COMMUNITIES COMMITTEE

Wednesday 5 May 2004
(*Morning*)

Session 2

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COMMUNITIES COMMITTEE
17th 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)
*Mary Scanlon (Highlands and Islands) (Con)
*Elaine Smith (Coatbridge and Chryston) (Lab)
*Stewart Stevenson (Banff and Buchan) (SNP)
*Ms Sandra White (Glasgow) (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 ALSO ATTENDED:

Bill Aitken (Glasgow) (Con)
Mrs Mary Mulligan (Deputy Minister for Communities)
Mike Rumbles (West Aberdeenshire and Kincardine) (LD)

CLERK TO THE COMMITTEE

Steve Farrell

SENIOR ASSISTANT CLERK

Gerry McInally

ASSISTANT CLERK

Jenny Goldsmith

LOCATION

The Chamber

Scottish Parliament

Communities Committee

Wednesday 5 May 2004

(*Morning*)

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

The Convener (Johann Lamont): I call this meeting of the Communities Committee to order. I welcome members to the committee, particularly Bill Aitken and Mike Rumbles, who are here for consideration of the Antisocial Behaviour etc (Scotland) Bill.

Before we proceed with business proper, I have a bit of news: Ross Dickson, our committee assistant, is moving to the business team. I am sure that members join me in wishing him all the best in his new job and in thanking him for the work that he has done while he has been with us. The smooth running of the committee is almost entirely down to his efficiency—the fact that we are not aware of that just shows how efficient he is.

Members: Hear, hear.

Subordinate Legislation

Town and Country Planning (Fees for Applications and Deemed Applications) (Scotland) Regulations 2004 (Draft)

10:03

The Convener: Agenda item 1 is consideration of the draft Town and Country Planning (Fees for Applications and Deemed Applications) (Scotland) Regulations 2004. I welcome Mary Mulligan, the Deputy Minister for Communities, who is a regular visitor to the committee these days. I also welcome Elizabeth Baird, who is the acting head of planning division 1, and Ed Swanney and Shirley Dunbar also from planning division 1.

The regulations are to be considered under the affirmative procedure, which means that the minister is required under rule 10.6.2 of standing orders to propose by motion that the draft regulations be approved. Members have received copies of the draft regulations and the accompanying documentation. I invite the minister to speak briefly about the draft regulations. She should not yet move the motion.

The Deputy Minister for Communities (Mrs Mary Mulligan): I will try to keep my comments fairly brief.

The regulations will introduce new levels of planning fees, which, if approved by the committee, will come into effect in two stages: the first stage on 1 June 2004; and the second stage on 1 April 2005. The fees are not intended to address the full costs of development control, which include pre-application discussions, appeals and other non-qualifying activities. However, they are designed to cover the costs of processing planning applications. The Scottish ministers consider that the increase strikes the right balance between full recovery and the likely impact on potential developers.

Fees remain a small part of developers' costs—considerably less than 1 per cent—and there is no evidence that they act as a deterrent to development. At the domestic property end of the scale, few householders pay any fee because most minor development does not require a planning application. I will provide the committee with indicative figures to show what the increases would mean if members so request.

Scottish ministers believe that users and potential beneficiaries of the development control system should meet the costs incurred in determining planning applications, which would otherwise be met by council tax and business rates payers in general. The increase proposed in

the regulations will be the first increase in planning fees since April 2002. Even taking it into account, planning application fees continue to be modest and to represent a small proportion of developers' overall costs.

Stewart Stevenson (Banff and Buchan) (SNP): Has the minister considered section 20 of the Local Government in Scotland Act 2003, which deals with the power to advance well-being? Has she also considered section 252 of the Town and Country Planning (Scotland) Act 1997, under which the regulations are being made? As far as I can see, section 252 of the 1997 act does not require that fee levels be set for local authorities.

Why are the fees the same for every council? Given that the policy objective is to retrieve the costs of processing applications, does that not allow councils that are less efficient in processing applications to ride along in the slipstream of those that are more efficient? Does it not deny councils that are more efficient the opportunity to reduce their fees and to encourage planning applications in their area rather than in areas where fees are higher?

Given that the power to advance well-being under section 20 of the Local Government in Scotland Act 2003 returns power to councils, why are we now denying councils the opportunity to set their fees? Since for the first time in our consideration of four Scottish statutory instruments on the subject, we are replacing a previous SSI in its entirety, is there not an opportunity to harmonise what we are doing with the powers that we have granted to councils in other legislation?

Mrs Mulligan: We feel that it is helpful for the fees that are charged by local authorities to be consistent, so we are aiming for an average, which will result in the recovery of as close as possible to 100 per cent of the cost of dealing with planning applications.

I reassure Stewart Stevenson that we have decided to carry out a review of the funding of local authority planning services, which is just about to start. We will consider the very elements that he suggested—including those local authorities that might be more efficient than others—to see how we can encourage a level of service across the board. We will acknowledge the most efficient councils and see where we can support those that need additional support to become more efficient. We acknowledge the points that Stewart Stevenson makes about encouraging efficiency in the service, but we want to gather more information on the situation. That is why we are suggesting now an increase in planning fees across the board.

Stewart Stevenson: I listened to that reply with interest. You said that you want to have consistency and I would be interested to hear your arguments for that. You also said that the fees are a relatively small proportion of the cost of any development—they are not a major factor. Therefore, I wonder why we need to go to the trouble and expense of having a review, given that we legislated to return more financial powers to local authorities and especially given the fact that the matter has no particular financial significance. I understand that the SSI sets fees for the Scottish Executive's involvement in the process, but I suggest that we let local authorities get on with it and that we do not set fees on their behalf. I have not yet heard an argument that rebuts that suggestion.

Mrs Mulligan: We intend to carry out the review because we want to ascertain the relative levels of efficiency in the planning system as part of our modernisation drive, not because we think that planning fees are a burden that reduce the amount of development that takes place, particularly in the business sector, where we want to encourage businesses to expand and deliver additional services and employment. We recognise that the service has to be paid for and we have set the fees at a level at which we think we can secure as close as possible to a 100 per cent return and ensure that the service is consistent. That is why we are putting that option to the committee.

Stewart Stevenson: Why must the service be consistent?

Mrs Mulligan: We want developers across Scotland to know what the position is likely to be. One area should not have an unfair advantage over another.

Stewart Stevenson: Do you think that competition is unfair?

Mrs Mulligan: I did not say that. I said that developers should be aware of the likely charges, so that charges are not a consideration in their decision about where to develop.

Mary Scanlon (Highlands and Islands) (Con): I highlight a point that has been brought to my attention. I understand that councils carry out a considerable amount of work on applications to develop wind farms and that they must bear the costs of processing such applications. Highland Council, in particular, deals with a large number of such applications, but councils do not receive a penny for the service that they provide in relation to applications under section 36 of the Electricity Act 1989 to develop wind farms with a capacity of more than 50 MW, which are considered by the Scottish Executive. I do not think that the instrument mentions that matter. Will you consider paying a fee for the service that councils provide, which is considerable, given that such applications

are for enormous wind farms and attract large numbers of objections?

Mrs Mulligan: I am reliably informed by Ed Swanney that that matter is being taken up in the review that is being undertaken by the energy and telecommunications division of the Scottish Executive Enterprise, Transport and Lifelong Learning Department, in recognition of the number of applications that are currently being made.

Mary Scanlon: I understand that councils usually receive around £8,000 to process a wind farm application, but receive nothing for applications for enormous wind farms, which are decided by the Scottish Executive. What is the timescale for the review?

Mrs Mulligan: The Executive's planning division does not have a role in relation to applications under the Electricity Act 1989. For that reason, I have no information about how the review is progressing, but I will ensure that the information is passed to Mary Scanlon as soon as we have it.

10:15

Donald Gorrie (Central Scotland) (LD): Most developers expect the planning service to be speedy and efficient, although often it is not. Will you assure us that the increase in charges will help councils to fund their planning services adequately or better and will allow them to deliver a better service than they could deliver if there were no charges?

Mrs Mulligan: Through the charges we intend to ensure that we receive a reasonable return on the number of planning applications. However, we acknowledge that local authorities have an opportunity to increase their resources and their efficiency, which is not always down to how much money is in the pot. The committee will be aware that we recently launched the consultation document, "Making Development Plans Deliver", which is about improving the planning service for all those who come into contact with it. A number of measures can be taken in that regard.

On what we have before us, ensuring that there is a basic income to meet the costs of planning applications is a straightforward way of ensuring that no council is losing out on the money that is being put into the pot to deal with planning.

The Convener: As no other member wishes to speak, I ask the minister to move the motion.

Motion moved,

That the Communities Committee recommends that the draft Town and Country Planning (Fees for Applications and Deemed Applications) (Scotland) Regulations 2004 be approved.—[*Mrs Mary Mulligan.*]

The Convener: The question is, that the committee recommends that the draft Town and Country Planning (Fees for Applications and Deemed Applications) (Scotland) Regulations 2004 be approved. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Barrie, Scott (Dunfermline West) (Lab)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Gorrie, Donald (Central Scotland) (LD)
Lamont, Johann (Glasgow Pollok) (Lab)
Scanlon, Mary (Highlands and Islands) (Con)
Smith, Elaine (Coatbridge and Chryston) (Lab)

AGAINST

Stevenson, Stewart (Banff and Buchan) (SNP)
White, Ms Sandra (Glasgow) (SNP)

ABSTENTIONS

Harvie, Patrick (Glasgow) (Green)

The Convener: The result of the division is: For 6, Against 2, Abstentions 1.

Motion agreed to.

The Convener: Do members agree that we report to the Parliament on our consideration of and decision on the order?

Members *indicated agreement*.

10:17

Meeting suspended.

10:22

On resuming—

Antisocial Behaviour etc (Scotland) Bill: Stage 2

The Convener: I welcome again Mary Mulligan and her officials. As has been our previous practice, if the minister wishes an official to contribute, they will have to do so at her invitation, which would be helpful to us.

After section 12

The Convener: Amendment 168, in the name of Elaine Smith, is in a group on its own.

Elaine Smith (Coatbridge and Chryston) (Lab): Amendment 168 relates to concerns expressed by Shelter Scotland, the Scottish Federation of Housing Associations and Barnardo's Scotland about the link between antisocial behaviour orders and tenancies. When the Housing (Scotland) Bill was being considered, an amendment at stage 2 linked ASBOs to tenancies, which, at the time, appeared contrary to the original concept that ASBOs should apply to all tenures equally and seemed to change the fundamental principle that an ASBO would impact solely on the individual who carried out the behaviour. Since then, anyone in social rented housing who is served an ASBO can have their tenancy converted to a short Scottish secure tenancy. In such a case, a landlord could evict the tenant without providing grounds or reasons. That means that anyone who lives with the tenant could also face eviction. There is no such threat in private rented or owner-occupied accommodation, which means that there is a two-tier system.

The bill compounds the situation, because giving sheriffs powers to serve ASBOs on under-16s could lead to a child's behaviour impacting on the tenancy of the whole family and, ultimately, to homelessness. Clarification is required on whether the behaviour need not be tenancy related for the tenancy to be affected in that way. I would be grateful if the minister would pick up that point.

Amendment 168 would provide for ASBOs for under-16s to be excluded from the grounds on which a landlord may convert a tenancy to an SSST. It would ensure that the ASBO impacted only on the behaviour of the child in question rather than on the whole family, which might include other children. The amendment would not undermine the Executive's intention that ASBOs should be an effective measure in tackling the antisocial behaviour of children, because other robust responses would still be available.

At the moment, support for those who are made the subject of an ASBO is provided only when the tenancy has been converted. For under-16s, it would be more appropriate to link the ASBO to support than to the tenancy of the family. Shelter believes that support has been proven to work as an alternative to eviction. The costs involved in providing support are similar to the costs of defending eviction cases, so there is a cost argument too.

Amendment 168 would mean that all children who are made the subject of an ASBO would be on an equal footing, regardless of the tenure of the house in which they reside. If the amendment is not agreed to, children who display the same behaviour will be treated differently depending on whether they live in social rented or owner-occupied accommodation. That would be discriminatory and unjust.

I move amendment 168.

Stewart Stevenson: I will speak briefly in support of amendment 168.

Through parenting orders, which are provided for in the bill, the Executive is pursuing a policy that clearly recognises that parents are not perfect and that they might require support in some circumstances. There is a recognition that it is not the parents' fault if their child commits antisocial behaviour, even though that behaviour may be due to deficiencies in parenting that must be addressed. Therefore, the Executive has already conceded the point that we should not blame the parent for the actions of the child. If we fail to support Elaine Smith's amendment, we will take an important and unwelcome step towards penalising parents for the actions of their children. What more severe penalty can there be than turning people out of their house?

Donald Gorrie: I have discussed the amendment with colleagues in my own and other parties. I have a lot of sympathy with Elaine Smith's point that we should not treat families differently depending on the form of tenure that they possess. That is a strong moral issue.

Whether the family of the young person should be penalised is an issue that I find difficult. It would be wrong to punish innocent people because a member of their family is a tearaway. However, colleagues with whom I have discussed the issue gave examples of families in which the parents have clearly used their children as a device to harass their neighbours and have felt confident that they could do so with impunity. It would be helpful if the minister and her advisers could come up with some way of distinguishing between those families that do their best to control their child but do not succeed and those families that clearly

could control the errant young person but will not do so.

In discussions, it was suggested that the system that is provided for in the bill might actually reduce or delay the number of evictions. If I understood the point correctly, there is some experience in England to that effect. I would welcome some assurance from the minister on that. The more I discuss the issue with people, the more confused I get as to which way I should vote, so I would welcome clarification from the minister on those points.

Ms Sandra White (Glasgow) (SNP): I support amendment 168. My first reason for doing so is that we should not discriminate between people who live in social rented housing and those who live in private housing. Just because a person lives in the social rented sector does not mean that they will be any more antisocial than anyone else. We should not make that distinction.

I point out also that the parents are not the only ones who might be penalised because of the actions of their under-16-year-old child. There might be babies, toddlers or infants in the family, all of whom would be punished for that one person's actions. As Stewart Stevenson rightly pointed out, parenting orders are one way in which parents can be helped to tackle the antisocial behaviour of their offspring. I do not think that it is right that everyone should be penalised. After all, if someone commits a crime—and some would say that antisocial behaviour is a crime, even if people are not jailed for it—you do not jail the whole family.

I support Elaine Smith's amendment. It is important that we ensure that a family is not penalised because of the actions of one person.

10:30

Cathie Craigie (Cumbernauld and Kilsyth) (Lab): I do not support Elaine Smith's amendment and I hope that the minister will be able to persuade Elaine to withdraw it.

Some points have been raised this morning that are clearly wrong. First, the point that was made about discrimination between the private sector and the social rented sector is not correct. In the social rented sector, local authorities and housing associations have the power to evict people and to recover the tenancy whether or not an ASBO has been issued. That is part of the price that people pay for living in that sector. The provision protects the individual and, to an extent, the landlord and the community. If an ASBO is breached, it is a criminal offence. The local authority could go to the courts and the person could be fined or jailed. The local authority in my constituency has been involved in two cases in which people have been jailed: one concerned an owner-occupier in the private sector; and one concerned a local authority tenant.

It is not the case that the natural progression once an ASBO has been issued is to move towards an eviction. The Housing (Scotland) Act 2001, which introduced the short Scottish secure tenancy, includes measures that ensure that packages of support kick in as soon as a tenancy is converted to an SSST. I stress that the use of those packages of support means that there is not an automatic eviction. Of course, the local authority must work to ensure that it can try to convert the tenancy back to a secure tenancy. I think that it has a period of about a year in which to do that. The aim of the system is to correct the behaviour of the tenant and to convert the tenancy back to a secure tenancy by means of a package of support measures. The local authority in my constituency has advised me that it has been using the short Scottish secure tenancy system successfully and that the aim—to correct people's behaviour—is being achieved. There have been no evictions as a result of people having their tenancy converted to a short Scottish secure tenancy. In fact, the council has been able to work with people, correct their behaviour and get them back into secure tenancy arrangements.

I do not have figures for the number of people whose tenancies have been converted back to secure tenancies, but I can assure the committee that the council views the SSSTs as a useful tool in working on the behaviour of the tenants concerned.

Mrs Mulligan: Amendment 168 would add a new section after section 12. The new section would provide that local authorities or registered social landlords could not avail themselves of the power in section 35 of the Housing (Scotland) Act 2001 to demote the tenancy of one of their tenants to a short Scottish secure tenancy because a child residing with the tenant is subject to an ASBO. As members of the committee will know, section 35 of the 2001 act allows a public sector landlord—the local authority or an RSL—to serve a notice on a tenant converting their tenancy to an SSST if the tenant or a person who resides with the tenant is subject to an ASBO.

Members who were involved in the passage of the 2001 act will know that the introduction of the SSST was meant to ensure that there was a further barrier to eviction, not to increase the number of evictions. It is important to note that this is a power; it is not a duty. Moreover, as the committee will be well aware, when a tenancy is converted to an SSST, obligations on the landlord to support the tenant kick in. That is what Cathie Craigie has just explained. Landlords must provide support to enable the tenant to convert back to a

full SST after 12 months. The committee will also be aware that a tenant has a right of appeal to the courts if they do not agree with the conversion of their tenancy to an SSST.

Landlords already have the power to serve a notice for possession when a person who resides or lodges in the house with a tenant, or a person who is visiting the house, has behaved in an antisocial manner towards people in the locality. That can apply to children aged under 16. It would be inconsistent, therefore, to have a power of eviction available in the case of antisocial behaviour by young people but not to have the power to convert the tenancy to an SSST—especially as conversion to an SSST, with support, can be used by landlords as an alternative to eviction. Amendment 168 could have the opposite effect to that which Elaine Smith intends because the option of an SSST, with related support, would not be available.

On that basis, I cannot support amendment 168. We believe that the link to tenancy when an ASBO has been taken out in respect of a young person aged between 12 and 15 will be a useful tool that should be available to landlords. It provides a useful extra incentive to the parents of the young person to take a more responsible approach and to help to change their child's damaging behaviour.

In relation to the comments of Stewart Stevenson and Donald Gorrie on how we distinguish between families that are attempting to help their young people to change their behaviour and those that are exploiting those young people, there is an opportunity for us to include in guidance how such situations could be addressed. The intention to use demotion of a tenancy is about changing that antisocial behaviour; therefore, it will be used only when it is seen that it could be effective—if parents or other members of the family are not co-operating.

Some have argued against that link to young people on the basis that it is not fair to threaten the tenancy of parents or other children of the family because of the behaviour of one child. Those who make that case forget that, in allowing the link for adults who are subject to an ASBO—for example, the parents—we are providing that the children of the family may live in a house that is subject to an SSST because of their parents' behaviour. The argument is that it is okay to reduce the tenancy if a parent has an ASBO but not if the child has one. I do not think that that necessarily follows.

Some people also argue that young people are more likely to be subject to ASBOs that do not involve difficult behaviour in and around where they live. On that basis, they argue that allowing a link to a tenancy is not appropriate. However, in response to Elaine Smith's point, I make it clear that if the behaviour that brought about the ASBO was completely unrelated to the tenancy, it would not result in demotion of the tenancy to an SSST. Only when the ASBO was relevant to the tenancy would we seek that measure.

Ultimately, as I have said, SSSTs are not about securing the eviction of families from their homes; they are intended to support tenants in improving their behaviour and the quality of their tenancy. For all those reasons, I urge Elaine Smith to withdraw her amendment.

Elaine Smith: Quite a lot has been said in a short debate on amendment 168. I do not believe that ASBOs are the right way to tackle antisocial behaviour in children, and I have outlined my reasons for that at a previous meeting, but if ASBOs for under-16s are to be implemented, they should at least apply fairly to all children.

Donald Gorrie's point about parents using their children to harass their neighbours could apply in housing under any tenure, but the response would be different in different types of tenure. It is not fair that a family could be evicted because a visitor to the house had engaged in antisocial behaviour, as the minister suggests the Housing (Scotland) Act 2001 allows.

I do not understand why support can be made available only if and when a tenancy is converted to an SSST. The minister talked about notices of possession; I wonder whether support should not be offered before such notices are served. Would not that be fairer? The point that Stewart Stevenson made on parenting orders and eviction is important and applies to such a situation, on which the Executive's arguments are inconsistent.

The minister talked about circumstances in which the ASBO is not related to tenancy, and I was pleased that she stated categorically that an ASBO would not allow landlords to exercise powers of conversion in such cases. I was unclear about whether we would simply expect landlords not to exercise such powers, so I am delighted that that clarification has been put on the record. However, to link a child's ASBO to the whole family's tenancy is simply wrong and unfair. Also, Cathie Craigie and the minister have cited examples that seem to me to be unfair, although they represent existing law. We would be building on such unfairness if people with one type of tenure were to be treated differently from those in another for the same antisocial behaviour. Of course, landlords must deal with their tenants under their tenancy agreements, but such inconsistencies are not fair.

The bill basically provides that the behaviour of a child who lives in an owner-occupied residence will not affect the housing of that child's parents and family, whereas the behaviour of a child who

lives in social rented housing will affect the housing of their parents and family. That is the overarching argument, and it means that the law would treat those who live in rented houses differently from those who live in bought houses. That strikes me as being one law for the richer people in society and another for the poorer. That is unfair and runs counter to the principles of social justice, as does the fact that others in the household might be punished for the actions of an individual—in this case, a child—despite their not having committed any antisocial behaviour. Cathie Craigie's example referred to the behaviour of adult individuals, whether in owner-occupied or social rented housing, which is a totally different argument.

If amendment 168 were agreed to, it would ensure that all children would be treated the same, whether they lived with richer parents in owner-occupied housing in, for example, Morningside or in poorer families that are dependent on social rented housing in, for instance, Sykeside in my constituency. Antisocial behaviour is not confined to the children of the working class who live in rented accommodation, and responses to it in law should not discriminate on that basis. Scots law requires that the perpetrator of any crime—I use "crime" to refer to the types of antisocial behaviour about which we are talking—should face the same consequences irrespective of their social background. On that basis, the bill is flawed, and amendment 168 should be supported because it would ensure parity for children irrespective of parental wealth, social background or what kind of house they live in.

The Convener: The question is, that amendment 168 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Harvie, Patrick (Glasgow) (Green)
Scanlon, Mary (Highlands and Islands) (Con)
Smith, Elaine (Coatbridge and Chryston) (Lab)
Stevenson, Stewart (Banff and Buchan) (SNP)
White, Ms Sandra (Glasgow) (SNP)

AGAINST

Barrie, Scott (Dunfermline West) (Lab)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)

ABSTENTIONS

Gorrie, Donald (Central Scotland) (LD)

The Convener: The result of the division is: For 5, Against 3, Abstentions 1.

Amendment 168 agreed to.

Section 13—Provision of information to local authorities

Amendments 60 and 61 moved—[Mrs Mary Mulligan]—and agreed to.

Section 13, as amended, agreed to.

Section 14—Records of orders

Amendments 62 and 63 moved—[Mrs Mary Mulligan]—and agreed to.

Amendment 169 not moved.

Amendment 64 moved—[Mrs Mary Mulligan]—and agreed to.

10:45

The Convener: Amendment 65 is grouped with amendment 67.

Mrs Mulligan: Amendment 67 is the more significant amendment in the grouping. Amendment 65 is, in effect, consequential on amendment 67 and will drop section 14(3) which would require a local authority to

"have regard to any guidance"

that was issued on the record of orders. Section 14(3) is no longer needed because a proposed new section on guidance will be introduced by amendment 67.

Amendment 67 will put guidance on antisocial behaviour orders on a statutory footing. The current provision is for non-statutory guidance. The amendment will place a duty on any person, other than a court, to have regard to the guidance in discharging their functions in this part of the bill. Statutory guidance is intended to help promote good practice on the use of antisocial behaviour orders. Guidance will explain in more detail how the ASBO powers can be used and, perhaps more importantly, how they should be used.

Statutory guidance on ASBOs will be particularly important once such orders are extended to 12 to 15-year-olds. Although we have not widened the range of bodies that can apply for an ASBO, the principal reporter and the children's hearings system have an important role to play and guidance will explain their involvement. Guidance will encourage greater consistency in the use of ASBOs and inform consideration of requests to local authorities and registered social landlords. It will also be important to the police who are consulted on all applications and who are responsible for enforcement in respect of breaches of orders. The introduction of statutory guidance should also provide reassurance that some of the points that do not need to be covered on the face of the bill will be covered in guidance.

We will, of course, consult on the guidance before it is introduced.

I invite the committee to agree to amendments 65 and 67. I move amendment 65.

The Convener: As no member wishes to speak to the grouping, I assume that the minister does not wish to wind up.

Mrs Mulligan: No.

Amendment 65 agreed to.

Amendment 66 moved—[Mrs Mary Mulligan]—and agreed to.

Section 14, as amended, agreed to.

After section 14

Amendment 67 moved—[Mrs Mary Mulligan]—and agreed to.

Section 15—Interpretation of Part 2

Amendments 118, 170 and 263 not moved.

Amendment 171 moved—[Stewart Stevenson].

The Convener: The question is, that amendment 171 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Stevenson, Stewart (Banff and Buchan) (SNP)
White, Ms Sandra (Glasgow) (SNP)

AGAINST

Barrie, Scott (Dunfermline West) (Lab)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Gorrie, Donald (Central Scotland) (LD)
Lamont, Johann (Glasgow Pollok) (Lab)
Scanlon, Mary (Highlands and Islands) (Con)
Smith, Elaine (Coatbridge and Chryston) (Lab)

ABSTENTIONS

Harvie, Patrick (Glasgow) (Green)

The Convener: The result of the division is: For 2, Against 6, Abstentions 1.

Amendment 171 disagreed to.

Amendments 119 and 120 not moved.

Section 15 agreed to.

Before section 16

The Convener: Amendment 264, in the name of Donald Gorrie, is grouped with amendments 265 and 268.

Donald Gorrie: What I want to say at this point concerns this group of amendments and the next group. To my mind, the power of dispersal is one of the key points of the bill. I think that it is no secret that, if we were to start again from scratch, my political colleagues and I would not put a provision like it into the bill.

However, it is in the bill, and we are trying make it work as sensibly as possible as a first measure. In the end, along with all the other discussions that the minister has agreed to have in the light of previous amendments, my colleagues and I—and obviously all other members—will have to weigh up what comes forth at stage 3, and make a final decision then. At the moment however, we are trying, in our view, to improve this part of the bill.

The purpose of the amendments is similar to the purpose of my earlier amendment 36A, relating to section 1, on strategies, which said that councils should organise community consultations with relevant people, to try to sort problems out before they become so bad that a dispersal order is necessary. At that stage, the minister said that

"there might be a better place for amendment 36A." —[*Official Report*, *Communities Committee*, 21 April 2004; c 804.]

Amendment 264 is not the same as amendment 36A, but it tries to address the same issue. Colleagues with whom I have discussed the matter say that my approach is too bureaucratic. I will not fight in the last ditch for the wording of the amendment, but I am very keen on the issues that it raises.

People say that good practices exist in many areas. Members of the public who are interested and who read the bill, look at it in a vacuum. Unless measures are stated in the bill they do not believe that they will happen. It is therefore essential that there is a focus in the bill on the need for communities that have problems with groups of young people—or older people—to organise themselves at an early stage to try to sort those problems out, and to involve everyone in the community in the discussion. It is a weakness of the bill that schools are not mentioned. It is a symptom of the parochialism of the Government that each department considers issues on its own and if, for example, schools are the responsibility of another department, they do not get a mention. Clearly, however, misbehaviour in school, exclusion from school and the positive contribution that schools can make to people's behaviour, are important parts of the issue.

Likewise, although parents are mentioned elsewhere in the bill, they are not mentioned in the part that relates to groups of young people who may be causing trouble. In some councils there is a good system, where police warn parents that their children are in danger of getting into trouble. Many parents are ignorant of what their children are up to and so parents should be brought into the discussion. There should be a discussion in the community that involves the young people who are causing the trouble, and the ones who do not

cause trouble: they all have a useful contribution to make. I am keen that there should be some system of local discussions. My proposal for provision that would cover a whole council area may be too wide; we should perhaps focus more narrowly. However, I am at least attempting to address the matter of involving an area's community, police, council, youth workers and so on, in order to try to sort matters out earlier.

Amendment 265 is about having a national antisocial task force. It is a separate issue. Members may or may not like amendment 264, but a national body, which would co-ordinate a response to the legislation, would be helpful. People are already complaining that there is great inconsistency in the way in which police and courts in different areas deal with such matters. Such a body could find out what was happening and try to achieve consistency and spread good practice.

Much good work is being done in various council areas and police areas and we and people in the areas where things are not being done so well should learn from it. A national antisocial behaviour task force would be helpful.

Amendment 268 says that the police, in pursuing the policy of dispersal, must ensure that the local authority's antisocial behaviour task force has done the sort of things that I have described—that would also depend on amendment 264. I am keen on the ideas behind the amendments, which involve some sort of local system for dealing with problems, both before and after dispersal powers are used. It would also be valuable to have a national antisocial behaviour task force.

I hope that the minister will respond favourably to those ideas. If she does not accept the amendments, I hope that she will make some positive suggestions for better amendments with which to deal with the issues.

I move amendment 264.

Stewart Stevenson: Donald Gorrie's case for a national body has some merit. It is no secret to anyone on the committee that I am an arch-sceptic on the subject of dispersal powers in particular. If the bill continues to include those powers—we shall see—then it would certainly be of value to have an overarching body for managing them.

I would like to think that we do not need 32 local antisocial behaviour task forces. I might be wrong, but I suspect that not every council area has problems that would justify the scale of effort that would be involved. However, in suggesting that a national task force be set up, rather than have task forces under local authorities, we encounter a drafting problem. I suspect that the national body would depend, to an extent, on the statistics that Donald Gorrie would require local antisocial behaviour task forces to gather and transmit to the national body. Although there might be a wee issue there, that does not mean that the proposal should fall.

I echo Donald Gorrie's point about there being good practice around, which delivers effective responses to antisocial behaviour, including dispersal of groups. I refer again to the experience that was brought to the committee when we heard evidence at stage 1 from a Labour councillor in Edinburgh, which showed that the issue is not about legislative powers, but about the will to tackle existing problems with existing structures and legal powers. There are resource issues, but the matter is about the choices that police and local authorities make in their areas and about where resources are focused.

Donald Gorrie in effect criticised his own proposals—or brought to them the criticisms of others—in relation to bureaucracy. That point has some merit. I am reluctant to vote for amendment 264, although I might be persuaded on amendment 265. I will be interested to hear what the minister and other members have to say before I come to a conclusion.

Patrick Harvie (Glasgow) (Green): I very much support the intention behind the amendments, so I hope that Donald Gorrie will be able to answer my question in summing up. One of the constant themes in the process has been to do with getting away from the perception that antisocial behaviour involves only children and young people. Although I support the proposal that the organisations and people that Donald Gorrie specified should be involved, they should not be the only organisations and people involved. I ask Donald to explain in his summing up why some of the text of his amendments so strongly focuses on children and young people.

11:00

Elaine Smith: Donald Gorrie's amendment 264 is rather prescriptive. For example, North Lanarkshire has a successful antisocial task force, which also deals with mediation. The feedback that I get in Coatbridge is that it seems to work well, but amendment 264 would change the way it works. The task force might want to make changes when the bill is enacted, but that is a matter for local authorities—it is not something that we should prescribe. Of course, the Executive could encourage the setting up of local antisocial behaviour task forces, of which there are good examples.

On amendment 265, of course the bill's provisions should be monitored after implementation, but the terms of reference for that

work should be brought forward by the Executive rather than prescribed in the bill.

Ms White: I have a great deal of sympathy with what Donald Gorrie is trying to do in amendment 264, and he is sincere, but I also have some worries. The amendment is too prescriptive; areas usually have some form of task force and work is done by schools, social work departments and councils. Their work is not always successful, but they are trying to do something about antisocial behaviour. Like Patrick Harvie, I am concerned that amendment 264 focuses on children and young people. Donald Gorrie proposes working with schools, but what if some children and young people do not want to join in with the task force? Would they be deemed to be antisocial? I have many worries about how the proposal would be implemented.

My concerns also apply to amendment 265. The idea of a national antisocial behaviour task force sounds good—I think that we should consider it—but the wording is frightening to me, let alone to children and I do not know how the proposal would be implemented. It seems that it would come after antisocial behaviour had been identified, given that it would involve the children's hearings system in the task force. In a way, that is good, because the children's hearings system takes into account the interests of the child, but I am worried about how we would get children, or anyone, to join in with such a task force—we cannot force people to join in.

Donald Gorrie means well, but there are a lot of flaws in his plan and I would like him to clarify the points that I and others raised about how his proposals would be implemented locally or nationally. I am against the power of dispersal—it is sad that Donald Gorrie felt that he had to lodge such amendments to enable him and the Lib Dem group to vote for those powers.

Scott Barrie (Dunfermline West) (Lab): When Donald Gorrie spoke to his amendments, he almost suggested that he acknowledges the criticisms that people have expressed, particularly the criticism that the amendments are bureaucratic. I fully understand his motivation in lodging them but, further to his suggestion that we should establish task forces in our 32 local authority areas, we should think about the size of some of those areas. Mary Scanlon often talks about the Highlands; it is ridiculous to suggest that a local antisocial behaviour task force for the Highland Council area could be meaningful and representative. If we tried to involve people from different parts of the Highlands, it would become so unwieldy and unworkable that it would militate against the intention behind such a scheme.

We have said constantly that the bill is not anti-youth or anti-children, yet the organisations that are deliberately targeted in the amendments are mostly youth organisations. That goes against the grain of what we are trying to achieve. I understand what the amendments are about, but if we stop and think, we can see that the scheme would be unworkable and is not worth setting up. We would not be able to get a cross-section of the community involved in it meaningfully.

The Convener: The idea of young people's organisations talking about safe and positive communities and the idea of responsibilities and rights in the community is very positive. Schools and colleges should be encouraged to do that and the focus should not just be on discussing antisocial behaviour.

There are two separate issues here. One is to do with how we involve people in making their communities better and how we engage people, whether they are old or young. The second is to do with solving problems when they have emerged. Frankly, whether they are set up in Glasgow or nationally, all the task forces in the world will not solve some of the localised problems that emerge in constituencies such as mine. Such a model would not help those communities because problems emerge when relationships are fractured. The parents of youngsters who are struggling with being bullied or who are intimidated in and out of school will not engage in a task force with those who are the perpetrators. There is a fundamental misunderstanding of how intimidation operates and how people can be silenced in their communities. Although I accept that there is a place for mediation, it is very much a local issue and should be appropriate to the individuals involved.

I would be concerned if the amendments in Donald Gorrie's name were agreed to, because it would look as if we were doing something when in fact we were just setting up talking shops. The Executive should be progressing some of that work in a much more positive way, but in order to solve problems, we have to accept and understand the nature of those problems at a local level and realise that they cannot be solved by the task-force formulae that are set out in the amendments. Although the amendments intend to get people involved in what is happening in their communities, and that is important, I do not think that they address that issue.

Mrs Mulligan: I say at the outset that I do not accept the amendments in Donald Gorrie's name. However, I share his strong desire to ensure that communities are effectively involved in preventing antisocial behaviour and in dealing with it when it happens. We are therefore trying to achieve the same thing but, unfortunately, the amendments would cut across the antisocial behaviour strategy provisions in part 1 of the bill. In so doing, they

would lead to confusion, unnecessary bureaucracy and, more important, less effective protection for those who are suffering from antisocial behaviour.

Members will recall that we debated part 1 at some length. Part 1 provides for the preparation and on-going review of local antisocial behaviour strategies, which have to be prepared by the local authority and police working with their community partners. They will include plans to prevent antisocial behaviour as well as to deal with it once it happens. They will be implemented through existing community planning structures and will involve the convening of meetings of interested bodies and individuals.

Part 1 delivers what Donald Gorrie is looking for through amendments 264, 265 and 268. Moreover, members will recall that during last week's debate on amendment 36A, I agreed that, along with him and other interested committee members, I would examine how we could amend part 1 at stage 3 to make it clearer that community consultation should be a key part of any antisocial behaviour strategy.

Amendment 264 requires the establishment of local antisocial behaviour task forces in each local authority area. It requires that the task force be comprised of representatives of the groups specified in subsection (2) of the proposed new section. The amendment also sets out the duties of local task forces, including campaigning to address fear and alarm caused by groups, involving parents and communities in that process and keeping records of antisocial behaviour caused by groups.

I reiterate that all Donald Gorrie's goals—involving young people and those with the interests of young people in the process, and seeking to use a variety of means of tackling antisocial behaviour by groups before resorting to the dispersal powers—can and will be achieved through antisocial behaviour strategies. Therefore, amendment 264 is unnecessary and would be damaging. It would force local authorities to establish two separate processes to deal with the same issues. The task forces would have to concentrate on problems caused by groups, to the exclusion of other types of antisocial behaviour.

Amendment 265 would require the establishment of a national antisocial behaviour task force. Scottish ministers would be required to set up the group, which would include representatives of similar interests to those that would be required to be involved in local task forces. The duties of the proposed national task force are set out in subsection (3) of the proposed new section and include considering reports from local task forces, promoting good practice and consistency in responses to antisocial behaviour by groups, and preparing an annual report to Parliament about the success or otherwise of attempts to tackle antisocial behaviour by groups.

I suggest that amendment 265 goes too far. A fundamental principle that underpins the Executive's policy on antisocial behaviour is that decisions about how best to tackle such behaviour in a particular area should be taken by those who live, work and operate in the area. The Government's job is to give communities the necessary tools and resources to do their job, rather than dictate to them how to do it or establish expensive and cumbersome structures that might consume valuable energy and produce little added value. I agree with Scott Barrie that flexibility is crucial to the success of the bill's operation.

Amendment 268 would require a senior police officer to ensure that the local antisocial behaviour task force had sought to address concerns about the presence and behaviour of groups before the senior police officer made an authorisation allowing the use of the dispersal power. The amendment specifies that the local task force must address concerns

"through working with the local community … including consulting with representatives of … young people … people who have complained of or suffered from harassment"

and

"community and youth organisations."

I recognise the policy intention behind amendment 268, which is to ensure that other plans have been deployed and have proved unsuccessful before the dispersal powers are used. I share that desire and we will ensure that the guidance that we issue under section 20 makes precisely that point. However, it is not necessary to have explicit provision of that nature. Moreover, if members agree that the double-tier task-force structure that amendments 264 and 265 propose is not appropriate, amendment 268 must fall because it makes no sense on its own.

Concerns were expressed about the review of the bill's powers. I should signal at this stage that it will be the Executive's intention to look to research and evaluation as a way of ensuring that the bill has the effect that we want it to have. We will want to measure the effectiveness of many aspects of the bill, including the dispersal powers, at a local level. We are more than happy to give that commitment to reassure members that the bill that they pass will have the desired effect within communities.

For the reasons that I have stated, I ask Donald Gorrie to consider withdrawing his amendments.

11:15

Donald Gorrie: Clearly, this group of amendments has not won the Eurovision amendment contest and I accept that. Sandra White and Patrick Harvie raised specific points about young people. Patrick Harvie was interested in why I focused on young people. I did so partly in response to youth organisations' comments that, under the bill, young people would be excluded from any dialogue. I perhaps overemphasised the importance of discussing matters with young people—those who cause trouble and those who do not—and their representative organisations. Sandra White was concerned that some young people might not want to take part in discussions because they would stigmatise themselves in some way if they did. If people do not want to take part in discussions, that is up to them; it is a free country. However, there are many articulate young people, some of whom cause trouble and some of whom do not. Their views could be harnessed to allow better discussion of issues, because some adults may not fully appreciate their point of view.

The minister said that all such issues are covered in the strategy. Although her amendment to the strategy helped a lot, it did not go far enough towards covering issues such as community consultation. I hope that discussions, which she has promised that we will have, will cover some of the points that I and others have been making. However, in light of the general debate and the minister's assurances, I will not press amendment 264.

Amendment 264, by agreement, withdrawn.

Amendment 265 not moved.

Section 16—Authorisations

The Convener: Amendment 266, in the name of Donald Gorrie, is grouped with amendments 267, 269, 385, 270, 180, 271 and 386.

Donald Gorrie: I will see whether I have any more success this time.

Amendment 266 is linked to amendment 269, and amendment 267 is linked to amendment 270. Amendments 266 and 269 deal with the vexed issue of numbers. Much of the evidence that the committee heard queried whether the phrase "two or more persons" was a reasonable summary of what constitutes a group. I have given a lot of thought to this and have concluded that the person who really decides on all such issues is the local police officer. He has to decide whether members of the public have been alarmed or distressed as a result of the presence or behaviour of groups. The decision as to whether people are alarmed or distressed, or are likely to be alarmed or distressed, is taken by the local community policeman who deals with the issue on the street. I therefore think it sensible to give him the power to judge whether a group is a group in the sense described in the bill. There may be a number of people together who are just that—a number of people together—whereas there may also be the Gorrie gang who are terrorising a particular neighbourhood. If the policeman sees half a dozen such people, he knows that it is a gang and can get stuck into them.

In the end, it is the local policeman who makes all the decisions. It is therefore sensible that he should decide what constitutes a group. Any figure put in the bill—two or higher—will be fairly arbitrary. Having said that, I think that two is a very low threshold. If the minister wishes to stick to including a number, the number should go up. However, I feel that amendments 266 and 269 deal with the matter more sensibly.

Amendments 267 and 270 deal with the fact that people can feel genuinely alarmed or distressed even though, in the cold light of day, most people would not regard their alarm or distress as reasonable. The alarm and distress may be quite genuine and sincere, but it is not necessarily reasonable. I am talking about a small minority of people. Obviously, their alarm and distress is often quite justified and action has to be taken. However, my amendments try to address what the police can do when people are alarmed or distressed, but the police do not really think that they have a reasonable point. I suggest that the police have to decide whether the presence or behaviour of groups that are causing alarm and distress is such that it is appropriate for the police to intervene. The police should be able to decide whether the issue is one that everyone would regard as serious and therefore one that they should deal with vigorously, or whether, although people are genuinely distressed, it would not really be suitable for the police to intervene. I suggested to ministers previously that there could be an amendment that would stipulate that the behaviour was such that an ordinary person would regard it as realistic to complain about, but they were not keen on that, so I am taking a different approach to the same problem.

Amendment 271 is one of those suggested by some lawyers, who claim that the correct legal phrase is "at the material time" rather than "for the time being". I leave it to the lawyers to decide such matters, but I was advised that "at the material time" was the better wording.

On the two main points in this group of amendments, it is sensible for the local police officer to decide what is a group and whether it is appropriate for the police to intervene if people are expressing alarm and distress.

I move amendment 266.

Mary Scanlon: I am down as supporting Donald Gorrie on amendment 271, which is a probing amendment to ask what is meant by the phrase "for the time being" and the reason for the distinction between it and the definition in other legislation. "At the material time" seems to be the acceptable legal phrase and I am sure that the bill team will want the bill to be consistent with other acts.

Amendment 385 relates to a central phrase of the bill. The wording of section 18(1) is:

"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."

Amendment 385 would remove the words "likely to result" and insert the word "resulting". It seeks to focus the circumstances in which the dispersals will apply. As drafted, section 18(1) enables a constable to act in circumstances where he or she has

"reasonable grounds for believing that the presence or behaviour of a group … is likely to result, in any members of the public being alarmed or distressed."

That provision appears to be widely framed and to allow constables to make subjective judgments about the likely result of the presence or behaviour of the group in question. To ensure that there is clarity and consistency in the operation of the provision, I suggest that section 18(1) be altered to enable action to be taken when alarm or distress has resulted or is on-going. That would allow action to be taken when it is justified. The point was raised at stage 1 that we do not want the bill to be a complainers charter. Amendment 385 would provide that an individual would need to have done something that had resulted in alarm or distress before action was taken.

Amendment 386 would restrict the definition of "public place" for the purposes of part 3 of the bill and seeks to ensure uniformity with the definition of "public place" that is used in other legislation and developed through case law. As with amendment 271, amendment 386 was suggested by the Law Society of Scotland. The definition of "public place" in the bill is extended by the express provision that it will include the areas listed in paragraphs (a) to (d) of section 22(1). The specification of the places referred to in paragraphs (a) to (c) appears to replicate the statutory definitions in case law and in existing legislation such as the Criminal Law (Consolidation) (Scotland) Act 1995, the Roads (Scotland) Act 1984 and the Road Traffic Act 1988. However, paragraph (d) appears to extend the definition to

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

That would therefore allow the dispersal provisions in the bill to apply to premises that are not a public place but which are in a locality that has been designated under part 3, where a group of two or more persons has gained access to those premises unlawfully and where a constable has reasonable grounds for believing that their presence may cause alarm or distress. The inclusion of places to which unlawful entry has been gained but which would not otherwise be public appears to extend the definition of public place for the purposes of the bill.

The definition of "public place" in paragraph (d) would therefore appear to be wider than that given in other legislation and developed by case law. Amendment 386 probes the reason for that distinction.

Mrs Mulligan: My comments are likely to be lengthy, because the issues that are raised are central to the nature of the bill. I will bear in mind the convener's request to keep our comments short.

Amendments 266 and 269 would remove the reference in the bill to a group being two or more persons and would instead provide that a group would be such persons as the officer regards as a group or groups. That would apply in relation to both an authorisation under the dispersal powers and a direction to disperse by a constable.

The amendments raise issues of compatibility with the European convention on human rights. The fact that it would no longer be clear in the legislation what was meant by "a group" or who would be subject to authorisation and, subsequently, direction also raises concerns about whether the provisions could properly be said to be "prescribed by law".

As the power is a power to disperse groups, the question of what comprises a group for the purposes of part 3 is fundamental. We currently know with certainty that if persons congregate in groups of two or more people in an area in which an authorisation has been exercised, it is clear that when alarm or distress has been caused to members of the public, the constable has the discretion to exercise their powers under section 18. If we were to accept Donald Gorrie's amendments 266 and 269, we would no longer know with any degree of certainty when the police would exercise those powers. I suggest that that raises issues of both accessibility of the law and foreseeability of the law. In particular, as the decision on what constitutes a group is within the discretion of both the senior officer and the constable, the senior officer could have one view of a group when he contemplates issuing authorisation and, theoretically at least, the constable could have another view when he exercises the power to disperse.

In the light of what Donald Gorrie and others have said, I agree that it would be useful to give some more thought to the issue of what constitutes a group. I take from Donald Gorrie's comments the concern that two is quite a low number on which to base that decision. I want to come back to discuss the issue further at stage 3.

Amendments 267 and 270 add a further test that must be met before a senior officer can authorise the use of the dispersal power and before a constable can use the power. The amendments would provide that a senior police officer and a constable could only, respectively, authorise the use of the dispersal power and use the power if they were clear that it was appropriate for the police to intervene.

I suggest that amendments 267 and 270 are unnecessary. The police will exercise powers only when they consider that it is appropriate to do so. That applies not only to the powers under the bill, but to the many other powers that the police exercise on a day-to-day basis. In addition, the bill already provides a number of safeguards in relation to the exercise of the dispersal powers. Before a senior police officer can authorise the use of the powers, she or he must already have

"reasonable grounds for believing … that … members of the public have been alarmed or distressed as a result of the presence or behaviour of groups of two or more persons in public places"

in the locality. Antisocial behaviour must also be

"a significant and persistent problem in the relevant locality."

Similarly, a constable can use the powers only if she or he

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

On that basis, I invite Donald Gorrie not to move amendments 267 and 270.

11:30

Amendment 385, in the name of Mary Scanlon, seeks to alter the circumstances in which the dispersal powers under part 3 could be used. As drafted, the bill gives the police the power to disperse a group when they believe that it has caused, or is likely to cause, alarm or distress in a designated area in which there has been a history of serious antisocial behaviour caused by groups. The powers in the bill as drafted will ensure that the police do not have to sit by and wait until there is further action that causes alarm or distress to local inhabitants. However, amendment 385 would alter those powers so that a constable would have to wait until he could see such action taking place or until it was reported to him later that it had happened. I suggest that that is not sufficient for those who are affected by antisocial behaviour—they want a more immediate response and they want relief from such actions.

Perhaps the concern behind the amendment is that constables will have to make subjective judgments about whether the likely result of behaviour will be that alarm and distress are caused to those who live in the community. However, constables have to make such judgments every day of their working lives. We have confidence in their ability to do so and it is important that we allow them the opportunity to operate in that way. Discussions have already begun with the Scottish Police College on the bill's implications for training. I invite Mary Scanlon not to move amendment 385.

I lodged amendment 180 in direct response to the numerous concerns that were raised by the committee during stage 1 that the bill did not provide expressly for peaceful picketing to be exempted from the dispersal powers. Amendment 180 ensures that a direction that requires the persons in a group to disperse cannot be given by a constable in respect of a group of persons who are engaged in conduct that is lawful under section 220 of the Trade Union and Labour Relations (Consolidation) Act 1992. In addition, under section 18(2) in part 3 of the bill, a constable cannot give any other direction to those involved in a peaceful picket, such as a direction that requires someone who does not live in a locality to leave that locality or a direction to prohibit persons not resident in that locality from returning to it.

The bill already specifically excludes from being given directions to disperse those who are taking part in processions under section 62 of the Civic Government (Scotland) Act 1982, which include protest marches of various kinds and carnival processions, such as that at the beginning of the Edinburgh festival. I invite the committee to agree to amendment 180.

Amendment 271 would amend the definition of public place so that consideration of whether a place is a public place would relate to the time at which the antisocial behaviour complained of took place, rather than whether the place is presently a public place. Amendment 271 clarifies the position and, on that basis, I am happy to support it.

Amendment 386, which is also in the name of Mary Scanlon, seeks to restrict the definition of public place for the purposes of part 3 to exclude any place to which the public do not have access, but to which persons have gained access unlawfully. The amendment would weaken the efficacy of the provisions on the dispersal of groups and create potential loopholes that could be exploited by those who are determined to act in an antisocial way.

If amendment 386 were agreed to, any authorisation of the use of the dispersal powers given by a senior police officer, and any use of those powers by a constable, would not apply in a number of places. Those places would include the grounds of a sheltered housing complex or retirement home, for example, and common garden ground that is privately owned, such as the Queen Street gardens in Edinburgh. Those are just the sorts of places in which groups of people might congregate and for which the powers might very well be necessary. It might be argued that, if persons have gained unlawful access to a place, the police could use other measures to remove them. However, the primary purpose of the provisions is to provide immediate relief to a community. The power will be another tool that the police will have available to them. I invite Mary Scanlon not to move amendment 386.

Finally, I want to reassure the committee that we do not simply want to see these measures on the statute book; we want them to be seen to be working. As I said in the previous debate, we will be taking forward further research and monitoring the measures to ensure that they are carried out satisfactorily and that they have the desired effect. Use of the dispersal powers in particular should be assessed locally each and every time that they are used. The bill makes it clear that the decision to use those powers must be evidence based and time limited. It is only logical that, from that base, it will be possible readily to measure whether the powers are having the desired effect. Of course, information would come back to the committee and the Parliament to ensure that the powers that we are seeking are having the effect in our communities that we want them to have.

Scott Barrie: Although I do not want to prolong the debate unnecessarily, I would like to return to amendment 180, in the minister's name, which I welcome. During our evidence-taking sessions, a number of people raised concerns that the bill's provisions could be used to move on people who were involved in peaceful picketing, although it was never the belief that that was what the bill was about.

As someone who has staffed a picket line in the past, I suggest that it would not have been appropriate to use any of the measures that are contained in the bill to prevent people from indulging in their rightful pursuits under the current law in respect of picketing and in furtherance of industrial disputes. I welcome the fact that the minister has lodged amendment 180. It clarifies that the intention of the bill is not to prevent people from picketing.

Patrick Harvie: I want to address amendment 269, which the minister said would lead to a lack of clarity over what constituted a group; she also referred to ECHR concerns. The committee heard in evidence from the police that they felt that there is already a lack of clarity over what constitutes a group—for example, how far apart people would have to move to be deemed to have dispersed, how close together they would have to be in order to be considered a group and whether they would have to be acting together in some way. The only example that springs immediately to mind is that of a soup kitchen, where people who are not associating with one another or deliberately acting together as a group might be perceived to be a group. I suggest that there is a lack of clarity in the bill that raises those ECHR concerns.

I turn to amendment 385 and the question whether the phrase "likely to result" should be replaced by the word "resulting" As I understand the gist of the minister's response to the amendment, she said that simply to stand by and wait for behaviour that causes alarm or distress to take place would not be a sufficient response and would fail the people who are being affected by antisocial behaviour. If we are talking about people who are being affected, however, surely they would still be covered by the phrase "has resulted"? I do not think that the minister's argument countered the argument for amendment 385.

My final point concerns amendment 180. I am wholly supportive of moves to ensure that trade unionists and lawful pickets are not unduly affected by the power of dispersal. I confess that I have not had time to read the Civic Government (Scotland) Act 1982 or the relevant sections of the Trade Union and Labour Relations (Consolidation) Act 1992. Therefore, I ask the minister to confirm whether the bill covers other forms of political protest that are not necessarily formal processions—for example, street stalls or demonstrations outside commercial premises—or whether such protests are protected by the 1982 act.

Ms White: I will start at the end of the grouping and work my way through the amendments.

I was minded to support Mary Scanlon's amendment 386, but after hearing the minister's explanation, I do not think that I can. I am happy to support Donald Gorrie's amendment 271 and the minister's amendment 180, if she provides clarification on the issues that Patrick Harvie raised.

After hearing the explanations from Donald Gorrie and the minister, I am not minded to support Donald Gorrie's amendment 267, or his amendment 270, which would insert the phrase:

"and that it is appropriate for the police to intervene."

I think that the police have powers to intervene when appropriate, and I am sure that they would know when it would be appropriate to do so.

In respect of amendments 266 and 269, the minister mentioned compliance with the ECHR. I used to think that two people were a pair or a couple, as the dictionary intimates, rather than a group. Perhaps we will need to change the dictionary if a group is something that is composed of two people.

I do not think that the police would like to have to decide whether a group is two or more people. What constitutes a group must be a legislative matter and should not be left up to individual police officers. The police have a difficult enough time moving on kids who have been questioned or people who are standing about. Having such a power would not be good for the police or for the individuals concerned. I am therefore not minded to support amendment 266.

Elaine Smith: I agree with what Scott Barrie said about amendment 180. I raised the matter during our evidence-taking sessions and thank the minister for lodging the amendment. I am also interested in what she will say on the points that Patrick Harvie raised.

The Convener: I would like clarification on the proposal in amendment 385 to replace "likely to result" with "resulting". I understand that if an area has been defined as having a problem and groups have gathered persistently over a period of time and caused problems in it, the important point is that the group is gathering and causing problems, and the offence is that group returns after it has been dispersed, not that the group would then have to engage in further antisocial behaviour. It would be understood that the group—which might be outside an old folks' home or wherever—had caused serious distress in the past, which is why action is being taken. Does the wording that Mary Scanlon suggests mean that a further offence would have to be committed, rather than the offence being simply that the group has come back to the area from which it had been removed and respect of which evidence has been gathered of people having been distressed in the past? Does the amendment make the distinction that Mary Scanlon suggests and about which you are concerned, minister?

Mrs Mulligan: I would be concerned that further actions would need to happen before the dispersal could take place.

I would like to return to the points that have been raised, if I may. It should be recognised that the dispersal powers will be used only following consistent examples of antisocial behaviour that have caused fear and alarm to local people. The police will not come along and move on a group because it is hanging around and may be causing alarm at that stage, but because such behaviour has happened regularly prior to the incident in question and the police have been unable to deal with it. Only then would the senior police officer be willing to grant that an area should be designated as an area of dispersal. The issue is about recognising an on-going situation and people's prior experiences.

11:45

I acknowledge Donald Gorrie's point that some people might not think that others were feeling reasonable fear or alarm. However, people will need to show that they feel fear or alarm in the first place if a dispersal area is to be designated. We are not seeking to challenge one-off events; instead, a pattern of events will have led the police and the local authority to decide that the only way of resolving the difficulty is to designate a dispersal area. On finding groups in that area, the police would be able to move them on. The people in those groups would commit an offence only if they returned to that area after being dispersed. If they stayed away, there would be no need for the police to take any further action.

On the concerns that Patrick Harvie expressed, I do not think that people at a soup kitchen would behave in an antisocial way; as a result, they would not be at risk from the provisions. As for trade union activity, street stalls and so on, it would depend whether they fell within the regulations. However, I cannot see at this stage how such activity would fall outside the terms of the Executive's amendment 180, which should protect people's right to lawful demonstration and association.

Donald Gorrie: On the bill's definition of the number of people who constitute a group, I still feel that my solution—which does not specify any numbers—is more sensible. In the end, the police officer on the spot will make all these decisions anyway, so we might as well put that in the bill. However, the minister has said that she will consider the issue and if colleagues generally feel that numbers should be specified, we can discuss that. As a result, I am content to leave the matter to future discussion and negotiation.

I am still very unhappy with the minister's position on the question of how the police are able to judge that people are suffering unreasonable fear or alarm and that it is appropriate for them to intervene in a situation. As the bill stands, people in an area might keep on contacting the police, saying that they are alarmed and distressed by the presence of some boisterous group of young or old people. The senior police officer might designate the area, but it will be the constable who has to enforce the power and has to judge

whether there are reasonable grounds for believing that "the presence or behaviour" of a group

"has resulted, or is likely to result, in any members of the public being alarmed or distressed."

If members of the public keep ringing up and saying, "I am alarmed and distressed", the constable has reasonable grounds for believing that they are alarmed or distressed. Although most of us might think that those people are being unreasonable about their alarm or distress, the constable cannot take that into account.

As the bill stands, people can say that they are alarmed and distressed by a group of two or more people and can insist that the police disperse them, which is very unfair on the police and on groups of young or old people whose presence might distress others but who are not doing anything wrong. The bill should stipulate that a problem must exist that the proverbial ordinary citizen regards as a problem.

At the moment, I will not push my luck with amendment 267, because it is probable that I would not win the vote. However, the issue must be addressed, because it is a serious weakness in the bill, and I hope that the minister will discuss the point with us and try to resolve it.

Amendment 266, by agreement, withdrawn.

Amendments 267 and 268 not moved.

The Convener: I suggest that we suspend the meeting for five minutes.

11:50

Meeting suspended.

12:00

On resuming—

The Convener: Amendment 1, in the name of Bill Aitken, is grouped with amendments 2 to 7.

Bill Aitken (Glasgow) (Con): The purpose of amendments 1 to 7 is, quite simply, to remove part 3 of the bill in its entirety. I remind members that part 3 would provide the police with the authority to designate an area in which antisocial behaviour has been a problem and in which groups have caused alarm and distress. Once an area was so designated, the police would be able to disperse groups whose presence or behaviour continued to cause alarm to any members of the public in that area.

My opposition to the proposals is based on the grounds that they are illiberal, unworkable and unnecessary. They would create a situation in which the presence of two people could, in itself, be an offence. That would surely be the first time in the history of Scottish criminal justice when the fact that a person was simply in a particular location would be an offence, irrespective of whether their behaviour was causing alarm or concern to local residents.

I will illustrate my argument by means of two contrasting scenarios. First, let us assume that an area such as a children's play park—experience has taught us that areas in which difficulties are more likely to arise are those in which seating is available—has been the subject of complaints and has been designated by the police as being an area that should fall under the provisions of part 3 and that thereafter the situation improves. However, let us also imagine that, one day, two 15-year-old youths meet there and spend some time talking about football, rock music or whatever concerns boys of that age. Even though the youths are causing offence to nobody, the fact that they are present at that location means that, technically, they are guilty of an offence. I suggest that the provision in the bill is an over-the-top reaction to the difficulty that might have been experienced in the park.

Secondly, let us imagine a scenario in which, at that same location, there are 15 or 20 youths, all shouting, bawling, cursing and swearing and causing alarm in the neighbourhood. That is a situation that would normally attract police action—no one would have any difficulty with that. However, under the bill, what would the action be? The police would ask the youths to move on, which the youths would surely do. They would move away from the play park down the road to another area in which there is convenient seating, such as in a sheltered housing complex. By doing so, they would have carried out their obligations under the bill, even though their disorderly behaviour would continue to cause distress.

At that juncture, what should the police's reaction be? To my simple mind, the youths are guilty of a breach of the peace and the police should, after sufficient warnings, charge them and report them to the procurator fiscal. I would suggest that that would be the answer to the difficulty. However, we do not have to look far to find that answer, because it already exists in the common law of Scotland. The common law of breach of the peace can be applied if the police can demonstrate that there is a degree of alarm on the part of local residents or that the conduct of the individual or individuals concerned is likely to provoke a reaction from local residents that, in turn, would constitute a breach of the peace.

What is likely to be the consequence of part 3 of the bill? First, it is likely to alienate some sections of society, especially young people who are moved on when there is no particular reason for them to be asked to move on. The two youths

from my first example might be making the place look untidy or be talking in a language that is alien to people of an older generation, but they are not causing any particular harm. The fact that they are liable to be prosecuted, after having failed to take a police warning, simply on the basis of being present at a particular locus, is incomprehensible to the vast majority of young people; even someone of my advanced years finds a move along those lines to be unsupportable. In my second scenario, the police would simply have moved the problem on, from the play park to a sheltered housing complex or somewhere else, so nothing would have been achieved.

The police are seldom slow to ask for additional powers and in my experience they are almost invariably correct when they do so, so it is significant that the police are reluctant to be granted the powers under part 3. The Scottish Police Federation and the Association of Chief Police Officers in Scotland take the view that the law as it stands in Scotland is perfectly adequate to cope with the situations that arise from time to time.

I do not seek to minimise the problem; there is a problem and the convener has properly raised the matter in the Parliament time and again. The question is what we should do about it. The proposed new police powers are not the answer. In a wider context, we need more police on the streets, although I know that that is not a matter for the committee or the bill. Frankly, when we fly in the face of the professional opinions of the police, the Law Society of Scotland, the commissioner for children and young people and a host of voluntary organisations, which have all provided evidence that the new powers are not likely to improve the situation, we tread a very dangerous course indeed.

We should not be trying to improve part 3. Part 3 is completely unworkable and should be removed from the bill. The Conservative group stands four-square behind the people in many urban communities—and even some rural communities—who are the victims of antisocial behaviour, but we insist that the solution to the problem should be practicable and workable. The provisions in part 3 are illiberal and impinge on the basic human liberty of lawful assembly.

I move amendment 1.

Mike Rumbles (West Aberdeenshire and Kincardine) (LD): I do not usually agree with Bill Aitken, but I certainly agree that the measures in part 3 are illiberal.

I declare a direct interest in this stage 2 debate. I am the father of teenage youths aged 14 and 16, so perhaps my first-hand daily experiences allow me more insight than some members have into the views of some of the young people who will be affected by the bill.

I have been approached by several children's charities, such as ChildLine and Barnado's, which support the amendments, as do Children in Scotland, the Family Fund, Save the Children, YouthLink Scotland and the YMCA. Those organisations believe that the measures in part 3 are likely to undermine relations between the police and young people.

I also bring to the committee's attention the views of Kathleen Marshall, the new commissioner for children and young people, as reported in an article that appeared in the *Sunday Herald* on 25 April:

"the controversial move to introduce a power for police to disperse groups as small as two whose 'presence or behaviour causes alarm and distress to members of the public' is 'a very vague and subjective test' and risks discrimination against young people.

Both the European Convention on Human Rights and the United Nations Convention on the Rights of the Child say children have a right to freedom of association and freedom of peaceful assembly. But Marshall pointed out: 'There are strict conditions for denying this freedom'".

She is referring to what part 3 of the bill seeks to do. She continues:

"I do not think these conditions are met by the bill as it currently stands."

My objections to part 3 focus on three points. First, the power to disperse groups was not part of the partnership agreement between the parties in the coalition Executive. It would never have been agreed to by those who participated in the partnership negotiations. I can personally guarantee that.

Secondly, apart from the Executive's evidence, none of the evidence that was presented to the Justice 2 Committee supported the power of dispersal. New powers are not needed. Paragraph 42 of that committee's stage 1 report says:

"The general view of our witnesses was that this was not the solution they were looking for. ACPOS, the Scottish Police Federation, the Scottish Human Rights Centre, SACRO, Apex Scotland and Professor Smith told us that these proposed new powers were variously unnecessary, bureaucratic or not a practical solution to the problem. Numerous witnesses told us that existing powers could in their view be used to deal with the behaviour or conduct intended to be addressed by this Part of the Bill and the Law Society and police witnesses specifically cited powers under the Civic Government (Scotland) Act 1982 and under common law."

My third reason for opposing part 3 is that I agree with our new commissioner for children and young people, who said that

"a power for police to disperse groups as small as two whose 'presence or behaviour causes alarm and distress to members of the public' is 'a very vague and subjective test'"

that will discriminate against people.

I will give an example. My two boys, who are aged 14 and 16, could fall foul of the bill simply by walking down Banchory High Street and going about their lawful business. I have heard the minister's previous explanation, but what she said is simply not the case. Under the bill, if there is trouble in Banchory High Street over a period of time, the senior police officer will be able to cite the street as an area in which the dispersal power could be used. That will mean that, if someone feels threatened in some way—however unreasonable the basis for that feeling might be—the simple act of walking down Banchory High Street may make my two boys, or any other two boys, the subject of an incident with the police. I am extremely concerned that that could be the case.

The rights of peaceful assembly that Bill Aitken and the children's commissioner have highlighted have been hard won over many centuries. Surely we cannot throw away those rights on the basis of flimsy evidence—that is what it is, because only the evidence that was produced by the Executive supports the proposals. Sections 16 to 22 are not acceptable as they stand. Unless the Executive changes its mind, I will not support them when I get the chance to vote at stage 3. I hope that many liberal-minded colleagues, regardless of which party they belong to, will also vote to throw out part 3 of the bill.

The committee must vote on the matter now. It has a choice. If part 3 is as unacceptable as all the evidence seems to suggest that it is, the committee has the option of voting for Bill Aitken's amendments and removing it from the bill, on the understanding that, when we come back at stage 3, the minister will have had the opportunity to write out the proposal properly so that it does not affect the peaceful rights of assembly of the two people to whom I have referred by way of example. The Parliament would then be able to make a decision. I support Bill Aitken's amendments and I urge the committee to consider removing part 3 from the bill so that the minister can come back at stage 3 with a proper amendment.

The Convener: I suspect that all members will want to get in on this issue. We will proceed on that basis.

Patrick Harvie: It is worth reflecting for a moment on the broad spectrum of support, which Bill Aitken and Mike Rumbles both mentioned, for the proposal to remove the dispersal power. I ask members of the committee to reflect on the fact that political parties from across the spectrum, the police, youth organisations and many of the people who were involved in the Executive's consultation have expressed serious concerns about part 3.

That broad spectrum of opposition to the dispersal power should say something quite powerful about the issue. For me, before anything like the power that is proposed is agreed to, a proper answer should be obtained to the crucial question of why the current tools in the box—as the phrase goes—are not working. The Executive has failed to answer that and the committee has not found an answer in its inquiries. In asking communities, the police, young people and older people, we have not yet found out why the existing powers are insufficient, why the existing resources are insufficient, what is preventing the problem from being solved and why there are not sufficient tools in the box.

Bill Aitken reminded us of the important fact that the power can be used on the basis of people's presence alone after the designation has been made. We must recognise the profound fact that the power could be used to criminalise people not only for what they do, but for what other people might feel that they might do. We should think very carefully before going down that road. Society rarely takes action or wants police action to be taken against people for what they have not done. We should consider doing so only when there is a clear danger to public safety.

My final point is on another issue that Bill Aitken raised—the fact that the power of dispersal moves the problem on rather than solving it. Even when a problem is acute and behaviour is extreme, the young people have to be somewhere and dispersing them will not remove their existence. If their behaviour moves with them, there will be no progress. That is why I will support Bill Aitken's amendments.

12:15

The Convener: I will speak next. I do not want members to think that I am trying to get the last word by jumping to the top of the list; I am speaking now so that members can refute what I say if they wish to. I hope that that is acceptable.

This is a serious debate and it is helpful that it is being conducted on the basis of respect for the different positions that members have taken. Some of the froth around the discussion has focused on the suggestion that people want to sound tough. In my view, however, we are wrestling with a difficult problem. I did not rush to the idea of group dispersal as an option because it was something that I thought was a good idea when I woke up. I support the proposal because I was confronted with problems in my constituency that were not being solved. That has had a heavy influence on the position that I have taken. I do not think that dispersal is the only solution, as Bill Aitken seemed to suggest was the argument; I believe that it is part of the solution. People have

deliberately talked up the power of group dispersal at the expense of other options that exist. However, the power is only one measure that can be used and it is not the first step that the police would take.

Our stage 1 report states:

"The Committee considers the particular problem being faced by communities to be both real and significant. It is concerned that the police, despite claiming that they already have sufficient powers, seem to be unable to resolve incidents of antisocial behaviour involving large groups gathering in certain areas to the satisfaction of those people in communities who are affected by them."

The committee agreed to that conclusion; what we were divided on was whether the option that was set out in the bill was serious. There is a perception in our communities that the police do not have sufficient powers—indeed, the police in my constituency have told me that they do not sufficient powers. Although we could have an argument about that, I argue that putting the powers in the bill confirms the fact that the powers exist and offers communities the opportunity to negotiate with the police if the police tell them that they cannot do anything about the serious and real problems—not the trivial problems; we are not talking about two people who are wandering about—of vulnerable young people getting involved in group disorder outside the homes of other vulnerable people.

It is recognised that there is a problem. For example, in my constituency the police tell me that, when a group is gathering and causing distress over a long period of time, the only option that officers have available to them is to warn those people and then to lift them. Group dispersal is a step before that, as it allows people to think about their behaviour, to go away—to disperse—and not to come back. The police tell me that the problem with the charge of breach of the peace is that it must be directed against an individual offence. That denies the experience of group disorder. There is an issue about the behaviour of groups of people who gather together and we need to find a way of managing that. The level of police resources is a serious issue but, even when the police target an area, they find it difficult to manage group disorder. The police have certain powers, but the issue is about what happens to people next and what the consequences of that are at a later stage.

Finally, let me deal with the issue of young people feeling alienated. In my constituency, many young people are kept in by their families and are unable to attend the local clubs or gather in the streets because of the intimidating behaviour of much more unruly groups outside. Those young people are alienated by a system that is not dealing with the problem.

I recognise that protecting people from antisocial behaviour and tackling those who display such behaviour involves a balance of rights, which means that people may not do absolutely what they want. If the disorder in a community has got to such a stage that the local people are genuinely—and not just trivially—distressed, the right to gather in groups must be balanced against the right that people have to peace in their own home. I think that the bill wrestles with that difficult balance.

I hope that the committee will oppose Bill Aitken's amendments. The proposed power will not be used by the police willy-nilly or for want of something better. The power of dispersal will be part of a broader strategy that recognises communities' real experience, which is that the police appear to have insufficient powers at the moment to deal with the problems that are brought before them.

Scott Barrie: It is interesting that some members who have spoken to the amendments have chosen to characterise the debate as a liberal position versus an illiberal one. I certainly do not consider myself to be illiberal. In fact, Bill Aitken and I have crossed swords on several occasions in this chamber during debates on criminal justice matters, especially over youth justice. The position that I have articulated on those occasions would tend to be considered the more enlightened and liberal, whereas Bill Aitken's position would tend to be considered the more illiberal and draconian. By Bill Aitken's definition, we seem somehow or other to have crossed sides in today's debate on the amendments in this group.

In speaking to the amendments, Bill Aitken said that other ways could be found of dealing with such antisocial behaviour, which people at least now recognise is a problem in some areas—a problem that is not being addressed. Bill Aitken's solution appears rather simplistic. He said that we need only employ more police officers and, somehow or other, the problem will be resolved. I do not see how that stacks up. We have already heard that police officers in some areas do not believe that they have sufficient powers.

Mike Rumbles described some rather alarmist ways in which the power of dispersal could be used, but he failed to take on board the fact that something needs to have happened before the power can be used. Some sort of Nostradamus prediction of what will happen will not be enough; there must be clear evidence that there have been on-going disturbances that need to be dealt with. That is the key point. The police will not be able to move people on before something happens; they will be able to use the power after something has

happened to prevent that situation from going on and on, as has happened in some areas.

I was struck by the evidence that the committee received. We can all talk about how members of our committee went out to various parts of Scotland to hear the views of people in their communities, but there seems no point in putting in that time and effort if we then consider that evidence as less important than the evidence given by people who came before the committee in formal session. Both types of evidence should be of equal value, otherwise there is no point in our making that effort in the first place. I may have participated in fewer visits than some of my colleagues, but on those visits to other parts of Scotland I heard people give clear examples of how the current law is not delivering safe communities. We certainly have to take that point on board.

The issue is not just about giving powers to the police, which is how some people have perceived the effect of the bill. It is about the police making a decision after consultation with the relevant local authority. The idea that a high street, in Banchory or anywhere else, might somehow be made into a no-go area is patently alarmist in the extreme. I do not think that any local authority would ever consider that an appropriate way to go.

Different factors make up the whole panoply of proposals for tackling antisocial behaviour and they must be considered as a whole. The debate around the proposed power has unfortunately been characterised by alarmist statements about what might happen in an extreme situation. However, as the convener said, the power should be seen as one of the tools that can be used to resolve a problem that affects a number of our communities. It is not the only solution and by itself it will not resolve the problem, but it is an additional power that could be of use at times.

Stewart Stevenson: I get the distinct impression that the minister is going to support this group of amendments. That impression is based on what she said in relation to another proposal in the bill:

"The extension of ASBOs to under-16s is one of the bill's key elements. It is in the partnership agreement and was consulted on for 'Putting our communities first'. At stage 1, the committee considered the proposal in some detail and a wide range of organisations gave evidence on it. Throughout the process, the proposal has had majority support."—[*Official Report, Communities Committee*, 21 April 2004; c 819.]

In her argument on the earlier part of the bill, the minister relied on the majority support of those whom the Executive and the committee had consulted. On a similar basis, one might expect that the minister would support the amendments in this group, although I suspect that that may not be the case. However, she must recognise that there is a distinct difference between the very real problems that members of the committee heard about as they went around the country, which define the problem that needs to be solved, and the definition of a solution. I do not believe that there is any material division among the members of this committee, or indeed of this Parliament, on the question of there being a problem that needs to be solved. However, the definition of a solution requires a different set of skills and a different approach to those that are required when defining the problem. Not only do we have to consider the overwhelming numerical weight in the consultation that said, "This particular part of the bill does not help in solving the problem," but, more to the point, we must consider the sources of that evidence.

Since publication of the bill, I have spoken in the course of my normal constituency business to policemen at every level—special constable, constable, sergeant, inspector, superintendent and chief constable—and I have not met an officer in the Grampian police force who believes that what is proposed will help them. Why should that be so? We hear of police officers who say that they do not have enough power. We should note the use of the singular, not the plural, because there is a distinct difference between not having enough power and not having enough powers. Powers are about the legal capability of a police officer, of the police service as a whole and of the criminal justice system. Power is about the ability to deploy the resources to solve the problem.

It is not simply a question of getting more police on the beat, as Bill Aitken rather simple-mindedly characterised it, although, of course, that is part of the solution. What we must have is what the Executive is very fond of—and something that I am happy to support—and that is partnership working among the agencies, the police and the communities who are party to the problem.

12:30

Reference has been made recently to good work in Lanarkshire. The committee heard about good work that was led by a councillor who co-ordinated all the bodies in Edinburgh. That, and other evidence that we have encountered individually, suggests that the effective use of power, rather than the introduction of new powers, is likely to lead to a resolution.

The process by which we designate areas for dispersal is not trivial. I will not over-egg the pudding about how much police resources might be diverted, although some resources would be diverted to obtain the necessary designation. However, I suggest that the process is a mechanism that will delay resolution of the

problem in some circumstances. The police will tell us, and have told us, that they have the powers, when they need them, to deal with the problem. If they are diverted into a consultation process and a designation process that would lead in time to their taking the action that they could previously have taken, we will create the potential to delay the exercise of powers that police at all levels have told us that they already have. The danger is that, far from improving the situation, the provision could lead to its deterioration.

I disagree with the Executive's proposals not because I do not share its objective, but precisely because I do share its objective. The proposals do not take us forward on a path that will solve the problem. Resolution will be achieved through better partnership working and more resources, in some circumstances, that are focused where they are needed. The provision in the bill is a distraction.

How are visitors to an area to know that they are in a designated area? I have not met Mike Rumbles's children, but I am sure that they are upstanding and respectable youngsters—they are probably guilty of a certain exuberance from time to time that their father exhibits only rarely. If they visited a designated area as part of a crowd of which a proportion was causing a problem, the whole crowd would be dispersed, and not simply—as is more likely at the moment—the instigators and promoters of disorder, who would be lifted or otherwise encouraged to desist. That action runs the risk of alienating those who are simply present but who are not acting and will, in all circumstances, stigmatise areas that want help and problems solved.

For those and other reasons that time does not permit me to develop, I support the deletion of the power of dispersal.

Cathie Craigie: As we know, many issues have arisen during the passage of the bill—none more so than the power of dispersal. Many incorrect points have been made, and there has been misinformation, exaggeration and scaremongering. Members have a duty to weigh up the evidence that we have taken from our communities, from the communities that we visited throughout Scotland, as Scott Barrie said, and from the professional bodies that spoke to us.

My constituents believe that the power of dispersal is needed to protect them and their communities from the serious nuisance that groups cause. Whether a group is small or large, it can cause serious problems in our communities. People look to politicians to make a decision and to give them another tool in the toolbox. That has been said this morning and throughout the debate. The power of dispersal will not be a solution, but it is another mechanism that could be used.

People in my community, who have been affected by the antisocial behaviour of groups of people, tell me that they want me to support the power of dispersal. The Strathclyde police officers to whom I have spoken support the power. The question that I am asked—and it was raised only last night at a meeting with people in my constituency—is why, if powers already exist, are the police not using them? Including provisions on the power of dispersal will let the public see that there is a specific piece of legislation that they can use to seek protection.

Members have made the point this morning that the power of dispersal could amount to a complainers charter, but that is insulting to people who are suffering serious nuisance and annoyance from groups who gather outside their homes. To suggest that the police would seek to impose a dispersal order based on petty or mischievous complaints shows no support for our police.

Some police have indicated that they are apprehensive about the power of dispersal. They think that it could be bureaucratic. They question whether it will offer the response and support that communities are looking for, and whether it will fulfil the aims of the bill as laid out by the minister. It has also been said that some people, young people in particular, might see the provision as a new challenge and a way of wasting police time. Those points are made in a serious way by people who want to use the power and to see it working to the advantage of communities.

I was encouraged by the minister's comments on the previous group of amendments, and the statement that there will be a review, but I ask the minister to address the mechanism that will be in place. Can the provisions be monitored? Can we have an indication of when the date for a review is likely to be made known to Parliament? That review must examine the effectiveness of the provisions.

Bill Aitken said that the argument about two boys who are in a park discussing football and rock music was a technical one. I do not see those two boys having anything to worry about in relation to the provisions in the bill. I hope that the minister will respond to that point.

Mike Rumbles said that there was a broad spectrum of support for the amendments that seek to remove part 3, but there is also a broad spectrum of support in our communities for the provisions in part 3. We often speak to community groups that represent many more people than the number who have given evidence to the committee. As Scott Barrie said, every piece of evidence that we have gathered is important, and every piece of evidence should have equal value. The evidence that I have received from my

community is that I should support the Executive and the retention of part 3. I will not support the amendments that seek to remove part 3.

Elaine Smith: I had some concerns about part 3, but in the main they have been allayed. I am particularly comforted by the minister's amendment 180, which will protect peaceful protest. The minister also agreed to consider the number of people involved.

I am a wee bit confused about Mike Rumbles's points about the partnership agreement. We cannot put every single little piece of proposed legislation into a partnership agreement. If that was the case, the Executive could just stick to what was mentioned in the partnership agreement and not react to anything else—and we could all just go home. Committees have to scrutinise legislation. The partnership agreement can contain an intention, but committees have to scrutinise the Executive's proposals and members must have the chance to lodge amendments.

There has been some discussion on the designation of areas. I can understand people's concerns on the matter to a certain extent, but the police and the local authority have to have a good reason to designate an area. There is a time limit on the designation, which applies only when the same people return to the area. The question has been asked how people would know where the designated area was. They would soon know if they had been asked to move on from a designated area, which they had been told about, but then returned to it within 24 hours.

To get things into perspective, I give the committee the example of the Faraday retail park in Coatbridge. A few months ago, on a Sunday evening, hundreds of people—certainly not just young people—turned up at the retail park in cars and other vehicles. They were revving their engines, tooting their horns and generally causing alarm and distress to surrounding residents. They were intimidating people, who did not want to walk through the car park.

When I went down there, the police were present, but they told me that there was nothing in particular they could do about the situation. Despite the fact that that might have been considered to be lawful assembly, it impinged on the rights of my constituents, including children, to have peace in their homes. The upshot was that barriers were erected. If the area had been privately owned, however, that might not have happened, and the activity might have reoccurred. If a location is designated for three months, people might move somewhere else. If they moved somewhere where they were not causing alarm, distress and intimidation to people in the surrounding areas, that would be fine. If they moved somewhere where they were causing alarm, the matter would have to be dealt with. That is an example of a situation in which not much could be done at present.

The convener touched on a number of consequences of the proposals, one of which might be for the police to focus on responding to situations using the powers that they already have. It seems that the police sometimes do not respond at all—that is the feedback that I have had from some of my constituents. The police might focus on response times. The fire brigade recently made a call to the police for assistance, and it took an outrageous length of time for a response to be made to the incident. Attention might also be focused on the lack of police officers on the beat, which is another issue that should be addressed.

Given the protections in the bill, and given the fact that the police will not use the power of dispersal except in extreme circumstances, and in conjunction with the local authority—I cannot see the police using the power lightly, given what they have said about the powers that they have at the moment—I do not think that the power will impinge on lawful assembly. If I thought that it would do that, I would certainly have concerns about it.

I ask the minister, when she winds up, to address the subjects of monitoring and reporting on the impact of the provisions.

Mary Scanlon: I support my colleague, Bill Aitken, who spoke to his amendments in his usual eloquent style. We should be concerned about the fact that the police are opposed to the power of dispersal. Cathy Jamieson said that some of the police are a bit apprehensive. They are not a bit apprehensive about the power; they are totally opposed to it. We have received briefing papers from the Association of Chief Police Officers in Scotland, the Association of Scottish Police Superintendents and the Scottish Police Federation. In evidence to the committee, the police told us that they are opposed to the power. A superintendent said that the police had never had a situation that could not be dealt with under existing legislation.

We have made another, similar, point throughout stage 1 and stage 2: ASBOs are in place, but many local authorities have chosen not to use them. We should ask whether antisocial behaviour has been the priority that it should have been for the police in recent years. That question was put to Douglas Keil from the Scottish Police Federation when he gave evidence to the committee. We asked him about resources, and I remember that his response was to ask whether the police should suddenly stop on their way to a house break-in, an assault or a road traffic accident because there are two youths—whether or not they are the Rumbles youths—standing on a street corner. It is dangerous for us to pass a

piece of legislation that, we are assured, is opposed by those whom we will ask to implement it. Any member who seeks to do so should examine their conscience on the issue. I will support my colleague Bill Aitken.

12:45

Ms White: As someone who has only just become a member of the committee—this is my third meeting—I appreciate the amount of evidence that the committee has heard. As someone who has worked in communities for the past 25 years, both officially and voluntarily, I understand some of the fears that people have. Part 3 of the bill is not the right way to deal with the fears that the convener and others have raised. The evidence that has been given makes it clear that the police have the powers, but no one has asked why they do not use them and why we need a new power. Those questions go to the heart of the bill. We should investigate why the police are not using the existing powers and what we can do, without new legislation, to encourage them to do so.

Scott Barrie and Cathie Craigie said that the police would not react if two youths were simply walking along—whether they were Mike Rumbles's kids or some other kids—but that they would have to do something. I remind members that the bill refers to cases in which

"members of the public have been alarmed or distressed as a result of the presence or behaviour"

of a group. Under the bill's provisions on dispersal, the sheer presence of two or more people standing about means that someone who is walking down the street can phone the police. I ask members to read that part again. I find it frightening that people can be alarmed by someone walking down the street or standing on a street corner.

Others have given practical examples, and I will do the same. My first example is very serious. In my area of Glasgow, we have lots of asylum seekers, and there have been lots of situations, particularly in Sighthill, of asylum seekers gathering in corners, as they do in their culture. That is what the men do in their own country and that is what they do in Glasgow, but it caused a lot of tension. The police met the community and explained the situation, and that was fine. Would the dispersal power work in that situation? If someone phones the police because they feel intimidated or distressed by people who are standing around—even though that is the way to spend Friday evening in their culture—will that cause even more racial tension?

In a lighter vein—although not to people who live in the city centre—what about the people who gather outside the Gallery of Modern Art? Every night, groups of 10 or 12 people wait for their friends there before getting a taxi or going to a pub or club. Sometimes groups cause bother and sometimes they do not. What about the goths who gather there on Saturday afternoons? Will they be moved from one dispersal area to another? We must think carefully about the power of dispersal, which is not just about moving five or six people who are standing outside someone's window in a housing scheme, although I appreciate that that can frighten people.

We have to consider the wider picture and not just have a knee-jerk reaction to something that I believe the police already have the powers to deal with; if we do not, we will alienate the vast majority of the population in Scotland and turn people against the Scottish Parliament and the police, and we will not do anything to resolve the problem of what we see as antisocial behaviour. I will certainly support Bill Aitken's amendments in the group.

Donald Gorrie: I made clear my concerns about part 3; however, some of the arguments that have been advanced in favour of its amendment or deletion are unsustainable and over the top. The bill does not say that any gathering of any sort would become illegal; the constable has to have

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

It is important that the bill should contain something about how reasonable that alarm or distress is. The point is that the behaviour has to be antisocial. The first lot of people misbehaving in an area are told to disperse; they are not sent straight off to jail. It is the people who misbehave repeatedly who will be in trouble. The bill is not as bad as it has been made out to be.

I accept that there is a problem and the power of dispersal might be necessary as a last resort. However, the bill should make it clearer than it does at the moment that the power of dispersal is a last resort and that all the community activities and other consultations will take place first. We owe it to our citizens to ensure that they can enjoy a safe life and, in some areas, it is clear that they do not. Whether the police do not respond because they do not have the resources to respond, or for whatever reason, it is clear that the present system is not working. It is reasonable that the Executive should try to address that problem. In my view, part 3 does not yet address that issue adequately and I hope that the consultation that the minister has agreed to have with the committee members will improve it. At this stage, I wish to improve part 3 rather than support an amendment to leave it out.

Mrs Mulligan: We find ourselves in a bizarre situation. Bill Aitken is professing his liberal credentials and has lodged amendments 1 to 7 to remove part 3 of the bill, which are supported by Mike Rumbles and Colin Fox. That shows the variety of opinions that we have heard on the issue, but it also shows how wrong people can be in their interpretation of the intention of the power of dispersal.

Mr Aitken will not be surprised that I do not support the amendments that he has lodged in this group. Let us be clear at the outset: we have never said that the powers in the bill are the only answer to the problem that communities are experiencing. Stewart Stevenson said that we should be considering other ways of resolving the problems. We are not talking about an either-or situation. The power of dispersal is another avenue that we can open to assist the police, but other avenues can be explored further still. We have never said that the powers are aimed at young people gathering in the streets of their communities to meet and enjoy each other's company. Let us be clear: the power of dispersal will be enforced where there are on-going issues to deal with. The presence of two young people—whether Mike Rumbles's sons, my sons or anybody else's sons—will not of itself be enough to trigger the power. The presence of those people will have to have caused or be likely to cause alarm or distress to the public. That is against the background of a second test, whereby the behaviour will have to take place in an area in which antisocial behaviour has been a significant and persistent problem. Those words are important to taking forward the power.

Although many of the comments today have been about young people being dispersed, we must be clear that the power is not only about young people; it is about any group of people that causes fear and alarm and needs to be dispersed. Therefore, let us not focus solely on the actions of young people, as, unfortunately, some of the debate has done.

The Executive has listened to what was said when we visited communities and heard of their problems. We have also listened to what the committee and others who gave evidence to it said. During the stage 1 debate, we said that, at stage 2, we would address chief constables' concerns about their proper operational independence in policing. That is why, following comments from my colleagues Hugh Henry and Margaret Curran, we committed ourselves to deleting section 21, which is why we support amendment 6.

However, having listened to all that has been said, I remain absolutely convinced that the power of dispersal is needed for three reasons. The first is that groups cause real fear and alarm in communities throughout Scotland—the people in those communities have told us so. Secondly, the problem is not currently being dealt with and communities are suffering as a result. Thirdly, despite the many claims from some members that powers already exist to deal with such behaviour, that is not happening, and we need to give the police sufficient power to deal with the problems that they face. The new power in part 3 gives the police an additional tool that they do not have at present for dealing with groups that cause problems. How can members deny that extra reassurance and protection to our communities?

Some members maintain—and have done so during today's debate—that the power is too bureaucratic and cumbersome. In fact, the power's added elements were introduced in response to some of the original concerns that it was necessary to make it clear when the power would be used and to be bureaucratic about it. That means that the power has become slightly more bureaucratic than it was when we started out.

It is important that we are all clear about how the power will work in practice. There are four straightforward steps, which ensure appropriate checks and balances in the use of the power. That relates back to the debate on group 4 and Donald Gorrie's concerns about the unreasonable concern that might rear its head.

Step 1 involves gathering evidence that the power is needed. A senior police officer needs to decide that there are reasonable grounds for believing that, in a particular locality within that officer's police area, alarm or distress has been caused to members of the public by the presence or behaviour of groups in public places. That senior officer also needs to decide that there are reasonable grounds for believing that antisocial behaviour is a significant and persistent problem in the locality.

Step 2 requires the senior officer to issue an authorisation of the use of the dispersal power by constables in the locality. An authorisation will last for a specific period and may refer to times or days within that period. Crucially, before giving an authorisation, the senior officer must consult the local authority whose area includes the relevant locality to consider the other options. An authorisation notice must be published in a local newspaper and displayed in some conspicuous place or places within the relevant locality before constables can use the dispersal power. I hope that that allays Stewart Stevenson's fears that people will not know about the dispersal area.

Step 3 enables a constable to use the power within the designated locality. However, the constable can use it only if there are reasonable grounds for believing that the presence or

behaviour of a group of two or more people in the locality has resulted in or is likely to result in members of the public being alarmed or distressed.

Finally, step 4 is the expiry or withdrawal of the authorisation. An authorisation can last for a maximum of three months, but it can be withdrawn earlier by the senior police officer who gave it or by another officer of the same rank in the particular locality.

I hope that that explanation is helpful and that the committee will agree that the four steps represent a clear and rigorous process for the use of the power. The issue is about balancing bureaucracy with a transparency that shows when the dispersal power might be used.

We know that no matter how much reassurance we give at this stage, some people will still have concerns, but we must not lose sight of the fact that already—as Johann Lamont has said—people who live round about certain streets, parks and other areas cannot go out and enjoy the benefits of the area. We cannot continue to ignore that situation.

In his opening statement, Bill Aitken gave two examples of when dispersal will not work. His first example was erroneous: if the two people are not doing anything, nothing will happen. On the second one, if the people are guilty of a breach of the peace in the first instance they would still be guilty of it in the second instance.

13:00

Mike Rumbles: Have you read the bill?

The Convener: We have got this far without heckling, so do not start when it is 1 o'clock.

Mrs Mulligan: That is okay. I am happy to be heckled so long as the heckling is sensible.

The Convener: I am not happy to allow it.

Mrs Mulligan: In the two examples that Bill Aitken gave, he did not necessarily follow through the argument; he sought to find a difficulty with the dispersal power when in fact there would not be one. Mike Rumbles suggested that no evidence has been given in support of the dispersal power. I quote from the Justice 2 Committee's report, which states:

"The majority of the Committee agreed that these provisions provide an additional tool for communities and police".

Furthermore, the evidence from the Union of Shop, Distributive and Allied Workers states:

"the evidence from our members who regularly suffer at the hands of gangs is that a power of dispersal is needed urgently".

There have been supporters of the power of dispersal.

I have sought to answer the points that have been made. I hope that members will accept that we are responding to a genuine need within our communities. I am prepared to have further discussions about how we designate a group and I am also happy to look further at giving Donald Gorrie reassurances about how we will ensure that those who may be particularly sensitive are dealt with in the steps that I laid out in the procedure for dispersal.

We owe it to all our communities to offer them this opportunity to resolve the difficulties that some of them face on a daily basis.

Bill Aitken: Throughout the debate, there have been two consistent threads, on which there is total unanimity. First, we all agree that there is a problem in certain areas in Scotland. Secondly, we all agree that the existing law is not proving effective as it is currently being implemented. A number of members have made that point.

Let us consider the situation. It is true that, as Cathie Craigie said, we have a duty to those who find themselves victims of antisocial behaviour. We all know what that is like. For many people, the antics of an antisocial minority make their life a living hell. However, my question is: what is wrong with the existing law? The existing law on breach of the peace is more than adequate to cope with the issue.

The convener raised an issue that the police raised with her—how to approach group disorder. To my mind, there is no particular difficulty with that at all, because the charge would simply be that the person had formed part of a disorderly group of persons who shouted, bawled, cursed and swore at a particular locus and committed a breach of the peace. That is an everyday charge in district and sheriff courts throughout Scotland, so the law is in place.

I know what the minister's intentions are, but the drafting of section 18 may not represent those intentions. It states:

"Subsection (2) applies where a constable has 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."

That indicates clearly that mere presence is in itself ground for action under section 18.

The situation is worse than that, because section 18 states, "is likely to result". That is not an objective judgment; it is totally subjective, and is in the eye of the beholder. Of course one must allow police officers to exercise discretion, but the

minister is going down a very dangerous road if she believes that section 18 represents what she is trying to achieve, because to my mind it does not. Irrespective of what happens in this morning's vote, I urge the minister to re-examine the wording at stage 3 to ensure that it is tightened up, because there are real difficulties.

What is the likely outcome of the bill if it is implemented? Donald Gorrie and Cathie Craigie once again highlighted the fact that we have a duty to those who are adversely affected by antisocial behaviour. Donald Gorrie said that the law is not working in certain areas, because the police do not have the resources to respond. With all due respect, that is a pretty facile statement, because if the police do not have the resources to respond under the present law, how will the implementation of the bill improve the situation? In fact, it will make matters worse, because the police will have more to do. They will have to go through the bureaucratic steps of designating areas and the two-warning system. The argument is spurious.

It is not a question of using a sledgehammer to crack a nut. Of course there is a real issue, but the law is in place to deal with it. The provisions will not achieve what the minister seeks to achieve. The most likely and frequent result will be merely to move the trouble down the road, and inevitably there will be alienation. I say to Cathie Craigie that the two boys whom we have spoken about do have cause to worry, because the wording of section 18 clearly states that their mere presence and the mere expectation that they might cause trouble are in themselves grounds for action. That is simply not good enough in legislation.

The Convener: For once, Bill Aitken is allowed the last word. I am not taking any interventions.

The question is, that amendment 1 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Harvie, Patrick (Glasgow) (Green)
Scanlon, Mary (Highlands and Islands) (Con)
Stevenson, Stewart (Banff and Buchan) (SNP)
White, Ms Sandra (Glasgow) (SNP)

AGAINST

Barrie, Scott (Dunfermline West) (Lab)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Gorrie, Donald (Central Scotland) (LD)
Lamont, Johann (Glasgow Pollok) (Lab)
Smith, Elaine (Coatbridge and Chryston) (Lab)

The Convener: The result of the division is: For 4, Against 5, Abstentions 0.

Amendment 1 disagreed to.

Section 17—Authorisations: supplementary

The Convener: Amendment 2 is in the name of Bill Aitken.

Bill Aitken: Is it the minister's intention to accept amendment 6?

Mrs Mulligan: Yes.

Bill Aitken: To save the committee time, and on the basis that the principle has been established, I will not move amendment 2.

Amendment 2 not moved.

Section 17 agreed to.

Section 18—Powers exercisable in pursuance of authorisations

Amendment 269 not moved.

The Convener: Amendment 385, in the name of Mary Scanlon, has already been debated with amendment 266. I ask Mary Scanlon whether she is moving the amendment.

Mary Scanlon: May I say a few words?

The Convener: You may do so briefly.

Mary Scanlon: I welcome the minister's greater clarity on the issue with which amendment 385 deals. I have no desire for there to be a worsening of antisocial behaviour before any action is taken about it, but I am still concerned about persistent complaints. I accept the minister's point about the Scottish Police College training. I will ask for advice from the college prior to stage 3. On that basis, I will not move amendment 385.

Amendments 385 and 270 not moved.

Amendment 180 moved—[Mrs Mary Mulligan]—and agreed to.

Amendment 3 not moved.

Section 18, as amended, agreed to.

Section 19—Powers under section 18: supplementary

Amendment 4 not moved.

Section 19 agreed to.

The Convener: That ends our consideration of the bill for today. The committee will meet on both Wednesday and Thursday next week to continue stage 2 consideration of the bill. Our target will be to complete consideration of part 9 by the close of the Thursday meeting. Officially, there are two deadlines for amendments: the first is 2 pm on Monday for the Wednesday meeting; and the second is 2 pm on Tuesday for the Thursday meeting. Amendments that are lodged between 2 pm on Monday and 2 pm on Tuesday will be considered only if the point in the bill to which they

relate is not reached on Wednesday. Obviously, we will not know that until the end of Wednesday's meeting.

To ensure that all amendments can be considered and that we are able to progress as far through the bill as possible on Wednesday, I ask that any further amendments to part 9 be lodged by the Monday deadline. An announcement to that effect will be published in the *Business Bulletin*. If members need further clarification, they can speak to the clerk after the meeting. With that, I thank both visitors and committee members for their attendance.

Meeting closed at 13:12.

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