

# **COMMUNITIES COMMITTEE**

Wednesday 21 January 2004  
(*Morning*)

Session 2

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## COMMUNITIES COMMITTEE

### 3<sup>rd</sup> 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:

Audrey Hendrie (Union of Shop, Distributive and Allied Workers)  
Douglas Keil (Scottish Police Federation)  
Grainia Long (Shelter Scotland)  
Ruth Stoney (Union of Shop, Distributive and Allied Workers)  
Chief Constable David Strang (Association of Chief Police Officers 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 21 January 2004*

*(Morning)*

[THE CONVENER *opened the meeting at 10:00*]

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

**The Convener (Johann Lamont):** I welcome everyone to the third meeting in 2004 of the Communities Committee. We continue with our stage 1 consideration of the Antisocial Behaviour etc (Scotland) Bill. Our first witnesses are Douglas Keil, the general secretary of the Scottish Police Federation, and David Strang, the chief constable of Dumfries and Galloway police, who is representing the Association of Chief Police Officers in Scotland.

I welcome you to the committee and thank you for your submissions. I am aware that you have appeared before the Parliament's Justice 2 Committee. As I am sure you are aware, however, the Communities Committee has a different remit and perspective from that of the Justice 2 Committee. We are keen to explore with you some of the community issues that relate to the bill. I am grateful to you for coming before the committee. If, at the end of the session, you have points that you have not been able to make in your replies to our questions, we are more than happy to continue the dialogue with you in writing after the meeting.

I will kick off by asking about the consultation process. You will be aware that the Scottish Executive has stated that the consultation process that led to the introduction of the bill was unprecedented in terms of the numbers of communities, organisations and individuals that took part in it. Will you comment on how effective the consultation process was from your perspective? I would also be interested to know what consultation was carried out within your own organisations.

**Chief Constable David Strang (Association of Chief Police Officers in Scotland):** I will begin by responding on behalf of the Association of Chief Police Officers in Scotland. We feel that a full consultation process was carried out. The original consultation document, "Putting our communities first: A Strategy for tackling Anti-social Behaviour", was widely circulated. I chair the ACPOS general policing standing committee. The consultation paper was circulated to all eight police forces in

Scotland and each force put together a response. The ACPOS response was therefore the result of a consultation that took place right across the eight forces in Scotland. We felt that we had an opportunity to submit our views on the measures that were proposed in the consultation paper.

**The Convener:** Would you say that there was a consensus view in your organisation?

**Chief Constable Strang:** I am sure that, on any such issue, one will get a variety of views. The overwhelming view was that we supported the proposals, perhaps understandably, given the wide range of measures that the bill contains. The provisions range from the preventive, including working with partnerships to build antisocial behaviour strategies and to try to prevent antisocial behaviour from occurring in the first place, to measures such as antisocial behaviour orders and parenting orders, right through to what might be seen as the harsher enforcement end of the strategy.

The police were particularly pleased that antisocial behaviour is being tackled as a community issue and not simply as a law enforcement issue. There is a danger that, if antisocial behaviour or crime takes place on the street, people think that that is a purely matter for the police to deal with. Clearly, the police have an important role to play in the criminal justice system, but the criminal justice system is only one part of society's response to offending behaviour. Because the bill contains such a wide range of proposals, there was broad support for the measures and a fair amount of consistency and agreement among police officers in Scotland.

**The Convener:** Do you accept that your capacity to police the problems in communities depends on whether the communities feel involved or have been intimidated out of feeling involved? Does the way in which things are dealt with in the criminal justice system after the police have dealt with them have an impact on policing?

**Chief Constable Strang:** Those factors undoubtedly affect policing. It is helpful to be involved with communities, their representatives and other organisations. The ethos behind community planning is to consider the problems in an area and to ask how the local authority and the police force can work together to solve them. We are considering the causes and not simply dealing with the symptoms. The police have to commit to that process. We regard working with others as helpful.

**The Convener:** But your capacity to police will be affected by the level of the difficulties in a community, if those difficulties inhibit the community in working with you.

**Chief Constable Strang:** The capacity to police is always a difficult issue. In some ways, demand is infinite: however much we do, there is always more that the public would want us to do.

**The Convener:** That is not the point that I am trying to get at. In communities where a serious problem has emerged that affects people's ability to be involved, there will be a direct impact on your ability to police. What police officers do when going into a particular area will be different if the community is already so intimidated that it cannot help them.

**Chief Constable Strang:** I suppose so, in extreme cases. Policing relies hugely on the co-operation of the public. The fact that the vast majority of people are law abiding enables us to live as we do. However, if the police are going to solve crimes, and deal with drug problems and antisocial behaviour, we need to have information and intelligence from the public. Our intelligence-led approach is about gathering information. Some of that will be gathered directly by police officers, but some will be information that comes from members of the public, either anonymously through Crimestoppers or directly through letters or complaints.

We rely enormously on the co-operation of the communities that we police. We are not an army of occupation that comes in and does something to the community; we are members of the public and we are civilian police officers. We live and work in communities and we rely very much on their co-operation. To answer your point, if a community feels unable to support and help the police, that impacts on us and makes it more difficult for us to solve problems and to police the community.

**The Convener:** If the bulk of the information that you receive comes anonymously rather than having a name attached to it, that affects your ability to police. It changes the nature of your intelligence-led approach and your ability to act on the information.

**Chief Constable Strang:** It might make things more difficult. We might have to look at other ways of getting evidence—for instance, installing a temporary closed-circuit television system. I understand people's reluctance to be witnesses in court against someone who lives nearby, because they would clearly fear repercussions.

**Douglas Keil (Scottish Police Federation):** I want to answer the first part of your question, convener. The Scottish Police Federation's national committee comprises 30 officers. From each force, we have at least one officer from each of the three ranks that we represent—there is at least a constable, a sergeant and an inspector or chief inspector from each of the eight forces in Scotland. In any consultation, I write to each of

those officers and send them the consultation paper. Those national representatives then send that paper out to their local representatives. It depends on the subject matter but, generally, the views of around 150 police officers are sought on the details of any proposals. That is what I did in July last year. Responses are collated locally, compiled from each of the eight forces and sent to me. That becomes the Scottish Police Federation's evidence.

However, in this case, I had to go further. In September last year, the First Minister talked about vested interests opposing the power of dispersal. Having been made aware of those comments, I asked more than 20 community beat police officers in our four main cities whether they thought that the proposed powers would be useful to them. None of those officers said that they required more powers of dispersal and almost all of them said that the answer to unruly behaviour was to put more police officers on the street. The reason why that view was not unanimous was that one of them thought that the best thing would be for the courts to take a tougher stance.

From that information, I hope that the committee and everyone else will agree that the consultation process that I carried out on the bill was comprehensive and that the results reflect absolutely the views of police officers working on the street.

**The Convener:** Notwithstanding your consultation, do you accept that there are community police officers at constable and sergeant level who are in favour of the power?

**Douglas Keil:** I represent more than 15,000 police officers.

**The Convener:** What proportion of the work force is that?

**Douglas Keil:** It is 98 per cent. I am quite sure that a number of officers will think that more powers would be useful. I do not doubt that ministers and MSPs have spoken to police officers who have said that they could use extra powers. If people do not see the detail and complexity of the power as set out in the bill, the simple question whether they would like more powers is bound to receive a yes answer. I want to impress on you the point that, in the consultation exercise, I ensured that people knew the detail and saw precisely how bureaucratic it would be to set up a designated area and how ineffective the proposed dispersal power would be, given existing law. Like many other agencies, we have taken the view that there would be no advantage in having the proposed power of dispersal.

**The Convener:** So a problem for your organisation is the complicated way in which the power is set out in the bill.

**Douglas Keil:** The power is complex, but what we are saying is that we do not think that it adds anything to existing law.

**The Convener:** If we reinforced through legislation the power that you claim you already have in a simple form and said that it was an operational matter for the police to exercise the power to disperse and that the bill was simply underlining that power, would your organisation find that acceptable?

**Douglas Keil:** I cannot think of an amendment to current legislation that would add anything.

**The Convener:** We would simply be restating the law.

**Douglas Keil:** Why would you want to restate it?

**The Convener:** Well, why not?

**Douglas Keil:** Do you mean that you would be publicising it?

**The Convener:** If there was a dispute about whether you had the power, we could make it absolutely clear that you did and we could take out all the bureaucratic bits. Would the police then be in favour of the power?

**Douglas Keil:** We would be in favour of anything that made our job easier and solved the problem, but we do not think that there is a legislative solution to that. We can have as much legislation on the statute book as we like, but unless we have police officers to deal with the problem, there is little point in that legislation. After carrying out a close examination of part 3 of the bill, we do not think that it adds anything to the current common-law offence of breach of the peace or the statutory powers under the Civic Government (Scotland) Act 1982, which together have the situation covered. In our view, the issue is that we do not always have the resources to deal with such problems.

**Cathie Craigie (Cumbernauld and Kilsyth) (Lab):** I refer back to the consultation; I am sure that we will return to the power of dispersal. Douglas, you explained how in the consultation process you did over and above what you would usually do, by consulting a further 20 operational officers on the beat. Were the people who responded to your consultation involved in the local consultation process that the Executive carried out and in which MSPs were involved in their constituencies in the summer? Did you get a purely professional opinion on the bill?

**Douglas Keil:** I do not know whether the individuals to whom I spoke in that add-on consultation had been involved in the consultation process before. Several of them had been consulted by the local representatives of the

federation, but there is no question but that, on that particular day, we got right down to street level and the officers who work community beats in the four main cities in Scotland.

I do not know how long you want me to talk about the consultation exercises that I have carried out. There has been some controversy over the evidence that I have given previously, so I have taken the opportunity to check again that I am absolutely right. I did that last week with our national committee. The correspondence that I have received since I first gave evidence to the Justice 2 Committee has confirmed overwhelmingly that the views that I expressed were the views of the people whom I represent.

10:15

**Cathie Craigie:** Do those views represent a professional, operational viewpoint, rather than the community cops who are on the beat reflecting what the people in their communities think?

**Douglas Keil:** I did not ask community beat officers to reflect the views of the people whom they police; I asked for their opinion.

**Stewart Stevenson (Banff and Buchan) (SNP):** Good morning, gentlemen. I want to deal at no great length with definitions. Her Majesty's chief inspector of constabulary for Scotland says pithily:

"Policing remains a source of first and last resort".

I think that that summarises the position extremely well.

Let us turn to the definition of antisocial behaviour that is used on three occasions in the bill. In essence, someone is antisocial when he or she

"(a) acts in a manner that causes or is likely to cause alarm, distress, nuisance or annoyance; or (b) pursues a course of conduct that causes or is likely to cause alarm, distress, nuisance or annoyance".

That definition exists already in the extant legislation on antisocial behaviour orders. Do you think that the definition is adequate? Does it create any difficulties? Is it broad enough? I suspect that you are going to say that it is broad enough, but that is up to you.

**Chief Constable Strang:** In my view, the definition is broad enough to encompass what people would consider antisocial behaviour resulting in some sort of a legal response. Some people think that smoking cigarettes is antisocial, but I do not think that they would want the police to get involved. We could have a huge debate on what it means to be civil to one's neighbour and what constitutes thoughtlessness, unhelpfulness or antisocial behaviour towards those around us.

However, in relation to the sort of behaviour that would ultimately warrant the intervention of the law, the causing of alarm or distress is a high enough threshold—we can say that such behaviour is significant and would warrant the intervention of the law. The definition is not so wide as to be all encompassing and cover everything that someone might, perhaps unreasonably, think was antisocial.

**Stewart Stevenson:** Evidence from the National Autistic Society Scotland suggests that the definition might needlessly cover people who, because of their condition, which is developmental, are not knowingly causing alarm or distress. The NAS is arguing for the definition to reflect, in some appropriate way, the fact that the person has to know that they are causing distress. How would you feel about that?

**Chief Constable Strang:** I would refer to the common sense and discretion of the police officers in dealing with people who are in distress. We often deal with people who behave strangely for one reason or another and not all of them are committing criminal offences. It is true that the police are the source of first and last resource. If there is some incident or scene and a person is in distress but people do not know whom else to call, they immediately call the police. Police officers are used to turning up at an incident or to dealing with a person and having to assess whether they have a medical condition or are drunk or are behaving in a disorderly manner that requires the force of the law. That is the comfort that I would offer to those who are concerned about the situation. Police officers would not automatically decide only from someone's behaviour that that person should be arrested for disorderly behaviour, for example. We would investigate the position and respond accordingly.

**Stewart Stevenson:** So, in considering the appropriate response, police practice would include an assessment of whether the person who was causing alarm or distress knew that they were doing so.

**Chief Constable Strang:** Yes. A police officer must always decide how they will respond to such an incident. Even if someone were acting in a way that fell within the bill's definition of antisocial behaviour, a police officer would not be obliged to arrest the person. The police officer could deal with the person by giving them a warning or by telling them not to do it again and sending them on their way. Police officers have a wide range of intelligent responses to that sort of behaviour.

**Stewart Stevenson:** I invite Douglas Keil to respond on the same general ground.

**Douglas Keil:** I agree with all of that. Antisocial behaviour is extremely difficult to define. It strikes

me that the common-law definition of breach of the peace is similar. However, I do not have suggestions for improving the definition of antisocial behaviour. Robert McKay's evidence raised an important point because, as Mr Strang said, within the limitations of our training we do our level best to establish what causes behaviour that disturbs others.

**Stewart Stevenson:** Is that a suggestion that there may be scope for further and more focused training?

**Douglas Keil:** We have taken that view previously, particularly some years ago when care in the community was being introduced. Many people who would otherwise have been in hospitals started to live in the community, which caused us some concern, because we are not medically trained. To be fair to the police service, we have improved. However, I am still asked now and again whether we are adequately trained to deal with people who have mental health problems.

**Elaine Smith (Coatbridge and Chryston) (Lab):** Just to take that point slightly further, many concerns have been raised about equal opportunities issues, in particular the possibility of children with special needs being subject to ASBOs. Mr Strang said that police officers' common sense and discretion would come into play. However, that would rely on judgment. I get the feeling from the witnesses from whom we have heard that they would much prefer the law to be clearer. For example, the definition of antisocial behaviour could be that someone acts with the intention to cause alarm and distress. Given the evidence that the committee has taken, we will obviously have to consider that issue at a later date. Do either of the witnesses have concerns about the inclusion of the word "intent" in the definition of antisocial behaviour? Would that concern you?

**Chief Constable Strang:** On your first point, I understand that people want clarity; it is only fair that the population should know what does and does not constitute an offence—that is the purpose of having laws that state what is and what is not an offence. However, I would not like us to get to the position where there has to be an automatic response to particular behaviour that does not allow for police discretion and the exercise of judgment and common sense. The strength of our policing in this country is that police officers use their discretion. Of course, that means that there is a variety of possible decisions, but I regard that as a strength rather than a weakness.

It is difficult in law to prove intent. If someone is shouting and swearing in the street, that can be captured in evidence on video or by observation, so that it is easy for officers to say in a court



setting what they saw. That approach is behavioural, descriptive and clear cut. If we are then told that, in addition, we must show not only that they shouted and swore but that they intended to cause alarm and distress to other people, that would be difficult to evidence. I am not sure what more you would want a police officer to provide in the way of evidence to a court to demonstrate intent, over and above the description of the behaviour that they saw.

**Elaine Smith:** Might proving intent be a factor only once the case was referred to a court or to a children's panel, for example? That would mean that the bill did not have to deal with intent. If intent were included in the bill, would that in fact cause you problems in carrying out your duties?

**Chief Constable Strang:** I think that there would be difficulties, as I have described, with the inclusion of intent. I want to reassure you, however. If your concern is that children with learning disabilities will end up in court on an antisocial behaviour charge, I have to say that I think that that scenario is very unlikely. As I said, we look at the whole incident and at behaviour in the round. If someone clearly has learning difficulties and special needs, they will be dealt with appropriately. It would not be appropriate for such a person to be charged with a criminal offence and I very much doubt that the procurator fiscal would proceed with such a case in any event.

**Elaine Smith:** The Executive says that it is confident that the bill will not discriminate against any groups. Do you think that its confidence on that matter is justified?

**Chief Constable Strang:** Yes, I absolutely agree with that.

**Cathie Craigie:** We have spoken about the usefulness of intelligence to you in carrying out your job. I know from speaking to the police in my area that they gain from exchanging information where that is appropriate and allowable under the current regime. Some measures in the bill would make it easier for bodies to share information. What is your experience of information sharing? Do you feel that we need stronger measures, or does the bill go far enough?

**Douglas Keil:** Are you referring to the strength of measures right across the bill?

**Cathie Craigie:** I am asking in general about the police service, social work and housing services and other organisations or public bodies sharing information.

**Douglas Keil:** Partnership working, which is probably what we are referring to, has been growing at a tremendous rate recently and it is most definitely a good thing. Apart from part 3,

there is nothing in the bill that we would take issue with. There are one or two fine details that we would query. For example, I have asked before why only the police and the local authority, and not some of the other public agencies, have to sign up to the antisocial behaviour strategy, but that is a detail. The clear intention is that there should be an exchange of information and I am quite content with how the bill tackles that.

**Chief Constable Strang:** Cathie Craigie is absolutely right to say that we rely on information and intelligence coming in from the public. However, if we are to solve antisocial behaviour problems in communities, the public agencies clearly need to share information, too. Mr Keil talked about partnership working. Information on individuals or families is held by the police and by the housing, education, social work and fiscal services. There is now much more of a culture of sharing such information, particularly in relation to child protection issues. At the United Kingdom level, a huge spotlight has been put on the sharing of information between agencies and on the misunderstandings about the restrictions that data protection legislation imposes. There is still some way to go on that but, if we are to make an impact on antisocial behaviour, it is essential to encourage information sharing between public agencies.

**Cathie Craigie:** We have heard evidence—and I know from speaking to MSP colleagues that the problem is not unique to my constituency—that police can encounter difficulties in trying to get information on private landlords. We know that antisocial behaviour bridges all housing tenures, but I have been advised, and our evidence has suggested, that police are having particular difficulty in identifying private landlords—when there is a problem in a close or a street, it can be difficult to identify the landlord of a private rented property. One of the bill's proposals is that, in designated areas, private landlords would be required to be registered in some way. Do you have any views on that? Do you see the identification of private landlords as another important tool in the box that you use to tackle antisocial behaviour?

**Douglas Keil:** I heard the evidence from the operational police officers from Cumbernauld who attended a previous meeting of the committee, at which that point was addressed. However, in the federation's consultation exercise, the matter was not raised as an issue on which we would have strong views.

**Cathie Craigie:** When you consulted your members on the bill, did not the point about private landlords arise in the views from any of the cities?

**Douglas Keil:** Not in the initial consultation exercise. The issue that you raise about private landlords is not one that we have taken a view on.

**Chief Constable Strang:** It is helpful if we can identify private landlords, but I do not have a view on whether there is sufficient provision for that in the bill.

10:30

**The Convener:** On information sharing, do police officers feel that they cannot be proactive in providing information locally? If police officers have been called to premises on a number of occasions because of antisocial behaviour, there is clearly an issue about the way in which the landlord maintains the property. There might be a strong case for using an antisocial behaviour order, if the police have the information, but the matter may not have gone to the housing department or anyone else. Do you see it as the role of police officers to deal with such issues actively, when they have the information, by going and asking people to respond, instead of waiting for somebody to ask the question? I understand that you cannot give the information but that, if somebody asks, you can confirm that there has been an incident.

In many cases of antisocial behaviour, it is not an individual incident that is involved. When the camera is pulled back, you realise that the same incident has been happening every day for 20 days. Even if the offence is a breach of the peace, the situation is very different if it has been happening every day for 20 days, although each individual incident might look different close up. What is the view of your organisation on the need for the police to take a proactive role in giving information?

**Chief Constable Strang:** You raise an important point. Local practice varies according to what has been negotiated locally. The strength of the Antisocial Behaviour etc (Scotland) Bill is in the development of an antisocial behaviour strategy. Part of that strategy will be protocols about information sharing and how one goes about calling a case conference for a specific locality. The bill will put that on a much more formal and consistent footing across either a force area or the country.

It should be open to any of the agencies that are involved in the antisocial behaviour strategy to say, "Look, we have got a problem here." The housing department, the education department, social work services, the police or the reporter should be able to say, "From the information that we have on our books, there is a problem here. What information have you got? What is the problem and how can we try to resolve it?" I see a

role for the police and other partners in being able to initiate information sharing through the antisocial behaviour strategy.

**Mary Scanlon (Highlands and Islands) (Con):** I have one more question supplementary to Cathie Craigie's question, specifically about joint working in health. In the Highlands and Islands, in cases of attempted suicide, there have been particular problems in getting social workers, mental health officers or community psychiatric nurses. Are you satisfied that the police are getting the necessary support from mental health services, psychiatric services and police surgeons?

**Chief Constable Strang:** I cannot answer that question specifically, as I do not know the circumstances to which you refer.

**Mary Scanlon:** What is the situation generally throughout Scotland?

**Chief Constable Strang:** Generally, we get that support. We work closely with health services. As I said earlier, we often have to deal with people with medical conditions that are separate from criminal activity, and every police force has police surgeons who are very much involved in dealing with the people whom we take into custody. However, I reserve comment on the specific situation that you are talking about, in the Highlands and Islands.

**Mary Scanlon:** My question was about psychiatric services in general. Do you get the support that you need?

**Chief Constable Strang:** There are occasions when there is an unfortunate or perhaps unacceptable delay. I would not want you to take my answer to mean that there are no problems, and that it would not be helpful if more resources were put in. That issue has not been raised. If the committee wanted more detailed information, I would be happy to do some research around the forces to find out the extent of the provision.

**Douglas Keil:** There are occasionally specific incidents where shortcomings are exposed, but I have no information to suggest that there is a general problem.

**Mary Scanlon:** The committee has received and heard evidence suggesting that in some communities there is a perception that the police do not hold antisocial behaviour as a high priority. Even when contact is made with the police it is often felt that the police do not take the problem seriously enough, or that it takes quite a long time for the police to respond. In fact, in some communities, particularly in Edinburgh, people said that they did not bother phoning the police because it is a waste of their time and the police's time. What is your response to that?

**Chief Constable Strang:** I am not in the least surprised that you have heard that—I have heard it too. If what people perceive as antisocial behaviour is happening and they call the police, then the police take 10 minutes to arrive, by which time it has all moved on and the police cannot do anything, and people are unwilling to come forward with evidence, I can understand communities' frustration. I can also understand police officers when they say that, when they turned up, nobody was committing an offence and nobody was willing to give evidence about what had happened. There is a sense of frustration.

We are talking about the more minor end of the scale of offences. More priority is put on policing and answering calls relating to drug dealing, housebreaking and more serious crimes. As you know, the police have a wide range of responsibilities, including road policing and other crime issues. I accept that we do not attend every call about antisocial behaviour as quickly as the caller would like, but we need to ensure that we get the priorities right, that we deal with the most serious offences and incidents and that we attend as many of the less serious ones as we can.

**Mary Scanlon:** The implementation of the bill will require you to make antisocial behaviour a greater priority than it is at present. There is not a penny for the police in the financial memorandum, and, according to the SPF's submission, there has been a 1.5 per cent increase in police numbers in six years, although the police also have extra duties, from those related to the European convention on human rights to family liaison. You say that you have too few officers and that antisocial behaviour is not a priority. How can you possibly implement what the Parliament is expecting of you?

**Chief Constable Strang:** I do not accept the premise that antisocial behaviour is a low priority. Community policing involves being responsive to the concerns of communities. We recognise fully that antisocial behaviour is a real concern in communities. We welcome that emphasis—it was very much part of ACPOS's response to the bill. For some reason, people have been tolerant of antisocial behaviour and have not taken it as seriously as communities want. I am heartened that the country is beginning to take people's concerns more seriously. Antisocial behaviour has perhaps been dismissed in the past as not being very serious because it is low on the spectrum of offending.

As I said earlier to the committee, the real strength in the bill is the recognition that antisocial behaviour is not just for the police to deal with. Underlying your question is the implication that the police need to do more. We need to do things differently and that is what we hope to do through

the provisions in the bill. We will identify with local authorities and other partners where the hot spots are. We can then draw up a hot spot action plan to address what we are going to do in an area. We can ask questions such as, "Are we going to put community wardens in?" and, "Do we need CCTV?" We can check what facilities are available for young people and what the community resources in an area are doing.

Although, as Mary Scanlon says, we do not have more police officers to devote to this work, we are going to approach the issues differently. If that approach works properly, it will have an impact on the level of antisocial behaviour. The whole purpose of the strategy is to reduce the incidence of antisocial behaviour in the long term. If we do that, we will reduce the level of demand on police forces.

**Mary Scanlon:** So, you do not think that police forces need any more money to implement the bill. You are quite happy with the configuration that you have been given.

**Chief Constable Strang:** As you know, we have a fixed grant-aided expenditure allocation. As a chief constable, I have to meet the demands that are upon us. If, let us say, the threat levels of international terrorism go up, we have to divert officers to patrol ports and airports. We do not get any extra money for that work; we have to divert resources. If, for example, a major investigation is required, officers are diverted to work on it.

We recognise that working in partnership to develop antisocial behaviour strategies is an important function for the police. We will put resources into that work. Clearly, we would always like more resources. Any public sector organisation would always say that, if it had more resources, it could deliver a better service. We will use the resources that we have intelligently and to the best effect.

**Mary Scanlon:** You have not answered my question. Do you need more resources to implement the bill?

**Chief Constable Strang:** I suppose that the reason why I have not given a yes or no answer is because I accept the reality of public sector life in Scotland. If we had more resources, could we put more police officers on the street and satisfy more communities? Yes, we could. I suppose that the decision about how much Scotland wants to invest in policing is a matter for politicians and the electorate. It is a question of priorities. Do we want to put more money into the health service so that we can fund more hip operations or so that more drug addicts can be helped? The question is too complex for me to be able to give a simple yes or no answer.

**Douglas Keil:** I have a great deal of sympathy for anyone who contacts the police because they have been adversely affected by antisocial behaviour. They either do not get a quick enough response or they do not get an adequate response. Although we have taken a certain view on particular parts of the bill, let there be no doubt that we understand that antisocial behaviour is a blight on many of our communities. I am referring to antisocial behaviour not only by young people, but by a range of different people who can be threatening and intimidating. In my view, that is entirely unacceptable.

As Mr Strang said, the problem requires a multi-agency approach. Clearly, the police have an awful lot to do with antisocial behaviour. In my view, we quite clearly need to get more police officers on the street. We need to build better and closer relationships with the public. To some extent, we also need to re-establish a respect for authority. I think that, through a lack of police officers on the street and a lack of police time to dedicate to areas in which antisocial behaviour occurs, we are in danger of losing touch with some of the people in our communities. I do not think that the answer is simply a matter of the police going into an area, arresting people and reporting them to the court or the reporter—although that is often necessary; it is more about redeveloping contact and building relationships with people.

As we said in our response to the consultation exercise, the vast majority of young people are law abiding and responsible. They are a credit to themselves and their parents. Statistics show that, in any one year, less than 3 per cent of people commit crimes or offences. Clearly, a small number of them can constitute one-person crime waves. They have to be dealt with and dealt with quite seriously. Early intervention, enough secure accommodation and effective rehabilitation schemes are important factors in that respect.

Beyond that, there are many in our communities who will be unruly and require police attention. Their behaviour does not always amount to criminality, but if there are police officers on the street, at least the behaviour can be dealt with. In fact, I think that all youth crime, antisocial behaviour and, indeed, violent crime could be dealt with more efficiently and effectively if sufficient police officers were on the streets. In my view, the certainty of being caught and punished is the only real deterrent. I think that that is what the public want and I think that that is what the Executive should be heading towards.

**Mary Scanlon:** You mentioned the police redeveloping contact with their communities and the requirement for more police officers, but you did not mention community wardens in your written submission—nor did ACPOS in its

submission. I have heard informally that the Scottish Police Federation—or some of its members—is strongly opposed to devolving police powers to community wardens. In fact, I heard from some of your members that they call the provision of community wardens policing on the cheap and believe that the wardens are inadequately trained and poorly equipped. The bill will provide a fair few millions of pounds for community wardens but will not provide a penny for an extra policeman. Is my impression of the Scottish Police Federation's view wrong?

10:45

**Douglas Keil:** Our view is that community wardens who carry out civic functions are entirely appropriate. However, we believe that it is extremely important that there is a clear distinction between community wardens and police officers. In Scotland, that distinction exists—there has been no transfer of police powers—and what we are concerned about is the proliferation of police powers. Community warden schemes are starting up around the country and we do not take issue with any of them, provided that there is a clear difference between the wardens' function and that of the police.

**Mary Scanlon:** So you are happy that community wardens can issue fixed-penalty notices and so on.

**Douglas Keil:** That is an important issue because community wardens, as they have been designed to date, do not have an enforcement role. Putting a community warden into an enforcement role opens up a whole different argument. They would need to be properly trained, because issuing fixed penalties will bring them into conflict with people. Therefore, it is not so much that the federation opposes community wardens; it is more that we regard them as having a role that is distinct from the role of the police.

**Mary Scanlon:** So you would be happy with the money that is going towards providing more community wardens. I understand that there is a pilot in Tayside and Grampian to pay special constables. You would be happy about money going towards providing more community wardens rather than more police officers.

**Douglas Keil:** Having said what I did about community wardens, I should say that we also said that we would prefer the new finance to be spent on providing extra police officers. The case for having more police officers in Scotland is clear.

We were not fully consulted on the proposal to carry out a pilot in Tayside and Grampian on the payment of special constables. We were made aware of the plans and we have some concerns about the pilot, because it might fundamentally

shift the nature of the special constabulary from being a volunteer force to becoming a sort of paid reserve. However, that is a big subject and discussion of it is different from discussion of how that impacts on the Antisocial Behaviour etc (Scotland) Bill.

**Cathie Craigie:** My question is for Mr Strang, because it relates to his area of Dumfries and Galloway. Committee members have been consulting up and down the country and I was able to go to a consultation with community groups in Dumfries, where the subject of community wardens was discussed. I do not know whether he was an ex-member of Mr Strang's force, but there was a particular gentleman there who said that the local police rely heavily on the intelligence that they get from local communities. He also said that community wardens would be another pair of eyes and ears and could help the police in their fight against crime. I understand that Dumfries and Galloway does not have community wardens, but has community development agents who help in local areas with the environment, litter and so on. Do you agree with the gentleman from Dumfries that community wardens would be another set of eyes and ears on the streets?

**Chief Constable Strang:** Yes, very much so. There will be two community warden schemes starting in April in Dumfries and Galloway, one in Stranraer and one in north-west Dumfries. The wardens will be employed by the local authority, not by the police, and we see them representing communities, being in communities and sorting out all sorts of problems. They will pass on information not just to the police but to other departments in the council—if there are repairs needed to lighting or housing, for example—and they will play a valuable role in encouraging community activity. They will be confined to quite a small area, so they will get to know people well and, as you said, will be eyes and ears.

**Cathie Craigie:** Do you not foresee any difficulty for them in working with the police?

**Chief Constable Strang:** They have not yet started, but we will want to ensure that we have good communication links with them. If there is anything that we need to pass on to them or that they need to pass to us, we will have to ensure that those communication links are strong.

**Cathie Craigie:** Has there been consultation between the force and the local authority?

**Chief Constable Strang:** Yes. We have worked closely together, as all forces in Scotland have, in developing plans for community wardens. At this stage, we see it as a first run. We shall see how the wardens work and develop working practices. If the initiative is successful, there might be

opportunities to extend it to communities other than the ones first envisaged.

**The Convener:** Are your organisations in favour of the move to civilianised jobs—which, in effect, are non-policing jobs that are currently done by the police—to release police to go out into the local area? Communities welcome a high policing profile, although there is sometimes a debate about how effective that is. Are you also in favour of moves to take police out of the jobs in the court process that somebody else could comfortably do?

One thing is often said to me about policing priorities, and I can sum it up like this. A constituent came to me and said, "I've had major problems with youngsters outside my door. Police response times have been very slow. However, last night, when I was driving home, I was followed by the police. They came to my door, fined me there and then for having my fog lamps on at half past 11 at night and were very suspicious and abrupt in how they did it." For me, that captures the feeling of people in local communities that there are always police officers for football matches, but it is a luxury to have them come to people's areas when 30 or 40 youngsters are gathering.

How do we address that issue of priority? You clearly have a hierarchy of crimes, but the Scottish crime survey indicates that a hugely significant number of respondents think that youngsters or adults gathering in their local community is the most serious problem. How do we get consensus on what the policing priorities might be?

**Chief Constable Strang:** To answer your first point, it seems to make sense to have as many police officers as possible available for operational deployment. If there are tasks that are currently being done by police officers that could be done by someone without police powers, that makes a lot of sense, as they are more likely to be expert at that activity. There has been a long history of civilianisation and releasing police officers to operational duties. In relation to court custody and prisoner escort, the task of driving prisoners from the police station to court or prison will be contracted out later this year. That will free up police officers for operational duties.

There are many priorities. You have highlighted the whole issue of road policing. I have to say that people are more likely to be killed on the roads as a result of people's driving behaviour or defective vehicles than they are through antisocial behaviour, so others might argue for a different priority in terms of absolutes. There is no either/or choice. We need to respond to all the community's needs.

I would say this about the group of youngsters hanging around. If the response that the public want is for the police to turn up and send the group of people on their way, we can do that when a police officer is available to do so. However, it will not solve the problem, as the group will be back on the next night or as soon as the police officer has gone. Can we guarantee that there is going to be a police officer on every corner to stop antisocial behaviour? No, it is clear that we cannot.

**The Convener:** But what if it were to become an offence for them to come back? Surely that is what characterises the problem.

**Chief Constable Strang:** No, I do not think so. Clearly, if people are behaving in a disorderly manner, the fact that they are committing an offence has not prevented them from behaving in that manner in the first instance. So—

**The Convener:** We cannot gather evidence because nobody will come forward. If it were to become an offence to be in the place where the group is gathering, the issue of having to identify people would not arise. The police have told me that they go to places but they cannot see the crime that has been committed. They say that they cannot lift somebody who might be under-age drinking even if there are bottles of drink beside them. The only thing the police say they can do is to take the drink from them. That is the nub of the argument around dispersal.

**Chief Constable Strang:** To finish the first point, even if we keep coming back again and again, we will not solve the problem. The real strength of the bill is that it says that we need to work together to look at the root causes of antisocial behaviour. We need to ensure that appropriate resources and facilities are available and the police need to be in a position to respond appropriately, which is where intelligence-led policing comes in.

If we know that there is going to be a problem every single Friday night at a particular location, it does not take a genius to work out that some sort of intervention needs to be made there—the situation does not need to be left until calls come in. We need to be taking what we call a problem-solving approach, which is one that looks at problems, tries to look ahead to try to predict outcomes and tries to intervene in a constructive way.

Will we ever eradicate antisocial behaviour? Clearly, we will not. However, it is clear that we can have an impact in communities that are adversely affected by antisocial behaviour at the moment.

**Douglas Keil:** On the question of civilianising jobs—as I think the convener put it—that process

has been going on in the police service for as long as I have been in it and it is not at an end. Mr Strang referred to court security duties. The federation has no difficulty with the issue of escorting prisoners to and from court, but we have a slight concern about security in courts. We continue to think that the presence of a police officer will be required in certain courts. The number of police officers who would be released from court security duties is still to be established.

If antisocial behaviour teams are established under the bill, a police officer would be required to be attached to the antisocial behaviour team at the local authority and police officers would have to be diverted to deal with that work. It seems to us that the effect of every new piece of legislation is to take police off the street.

There are jobs that have to be done in back offices that will never civilianise. However, we are quite clear that where an officer's powers, skills or experience are not required, the job should be considered seriously as one that support staff could carry out. I have no difficulty with that at all.

If members of the committee were to spend a little time in a police control room or in a contact centre, they would see the range of calls that come in and would begin to get a picture of how staff decide whether a call from an elderly person who is being annoyed by youths on a street corner is more important than one made by someone whose house has been broken into or who has had their car stolen. It is a real problem.

Mr Strang will correct me if I am wrong, but I think that we are beginning to consider a national standard attendance policy. There are different response rates in different parts of the country because some places are busier than others. Although prioritisation is something that we have done since time began, right now it is a difficulty. It is a frustration for operational police officers to have to drive past groups of unruly people because they have a more important call to go to at the other end of their area. That is one example of why we feel that we need more operational police officers on the street.

**Patrick Harvie (Glasgow) (Green):** We have touched on the dispersal of groups a couple of times, but I have some further questions on the subject.

My first question is for Mr Strang. It has been suggested that the designation of an area would send a message to young people or to the community that there is a problem in that area and that it has to stop. A moment ago, when you spoke about the police taking a problem-solving approach, you seemed to suggest that there is an opportunity to send out that message. Will the ability to designate an area and to put signs up on

lampposts and photos in the newspapers be an effective way of sending a message? Will it complement the abilities that you have at the moment?

**Chief Constable Strang:** The introduction of a problem-solving approach, as you described it, and which I described as identifying antisocial behaviour hot spots and coming up with an action plan to deal with them, will of itself send out the message that we are taking antisocial behaviour seriously and that we, as local partners, will do something about it. We have never had designated areas, so we are being somewhat speculative about the impact on an area of designating it a hot spot for antisocial behaviour.

The question is whether designation will make the people who have been causing trouble in that area change their behaviour. I have said already that it is clear that if they are committing offences at the moment, they are not people who hold the law in high regard. Perhaps they feel that they will not be detected, but that is a separate issue. The knowledge that they are breaching the law is not a restraint. Designating an area will not of itself have a major impact on changing people's behaviour.

11:00

**Patrick Harvie:** It has been suggested that designation might have a negative impact, in that it might attract people to an area for a little sport, shall we say. Do you think that that is a reasonable fear?

**Chief Constable Strang:** I can understand that comment and I am not sure that that fear can be discounted entirely. One of our frustrations is our concern that we will get into a cat-and-mouse game, which we have experienced with street races in which people bait the police deliberately in the hope of getting them engaged in a car chase, which of course can be lethal. There is a possibility that that fear will be realised, but it is not necessarily realistic.

**Patrick Harvie:** You have both mentioned the difficulties that could be involved in designating an area, given the bureaucratic hoops that would have to be jumped through. I am keen that, if the dispersal powers are introduced, more organisations are consulted before designation takes place. I am thinking not just of local authorities, but of organisations that are involved in youth work and community mediation. What do you think about that?

**Douglas Keil:** There are two main problems with the proposed power of dispersal, the first of which is the bureaucratic process that would have to be gone through in designating an area. The bill says that we would have to gather evidence first, then report, consult, publicise and advertise before

we were authorised to designate an area. That would involve a lot of police work, both on the street and behind the scenes. To use the bill's terminology, statements would have to be taken from witnesses who had been "alarmed or distressed" by the behaviour or action of groups in order to establish that the antisocial behaviour had been "significant and persistent". Decisions would then need to be made about the parameters of the relevant locality, the specified period of designation and/or the particular times within a specific period. All that work would then have to be reported in writing and submitted to the local authority for consultation. After that, the senior police officer who gives the authorisation for designation would have to publish a notice in a newspaper and display the notice in conspicuous places within the designated area.

In that process, we would run the risk of stigmatising areas—and the well-behaved and law-abiding people who live in them—and we would run the risk of attracting undesirable people who would simply come along to the area because of the possibility of their being chased by the police. You asked whether the designation of an area would send a message. The best message that we can send is a police officer to deal with the problem.

**Patrick Harvie:** I have a question for Mr Keil and another general question for both of you.

You say that you have not spoken to police officers who feel that they need the power of dispersal, but we have heard from Jack McConnell that he has not spoken to police officers who say that they do not need the power. It is difficult to understand how you can be speaking to police officers in the same country, let alone the same forces. How can your experience and Jack McConnell's experience of speaking to police be so different? I would ask Jack McConnell that question if he were here, but I am asking you as you are here.

**Douglas Keil:** As I said, I have no doubt that the First Minister and other MSPs have met police officers who said that they could use extra powers. However, without an explanation of the detail of the proposed powers or a close examination of the bill's terms on authorisation and of the requirements once authorisation has been given, which involve questions such as how to operate the provisions in the bill and how far apart two people have to be before they are dispersed, a police officer who has not seen the difficulty would answer yes to the simple question whether he or she wants more powers to deal with unruly groups.

I have consulted a large number of police officers and ensured that they had the details that I described. When police officers see the details,

their clear view is that the power to disperse is bureaucratic and that it would be ineffective and would add nothing to current law. Not simply police officers have said that; I am not a lawyer, but lawyers who gave evidence to the Justice 2 Committee on the subject took that view, too.

**Patrick Harvie:** You think that you and Jack McConnell are speaking to similar police officers, but that the difference is the amount of detail that those officers have about the proposals.

**Douglas Keil:** Yes.

**Patrick Harvie:** Another concern is that the exercise of the power of dispersal would undermine relationships between communities, the young people in those communities and the police. Do you share that fear?

**Chief Constable Strang:** The debate about the so-called power to disperse has been blown out of proportion and is a distraction from the main thrust of the bill. The ACPOS position, which was in our response to the consultation paper, is that current powers are sufficient to deal with antisocial behaviour. If people are disorderly on the street, behave in a way that causes alarm and distress or commit a breach of the peace, adequate powers are available to deal with them. Therefore, it is hard to envisage how those powers would be used in addition to other powers.

**Patrick Harvie:** Surely the crucial difference is that it is proposed that the police will have the power to disperse people because of their presence in a locality where significant, persistent antisocial behaviour has taken place, and not because they are committing an offence. If people were moved on or dispersed, or if they were charged for refusing to disperse when they had not committed what could be described as an offence at the moment, would that undermine their relationship with the police?

**Chief Constable Strang:** I cannot see circumstances in which people who are committing no offence other than being in a place would be moved on. If people caused alarm and distress and a breach of the peace, they might be warned and told to move on.

The danger is that the public will be misled into thinking that police officers do not have powers to deal with antisocial behaviour. If the provision is enacted and the perception becomes that the police can move people on in a designated area, conflict could arise in areas that are not designated. Police officers could be dealing with youngsters who might say, because they do not understand the current level of police powers, "This is not a designated area so you can't move me on." We consider that the current level of police powers is adequate to deal with antisocial behaviour.

**Douglas Keil:** We have talked about the authorisation process. Before any of the proposed powers in section 19 can be exercised, an officer in a designated area must have

"reasonable grounds for believing that the presence or behaviour of a group of two or more persons in any public place in the relevant locality has resulted, or is likely to result, in any members of the public being alarmed or distressed."

When those conditions apply, a constable

"may give ... a direction requiring the persons in the group to disperse".

As I said, that raises the question of what the word "disperse" means. How far apart do two people have to be before they no longer form a group? How far away do they have to move before they are dispersed? That is not a flippant point. A police officer must think about such questions before he or she exercises any powers.

A constable may then

"give ... a direction requiring ... persons whose place of residence is not within the relevant locality to leave the relevant locality or any part of the relevant locality".

That seems clear enough. Consequently, it is clear that a resident of the relevant locality can be dispersed from a group but cannot be directed to leave the relevant locality.

Under section 18(2)(c), the bill provides that a constable may give

"a direction prohibiting any of those persons whose place of residence is not within the relevant locality from returning to the relevant locality or any part of the relevant locality during such period (not exceeding 24 hours)".

That also seems clear enough. However, if the problem is that the group is simply standing in a particular place in a way that is objectionable, provided that the group complied with each direction, constables could have to reissue the direction every 24 hours. Similarly, superintendents could have to reauthorise areas every three months.

Under section 19(2), the bill provides that

"A person who, without reasonable excuse, knowingly contravenes a direction given to the person under section 18 shall be guilty of an offence"

and may be arrested. In my view, that new power makes little or no discernible difference.

We cannot think of a set of circumstances in which the existing powers would be insufficient or in which the new powers would be more appropriate, efficient or effective than those that we already have. If anything, as Mr Strang has said, the new powers would raise the public's expectations to the point at which they thought that the police could deal with antisocial behaviour



on any occasion. For the reasons that I have already given, I think that that is impossible.

**Donald Gorrie (Central Scotland) (LD):** There is general agreement that, either under existing laws or under the bill, the police should deal with groups that are seriously misbehaving, but there are also groups of youths who go about as if they were in a sort of open-air youth club—perhaps because there is not a real youth club that they can attend. Such youths may not be doing anything wrong, but they may intimidate and worry local citizens, because having 20 teenagers around can be slightly worrying. Have you any advice on how the latter law-abiding group of young people could be better dealt with?

**Chief Constable Strang:** I would recommend a proximity conference, in which the young people and older people in the community are brought together so that the older people can describe the impact on them of the young people's behaviour and the young people can describe the intentions behind their behaviour. Such conferences have been found to be enormously successful. That idea is at the heart of restorative justice, which says that, if there is a breakdown in relationships, we need to get people together to talk about and deal with the problem.

If the young people do not have criminal intent and are not damaging property or breaking windows—that is, if we are talking not about serious antisocial behaviour, but about what we might describe as an inappropriate fear on the part of people who are not in that group—we would look to that sort of solution. The police do not need to move people on if, as you described, they are doing nothing more than enjoying youth-club type activities in the open air or in a park.

**Douglas Keil:** I have never heard the term “proximity conference” before, but I recognise what Mr Strang means.

When I worked on the beat, if I had that type of difficulty and I had 10 or 20 minutes to attend to three or four areas in my beat where that was a problem, I would try to build relationships with the people who were standing there. It is a question of explaining to the young people why their presence might be a problem and encouraging them to look for an alternative place in which to hang around.

I agree that many people think that the problem comes from a lack of structured activity and a lack of alternatives for young people. I am sure that that is the case in some areas. In my view, the solution is not only about police enforcement, although that is sometimes clearly necessary. Mr Strang's proposal makes absolute sense to me.

**Donald Gorrie:** That is a helpful suggestion. There is a lot of rhetoric about early intervention, but in my experience very little such activity takes

place. There are some good schemes whereby the police are involved with young people. An example of that is the Edinburgh youth café, which is just round the corner. Is there more scope for proactive policing activity, perhaps along with street youth work, to try to tackle such problems even earlier than Mr Strang has suggested?

**Chief Constable Strang:** There is an argument for that. For instance, the purpose behind community constables going into primary schools is not only to issue messages about safety and the dangers of alcohol and drugs, but to develop relationships with the young people and to build a positive image of the police. I suppose that it all comes back to the question of resources and priorities. Although it is probably good for police officers occasionally to visit youth clubs, develop rapport and share information, we need to balance that approach with attending to a list of outstanding calls. The situation is difficult.

That said, I very much agree with Mr Keil's comment that we should engage constructively with young people. Police officers should be seen as part of a community and as a group of individuals, or part of an organisation, that young people can go to if they have problems or information, not as the enemy or as representatives of an older, more hostile section of the community.

11:15

**Cathie Craigie:** I cannot speak for other areas or cities, but I know that in my area community cops get involved with youth clubs—indeed, every community cop in my area would be trying to get involved with young people. I assumed that that happened everywhere. If that does not happen, it certainly should do.

I agreed with David Strang's comment about the power of dispersal being blown out of proportion. As I see it, although the police have powers to disperse people, they do not have the power to designate an area in which a problem exists. I consulted the community in Cumbernauld and Kilsyth widely on this bill; we had a public consultation over the summer and held a community forum-type conference to which representatives from all community groups in the constituency were invited. Not everyone who was invited turned up—if they had, we might not have had enough room for everyone. The conference involved the police, community groups, individuals who had experienced the antisocial behaviour of young people gathering in a particular area and the community police officers who had dealt with the matter.

Although the community had been blighted by that antisocial behaviour, the relationship between

the community and the police had not been stretched; in fact, they had been brought very much together. The individuals had not complained that the police were not taking the matter seriously enough. The fact is that the police could do nothing about it. By the time that the police had been called and had come out, the kids, who had been gathering in a garden next to a hut that seemed to be attracting them, had scattered. It took about two years to get someone into court over that matter. The day after that young person was sentenced, one of the residents in the area had his tyres slashed and his garden gate damaged.

The police should have been able to say to that group of young people, "You can't gather at the corner of your friend's garden between the hours of 8 o'clock and 1 o'clock in the morning." That is how I see the bill being used. The police will not have to use it every day of the week or even once a month. I know that the police already have the power to move people on, but they do not have the specific power to designate an area in which a problem exists.

The Union of Shop, Distributive and Allied Workers, whose representatives will give evidence later this morning, has submitted evidence highlighting the extreme circumstances in which its members have been placed as a result of people gathering next to their shops. I hope that you will listen to the union's witnesses. I do not know what they will say in their oral evidence, but USDAW's written submission shows that there is a clear problem. Do you agree that the police should find part 3 of the bill, which is about designating an area, useful in extreme cases?

**Chief Constable Strang:** The problem is not that young people are gathering in an area, but that offences such as tyre-slashing and damage to property are being committed. To offer a solution to the problem that you described, I would ask, "Where's the CCTV camera?" A CCTV camera will gather evidence, it does not have to go to court—

**Cathie Craigie:** We are talking about a residential area—two streets in a nice area with no shops. Perhaps you are suggesting that we should have CCTV cameras in every street.

**Chief Constable Strang:** Not at all. What I was saying was linked partly to what you were saying about shop workers and groups outside shops, where there could be CCTV.

Before the power to designate an area kicked in, there would have to have been a persistent and serious problem with antisocial behaviour. The power would not apply to just any residential area. You are telling me about an area in which there has been a persistent problem and in which crimes have been committed for which there is no

evidence because residents and witnesses are not willing to come forward to give evidence. We have to look for a solution to that. The solution could be police patrols at the relevant times, or it could be, if we have to gather evidence of criminal behaviour, CCTV.

If police officers are not available to patrol an area to prevent problems from happening in the first place, they will not be available to exercise the power of dispersal. That power is about dealing with a presence of people. Mr Gorrie spoke about a presence of people who are not causing bother; the situation that you described is about a presence of people who have previously caused bother for which we do not have evidence. I am simply saying that we do not need an additional power to deal with such a problem.

**Cathie Craigie:** In the situation in my constituency, the police patrolled the area but did not have the power to stop those young people going to that particular garden. It would have been of benefit to those young folk not to have been gathering there, because they were eventually only going to get into trouble.

**Chief Constable Strang:** I agree.

**Cathie Craigie:** It would have helped if we had been able to say that, between such and such hours, for a period of time, they could not go to that area.

**Chief Constable Strang:** If those young people are damaging property and behaving in a disorderly way, I do not think that they are going to take any notice of the fact that they are not allowed to gather there. If they are already law-breakers—which is what you are saying—and they are not just gathering for an innocent purpose—

**The Convener:** If somebody returns to a spot so that you can say, "You shouldn't be here, and you can be charged," is that easier for you than the situation in which there is a group of 40 people, a slashed tyre and a broken bottle, and you have to say, "It was one of the 40 of you, though we don't quite know which one"? From which situation is it easier to gather evidence? You are saying that, if people disregard one crime, they will disregard another. Which situation would be the easier to police?

**Douglas Keil:** You raise an important point. If the power to disperse gets on to the statute book, and if an area is designated in the way that is described in the bill, a police officer can advise someone that they are in a relevant locality and that they should go away and not come back within 24 hours. For that to be effective, it would have to be done every 24 hours. The notion that the people who cause the difficulties will, on one telling, simply disappear and never come back is, I think, wrong. To gather evidence of whether the

person was there the previous night and has come back 23 and a half hours later—which would be an offence under the act—would be an incredible complication.

**The Convener:** So, if you had the power without the bureaucracy, you would recognise the point that I make—that it is an easier policing issue to identify somebody coming back to an area than it is to choose one out of a group of 40 as the one who has committed an offence.

**Douglas Keil:** No. That is not my point and I would not like you to think that it was.

If someone in a particular area is putting someone else into a state of fear or alarm, or even annoyance, it is quite feasible for a police officer to warn that individual that his presence in that area is putting another person into a state of fear or alarm or annoyance and that his behaviour is creating a breach of the peace. If he does not desist, the police officer has the common-law power of arrest. It does not matter whether that happens in a relevant locality or not. Not a single example has been given, either today or by other people who have commented, that could not be dealt with adequately under the common law—if you had police officers with the time and resources to—

**The Convener:** Can you understand the feeling of being in a parallel universe that I experience in dealing with the serious issues that people bring to me? I am not talking about the folk who need proximity conferences and need to understand that young people make a bit of noise when they gather. I am talking about people who, over a long period and with the help of the police, have been wrestling with the difficult problem of a place that has become an outdoor youth club—not because there are no youth facilities elsewhere, but because youngsters prefer to gather in that place than to use the free swimming facilities that are available down the road. Youngsters from across the area gather there—they are dropped in the area by their families, who perceive it as a gathering point—and there is evidence that crimes are committed. There is broken glass, graffiti and alcoholic drink, and there is suspicion that there are youngsters under 16 there. The police, to their credit, have made such places hot spots, developed strategies for dealing with them and genuinely wrestled with the difficulty.

After all that, those law-abiding people about whom you are concerned feel that their area has been stigmatised. They say that they cannot invite their families to visit them because of the difficulties with youngsters outside. They feel that something more should be done. The police say that their difficulty lies in identifying the individual who commits the crime, as groups of up to 40 young people are involved, and in getting folk to

come forward when they have already been intimidated by having eggs thrown at their windows, among other things. The police find it difficult to gather the evidence to show that offences have been committed.

Although it is difficult to identify an offence, distress has been caused and the police know that people have been alarmed. Do you not agree that, in those extreme circumstances, it is reasonable to say that the job of the police—doing the same thing that a CCTV camera does in moving youngsters on—should be to police the area for youngsters returning there rather than to identify the individuals, within a group of 30 or 40 people, who are committing an offence? Is it not reasonable, in this parallel universe in which I exist, for us to consider how the power to disperse would support the community that is under stress?

**Douglas Keil:** It is reasonable for you to consider that, and you have done so for several months. However, I feel that there is a lack of understanding between the position that I am taking and the position that you describe. There is nothing missing in the current law—nothing that the proposal for a power to disperse would add. In a relevant locality, how can anyone know whether a person has been warned not to return within 24 hours?

**The Convener:** The police could simply say, “Nobody is going to gather in this area, because distress has been caused to the local community. If you come back, that will be an offence. We have notified the local community that that is the case.” Is that the power that you would want? If the police already have that power, why are these groups still gathering?

**Douglas Keil:** As far as I am concerned, it is because we do not have the time and the resources to attend every call for assistance of that nature.

**The Convener:** Even when the police prioritise the place, target it and have a programme that identifies that they are going to work there? I am sure that there will be a range of views on the use of dispersal powers; however, the local police tell me that their difficulty is that it is not sufficient for them to see somebody standing with drink beside them. They cannot move that person on, although they can take the drink from them. They certainly cannot tell the person to go away and not come back.

**Douglas Keil:** I cannot understand why that is the case. If the conditions exist that would allow a superintendent to designate an area a relevant locality, by definition the circumstances exist to allow the police to use the current common-law powers.

**The Convener:** Folk are saying that there is a persistent problem. They hear the police on a national level saying that they have all the powers that they require; however, they are being told locally that the police cannot move the group away, although they can deal with any offences that it commits. Can you understand why people lose faith in the police? That is a bigger cost to some communities, in which people are effectively policing themselves.

**Douglas Keil:** I said earlier that it is a source of great regret to me that people have lost confidence in the police, but it is certainly not because the police do not have the powers. I cannot explain it any other way. I am sorry. I would need to know the specific details to establish whether a breach of the peace occurred and whether obstruction occurred under the Civic Government (Scotland) Act 1982 before I could tell you precisely what police powers could be employed.

**The Convener:** So you would have to identify an offence. It would not be sufficient that, over a long period of time, 30 or 40 youngsters had been gathering and there was evidence of vandalism and under-age sex. Those things happen, but to police the situation you have to have evidence of individual offences, as opposed to saying, "Enough is enough. This has got out of hand in this local community. To give the local community respite, for a period of three months, while all the other youth work and stuff is going on, we will simply say that this is not going to be a gathering point. This is not a place where your mammy and daddy are going to drop you off for your Friday night's entertainment."

11:30

**Chief Constable Strang:** The bill requires that the person's behaviour causes fear and alarm to other people. If you are saying that the condition is that they are causing fear and alarm, that would constitute a breach of the peace. If they were standing peacefully, at whatever age—whether it was an old-age pensioner or young people—and their behaviour did not cause fear and alarm to others, there would be no power even under the bill. You are describing a power to prevent people gathering where offences had been committed previously. The bill talks about—

**The Convener:** Because it is the same people whom we have not been able to identify as the perpetrators of individual offences, but there is evidence that when the group is present there is vandalism, intimidation, graffiti, paint on cars or whatever. Perhaps there is an issue about an individual's right to go wherever they wish on the public highway, but is it not reasonable that individuals should have the right to sit in their own

living room, rather than have to sit in the kitchen, because they cannot tolerate what is happening outside their door?

I have a wonderful constituency. It is a really good place to live, but right across the constituency—right across it, regardless of housing tenure or the nature of the houses—these issues come up. The police and everyone else have to acknowledge that antisocial behaviour is a serious problem and that, in extreme circumstances, a balance of rights has to be identified. The power to disperse groups recognises that in extreme circumstances, as I have described, where some communities are under siege, they deserve the same respite that the rest of us have when we go to our own homes.

**Chief Constable Strang:** I refer to my opening comments. We recognise that across Scotland antisocial behaviour is a real problem. It is raised with us and we need to take it seriously. That is why we welcome the measures in the bill: they attempt to tackle exactly the problems that you describe. However, the offence in section 19 applies to individuals, not to a group. It is about an individual person committing an offence for which they could be dealt with by a police officer. My real fear in all this—I go back to the power of dispersal being blown out of all proportion—is that from the way you are talking, there is an expectation that if the police are given the power to disperse it will solve all the problems and somehow be the solution to the pain and anguish that communities are suffering at the moment. I think—

**The Convener:** Is it reasonable for people in such communities to expect that if they are experiencing such distress every night that they cannot sit in their own living room or park their own car in front of their own door, the authorities—whichever they are, including the police—will do everything they can to address the problem? It will, perhaps, be about resources, but it will also be about priorities. For example, we always get the police at football grounds, but we do not always get the police to come to a family's door when they are faced with these kinds of problems.

Nobody wants to kid anyone that antisocial behaviour will be solved by one section in a bill, but it is reasonable to think that we will do all the things that might, in part, work towards the broader picture of addressing antisocial behaviour—unless you are saying that the situation will be worse with the bill and that it will actively work against what we are attempting to do with the bill, which is a far more serious challenge.

**Chief Constable Strang:** I think that it is entirely reasonable for citizens in Scotland to have the expectation that you have described if they are suffering at the hands of people who are committing offences—that is why we employ a

police force and why we have a criminal justice system. Of course I am not going to argue that people ought to suffer that; no community should suffer that. Our advice is that the power in part 3—unlike all the other aspects to do with intensive intervention, such as taking the issue seriously and putting in extra resources if there is an antisocial behaviour hot spot—is not the right solution to the problem we face. I would caution you against thinking that, by including the power in question, the world will be dramatically changed in a way that will suddenly stop groups gathering as they do at the moment.

**The Convener:** I can assure you that I would not be naive enough to think that anything any of us could do on such issues would solve the world's problems, but it would be nice if we could ensure that everything we did at least focused on recognising how serious the problem is and if the measures we took, combined with all the other things we are doing, were intended to work towards that.

**Stewart Stevenson:** I wonder whether you have been following the evidence that has been given to the committee to the extent of having read the useful remarks of the Edinburgh Labour councillor who described problems of a similar nature in her area in south Edinburgh over a period of time. I think that her evidence included reference to a visit that some members of the committee made to that area, during which we met community leaders of various political views and none who spoke highly of the co-ordinating influence of an elected representative in bringing to bear resources—such as the police, housing and community education—on the problems.

In the light of that evidence, do you agree that, where the opportunity exists within the existing powers to bring to bear resources on a problem in that way, such a model offers a way forward for solving problems in particular areas? I suspect that I am not alone in having organised public meetings to bring resources together. Such action has not been successful immediately, of course, because an entrenched problem cannot be solved in one day; if it could be, it would probably not be much of a problem. Do you agree that elected representatives, as part of the community leadership, have a key role in seeking to draw resources into areas where they are required and that the example that I provided perhaps shows a way—if not necessarily the only way—in which such problems can be addressed successfully within the existing framework? Or do you have a different view or a different model?

**Chief Constable Strang:** No, I think that that is a very good description of how those sorts of problems can be addressed. Different people have different perspectives on a problem and it is useful

to share them. By concentrating on a particular area, one can put together an appropriate solution. I fully support your proposition.

**Stewart Stevenson:** One of the essences of that would be the multidisciplinary nature of the approach and the availability of many different resources; in other words, the police cannae do it on their own.

**Chief Constable Strang:** That is at the heart of the notion of each local authority developing an antisocial behaviour strategy. This morning, we have not discussed antisocial behaviour orders that would prevent individuals from going to a particular place, but they might be appropriate. That is a powerful element in the bill. If it has been identified that someone repeatedly causes a problem at a particular location, an ASBO might well be an appropriate response.

**Stewart Stevenson:** So you would suggest that the provision for extending the scope of ASBOs to cover children down to the age of 12 would be a useful addition to the armoury?

**Chief Constable Strang:** Yes. I have given evidence elsewhere on this. If the power is appropriate for a 16-year-old, it might be useful for a 15-year-old. I am not saying that it would be appropriate in every case, but I would be happy to see it made available if it was suitable in particular cases.

**Stewart Stevenson:** Mr Keil, do you wish to comment?

**Douglas Keil:** I have nothing to add to that. I agree with all that was said.

**Elaine Smith:** I want to go back to some of the exchanges on the dispersal of groups. Whether or not things have been exaggerated, the committee has to scrutinise the way the bill has been written. If the bill were implemented as it stands, what enforcement issues would arise? If there were a no-go area and a group had been dispersed, how would the police know that it was the same group that had been there 24 hours before? Would you take names? Would you take photographs?

**Chief Constable Strang:** Obviously, whether the bill goes through is a matter for this Parliament. If the power exists, it will be there for us to use. To use it, we would need to know that a person had been told to leave a locality and not return within a specified period. To do that, we would need to take their name and address and record the fact that the person had been so warned. If they then came back, we would then know that they had been warned.

**Elaine Smith:** On a similar issue but from a different angle, I want to ask about when a no-go area is designated outside a post office and a group is there to protest about the closure of that

post office. If other people say that that group is causing them “alarm or distress”, to use the terms of the bill, would the police—out of fairness and a desire not to differentiate between different groups, such as a group of young people and a group of older people—have to move that group along and disperse the people?

**Douglas Keil:** No. You have touched on a difficulty that we may not have clarified earlier. Once an area has been authorised, before a police officer can exercise his or her powers under section 18(1), they must have

“reasonable grounds for believing that the presence or behaviour of a group of two or more persons in any public place in the relevant locality has resulted, or is likely to result, in any members of the public being alarmed or distressed.”

I am trying to get my head around how a police officer would establish that the presence of a group is “likely” to distress or alarm other people. For the life of me, I cannot.

To answer your question, I would use the common law powers of breach of the peace and the statutory powers that are already available to me, not this piece of legislation.

**Elaine Smith:** I am slightly confused by the distinction between antisocial behaviour and criminal behaviour. Even though I have been sitting looking at this bill for weeks, I have not got the distinction clear in my head. Mr Strang talked about serious antisocial behaviour. In the past, what I thought of as antisocial behaviour involved things such as dog fouling, vandalism, graffiti, litter and people not having any consideration for others around them. When you talk about 150 people in a street setting cars alight or breaking windows, I think of that as a riot and therefore criminal behaviour. Is there a difference between criminal behaviour and antisocial behaviour? Does the bill cross over into areas of criminal behaviour although it is called the Antisocial Behaviour etc (Scotland) Bill?

**Chief Constable Strang:** There are two uses of the word “antisocial”. You talked about damaging property, setting fire to things and dropping litter. Those would generally be described as antisocial behaviour. However, each of those behaviours is a breach of the law. It is an offence to drop litter and it is an offence to damage property. If those offenders were being dealt with in the criminal justice system, they would be dealt with for the specific offences they had committed. Section 110(1)(a) describes antisocial behaviour as acting

“in a manner that causes or is likely to cause alarm or distress”.

It is behaviour that causes alarm or distress but does not amount to assault or damage, because someone who commits assault or who does

damage would be dealt with for assault or damage, as that would be the more serious offence.

**Mary Scanlon:** I want to move on to sections 20 and 21, which seem to be causing your organisations a bit of alarm and distress.

Section 20 refers to “guidance” from the Scottish ministers. From what I can see, it does not seem to give you too many problems. However, you are concerned by section 21, which says:

“The Scottish Ministers may give directions to persons exercising powers”.

In its submission, ACPOS says:

“Chief Constables are operationally accountable for the exercise of powers by police officers; this should not be a matter for Ministers.”

The Scottish Police Federation goes even further:

“Any inference that policing decisions have been taken for political reasons would threaten”

public

“confidence and support.”

Will you outline and clarify your concerns about section 21?

11:45

**Chief Constable Strang:** We acknowledge that it would be useful to have guidance on how the power is to be exercised. The police service and the Scottish Executive would work together to develop the guidance, to ensure that it was implemented consistently across the country.

The world has moved on slightly since my submission to the committee. I note that in his evidence to the Justice 2 Committee last week, the Deputy Minister for Justice said that it was not his

“intention to interfere with the operational independence”—  
[*Official Report*, Justice 2 Committee, 14 January 2004; c 483.]

of police officers. I certainly take some comfort from that. I believe that he also said that he would rethink the power of direction, about which we have concerns.

**Douglas Keil:** I laid out my concerns about section 21 in my submission to the committee. My question about section 20 centres on the difference between the reference to “direction” in section 21 and to “guidance” in section 20. Section 20 says:

“A person exercising a power by virtue of this Part shall, in the exercise of the power, have regard to guidance issued under this section.”

Is having to “have regard to guidance” the same thing as a direction? Although the point is not for

me, but for legal people, to establish, it is why I say in my submission that sections 20 and 21 need to be looked at. I am more concerned about section 21, but I acknowledge Mr Strang's comment about Mr Henry's evidence last week, in which he appeared to indicate that section 21 would be reviewed.

**The Convener:** So again it would be easier to give you a power and make you accountable for how it is exercised.

**Douglas Keil:** Sorry?

**The Convener:** I said that it would be easier to give you the power and make you accountable for how it is exercised. Would that be a more reasonable approach than using words such as "shall", "guidance" and all the rest? Would it be more straightforward to give your organisation the power and make you accountable for how it is used?

**Douglas Keil:** That is essentially how the system works. Indeed, it has been that way since the police service began.

**Stewart Stevenson:** I have a little question about the power of direction in section 21. At the moment, the bill does not seek to require the minister to make Parliament aware of the direction or its contents. As a result, a direction could be made confidentially, as could the direction that it not be disclosed. Could directing that a direction should not be in the public domain create difficulties?

**Chief Constable Strang:** I cannot imagine any circumstances in which a direction would not be in the public domain, particularly given the provisions in the Freedom of Information (Scotland) Act 2002 that are about to come in.

**Stewart Stevenson:** So your quick response is that that act would require any such direction to be in the public domain?

**Chief Constable Strang:** Yes, but our advice—and our hope—is that the power of ministers to direct officers will not be included in the legislation.

**Stewart Stevenson:** Yes, that is right. I think that we have covered the matter—I do not want to make a meal of it.

**Mary Scanlon:** If the Deputy Minister for Justice said that it was not the intention behind section 21—or section 20, as Douglas Keil said—to interfere with operational matters, why is the provision in the bill?

**Douglas Keil:** From what I have heard from other people, I am quite sure that it was never the intention to give absolute instructions to chief constables to designate such and such an area. I think that the issue is more to do with the wording, which I think flies in the face of the well-known

concept of a chief constable's operational autonomy. However, I heard Mr Henry say last week that he intended to review the provision, which I hope means that the wording will be softened or indeed taken out.

**The Convener:** Although we had identified a number of other questions to ask you, we wanted to focus on certain key issues. However, I will run through those questions and if you want to make any specific points, that will be helpful. It is not compulsory to do so, because I know that you have included a lot of information in your written submissions.

Do either of you want to make any specific points about parenting orders; electronic monitoring; fixed penalty powers; equal opportunities issues—which have already been dealt with—and the closure of premises?

**Chief Constable Strang:** My only comment is that we welcome the breadth of measures outlined in the bill. This morning, we have discussed a wide range of circumstances that affect different communities across Scotland. Parenting orders, antisocial behaviour orders and so on will be useful for certain occasions and certain people and we support them. Moreover, we feel that the introduction of fixed penalty notices will have real benefits if they result in less bureaucracy and fewer attendances in court. We are very happy to support those measures.

**Douglas Keil:** I am quite content with my comments. I have had the opportunity to say all that I want to say at this morning's meeting and at the Justice 2 Committee.

**The Convener:** With that, I thank the witnesses. I suspend the meeting for two minutes.

11:50

*Meeting suspended.*

11:57

*On resuming—*

**The Convener:** I call the meeting back to order. I welcome our next witnesses, whom I thank for waiting because we have run on slightly later than we expected. I welcome from the Union of Shop, Distributive and Allied Workers—more affectionately known as USDAW—Ruth Stoney, who is national policy officer, and Audrey Hendrie, chair of the divisional political committee. I and other MSPs were involved with the interesting and important freedom from fear campaign that USDAW ran and I had the privilege of going along with Audrey Hendrie to meet local shop workers in my constituency. We took the view that people who work in shops have a particular perspective on the bill.

The usual practice is that we simply ask you questions. If you feel that it is outwith your remit or power to respond to certain questions, feel free to say so. Equally, if you have points that you have not been able to make in the session, we would welcome follow-up comments from you.

I will kick off with initial questions that we have been asking everybody. You will be aware that the Scottish Executive had a full consultation, which it believed to be unprecedented. Were you involved in that process? What are the general views of your members on antisocial behaviour?

**Ruth Stoney (Union of Shop, Distributive and Allied Workers):** As you mentioned, we have been running the freedom from fear campaign throughout the United Kingdom for the past 15 months. The campaign concerns the violence, abuse and intimidation that shop workers suffer. We have not been specifically involved with the consultation on the Antisocial Behaviour etc (Scotland) Bill, but we have taken evidence from shop workers throughout Scotland as part of the freedom from fear campaign, particularly on incidents in their shops and what has been done about those, and on problems that have been caused for our members by on-going antisocial behaviour, abuse, lack of respect, violence and armed robberies. Therefore, we have built up quite a lot of information about antisocial behaviour from our members and from stores throughout Scotland. Audrey Hendrie has visited many stores in the past six months.

12:00

**Audrey Hendrie (Union of Shop, Distributive and Allied Workers):** When we went round stores, we were alarmed by the number of incidents that had happened. We knew that incidents were happening, but having things quantified was terrifying. A feeling of powerlessness came through. The police have said that their hands are tied in some communities and powerlessness is the overwhelming message that has come through every questionnaire and survey; indeed, a feeling of powerlessness comes through every time that we speak to our members. The bill goes a long way towards empowering people to do something about that powerlessness.

**Stewart Stevenson:** I welcome your coming along to give evidence. I suspect that, like me, other members have met people who are involved with small retail outlets. In one case that I know of, intervention in a situation led to serious injury. I am sure that such incidents are repeated elsewhere.

I want to consider briefly the definition of antisocial behaviour—I do not want to get too legalistic or spend too much time on the matter. Of course, what is in the bill is already in law through

the Crime and Disorder Act 1998. The bill states:

“a person engages in antisocial behaviour if the person—

(a) acts in a manner that causes or is likely to cause alarm, distress, nuisance or annoyance; or

(b) pursues a course of conduct that causes or is likely to cause alarm, distress, nuisance or annoyance”.

You might not have a view on this, but does the bill's definition of antisocial behaviour describe antisocial behaviour as your members experience it?

**Ruth Stoney:** I think that our members would say that they experience antisocial behaviour. Most of them would say that they experience criminal behaviour when people start fires in entrances to shops, when under-age people try to buy alcohol, or when people shoplift or threaten staff. Those are criminal acts, but staff and the police do not seem to be able to deal with them, particularly if they are committed by gangs. There is the problem of collecting evidence and being able to deal with the people who are involved, particularly if the offenders are under 16. Such behaviour affects staff and local communities. For example, people do not feel able to go to shops because they feel threatened and intimidated by the atmosphere around the shops.

There is a mixture of criminal and antisocial behaviour and there is a problem with the crossover line. Gangs hang around outside shops and people in those gangs might fight, spit, swear and drink. Getting anything done about that before things escalate and there are serious problems, with tyres being slashed and rocks and bottles being thrown at shops, is difficult. Our members think that the police can deal with serious incidents only after they have occurred and that they cannot prevent problems from happening in the first place. That is why we welcome the measures that the bill proposes. As Audrey Hendrie said, such measures will help to empower shop workers in particular.

We have just had a word with colleagues from the police who were at this meeting. Shop workers could talk to the police and could be given forms to give evidence. They could record evidence as incidents happen. We are keen to encourage our members to work with the police on such things which, I hope, will cut down on police bureaucracy and enable them to have to record less. Certainly, South Yorkshire police are very good with stores that have problems; the police there give antisocial behaviour order evidence forms to the local shop workers and tell them to write everything down. When enough evidence has been accumulated by the shop workers, it can assist the police in obtaining an antisocial behaviour order against the person. Such evidence could be used to apply for most of the measures that are proposed in the bill.



**Stewart Stevenson:** In essence, then, from your experience you believe that further resources are required to deal with a great deal of criminal activity. A wide discussion about the bill's definition of antisocial behaviour could be opened up by your initial remarks, which focused on the role of the police and of other agencies in preventing people from promoting themselves into criminal activity from behaviour—such as causing nuisance, alarm and distress to people—that stops short of being criminal. Is that why you think that the bill will deliver some value?

**Ruth Stoney:** Certainly. As the convener said, the staff of small stores in particular feel incredibly vulnerable, especially if the store has very few staff and is open late at night, when the numbers of customers coming to the store might not be very large. It does not take a high level of what might be called antisocial behaviour to make the one or two staff in such a store feel alarmed and intimidated.

**Mary Scanlon:** Your submission explains many of the common forms of antisocial behaviour, including attempted theft, attempted under-age purchases of alcohol and intimidation. Which aspects of the bill will be of assistance to the work of your members?

**Ruth Stoney:** The extension of antisocial behaviour orders to under-16s will be useful. At the moment, youngsters feel that they are untouchable and that is the message that they give out. They know what the police can and cannot do to them, but they are especially aware of what the police cannot do.

Parenting orders will also be useful. When our members try to tackle youngsters' behaviour, there can be serious problems because the parents intervene to support the youngsters. That happens even when members of staff refuse to sell alcohol to people who are under age. In one instance, when a 15-year-old girl was refused a sale of alcohol, her father came in and started threatening the member of staff. We hope that parenting orders will help to deal with children younger than 12 who cause problems, especially those who are perhaps unfortunate in not receiving high-quality parenting.

As I think the police mentioned earlier, community reparation orders will be important where youngsters are perceived to have a problem with identifying with how victims and the local community feel. Hopefully, those orders will help.

Restriction of liberty orders may help in more serious cases. Our submission highlights one case in which a lady and her family were severely intimidated and threatened by an offender. That is all too common a problem. In extreme cases,

where an antisocial behaviour order has not been effective, restriction of liberty orders may be useful.

Our members strongly support the powers of dispersal. As members of the committee have pointed out, gangs can cause long-term problems. As Audrey Hendrie said, when police are having to be called in every night—and perhaps more than once a night—to deal with a problem, our members are told that there is nothing that the police can do.

**Mary Scanlon:** Having heard the substantive evidence that the committee received this morning from the Scottish Police Federation and the Association of Chief Police Officers in Scotland, do you still support the dispersal of groups provision?

**Ruth Stoney:** Yes, we do. I made the point earlier that the behaviour of groups of youngsters in particular can escalate quickly and suddenly from what is not criminal behaviour to serious criminal behaviour. Our members have problems with youngsters who come into stores and try to shoplift where there are few staff, perhaps late at night. If the staff try to deal with the problem by excluding them from the store—even if nothing has been stolen—all of a sudden they could be under assault and attacked with bricks, rocks, bottles or even bicycle chains. A situation can develop in one minute that can turn into a serious problem, particularly if youngsters have been drinking, which is what they do outside stores.

**Mary Scanlon:** I do not wish to restate what the police have already stated clearly, but do you not accept that the police already have the powers to deal with such incidents?

**Audrey Hendrie:** The message that we get from our members and from other bodies that have gone to the police is that the youngsters are persistent offenders. The police say openly that there is nothing that they can do because of the youngsters' age. We regard the power of dispersal as a preventive measure to stop problems before they start. Our members are intimidated by crowds of youths hanging about outside their shops when they close up at night. Until you speak to those workers, you do not realise what an effect that has on them. The powers of dispersal represent a way to give them back some control.

**Ruth Stoney:** In their dialogue with the convener, the police talked about staff who might have had a problem every Friday and Saturday night for months. If staff have been able to gather evidence of that, why should they have to wait on a Friday night until the next problem occurs? They do not know who will be injured next or what the problem might be—it might be serious. Staff would like the police to be able to disperse a group before that happens. If problems have occurred

every Friday and Saturday night for a certain time, then there is evidence that that gang or group has been causing intimidation and alarm even before they commit a particular offence on a particular day. At the moment, the police can send members of the group away, but there is nothing to stop them coming back 10 minutes later. The power of dispersal, however, would make it an offence for those people to return within 24 hours.

Many shops that experience problems have CCTV outside the stores to try to identify problems. CCTV can be used to help the police to deal with the problem. If the youngsters know that they can be fined or arrested for returning to the area, our members hope that that will be a greater deterrent than what exists at the moment, which is that the youngsters are simply told to go away; 10 minutes later, as soon as the police have gone, they come back.

**Donald Gorrie:** Your written evidence sets out the problem well, but in a worrying way. You mentioned a constructive way forward that you discussed with the police—the issuing of forms for shop staff to fill in. Are there other constructive ways with which to deal with the problem, such as having panic buttons in shops to which the police would respond quickly? Do you have other ideas to improve the policing of shops?

**Ruth Stoney:** Certainly, many stores install panic buttons. It is likely to be the larger stores that have the money for such resources. Unfortunately, in areas with a high level of incidents, police are refusing to answer panic buttons. ACPOS wants any duty on the police to answer them to be removed because there are too many problems. Panic buttons are not the solution, unfortunately.

Possible solutions, on which we are working with retailers, include putting CCTV in place and using security guards as often as possible. Unfortunately, all companies and retailers operate on the basis that every store has to make a profit for that store to continue to be viable. Members may have seen evidence that was given by one of our members from Tesco to the Nicholson committee—that Tesco could not afford security guards late at night. Community stores—particularly the smaller ones—do not have a very high turnover, but they provide a valuable service to the community. A high level of problems and incidents, which means a lot of expenditure on security measures, can stop that store being viable. Such stores are being closed and I am sure that, because the stores are such valuable resources for communities, this committee is very concerned about that.

12:15

**Donald Gorrie:** You gave an example of a parent intimidating a shop worker who had refused to serve a young girl with drink. Is it not possible to get the police to charge that person? He has committed an offence. A parenting order would probably take for ever. It is surely quicker to take action via the police and the courts.

**Ruth Stoney:** Families who intimidate individuals in communities are very difficult to deal with. One reason why we support the power of dispersal is that it depersonalises problems. Our member who was intimidated did not feel that they could take the matter to court. The family was well known locally and our member was concerned about repercussions for them, their family and their children. Such families can be a serious problem.

**The Convener:** Is there a particular issue for people who work in small local shops and who also live in those communities? I have heard local evidence of intimidation when people are known in the local community. Do you know of examples of that?

**Audrey Hendrie:** There are many examples. There are daily occurrences of staff being assaulted or spat on, of attempted till snatches, and of groups of youths hanging about in car parks, drinking and taking drugs. Car parks are used in drug dealing. In small communities, everyone knows who those people are. However, the groups feel that they are untouchable and the parents have let them run out of control. The police say, “We are taking them back to their parents; what more can we do?” The parents know about the problem. Parenting orders that have teeth and that will be implemented would be really helpful. Some of the problems are caused by a lack of parenting skills.

**Ruth Stoney:** There can be big problems for shop workers not only in small communities but in larger communities. Threats are common, and many of those threats include the words, “We know where you live and we know where your kids go to school.” One of our members has very bravely said that we could use the example of what happened to her. Her son was threatened with a knife as he got off the school bus because the youngster she had caught stealing DVDs knew her son and her family. They were holed up in their house for weeks, too afraid to go out because of intimidation.

We are very keen on the use of interim ASBOs to deal with that. The fact that they can apply immediately means that they can stop perpetrators of criminal behaviour going back to a particular store and intimidating the witnesses and victims—unfortunately, that happens. Members who have

had to go to hospital with their injuries have been visited and intimidated by the perpetrators as they lay in their hospital beds. Interim ASBOs are a way of stopping that and we hope that their use to prevent such things from happening will be more common.

**The Convener:** It seems to be a feature of this whole area that the people who are most directly affected are very often silenced by what has happened to them.

**Ruth Stoney:** Yes. Our campaign has enabled people who did not feel able to speak out to do so. As Audrey Hendrie said, we have been amazed by the amount of evidence that has emerged and the number of shop workers who are living in fear.

**Patrick Harvie:** I want to pick up on an issue that emerged from Donald Gorrie's questions about alternative approaches. You mentioned the recording and reporting mechanisms, which sound positive; at some point, it would be good to hear more about whether they are working. Has USDAW made any attempts to promote community mediation techniques and proximity conferences, for example, which the police have told us are very powerful in changing behaviour in the longer run? If you have not had a role in such promotion, would you consider having one?

**Ruth Stoney:** We have not had any role in that but, as one of the police witnesses said that he had not heard of proximity conferences, I do not feel too stupid in saying that I had not heard of them either. In most cases, we have not been involved in such work on a national level, but I have made a note that we could advise our members to go to local police or crime prevention officers to try to set up such mediation, because that would help.

**Audrey Hendrie:** Through the freedom from fear campaign, many local communities started to work together to address the issues. I know that the police, MSPs and local community leaders were all involved. Although such work has not been done nationally, the freedom from fear campaign has made a difference in some areas.

**Patrick Harvie:** Has that involved bringing young people into the process as well?

**Audrey Hendrie:** Yes, although it has been more a question of people saying that they had had enough and deciding that they needed to do something because the situation was no longer acceptable. People have taken charge and examined the possibilities for making things better.

**Patrick Harvie:** Pretty much everyone from whom we have heard, whatever their opinion, has said that the dispersal provision will be used in extreme circumstances where there is a significant, persistent problem; it will not be used

on every street corner where groups of young people might hang around. This morning, the police have told us about what they perceive as the difficulty of going through the bureaucratic process of designating an area and the resource problems that they think that they would have in responding to calls and chasing up repeat calls to ensure that people were not coming back within 24 hours. Therefore, I am puzzled about why you feel that the measure would give more control to your members and other people who work in shops and suffer antisocial behaviour. Surely the problem would be more or less the same—it would still be about police resources and their ability to respond to calls. I do not understand why you feel that your members would have more control over the situation.

**Audrey Hendrie:** If our members were building up evidence, they would be able to hand that over to the police, which would make our members feel as if they had some control. By building up a case that would help the police and the local community to address the situation, they would not be ignoring the problem but would be doing something constructive about it.

**Ruth Stoney:** At the moment, the kids know that there is nothing that shop workers can do. The proposal would mean that shop workers could tell the kids that they were compiling evidence of what the kids were doing and that they would be handing it over to the police and asking them to deal with the behaviour through parenting orders or ASBOs, for example. Currently, police have to be called out time after time to deal with youngsters who are causing problems. If the youngsters disperse the first time that the police come, but then congregate again, the only thing that the police can do is disperse them again.

I am not sure why the previous witnesses thought that it would cause more problems if the police had the power to arrest or fine the youngsters simply because they had returned to the designated area within 24 hours. The measure would prevent the police from having to come back to the area again and again, each time the youngsters congregated.

I am sure that the proposal would cause some problems at first. Our members support the police and their efforts. We are well aware—even if the witnesses could not say this—that there is a problem of resources.

**Patrick Harvie:** I want to establish whether the alternative approaches that we have heard about—such as community mediation, community policing or the designation of hot spots where the police work with everyone who is affected by the problem—would also provide your members with the opportunity to feel that they were being listened to, to contribute to evidence gathering and

to be part of the solution. Is the proposed new police power the only way of involving people?

**Audrey Hendrie:** We need a combination of all those approaches. The issue is not just about giving the police new powers to disperse groups; it is about involving the community and getting people to work together. There are no quick answers.

**Ruth Stoney:** I hope that solutions other than using the proposed new power would be tried first, but unfortunately our members are experiencing extreme situations and are very vulnerable. It will be an awfully long time before the Scottish Parliament has another opportunity to introduce such a power, which our members believe is needed now. If the Parliament does not take action now, the opportunity will be lost and many of our members will feel severely let down.

Our members feel that currently there is nothing that they can do. They are willing to try anything that might help. They need to know that something can be done about the problem and they want to be able to tell the kids that are causing the bother that a sanction can be imposed on them. At the moment, all our members can do is enter into a long process to tackle the behaviour of individual youngsters. That can have repercussions for witnesses, as we said, and it is difficult to gather evidence against individuals who are part of a gang.

**Patrick Harvie:** Are you concerned that, if an area were to be designated, the problem might simply be moved to a shop down the road?

**Ruth Stoney:** Obviously we are concerned, but, at the moment, two late-night convenience stores that are not far apart might be experiencing the same problems.

**Patrick Harvie:** The power would be used only in extreme circumstances, rather than in a scattergun approach.

**Ruth Stoney:** The problem might move to another area. However, at the moment, serious problems arise when, for example, a community store serves a larger area and is a community focus. If local people are prevented from using that store, it might have to close down, which would create a big problem for the whole community.

**Cathie Craigie:** Thank you for your evidence. I think that we are hearing answers to the questions that we would usually have time to ask.

In my community, off-licences and small convenience stores that sell alcohol to people who are under age are causing problems. Clearly, USDAW members would not be involved in such activity. What is USDAW doing to recruit members among workers in small corner shops where the union is not currently recognised? There would be

an obvious benefit if workers in such shops were union members and could help licence holders to pull up their socks and manage their licences better.

**Audrey Hendrie:** That was the outcome when, during my six-month secondment to different workplaces, I visited many small convenience stores. When people started to talk about what was happening, they realised that they could do something about it. They saw that being a member of the union gave them protection. Union membership means that there is always somebody to whom they can turn. It was good to watch that happening.

We are concentrating on Co-op and Kwik Save stores, where people really need that protection. We have agreements with Tesco and such shops, which allow us to attend their inductions, but staff in those stores are much less likely to face the problems that are faced by staff in small community stores. However, we feel that we are being accepted.

12:30

**Ruth Stoney:** We are working with smaller stores and with the Association of Convenience Stores, whose campaign against retail crime involves many smaller independent shops as well as convenience stores.

In answer to the question, I am afraid that I could not guarantee that our members do not serve alcohol to under-18s. At the moment, there is no legal guidance requiring people to provide proof of age and there is no national proof-of-age card. That point came through strongly when our members responded to the consultation on the Nicholson report. Our members want a national proof-of-age card and legislation to make it compulsory for shop workers to demand a proof-of-age card from anyone who looks under 30.

Staff can get picked up by trading standards. Many stores have worked on providing training for staff, but the problem is very difficult. Staff have to assess the person's mannerisms, such as whether they appear confident. They also need to look at the person's height, but I am sure that we all know 15 and 16-year-olds who are of great height and who could easily pass for being a lot older. That is the problem that our members face.

Our members want a proof-of-age requirement to be put in place because that would prevent the threats and intimidation that they suffer when they refuse youngsters who try to buy alcohol, cigarettes and other age-restricted products. Because such refusals come down to a subjective decision on the part of the shop worker, even parents may try to intimidate the staff into forcing a sale.

**Mary Scanlon:** Convener, I think it inappropriate for the committee to ask a trade union about its methods for recruiting members. The impression is given that only USDAW can represent small retailers, whereas such retailers could join the Federation of Small Businesses, the chambers of commerce—

**The Convener:** With respect, I think that that is not the point that was being made. If I had taken the view that the question was inappropriate, I would have indicated that. Other members have perhaps strayed from the remit of questions more than the previous questioner did. If the witnesses feel that a question is inappropriate, they can choose not to respond. People can judge from the *Official Report* what their response was.

Are there any final questions for the USDAW representatives? Elaine Smith has a question.

**Elaine Smith:** I have a quick question on ASBOs. Do you have evidence on whether the system that is currently in place is working for your members? You welcomed the extension of ASBOs to cover under-16s. What evidence is there that ASBOs are working at the moment?

**Ruth Stoney:** Across the UK, the right to apply for ASBOs is not being used enough. When they started off, ASBOs were very bureaucratic and involved a lot of police time in gathering evidence and local authority time in implementing them.

One point on which we agree strongly with the Scottish Retail Consortium's evidence is that the police should be able to apply for ASBOs. We are in favour of that, because the police are the ones who are called out to deal with problems in stores and shops day after day and—more usually—night after night. The police are aware of the problems. They are aware of the importance of ASBOs and why shops need them, whereas the local authorities might have little contact with shops. Obviously, local authorities will have their own priority areas in which they want ASBOs to be made, so that they can deal with nuisance neighbours and housing issues.

We are keen to work with the police and to ensure that our members can gather evidence on an on-going basis to help them. We want our members to be able to work with the police on all forms of sanction, including antisocial behaviour orders, where appropriate, to cut their work load. We want our members to be empowered so that they can say to the youngsters, "If you do that I will make a note of it. It will go as evidence to the police and you may have an ASBO or a parenting order put on you."

**Elaine Smith:** There has been discussion over the past few weeks about equal opportunities. Particular concern was expressed by parents of children with special needs, whose behaviour

might be seen as intimidating or threatening through no fault of their own. Are there gender issues in relation to the intimidation of women workers, especially where they work alone in garages at night, for example?

**Audrey Hendrie:** Women are definitely more vulnerable, as they are seen as easy targets. They feel more intimidated when they are working alone and when they leave the shop at night and five or six youths are hanging around.

**Elaine Smith:** Do you see that as a gender issue in relation to the protection of your workers?

**Ruth Stoney:** Yes. The majority of our members, particularly in retail, are women. The freedom from fear campaign has raised a lot of gender and class issues. Some people think that it is okay to threaten and intimidate women who work in a store, but they would not dream of doing that to women in higher-paid jobs.

On equal opportunities, our members can also be viewed as parents who have responsibilities for children but have to work late at night. We are particularly concerned that the parenting orders should take into account the nature of the parents' employment, particularly in the case of single parents, who might have to work in retail. It is common for our members to have to work until 8 o'clock or 10 o'clock at night. If a parenting order is imposed on them and they have to take responsibility for their children, they might have to give up their job, which would cause more serious problems for the family. We would like the sheriff courts to consult employers about hours when they impose parenting orders.

Sometimes it is difficult for us to negotiate for a member's hours not to include evenings, because stores are so stretched, especially in the evening—nobody wants to work evenings and late at night, so slots during the day are precious. We hope that there might be negotiation between the union and the sheriff courts about parents' hours, to protect the parents and to help the whole family.

**The Convener:** Thank you very much for coming along. You have given us a useful perspective on the issues. If you want to expand on any points, we would be more than happy to hear from you.

**Ruth Stoney:** You have enabled us to cover the main points that we wanted to make. Thank you very much. I hope that we will be able to work with the Scottish Parliament in raising awareness of the proposed new powers, because it is extremely important for our members and for people to know the range of options that exist to empower them. Public expectations may be raised—I am sorry about that—and the demands on the police will increase, but the public and shop workers can be

a great resource in helping the police to deal with antisocial behaviour.

12:38

*Meeting suspended.*

12:42

*On resuming—*

**The Convener:** We welcome our final witness today. Grainia Long is the parliamentary and police officer—police officer? Not that I am obsessed. Grainia is the parliamentary and policy officer for Shelter Scotland. She has attended the Social Justice Committee in the past and we welcome her attendance today.

As before, we will ask questions. If there are things that you wish to expand on later, you will obviously be able to come back to us. I thank you for waiting as long as you have done to give evidence.

I start by asking for your comments on the effectiveness of the consultation process and on what work you have done to consult within your organisation. We are grateful for your written submission. In it, you say that antisocial behaviour problems cannot be solved by legislation alone and that other legislation should be allowed time to bed in. A couple of weeks ago, Shelter was criticising the Executive for not moving on legislation connected with the work of the housing improvement task force. I wonder about the distinction that you are making. In this case, you say that it is necessary to do more than just legislate, but Shelter and other housing organisations have been clear in the past that the Executive should indicate its priorities by legislating. Is there a contradiction there?

**Grainia Long (Shelter Scotland):** I will start by saying that, although we appreciated the fullness of the consultation on the bill, we had a couple of issues with the consultation on the strategy. That consultation took place over the summer and it was sometimes difficult for a campaigning organisation such as ours to seek clarification on some of the points in the strategy. When a consultation is launched at the end of June and closes at the beginning of September, during a parliamentary recess, that is difficult for organisations such as ours.

We found the consultation on the bill very productive. We welcomed the committee to the Edinburgh families project. We hope that you found that visit as useful as we did—it was useful for our support workers to meet MSPs and be asked for their views. Those who work on the front line of service provision are regularly asked by

policy people such as me what they think, but they found it useful to be asked that by MSPs.

We consulted all our internal service providers within Shelter in developing our policy on antisocial behaviour and our evidence on the bill. All our views on the bill are therefore based on our experiences of providing services to homeless people and to people who have been both victims and perpetrators of antisocial behaviour. I will come back to that point in a moment.

12:45

We have made it clear in our response to the strategy and in our evidence on the bill that making legislation the central plank of the strategy diverts attention from the non-legal measures. We are not saying that the bill is pointless or that we do not need it; we are saying that we should not focus solely on legislation and that a lot of the responses need to be non-legal measures, because those are sustainable. Some of the legal measures proposed in the bill seem like a sledgehammer to crack a nut: they are blunt legal measures to solve complex problems.

We have already discussed definitions of antisocial behaviour, but perceptions of antisocial behaviour are also important. One of the problems throughout the process, from when the bill was first mooted, has been that the language that has been used has not always been helpful. The no-tolerance approach to antisocial behaviour has impacted on service provision throughout Scotland. Earlier, the question was asked whether intent should be included in the definition of antisocial behaviour, but the issue is not only about legal definitions.

One of our cases involved complaints about noise from a flat where a single mother was living. The local authority began possession proceedings and the single mother contacted Shelter. As it turned out, she had an autistic child, who was causing a large amount of noise. If she had not contacted Shelter—or any other organisation, for that matter—and got legal advocacy, she could have ended up being evicted. What she really needed was support—she did not know that she was entitled to various kinds of support—but the local authority, which had a no-tolerance approach to antisocial behaviour, also needed to spend more time investigating the case. The difficulty in that case was not the legal definition. We do not have a problem with the legal definition, but sometimes we have a problem with how people and service providers perceive antisocial behaviour.

To go back to your point on the housing improvement task force, we do not have a position on legislation as such. We are not saying that all

legislation needs to be held off until the non-legal measures are dealt with. However, the non-legal measures that the Executive has introduced on housing standards parallel some of what it intends to do to in the law on housing—it has announced that a housing bill will be introduced. On antisocial behaviour, we feel that the focus needs to return to non-legal measures. The consultation on the antisocial behaviour strategy was launched in June and closed in September, but in the four months since then we have not heard a thing about what is happening on non-legal measures, so we need to come back to those.

**The Convener:** Perhaps you have not heard it, but a lot has been said about youth justice, support for youth initiatives and supporting people through other legal means, for example. Shelter suggested that the lack of a timetable for a bill on the housing improvement task force's recommendations meant that the Executive was not treating the matter as a priority. In that case, you said that the introduction of legislation marked whether the matter was a priority, but on antisocial behaviour you are saying that there should be a broad strategy and that we do not need to legislate just now.

**Grainia Long:** I will clarify the point about the timetable for the housing improvement task force's recommendations. We asked for an implementation timetable for all the measures in the task force's report. Although we have heard clearly that the Executive intends to introduce a housing bill, we have not heard clearly how it is implementing other areas of the task force's agenda. When we talk about timetables and timescales, we are talking about the whole agenda, legal and non-legal. It is the same for antisocial behaviour. After the antisocial behaviour strategy was published, we swiftly had a bill, but we have not swiftly had a timetable setting out how the Executive will approach community-based initiatives, which were included in the consultation that was carried out last year, or what it will do on all the other non-legal measures. We do not have a problem with the bill as such, but we have a problem with the initial focus being on the bill and with the non-legal measures being left to another time.

**The Convener:** If further evidence assured you that the non-legal measures were part of the picture, you would be more comfortable with the bill.

**Grainia Long:** Absolutely.

**The Convener:** It is not the case, as you charge in your written submission, that the Executive is using only legislative means. You recognise that there is a broader picture.

**Grainia Long:** We need to be assured that the Executive sees the broadest picture. The bill must

be part of a strategy, but we need to hear what the rest of the strategy will be.

**The Convener:** But it is reasonable for the bill to be part of the broader strategy.

**Grainia Long:** Absolutely.

**Donald Gorrie:** I am particularly interested in the aspects of your written submission that deal with housing. One of your points is that ASBOs should not be linked to people losing a tenancy. Can you elaborate a wee bit on that?

**Grainia Long:** Sure. That issue came up during the consideration of the Housing (Scotland) Bill in 2001. The bill was amended so that, if an ASBO was served on someone who lived in social housing, the landlord could convert their full tenancy to a shorter tenancy—a short Scottish secure tenancy.

We had problems with that. We supported ASBOs when they were first introduced under the Crime and Disorder Act 1998. We regard them as a constructive approach to dealing with the behaviour of a particular individual. However, linking ASBOs to tenure ensures that everyone in an antisocial person's household could pay for the behaviour of that individual. We have problems with that because we feel that it changes the culture within which local authorities approach evictions. It is easier for a landlord to evict a person with a short tenancy. A person can be evicted without there being any grounds for that happening.

We have been contacted by members of the legal profession who feel strongly that people should not be evicted without grounds and that ASBOs may be used to do that. A culture is developing in local authorities such that people who are the subject of ASBOs have their tenancy converted by the local authority and eventually their family is evicted. We do not think that that is a good culture. I think that we would all agree that such an approach to antisocial behaviour will not be useful. Ultimately, it causes homelessness. When there are increased evictions, there is increased homelessness, which causes many more problems.

On ASBOs for under-16s, the key issue for us is ensuring that those orders are not linked to tenure, because that is potentially a major problem. An ASBO deals with a particular type of behaviour, which might not be related to a tenancy. For example, a young person could carry out an act of antisocial behaviour in a local supermarket, but their whole family could lose its tenancy because of that behaviour. That simply does not make sense. For example, a younger child of four or five should not have to pay, through the family losing its tenancy, for the behaviour of their older brother or sister.

**Donald Gorrie:** You have made the point that tenants who are evicted from council or housing association property tend to go into the private sector, which is more problematic. You are keen on a mandatory certification scheme. Can you briefly explain that?

**Grainia Long:** We made the point in our written submission that people who are evicted from social housing tend to move into the private sector. Part 8 of the bill is about housing registration areas, but we feel strongly that the bill does not go far enough on that issue. We think that the policy and the principle are right, but we want to ensure that all landlords are held to account. A mandatory certification scheme would do that. In order to trade as a landlord, a person would have to receive a certificate; to get the certificate, their rented property would have to meet certain physical standards and they would have to ensure that their contact details were available to a local authority.

A big issue for local authorities that are trying to deal with social landlords who ignore the antisocial behaviour of their tenants is that often the councils simply cannot find the landlords. A certification scheme would ensure that a local council could contact a landlord. The sanctions that the bill proposes in part 7 could then be imposed. Therefore, we think that a mandatory certification scheme would be one step better than what is proposed in the bill.

**The Convener:** A youngster could be made the subject of an ASBO for antisocial behaviour in a shop, for example, but there could be no evidence of such behaviour manifesting itself in his tenancy. Why would you imagine that a good housing provider who is regulated by Communities Scotland would use the fact of the youngster's ASBO to evict his whole family? I cannot think of a housing association or housing officer who would regard an ASBO as an opportunity to get a family out. Why would they do that if a family was not creating any problems?

**Grainia Long:** One of the points about the short Scottish secure tenancy is that, when someone is evicted, they can be evicted without grounds. A family does not have to breach the tenancy; it can be evicted for any reason. If someone is unfortunate enough to have two months' rent arrears on their property and, if an ASBO is served on their son or daughter, their landlord can convert the tenancy in the knowledge that he can eventually evict the family on the ground of rent arrears. I am not saying that that practice is endemic in local authorities across Scotland, but we want to ensure that such a culture does not develop.

**The Convener:** There is no evidence that it has developed. Indeed, the example that you gave of

the local authority moving speedily to evict someone who had an autistic child is the direct opposite of my experience of the cautious approach that local authorities and housing associations take in respect of evictions.

**Grainia Long:** Certainly, from the work that we have done in our housing aid centres and, as a result of our being contacted by solicitors in some local authorities, we feel that that culture is just starting to develop. The measure in the Housing (Scotland) Act 2001 has been in operation for only just over a year. We believe that, if landlords feel that the way to get rid of certain families is by serving an ASBO and converting the family's tenancy, that is what will happen. However, we need to ensure that it does not happen.

**Cathie Craigie:** The evidence that you have just given us is serious and we have to know more about it. If that is the culture that is developing in local authorities, I want to know which of the local authorities is behaving in such a way.

**The Convener:** And housing associations.

**Cathie Craigie:** Yes, if a housing association were acting in that way, I would ask Communities Scotland to see whether it was fit to trade as a housing association. I would also want to look into a local authority that was acting in that way. I ask you to back up the evidence that you have given in answer to questions from the convener. I would like those responsible for acting in that way to be named and shamed.

**Grainia Long:** I can understand that. However, when solicitors ring up to tell us about problems, it is not up to us to name and shame the culprits; it is up to the people involved to contact their MSP or the Communities Committee. Members will understand the position that we are in. We are being contacted by members of the legal profession about the problem. We also have cases in our housing aid centres. All that we can do is to put it to you that that is what we are hearing. You can take my evidence how you like, but I cannot force local authorities to come forward and speak to you about the issue. I hope that they would and I would like to think that they would, but I cannot make that happen.

**Cathie Craigie:** If a housing authority or a registered social landlord is following such bad practice, Shelter Scotland has a responsibility to do something about that. A certain amount of Shelter's funding comes from the public purse. You are entitled to make public information such as that. I am not suggesting in any way that you should give us details of individual cases, but you could identify the local authority in whose area such practices are occurring. Such things should not happen. What you describe was not the intention of the Housing (Scotland) Act 2001, of



the Social Justice Committee, which supported the bill as it passed through the Parliament, or of the then Minister for Social Justice, who took the bill through the Parliament.

**Grainia Long:** Shelter is developing a research project on the use of the short Scottish secure tenancy. The girl who is out carrying that project has sent out a form to all local authorities. I have a feeling that she is developing the research over the next month. Something might come out of that work.

I take your point about wanting to find out more about the issue. If there anything that we can do, we will try to do it. As I said, it is up to the local authorities to bring the information to the committee. I do not think that that is necessarily up to Shelter, unless it is something that we want to do within our research work.

**Cathie Craigie:** The local authorities have given evidence not to this committee but to the Local Government and Transport Committee. You presented your evidence in response to a question from the convener. I want to know more about the case that you mentioned.

**Grainia Long:** Okay.

**Cathie Craigie:** We move on to address the private sector. All of us are agreed that private landlords need to take more responsibility for the management of their properties and for managing antisocial behaviour as and when it occurs. We agree with what you say in your submission about part 8 of the bill, and the provision will not go anywhere towards resolving the difficulties that I experience in my constituency.

However, I disagree with the suggestion that you make about mandatory certification. I do not see how that would help in Cumbernauld, for example, where it is difficult to identify who owns a property—that is, who the landlord is. With certification, a person would be certified as a private landlord, but we would not know how many properties that person owned. We should have a mandatory licensing scheme for the individuals who seek to be private landlords and mandatory registration of each property that they let on a commercial basis. Can you say more about the certification scheme that you propose?

13:00

**Grainia Long:** I will try to explain. When we refer to registration and certification, we may be talking about the same thing. To trade legally as a landlord, someone would have to have a certificate. Any private landlord who was found to be trading without that certificate would be in breach of the law. That is the catch-all provision. No landlord could trade unless they had a

certificate, and to get the certificate, their property would have to meet certain physical standards. That is where certification links in with the work of the housing improvement task force. Landlords would also have to submit their contact details to the local authority, which would own the list of all private landlords in the area. Are we not talking about the same thing? In order to trade, all landlords in Cathie Craigie's constituency would have to submit their contact details to the local authority. That is how we would know all the private landlords in the area and how to contact them if we needed to.

**Cathie Craigie:** Would the question of the suitability of a person to be a private landlord be considered, or would the certification that you propose be based only on meeting certain minimum standards in the house to be let?

**Grainia Long:** That issue could be considered as we develop guidance on certification. If, when consulted, people say that we should also consider the suitability of landlords, that may become an additional criterion. In our briefing for the parliamentary debate on the housing improvement task force report, we said clearly that one of the weaknesses of the task force is that it does not deal with such issues or with management standards. I appreciate the point that the member makes. Suitability could be included in a wider consultation on how to ensure that landlords meet certain criteria in order to obtain a certificate. A consultation on the criteria would be useful.

**Cathie Craigie:** If Shelter were to carry out a consultation on a bill on the private housing sector, that would involve a wait. The Antisocial Behaviour etc (Scotland) Bill gives us an opportunity to take the first steps. Would Shelter support amendments to or the replacement of part 8 of the bill to introduce a mandatory licensing or registration scheme?

**Grainia Long:** We echo the concern expressed by the City of Edinburgh Council that the bill seems to link registration with antisocial behaviour, which gives registration a negative connotation. We should remove that and put the issue back into the housing improvement task force's area of work, which covers all aspects of housing. We should say that all private landlords must meet certain standards—both management standards and physical standards—and that their contact details must be available, so that we can contact them if there is antisocial behaviour on their premises.

To include registration in an antisocial behaviour bill seems a very heavy-handed approach to landlords. Many landlords want to tackle antisocial behaviour and have problems dealing with it. We need a light-touch regulatory approach, rather

than a heavy-handed one. That is why it would be more useful to deal with the issue within the context of the work of the housing improvement task force. Margaret Curran has announced that she is considering examining the issue over the coming months. We have requested clarification of when that process will start.

**Cathie Craigie:** A lady who spoke about this part of the bill at a tenants and residents forum meeting in Cumbernauld said that unless the Parliament and the Executive tackle the issue of private landlords, the police and the authorities will not be able to deal with problems of antisocial behaviour in the two or three streets around the place where she lives. How do you respond to that?

**Grainia Long:** I do not dispute that; we are talking about timing.

**Cathie Craigie:** Should we say to that woman that we will leave the issue for two years?

**Grainia Long:** Certainly not. I would not want to leave it for two years. The onus is on the Executive to move the matter forward quickly. We would like the consultation that the minister announced just before Christmas to start as quickly as possible; we have asked for clarification of when it will begin. We have asked for the issue to remain within the work of the housing improvement task force, whose work should be brought forward to catch the work that you are doing on antisocial behaviour. It is important to leave the mandatory certification scheme within the task force's work.

**Cathie Craigie:** But the task force's recommendations on the issue were really soft. Why should we leave the issue to the task force rather than legislate on the basis of the evidence that we have gathered?

**Grainia Long:** If we thought that you were going to introduce a mandatory certification scheme through the Antisocial Behaviour etc (Scotland) Bill, we would have to consider that and come back to you. I have concerns about introducing such a scheme in that way because it will not deal with physical standards, which are as important as management standards. I want to make sure that, in the rush to bring in a mandatory certification scheme, we do not forget about the physical aspects.

**Cathie Craigie:** Would it be acceptable to bring in such a scheme to deal with antisocial behaviour? We can catch the physical aspects when—

**Grainia Long:** That would be acceptable if we ensure that we catch the physical aspects in a housing bill.

**The Convener:** One of the issues that has unified the committee so far is that of private

landlords. How would you identify that a private landlord is trading? One way to do that is to check whether housing benefit is being claimed on a property. Are you in favour of such information being provided more generally? It is possible for a private landlord to trade without a certificate, in which case there is no evidence about who the landlord of a property is. That is one of the big issues around dealing with antisocial behaviour quickly. Some of my constituents had to go to the land register of Scotland to get hold of their landlord. How do you envisage that information being made available in a way that is not discriminatory? We find out that someone is trading either when a problem emerges and people complain about it, or by using housing benefit records.

**Grainia Long:** That is where the issue of information sharing comes in. I was pleased to hear the police put such an emphasis on that in their evidence today. If a complaint has been made against someone, the police will be aware of it. Local authorities' antisocial behaviour strategies must highlight information sharing as a way to target landlords who ignore the antisocial behaviour of their tenants. The strategies are exactly the vehicle for that.

**Patrick Harvie:** I have been asking witnesses about the provisions on the dispersal of groups. I do not see anything about that issue in your written submission. Do you have any comments on the power to disperse groups, perhaps in relation to rough sleepers who are subjected to, or accused of, antisocial behaviour? Would such a power be of more benefit than the current powers?

**Grainia Long:** We did not make a specific comment on the issue in our written evidence, but we raised it in our response to the strategy. We have spoken to several MSPs about it and we have watched the clarification of the dispersal orders that has come from the Executive.

Other organisations are better placed to discuss the issue, but our initial concern was that the power would be used to move rough sleepers along. Our concerns have been quietened a little because we have received clarification that that is not the intention of dispersal orders, which are about persistent antisocial behaviour. We would be concerned if rough sleepers became an issue. However, at the risk of dodging your question, our key priority is the closure orders issue. If you do not mind, I will move on to that.

**Patrick Harvie:** I think that someone else will ask you about that.

**The Convener:** I am quite happy for Grainia Long to respond to that issue now.

**Grainia Long:** Closure orders are another issue on which we hope the committee will seek

clarification. We are slightly concerned about the provision, although we understand the intent. In some ways, the measure has been lifted directly from the policy intentions behind the Anti-social Behaviour Act 2003 in England, which contains a power to close premises if class A drugs have been used and if nuisance or annoyance has occurred as a result of that usage. However, the measures in the bill stop at the use of class A drugs and do not link that to nuisance or annoyance. Although the policy intention is to close down so-called crack dens, we are concerned that the bill contains a power to close down residential premises and about how that power will be used. We seek clarification from the minister about the guidance on how closure orders should be used and on the exceptions—or when they should not be used. For example, we would be concerned if a closure order meant closing down access to someone's home, which would lead to homelessness. That would not get to the bottom of the antisocial behaviour and would ultimately be ineffective.

**Cathie Craigie:** I am sure that you will find comfort in the guidance when it is produced. I would love to see a closure order put on at least one property in my constituency. Although the property is held in someone's name, we cannot get the evidence to pin that person down. The person does not stay there—it is not their only home. I would be happy if that particular flat was closed, as would people who live near it because they would get to live in peace and quiet in their homes.

You mentioned the English legislation, which made me wonder whether you saw "Newsnight" at 10.30 last night, which included a report on why the Anti-social Behaviour Act 2003 was introduced in England—the act came into force yesterday. The programme interviewed all sorts of people, including the police, young people who cause problems and—for me, most significantly—residents. Not one resident showed their face on camera, which showed how antisocial behaviour affects ordinary people, whether it is in a private house, the street or a local youth club—the programme showed a brand new facility that had been vandalised. Although your organisation represents an important group in society, we must take into account the tens of thousands of people who are affected by antisocial behaviour but who stay behind their doors and cannot show their faces to speak up about it. Those people want others to be evicted because they are making their lives a misery. How do you achieve a balance?

**Grainia Long:** That is a key issue for Shelter. As we have said, a number of people who come to us for help have been made homeless because they have been victims of antisocial behaviour. We are fully aware of the impact that such behaviour

has on people's lives and we agree that tackling it could prevent homelessness. It is in our interests to continue to deal with antisocial behaviour and to tackle it in any way we can. However, we want to use the best ways in which to deal with antisocial behaviour. If a person lives in a property and is a victim of antisocial behaviour, it is understandable that they want somebody to deal with the issue. However, we want to ensure that such behaviour is tackled in the best and most effective ways. We have always said that eviction should be used only as a last resort.

I was a bit concerned by the suggestion given in evidence by the City of Edinburgh Council and Fife Council that because we now have progressive homelessness legislation, that will act as a safety net and will allow a more aggressive approach to be taken to evictions. That suggestion simply does not make sense. Evictions treat the problem, but they do not solve it; they do not get to the issue of why antisocial behaviour happens in the first place. An eviction simply moves a problem family to another area, which means that another set of people have to live with the behaviour. I repeat that we have always said that eviction must be a last resort.

The costs of eviction are high and place a heavy burden on local authorities. Scottish Executive research shows that some eviction cases cost up to £8,000—that is just the cost of the case. With £8,000, Shelter could support a family for a year. We are not saying that support for families can solve the problem in all cases in which eviction is a possibility. However, our support projects are extremely effective and tend to prevent evictions.

We want to ensure that the right response is made to antisocial behaviour, so that we get to the bottom of the problem and do not increase homelessness. To evict someone or to prevent them from gaining access to their home might solve the problem for the person's next-door neighbour, but it would not solve the problem for the whole community. We have to find the source of antisocial behaviour problems and engage with families.

When members visited the Edinburgh families project they heard that the support that a family receives is jeopardised when the family is evicted. Our support workers have serious problems, for example, when they try to continue to engage with families who have been evicted from one place and moved to a place that is five miles up the road. We want to ensure that measures to deal with antisocial behaviour never jeopardise the support that families might be receiving.

13:15

**Cathie Craigie:** What would you suggest in the case of a family that lived in a flat and had been

offered support, but persisted in antisocial behaviour? If guidelines stipulated that a package of support must first have been offered, would it be acceptable to serve a closure notice on such a family?

**Grainia Long:** I do not understand why a closure order would be preferable to repossession action. As I said, eviction should be used only as a last resort.

If one of Shelter's support workers was here, he or she would ask you what support had been given to the family that you describe. Support workers and teams in local authorities are often severely overstretched. There is not enough funding for support and there are not enough support workers. Even if all the money in the world was available, we could not recruit enough support workers or social workers to go round.

In the case of a very troubled family with serious problems, it is not enough for a support worker to knock on their door one afternoon and say, "Hello, we would like to support you." It can take weeks for our support workers to build up a level of trust with a family that will enable them to start supporting them, and the support itself can take months and months. In an ideal world, we would always offer such support. We need more funding for support, so that that approach can be absolutely exhausted before we start to apply other sanctions.

I am still not sure, however, why a closure order would be better than a repossession action in the case that Cathie Craigie envisages. It would probably be extremely costly and burdensome for everyone concerned—including the neighbours—to close access to premises.

**Cathie Craigie:** I think that repossession action would be started if there was a really serious problem involving violence or threats to people's safety.

Would you take comfort if it could be demonstrated that support packages had been made available to someone before a closure notice was served?

**Grainia Long:** I do not accept that a closure order would be the best option. Why would we physically board up a property? If a family causes trouble and the intention is to get them out of the property, the normal approach is to start a repossession action. To close up a property would involve boarding it up, which would further disturb the neighbours. The family would be pretty much out on the street and they would breach the closure order if they tried to enter their home to collect their property. The process seems cumbersome and complicated.

I understand why there would be a desire to close down so-called crack dens, but it would

make no sense to prevent access to a family home. If the local authority wanted to rent out the home in the future, it would cost a lot of money to reopen the property. It might help if we received clarification from the minister on the proposal.

**The Convener:** Does Scott Barrie want to ask anything?

**Scott Barrie (Dunfermline West) (Lab):** No, I think that my questions have been answered.

**Elaine Smith:** I think that Grainia Long said that if an ASBO was granted in relation to a child, the family's tenancy might be converted to a short Scottish secure tenancy under the Housing (Scotland) Act 2001. Does that mean that a tenancy can be converted even if the tenant themselves is not the subject of the ASBO?

**Grainia Long:** Under the 2001 act, any tenant in social housing who is under 16 and has an ASBO served on them could have their tenancy converted. If an ASBO were served on a tenant in a household, the whole household's tenancy could be converted.

**Elaine Smith:** I presume that under-16s are not tenants.

**Grainia Long:** I see what you mean—you are referring to the people whose names are on the tenancy agreement, but the provision relates to anyone in a household. It does not make sense that the behaviour of a 13-year-old child could have an impact on a whole household's tenancy. We understand the intention, but implementation could cause trouble.

**Elaine Smith:** That provision could be somewhat discriminatory, because it will apply only to tenants and not to people who own their homes.

**Grainia Long:** Absolutely. We made it clear in our submission that the sanctions apply only to people who live in social housing. If an ASBO were served on the 13-year-old child of an owner-occupier, their home would not be in jeopardy.

**Elaine Smith:** You touched on an equal opportunities matter. We have considered whether children with special needs—particularly children with disorders such as autism—could be subject to ASBOs for their behaviour. The Executive's policy memorandum says:

"Ministers understand that concern. However, they are confident that the requirements set out in the Bill to ensure that the circumstances of a young person as a whole are taken into account when deciding the best means of tackling difficult behaviour by that young person should ensure that ASBOs are not applied for or granted where that would be inappropriate."

Ministers are confident that that will not be a problem. However, the example that you gave showed that discrimination is already happening.

Are you confident that such ASBOs will not be granted under the bill?

**Grainia Long:** That goes back to the point that we should not create a culture in which it is okay to take a no-tolerance approach to people who perform acts of antisocial behaviour. That is not to say that we condone such behaviour or support people who engage in it. We say just that before we apply sanctions, we must investigate all cases fully.

The problem in the case that our housing aid centre encountered was that the local authority automatically assumed that a person had caused noise. Another issue was that a lady downstairs had said that the woman involved did not live in her house although she was claiming housing benefit. When the woman defended herself, she said that she did not stay in the house during the day because she had an autistic child whom she tried to take out of the property.

We do not want local authorities to adopt the culture of automatically dealing with complaints through legal sanctions. We must hold back on that and say that other measures are available.

**The Convener:** Such a culture would not necessarily be created. The National Autistic Society Scotland cited the same example in evidence to us. I think that I am right to say that the view of that society's witness was that if reassurance was given that an investigation had been undertaken and that the local authority or housing association had an obligation to investigate the cause of noise, the witness would understand that in other circumstances when that noise was being made, eviction was reasonable.

I do not know anybody who wants to evict a family because of an autistic child who makes a noise. Lots of people come to see me about antisocial behaviour, but nobody has raised such an issue. In fact, those people are more tolerant than I would be. Do you accept that, once an investigation has been undertaken, the sanction is still necessary in some circumstances?

**Grainia Long:** Sure. Once the due process of law has been followed and once investigations are happening, the option of sanctions is always available. I am saying that I am concerned that, as some evidence suggests, the bill will assume that we have good homelessness legislation and that no one will be without a home, so a more aggressive approach to evictions can be taken.

**The Convener:** A more rigorous approach to antisocial behaviour might lead people to demand evictions, which would expose difficulties. You would probably agree that some behaviour should be subject to zero tolerance—such an approach is obvious as far as violence against women is concerned. My view is that one can have zero

tolerance of violence against women while working with the perpetrator of that violence. You would still say that we have zero tolerance of such violence, and of racial abuse. Do you think that it is unreasonable to say that we should take the same approach to the serious antisocial behaviour that is described in our communities?

**Grainia Long:** What we are saying is that we absolutely agree that one should have no tolerance of such acts when they are carried out, once the fact that they are happening is established. We need, in all cases, to establish what is happening, and we have no tolerance of antisocial behaviour when we are sure that it is happening. The issue is that we must first ensure both that it is happening and that we know the level at which it is happening. The investigation must take place first.

**The Convener:** Do you agree that it is reasonable that those investigations take place? Do you further agree that, just as we recognise the consequences for families and vulnerable people who become homeless because of the behaviour of other people, it is entirely reasonable not to be intolerant of the way in which people behave or the way in which certain conditions might express themselves? You are right to say that the issue exists across different types of housing tenure, but we should say within communities—whatever the type of housing tenure—that we want to put down a marker that such behaviour is not tolerable. We must be careful that, because we do not want to evict someone inappropriately, we end up not having the sanctions that would allow us to evict people.

**Grainia Long:** Yes, but we must always ensure that we use the best way of tackling the problem of antisocial behaviour. If doing that means engaging with the person and providing them with long-term and intensive support, so be it. That approach might take longer, but ultimately it means that we will tackle the antisocial behaviour. That is more effective than dealing with the person by making them leave their home, putting them into another home and then making them leave that home. A lot of money might be spent moving people around without tackling the problem. We always come back to the main issue: we must make sure that we tackle the antisocial behaviour.

**The Convener:** It is reasonable to say—I understand this absolutely—that you can identify vulnerable families who have difficulties and that there may be antisocial behaviour going on in their homes. However, not all antisocial behaviour generates from people who are dysfunctional—as some people call it—or troubled or whatever. Some very troubled people who have had bad things happen to them are not necessarily the people who behave antisocially.

**Grainia Long:** Sorry, could you repeat that?

13:29

*Meeting continued in private until 13:44.*

**The Convener:** You said earlier that a family could be troubled—there could be difficulties in the family—and that we have to be conscious of those problems in dealing with their antisocial behaviour. However, do you accept that that explanation does not apply to all families who display antisocial behaviour? I understand that it could apply to some families but, equally, it does not apply to others. Some families do not need support from you and some might not accept it. We have to find ways of separating the two categories. We must not decide not to deal with one category because there are troubled groups that we have to deal with separately.

**Grainia Long:** We are not suggesting that support is appropriate in every circumstance. You are right to say that not everybody needs support. If someone is carrying out a high level of noise nuisance, I do not think that a support worker is what they need.

We have taken a three-pronged approach. The first approach, which deals with most people, is one of minimising the causes of conflict, so it involves, for example, taking a practical approach to preventing antisocial behaviour. We have said clearly, both in the housing improvement task force work that we have done and in relation to the bill, that there needs to be a standard for noise insulation in Scotland. The highest number of complaints about antisocial behaviour relate to noise. If we had better noise insulation it would make a major difference; some other countries have done that effectively.

The second approach is to deal with antisocial behaviour when it occurs. That is the main plank of the supportive approach, and is the area that we mostly work on. The third approach is to deal with the most persistent perpetrators of antisocial behaviour, who are a tiny minority of people who need sanctions taken against them. Therefore, first we need to minimise the causes of conflict; then we need to deal with antisocial behaviour when it occurs; and, finally, the legal sanctions come into play when such behaviour is most persistent. I hope that that answers your question.

**The Convener:** Thank you very much for your written evidence and for allowing committee members to come out to see the Edinburgh families project; those of us who were unable to attend that visit got a report that it was very helpful. A number of points have been raised today on which we would welcome further comment from you. I thank you very much for coming along.

We now move into private session.

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