young people say that they will be stigmatised by some of the proposals in the bill. A few young people cause the problem, but a large number of young people suffer the consequences. I want to know about not only young people's understanding of the effect of their behaviour on other people, but about their understanding of the effect of antisocial behaviour on them and the measures that they want to be taken.

Debbie Noble: Young people are stereotyped by the media and are sometimes stereotyped politically. From the statistics, we know that a small number of young people cause the majority of difficulties in communities; however, all young people are labelled as a result of those difficulties. Young people are tremendously frustrated that there is an expectation that they will be bad, that they will drink and that they will behave inappropriately when, in fact, they are simply being adolescents, teenagers or children.

We often see such expectations in communities in which there are "No ball games" signs and young people simply want to kick a ball about. It is expected that there will be difficulties or challenges. Adults say constantly that it is difficult to challenge a group of young people who are being a bit loud, because they expect difficulties and trouble—I include myself in that. Perhaps that is because we stereotype young people and we see images in the media that show young people behaving badly. We forget that the behaviour of the majority of young people is acceptable. Many young people are frustrated by such expectations.

We should acknowledge that young people who have had difficulties can change. Stigma attaches to young people who have been young offenders or who have been excluded from their homes or their communities, but it should be recognised that they can make progress. Such progress is sometimes quick, but it can take a long time because difficult experiences must be tackled.

Stewart Stevenson: I suspect that my colleagues will have questions about much of what you have said. I would like to ask the suits—I am sorry, gentlemen; I am wearing a suit, too—a question. Will you say formally and briefly whether the bill's definition of antisocial behaviour, which is

a definition that was used previously, is as good as we can get? Tam Baillie is nodding.

Tam Baillie: I will give a quick answer. The definition is very wide and it will be subject to different interpretations. It will be up to sheriffs to ensure consistency throughout the country.

However, the issue is the proposed application of antisocial behaviour orders. The policy memorandum makes it clear that the bill targets a very small group of young people. There is a mismatch in respect of the very broad definition of antisocial behaviour and the very small group of young people—particularly under-16s—that the bill targets.

Stewart Stevenson: You say that interpretation is in the hands of the sheriffs, but we have evidence that local authority social work and housing departments are also deciding whether to progress down a road against antisocial behaviour. That said, will you say briefly whether you foresee difficulties as a result of different interpretations in practice in relation to what is currently in legislation? Will the definition map into the new bill?

Tam Baillie: From the perspective of under-16s, additional conditions in the bill would be helpful. The primary legislation should include criteria for using ASBOs for under-16s. If those criteria are not in the primary legislation, they should be in the regulations that accompany the bill.

Stewart Stevenson: Will you be able to suggest what those criteria might be at a later date?

Tam Baillie: I could make suggestions now. Perhaps the bill should include a definition of what constitutes persistent offending behaviour. There could be an amendment to the bill that defines what persistent offending behaviour is for under-16s, or an amendment that relates to young people who can be shown not have co-operated with every other means of dealing with them.

Joe Connolly (NCH Scotland): Members should forgive me—I am recovering from a bout of flu.

One of my concerns is that more young people will be pulled into a system. Like Tam Baillie, I will try to be specific. Legislation exists to deal with young people, and with offending young people who are caught up in the system. The definition of antisocial behaviour that has been highlighted is quite wide. I have listened to young people's concerns about being moved on by the police: they already feel discriminated against simply for being young people. I am not by any means condoning bad behaviour, but I am concerned that we will end up with more young people in a system that is creaking at the seams. We do not want to see more young people in secure

accommodation and in residential accommodation; rather, we want to examine community alternatives for young people.

One way forward is to look at the front end, and at how we put resources in place to stop young people reaching the stage at which they have to hang about street corners. I was at a conference not so long ago at which a director of social services talked about young people hanging about a bus shelter, which he said saddened him. A consultation exercise was held and the young people were asked what they wanted. They said, "Could you put a front on the bus shelter to stop the wind blowing in when we are standing in there?" If that is the kind of aspiration that our young people have, something is wrong.

It would not be too expensive to put proper facilities in our communities, to staff them appropriately and to provide youth clubs and sports facilities. A health, fitness and co-ordinated activities drive was announced yesterday. Quite often, we put in place things that are expensive, such as building sports centres where it costs £30 an hour to hire a five-a-side hall. We need to place accessible provisions within our communities that do not have much.

10:15

Stewart Stevenson: You are saying that the issue is resources, not legislation.

Joe Connolly: The matter is more about resources, but it is not just about new resources. It is about redirecting some existing resources because the solution is not always to increase the amount of resources. We should consult our young people and communities and ask what they want. Legislation is already in place to address young people who are caught up in offending.

The Convener: I return to Debbie Noble's point. You seemed to suggest that the problem is one of tolerance and that it is about people being unnecessarily frightened of young people, wanting to stigmatise them, and buying in to some myth that is being promoted by the press. Do you accept that if a politician is arguing for the measures, it might be because some communities find antisocial behaviour to be a major problem and not because that politician is being unreasonable and intolerant? People might be frightened, and with good reason—if I were in such circumstances, I would be frightened, too. Even if mythologising of young people is going on, there is a core problem.

Debbie Noble: I do not deny that people feel fear—it is not my place to say that it is not real. We have to respond to reality and people feel afraid in their communities. I am not saying that that is not the case.

The Convener: Do you accept that it is not just that people think that there is a problem with groups hanging around, but that those groups actually are a problem? They damage property and scare children so that they are unable to go out and play. Mothers keep their children in the house, rather than let them go outside because of difficulties that are caused by groups outside. The groups may be small, but identifying that there is a problem within certain communities does not stigmatise all young people.

Debbie Noble: Both views apply. There are small groups and individual young people whose behaviour is not acceptable. As Joe Connolly said, we are not condoning that behaviour, but we are saying that we cannot stereotype all young people. We cannot expect that all young people will be difficult.

The Convener: Do you also accept that not everyone who raises this issue wishes to stereotype all young people?

Debbie Noble: Absolutely. Equally, I do not want to stereotype communities and say that they all stigmatise young people.

There is the question—it is part of the legislation, and it is appropriate that you are addressing it—of how to define antisocial behaviour. I am not sure that we have got a handle on that. The difficulty is that we all interpret it differently, and the interventions that we use will be based on whether we label young people as difficult, or as not co-operating or as not fitting in to the services that we have.

I do not want to stereotype communities by saying that all communities respond negatively to young people. There are many examples of communities that are supportive of their young people, that have taken responsibility for their young people, and that have a range of resources for their young people. The answer to the question is that both views apply. I accept that there are genuine concerns—I live in a community where there are young people who present particularly difficult behaviour. We have to respond to that.

Mary Scanlon (Highlands and Islands) (Con): My first questions are also for the men in suits, but I am happy for other witnesses to answer. I want to ask about antisocial behaviour services. Young people can often be the victims of antisocial behaviour and I know that NCH Scotland has been involved in supporting young victims, especially in Inverness. I am delighted that Mike Mawby is here. I ask him briefly to give us an idea of the new services that have been introduced in Inverness. I notice that the mentoring service was introduced in February 2002. Are the new services adequately resourced and are they—or should they be—available throughout Scotland?

Mike Mawby (Gael Og Mentoring Project): We are grateful that the Executive has made funds available to expand services. In the Highland Council area, we have been particularly creative in pulling together various funding sources. All the agencies have worked together successfully to consider where expertise and specialisms lie, and to support them and allow them to grow. NCH Scotland now has five separate projects operating from our Inverness offices. They include: a youth justice project; a criminal justice project for adult offenders; an arrest-referral type scheme for people with substance misuse problems; the mentoring project; and—to return to a point that Joe Connolly made—a new project that supports and encourages vulnerable young people to access sport and leisure opportunities.

A key aspect of the mentoring and positive options projects is that they involve local people in solving problems and working with young people who cause difficulties and those who have difficulties. One of my concerns about the bill is that it takes an overly legislative approach and attempts to solve a problem that is different in each community, whereas we should encourage people to help solve their own problems and empower them to tackle the issues. There is a real danger that the mythologising and demonising of young people is creating a generational split between young people and adults within communities. When adults see a group of young people hanging around a bus shelter, they assume automatically that those young people are doing something wrong. The adults might then call the police and the young people might be antagonised by the police and start mouthing off, which means that the situation escalates.

Like Joe Connolly, I am concerned that young people who would not previously have been brought into the system will be brought into it. Through the mentoring and positive options projects, which employ local people to work with difficult and vulnerable young people, we hope to break down some of the communication barriers and to get young people to acknowledge that not all adults are out to demonise or have a go at them, and that some are there to help. The response to our initial recruitment for the mentoring project was tremendous—we had more than 500 expressions of interest from people who wanted to be mentors in the Highland area. That was unprecedented; our human resources department almost ground to a complete halt in processing the applications. We now have 26 mentors up and running and people who want to become involved in the project contact us weekly. From our perspective in Highland, communities are willing to tackle and deal with issues, which is the sort of work that we should promote.

The Convener: Are you funded by the Scottish Executive?

Mike Mawby: No. The bulk of the funding for the mentoring project comes from the Lloyds TSB Foundation for Scotland, although some partnership funding comes via the local authority. Our funding for the positive options programme comes from the New Opportunities Fund's active steps initiative, Scotland Against Drugs and Barclays Bank. I will pick up Mary Scanlon's point about funding. All that funding is time limited. As project manager, I am negotiating for and discussing the continuation of those projects, which takes up much time in attracting money and ensuring that the money is maintained. As I said, the mentoring project now has 26 mentors. Had we the resources and the structure, we could easily double that number, but we are constrained by the present funding arrangement. That funding ends next year.

Mary Scanlon: I notice that you receive funding from Highland Council and from the Highland drug and alcohol action team. Have you applied for public funding? Was that refused?

Mike Mawby: We are negotiating for public funding. We are examining what is available and discussing with our local authority the funding that is available to secure the project's long-term future.

Mary Scanlon: As an MSP who represents the Highlands, I note that your paper says that young people had to leave the community to receive support for drug and alcohol issues, so it is obvious that your scheme is well suited to the Highlands. It allows people to help one another and prevents them from having to leave the area. Are mentoring and other projects being undertaken elsewhere in Scotland?

Mike Mawby: Similar projects exist elsewhere. The geography and dispersed population of the Highlands have affected our approach to dealing with the issue because centralised services in Highland are not feasible. The project's development grew out of the need to deal with those matters. However, there is no reason why our model could not be operated in more urban areas. It would probably be easier to operate and less expensive.

Mary Scanlon: Have you researched the effect of all the schemes that you operate on future behaviour and reoffending?

Mike Mawby: Monitoring and evaluation continue for all the projects that we operate. The mentoring project is new and Iain Macdonald, who is the project co-ordinator, is producing an annual report about it. We will monitor young people's progress. We have had several successes: we have young people who have maintained their

own accommodation in the community and young people who have been reintegrated into mainstream education, which avoids the necessity to accommodate them outside the region, which is a big issue for Highland Council. Through the support of mentors who work in partnership with other agencies, including the local authority, we have maintained those young people in their communities with appropriate support.

Mary Scanlon: You and Tam Baillie said that the bill was over-legislative and not supportive enough. That point has been made by others, including the Church of Scotland. If we assume that the measures in the bill are necessary, can a balance be struck and will enough support be given? In the last paragraph on page 2 of its submission, Barnardo's criticises insufficient investment in youth work services and other measures. If we assume that the bill will be passed in its current form, are you confident that enough funding will be available for the initiatives that you propose, so that first offenders, rather than persistent offenders, can have help when they need it?

Mike Mawby: We seek long-term security of funding so that we can recruit people in the knowledge that they will have a job in the future if they wish to stay. That is a big issue for us.

Joe Connolly: Mike Mawby highlighted the difficulties in funding such initiatives. Obtaining funding takes up much time and energy. Funding is in place for a time, and within a year of the end of that period, we start to renegotiate. If somebody is negotiating funding, their eye is not on the ball of providing services, so service quality can be affected. I suppose that that is one of the dilemmas about how resources are used. Sometimes they are used in traditional ways, rather than channelled into areas where there is evident need. Mike Mawby succinctly described a scenario where he just stopped short of having to beg, steal or borrow to provide a service.

10:30

Tam Baillie: Johann Lamont mentioned concerns about youngsters who cause difficulties in their neighbourhoods, but the development of youth services and a national youth strategy will tackle the need for a general approach to young people.

On the need for first-time offenders to have access to services, the Scottish Executive has already funded positive developments in relation to youth offending teams. Those developments are taking time to bed in, but I am hopeful that they will result in the provision of a range of services to youngsters who are caught up in offending behaviour.

Mary Scanlon: Can you access that funding so that problems can be addressed at an early stage?

Tam Baillie: The funding is administered through local authorities, which develop strategies to deal with youth offending.

Mary Scanlon: Are you confident that you can access that funding and provide successful services?

Tam Baillie: I would never say that we have enough resources.

The Convener: No, you never would say that.

Mary Scanlon: Barclays Bank and Lloyds TSB might become involved in different projects next year. I raise a serious concern.

Tam Baillie: Yes. Sufficient resources for the youth offending strategies should be allocated through the local authorities.

There is also a need for intensive support programmes for the small group of youngsters with whom the bill is concerned. Only the policy memorandum and the explanatory notes mention such programmes; the bill does not mention how we improve the supervision that young people receive. It would be worthwhile if the committee were to consider that matter, rather than the technicalities of how antisocial behaviour orders—or any other measures in the bill—might operate effectively.

Mary Scanlon: Perhaps I should not put this question to this panel, but I think that Children in Scotland's submission said that the bill provides for a duty on local authorities to provide services, rather than for an entitlement to those services for young people. Is that balance wrong?

Joe Connolly: The pressures on local authorities are such that services are directed at children in the neediest group. Some of the young people who are caught up in antisocial behaviour might not be in that category. Local authorities have to make many decisions, and there are always many conflicting demands on them.

Local authorities have access to youth crime moneys, as do NCH Scotland and Barnardo's, but they tend to target the highest-tariff offenders—the young people who are the most likely to be locked up. If we want to address the overall problem and tackle low-level antisocial behaviour, such as youngsters hanging about on street corners and making a nuisance of themselves, as well as the more persistent offenders, we must disperse resources much more widely, so that problems can be dealt with before we tackle the behaviour of the youngsters who have the most difficulties. The dilemma is that money is available, but there are priorities in relation to how it is used.

Mary Scanlon: We hope to tackle the low-level offenders before they become persistent offenders.

Joe Connolly: Proposals such as that come lower down the order of priorities of just about any local authority in Scotland. That might be short-sighted, but I do not minimise the pressures under which local authorities operate. They have to make important decisions about the use of resources. We are discussing a preventive approach.

Mary Scanlon: The current approach is about crisis management, rather than something more positive.

Joe Connolly: Unfortunately, we are caught up in that system.

Mary Scanlon: I want to put three points about antisocial behaviour orders to Tam Baillie. First, in your response to Stewart Stevenson you seemed to express concern that there should be greater clarity about how to target young people effectively.

The second point is about the application for an ASBO and the idea that, prior to the imposition of an ASBO, the sheriff should be required to seek the advice of the children's panel. On that point, you seem to think that we are going about things in the wrong way.

Thirdly, on the role of registered social landlords, the submission from Barnardo's Scotland appears critical of allowing RSLs to apply for ASBOs for under-16s:

"there are additional child-care issues to consider and the intention is to target persistent offenders."

The submission continues:

"These issues are not within the experience of RSLs and there is a risk of inappropriate targeting of ASBOs for those under 16 years. As a consequence, RSLs should be restricted to ASBO application for those over 16 years."

Barnardo's says that there is insufficient justification for RSLs being able to apply for ASBOs. Will the panel address those three issues?

Tam Baillie: Very briefly, I have already addressed targeting—

The Convener: We will allow your answer to be less brief than the question, which was not at all brief.

Mary Scanlon: I asked three questions in one.

Tam Baillie: I have already raised the issue of targeting, and the committee could consider provisions to ensure that the bill is clearer about the application of ASBOs, particularly for the small group of young people on whom it is clear that the policy is focused.

On applying for an ASBO, the role of the children's hearings system is important. Given that there will be access to the process for applying for antisocial behaviour orders, we suggest that the matter should be treated in the same way as when a sheriff is passing sentence on a young person. They should have the benefit of the hearing's advice prior to the sentence being passed rather than refer a case to the reporter after an ASBO has been imposed. The committee could consider that proposal in amendments to the bill. It would not affect the fundamental principle of the application for an ASBO being dealt with through the sheriff court, but it would change the order in which the process is conducted.

On the point about registered social landlords, ASBOs are used at present as a measure of housing management—that is what they are in statute. The bill uses that housing management tool to identify persistent offenders, but there are already means through which registered social landlords can make representations to the reporter. It is acknowledged in the written material that the youngsters will already be known to the reporter, so there does not appear to be a need for the registered social landlord to have the ability to apply directly to the sheriff court for an antisocial behaviour order.

The Convener: Are you making a distinction about age? Although you characterise ASBOs as a housing management tool, local authorities can promote them in communities and it is only recently that registered social landlords fought to get the right to promote ASBOs on the ground that that would speed up the process. ASBOs are not just a housing issue, and antisocial behaviour does not happen only in the social rented sector. ASBOs, if used appropriately, are about working speedily with individuals who cause mayhem in individual communities. Is your concern about age, or do you think that RSLs do not have the expertise to deal with the range of behaviours that can be described as antisocial?

Tam Baillie: It is true that registered social landlords only recently acquired the power to make applications for ASBOs, but that was on the basis of good housing management. For under-16s, the bill is focused not on housing management issues but on persistent offenders.

The Convener: For RSLs, ASBOs are a means of managing housing, but ASBOs can be promoted by other people and are not always a housing matter. If there are problems in a local community, the local authority can promote ASBOs.

Tam Baillie: Until now, that has been a matter for housing management.

The Convener: But ASBOs should not be promoted only in a housing context; we want them to be promoted in relation to people who live in the owner-occupied sector.

Tam Baillie: The suggestion is not born of any prejudice against registered social landlords: it is about the targeting of the bill as it is laid out, and the bill is about persistent young offenders. I have said that the scope of the bill and the definition that it contains are very wide, whereas it is intended that the bill will apply to a very small number of young people who are persistent offenders. That raises the question whether registered social landlords are the best vehicle through which to identify how support gets to our persistent offenders. That is where the suggestion comes from that it is not necessary to use registered social landlords in identifying those young people.

The Convener: But that would also be true for adults. I am trying to establish whether your concern is about the fact that ASBOs are inappropriately promoted by folk who have concerns about housing or whether it is that there are particular issues for young people that you do not think an RSL would be sufficiently sensitive to.

Tam Baillie: Our concern is more to do with the fact that we are clearly targeting ASBOs at a troubled group of young people and the tool that is being used, which can currently be accessed by a registered social landlord, is not the appropriate tool to use to get additional support to that group of young people. The RSL can make representations to the reporter and can be involved in other matters of due process.

Donald Gorrie (Central Scotland) (LD): I will approach the matter from another angle and ask Ellen Donnelly and Emma Small to describe the two projects that they are involved in and to explain how they help to turn around people who might become persistent offenders.

Ellen Donnelly (Barnardo's Scotland): My son became involved in the CHOSI project after attending children's panels frequently for about five years. He was on the road to persistent offending; he had not offended, but he had been on the fringes of offending and had followed groups of young people who were offending.

When he was referred to the CHOSI project we were again in between social workers and there was no support within the family. Mike had never had a consistent worker who provided support to him or to us as a family. He has now been involved with CHOSI for three years. He has not been near offending behaviour in more than two and a half years. His behaviour at home is still a worry but we have now identified health issues,

which were never identified through local authority care.

We have been through a lot of children's panels. They were good and fair, and were a good forum at which to get help. Each individual social worker would make a report and at the end of the report there would be a list of recommendations, and everyone would be agreed that that would be the best way to move forward. We would finish a children's panel and be settled on what we were going to do, but then we would not see anybody for more than six months, so the recommendations were hardly ever carried out. That was not helpful.

Donald Gorrie: For the record, how does CHOSI improve the situation?

Ellen Donnelly: The young person has a set worker—someone who sees them every day. That is not just done on a one-to-one basis; the children are brought together in group work, so they form social contacts and allegiances. They carry out activities that will boost self-esteem and tackle the way in which they project themselves to other members of the community and in the home—I am not sure whether I should cover that, because it is Debbie Noble's ground as she works with my son.

I can say as a parent that whatever they do—I do not probe too much into the relationship between Mike and his CHOSI worker, because that is his relationship—there has been a positive improvement. We have not had a policeman at the door in two and a half years and my son has not been anywhere that I do not know about in over two and a half years. He is back to behaving like the rest of the children in our home. He is in our home at 10 o'clock in the evening, playing his video games or watching television. I cannot define the positive impact that the project has had on our lives.

However, I am disappointed that the problem had to get that bad before my son could be referred. He had to be on the fringes of offending behaviour and on a supervision order to get the referral. As a parent and a member of the community, I would like young people to receive some sort of service and support before they get to that stage. It is much easier to help people before they start offending.

10:45

Donald Gorrie: Thanks very much. Emma, can you please tell us about the Cluaran project?

Emma Small: I have been at the Cluaran project for about four years, on and off. It helps people in school and outside school. Before I started work, I got help in school and outside school. The project also helps people who are

leaving school and preparing for work. That is only my situation; other people in other situations get help as well.

Donald Gorrie: Do you think that it has helped you and, if so, how?

Emma Small: It helped me to get a job by preparing in school. It helped me to pass my seven standard grade exams. It has been quite good.

Donald Gorrie: How did it achieve that?

Emma Small: Fiona Campbell and Grace Wilson, who I used to work with, sat me down and explained to me what was what—which exams I needed to sit—and we talked things over.

Patrick Harvie (Glasgow) (Green): I would like to ask about the dispersal of groups. The witnesses will be aware that one of the provisions in the bill is that a senior police officer can, after consulting the local authority, designate an area in which groups of two or more people can be dispersed, making it an offence for them to return. I ask the panel to comment on whether that would be a useful power to give to the police.

Ellen Donnelly: You say that the provision relates to groups of two or more people. If you and I were in one of those areas, could we expect to be moved on? Would we be approached to be moved on?

Patrick Harvie: The bill does not define exactly how the power would be used in every circumstance. The bill would give the power to the police to designate an area within which they would be able to use the power of dispersal if they felt that it was appropriate to do so. To designate the area, they must show that significant and persistent antisocial behaviour has occurred there. Once the area has been designated, it is up to individual officers to decide when it is appropriate to use the power. Is that a fair description of the power, convener?

The Convener: Yes. It would not be used randomly, but over a period of time. I could identify several potential areas in my constituency that would provide a pen picture of where the power would be used. It might be used where young people are gathering outside a sheltered housing area or outside shops where there are a lot of elderly people or other young people. The power might be used where there is a problem with young people—or older people, as they can be a problem in some constituencies—who have been moved on but who come back. In those circumstances, a senior officer would, in consultation, deem the area to be one to which it would be an offence for people to come back after being moved on, because it had become,

effectively, what I would call an outdoor community centre.

Ellen Donnelly: That is a good idea as long as somewhere is provided for those people to go to, so that they do not go back.

Patrick Harvie: So you feel that it would be appropriate for the police to use that power as long as there was an alternative place for the people to go to.

Ellen Donnelly: Yes.

Patrick Harvie: What does anyone else on the panel think about whether the power would be a useful provision?

Debbie Noble: For me, it is about the different levels that we have to consider. Probably the most important bit is the interpretation. If you are going to ask people to respond, you have to be able to give them information. Children, young people and adults in communities have to be able to understand when a police officer can come and move them on and when their behaviour or congregation in a certain area may become unwanted.

That sharing of information allows people to participate positively in their community. I am not sure that it is clear when people can be moved on, whether that can happen at different times of the day or night, what areas they will be moved on from and how often they will be moved on. It is really important that the information is clear so that people can respond and adhere to the expectations of communities.

The Convener: The bill attempts to detail where information would have to be given. We could not just spring the measures on somebody; we could not just do somebody when they did not know that they were not supposed to be in a certain place. The underlying issue is whether you think there are circumstances in which designating an area in the way that has been described is justifiable, given the caveats about ensuring that people get the information.

Debbie Noble: Some of that goes back to our earlier discussions. There are times and places where certain behaviour is not appropriate, and there are people for whom that behaviour is not appropriate. We have to respond to that. Ellen Donnelly made the positive point that we cannot just move people on; we have to provide resources. If children, young people and adults congregate in an area, part of the reason for that is social—they have nowhere else to go and it is what they like to do. We have to ensure that there are safe and appropriate ways for people to gather in groups, socialise, develop and, for a lot of young people, grow up.

Patrick Harvie: I seek your views on arguments that the committee has heard from other witnesses. I perceive the strongest argument to be that, where young people are not committing offences, dispersing them will increase antagonism and damage relationships between them and the rest of the community or the police. Where people are committing offences, there are already sufficient powers to tackle them. I would welcome the views of anyone on the panel on that.

Mike Mawby: I was involved recently in a consultation with a group of people from the Highlands. What you described is a real fear among young people. Ellen Donnelly's point about where young people are moved on to is important. We seem to have missed a stage. Why are we not asking why young people or adults gather in a particular area? What attracts them to that area? Do they go there because there are no resources in their community? We seem to have gone straight to moving people on as opposed to finding out why they gather in certain areas. As I said before, I appreciate how a group of young people in an area can be intimidating to residents and other members of the community. However, it comes back to the resourcing of youth services. We need to get in there and speak to young people about why they feel the need to congregate in certain areas. For example, we need to ask whether they are not using the local sport centre because it costs too much or is not a young-person-friendly location. We have gone straight to moving young people on rather than finding out what they want and how they feel that services could be better tailored to their needs.

The Convener: If the young people say that they congregate in a certain area because there is an off-licence there that sells drink to under-16s, because other young people gather there or because it has become a form of sport to intimidate a particular group of elderly people, would that be a reason to say, "We know that we are restricting your liberty, but this has become unreasonable and for a period of time you cannot come here; we know there are other places that you can go"?

Mike Mawby: The danger is that we would be creating no-go zones, which is a real worry. People would be concerned that an area near them was designated a no-go area. On the first point that you raised, there would be an issue if the licensee was selling to under-age children, and the extreme response would be to close the shop down. As others have pointed out, resources are available to tackle persistent offenders. We have to tackle the individuals who are engaged in unacceptable behaviour as opposed to introducing a blanket ban on congregating in a particular area. We know that such an area would become

attractive to young people simply because they have been told not to go there.

The Convener: Do you accept that we have no-go areas in some of our communities? We heard evidence of that when we visited places where shops keep their shutters down and people choose not to use those shops because they have become a place where people gather, some of whom are intimidating to the people who might choose to use the shops.

Mike Mawby: You are right. By default, there are certain no-go areas for certain groups in the community, such as elderly people. I know from having attended a large consultation with a group of young people from the Highlands that young people often feel intimidated by other groups of young people. The impact is quite wide. It is important that services such as youth services, together with the police, speak to young people. There have been some good initiatives in Inverness, where the Northern constabulary has done some street work with community groups and agencies such as NCH Scotland—it has met the young people who are causing concern to find out why they are congregating on the street and which services they are looking for. As I have said, we seem to have jumped forward; we need to go back and to consult young people and communities on why such incidents are arising.

The Convener: I will ask Joe Connolly for his views, as I think that I interrupted him when he was about to say something. Cathie Craigie will be next.

Joe Connolly: I want to follow up on no-go areas. When I came through to Edinburgh on the train, I was talking to Marion Pagani, who will be giving evidence on behalf of children's panel members. One of the biggest no-go areas that I saw as a social worker in Glasgow was Barrowfield, which is a live example of how things can move on. Until recently, people could not park cars in Stamford Street and low-grade housing stock was being run down and boarded up. When I walked through Barrowfield recently, I saw new housing and all-round improvements in the housing stock. There were also facilities for young people, including a youth club, an Astro turf pitch and floodlit basketball and football facilities, which were pretty durable. Those facilities were not vandalised and were accessible to the young people—they did not cost £20 an hour but were free. I was pleasantly surprised that an area where streets were divided by gangs has moved on, as a result of positive investment in the community and people having been given things to do. If the product is right, people buy it.

I will now deal with the more general issue of the civil liberties implications of the power to move groups on. There are areas where young people

want to get together in groups. When young people are growing up, they love to be in groups—that is natural. The proposed move is a sweeping one; it is a case of using a sledgehammer to crack a nut. There are existing powers to deal with incidents that happen. As Mike Mawby has said, the problem of licensed grocers who sell alcohol to under-age children can be dealt with through the licensing process and through police presence.

The police are not able to respond to all incidents. I will give an example of that from my own experience. My mother lives in a block of flats that has a community room downstairs, in which pensioners have a community night every week. They are being harassed by young people who do not even live in the area; it is not high-level harassment, but it is annoying. The pensioners contact the police, but they do not turn up. Even though the police are not able to respond to such situations, we are talking about widening their responsibilities by enabling them to move on a group of young people simply because they are together.

The Convener: The proposal is not about moving on a group of young people simply because they are together; it is about moving on young people from an area in which persistent offending has been identified over a period of time. The area outside your mother's block of flats might be such an area.

Joe Connolly: I am not sure that the bill is that specific. It will provide powers for the police to move on any group; it is for them to interpret how they use those powers. The police have the powers to do that at the moment—if a group is making a noise, they can say that that is a breach of the peace. Given that the police already have such powers, I am not sure that we want to widen them. From what my grandfather told me, I think that the last time that there was legislation specifically to deal with groups coming together was during the war. The intention was to prevent people from conspiring and so on.

The Convener: In one area that I know, there are groups that the police move on, but they come back. People will not give their names as witnesses, because they are intimidated, even though there is evidence that offences have been committed. The area in question has become a gathering point; it is an outdoor youth centre. The crowd creates intimidation. There is damage and vandalism, but it is impossible to identify the individuals concerned. In such extreme circumstances, is it reasonable for a local community to say that it does not want the outdoor youth centre to be used between 6 o'clock and 10 o'clock every night of the week? The community does not want 40 young people gathering in the

area, when the police say that they can move them on but cannot prevent them from returning.

Mike Mawby: That would be a reasonable attitude for a local community to take if things had got to the point that you describe. However, I would want to know what had gone on prior to that situation. For example, I would want to know whether the young people had been consulted and whether attempts had been made to engage with them.

The Convener: If all those things had happened, and it was impossible for the police to deal with the crimes that were being committed because the local community was being intimidated and would not give their names as witnesses, would it be reasonable in such extreme circumstances for a senior police officer, in consultation with a local authority, to say that the area had effectively become an outdoor gathering point?

Joe Connolly: I do not believe that it would be acceptable for 40 young people to stand outside, for example, sheltered housing. However, that would be an extreme situation. By and large, I believe that there is legislation in place to deal with situations that usually involve groups of perhaps six to 10 young people, or fewer. I also believe that the most extreme cases can be dealt with. I do not believe that there is a need to widen existing legislation.

11:00

Patrick Harvie: Can I put a slightly different slant on that? The convener asked whether it would be reasonable in extreme circumstances to use the designated area power, if all other approaches had been tried and had failed. It has been suggested that the bill should be amended to require alternative approaches, such as consulting and engaging with young people, to be tried first. Would that improve the bill in your view?

Joe Connolly: If people commit offences, they should be charged. We should be tight about that.

Patrick Harvie: I am specifically referring to the ability to move people on who are not necessarily committing offences. Would linking that power to the availability of other provision, or other approaches that had been tried but had failed, improve what is in the bill as introduced?

Joe Connolly: It would certainly be an improvement.

Cathie Craigie (Cumbernauld and Kilsyth) (Lab): We have used and heard many clichés when discussing the part of the bill that refers to the dispersal of groups. I believe that it was Joe Connolly's view that the bill was using a sledgehammer to crack a nut. My opinion is that

there are groups within our communities who are making a mountain of a molehill when it comes to the part of the bill that we are discussing. Of course it is a serious move to give the police the power to designate an area as a place where people may not gather. However, if we read the bill and the policy objectives behind it, we can see that clear criteria must be satisfied before the police use such a power. That would happen only if all the efforts to which Mike Mawby referred had been made—for example, meeting with groups of young people.

I hope that Mike Mawby and Joe Connolly are not suggesting that people would propose the use of a dispersal power before such efforts had been made. I am sure that they are not suggesting that the dispersal power would be an alternative to going out and doing youth work and, if you like, missionary work, or that such work would stop. My experience suggests that it would not stop.

Joe Connolly: I suppose the question is around the interpretation of legislation and how it is implemented. I am not for unsafe communities. I want robust legislation. When people commit offences, they should be charged. I have no problem with that. However, I worry about widening the net so that the interpretation of the bill means that young people who just come together as a group are moved on and that matters escalate.

Cathie Craigie: But where in the bill does it say that just being together as a group would give a senior police officer the power to apply for that area to be a designated area?

Joe Connolly: I do not have the bill in front of me, but the issue is about interpretation. It is about how the police, who would implement the power, would interpret it. I believe that they already have sufficient powers.

Tam Baillie: It is quite a complicated power, and the bill proposes a number of stages that must be worked through before it may be put into effect. That might deflect attention away from what is actually needed. What should be done with those 40 youngsters once they are moved on? There is a desperate need for decent national youth services, which can pick up on those youngsters. If the bill creates an emphasis on moving youngsters on and dispersing them at the cost of developing youth services, that will be doing a disservice to our young people.

Cathie Craigie: I would accept that. Looking around everyone at this table, I would say that, at some point in life, we have all wanted just to hang about with a crowd of people the same age as us, at the swing park or wherever. Regardless of the number of available resources and facilities, I am sure that young people will always want to be able

to do that. It is a matter of their doing that without annoying people living close by and without committing petty offences. Those are not serious on their own but, taken together night after night, they constitute a major problem for the people living close by.

Mike Mawby: There is an issue here around communication and dialogue between young people, on whom we are focusing, and other members of the community. It is about communicating the reasons why those young people are hanging around in a certain place, so that other members of the community may be encouraged to get involved with them and to consider how to create the appropriate resources. That means encouraging not just the police, social work services, agencies such as ourselves and youth services to talk to young people; it is about ordinary members of the community talking to them and a dialogue taking place. If there is a greater degree of understanding, people who see a group of six or seven young people do not automatically assume that they are involved in offending behaviour and do not phone the police to complain about people simply hanging around the bus stop, for example.

One of the aims in the mentoring and positive options programmes has been to encourage ordinary members of the community to get involved in community work and to develop a better understanding of the young people in their communities. There is a real danger that the bill could split that work. It might provide some people in the community with opportunities to get on the phone to the police and complain about a group of young people who are not moving on, and so the dichotomy grows. The bill does not necessarily encourage good intergenerational dialogue, which would help break down some people's concerns.

The Convener: You would accept, however, that a victim of offending behaviour is entitled to say that they want that behaviour to stop.

Mike Mawby: Yes.

The Convener: There is also a danger that, unlike with other crimes, we somehow blame the victim of the crime for not being tolerant enough. While I accept all the good stuff about wanting to break down people's unrealistic or unreasonable fears, the bill is partly about acknowledging that some people have a very tough time in their communities. It is not about putting the entire burden on those people to try and sort it.

Mike Mawby: Absolutely, and there is also an onus on us, as agencies working with young people, to promote what we do and to explain to communities our attempts to engage with the young people in collaboration with other agencies, including the police. We are speaking to young

people and we are developing services to meet their needs and reduce their levels of offending behaviour. We have perhaps not been as proactive and effective as we might have been in that area.

Scott Barrie (Dunfermline West) (Lab): Part 9 of the bill introduces powers for the courts to issue parenting orders for parents who have been made aware of their children's antisocial behaviour, but who have failed to engage appropriately with support services. What are the witnesses' views of those proposals? Have your organisations any concrete examples of work that you have undertaken with parents who have been experiencing difficulties with their children's behaviour?

Joe Connolly: One MSP who was quite vociferous in the early days about parenting orders was invited to one of our projects to meet some young people. We talked about some of the issues and he asked the young people whether they thought that parenting orders would be effective. One of the four or so young people in that group said that they had not seen their parents since they were about five. They had been in children's homes, residential schools, secure accommodation and custody and they were now attending an intensive probation project.

We need to look at the number of young people who get caught up in the offending system who have been through the looked-after and care system. There are issues there. I do not believe that it would be a positive step to escalate things for parents who are, as things stand, already some of the most disadvantaged people. I would not see parenting orders as positive.

Scott Barrie: I accept your point that the state makes a bad parent. That has been evidenced over a long period of time. However, one frustration that often seems to be expressed about the existing powers of the children's hearings system is that the only power available to it is to impose a sanction on a child. The children's panel cannot impose a sanction on a parent. It may do that indirectly, but the supervision requirement is imposed on the child, irrespective of any other behaviour or grounds of referral. For the minority of parents who have been made aware of, but have not accepted, the services that are available, would it not be appropriate to impose the sanction where it belongs, which is on the parent who has failed to parent the child in the way that everyone thinks that they should do?

Joe Connolly: The children's hearings system is inclusive and family focused and it has various disposals available to it. The disposal will be about the young person, but the programme of work, or contract, that is drawn up can engage the parents. That can be discussed at children's hearings. The

parents can be engaged with a view to making a commitment to ensure that they deal with the young person who is truanting or offending or just not coming in at night. There are ways of engaging parents. In cases where the practice is good, the care plan will have a clear role for the parents. There is scope to do that.

Tam Baillie: Barnardo's has generally welcomed the focus on parent behaviour. We recognise that there is a weakness within the children's hearings system about what can be built into a supervision requirement, but a few qualifiers need to be stated. If I may go back to my earlier comment about timing, advice from a hearing should be obtained prior to the application to the sheriff, so that the sheriff has that advice before the imposition of the order.

We know that there is not enough support available to parents. If that support is to be specified in an order that can be breached for non-compliance, we need to ensure that there are adequate facilities country-wide. That is clearly not the case at present, so I welcome the policy memorandum's suggestion that there should be a piloted roll-out of parenting orders that will have additional resources. I note that the additional resources are tucked into another bit of the costings. It would be appropriate for sufficient resources to be allocated to provide such support for parents.

Having said that, I would also say that our experience is that most parents welcome support and would not need the imposition of a parenting order. Perhaps Ellen Donnelly, who has experience of the services, wants to comment.

Ellen Donnelly: The local authority's role is made very clear in a care plan from a children's panel hearing, but there is no clear instruction for parents, who can only engage with a service if it exists. As a member of the community, I have to say that only a tiny number of parents do not engage with the service. However, those parents perhaps have issues that they themselves find difficult to deal with—never mind dealing with them for their children—and they probably need more intensive support, rather than being punished for not complying with a children's hearing direction.

11:15

Debbie Noble: I support those comments. We need a range of services at a number of different levels, and prevention is always our preferred option.

As far as our focus is concerned, we feel that the parents who seek our services want support. The majority of parents that we work with have been struggling for a long time and lack the opportunities to get such support and to learn for

themselves as parents. Indeed, we might find ourselves working with older young people and younger siblings who are experiencing similar difficulties. If we do not support parents, we will fail to prevent another family member from behaving in a difficult way. As Ellen Donnelly has said, we should not punish parents. Instead, we should support all family members and help them to learn and develop.

Joe Connolly: I endorse that. By and large, if parents are offered services, they will accept them. In fact, most authorities have a waiting list of parents who are looking for such services.

NCH Scotland finds it most difficult to secure funding beyond one, two or three years for our family centre services in rural and urban communities. Although those projects tackle offending, child protection and other issues and implement a whole range of strategies including good parenting strategies, we fight tooth and nail to resource that work. As far as parenting orders are concerned, I believe that engagement is the best way of working with people and moving things forward. Such orders do not always provide an effective solution in that respect.

Campbell Martin (West of Scotland) (SNP): The bill proposes to extend electronic tagging to people under 16, either through a restriction of liberty order from a court or through a remote monitoring arrangement set up by a children's panel. Is such a measure necessary? Indeed, is it a good thing or a bad thing? Do you foresee any problems with implementing this part of the bill? Moreover, would there be any difference between how an adult and someone under 16 would react to being tagged electronically?

Tam Baillie: We have thought long and hard about the proposed electronic monitoring of young people, particularly the under-16s, and indeed have tried to find evidence that it has been effective in changing offending behaviour. After all, it is targeted at a very specific group of young people. I have to say that the evidence that has been published in England and Wales is certainly not conclusive that such a measure changes behaviour.

One key element, which is mentioned in the policy memorandum, is the emphasis on intensive supervision to go alongside electronic monitoring. I doubt that the research will allow us to separate out whether electronic monitoring, or intensive support and supervision, turns around young people's behaviour.

We should also bear it in mind that, with regard to breaches of electronic monitoring in the adult population, those who had the propensity to offend scored highest. I think that we will find that, as we go down the age range, the deterrent of breaching

an electronic monitoring arrangement will not be as potent in changing a youngster's behaviour as the intensive supervision that will be provided. As I said earlier, a way of differentiating the levels or prescribing the elements of a supervision order would be helpful and would have more impact than the imposition of electronic monitoring.

Joe Connolly: I endorse that view. There is no significant evidence that says that tagging is effective, and there are safe care implications for under-16s. We are talking about restriction of liberty orders being an alternative to secure accommodation, but young people who arrive in secure accommodation are themselves often at risk. Equally, young people living in their own homes are often at risk, and if we are tagging somebody and they have to be in their home setting for a certain period, that could increase tensions. As Tam Baillie says, intensive supervision is important. If the extension of RLOs is implemented, the key part of the measure would be the intensive supervision, which is there to support the order and is what would make it effective.

Campbell Martin: Do you think that the intensive supervision and support that under-16s would need exists?

Tam Baillie: No.

Mike Mawby: It does not exist to the degree that is required for the more serious and persistent young offenders. Being able to provide consistency of service over a large geographical area with a dispersed population is a particular issue for us in Highland, and to provide seven-day support to young people and their families is very expensive.

Tam Baillie: The policy memorandum recognises that cost. The Executive proposes to allocate additional resources, but does not differentiate between electronic monitoring and support and supervision. We all know, however, that there is an issue with providing current supervision requirements for young people; to provide some of the intensive programmes will require additional resources again.

Debbie Noble: Electronic tagging on its own will not necessarily change people's beliefs, behaviour, attitudes or skills. Similarly to the old view of what custody was for, it will only contain people. If we had intensive services that addressed the difficulties, I do not believe that we would need electronic tagging, which will only contain a child in the home, where the situation could potentially be quite difficult because some children already have cognitive and behavioural difficulties that families do not manage. On its own, electronic tagging risks exacerbating such problems.

The Convener: Would electronic tagging have any role in deterring other young people? I note what Ellen Donnelly said about her son being on the edges of offending behaviour. One of the things that I understood from that was that young people do not see any consequences for those youngsters who are at the centre of offending; they think that nothing really happens to such youngsters and they get pulled more and more into offending behaviour. We can argue about whether tagging affects the youngster who is tagged, but do you see any circumstance in which tagging might send out messages to youngsters, such as Ellen Donnelly's son, who are on the fringes of offending?

Debbie Noble: I do not think that current time scales assist young people to see the consequences of their behaviour, or that of their peers. That is a difficulty, and attempts to address it have been made in other places, but again, that on its own is not a deterrent. CHOSI tries to assist people to change their behaviour and develop skills, and to assist parents to manage their children; tagging will not manage to do that.

The Convener: Do you accept, however, that it is reasonable for part of the strategy to be about letting the broader community of those who are getting pulled into antisocial behaviour to understand that something does happen to those who are at the centre of such behaviour, that it is a damaging thing in which to be involved and that it affects their ability to go to school or engage in activities at a later stage? While you are working intensively with that young person, it is reasonable for us to want to send out broader messages to youngsters who might be attracted to such behaviour.

Debbie Noble: Can I just check what I think that you are saying? Are you saying that we need a visible sign of punishment for wrongdoing?

The Convener: If somebody was behaving badly, I would like to know that my youngsters would see that it was a bad idea to aspire to such behaviour because it had consequences, both for that person's life chances and more immediately. I would make that clear to my own children if they misbehaved. We want that message to get out.

Debbie Noble: If we want visible signs that we are responding to negative behaviour, we must do much better in publicising what we think works. The children's hearings system is a response for young people who are referred on grounds of offending; it is not a soft option. We must be much better at presenting the alternative responses. Young people use services and attend hearings and parents are held accountable in many different ways for their children's behaviour. We must be much better at presenting those options, not as soft, but as constructive and positive ways

of intervening. That is visible to Ellen Donnelly, Emma Small and me because we are in the system, but communities do not understand that such responses are positive and constructive and can achieve outcomes. Those responses are not unlike the responses available to the court, or tagging.

The Convener: At a low level, we do not think that every young person must be engaged with youth services or social workers. In some cases, the issue is about finding a way to allow communities to say what is and is not acceptable. In part, that means sending messages to show that unacceptable behaviour brings with it undesirable consequences.

Debbie Noble: I would be concerned if electronic monitoring were used to deal with low-level antisocial behaviour or minor offending because, as Tam Baillie said, the risk is that young people who have poor social skills may not manage that serious response and may move much higher in the system as a result of serious breaches.

Cathie Craigie: My question is for Debbie Noble, Tam Baillie and Joe Connolly. Electronic monitoring would be an alternative to custody or a young offenders' institution, so it would be used for more serious offences. Given that electronic monitoring would be used with the required package of support, would it be an advantageous way of keeping a young person out of a young offenders' institution or wherever they would have ended up? Would it not be better to tag people and support them, rather than putting them into that layer of the system? I do not have concrete evidence, but many people suspect that once young people get into the system, they are on a slippery slope towards problems.

Mike Mawby: Debbie Noble's point was spot on. If an individual is in receipt of an intensive package of measures that challenges their offending behaviour and offers them and their families the required additional support, there is no need for electronic tagging. The individual will be seen regularly by professionals, who will work with them and their family.

Cathie Craigie: What happens when a person has been seen by professionals, has been through the hearings system and has ended up in the courts? Under the bill, the person who sits in judgment will have the options of putting the young person away in secure accommodation or of tagging them, while ensuring that they receive a package of support. Should the person who makes the judgment have that option or should they have only the option of putting the young person away in secure accommodation?

Joe Connolly: We should put young people away and lock them up only in extreme cases and when they are a risk to the community or at risk in the community. That covers a small number of people. In my years as a practitioner and in running projects with young people, I have been saddened by seeing young people who have nothing to lose. Some young people reach a point at which being locked up does not matter to them. The way to bring such young people back into communities is through engagement, because orders are irrelevant to them. A tag is unlikely to be an effective way of dealing with young people at that extreme end of the spectrum. What is effective with such young people is engagement and touching base with them in a way that offers them something and gives them opportunities and a chance to do things. We must replace what they have in their lives and provide what they have not had. Many such young people have come through pretty damaged home lives into the care system.

I am not convinced. It should be in extreme cases that we consider removing young people from any kind of community setting. I am not sure whether, for the group of people that we would be considering, tagging would be an appropriate disposal. The other option is that we use tagging for lower levels, and I am not sure whether we would want to do that.

11:30

Tam Baillie: I want to make a point about criteria for use. There will be electronic monitoring as a result of the bill and the key question is about how it will be applied. To refer to my earlier statement about the provisions within the policy memorandum and the 600 to 700 places for enhanced supervision for young people, the experience down south is that about three quarters of the youngsters on supervision and surveillance programmes are subject to electronic monitoring. That practice has not yet produced evidence that electronic monitoring affects children's behaviour in relation to offending. The numbers are potentially quite large, so we have to think carefully about how we will build in criteria for use of certain options. The bill does not go anywhere near far enough on that, although it has tied the measure to an alternative to secure accommodation.

An important point is that the policy memorandum says that there are

"a small number of young people who may not offend but whose behaviour is putting themselves at risk."

It is suggested that electronic monitoring should be used in such cases, but we cannot think of any situation in which such punitive action should be used for youngsters for welfare reasons. I ask the

committee to consider that when it comes to the final draft of the bill.

Elaine Smith (Coatbridge and Chryston) (Lab): It has been said to us in evidence, as well as when we were out and about in communities, that tagging might be seen as some kind of badge of honour, which is the opposite to how the convener referred to it.

I would like to be clear about what has been said previously. It has been said that if there is a choice between secure accommodation and tagging, tagging is surely a better option. It appears from your evidence that you consider secure accommodation to be a last resort. Children in Scotland says in its paper that secure accommodation

"is intended for young people who are a risk to themselves or others and electronic monitoring will not offer adequate protection in these circumstances."

That organisation is concerned that

"the proposed legislation could lead to an increase in the number of young people reaching the stage of being sent to secure accommodation as a result of breaching an ASBO and then a RLO."

Joe Connolly: We should not be considering locking young people up. It happens, but it should be the exception rather than the rule. I would be concerned that the system might consider that, in the case of a breach of a restriction of liberty order, a young person should be thrown into the residential system, whether that be a residential school or secure accommodation. What happens if people breach the monitoring? There are dangers. I feel proud of the children's hearings system in Scotland because it is a compassionate system that I would describe as meeting needs.

The way in which we have treated our children and young people in the hearings system is under review. We have also been involved in the Kilbrandon committee review. I believe that the principles that underpin how we work with children and young people are about what is in their best interests—that is not about restricting their liberty. Anything that restricts liberty should be used as a last resort. I am concerned about introducing a sanction on which, if we look around the country, there is no evidence that it will be effective, and through which we might increase the number of young people who go into residential systems.

Elaine Smith: Is it a legitimate argument to say that it is better to tag young people because the alternative is secure accommodation, or do you disagree with that premise?

Joe Connolly: If we entered into things with such a premise, we would be in danger of increasing the number of young people whom we lock up.

Debbie Noble: We must acknowledge that a tag

is, realistically, a badge of honour for some young people. The idea that the same young people who commit offences will gain status in their communities through having tags is quite credible. We need to challenge that. The matter is about individual values, behaviour and people's lifestyles, which we need to challenge, regardless of whether young people are tagged or not. There will be individuals who will gain credibility from their negative behaviour.

The question of tagging and secure accommodation goes back to what we have all been saying: based on our assessment of individual needs, secure accommodation is not always the end of the road; rather, it is an appropriate option for certain young people. I would not like to view electronic monitoring versus secure accommodation as a choice between last options. We should examine all the options as being credible and suitable responses to young people's needs.

Elaine Smith: We could continue to discuss the subject, but I am conscious of the time and need to move on to equal opportunities. The bill's definition of antisocial behaviour is causing some concern in relation to equal opportunities. The Scottish Executive has recognised that and it is aware in particular that there is concern about

"children with disabilities and with special needs ... being made subject to ASBOs because of behaviour linked to their particular circumstances."

The Executive stated in evidence to the committee that it was confident that the bill would not discriminate against any groups.

This might go back to something that was said earlier about interpretations. I am not sure whose suggestion it was—I think it was Tam Baillie's—but a suggestion was made about inserting in the bill a definition of persistent offending behaviour. That might be helpful. I also refer to something that Ellen Donnelly mentioned about health issues being involved. I do not know what those issues are and I am not asking you to comment on that, but there are issues. Do you think that those or any other equal opportunities issues are genuine concerns that could arise from the bill? Perhaps we could start with Tam Baillie, because I think that it was he who mentioned the matter.

Tam Baillie: I am familiar with the concern that young people who have special needs will somehow get caught up in antisocial behaviour orders. If the orders are to be appropriately targeted, there should be full assessments of young people for whom ASBOs are proposed. I can understand, however, where the concerns come from, given the bill's wide definition of antisocial behaviour. If nothing is done about that, there will be a danger, but I think that the clear understanding—as expressed in the policy

memorandum—is that the group of young people concerned is very small. It might be useful if any amendments that the committee makes to the bill in this regard make it clear that the policy is restricted in that way. That would be better than just mentioning it in policy statements. If there are clear criteria, either in the primary legislation or in regulations, for when ASBOs will be appropriate, that would avoid some problems.

The Convener: I thank the witnesses for coming along. The evidence-taking session has run on, but that is because the issues are of such substance. As I said earlier, if there are any points that you wish to amplify or expand, we would be more than happy to hear from you, and we will be reflecting on what you have said in our considerations on the bill. Thank you very much for your attendance.

11:38

Meeting suspended.

11:46

On resuming—

The Convener: I welcome the witnesses for our second panel. From YouthLink Scotland, we have Mike Rodger, who is the youth justice manager, and Lisa Hogg, who is the senior development officer. From Children in Scotland, we have Jennifer Turpie, who is the director of policy and research, and Shelley Gray, who is the policy officer. From the Glasgow children's panel, we have Marion Pagani, who is the chair, and Christine MacKechnie, who is a member of the panel.

Having sat through our earlier session, the witnesses will be familiar with the format, although that session went on for slightly longer than we expected. We are grateful that the witnesses have come along today.

I will kick off by asking a general question. The Scottish Executive has expressed the view that the consultation process was unprecedented in respect of the number of communities, organisations and individuals that took part in it. How effective do you think the consultation process was? More broadly, do you accept that there is a need for the bill as part of a broader strategy for safe communities?

Jennifer Turpie (Children in Scotland): We would echo earlier comments in agreeing that there was a broad consultation process, which we welcome. However, Children in Scotland believes that the report that came out of the process was published very soon after the consultation closed. That made us wonder about and question how influential the consultation process was in respect

of the publication and writing of that report.

The consultation process could have been an opportunity to put in the public domain more positive conversations about children and young people, but that did not necessarily happen in the way that some of us might have wanted. Those are my only two comments.

Marion Pagani (Glasgow Children's Panel): I agree that there was wide consultation, but I also agree with earlier speakers that there should perhaps have been more consultation of young people, given that the focus of the bill is on young people rather than on the whole community. The bill focuses very much on how we help young people move forward into adulthood without stigmatising them.

Shelley Gray (Children in Scotland): On the subject of consulting young people, I know that the Executive funded YouthLink Scotland to carry out a large consultation of young people. Children in Scotland carried out a smaller-scale consultation of the young people with whom we are in contact. The Executive also conducted a web-based survey of young people, but there was concern that it received a very small number of responses—I cannot remember the exact number—and that most of the responses did not come from young people. That method did not seem to work as a way of consulting young people.

Donald Gorrie: My question is primarily for the children's panel members, although other witnesses may have a view on it. We have heard the argument that the present system for young offenders is not working and that something new has to be done, such as what the bill proposes. The other argument is that the children's panel system is good, but is under-resourced or does not work for various reasons. What are the obstacles that prevent the youth justice system from working through the children's panels to deliver a good service?

Marion Pagani: It is widely known nationally that we have a shortage of qualified social workers to do the job. I feel that one of the obstacles might be that we do not have enough joined-up working, even though inter-agency work is being done. We must take on board all the agencies within local authorities. After all, looking after children on whom there are statutory orders is a corporate responsibility; it is not just a social work matter. Therefore, all the agencies within local authorities—education, social work and others—should have a joined-up approach to the job; there should not be a reliance solely on social work departments.

I am sure that the committee knows that there is a pilot fast-track hearings project in the hearings

system, to deal with the young people that we are talking about—the persistent young offenders. That pilot is working well and there has been a good response to it. That said, every child in the system should have the luxury of a fast-track hearing; no child should wait for six months or longer for a response to their particular problem. It is not only offenders who should have the luxury of being fast-tracked.

The hearings system is not working because it is under-resourced, but sometimes the public perceive it to be not working because they do not know enough about it. There should be a push forward so that people out there know what we are about and what we do. Our work is not about punishment or removing children from their families; the scope of the work that is done in the hearings system is much wider than that. The Executive should do that job of informing people about what we do.

Christine MacKechnie (Glasgow Children's Panel): I agree totally with what Marion Pagani says. As a panel member, I believe that the hearings system works perfectly up to the point of decision. Beyond that point, the fact that we have such a lack of resources—the lack of joined-up working is perhaps also an issue—hinders the child and the family dramatically. Up to the point of decision, we have an excellent system.

I agree that our profile is not wide enough. The general public do not understand the children's hearings system and we have a job to do in that regard, which we need to do fairly quickly. On that score, I believe that the general public feel that every child whom they report and whom the police come out to see lands up in front of a children's hearing. That does not happen. That is why we get responses from the general public saying that the system does not work and that it is an easy option. It is not an easy option; we deal well with the children who come in front of us, but we suffer from a lack of resources.

Donald Gorrie: Is the principal problem the fact that you make a decision and it does not happen because of lack of resources, or is it the delays to which you referred? I presume that the resources problem causes the delays and the lack of follow-up on your decisions. Is that right?

Marion Pagani: As you rightly say, panel members make the decisions. The delays to which I referred earlier do not arise in the making of those decisions. The issue is about acting on and implementing the decisions. Many people will say, "But a child has been allocated to a social worker"; however, that matter should not even be considered within the children's hearings system. Instead, we need orders to be implemented. The hearings system does not have the human resources—for example, social workers—to carry

out that kind of work, which is why local authorities need to be more imaginative in resourcing and supervising a child who is subject to an order.

The bill refers to the local authority's accountability. I know for a fact that that has been welcomed by every panel in the country, because we now have the power to challenge a local authority on the ground of accountability about its failure to implement an order. That is where the problem lies. Up to the point at which decisions are made, the children's hearings system works extremely well. However, I should point out that, although the local authority looks after some children ably, that is not the case for every child. Indeed, I can see that that does not happen. It is not a case of dipping a toe in the water and giving children some supervision; some children receive no supervision whatever.

Jennifer Turpie: The children's hearings system has a unique and international reputation that should be respected. As part of our consultation process, Children in Scotland and YouthLink held an event that was attended by children's panel members and other professionals who are involved in the system. Many of their comments about the antisocial behaviour strategy and the bill referred to capacities and other elements that already exist in the children's hearings system. As witnesses have already identified the issues within the system, I will not repeat them. However, I will simply point out that many people questioned the idea behind putting other stuff on top of the system.

We are all aware of the impending review of the children's hearings system. During the consultation process, people asked questions about why the review was to take place after the bill's passage rather than before it in order to ensure that certain issues could be raised and addressed, and why we were not concentrating on the current system's capacity to address and tackle antisocial behaviour instead of introducing additional measures.

The Convener: Is there an issue about the role of the children's reporter in all of this? My impression is that many youngsters do not get as far as a children's panel. Indeed, they might only come before a panel when they have accumulated a number of offences because a reporter has judged at an earlier stage that no further action should be taken. Would a children's panel have a role in that respect? After all, the very fact that a young person has to attend a hearing creates a certain level of seriousness and might make people think that the system is worth while. There is a feeling that when a case comes back with the judgment that no further action should be taken on it, that sends a message to the young person that their offence was not deemed to be serious

enough.

Moreover, although I accept absolutely that communities do not understand many of the workings of the children's hearings system, is it reasonable for a community to expect that it can judge the system's benefits on whether they affect or improve behaviour? In other words, if communities look at someone who has been referred to the hearings system, will they see a change in the person's behaviour? Is it reasonable for a community to ask that that be a way in which to judge the system's effectiveness?

Marion Pagani: It is only reasonable for a community to expect a child who has a statutory order placed on them at a children's hearing to have some work done with them.

The Convener: Yes, but let me play devil's advocate for a moment. Communities hear young people who have offended say that nothing happens to them in the system and they see that those young people are back out in the community doing exactly the same things as before. In that case, is it reasonable for a community to say that it feels that there is an issue about how the hearings system works?

Marion Pagani: Yes, that must be questioned. When it is clear that decisions are made but are not implemented, we have to question the local authority—and perhaps the Scottish Executive—about that. Jennifer Turpie is right to ask why we have reached this stage.

I think that the bill is a knee-jerk reaction to the lack of resources that have gone into the hearings system over the past 10 years. That is why, as you stated, the work is not being done and children say that it is not happening—

The Convener: What I mean is that the system is not necessarily effective. It is not changing behaviour.

12:00

Marion Pagani: The system will not change behaviour if the work is not being done. Unless the human and financial resources are there to do the job, behaviour will not be changed when children come out the other side of the system.

From my experience of working with children from birth through to 16 and 18 years of age, I feel that the 12-to-16 age window on which the bill focuses is the time during which there is always the highest number of instances. Often children change their behaviour on their own when they become 16, whether or not that is due to the children's hearings system. However, clearly there are children who require the support of the children's hearings system and the public need to know that; they need to know that the work will be

done and will be resourced whenever it is required.

"No further action" does not mean that there will be no further action; it means that there will be no further action in relation to the hearing. However, a lot of intervention work will be done in that time. The reporter can decide to refer the child to the independent sector, for example to Barnardo's or NCH, which have projects to which children are often referred. "No further action" does not mean that nothing else happens to the child.

The Convener: But it can mean that.

Marion Pagani: Yes, of course it can, but it does not mean that in every instance. Perhaps within the hearings system, the disposal of "No further action" should be changed, as it does not really tell the full story.

Scott Barrie: Without prolonging the discussion unnecessarily, I want to go back to the issue about what children's panels can and cannot do. One of my frustrations was that social workers, in practice, rarely recommended unusual additions to a supervision requirement. In my experience, panels never added some of the powers that Jennifer Turpie suggested are open to them in theory. One of our difficulties is that, in theory, children's panels have incredibly wide-ranging powers to attach conditions to a supervision requirement, but in reality they do not do so. In part, that is because panels are not asked to use those powers, but it is also because they do not take the initiative. That has been one of the hearings system's failings over the past few years and it needs to be addressed. It might be true to say that panels can use such powers, but we need to acknowledge the fact that they do not.

Mike Rodger (YouthLink Scotland): I should explain that, although I am here as a representative of YouthLink Scotland, I am the youth justice manager for East Lothian Council, which is a member of YouthLink. I want to give an example of where things work. In East Lothian, the panels and the youth justice teams from the various authorities work very closely together. In a recent case, the panel gave a young man who had offended persistently at all times of the day a supervision requirement that required him to be at home by 10 o'clock.

Scott Barrie: Good.

Mike Rodger: When that decision was made, we had to put in place a range of monitoring procedures to ensure that that happened, so it can be done, and has been done in East Lothian.

We have an ethos of working together to ensure that as few people as possible end up before children's panels. The key persons within that are the reporters to the children's panel. Most of their

referrals to us are for diversions whereby, rather than send the case to a panel, they ask us to do some work with the young person. Police officers, of which I have one as a member of my team, can also decide to give young people police warnings either face to face or by letter.

There are examples of different authorities working closely together locally. I am aware that that is not the case throughout the land, but I have given an example of how that happens in East Lothian, where young people can be identified early on and can be diverted before there is any need for the criminal justice system to become involved.

Scott Barrie: I do not know the percentage but, for the overwhelming majority of supervision requirements, the only condition that is attached is regular school attendance. Do you accept that other types of addition are rarely attached to a supervision requirement?

Mike Rodger: The onus is perhaps on panel members and the local authority to work together to come up with imaginative ideas. I know of a couple of instances in which a children's panel has thought outside the box and has considered matters differently. In such cases, we had to think quickly to implement the decisions.

I welcome such action and I am happy about it. I used to be a children's panel member before I became the youth justice manager. Given that the legislation allows any reasonable condition to be imposed, there is no reason why panels should use only the condition of regular school attendance. Electronic monitoring was discussed earlier. Our submission states that, as far as we are aware, the existing legislation allows for a panel to impose a condition on a young person that they must be in their house at a certain time and for that to be monitored. That is a different way of doing things, but the power exists.

Mary Scanlon: The second page of the Children in Scotland submission, under the heading "Linking measures to support", states:

"the legislation will not ensure that those under 16 receive appropriate support in connection with all the measures contained within the Bill."

I ask the witnesses from CIS to explain that point.

I ask Marion Pagani, given the conversation she had with the convener, how she responds to section 104, which will allow children's panels to apply to the sheriff principal for an order, where a local authority is in breach of the duty imposed on it to provide a service or supervision. Will that additional commitment in the bill strengthen your role?

Marion Pagani: I think that it will strengthen our role. I am sorry if I gave the impression that I feel

that the children's hearings system is not working; I believe passionately in the system, but unfortunately, we have problems with supervising some children, especially in Glasgow.

Mary Scanlon: Will section 104 help?

Marion Pagani: Yes, but I see pitfalls in it. We could hold the local authority to account for not supervising children or not providing services, but local authorities provide many services, which means that the provision will be used in only a small minority of cases. If the service does not exist until the provision is used, how can we be sure that it will be available after the provision is used? I am not sure whether we will get the service after the provision is used.

Mary Scanlon: I am sorry, but I want to press the matter. If a children's panel can apply to the principal reporter to ask a sheriff to place a duty on a local authority that is in breach of its duty to provide a service, surely that will strengthen the children's hearings system.

Marion Pagani: Yes, but the bill does not go further than that; it does not say what action may be taken if the service is still not provided. The service will not have been provided until that point. I appreciate and welcome the measure, but I am worried about where we will go if the service is still not provided.

Mary Scanlon: So you are not confident that the service will be provided even if, under section 104, a sheriff asks a local authority to provide it.

Marion Pagani: No, because until that point, the service will not have been available. If the service is still not available, where will we go from there? The bill makes no provision for that situation.

Mary Scanlon: My other question was about the CIS submission, which states:

"the legislation will not ensure that those under 16 receive appropriate support".

Shelley Gray: We welcome the duty on local authorities to provide support in relation to supervision orders. There is the issue of services being there so that that duty is fulfilled. We are concerned—as were our members when we consulted them—because whatever support goes with a particular measure will make the difference in changing a young person's behaviour and it is not clear from the bill that that support will be assured in the case of ASBOs for under-16s. In particular there is an issue about RLOs for under-16s. In the case of electronic monitoring through the children's hearings system, the policy memorandum specifies that there will be a package of intensive support, but that safeguard is not there for RLOs applied through the court. We are concerned that a child who is being electronically monitored through one route will

have intensive supervision but one who is being monitored through the other route will not.

Stewart Stevenson: I have a question for Mike Rodger for clarification. You refer in your written evidence to JLOs. What is a JLO?

Mike Rodger: It is a juvenile liaison officer. When any young person under 16 commits a crime, the incident is channelled through a police officer, who makes decisions on what should happen or passes the reports on to the reporter.

Stewart Stevenson: Thank you.

I do not want to spend a lot of time on this but it is important. Antisocial behaviour is defined in the bill as being when a person

"acts in a manner that causes or is likely to cause alarm or distress".

Is that the right definition? If not, will you tell us briefly what the definition should be?

Mike Rodger: It would be difficult to come up with anything better than that because the perception of what is antisocial behaviour lies with the person who feels that such behaviour is being perpetrated against them. If someone feels unhappy about such behaviour, they should feel that they have the necessary recourse to do something about it. How that happens is part of the debate here, and how local authorities interpret that will influence what they consider they need to do about antisocial behaviour. There is a range of legislative possibilities in the bill, which gives rise to various ways of considering the solution.

Stewart Stevenson: Are you content with section 4(3), which, ultimately, allows the sheriff to disapply an order when it can be shown that behaviour was reasonable in the circumstances? Is it reasonable that sheriffs should be responsible for interpreting cases by examining the whole picture?

Mike Rodger: It would be unfortunate if we had to go to court every time before something could be defined as antisocial behaviour. The approach that we will take in East Lothian is that, if we can identify and deal with issues earlier, they should not need to go before a sheriff. It should be possible to deal with them through negotiation in local communities or with the support of local services.

Stewart Stevenson: You have just made a very important point that I have not heard anyone else express in quite that way. You seem to be saying to the committee that the broad definition is useful, because it can be used as a negotiating instrument at an early stage. Perhaps the issue is not so much the legal importance of the definition as its importance in the process. Am I interpreting

correctly what you are saying?

Mike Rodger: I think so. The main focus of our work is early identification of young people—other people—who may be causing concern to others. In different departments in different agencies in East Lothian, we use a variety of means to examine whether there can be an early resolution of difficulties and whether there can be a local response to or local action on them, without a case having to be dealt with by panels, police officers and so on.

Stewart Stevenson: Do Jennifer Turpie or Shelley Gray have anything to add to what Mike Rodger has said?

Jennifer Turpie: As has been said, a particular concern of Children in Scotland members is the issue of children who have a disability or health problem that may be interpreted as antisocial behaviour under the definition. I know that the Scottish Executive has taken note of that, but it is a particular concern of our members.

Stewart Stevenson: Would Marion Pagani like to comment on the definition?

12:15

Marion Pagani: It is very broad. To reduce the level of distress that is caused to other people, should we not empower communities to examine, challenge and, perhaps, guide young people's behaviour? Should not communities do some work to tackle children's behaviour instead of cases having to go to court?

Stewart Stevenson: Bearing in mind the point that Mike Rodger has just made, do you think that the relatively broad definition is useful for triggering early intervention and as a negotiating instrument among agencies, individuals and victims?

Marion Pagani: There are two sides to the issue. For local authorities, the definition is a useful tool, but for communities the issue is what they perceive to be antisocial behaviour. We need to have a level playing field and both sides need to agree what antisocial behaviour is. As was stated earlier, children hang about street corners and do not regard that as antisocial behaviour. They might not even regard a bit of disruption as antisocial behaviour. However, to the community and the local authority it would be. We must have services in place and must empower communities to encompass children and to improve matters. Perhaps that is not the answer that the member seeks, but I feel strongly that communities must do some work to deal with antisocial behaviour.

The Convener: There is an issue of stereotyping of young people, but do you accept that there is also stereotyping of some local

communities that complain about antisocial behaviour? Our experience when meeting local communities is that the people who have concerns about this issue are the same people who run the youth clubs, residents groups and housing associations that have been involved in community regeneration. Some folk on the margins might make frivolous comments about young people who are just gathering, but some people are at the end of their tether. They run youth clubs and groups, but they have passed the stage of being able to challenge antisocial behaviour.

Do you accept that that is part of the problem and that the issue is not just a case of its being reasonable to ask communities to engage with young people where they can do so? In some cases, the situation has gone beyond that. For some people, the consequences of challenging antisocial behaviour have been quite serious.

Marion Pagani: The behaviour of a small minority of children is as the convener describes. I have attended meetings in her community and have seen the community's response to the problem. Equally, the community still has a role to play. High-profile policing in the community to make children aware that antisocial behaviour will not be accepted does not happen. Not enough is being done at that level.

Elaine Smith: I want to pick up on the point that Jennifer Turpie made, which relates to equal opportunities. I have put the point to previous witnesses. As she said, there are concerns, but the Executive has stated that it is confident that the bill will not discriminate against any group. I am sure that that is the Executive's intention, given much of the good work that it has done on equal opportunities issues, mainstreaming and so on since the Parliament was established, but Children in Scotland members have concerns about the issue. Are there particular examples of those concerns? I am aware that parents are very concerned about children who have autism or Asperger's syndrome.

Jennifer Turpie: The example of which I am aware is from down south—from England—and involved a child who had autism. The child was making a tremendous amount of noise in the town house in question, knocking the walls and so on. That led the neighbours to complain, which ultimately led to the application of an ASBO.

The situation was brought to our attention as an example. I am not aware of other specific examples, but I am aware that our members who work in the field of disabilities among children and young people have a particular concern about it. That concern comes not only from organisations, but from parents, who are very concerned that their children's behaviour could be interpreted in

such a way as to be thought of as antisocial.

Elaine Smith: Given the definition of antisocial behaviour in the bill and the fact that the neighbours in that example might not have known the reasons for the child's behaviour, they would have grounds to claim that the behaviour was in fact antisocial under the legislation here. Would it then be up to a sheriff to say that the behaviour was not unreasonable under the circumstances?

Jennifer Turpie: That child's behaviour would fit the bill's definition of antisocial behaviour, but if the matter had to go before a sheriff, that would cause a tremendous amount of distress to the parent, who would already be suffering the distress of raising a child with a disability.

There are issues around children with disabilities such as autism, but there are also children and young people with behavioural problems. I am widening the discussion, but we need to think about what leads children into offending behaviour. We know that a lot of children who end up committing offending behaviour in their teens had problems when they were younger. How are we helping younger children and their families to address what we might now label antisocial behaviour? The issue is very wide.

Mary Scanlon: Will the witnesses briefly outline any work that they have done to prevent or tackle antisocial behaviour, particularly with young people, who can often be the victims of antisocial behaviour?

Mike Rodger: As I said earlier, we would try to identify young people as early as possible. A range of agencies and stages are involved in that. First, there are front-line police officers who, as part of the making the difference initiative, can identify the young people who might be causing the most concern. The officers will take their details and enter them into the system. They are then picked up by the juvenile liaison officer, and decisions may be made about whether that young person needs to have some further discussion, perhaps with us, at an early stage.

A range of professionals operate in this area, including teachers, social workers, community police officers and housing officers. They can identify young people who, in their professional opinion, they think could become involved in the criminal justice system if intervention is not put in place. We refer to that as conflict with authority and we will accept referrals of young people on that basis. Those young people have not committed offences but, in the various professionals' opinion, they could end up getting involved in the criminal justice system.

We will put in place a specific intervention, but it will never mention offending at all. Research has shown that if someone makes a connection with

being seen as a potential offender, they may well become an offender. We will talk about the individual's personal circumstances, their actions, the consequences of those actions and their attitudes towards conflict. That is becoming one of the largest areas of our work.

A range of people pick up on young people and we are putting appropriate strategies in place. Our range of initiatives goes right through to having one of the fast-track children's hearing pilots, which were mentioned earlier. Certainly in East Lothian, very few young people have made it as far as fast-track hearings, and I would like to think that that is because of the range of interventions that identify young people early on and which help to keep them out of the panel system and out of the criminal justice system.

Lisa Hogg (YouthLink Scotland): YouthLink Scotland welcomes the Executive's commitment to tackling youth antisocial behaviour. We understand that it can cause misery within our communities, but I ask the committee to consider the need for a co-ordinated, holistic approach to supporting young people when they are at the other end of the scale, that is, when they are being released from custody, because currently there is inconsistent support for young people who leave custody. Very few of them have a statutory connection to any agency. Those are the young people who commit crimes and come back into our communities.

The Convener: Some committee members had the privilege of coming out to Polmont to meet YouthLink Scotland and some of the young men who are working with you, which we appreciated. We found the visit useful. Your comments about what happens when someone comes out of an institution and how we might support them were amplified during that visit.

Donald Gorrie: On having enough facilities to keep people out of trouble and provide a good life for young people, do you have any views on what the Executive should invest in most urgently to provide the services that the bill requires?

Shelley Gray: When we talk about youth services, one of the key points is the fact that a lot of work goes into asking young people themselves what they want in a particular area. No single type of youth service will suit all young people, but if young people are involved in deciding what they need in their area, they will be a lot more likely to buy into and use the facilities. We found that from speaking to young people about the bill, and through various projects that are members of our organisation. The central point is to find out from young people what they want, so that they buy into whatever is put in place.

Mary Scanlon: The bill proposes to extend the

use of antisocial behaviour orders to people aged from 12 to 15. I ask the witnesses from Children in Scotland to respond to that. I am concerned about the last paragraph of their submission, which states that the bill

"in some respects may exacerbate the problems already faced by vulnerable children, young people and their families."

It is worrying that you came up with that conclusion. What is behind that train of thought?

You also state:

"It cannot be assumed that measures designed to respond to antisocial behaviour in adults will be appropriate or effective for children."

Will you clarify that point?

Jennifer Turpie: That view came to us through our consultation event, our members and through people who are working in the community with children and families. One of the key concerns is that the bill could lead into the criminal justice system young people aged 12 to 16 who may not otherwise have entered the system. If a child goes down the road of becoming involved in the children's hearings system or the criminal justice system by receiving an ASBO, and they break that ASBO, there is concern that they would be further involved in the criminal justice system. That would be a door into a system that we are trying to keep young people out of.

Mary Scanlon: But is it not better to have early intervention, early identification and early action to prevent more punitive treatments later on? Do you see that as positive in any way?

Jennifer Turpie: We see interventions as positive, but we do not necessarily see ASBOs as positive, because the breaking of an ASBO or an RLO could lead to a child being put in the criminal justice system. Obviously, we support and want to see used interventions that can be put in place before that happens. That is a key concern.

Mary Scanlon: So you do not support the extension of ASBOs to under-16s.

Jennifer Turpie: Mixed views were expressed on that at our consultation event. Some people supported and saw merit in the extension, although not necessarily in how it has been presented in the bill. Tam Baillie spoke about that. There are concerns about the way in which the extension is constructed and we share those concerns. Others took the view that the extension would lead to more young people being involved in the criminal justice system and possibly to more young people being put in secure accommodation, which is a concern.

Scott Barrie: I have just a brief point. Your submission says that one of the underlying

principles of the Children (Scotland) Act 1995 is the no-order principle and you express concern that that is not acknowledged in relation to antisocial behaviour orders for the under-16s. Will you elaborate on your concerns about that?

12:30

Shelley Gray: I will have to check this but, as far as I am aware, the no-order principle would apply to the bill; I assume that it would. Our members thought that clarification of that was needed and that it should perhaps be stated more explicitly in the bill or the accompanying guidance.

Jennifer Turpie: A point is made in the bill about how the welfare or needs of the child would be at the heart of any decision taken on an ASBO. As we know, one of the features of the Children (Scotland) Act 1995 is the no-order principle, which is not spelled out explicitly in the bill. There were questions about whether that principle needs to be made more explicit and whether the same principle will be applied in deciding whether an ASBO is imposed.

Patrick Harvie: If you were in the room for the first part of the meeting you will have picked up that there are a range of views and mixed feelings among committee members about the sections on the dispersal of groups, but this is our chance to hear your views. What is your attitude towards the power of dispersal? Do you think that it is a positive element of the bill? How would you respond to the arguments about increasing alienation among young people, moving a problem instead of changing behaviour and using the power against people who are not committing offences as well as against people who are?

Jennifer Turpie: The first point that I will make is one that a young person made in response to our consulting on that. A young girl said to us, "That really worries me, because I walk with my friends because I am afraid to walk alone. If I want to walk through a park, I should be able to walk through it with my friends." She asked what the power would mean. There is a general point about how we discuss the power of dispersal with young people. Under the bill, a group of two people could be moved on. I know that this point was made earlier, but if we are moving people on, where are we moving them on to? Young people asked where the Executive wanted them to go, because there is nowhere for them to go. Shelley Gray raised the point earlier about engaging with young people and getting them involved in developing the services, youth clubs and groups that we want to be available to them so that there is no need for them to hang about on street corners, which is the stereotype.

Mike Rodger: I wonder whether we could

consider promoting tolerance zones rather than designating places where young people cannot congregate. There is certainly evidence to support such zones from Thames valley and various places in Scotland where local authorities have decided to set up places where they would find it acceptable for young people to hang around, such as youth shelters and kick-about pitches. I often think about how the Italians would view the matter. *Passeggiata* in Italy is a great thing; people get out, hang about and interact and yet we are considering trying not to do that here. I wonder where we have gone wrong if we have to consider areas in which young people cannot congregate. I would like to think that we can be tolerant and can accept that there are some places in which young people can congregate as well as some places in which they cannot.

Patrick Harvie: To focus on areas where antisocial behaviour is a serious problem, would the power be positive in those areas and would it make the situation better?

Marion Pagani: I will repeat my earlier comment about high-profile policing. It would be advantageous to local communities if there were more policemen on the beat. In my area, we have policemen on push-bikes, and that helps. I do not see youngsters hanging about on street corners where I live. I certainly do not live in a highly populated area, but I think that high-profile policing would be helpful.

Lisa Hogg: We must highlight the role of youth work in crime diversion in local communities. Earlier in the meeting, points were made about the role that intergenerational work, detached work and youth work can play in local communities in addition to the role of the police. What can local communities do to work with young people and disperse crowds? A lot of concern is built on fear, and rightly so, but intergenerational work by youth work services is a good idea.

The Convener: I mentioned to a previous panel that, in extreme circumstances, people gather in an area not just to chew the fat or for relaxed chitchat but to target particular people who come to use the premises or particular families who have complained about the behaviour of the people who gather there. You talked about cases in which policing is used to disperse such young people, but in cases where the behaviour is not as you described it, do you accept that it is reasonable to use the circumscribed power that is identified in the bill? Do you object to the power in principle, or do you accept that it might be necessary in certain circumstances?

Mike Rodger: I am sure that there must be some circumstances in which that is a possibility—otherwise, I presume that you would not put forward the proposal. As a youth worker, my

question is, “Where do they go?” If people are dispersed from one place, they will go somewhere else; they will not disappear back to their own homes. There is a mentality that says, “You cannot go there and therefore you cannot go anywhere else.”

There is anecdotal evidence that young people no longer congregate in areas where closed-circuit television has been provided, but obviously they congregate somewhere else. Should we proliferate CCTV cameras or should we just accept that the young people will go somewhere else? The same question applies. If young people are creating a difficult situation and the decision has been made to move them on, they will go somewhere else; should we then do the same again?

The Convener: Facilities are important, although there is the issue of young people gathering outside youth facilities and intimidating other youngsters to prevent them from using the facilities. The answer to the problem is more complicated than, “If there was a youth centre, there would not be a problem.”

Mike Rodger: I agree. In my experience, that is not the case because most young people do not use youth services. However, the best way forward would be the promotion of a youth work strategy to consider how we can provide the best service to those young people who cause the most concern in our communities.

Scott Barrie: I return to the question that I asked the previous panel about part 9 of the bill, on parenting orders. What are the panel's views on that?

Marion Pagani: The issue of parenting orders is difficult. As I said earlier, children's panel members sometimes become frustrated and say that they wish that an order was on the parent rather than on the child. Further to that, I am concerned about what would then happen if a parent breached a parenting order. Who would suffer and what would we do to that parent? Would we remove the parent from the home? Do we remove the children from the home? Who would be at risk? It would certainly not be the parent who would be at risk; it would be the child. Has it been thought out how we would resolve the situation if a parenting order were breached? That must be looked at.

Christine MacKechnie: As Marion Pagani said, panel members often wish that we could put an order on the parent, but when one looks at the whole picture, that would not be productive. If parents do not work with whoever works with the child in the children's hearings system at the moment, a parenting order would not make a difference to that parent.

Most parents who come with their children to the hearings system tend to work with us or with whichever resource is put in place when we reach a decision. We are talking about the odd one or two who are difficult cases. There might well be a necessity to cover that in the bill, but I do not think that parenting orders will work because of the implications—there are many questions around that matter. As Marion Pagani asked, what do we do if the parent breaks the order? Where do we go from there—does the matter go to another hearing? Is it in our power to do something else about it? That is a difficult problem. As panel members, we think that if that measure existed, we would not use it often.

Scott Barrie: I accept the caveats that you have stressed but, as I said to the previous panel of witnesses, in a small number of cases, all that a children's panel can do is to make a supervision requirement on the child, irrespective of whether it is the child who is the main concern in the holistic approach that you described. Would a parenting order not be more appropriate in those cases where it was the parents who were failing to engage with the appropriate services? The policy memorandum makes it clear that such an order could be implemented only if such family support services existed and that it might be more appropriate to put the order on to the person who fails to do what they should do, rather than acting indirectly through the child?

Marion Pagani: In the circumstances that you are talking about, that would be more appropriate. However, if the parenting order were breached, has any thought gone into the bill as to where we would go from there? Under the current hearings system, when parents fail to provide for their children sufficiently, it is the duty of the local authority to ensure that the child's right to receive all those services is upheld. The local authority will therefore take over guardianship of that child. That is not always the best thing for the child, although panel members always make decisions in the best interests of the child. Sometimes the children come back and tell us that the action taken was not in their best interests, although we act with the best will in the world and make informed and appropriate decisions at the time. I am not sure that parenting orders would work without further consideration of what we would do if they were breached. There is provision under the current hearings system for children to be looked after. The question remains of where we go if the parenting order is breached. That is the pivotal question in determining whether the parenting order should be included in the bill.

Jennifer Turpie: There was broad support for parenting orders in our consultation. However, under the bill, it is up to the court to make the disposal of the parenting order and not necessarily

up to the children's hearings system. Earlier, Tam Baillie made the point that, should a parenting order proceed, some advice should be given by a panel.

Please correct me if I am wrong, but I interpret section 77 to mean that a parenting order could be made if there were concerns about the welfare of a child, bar any offending behaviour. There is no age definition there. That goes below the age of 12, as I interpret it although I do not know if I am doing so correctly. That has tremendous implications and I wonder whether thought has been put into the implications of that for the children's hearings system and local authorities working with and supporting families.

Marion Pagani: The provision to look after those children if parenting skills are not available is already in the 1995 act. There are some very dysfunctional families.

12:45

Scott Barrie: As I understand it, the bill proposes to direct the responsibility to where it might be more appropriate, rather than indirectly doing it through attaching a supervision requirement to the child. That is key, because in my experience of working with children's panels—although my direct experience as a social worker was prior to 1995—several parents used the fact that a supervision requirement was attached to the child to somehow stand back as if they had no responsibility.

Marion Pagani: Equally, I think that parenting orders will be used with only a minority of the families that we deal with. Sometimes parents refuse point blank and are intelligent enough to be able to say that they will forgo the responsibility of their children, and it is still the duty of the local authority to look after those children. I am sorry that I keep coming back to this, but what do we do with those people who breach those orders? The idea has not been thought out properly. Where do we go when a parenting order is breached?

Scott Barrie: Using the welfare principle on which the hearings system is based, presumably you would remove the child.

Marion Pagani: So there is no comeback on a parent who breaches a parenting order. You are saying that the child should then be removed from the family. That solution is already available through the hearings system.

Scott Barrie: My understanding of the parenting order is that it directs the responsibility to where it is more appropriate rather than doing that indirectly through a supervision requirement.

Christine MacKechnie: Perhaps I am misunderstanding what is being said but, in the

few cases where there is a parent who will not work with the resources that are put in place, the family will be brought back to another hearing. As I understand it, that will be the parent on whom you are talking about putting a parenting order.

Scott Barrie: Yes.

Christine MacKechnie: I agree that such an order would be useful in some circumstances, but the system has the resources available to it to remove a child from home if necessary, although we would not want to do that. You seem to be talking about only the families who totally refuse to work with the resources given to them. As a children's panel member, I would hope that the parenting orders that we would have to consider would be few and far between. On the odd occasion when we say that we wish we could use something like a parenting order, it would only be because a parent is not working with the resources given to them and we would be taking fairly stringent measures anyway if that happened.

Donald Gorrie: The Children in Scotland paper expressed concern about the possible effects of the part of the bill on the closure of premises, because there is already inadequate provision of facilities for young people in communities. How do you think that that measure might work?

Shelley Gray: This is a similar case to the dispersal of groups. We acknowledge that a particular facility can become a focal point for young people to gather and possibly engage in antisocial behaviour, and that can be a problem; we did not intend to say that it was not. If young people are being prevented from using a facility because of the antisocial behaviour of another group of young people, that facility could be closed down—that is my reading of the bill, but I might have picked it up wrongly. Such an action would not address the problem and would penalise an entire group of young people for the behaviour of a few. That would seem to be a counter-productive approach.

Donald Gorrie: I assume that that means that it is a theoretical possibility.

Campbell Martin: As you know, the bill would extend electronic tagging to offenders under the age of 16. Do you think that that is a necessary step or a good idea? Do you foresee there being any problems in the implementation of the initiative? Do members of the children's panels believe that the availability of the sanction of electronic tagging would be of benefit to the panels' work, or do they think that the other disposals to which they have access are at least as effective?

Marion Pagani: I am not altogether sure that electronic monitoring would be of benefit to the hearings system. We hope that it would be used in

the interests of the child's welfare rather than as a punishment. As has been said, tagging would be used as a measure to keep the child at home and, often, home is not the safest place for some children to be. There are difficulties around the idea of keeping a child safe at home because of their actions outwith the home. There is a hard balance to strike.

I am not sure that electronic monitoring should be seen as a substitute for secure accommodation. There are stringent criteria for secure accommodation, but secure accommodation is not always used appropriately. Sometimes it is used to remove a child because they pose a risk to the public and at other times it is used because of the risk that the child poses to themselves. We have to ensure that we are providing security to a child. Electronic monitoring might be the vehicle by which we do that. I am not sure at all. In any case, when we use electronic monitoring, we have to use it appropriately and in the interests of providing security rather than punishment.

Mike Rodger: We had a chance to visit a project in Sunderland that used intensive supervision, including electronic monitoring, and were able to discuss its pros and cons. We were told that, quite often, young people who were tagged electronically would breach their conditions. If that happened, the security company could tell the workers whether the young person was where they should be. There is a delay, however, while an application is made to the court to enable the situation to be dealt with. We were told that there seemed to be far more mileage in the intensive support that was given to those young people than there was in the electronic tag. Providing an advocate, as it were, who would work with a young person on a one-to-one basis for 20-odd hours a week was seen to be more effective than wiring them up to an electronic monitor.

As I said, as part of the supervision requirements that we can impose, we have the ability to tell a young person to be at home by a certain time.

Marion Pagani: I agree with Mike Rodger. Having an electronic monitor will not change someone's behaviour, but that is what we want to do. We want to stop children behaving in the way that they are behaving. If we have to contain them in one place to do that, we impose the condition of having a supervision requirement. That puts the onus back on the child and the family to ensure that the child is in the home. The issue is not simply about whether we are doing the job—it is about people taking some responsibility for themselves.

Patrick Harvie: I want to ask the children's panel representatives about the argument that

tagging could be used as a visible deterrent to others. How does that argument sit with your ethos of the central importance of the welfare of the child with whom you are dealing?

Marion Pagani: I do not think that visible tagging would be a deterrent to others. I think that it would be a badge and a trophy, especially for some young people with whom we work at that end of the scale. Certainly, work must be done with the children to ensure that they change their behaviour, but I am not sure that a 14-year-old would say, "Oh my God, he has an electronic monitor on his ankle. I mustn't do what he did." I do not believe that that would happen.

Christine MacKechnie: I agree totally. Visible electronic tagging would be seen as a badge of honour. I do not think that it would be a deterrent. Intensive support is needed for the children at that end of the scale with whom we deal and such support is seen as more of a deterrent. Another child might think that they will end up on the intensive-support route and will perhaps stop doing things or will learn from that child.

The Convener: Could tagging be seen as an extension of the idea of putting limitations on young people, like teaching them that there are consequences of types of behaviour in a classroom? It would be hoped that others would learn from a young person's problems being addressed if they have caused difficulties in a classroom. Is it not good parenting to say to youngsters that their behaviour will have consequences? They might learn that lesson themselves, but they could also see consequences for other people.

Mike Rodger: A young person could have an electronic monitor without anybody else knowing that. An electronic monitor's being visible would not be a matter of course.

The Convener: But it would be known that that person could not hang about the shops with everybody else, so others would learn that certain kinds of behaviour have consequences. The young person would learn that, too.

Mike Rodger: I like to think that we could do better through providing interactions with professionals rather than through relying on an electronic means to do things for us. Some young people who have engaged with our team would take the chance of wearing an electronic monitor way before they would choose to have one of my workers meeting them, perhaps daily, to ensure that they are at school or keeping their health appointment, for example. Intensive supervision, which we provide as part of the fast-track project, is far more useful than tagging people electronically.

The Convener: Would it give you a hook to

work with those young people?

Mike Rodger: Do you mean a young person's being on an electronic monitor?

The Convener: Yes. Tagging would allow engagement with intensive support. The social workers spoke about huv-tae cases.

Mike Rodger: People have to engage with us at the moment anyway. If a supervision requirement has been made, we are responsible for ensuring that it is carried out. If a young person does not do what is required, we report that back to the panel and the panel makes a decision. Putting a young person on an electronic monitor is no different because, if they breach the conditions, we would have to put the case back to the panel. The process would be the same, but personal interaction is far more useful.

Marion Pagani: The convener mentioned responsible parenting, but we must throw back the issue of responsible corporate parenting. Should not there be facilities and resources in a child's life before the electronic monitoring stage is reached?

The Convener: I was trying to get across a simple message, but I did not explain myself well. Someone could tell a young person that if they do something, they will not be allowed to go to wherever. When children are very young, they can be told that they will not be allowed to go and play, but will have to sit in their room for a wee while. Simple things can be done. Tagging could be seen as part of that process. It is further up the system, but in the bigger picture, youngsters should learn that when certain things happen, there will be consequences and restrictions on what they can do.

Marion Pagani: I would like to say something that I am sure will be backed by the rest of the panel. The children who reach the stage of electronic monitoring come from very dysfunctional families and the parameters of their lives are not simple. Often, they cannot work within the restrictions. We must acknowledge that when a child reaches the electronic monitoring stage, they have had a very disrupted life beforehand.

The Convener: It could reasonably be argued that if a child has not been parented and given the early lessons about consequences and other matters, much more responsibility lies with the corporate parent to give those lessons. Equally, it could be argued that not all young people who end up in serious offending or who are about to reach that stage have been abandoned by their parents and have not had that parenting.

13:00

Marion Pagani: I am not suggesting that those

young people's parents have abandoned them.

The Convener: Not all such young people have not been parented. We have had many examples at the meeting today, and elsewhere, of concerned parents who are managing difficult behaviour. Just because a youngster ends up in the hearings system, that does not mean that the family is dysfunctional.

Cathie Craigie: We recognise that a small minority of young people will end up having to enter residential care or being considered by a panel for electronic tagging or a supervision order. We are dealing with a small group of people. In my constituency, I know well a close family that functioned well in the immediate family and the extended family, yet one young person in the family was out of control. When that young person was over 16, they ended up in prison. If the family or the social work department had had a bit of control, that young person probably would not have ended up in prison.

If any tools can help, they should be used. I am not saying that a children's panel would use such tools daily or weekly—or even monthly—but they would be used once every so often. If those tools could help a young person, surely they should be considered, not as a badge of honour that would be displayed on someone's chest, but as something that showed that a young person was in school, where they should be, that they were at home by 9 o'clock where they were supposed to be, or that they were receiving help and counselling from the social work department or whoever.

Christine MacKechnie: The crux of the matter is the help from whoever and the resources that are available from wherever early enough to stop a child going out of control. I understand what you say. Most of the families that we see are dysfunctional when the stage that has been mentioned is reached. In the odd one or two families, no matter what people have done, a child has gone outwith control. In such situations, panel members may be persuaded that electronic tagging could be of use, although none of us would want to tag electronically or monitor any child. However, I feel that the issue returns to providing proper resources and early intervention from day one. That starts in school, or sometimes pre-school.

As a panel member for many years, I am confident that the earlier that intervention is taken to help a child, the better off that child will be and the easier life will be for the family. That applies to children who are out of control—children who enter the school by one gate and immediately leave by another. A mother might take a child to school and think that they are there all day. Everybody who is involved in education has a role

to play in early intervention. I know where you are coming from and I agree that such situations arise on the odd occasion—I hope that it is a very odd occasion. However, we need to consider the resources that are available and to put in place resources for children that can and should be accessed early.

Jennifer Turpie: The group of young people whom we are talking about has been well described, so I will not go into detail, but one feature of those young people is that they are impulsive. They do not necessarily think, "Oh my goodness, I have this electronic tag so I had better not do something," when they get into difficulty. Reference has been made to considerable evidence from England that electronic tagging is not necessarily effective. It seems a rather expensive option to consider. Have we thoroughly examined the evidence?

The other point, which Christine MacKechnie made, is about the support that those young people need. When some young people are asked why they did something, they respond, "I was drunk." That makes us think about drinking and drug use by young people. As we said in our submission, the bill needs to be embedded in the context of the other social justice agenda—the other Scottish Executive initiatives such as early years intervention and all the other interventions for young people—so that we do not have to electronically tag children or young people.

The Convener: I thank the witnesses for attending. Our session has overrun again, but we have all found it useful. If the witnesses want to expand on any points, we will be happy to hear from them.

13:06

Meeting continued in private until 13:12.

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