JUSTICE 2 COMMITTEE

Wednesday 22 May 2002

Session 1

£5.00

Produced and published in Scotland on behalf of the Scottish Parliamentary Corporate Body by The Stationery Office Ltd.

Her Majesty's Stationery Office is independent of and separate from the company now trading as The Stationery Office Ltd, which is responsible for printing and publishing Scottish Parliamentary Corporate Body publications.

CONTENTS

Wednesday 22 May 2002

JUSTICE 2 COMMITTEE
21st Meeting 2002, Session 1

CONVENER

*Pauline McNeill (Glasgow Kelvin) (Lab)

DEPUTY CONVENER

*Bill Aitken (Glasgow) (Con)

COMMITTEE MEMBERS

*Scott Barrie (Dunfermline West) (Lab)
Mr Duncan Hamilton (Highlands and Islands) (SNP)
*George Lyon (Argyll and Bute) (LD)
*Mr Alasdair Morrison (Western Isles) (Lab)
Stewart Stevenson (Banff and Buchan) (SNP)

COMMITTEE SUBSTITUTES

Roseanna Cunningham (Perth) (SNP)
Lord James Douglas-Hamilton (Lothians) (Con)
Donald Gorrie (Central Scotland) (LD)

*attended

WITNESSES

Jennifer Bairner (Scottish Youth Parliament)
Jeremy Balfour (Christian Action Research and Education)
Kelly Bayes (Barnardo's Scotland)
Sam Campbell
Eleanor Coner (Scottish Parent Teacher Council)
Christine Dodd (Churches Network for Non-violence)
Susan Elsley (Save the Children Scotland)
Judith Gillespie (Scottish Parent Teacher Council)
Trudy Kinloch
Rosemarie McIlwhan (Scottish Human Rights Centre)
Margaret McKay (Children 1st)
Allan May (Scottish Youth Parliament)
Anne Morrison (Families First)
Alison Murray (Scottish Youth Parliament)
Rev Alan Paterson (Churches Network for Non-violence)
Helen Stirling (British Psychological Society)
Norman Wells (Families First)

Clerk to the committee
Gillian Baxendine

Senior assistant clerk
Fiona Groves

Assistant clerk
Richard Hough

Location
Committee Room 2

Scottish Parliament

Justice 2 Committee

Wednesday 22 May 2002

[THE CONVENER *opened the meeting in private at 09:36*]

10:12

Meeting continued in public.

The Convener (Pauline McNeill): Good morning everyone and welcome to the 21st meeting this year of the Justice 2 Committee. The meeting will be held in the morning and the afternoon, so it will be a long day for our witnesses and for us. We will hear from eight sets of witnesses today, some in the morning and some in the afternoon. We are taking evidence mainly on part 7 and, in particular, section 43 of the Criminal Justice (Scotland) Bill, but we will go beyond that in our lines of questioning.

I ask members to check that their mobile phones are switched off. I have received apologies only from Duncan Hamilton, who cannot join us this morning, but who will, I hope, be with us this afternoon.

Item in Private

The Convener: Item 2 is to ask the committee to agree to take item 5, which is consideration of witness expenses, in private. Is that agreed?

Members *indicated agreement*.

Subordinate Legislation

Regulation of Investigatory Powers (Cancellation of Authorisations) (Scotland) Regulations 2002 (SSI 2002/207)

Regulation of Investigatory Powers (Juveniles) (Scotland) Order 2002 (SSI 2002/206)

Regulation of Investigatory Powers (Source Records) (Scotland) Regulations 2002 (SSI 2002/205)

The Convener: Under item 3, we have three negative instruments to consider. Members have a note from the Executive and papers J2/02/21/19, J2/02/21/20 and J2/02/21/21. Are members happy to simply note the content of the instruments?

Stewart Stevenson (Banff and Buchan) (SNP): The only consultation that the Executive appears to have undertaken with regard to the three parts of the Regulation of Investigatory Powers (Scotland) Act 2000 has been with the police. I am slightly surprised that the Executive has not taken some account of the civil liberties issues that could be associated with the act. However, I acknowledge that the Executive might feel that there was sufficient input on those issues during consideration of the bill. Nonetheless, I am perfectly content to support the Executive.

The Convener: It is a fair comment that, although the instruments are non-controversial, they relate to the act that the committee dealt with and there might be civil liberties issues. Would the committee like to note Stewart Stevenson's comments?

Scott Barrie (Dunfermline West) (Lab): We should note Stewart Stevenson's comments. The instruments are not controversial, but the Executive, in considering them, should have consulted more bodies—not necessarily extensively—than just the police, given that we are talking about covert surveillance and that we highlighted that when we considered the bill at stages 1 and 2.

The Convener: If there is no dissent from that view, I propose to use Stewart Stevenson's statement as a comment to make to the Executive on its consultation.

Bill Aitken (Glasgow) (Con): The only thing that I would underline is that the act was dealt with before I was a member of the committee, but I presume that advice on the human rights aspects was taken at the time.

The Convener: The committee took extensive evidence. We consulted organisations that addressed the civil rights and human rights issues at length.

Bill Aitken: I would have thought that the evidence that was taken then was sufficient safeguard, but I take no great issue with what Stewart Stevenson said.

10:15

The Convener: Do members agree to note the contents of the instruments and Stewart Stevenson's comments, and that we have nothing else to say?

Members *indicated agreement*.

Criminal Justice (Scotland) Bill: Stage 1

The Convener: We will focus primarily on part 7 of the bill, and section 43 in particular. All the witnesses from whom we will hear have provided written statements, which we have had an opportunity to read. I propose that we go straight to questions, given the time that is available to us.

I welcome Helen Stirling, who is from the British Psychological Society, and thank her for coming along and for her submission, which is very helpful. We have roughly half an hour for questions. One of the reasons that we were keen to have Helen here this morning is that we thought that a good starting point would be to consider section 43 and try to get expert opinion on its impact on children. We have heard lots of opinions about the bill from individuals and organisations. A lot of assumptions have been made, but we are trying to get hard facts, if possible, and expert opinion to guide us through the bill.

Mr Alasdair Morrison (Western Isles) (Lab): The committee has received a substantial body of evidence to the effect that it is never appropriate to punish children physically and that such conduct should be prohibited entirely. Do you agree with that view?

Helen Stirling (British Psychological Society): I have reviewed briefly some of the research and its outcomes do not necessarily whole-heartedly support that view.

Mr Morrison: In your submission, you cite instances in which physical punishment has a negative effect. Your society has noted research that indicated that physical punishment could have negative effects on a child's development. Is that true of all physical punishment, or it is just true of harsh or severe punishment?

Helen Stirling: Recently, I read one of the better-controlled studies, which was done in 2000 and which examined that issue. Its conclusions were that it could be shown that excessive punishment—smacking that involves using implements, that is overly harsh or that is carried out overly frequently—was associated with longer-term problems in children and possibly into adulthood. However, the study found that there was not necessarily the same association with milder forms of smacking, which are not as severe or are not carried out so frequently. I can give you the reference for that research later if that would be helpful.

Mr Morrison: That would be useful. Is a child who is chastised severely more likely to be violent later in childhood, in the post-teenage years or later in life?

Helen Stirling: Yes, there is some research that would back that up. It shows that a high number of children who are at the severe end of a clinical problem such as conduct disorder, anxiety disorder or alcohol abuse have been severely physically punished.

Mr Morrison: Is there evidence about the effect of milder forms of chastisement on children's development and later life?

Helen Stirling: The study that I am aware of followed the children from pre-school up to adolescence and considered a range of smacking behaviour. The study is fairly recent and has not followed children into adulthood. The researchers were therefore unsure whether there would be any sleeper effects that, although not evident when people were young, might become apparent in adulthood. However, there was no evidence to show that the children who had experienced mild smacking were any more likely to develop significant psychological problems than those who had not been smacked—there was no difference between those two groups of children.

Mr Morrison: Do the alternatives to physical punishment work, in terms of controlling children and realigning behaviour?

Helen Stirling: Yes. That is a separate issue, though. The research would not support the view that mild smacking leads to long-term detrimental effects. There is evidence to show that alternative forms of managing children work. I have clinical experience of that and know of research articles that say that positive parenting programmes that include alternatives to physical punishment—such as withdrawing attention, telling children the clear logical consequences of their action and using ideas such as quiet time and time out—are effective with children, whether or not they have clinical problems.

The Convener: Before we ask further questions, it might be useful if you told the committee what your professional background is.

Helen Stirling: I am a clinical psychologist. I work for the national health service in Forth Valley NHS Board, in the department of child and family clinical psychology. My experience is as a child therapist. I am a member of the British Psychological Society and, although I am aware of the papers that have been submitted, I am not a research psychologist and cannot therefore give you a scientifically disentangled tour of the literature.

Scott Barrie: Could you help us understand more about the psychological and emotional development of a young child? The Executive has recommended in the bill that the cut-off age for physical chastisement should be three. In your professional opinion, is there any psychological evidence to support that as an appropriate cut-off age? Is it commonly accepted that, for example, a child who was younger than that would be unable to understand cause and effect?

Helen Stirling: I do not think that there is evidence to show that a child under three could not understand cause and effect. Consider child development. At round about a year old, if a child is frustrated or provoked, they will respond, usually in a way that shows protest or some sort of retaliation. By the time that the child gets to two, their language is starting to develop. Some single words emerge at around one, words are being joined up at about two and, by the time that the child is three, they should be able to string sentences together. We see a gradual increase in a child's pro-social behaviour with age as they learn to become increasingly compliant.

I am not aware of any research that shows a clear cut-off point—that shows, for example, that a child could not understand something at two years and nine months but could understand it at three. The policy memorandum mentions the function of language as a mediating factor in that. I am not certain that we can necessarily conclude that that is always the case, because it is possible for people to learn through contingencies. It is possible for animals to learn through contingencies; they do not have verbal mediating processes. Verbal reasoning is not needed to be able to learn from contingencies.

Does that make sense? Do you want me to explain further?

Scott Barrie: No. It makes sense. I was thinking about how to develop my question from what you have just said. Are you telling us that, by the age of three, it would be reasonably expected that most children would be able to distinguish between voice intonations so that they could tell whether somebody was saying something in a gruff, slightly angry way that showed disapproval?

Helen Stirling: Children can tell that at a younger age than three.

Scott Barrie: I accept that as well. Are you also saying that they can understand fully and reason with concepts such as yes and no?

Helen Stirling: That applies to children of normal development. If we were talking about a developmentally delayed group, we would need to take each child individually.

Scott Barrie: Would children on the normal continuum of child development understand that by three?

Helen Stirling: Yes. Normally, by the age of three, children would clearly understand the difference between yes and no.

The Convener: We will discuss with other witnesses evidence that shows that vigorous shaking or the use of an implement has the potential to have a lasting effect on a child. There is no difficulty in understanding that, where such treatment is violent or very physical, it will have a damaging effect on the child and we should legislate to stop that. The real bone of contention, as you know, is whether there is any age—whether two, three or four—at which it would be damaging to allow parents to smack the child. Parents would not have the defence of physical chastisement. They would simply not be able to smack at all.

We will hear later from Families First. That organisation would say that, in the context of a loving family in which various forms of discipline are used—talking to the child, explaining, the time-out method or any other form of discipline—smacking would be justified. Can light smacking ever be justified in the context of a balanced family environment?

Helen Stirling: Research suggests that we cannot say that there is no reason not to do it.

The Convener: From your experience of working with children, would you say that a light smack could have damaging effects?

Helen Stirling: Light smacking would probably not have damaging effects.

Stewart Stevenson: Is there any research evidence on the damage that psychological chastisement can cause? Do you or your colleagues have any experience of such damage?

Helen Stirling: By psychological chastisement, do you mean verbal punishment?

Stewart Stevenson: It could be a wide range of things, short of physical contact.

Helen Stirling: Yes. Some research shows that several verbal punishments, such as really heavy shouting, humiliation, or calling the child names—those are extreme examples—can also have a damaging long-term effect on a child.

Stewart Stevenson: That is interesting. Does any research show that there is a difference in the effect of using an implement to chastise the child, rather than a hand or some other part of the human body, where the physical impact is equivalent?

10:30

Helen Stirling: I am not aware that a distinct study has been conducted, because such a study would not be ethical. When researchers have tried to categorise the level of physical chastisement according to severity, it has been found that the most severe chastisement has tended to involve the use of implements. The evidence shows clearly that the groups of children who are treated in that way are adversely affected over a longer-term period. I am not aware of a study that compares a hand smack with a blow from a belt of equal force. I do not know that such a study exists.

Stewart Stevenson: To what extent does participation in a study introduce changes to the behaviour of the people who are being studied and how do psychologists take account of that effect—the Hawthorne effect?

Helen Stirling: The most recent study that I have looked at tried to address some of those issues. The researchers studied children for whom they had behavioural measures prior to the children's involvement in the study, to try to remove the effect that you mentioned. They also used several different sources of report on the children's behaviour, in order not to rely on the report of one person alone. Such studies address the Hawthorne effect. The more recent study showed that severe smacking led to problems, but it did not show that light smacking had the same effect.

Stewart Stevenson: So removing direct interaction between the researcher and the subject allows us to have a high degree of confidence in the outcomes that the researcher finds.

Helen Stirling: That is often how studies are done—in a blind or double-blind way, which means that the people who take the measures are not the people who analyse the results. An attempt is made to separate out those two groups. Most good studies are done in that way.

George Lyon (Argyll and Bute) (LD): I want to clarify what you said. Is it correct that you said that no research shows that light smacking is detrimental to a child's longer-term behaviour?

Helen Stirling: I do not know. The research of which I am aware compared the long-term effects of different types of smacking and an effect from light smacking was not found. I do not know whether there are any studies that show that light smacking proves to be a problem. I cannot answer that.

George Lyon: I do not understand what you mean. What do the studies currently show?

Helen Stirling: You asked whether any studies show that light smacking has caused a problem. I am saying that I have not had time to carry out an exhaustive trawl of the research, so I cannot say yes or no. The more recent research project that I looked at, which involved about 80 children in the United States, indicated that light smacking did not cause a problem.

George Lyon: So that study did not show an adverse effect from light smacking.

Helen Stirling: I am looking at some of the references that you have been given in the summary. The first article, which dealt with physical punishment and signs of distress in adolescence, seemed to find a linear association. In other words, when one reaches the higher end of severity and frequency—

George Lyon: So it is the degree that matters.

Helen Stirling: That is what the research is saying—it is not a question of whether one smacks; it is the degree that matters.

The other important thing is the context in which that is done. Families in which children are brought up with warmth and affection, and are not only punished for not behaving but are taught how to behave, produce functional children. The research shows that, if families use only harsh smacking without those other things, there will be problems.

George Lyon: Would the same be true of verbal chastisement?

Helen Stirling: Yes. That would also be true of severe verbal chastisement.

George Lyon: I think that you have undermined this argument, but it has been said that one reason for choosing the age of three is that children under that age cannot understand cause and effect and would therefore not understand a light smack. Is that true? You seemed to suggest earlier that children under three would understand.

Helen Stirling: According to learning theory, children learn in two ways. They learn through contingencies, which is when something happens and then something else happens after it or as a consequence of it, so that children form an association between those things. They also learn by modelling, which means that they observe and copy people around them. It could be argued that if children do something that is followed by an adverse experience, they learn an association between that behaviour and that distress.

However, learning theory then says that, if that is all that happens, children will not learn pro-social behaviour. All that they will learn is that doing certain things will be followed by a distressing event, but they will not be taught what to do instead. That is why there is a big focus on using positive parenting programmes, because they are the most likely way of getting pro-social behaviour from children. One might argue that a light smack will not necessarily do loads of harm, but neither is it likely to do a lot of good in the long term.

The Convener: I want to develop that a bit, because it is an important part of the evidence that we are taking today. Take the example of a child aged between two and three, whom one wants to prevent from doing something. We have discussed the proverbial electric socket—in fact, we have a live example of a child who is now an adult who actually experienced that and has the scars to prove it. However, that is one example among many of how modelling cannot always be used as the way forward when you want to prevent the child from doing something. What forms of discipline are available to prevent a child aged between two and three from doing something?

Helen Stirling: One needs to reinforce alternative behaviours by paying attention to and praising behaviours that one wants to see instead of giving a lot of attention to the behaviours that one does not want to see. Reinforcing appropriate behaviours is one of the main things and it is used all the time. When you praise children for doing as they are told or for eating up their dinner, you are using praise and the maternal relationship to reinforce appropriate behaviours.

To deal with misbehaviours, withdrawal of attention can be effective. However, if the behaviour is dangerous, you clearly cannot simply ignore it, because you must step in and do something about it. Using quiet time or time out has been shown to be effective. I guess that the argument is that there should not be any problem with lifting up a toddler and taking it to time out. As the child gets older, it will be a bit more difficult to do that with arms and legs all over the place.

The Convener: I am sorry to return to the electric shock example, but it is most useful in this instance. Let us say that a child is about to put its fingers into an electric socket, but you do not want to hit the child because that is against the law. What other options are available? Are you saying that one could grab the child and take it away?

Helen Stirling: One would grab the child, say no and take it away.

The Convener: In that case, the child might make a negative psychological connection with what had happened to it. We have already discussed the fact that psychological damage can be as bad as physical damage.

Helen Stirling: Psychological damage would be the result of extreme verbal abuse. Saying no in a firm voice is the appropriate thing to do and would not cause a child psychological damage. Insulting, humiliating and screaming at a child are the sort of verbal admonitions that lead to problems. There is nothing wrong with a parent saying no firmly and taking immediate action to remove their child from danger. If the parent is consistent and persistent in their behaviour, the child will learn.

The Convener: Are other options for dealing with misbehaviour available to parents?

Helen Stirling: Consistency and backing up verbal responses with action tend to be effective. If

a child does something repeatedly, we recommend time out—removing the child from the environment in which it is misbehaving, to enable it to calm down away from the sources of stimulation that are raising its misbehaviour levels.

Bill Aitken: I understand what you are saying, but there are practical difficulties with that approach. You suggest that if a child sticks his finger in an electric socket, he should be removed and given time out. However, many homes may not contain a suitable facility for time out—people may be living in one room. No matter how good parents are, they cannot keep an eye on their child all the time. If a child is sufficiently determined—from my experience, I know that they can be—and sticks its finger back into the electric socket, the parent does not normally see it doing that. It must be made apparent to the child that its actions have consequences. In situations such as the one that we are discussing, is a light smack not the answer?

Helen Stirling: It may or may not be the answer. Some parents with whom I speak say that they use smacking but that it does not work; it does not make any difference and the child continues to misbehave. Some parents say that a light tap—a tingle on the arm—is better than having their child electrocuted. I accept that in certain situations parents smack their children and find that effective.

The bill would exclude severe forms of punishment. From the research that has been done and from my clinical experience, I have no doubt that that is the right thing to do. There is less evidence for saying that the prohibition should be extended to punishments such as light smacking.

Bill Aitken: That is very fair.

I have a question about the methodology that you used. In your submission you state that

"there appears to be a linear association between the frequency of slapping and spanking during childhood"

and problems later on in life. Was the approach taken in the 2000 study to which you referred to start at the end, to identify people who were exhibiting problematic behaviour and to examine what had happened to them during their childhood?

Helen Stirling: I am not sure whether the research was carried out as a longitudinal study, with people's development being tracked from childhood, or by working back from the end-point sample. I have not had time to go back to the source articles.

Bill Aitken: That is a fair response.

Stewart Stevenson: Is there a different effect on children depending on who administers the physical chastisement?

Helen Stirling: The most recent study that I have seen included both mothers and fathers. Many other studies tend to include only mothers. I am not aware of studies in which people other than parents have been included.

10:45

The Convener: That takes us to the end of the questions. Is there anything more that you would like to say?

Helen Stirling: No. I assume that the committee received the submission from our special interest group for clinical psychologists working with children and young people. If not, I have a photocopy of it. If it would be useful, I can also leave behind the more recent article on a normative study of children that compared different levels of smacking.

The Convener: That would be useful. I thank you for your evidence, which has been very helpful and has given us a foundation for considering the rest of today's evidence.

Helen Stirling: To sum up, we welcome the measure to ban hitting children with implements and around the head, but we feel that harming a child anywhere on the body should be unacceptable, not only on the head. We also feel that the cut-off age of three makes sense practically, because it is easier to apply alternatives with children who are under three.

The Convener: Our next witness is Rosemarie McIlwhan, who is the director of the Scottish Human Rights Centre. She will give evidence primarily on section 43, but members should note that her submission has extensive sections on other matters. Members might wish to use the opportunity to ask about human rights issues that are of concern to them. I thank Rosemarie for coming to the committee again. This is her third or fourth appearance. We have about half an hour for questions. At the end of the session, Rosemarie can make any further comments.

Scott Barrie: In the Scottish Human Rights Centre's submission, the paragraph about part 7 of the bill states:

"SHRC would suggest that it is never acceptable to assault a child any more than it is acceptable to assault an adult".

However, the next paragraph states:

"SHRC would suggest that s.43 has no place in this bill."

Will Rosemarie McIlwhan clarify those seemingly contradictory stances?

Rosemarie McIlwhan (Scottish Human Rights Centre): What the submission probably should

have said is that section 43 as it stands has no place in the bill. Obviously, the section takes some steps towards better protection of children, but it is unacceptable that the Scottish Executive is even contemplating allowing assaults on children in a society that has obligations to human rights.

Scott Barrie: Now I understand. I found it difficult to equate the bold statement that section 43 should not be in the bill—which perhaps implies that we should not protect children—with what was said earlier in the submission. Is it your stance that the law should treat adults and children equally?

Rosemarie McIlwhan: Yes. We want section 43 to be amended to say that there is no such defence as reasonable chastisement of a child and that children should never be corporally punished by parents, guardians or anyone else. Also, there should not be an age limit on that.

Scott Barrie: That is an unequivocal statement of your view. Does the European convention on human rights prohibit the physical chastisement of children?

Rosemarie McIlwhan: The ECHR does not specifically relate to children and does not ban physical punishment of children. However, courts have progressively interpreted the ECHR in relation to children. First, courts said that physical punishment of children in schools was unacceptable, so corporal punishment in schools was banned in the late 1980s. More recently, courts said that physical punishment of children by parents is unacceptable. However, there was no comment on the defence of reasonable chastisement, which was a bit of a cop-out.

Case law seems to be moving towards saying that physical punishment of children is never acceptable. I draw members' attention to the report from the United Nations Committee on Economic, Social and Cultural Rights, on which we have just reported for the UK. The report's recommendation 36 states:

"Given the principle of the dignity of the individual that provides the foundation for international human rights law … and in light of article 10(1) and (3) of the Covenant, the Committee recommends that the physical punishment of children in families be prohibited".

That is a simple statement from the UN that corporal punishment of children is never acceptable.

Scott Barrie: Other submissions have suggested to us that article 8 of the convention relates to privacy and family life. We will probably hear more on that later in the meeting. Is there a contradiction between a stance, with which I sympathise, that wants to end the physical chastisement of children and the rights of parents to bring up their children and deploy their norms?

Rosemarie McIlwhan: Like any other form of human rights, there must be a balancing act on that issue. However, children and parents have rights under article 8 because privacy covers physical and mental integrity. Therefore, a parent hitting a child might breach that article. In any human rights situation, the rights and the best interests of the child will be considered paramount. They will supersede the parent's right to look after their child in their way. A parent should not hit a child. That is not family life. The family life aspect of article 8 covers parents' rights to associate with their children and exercise family life.

Scott Barrie: I realise that you might not be able to answer fully my next question. Some European countries are signatories to the convention and have outlawed physical chastisement of children, but other signatories, including the UK, have not done so. Are you aware of imminent challenges under human rights legislation to the countries that have not outlawed that physical chastisement?

Rosemarie McIlwhan: The short answer is no. There is a margin of appreciation within the convention that allows for states to interpret provisions differently according to their domestic circumstances, which is why some countries have completely banned corporal punishment of children but others, such as the UK, see fit to assault their children.

Mr Morrison: On the interpretation of the convention, how does that affect those who cite religious texts—for example, the Bible—as their reference books and yardstick? How should the law be formulated on that and how should those citizens operate?

Rosemarie McIlwhan: That is a difficult question to answer. Obviously, the convention protects the right to freedom of religion. However, if everything that is stated within religious texts were permitted by law, an awful lot more would happen in society that we would not want. Again, the issue is about striking a balance between respecting somebody's right to religious freedom and protecting our citizens, particularly our most vulnerable citizens, who are often our children.

Mr Morrison: Does section 43 create a risk that ordinary, responsible parents will be exposed to criminal investigation and prosecution for assault by giving a child what parents and others would deem to be a trivial smack?

Rosemarie McIlwhan: There is a potential for that under section 43, which is a reason why corporal punishment of children should be outlawed entirely. Then there would be no ambiguity about what constitutes a light smack. We heard a lot from Helen Stirling about light and heavy smacks. How do you tell which is which? Is the way in which I have just hit the table a light

smack? How can we tell? If smacking were outlawed entirely, that ambiguity would not exist. Parents would know that they could not smack a child in any circumstances. The committee should consider how section 43 could be replaced. We should consider parenting classes and guidelines on how to discipline children without hitting them.

The Convener: I will develop that a bit further. I do not feel that you answered Alasdair Morrison's question. He asked about a big issue for the committee. Although we all may desire to legislate to ensure that no child is damaged by hitting, the practicalities of the law might mean that some innocent and good parents were prosecuted, as they would not be able to hit their child in any circumstances. Do you worry about what might happen to good parents who are caught out by the law?

Rosemarie McIlwhan: I suggest that a good parent would not hit their child in the first place. If the bill were passed as it stands, prosecution would rely on two elements. First, somebody would have to complain about a parent who hit a child. For example, you might see somebody hitting their child in a supermarket and complain to the police about that. If a parent hit their child in the privacy of their home and nobody complained, nobody would find out and that parent could continue to assault their child as they saw fit. That parent would not be prosecuted.

If a complaint were made to the police, the second element would be a police investigation and discretion for the procurator fiscal to decide whether to prosecute. I cannot speak on behalf of the procurator fiscal, but I presume that a fiscal would examine the circumstances of the case and decide whether it was an isolated incident and whether the parent was a good parent. That places the onus on the procurator fiscal. It is not the place of the procurator fiscal to make such decisions. Does that answer your question better?

The Convener: I could debate further whether the procurator fiscal has the discretion to interpret the law in that way. You are not the first person to say that. Many people have said that the law is discretionary and is not intended to prosecute parents who just smack their children. As legislators, we must be sure that such discretion would exist. I am not convinced that it would.

We heard from a representative of the British Psychological Society—I think that you were present while she spoke. She made some interesting comments and said that it was not whether a child was smacked but the degree to which the child was smacked that damaged a child. What do you think about that?

Rosemarie McIlwhan: As I said, it is difficult to decide the degree of smack or other form of chastisement that is unacceptable. Helen Stirling also said that, in some circumstances, verbal abuse might reach humiliation levels and also be unacceptable. How is the degree defined? That is a difficult question, whose answer the committee must decide. That is why an absolute ban is a better idea, because it allows a yes or no answer. The question would be whether the child was smacked, rather than how hard the child was smacked.

If the route that the bill proposes were taken and a case ended up in court, a child could give evidence that they thought that they were smacked very hard and a parent would say that they did not think that they hit their child hard. How would a bystander decide how hard the child had been smacked? That would be difficult to prove evidentially in court. I strongly urge the committee to consider an absolute ban.

The Convener: There is some logic in what you say.

George Lyon: I am interested that you say that, regardless of what the representative from the British Psychological Society said, to be absolutely sure of achieving the aim, smacking must be banned. I appreciate that that is your view, but we have heard evidence that verbal chastisement can be as damaging as physical chastisement. Should the same principle apply to verbal chastisement?

Rosemarie McIlwhan: The treatment of physical and verbal abuse is different. Physical chastisement inflicts physical pain on a child. I accept that humiliation is also traumatic for a child, but it is much easier to legislate to prevent physical punishment than to prevent mental punishment. That would almost go into the realms of thought police. I hark back to my comment about parenting guidelines that would help people to know how to chastise their children without causing physical or mental suffering.

The Convener: The UN Convention on the Rights of the Child, which you mention extensively in your submission, is often confused with the European convention on human rights. It is important to make a distinction between them in relation to what we are legally bound to do. Your organisation and others have stated that children should have the same rights as adults. I do not have a particular view on the matter, but I would like to know more about what that statement means. Very often rights come with responsibilities, and children do not have the same responsibilities as adults. How did you reach your blanket conclusion, from which everything else flows?

11:00

Rosemarie McIlwhan: You have human rights because you are a human being. A child is a human being, so it has exactly the same rights as you have. Children may have limited responsibilities because of their age, but it is evident that, in a society, one's responsibilities increase with age. For example, a 12-year-old can instruct a solicitor and make medical decisions; it could even be legally construed that an eight-year-old makes a contract when he or she buys sweeties. People can vote when they are 18 and can stand as councillors when they are 21. Although society and the law have a role to play in limiting children's rights, subject to their capability to use them responsibly, that does not mean that children do not have those rights. Any democratic society has an obligation to ensure that every one of its citizens has access to their human rights and that those rights are protected, regardless of age.

The Convener: But sometimes those rights are limited for various reasons. You cannot equate a child's rights with an adult's rights.

Rosemarie McIlwhan: Yes. A voter has to understand the voting process in some shape or form to be able to exercise their right to vote. As a result, the voting age is currently limited to 18. However, the right to privacy is not subject to people's capability; people just have that right, and it should be protected in all circumstances.

George Lyon: You said that because most physical chastisement takes place in the home, there is little chance that it will be reported. I suspect that most of us would agree that that is how the world works. If that is the case, what would be the practical application of the legislation?

Rosemarie McIlwhan: It would have the same application as the Protection from Abuse (Scotland) Act 2001, which gives children who complain about abuse or assault in the home certainty that their complaints will be believed and investigated and that any such abuse or assault will be punished, if necessary. Moreover, if a next-door neighbour happens to hear through the wall that one of Jeannie's parents is belting the life out of the child, they can make a complaint to the police in the certainty that it will be investigated. It is important that such measures are introduced to ensure that children are protected and that people know that it is completely unacceptable to hit their children. Although the bill will cause difficulties for the police—and although it will be difficult to find ways of enforcing it—that is no reason for refusing to introduce the legislation. The Protection from Abuse (Scotland) Act 2001 is also difficult to enforce. If it has been decided that introducing the bill is worth our while, it should also be worth children's while.

George Lyon: Is it true that if a next-door neighbour reports that a child is being hit by their parents or if a child complains about abuse, no action is taken because the current legal position does not allow any such follow-up to take place?

Rosemarie McIlwhan: It is much more difficult because of the defence of reasonable chastisement. In their evidence to the committee last week, the police clearly implied that they do not investigate children's cases as strictly as they investigate a complaint of domestic violence or other abuse that is made by an adult. We need to examine that problem.

George Lyon: So you believe that, at the moment, the police do not follow up many reports.

Rosemarie McIlwhan: There is the potential both for that to happen and for children and others not to report such incidents of abuse in the first place. Because people know that there is a defence of reasonable chastisement, they simply decide to mind their own business. If people knew that it was completely unacceptable to punish a child physically, they would be more likely to report such incidents.

Stewart Stevenson: I have a scar on my left arm. It is about an inch long and half an inch wide and was inflicted on me by my parents. It happens to be a vaccination scar. I believe that my being scarred by my parents in that way has left no psychological damage.

Bill Aitken: That is open to dispute.

Stewart Stevenson: I said that only so that Bill could get that joke into the *Official Report*.

Does not my experience demonstrate that the only damage that matters is psychological damage? Physical events, involving children, that have no lasting psychological effects should not cause us any concern.

Rosemarie McIlwhan: I would take issue with that. It is unacceptable to hit an adult so I do not know why we are discussing when it is permissible to hit a child. It is true to say that the psychological effects are important as they cause lasting damage, but physical chastisement of children causes psychological effects. I am sure that you are familiar with the phrase that children learn what they are taught. If you teach a child that if something bad happens, hitting someone makes it better, they will learn that violence is a solution, and it is not.

Stewart Stevenson: The previous witness pointed to research evidence that suggests that mild physical chastisement has no long-term psychological effects. Are you pointing to other research that disagrees with that?

Rosemarie McIlwhan: My colleagues from the Children are unbeatable! alliance Scotland have research on that and you will hear from them after me. I refer you to them.

Stewart Stevenson: Thank you.

Scott Barrie: Do you agree with the proposal in section 44 to set up a youth crime pilot study?

Rosemarie McIlwhan: Setting up a pilot study is an excellent idea.

Scott Barrie: Last week, the committee wrestled with the types of offence or offender that should be included in the study. Do you have any views on that subject?

Rosemarie McIlwhan: I suggest that a wide range of offences should be considered. Our position is that all 16 to 18-year-olds should be dealt with in the children's hearings system and that only crimes such as murder should be dealt with in an adult court. The ethos of the children's hearings system ensures that not only the offence and the punishment are considered but the factors that caused the offence, such as the family background, the educational background, social work intervention and so on. That is a much more appropriate way to deal with children. Using the pilot study to consider a wide range of offences would ensure that we were certain that that is the best methodology.

If more cases are to be dealt with in the children's hearings system, the system needs to have better resources and there has to be better training for those involved. Also, there has to be an improved range of disposals, including community service orders and drug testing and treatment orders. The range of disposals should be similar to those available to a court but they would be used after consideration of the welfare and best interests of the child.

Scott Barrie: Last week, I asked whether the important matter was which system dealt with the offences or the range of disposals and the outcomes that were likely to flow from them. Do you think that the ethos of the children's hearings system makes it more suitable?

Rosemarie McIlwhan: It is much more appropriate for a child to be dealt with in the children's hearings system because of the emphasis on the interests and welfare of the child. An adult court is not the most appropriate place in which to deal with a child, except in certain serious cases.

Scott Barrie: Are you saying that any pilot study would require a greater range of disposals, for example the ability to attach more conditions to a supervision requirement than are currently allowed?

Rosemarie McIlwhan: That would be the fairest kind of pilot, but I understand that it would be difficult to implement.

George Lyon: Youth crime has received a lot of coverage over the past week or two and there seems to be a bidding war on how high the stakes might go. Does your organisation have a view on locking up or fining parents to try to stop persistent reoffenders?

Rosemarie McIlwhan: To lock up a parent for what their child has done seems incredibly disproportionate, particularly when we are talking about teenagers. The issue is how much the child is responsible for the actions and how much the parent is responsible for them. If a parent is locked up, the child will be deprived of a parent and their family life. If a parent is locked up, how can they discipline the child and stop the child doing whatever they were doing in the first place? Locking up a parent is not a solution.

Again, I hark back to better guidelines on parenting, considering better disposals and working with social work teams to deal with youth offending and problem children. That is where the children's hearings system is very good. If youth offending is dealt with through the children's hearings system, it will address not only Jeannie's skiving or shoplifting, but why she did that. Work will be done with the child and the parents to ensure that offending behaviour is addressed. That system is much better. Locking up parents is not a good idea.

George Lyon: Is the children's hearings system doing a good job?

Rosemarie McIlwhan: It does a very good job with limited resources.

Stewart Stevenson: Should children be allowed to marry, take up full-time employment or have a driving licence or pilot's licence?

Rosemarie McIlwhan: Are you defining a child as someone under the age of 18, as the UN does?

Stewart Stevenson: That is your definition.

Rosemarie McIlwhan: The current UK and Scottish provisions on such issues are fairly sensible. They deal with when children have the capacity to make decisions, such as when they want to get married at 16 with parental consent. That is perfectly acceptable under Scots law.

Stewart Stevenson: Is consent needed?

Rosemarie McIlwhan: Yes. A person can get married at 17 without parental consent in Scotland.

Stewart Stevenson: So they would still be a child.

Rosemarie McIlwhan: Technically, yes. As I said, the law can make provisions to fetter human rights or to allow better human rights as it sees fit, in relation to the capability of children. I see no problem with the existing legislation allowing someone who is technically defined as a child to marry and have a driving licence or a pilot's licence at the age that is currently provided for. That is not to say that they should not still have the law's protection in relation to their human rights.

The Convener: That is where all the contradictions arise in respect of your original statement that children should have the same rights as adults. As you said, when a person has the capacity to make such decisions, they should be allowed to make them. Most people would agree that 16-year-olds have the capacity to know right from wrong and to know that they are committing a crime, yet you suggest that they are better dealt with by the children's hearings system than by the adult court system. Is your view simply based on the UN Convention on the Rights of the Child? Do you believe that all under-18s are children and so should be dealt with by the children's system?

Rosemarie McIlwhan: Partially, I do. People are deemed to have less capacity until they hit 18. They still cannot do certain things. The legally recognised age at which a person is deemed to be an adult is 18. On that basis, all the circumstances of a case must be dealt with before a person reaches 18. That is why I believe that the children's hearings system is the best place for them. Even at 16 or 17, a person has not fully developed their thinking on the world or completely developed their concepts of right and wrong or how to act in society. Therefore, the children's hearings system is the best place to deal with them. That allows the whole context of a person's life to be considered and offending or problem behaviour to be addressed. A court system could ultimately put them into an adult prison, where they would potentially learn more crime rather than have their offending behaviour dealt with.

The Convener: At some point, we will hear from people who are concerned about those provisions. Panel members of the children's hearings system will say that they have dealt with children who are nine and are repeat offenders. Sometimes, the fact that a person will face the adult court system brings about a change in their offending. We are concerned not just about teenagers who are at a difficult age; in some cases, much younger children are offending. You would say that they should still be kept in the children's hearings system.

Rosemarie McIlwhan: As I said, the procurator fiscal has the discretion to put them in the adult system. We propose that, whenever possible, they should be dealt with in the children's system. I draw attention to the good projects that work with repeat offenders. I suggest that more such projects should be established to deal with the behaviour of repeat youth and adult offenders.

Bill Aitken: Are you seriously suggesting that it might be appropriate for a 17-year-old or possibly an 18-year-old—bearing in mind the continuation of supervision orders—to go before a children's panel after being accused of beating up his wife? That would seem to be the logic of your argument.

Rosemarie McIlwhan: That is the logical conclusion of my argument. However, as I said, the matter would be dealt with according to the discretion of the procurator fiscal and other legal provisions would apply, for example the Protection from Abuse (Scotland) Act 2001. In the circumstances, the procurator fiscal might decide that it would be better to use the adult court system.

11:15

Bill Aitken: You will be aware that the children's hearings system has restricted powers—in fact, you dealt with ways in which they could be extended. You will also be aware that the children's hearings system does not have the authority to disqualify people from driving. Would it be appropriate to take a case of drunk driving to the children's hearings system?

Rosemarie McIlwhan: That would be a decision for the procurator fiscal.

Bill Aitken: Yes, but do you think that that would be appropriate?

Rosemarie McIlwhan: I would suggest not, as driving is something that people generally do as adults. We are getting into problems of terminology. I would suggest that such a case should be pursued through the adult court system.

Bill Aitken: There is great public concern over the effectiveness of the children's hearings system. In the eyes of many members of the public, it is simply not working. There are valid arguments about how it might be improved, but you must be aware that there is considerable public concern. That concern is heightened by the fact that 16, 17 and possibly 18-year-olds will go through the system.

Rosemarie McIlwhan: I am totally aware of the concern, but I stand by my comment that it would be better to amend the children's hearings system and deal with children through it, as appropriate, than to ship them off to the adult system.

The Convener: I apologise, but we have reached the end of the session. You made several

other comments in your submission, which we have not had the time to ask you about, but they are useful—especially your comments about orders for lifelong restriction. All that you have said will be considered in our evidence. If members have further questions, we will liaise with you, if that is okay. I offer you the chance to say something in conclusion before you leave.

Rosemarie McIlwhan: I highlight the fact that the Scottish Human Rights Centre is a member of the Scottish Consortium on Crime and Criminal Justice. We stand by the comments that the consortium made last week. We are also a member of the Children are unbeatable! alliance Scotland, and we support the views of the representatives from whom you are about to hear. Please feel free to contact us with any further questions.

The Convener: We have had some difficult questions this morning, but it is all part of the lively debate that we have been having since the bill was introduced. Thank you very much for your evidence—it is greatly appreciated.

I propose that the committee agree to take a coffee break until half past 11. Is that agreed?

Members *indicated agreement*.

11:18

Meeting suspended.

11:31

On resuming—

The Convener: The next witnesses are from children's organisations that are members of the Children are unbeatable! alliance Scotland. The panel includes Kelly Bayes from Barnardo's Scotland, Susan Elsley from Save the Children Scotland and Margaret McKay from Children 1st. Thank you for agreeing to form the panel. We thought that, as there were similarities in your evidence, it would be useful to bring you together. We have approximately 30 minutes for questions. You have given us a full submission, so that will help us to get to the point. George Lyon was going to ask the first question, but he is not here yet, so we will start with Alasdair Morrison.

Mr Morrison: I will not pretend to be George Lyon.

Section 43 of the bill will not absolutely prohibit the use of physical punishment against children. You appear to disagree with that policy. Could you explain why?

Susan Elsley (Save the Children Scotland): I will kick off. We are from three organisations, but we represent 70 organisations across Scotland. Those include children's organisations, organisations that work with women, organisations that work around domestic violence and local authority departments, as well as individual academics. We are members of Children are unbeatable!, an alliance of 300 UK organisations covering a wide range of professional associations, including the British Association of Social Workers and the British Association of Psychotherapists.

Although there are only three of us at the committee, we are here to represent organisations that work with hundreds of thousands of children, parents and families throughout the UK. We bring together our collective experience, which tells us that all children need the same protection under the laws of assault as adults do and that all children, regardless of their age, need the same protection from violence and from being hit as adults do. Although we applaud the Executive for taking the first steps, we believe that all children up to the age of 18, regardless of their age, need the same protection.

Mr Morrison: Many ordinary parents and ordinary citizens do not see anything wrong with mild forms of chastisement. Is it reasonable to expose such parents and people who hold that view to the full weight of the law?

Susan Elsley: We do not think that parents will end up in court because of the proposal. We think that the provision will lead the way in changing public opinion and public attitudes in the same way as legislation on domestic abuse, drink driving and a variety of other issues led the way in changing public opinion. We know from our experiences that parents do not want to hit their children. They do so as a last resort because they are at the end of their tether and under extreme pressure, whether they are in the supermarket, walking home from school or in the home. The evidence of my two colleagues also reflects that view.

Margaret McKay (Children 1st): Children 1st operates parentline Scotland, which is a national freephone helpline for any parent who has a problem. In the first three years of the helpline's operation, we received more than 28,000 calls and talked to 7,500 parents at length.

Alasdair Morrison asked about ordinary, reasonable parents. The parents who call the helpline use it as an open access service. In other words, they have not been referred to the helpline because they have particular problems. They call because they are struggling at home with the issues that confront ordinary parents every day. Parents tell us that they are worried about hitting their children. They know that hitting does not work; if it did, they would not need to keep doing it. They worry that, once they give their child a small hit, the next time that the child does something,

they will have to hit harder and then harder again. When they phone up, they usually say, "I'm at the end of my tether. I don't know what to do." They are eager for advice, guidance and the opportunity to talk to other parents who have been through the same situation and who have helpful, constructive ideas about alternative ways of rearing children.

When the bill is enacted, as we hope it will be, it will need to be accompanied by an active public information campaign on positive parenting. In the main, parents are not conviction smackers, although I am sure that some parents are. They are worried about continuing to hit their children despite knowing that it does not work and they are eager for helpful, handy tips, whether from friends, neighbours, families or the helpline. In 2002, we owe it to parents to offer that help and support and to provide public information that will parallel the legislation and allow children to have the same protection before the law as adults have.

Mr Morrison: How can we provide a legal framework in which both the child and the responsible parent are protected?

Margaret McKay: You can do so by clarifying the law and by making it absolutely clear that children have the same right to protection as any other person has. You should make it clear that hitting people is wrong, that children are people too and that hitting children is wrong. Alongside that, you could promote public information that gives helpful suggestions and ideas and that allows that principle to become embedded, in much the same way as legislation on other significant issues has been accompanied by promotional work.

Mr Morrison: Are you saying that driving attitudinal change is as important as the legal framework?

Margaret McKay: I am saying that both are important. The law can be both a signal and an affirmation.

Scott Barrie: Can you describe the experiences of other European countries that have outlawed the physical chastisement of children?

Susan Elsley: Nine European countries have banned the use of physical punishment. The country with the longest record is Sweden. An important point to note about Sweden is the significant change in public attitudes that has taken place during the 20 years in which the ban has been in place. The situation now is that only 6 per cent of under-35s support the use of physical punishment. That is an extraordinary change. Support rises only to 11 per cent for the whole population. That is also quite extraordinary. Sweden has seen a major change in public attitudes.

It is significant that Germany, which is a larger country, introduced a ban in 2000. The ban was seen as a helpful resource that would be complementary to the tackling of youth crime issues. The slogan that was used was "help instead of punishment"—in German, obviously—which was a positive message. The message was not about criminalising but about help. The public education campaign used the child-centred slogan "respect for children", which meant that the ban was seen as being connected to that country's other social issues. A major public education campaign formed part of the moves to bring about a change in the legislation.

The UK is beginning to lag behind other major European countries. As the Scottish Human Rights Centre's evidence highlights, a United Nations committee has this week criticised the UK Government. We have already been criticised in the European Court of Human Rights. In 1995, the Government was criticised by the UN Committee on the Rights of the Child. As the legislation has not changed, we can expect that, when that committee considers its second UK Government report this autumn, that criticism will be repeated.

We cannot be an island entirely on our own. We must look at the major changes that are happening in Europe and internationally, where there has been a major shift in public views on whether children should be hit. We must take cognisance of that. Scotland is leading the way in the UK because we are the first of the four nations to have considered a change in the legislation.

Scott Barrie: I am aware that, as you have mentioned, the ban in Sweden was introduced in the face of public opinion. Did the same happen in the other European countries?

Susan Elsley: Public opinion has not necessarily always favoured a change in the law, but it is fair to say that other national Governments believe that changes in their legislation also have an educative lead. The two things—education and a change in the legislation—go together. Other pieces of UK legislation in the past 20 or 30 years have similarly been as much about changing public opinion as about changing what happens in the courts system.

Scott Barrie: Can you provide us with examples of how the current law, under which parents can use the excuse of reasonable chastisement, has confused the issue and led to children being severely maltreated in a way that most normal-thinking people would have assumed was not allowed?

Kelly Bayes (Barnardo's Scotland): Given our links with child protection, the whole notion of physical punishment and the defence of reasonable chastisement is of extreme concern to

those of us who work with some of the most vulnerable, challenging, difficult and troublesome young people.

At the moment, if a parent comes along to one of our 53 projects across Scotland and says that the child is given a clip round the ear, a smack on the backside or a good hiding, staff must think about whether those phrases mean that child protection is required or whether it is a case of reasonable chastisement. How do we work with that? If the reasonable chastisement defence were completely removed, things would be much clearer and easier for child protection staff.

In December 2001, a National Society for the Prevention of Cruelty to Children survey showed that 88 per cent of child protection cases with which its staff had worked had involved physical punishment. Physical punishment was the start of a process that led to cases involving children on child protection registers. A change in the law would make it much easier for staff to raise with parents the whole notion of appropriate discipline and behaviour.

Since the Executive announced its proposals in September, we have used the on-going debate to work constructively with the parents in our projects and to explore with them the notion of rights and responsibilities as well as positive discipline. What Margaret McKay said is reinforced by what parents are saying to us—they do not want to smack their children but want to find alternatives.

There is a line between what is and is not harmful, but that line is never clear; it is vague and open to interpretation. Removing the reasonable chastisement defence will make child protection investigations much simpler, clearer and easier to work with.

Scott Barrie: I have a question on section 44.

The Convener: We will come to section 44 in a moment but first I want to be clear about what our witnesses think about section 43. Do you support the Executive's position on setting the age limit at three? Would you want that to be removed?

Susan Elsley: Yes.

The Convener: Would you accept that as a first step or would you rather that that provision was not there at all?

Susan Elsley: We want a complete ban on hitting children. However, the Scottish Executive's proposals are a start to the longer process of banning hitting children. We would prefer that the defence of reasonable chastisement be removed altogether. That would be the easiest and most appropriate way of protecting all children. In the absence of such a proposal, we would like a start to the process with a ban on hitting children of a certain age.

11:45

The Convener: As a start, would you have no difficulty in establishing that age as three years or do you think that that is an arbitrary figure?

Susan Elsley: We think that it is an arbitrary figure.

Margaret McKay: If the purpose is to clarify the law, which was the original stated intent, the most effective way of doing that is a total ban. However, we congratulate the Executive on taking what we consider to be a good first step.

The Convener: I am clear about what you are saying. I am just trying to break it down to find out whether you are not going to get your wishes on your ultimate objective—

Susan Elsley: May we say a bit more about the age?

The Convener: You may in a minute.

What ages of children do you have direct experience of? Do you have experience of all age groups from nought to three and upwards?

Kelly Bayes: We work with children up to 24 and 25 years old.

The Convener: You would therefore be able to comment on discipline for children aged nought to three. You would feel confident about doing that.

Kelly Bayes: Yes. There is a range of leaflets. For example, we have produced and circulated a fairly small booklet on why people should speak out against smacking and a much thicker booklet on positive discipline. A number of organisations produce similar material about being positive about discipline, which we want to be distributed as part of a public education campaign.

The Convener: Thank you for that. I just wanted to establish your expertise before I asked you the questions.

What evidence is there that simply hitting—I am talking about a light slap or smack as opposed to anything damaging or degrading—damages a child in later life? So far, we have heard that there is no evidence.

Kelly Bayes: We have had lots of discussion with parents and young people about the issue. Parents often talk about their childhood. They recall being hit. Many of them recall their treatment and physical discipline with a lot of anger, pain and sadness. That discipline went from mild right through to excessive. They remember it with a lot of pain, but they cannot remember what it was for. There is no link with their behaviour, but they feel bad about the treatment that they received. They recognise that, if they repeat that behaviour with their children, that will damage their relationships. When parents use alternative methods of

discipline, the relationship between parent and child becomes noticeably more positive.

Margaret McKay: In response to that question, it is important to take account of what children say, as well as their parents. Young people say that, often when they are hit, they are confused, as they can be hit for something one week and not hit for the very same thing—

The Convener: I am sorry to interrupt you, but I am talking specifically about the nought to three age group. I realise that you are giving your evidence, but I am trying to establish what evidence there is about that age group. Other than how parents feel, is there any evidence to suggest that physical punishment is damaging to children in that age group? What alternatives do parents have to deal with misbehaviour?

Susan Elsley: Light smacking—a wee skelp, a small hit or a loving slap—is extremely difficult to define. If we asked the people in this room how they defined it, their answers would all be different. Some people say that light smacking means not leaving red marks. Others say that it means not leaving bruises. We question whether it is possible to say what constitutes a light hit, because an adult is much bigger and more powerful than a small child.

Penelope Leach, an eminent child psychologist who has written a range of books on bringing up extremely young children, spoke at an event that we held in December. She said:

"There is no respected research showing that parental corporal punishment improves children's behaviour in the long-term, though of course an exasperated parent who smacks a toddler may get the reward of having him stop whatever crime he had been committing.

If smacking worked there'd be no need for parents to go on and on doing it. In fact it's because hitting children doesn't make them behave better for more than a few minutes (usually spent crying), punishment tends to escalate. One slap didn't stop her playing with the electric plug; maybe two smacks will".

The Convener: Does Penelope Leach say that alternative methods of stopping a child misbehaving or putting themselves in danger work? Does she say that, if a child is removed from the place where it is misbehaving and told that it should not do what it is doing, it will not repeat that offending behaviour?

Susan Elsley: She talks about alternative methods. The priority is always to remove the child from danger.

Margaret McKay: Penelope Leach is not the only person to make those points. Many of our members are nursery nurses or work in child care centres. Those people have no possible recourse to physical punishment and work with precisely the age range of children—nought to three-year-olds—that is affected by the bill. They have provided us with mountains of evidence on what they do and its effectiveness. If a small child attempts to put its fingers into an electric socket, they pick up the child and say a big no—not a little no. They may have to do that several times.

The Convener: That is my point. You admit that it is necessary to say no to children several times. You say that hitting a child is ineffective. I suggest that, although what you describe may be a more desirable way of disciplining children, its results are no different from those produced by smacking.

Margaret McKay: There is no evidence that hitting a child once when it puts its finger into an electric socket will prevent it from trying to do so again. In fact, anecdotal evidence from parents suggests that children go back to try again.

The Convener: You are missing the point that I am making. I suggest that children may repeat misbehaviour after being hit and that hitting may not have the desired effect. You said that it was necessary to say a big no several times to stop children misbehaving. I am saying that the two methods have an equal result, although one may be more desirable.

Margaret McKay: Clearly, one method respects the child more. In any area of their development, children between nought and three will need to have something repeated in order to learn. We view smacking as an undesirable repetition and saying a big no as a desirable one.

Stewart Stevenson: Earlier Helen Stirling made the point that the real damage that is done to children—whether from physical sources or, more important, from non-physical sources such as shouting—is psychological. Do you agree with that assessment?

Susan Elsley: The Children are unbeatable! alliance supports positive, non-violent methods of discipline. Those include non-violent physical methods and non-violent verbal methods. We support what is in the best interests of the child. Being extremely noisy and abusive to a small child is not effective.

Stewart Stevenson: If our aim is to avoid psychological damage to the child, I acknowledge that in passing that objective into legislation it is extremely difficult to cover all the behaviours that might cause psychological damage. Do you accept the psychologists' assertion that varying degrees of smacking have different outcomes—in other words, that some degrees of smacking have long-term effects and others do not—and that the case against smacking therefore rests not on the effect on a child, but on smacking as an entry to other abusive behaviour?

Susan Elsley: I am pleased that you asked that question, because we want to return to the research issue. A wide range of research looks at parenting and the impact of physical punishment. It shows that the results of childhood smacking are wide ranging. They include: five times the rate of non-compliance among toddlers, which links to the point that Margaret McKay made; a fourfold increase in severe assaults on siblings; double the rate of physical aggression against other children in school among six-year-olds; and a significantly higher chance of four-year-olds failing to fulfil the cognitive potential that they displayed at the age of one.

I will quote from the American Academy of Pediatrics. The use of the word "spanked" is more common in the United States.

"The more children are spanked, the more anger they report as adults, the more likely they are to spank their own children … and the more marital conflict they experience as adults. Spanking has been associated with … increased risk of crime".

A wide variety of research exists and in our submission we have quoted details from research that shows that hitting children does not have positive outcomes. We return to the difficulties of defining what is a light hit.

Stewart Stevenson: I have two small queries to close consideration of that matter.

The Convener: One.

Stewart Stevenson: What was the date of that research and does it relate to undifferentiated smacking, rather than to the effects of different levels of smacking?

Susan Elsley: The quotation was from 1998. It relates to recent research. I can find out more details, if you have specific questions on different kinds of research.

The Convener: We have your submission and the quotes that are contained within that. If you have additional research, such as what you have just read from, we would be interested to have that, too.

George Lyon: Sweden has had the ban in place for the longest. I take it that there is good research to show the impact in Sweden on child abuse and assaults on children and on the number of prosecutions that have been brought under that legislation. Perhaps you could present some evidence to the committee on that.

Susan Elsley: A publication called "A generation without smacking: the impact of Sweden's ban on physical punishment", written by Joan Durrant and published by Save the Children, was circulated to MSPs more than a year ago. We would be pleased to recirculate that publication, which includes some of the research to which you refer. We could provide you with any details.

George Lyon: I want to clarify an issue with Kelly Bayes from Barnardo's. Most of your organisations are involved in child protection. In your evidence, you seemed to indicate that, because of the current state of the law, a huge number of potential cases cannot be reported or investigated. Will you confirm whether that is the case? Does that mean that, if the Criminal Justice (Scotland) Bill is enacted, there will be a flood of cases to be investigated, which would come before the courts at some stage?

Kelly Bayes: I was trying to indicate that, often in child protection cases, a lot of work is done with parents and families in relation to punishment. We are not alone in finding frequently that the reasonable chastisement defence makes it difficult to have the debate about what is a child protection issue and what is not. People argue, "I am allowed to smack children, because that is reasonable chastisement." A clear ban would help situations to be addressed much earlier and would not allow them to become real child protection cases involving a bruise, a mark or some clear definition.

A lot of child protection cases do not proceed to court. The reasonable chastisement defence can be used and clear evidence is needed before a case can be heard in court. The bill will enable the whole issue of physical punishment to be debated. Parents will begin to consider alternatives to punishment, which will mean that we will not get to the stage of needing to investigate child protection cases. I hope that I have now made myself clear.

George Lyon: The committee, in its questioning of Executive officials, was seeking clarification of the number of investigations that are not being undertaken because of lack of clarity in the existing law. That evidence underpins the reasons for the introduction of the legislation.

12:00

Kelly Bayes: Last year, 33,000 referrals were made to the reporter. Of those referrals, 28,000 were care and protection cases. A heck of a lot of the cases that are referred through the reporter to the children's hearings system are care and protection cases.

If a more open and acceptable debate takes place and work can be done on positive discipline at an earlier stage, we hope to see a reduction in the number of cases that go to the reporter to establish whether a case is a child protection case. We hope that the debate will open up the subject to the extent that parents' attitudes will change. We hope that people will start to look at the alternatives to punishment. We want to see potential child protection cases being dealt with much earlier in order for them to be discussed and

dealt with appropriately.

The Convener: For the last 10 minutes, we will move on to section 44 of the bill.

George Lyon: I understand from your evidence that all three organisations support the provision that will enable the Executive to trial the diversion of 16 and 17-year-olds into the children's hearings system. What are your reasons for supporting that proposition?

Kelly Bayes: Barnardo's has six projects for young offenders, three of which are for persistent young offenders aged from 14 up to 18. The vast majority of those young offenders come to us through the children's hearings system. We believe strongly that the children's hearings system is not failing. That is something that is bandied about. It is the resources that are available to the children's hearings system that are crucial.

We provide services in Falkirk, Stirling, Motherwell and Aberdeen where young offenders and persistent young offenders can come to us through the children's hearings system. We have achieved a 50 to 80 per cent reduction in offending with those persistent young offenders.

Over 65 per cent of those young people have experienced violence towards themselves in their family. The link between physical punishment and youth offending is clear. We have established relationships with the parents of those persistent young offenders. The programmes keep youngsters in the community and maintain their links with education, employment and training.

We believe that the children's hearings system can deal with persistent offending, but it needs resources to do so. Over the past few years, the Executive has committed £22.5 million to establishing youth justice teams and youth crime projects. The pilots need to be evaluated and monitored. We are talking about only two pilots in two areas of Scotland. Given the appropriate conditions and resources, the Executive's youth crime strategy has a good chance of being able to demonstrate that community disposal options are more effective options than custody. We believe that that is case.

George Lyon: What you are saying, clearly, is that without the legislation we cannot evaluate whether the views that you hold about the beneficial nature of the provisions are correct.

Kelly Bayes: We need to change the system to allow the referral of 17-year-olds to the children's hearings system as opposed to them going before adult courts. At present, some young people can be referred to the children's hearings system at 16 and 17. In the case of the pilot areas, we need to try consistently referring such young people to the children's hearings system. That would allow us to see whether such referrals work. It will only do so, however, if the appropriate conditions are put in place.

George Lyon: What are your views on the type of offences and the range of children that should be diverted into the children's hearings system? Have you clear views on what restrictions there should be? Which children should be diverted and which should go to the adult courts?

Kelly Bayes: Common sense should be used for the most serious offences, such as murder, on which a previous witness commented. We find that, even among the youngsters with whom we work, there are young people who have 80 or 100 offences to their names. They are persistent and have some serious offences to their names. Eighty per cent of them have experienced loss or rejection. As I mentioned, more than 65 per cent of them have experienced violence. They have been excluded from school. They have very chaotic lifestyles. More than 70 per cent of them have experienced abuse of alcohol or drugs. We need to talk about not only their behaviour, but the underlying causes of that behaviour.

George Lyon: We have heard a lot of talk in the past couple of weeks about sending the parents of such children to jail or fining them. Barnardo's is quoted as saying:

"Sending parents to jail is ridiculous and fining people already in poverty smacks of stupidity."

Will you add your comments on why you think the proposition is ridiculous?

Kelly Bayes: First, I will comment on the journalist's poetic licence with the quotation, which was said in the context of a much longer debate. On parenting orders and sending parents to jail, we must ask where the children will go if the parents go to jail. Will we then take the children into care? That would not do them an awful lot of good. We are talking about trying to keep children in the community. Working jointly with the parents and young people on their behaviour produces a much more effective, productive and positive outcome. We run projects—as do a lot of other statutory and voluntary sector bodies—that show that getting the parents on board to help to examine the children's behaviour is much more effective.

Parents often come to us having given up. They have tried everything, including physical discipline. They are at the end of their tethers. They do not know what to do. They have often lost all their skills and confidence in themselves. Through our working with them, they regain that confidence and they regain some of the skills that they have had in the past. Many parents want to do right by the young people. Many parents are desperate for

some sort of help to work with their youngsters. Jailing the parents will not do any good to the parent or the child. It will just give out the message that parents will be punished for a whole host of things that are often not under their control.

George Lyon: What about the other organisations? What are their views?

Susan Elsley: Save the Children would be extremely disturbed if parents ended up in jail. We believe, just as Barnardo's does, that a wide variety of social and individual factors impacts on children's lives. Children need all the support that they can get. Their parents or carers are often the most important people in their lives. Taking them away from that parental support would compound their problems and would not make things easier.

There are alternatives. In Scotland, we ought to be proud of our long tradition of a welfare-based system. The proposals to jail and fine parents are contradictory to that system. We would support methods that tried to support parents, children and families in a way that enabled them to move on and that was not punitive.

Margaret McKay: I refer to the evidence that I gave earlier about our experience of listening to parents who called the parent line. Those parents are not thumbing their noses at schools or any other environment in which their children might be. They are usually looking for—and are eager and anxious for—help and support. Often, there are issues for children about experiences in school that get them out of going in the first place. They need help to get back in. We need active support, not passive instruction, to get the children back into school and to back up the parents.

Bill Aitken: I am interested in the Barnardo's projects. However, the acoustics in this room are bad, and just as you were giving some statistics, a heavy vehicle passed by. Will you tell me what the success rate is? I did not catch it.

Kelly Bayes: The three projects that we have are Freagarrach, the challenging offending through support and intervention project—CHOSI—and new directions. They show between 50 per cent and 80 per cent reduction in offending.

Bill Aitken: The reduction is between 50 per cent and 80 per cent.

Kelly Bayes: For some young people, the reduction in offending is more than 80 per cent, but the average is between 50 per cent and 80 per cent.

Bill Aitken: How many kids have been involved in the projects?

Kelly Bayes: I am not too sure of the total. I know that Freagarrach works with 20 young people at any one time. I think that 140 young people went through the project during the five years that it was evaluated externally. All the projects have been evaluated with regard to their outcomes, which are about not just the reoffending rate, but reintegration into school, community-based activities and involvement with parents.

Bill Aitken: I want to be quite clear about this. Do the figures show that in some cases offending rates have decreased by about 80 per cent and that in other cases they have decreased by about 50 per cent?

Kelly Bayes: Yes.

Bill Aitken: How many cases are there in which young people have not committed any more offences at all?

Kelly Bayes: I do not know off the top of my head. I ran the Freagarrach project for three years. When I left, 10 children from the previous three years had not reoffended at all. For some young people, the success rate is dramatic. We have to remember that many of these young people have been offending for a long time and that their rate of offending is high. To reduce that rate to nothing is phenomenal. For those with the smallest reduction in their rate of offending, we have noticed that not only has the number of offences decreased, but the seriousness of their offending has been reduced.

Bill Aitken: I fully accept what you are saying about those who have a history of offending and whose rate of offending has gone down to zero. Full marks to you on that score. That is a mark of the success of the project. However, I do not think that we can hand out too many brownie points to those who have cut their rate of offending by only 50 per cent.

Kelly Bayes: When young people are taken out of circulation and put into secure accommodation or custody, there is no reoffending. However, when they are taken back out of secure accommodation or custody the reoffending rate is phenomenal—it continues at a high rate, rather than decreasing. The alternatives are achieving far less than the community options and they are much more expensive.

Bill Aitken: Surely there is an argument for examining how effective such schemes are. I have to say, on the basis of what you have told me, that I am less than convinced. If section 44 were agreed to, and given the limited success that the projects have had, should we consider tougher community-based alternatives such as the community service orders that adult courts impose? We would ensure that the orders were complied with, unlike in the adult courts where there seems to be a fairly relaxed attitude about the level of compliance.

Kelly Bayes: The community options that I have been talking about are not soft options; they are tough options for the young people and their parents. Parental involvement is part and parcel of the programme, as parents attend regularly. The offenders often have to do community reparation work; they have to face up to their responsibilities and they have to consider the victims against whom they offended in order to make reparation. For the first time, they start to think about their offending.

If young people are taken into secure accommodation or custody, very few people challenge them about their behaviour. The community projects are charged with making young people consider their offending. They have to consider when they have offended, with whom, how, why and in what circumstances. For a lot of young people, that is the first time that they have thought about how many offences they have committed. The community options are not soft options; they are very tough.

Bill Aitken said that the projects had had limited success. The projects are very successful. I would be more than happy for any members of the committee, or for any MSP, to visit us to see that success. The projects have been evaluated and the research shows that they have been much more successful than the alternatives and they are much cheaper. A place on one of our projects costs £900 a month, compared with £2,000 to £3,000 a month for custody, £4,500 in a residential school and £8,000 to £9,000 in secure accommodation. The projects are significantly more cost-effective.

Bill Aitken: I appreciate the invitation that you have issued. Do you have any documentation that outlines exactly what the projects do?

Kelly Bayes: Yes. I can send information on all three projects, as well as information from other agencies. I will send annual reports and the evaluations for all three projects.

Bill Aitken: That would be helpful.

The Convener: There will be considerable interest in your invitation to see some of the projects. Scott Barrie and I have been threatening to do that for some time, but you have focused our minds on the need to do it.

Kelly Bayes: The timing is right.

The Convener: There is a need to examine in more detail the figures and statistics that you have presented to the committee. Obviously, the figures are important to you, but they are quite meaningless as evidence until we find out more information, such as the age groups that we are talking about and the length of time that passes before you decide that the person who offended will no longer offend and that you have been successful.

12:15

Kelly Bayes: The length of time varies. We monitor the person's offending from day one right the way through. Obviously, when the young people are with the project, there are review meetings and the evaluation of the Freagarrach project conducted follow-ups over a number of years.

You are right to point out that the projects are often successful when the youngster is attending but less successful a year or two down the line. It is too early to say what the long-term impact of the projects will be, but we know that, when young people come to community options, they need support beyond that point. We realise that we have to do follow-up work on that and have started to do so in relation to many of the projects.

The Convener: That premise is vital to the decision about whether the projects should be extended to 17-year-olds. As you have heard, the issue of the pilot study has become quite controversial, which is why we are spending some time on it. You said that it is not a soft option, but would you say that, in a case involving a repeat offender who had committed a crime such as theft that affected a victim seriously, we should ignore the feelings of the victim and put the child in the children's hearings system? A lot of victims think that a custodial sentence is harsher and would prefer that that is what the offender got.

Kelly Bayes: We work closely with victim support agencies. They assist our staff and the young people in looking at the impact of crimes on victims, generally and specifically, so that young people develop an increased awareness of the impact of their offending behaviour. Some young people are acutely aware of that impact and feel bad about it, but others have no conscience about the impact on a victim and we work hard on that issue.

There may be a perception that the children's hearings system does not work and that custody does, but that is a myth and we have a duty to the public to explode that myth. We need to shout about the success of community options and the hard work that young people have to do in that regard. We also have to explode the myth that custody works. It takes young people out of circulation for a short while and that is all.

The Convener: I do not deny that, but I am playing devil's advocate. If someone has been the victim of what they regard as quite a serious crime and does not want to sit down with the offender but would rather that what they think of as the hard option was pursued, would you still say that the

victim's feelings should not be taken into account?

Kelly Bayes: The victim's feelings come into account, but our contact with the victim support agencies has shown us that, once the victim is aware of what the youngster is doing on a community option, they see that that is much more beneficial than locking them up. Victim support agencies will tell you that many victims do not want horrendous and draconian measures to be imposed on young people and that all that they want is to ensure that the young person does not offend again. Most victims who are aware that a community option will be more effective than custody in that regard will say that that is fine.

The Convener: The bill suggests that the cut-off age for the pilot study should be 18. Is there any evidence to suggest that that is the cut-off point for offending?

Kelly Bayes: My understanding is that the pilot is for 16 and 17-year-olds and that 18-year-olds will be dealt with in the adult court system. We are supporting that cut-off point because lots of legislation, including UN conventions, defines a child as someone under the age of 18. With the right conditions, 16 and 17-year-olds could be dealt with in the children's hearings system. I think that those conditions exist.

Surveys and statistics vary on the issue of the peak age for offending. Some sources say that it is 14 or 15, others that it is 18, and others that it is 21 or 25. It is difficult to say what the peak age is, because surveys use different definitions.

George Lyon: If the bill is passed and pilot studies are set up, you will want the proper resources to be made available to ensure that the children's hearings system can deal effectively with the extra cases that will be referred to it. By resources, I mean not only money but the disposals that the panels can hand down. Is my understanding correct?

Kelly Bayes: There needs to be a range of options in the community. Besides the intensive programmes for persistent young offenders that I mentioned, those options could include reparation work and work with drug and alcohol misuse, which has an impact on offending. A number of different services, provisions and supports need to be available in the community.

Another key factor is co-operation between agencies—education, social work, the police, reporters, youth workers and the voluntary sector. In the areas in which we work, such co-operation exists. It is not the responsibility of just one person to deal with young offenders—it is everyone's responsibility.

The Convener: We must stop at that point. Would you like to add anything that you have not had a chance to say in your evidence so far?

Susan Elsley: I would like to make two brief points about the physical punishment of children.

First, we want to see a network of organisations working with thousands of children and a better world for children in Scotland, in which they are more adequately protected. As a society, as policy makers and in the voluntary sector, we need to keep that thought uppermost in our minds.

Secondly, the bill's provisions relate to children under the age of three. We need to remember that those are the smallest, most vulnerable members of our society. They do not have a voice or speak out. Later, the committee will hear from representatives of the Scottish youth parliament. The majority of children who are hit are between the ages of one and four, although 50 per cent of children are hit even at the age of 11. We need to recall that we are talking about very small children who do not come up to the height of the table at which I am sitting, and to be aware of the power that adults can use when hitting them. We want to reinforce that strong message.

Margaret McKay: I remind the committee that public attitudes on this issue are shifting. Recent surveys show that parents take a very different view today from the view that they took in surveys 10 years ago. The ground is shifting more dramatically with the parents of young children. Those parents, who are most likely to be affected by the bill, show greater support for a ban on physical punishment of children under three. It is important that we bear that in mind. The changes to which I refer are evidenced by rigorously conducted surveys and research.

The Convener: Thank you for your evidence, which was very clear and concise. We have the difficult job of legislating on these issues. I emphasise that we are interested in receiving details of any projects that you are running. The key point for us is what the evidence shows. Perhaps we could have further dialogue, as I am sure that we will have more questions about the projects in which you are involved.

Susan Elsley: We would be pleased to do that.

The Convener: We are running a little behind schedule. We will now hear from our last set of witnesses before lunch. I welcome the members of the justice committee of the Scottish youth parliament. The submission that members have received is not from the Scottish youth parliament, but from the young people's rights network.

I welcome Jennifer Bairner, who is chair of the justice committee of the Scottish youth parliament. She is accompanied by Alison Murray and Allan May. When I did a piece on "Good Morning Scotland" about youth pilot studies and the

Criminal Justice (Scotland) Bill, I heard representatives of the youth parliament—I do not know whether you were among them—express their feelings about those studies. That inspired us to invite you to give us evidence. We have not received a written submission from you.

Jennifer Bairner (Scottish Youth Parliament): You did not receive a written submission beforehand, as we did not realise that we had to submit a paper. However, we have prepared one today, which we can give you now.

The Convener: That would be great. It is not compulsory, but sometimes it helps us to know what the arguments are in advance. If you have a paper with you, that is helpful. You can just speak to that if you like. We will go straight to questions. At the end, I will ask you whether you would like to say anything that you have not had the opportunity to mention.

I am interested in hearing the youth parliament's views on criminal justice for 16 to 18-year-olds. Last week or the week before, different views were expressed by the youth parliament for and against the pilot study. Some people said that 16-year-olds are adults and should be treated as adults who are responsible for their own behaviour. Other people said that 16-year-olds are too young to be treated as adults, that they should be given another opportunity and that they should be kept in the children's hearings system. Is that a fair reflection of the youth parliament's views, or do you have a formal view?

Jennifer Bairner: We do not have a definitive formal view at the moment. We have spoken with young people from all over Scotland about children's panels and the children's hearings system as a whole. One of the groups that we have consulted is the young offenders at Polmont young offenders institution. We spoke to 16 and 17-year-old offenders and 18-plus offenders, and their opinions have been incorporated into the document that we have given to the committee.

We think that there needs to be a radical change. What we have now is the result of a radical change in the 1960s. It is still ahead of its time for the rest of the world, but Scotland seems to have caught up with it. The children's hearings system can make orders but has no powers to enforce them. That must be altered before the system can be extended to a higher age range. The system is not meaningless, but there is no way of enforcing what the panel decides.

The Convener: If the children's hearings system had stronger powers and if it were properly resourced, would you support its extension to people aged 18? Should people of that age go through the children's hearings system or should they go to the adult courts system?

Jennifer Bairner: We had an online vote on our website this week. It was decided that we would prefer a juvenile court, which would be a halfway house between the children's panel and the adult court. We strongly advocate young people becoming members of children's panels or the decision-making body that would be the juvenile court. Adults in court are judged by their peers. Why cannot young people be judged by their peers? A juvenile court could deal with 16 and 17-year-olds and it could possibly deal with offenders up to the age of 21.

The Convener: The idea that young people should judge their peers and sit on the panels is interesting and worthy of further consideration. Would the people who sit on the panels be aged 16-plus or would they be younger?

Jennifer Bairner: I do not think that a 16-year-old can be said to have more ability to do that than a 14-year-old or a 21-year-old. It would depend on the ability of the young person and their willingness to take part. There is a lot in the press about youth crime and young hooligans. However, we must remember that the majority of the victims are also young people. Young people are likely to understand better the reasons behind someone committing an offence—it may be their circumstances or the pressures that young people are under. A lot of training would be required before young people could sit as members of a juvenile court, as is the case for panel members, but we feel strongly about the idea and recommend it.

The Convener: We will give that serious consideration. I want to ask about your experience at Polmont YOI. Did you feel that the programmes for the young people there were effective?

Jennifer Bairner: The young men take part in the opening doors project, which formerly was run by Community Learning Scotland and which provides anger management and behavioural courses. Some of them are learning to read and write, which they did not learn to do when they were at school. They are learning how to get on with people. We asked for and included their opinions in the submissions that we give to committees such as yours. That gives them a sense not of importance, but of playing a part in society.

One of the main points that came across from the young people we spoke to was that short sentences in young offenders institutions do not work. With three-month sentences they are out after six weeks. They go home, they behave for a week, they are caught, they are back in, they are out and they are in. It is a yo-yo system. We spoke to short-term and long-term prisoners, and the long-term prisoners said that it was not until they had been given an eight-year sentence that they

realised what they had done and that their friends were outside. We were there for three hours, but at the end of three hours we went out to the car park, got into our cars and went home. We could go to the pub and the cinema; they could not.

It was not until they had been given a long sentence that they realised that they would miss out on their children growing up. A lot of the offenders had young children, and they made the point that they could not see them. The community-based disposals that previous speakers spoke about may allow them to get their lives back on track, while allowing them to take part in bringing up their children.

12:30

The Convener: Scott Barrie and I visited Polmont about six months ago and we received the same information about sentences being too short. With women's offending also we found that short sentences generally do not allow enough time for rehabilitation. If we deal with the shorter sentences and community projects, will there be a place for Polmont?

Jennifer Bairner: With some offences, such as rape and murder, the public should be protected. But society must ask, what is the point of prisons? Is the point punishment, protection of the public, or a bit of both? If it is a bit of both—which is the consensus view of our members and of the general public—we have to get both parts correct. Prisons in Scotland tend to be good at protecting the public—we have not had many break-outs—but the rehabilitation processes are not as effective as they could be.

Stewart Stevenson: I was interested in your proposal for juvenile courts, where children could judge children. That leads me to ask two questions on the section of the bill on victim statements. First, do you think that such statements, which would allow victims to comment to the court in a formal way on the effect of crime upon them, are a useful addition to the system?

Jennifer Bairner: I am sorry, but we do not have the bill in front of us. Do you mean the victim impact statements?

Stewart Stevenson: Yes, that essentially is what I am talking about.

Secondly, we have not spoken to Barnardo's about this, but its written evidence suggested that the age at which victims should be able to provide victim statements is 12. Do you feel that victim statements would be useful to victims and to the justice system, and do you think that 12 is an appropriate age? Indeed, should it be lower or higher, or are there other criteria by which we should determine that?

Jennifer Bairner: We have discussed victim impact statements. They are referred to in paragraph 4 of our submission. The Barnardo's lady spoke about the Freagarrach project, which allows young offenders to meet their victims, if both sides agree. We welcome that not just for young offenders but for all offenders, as long as both sides agree and know what they are going into. They can discuss the effects of the crime on both parties.

How much weight courts should or will give to victim impact statements I am not sure. They may take away the impartiality of the criminal justice system. Should an educated victim who can put across their point well be given more weight than someone who cannot put across their opinion as well and whose statement may not have such an emotional effect on those who are deciding the sentence? There are many issues.

Across Scots law, it is assumed that 12-year-olds have the capacity to instruct solicitors and so on, but children below that age can still give their opinion on the effect of a crime against them. It may not be done in the form of a written statement, but I am sure that younger children could give just as good evidence on the effect of a crime. Four and five-year-olds give evidence in court, so I do not see why there should be a defined cut-off age. We could possibly lower the age, depending on the ability of the child.

Scott Barrie: Like the convener, I am interested in some of your ideas about how we tackle the issue of youth justice. The idea of a juvenile court is certainly worthy of consideration. You stated in your submission that the children's hearings system was developed in the 1960s and came into force in the early 1970s, when the school leaving age was 15. The school leaving age was raised to 16 and now we are talking about perhaps extending children's hearings to 16 and 17-year-olds.

Is it the youth parliament's view that the whole gamut of different ages at which you are allowed to do certain things and the issue of what the law defines as young people are part of the difficulty in considering the matter? Arbitrary ages have been set, which range from 12 to 21, at which people are allowed to do certain things. Has the youth parliament discussed that issue?

Jennifer Bairner: The main issue that we have discussed about the age at which people are allowed to do certain things is the lowering of the voting age. We would like to see the voting age lowered to 16. There are different ages at which people can do things. For example, at 12 someone can instruct a solicitor; at 16 they can get married; at 18 they can go to a pub; and at 21 they can stand for election. It is like a staircase, but perhaps the stairs are in the wrong order.

Should someone be allowed to vote but not to stand for election? Should that be changed? Certainly, we do not want everybody to be able to drink alcohol at 12 or to fight for their country at 12. People can do much better things than that when they are 12. However, change is needed. Young people now are not the same as the young people of 20 years ago. What they do, what they understand and what they are capable of doing is different. The issue is broader than just children's hearings.

Scott Barrie: The specific proposal in the bill is to extend for certain young people the role of children's hearings to 16 and 17-year-olds. Is it your opinion that that is not necessarily the key point? Your evidence suggests that the disposals that are open to the court/hearing—whatever we decide to call it and whatever its format is—are more important. Your evidence about Polmont suggests that the key is to break the cycle of short sentences that do not work and to move to a more community-based disposal, which could be imposed through a court, a juvenile court or a hearing. Is that the gist of your evidence?

Jennifer Bairner: We are saying that we would like to see a juvenile court setting, in between the children's hearings system and the adult criminal courts. Obviously, young people will commit offences that have to be dealt with in the criminal courts, which is the current situation. That would be extended to 16 and 17-year-olds. Are you asking whether we believe that there should be more community-based disposals?

Scott Barrie: Yes, in order to break the cycle of young people going in and out of Polmont YOI for short sentences. You suggest that you saw for yourself that that does not do anyone any good. Do you suggest that we should have much more intensive community disposals that would help young people?

Jennifer Bairner: Many of the young people that we spoke to had been through the children's hearings system and had been in and out of children's homes. The situation varies across the country. There were pockets of people from certain areas who were in Polmont. Those pockets of people had differing opinions. What is needed is something uniform across the country that says that if you are a certain age, you will be dealt with in a certain way. The disposal will depend upon the circumstances and the crime that the person has committed. Just locking people up for six months does not work. Something else has to be done, whether it be the restorative justice project or more community-based disposals. Just sending people off to young offenders institutions does not work.

Scott Barrie: I appreciate that we are running out of time. I turn to the other section that we have been discussing this morning about the physical chastisement of children. I notice that the last page of your submission says that you have carried out a survey that shows that more than half of the young people who responded suggested that parents cannot smack other adults so they should not be allowed to hit children. Could you say something about the youth parliament's views on the issue?

Jennifer Bairner: The youth parliament strongly supports the UN Convention on the Rights of the Child. We are trying to change the culture of Scotland to say that young people are just as important as adults. They might be more important. We are going to be paying your pensions, so you might want to give us a bit of slack at the moment.

We have heard the argument against getting rid of the defence of reasonable chastisement because it will be difficult to police. Fifteen to 20 years ago there was a change in the law that said that a husband could be accused of raping his wife. That act would most likely happen in their own home, not in fields or car parks, and it was said that it would be difficult to police. However, just because it is difficult to police does not mean that it should not be an offence. There are lots of things that would be difficult to police, but if we have a cultural shift and a change in attitude so that we see it as an offence, then it might diminish.

Scott Barrie: Thank you, and I will hold you to the commitment that you are going to pay our pensions.

Stewart Stevenson: Hear, hear.

Jennifer Bairner: Not personally.

George Lyon: I seek clarification on the vote. How many voted and were you surprised at how close the vote was? I thought there would have been a bigger majority against.

Jennifer Bairner: I am not sure how many people voted. We have 223 members and we will put all our points to the youth parliament for a full vote in June. We are going to visit Polmont first to get the young offenders' view because they cannot come to the meetings. We will have a definitive number in June and could forward that to you.

The Convener: We must conclude. Do Alison or Allan have anything to say before we finish?

Alison Murray (Scottish Youth Parliament): In order to tackle this issue, you have to decide when a child becomes an adult. At the moment, there are people who leave school at age 16, get married, have kids, pay taxes and so on, while other people are still at school. Is the person who is at school still a child because they are living with their parents? It is important to define when you

become an adult. If you can act like an adult, should you be treated like one?

It is confusing for people because they do not know when they are going to be treated like an adult. If you are 16 or 17 and going through the children's hearings system, surely that patronises you if you believe that you are an adult and can go out and do certain things. There should be a general review of how young people are treated in all sorts of situations so that they know and can say, "I am an adult now and I am going to be treated in a certain way, so I won't do childish things." A lot of offences are childish things that people might not do if they believed they were adults and had to behave responsibly.

The Convener: Allan, do you want to say anything?

Allan May (Scottish Youth Parliament): No.

The Convener: It has all been said.

Thank you for your evidence, which has been interesting. I am pleased to have the Scottish youth parliament's justice committee along to speak to us. I am sure we will consider what you have said about your survey as well as your ideas about juvenile courts and young people sitting on panels and taking a more active part in judging young offenders. I know that the First Minister has made some public statements on that issue. I do not know whether he got his idea from you, but I am sure he would be more than delighted to pick up on what you have said this morning. Thank you.

That brings us to the end of this morning's meeting. We will take a break until 2 pm.

12:44

Meeting suspended.

14:06

On resuming—

The Convener: As we are quorate, I welcome everyone to the afternoon session of the Justice 2 Committee's meeting. Our next witnesses are Christine Dodd and the Rev Alan Paterson, who are from the churches network for non-violence. I welcome them to the meeting and thank them for their submission, which is helpful. We will go straight to questions. We have about half an hour, so we will try to leave time at the end for concluding comments that the witnesses might want to make.

Bill Aitken: I read the submission with interest. As you can imagine, the committee has had a tremendous amount of correspondence and representations about section 43 of the bill. Many of the representations have been from people of a religious background and from religious bodies whose views are contrary to the views that you expressed in your submission. Will you comment on that?

Christine Dodd (Churches Network for Non-violence): Your reference is probably to our comments about the Old Testament and the New Testament. It is apparent from many of the submissions that I read is that groups that advocate physical punishment rarely mention the New Testament. The network feels that those groups have not grasped the differences between the Old Testament, with its image of the God Yahweh, and the New Testament. The Christian churches are founded on the life and teachings of Jesus, which are about compassion and love, not violence and punishment. You probably picked up those differences from our submission.

Bill Aitken: You will appreciate my reasons for asking the question. There seems to be inconsistency among the approaches of people who hold basically the same Christian ethic.

Christine Dodd: We are happy to expand on that point.

Bill Aitken: I want to leave that aspect for a moment and turn to the practicalities of the measure. Children can be difficult; indeed, some of us have been known to wish that they were impossible. Nonetheless, there can be fraught circumstances in any domestic situation, for example, when a young mother is trying to cope with two or three children. It is difficult to see how the mother can cope with that situation without resorting to mild physical discipline.

Christine Dodd: One aim of our network is to work with parents—most of our members do so—to teach about and work through alternatives to physical punishment. In the main, parents who smack their children as a last resort say that they dislike it, that they feel guilty afterwards and that they want to learn about alternatives. Most parents say that they hit their children in anger, not because they believe that they must hit their children to discipline them. Parents have, through learning positive methods of discipline, been able to move away from smacking.

The Rev Alan Paterson (Churches Network for Non-violence): When I grew up, the use of the taws was standard in the Scottish school system. It was used to teach me to say my multiplication tables in less than 10 seconds. The teacher who did that was clear that it was a standard disciplinary tool and that whether I achieved her objectives was a matter of discipline. The world has changed; in recent years, we have tended to recognise the rights of children far more. I do not think that anyone would want to return to the use

of the belt as a means of making people learn. We are becoming more sensitive and more aware of what is appropriate in our treatment of pre-school infants and of children in later years. We recognise that children have rights.

Bill Aitken: The illustration that was given in this morning's part of the meeting was of the toddler who sticks his or her fingers into an electrical socket. How should parents deal with that?

Christine Dodd: The best method is prevention. We know that children up to the age of two try to explore everything. It is the parents' responsibility to make the environment safe and to help them. There are lots of different safety gadgets for children, such as stair gates and special fittings for electrical sockets. Two-year-old children who are hit because they put their fingers in electric sockets will repeat the exercise because they are curious. They should be prevented from putting their fingers into sockets until they are old enough to understand that they should not do so.

Bill Aitken: Will children repeat the exercise if they are deterred by mild physical reproof?

Christine Dodd: What is different today is that we know much about child development. We know that up to the age of two, children are explorers. From three or four years, children will not put their fingers in sockets because they learn that it is dangerous from being told so—such matters can be explained to them. Our positive approach to parenting is different because it takes into account children's developmental stages. Our suggestions for parenting and forms of positive discipline are appropriate to those stages.

Bill Aitken: Finally, the Christian ethic places considerable emphasis on home life. Given the fact that the law of assault is reasonably clear, would section 43 of the bill be an unwarranted intrusion into the way people run their own homes and bring up their families?

Christine Dodd: For quite some time, the argument that the home is a private place has been the norm. However, in recent years, revelations of child abuse have made people realise how dangerous that argument is. Moreover, as Alan Paterson pointed out, the child is a person in his or her own right. The child is a human being who has rights and it is the parents' responsibility to ensure that those rights are met. Some children are ill used and punished severely, so we want a message to go out to all children that they are respected for their dignity and that physical punishment is wrong.

14:15

The Rev Alan Paterson: As far as a Christian ethic is concerned, teaching that derives from a tribal society in which the children were regarded as the property of the tribe or the patriarch is one thing, but in 21st century Scotland, the notion that we can regard children as property is inappropriate and unacceptable. Moreover, it is contrary to all the ways in which childhood is celebrated in the teachings of Jesus. We want to be quite clear that the kind of Christian teaching that often derives from Old Testament tribal law has no bearing on our argument, which must stand on its own merits. Scripture must be interpreted within context and not transplanted over two or three thousand years.

Stewart Stevenson: You have expressed the view that children should not be subject to physical chastisement—full stop. In light of that assertion and some of the evidence that we heard this morning, at what age do human beings cease to be children?

Christine Dodd: The UN Convention on the Rights of the Child says 18, which is the universal age in that respect.

Stewart Stevenson: In that case, let me repeat the questions that I asked other witnesses today. Should children be allowed to marry? Should they be allowed to drive on the public highway? Should they be pilots? There was one other category, but it does not matter: I am sure that you get the general point.

Christine Dodd: Are you saying that, because we should never physically punish children, other laws regarding the age of—

Stewart Stevenson: No. Perhaps I should explain. There are other aspects to the bill. Although I realise that you are giving evidence on one specific aspect, your views on this matter would be helpful for our general consideration of various issues that relate to children. For example, it has been suggested that children's panels could be used for 16 and 17-year-olds and that 12-year-olds should be able to give victim statements. I want merely to find out whether you have a view about the evolution from childhood to adulthood.

Christine Dodd: I certainly share the network's view that children are persons and that they should, as soon as they can communicate, be listened to and consulted, especially about decisions that affect them.

Stewart Stevenson: I want to return to your comment about protecting children from harm. In what way and at what age should children be introduced to danger and risk as an adequate preparation for adulthood?

Christine Dodd: Children are probably exposed to some sort of risk every day of their lives. For example, when they play in the adventure playground, they perform the tasks that they are

physically and mentally capable of with parental supervision and help. I return to my point that it is a developmental issue. The answer depends on the wisdom and responsibility of the parent and their knowledge of child development—of when children are ready to be exposed to different activities.

Stewart Stevenson: Finally, I will pick up on a comment that was made in this morning's evidence. A witness observed that non-physical chastisement, such as loud shouting, is at least as injurious to children as a light smack. What is your view of that or any other useful example?

Christine Dodd: I agree with that proposition, but the point of banning physical punishment and the movement towards that is to send a message that any form of violence against children is wrong. That starts the community thinking more about children's status in society. I agree that verbal abuse and all sorts of abuse could be worse than a light tap, but if we ban physical punishment—as we will eventually—that will send out the message that we care about children as people and that they deserve rights against assault that are equal to those of adults.

The Rev Alan Paterson: We are well aware that children are hurt, damaged and abused in different ways. I suspect that many children are seriously impaired in their growing up by economic exploitation and by exposure to a society that treats them as fair game in the marketplace. You know better than I do what we can and cannot legislate for. As much as anything, we welcome the Executive's proposals as a public signpost that says what kind of Scotland we want to have.

The Convener: You talked about the message that you wanted to give about children. Would what you said apply to the scenario that Bill Aitken talked about, which involved smacking a child who might be in danger? Does all that you have said apply to such action, as distinct from harder hitting or battering of a child?

The Rev Alan Paterson: We are well aware that not every striking of an adult by an adult becomes an assault case. More trivial incidents might not reach court, a policeman or a fiscal. However, serious incidents do reach them. Statute contains the means for dealing with such incidents.

I suspect that trivial incidents that involved children would not be liable to reach a policeman or a fiscal either, but the bill would mean that statute contained a means for dealing with those incidents. The statute would also declare what the norm is and should be.

The Convener: Do you interpret section 43 to mean that a parent who smacked a child on the back of his or her hand would be unlikely to be prosecuted?

Christine Dodd: That parent would be unlikely to be prosecuted.

The Convener: If so, why create the offence? When an offence is created, circumstances that are more serious than others cannot be boxed off. If the offence is created, it will be an offence for a parent to smack a child in any circumstances.

The Rev Alan Paterson: The whole system concerns evidence, corroboration and other matters. I understand that fiscals and reporters to children's panels, for example, take decisions about what is provable and appropriate in court. Those filters exist in our system for every other aspect of criminal law. The new offence would not be treated differently.

The Convener: If the Lord Advocate said that prosecutors had to take up cases in which a complainer had seen a child being hit in a public place—if a child had been slapped over the back of the legs, for example—what in law would prevent prosecutors from not proceeding with such cases? If prosecutions were likely, would you remain happy to support the provision?

Christine Dodd: There is a good model in Germany. As a first response, parents should be given a lot of support—a provision in the German legislation enables the establishment of a system that supports parents in their parenting.

The Convener: My question was based on whether you are making the assumption that the Lord Advocate will not prosecute in certain cases. Let us suppose that someone complained about a good parent who smacked a child in a public place. If prosecutions were to happen in such cases, would you still be happy to support the provisions?

The Rev Alan Paterson: Yes, because the provisions will still parallel other aspects of criminal law. At the end of the day, if such a prosecution were to take place, I suspect that a sheriff or a justice would make use of disposals such as a reprimand or unconditional discharge. The way in which the courts would treat such prosecutions would iron out the problems that are being suggested. As I understand the position, the same applies to trivial offences that are brought to the courts today—the system has a long experience of catering for and dealing with such cases.

The Convener: With respect, you are making certain assumptions. I am simply asking you to consider what might happen if your assumptions were wrong. Would you still be happy to support the provisions?

The Rev Alan Paterson: I am sorry. You are asking me to say—

The Convener: You are making assumptions about the system having a certain amount of discretion not to prosecute. I am suggesting that, if your assumptions are wrong and that the provisions will lead to some parents being prosecuted—

The Rev Alan Paterson: I am suggesting that, even if a prosecution went forward, the court system would deal with any anomalies.

The Convener: Are you saying that you do not want parents to be prosecuted?

The Rev Alan Paterson: I do not think that parents would be prosecuted for a trivial offence. However, I hold up the parallel that I have already offered twice: people do not end up being punished for trivial offences under other aspects of criminal law.

The Convener: You may well be right but, as legislators, we cannot legislate based on an assumption that prosecutors might deal with an offence leniently or otherwise. If we create a law, it will be open to prosecutors to push an offence to the letter of that law. I do not want to put words in your mouth, but I think that you are saying that if a trivial case of hitting were to be prosecuted, the criminal justice system would kick in and the case would be dealt with as a trivial matter.

Christine Dodd: We would rely on a fair and just process.

Scott Barrie: Where you stand in relation to the provisions is clear: you would prefer them to go further. What other resources do parents need to discipline their children effectively?

Christine Dodd: I hope that the legislation will be accompanied by a widespread education campaign and by support for parents. Parents should be given the opportunity to work through alternatives to smacking. The legislation will be effective if it is accompanied by such a campaign.

Scott Barrie: On the religious aspect of the provisions, does the churches network for non-violence have sister organisations—or brother organisations, if that is the correct term—in other countries in which a ban has been implemented successfully?

Christine Dodd: I do not think that our organisation exists in other countries. We support the Children are unbeatable! alliance, which is part of a global initiative to end physical punishment.

Bill Aitken: I want to come back to a point that you made about the criminal justice system's being able to separate the wheat from the chaff, so to speak. I question whether you are right about that. If someone is prosecuted and convicted under section 43 of the bill, their conviction will be recorded, even if it is only an admonition.

The Rev Alan Paterson: Yes, that is true. We would say that that was acceptable as long as the disposal was also recorded. However, we would depend in many ways on the filters that are built into the system.

Bill Aitken: There is a knock-on effect of that, though. For example, there is a requirement on people who work in youth organisations to declare convictions—that is something with which you will be familiar—and the appropriate checks must be carried out. A minor conviction for someone who smacks his child when they are under the age of 3 could result in the loss to the community of a potentially useful youth leader.

14:30

The Rev Alan Paterson: I understand that such a conviction could not be put on someone's record until the bill became statute and that, when it was statute, the rules would be known. Even if someone had been in the habit of smacking their children for disciplinary purposes prior to the bill's becoming law, they would be aware of the change in the law and the consequences of breaking that law.

Bill Aitken: However, the system is not taking care of that as you suggested. Someone could receive a conviction for a minor matter, under section 43, which could preclude that person from operating in youth work. The law does not take care of that circumstance.

The Rev Alan Paterson: The system already has filters to determine what goes to court and what does not. The same thing happens in relation to all sorts of other criminal offences that are defined by statute. I do not think that the case that you posit would be any different. I do not know all the details about the vetting procedures for potential youth leaders; however, I assume that a disposal would be listed alongside the conviction. If the disposal were an absolute discharge, that would shed a lot of light on the nature of the offence. I do not think that the problem would be insurmountable.

Bill Aitken: For the record, an absolute discharge would not show on a criminal record, but an admonition would.

The Convener: That brings us to the end of questions.

Let me clarify where you are coming from in your evidence. You are part of the Children are unbeatable! alliance and your arguments are similar to those of that campaign.

Christine Dodd: Yes.

The Rev Alan Paterson: Yes.

The Convener: Are you still coming at the issue from a religious point of view? You point to certain religious minorities with whom you disagree, who use the Bible to justify some physical chastisement of children. You say that that is wrong. Are you pointing to a religious source for your view?

The Rev Alan Paterson: Yes. I am a minister of the United Reformed Church and a member of the Scottish synod. At our general assembly in 1999, we passed a resolution that committed the whole denomination to the Children are unbeatable! alliance. We are conveying the policy of our denomination. In the debate at our general assembly, when we adopted that policy, we made it clear that we value children, that we accept the New Testament teachings about the innocence of children and the protection of children, and that we acknowledge the warnings that were given in the New Testament about the dangers to children. When we made that decision, we were quite clear that we were not basing our child care on Old Testament precepts.

The Convener: If one of your followers—a parent in your church—was prosecuted for hitting a child, would the church take a dim view of that or would you accept the fact that parents deal with children in different ways?

The Rev Alan Paterson: There is not in our denomination the sort of discipline that would cause such great flak.

Christine Dodd: I agree.

The Convener: Thank you for your evidence. Do you wish to say anything further? Are there any points that you would like to emphasise?

Christine Dodd: I want to make the point that 10 other countries in Europe have banned physical punishment. Also, as we have not been able to talk about the Swedish research, could I send the research to the committee?

The Convener: Yes. We would have been interested to hear that evidence. I did not know that you had a view on that research.

Christine Dodd: I have a full document and I can give it to the committee.

The Convener: Thank you. It would be great if you could give a copy to the clerks.

Christine Dodd: I will also mention Peter Newell, who is one of the conveners of the global initiative to end physical punishment. If I may, I will point some of his papers in the committee's direction.

The Convener: Okay. Thank you.

Our next witnesses are Sam Campbell and Trudy Kinloch. Sam and Trudy are members of the public who were good enough to submit evidence to the committee in opposition to section 43. The committee felt that we had received a lot of evidence from organisations and that it would be useful to hear evidence from parents or individuals with a view on the subject. We ran a lottery and picked out a couple of names. Sam Campbell and Trudy Kinloch were the two lucky winners.

I am grateful that you agreed to come before the committee today. I am aware that it is a daunting experience and that you may not have expected to be called to give evidence, but we do not want you to worry about the experience. Please answer what you can. We will treat you in the same way that we treat other witnesses, which is to get rounds of questions going and give you a chance to answer. Towards the end of the session—around 3 pm—I will ask if you have anything to add.

Scott Barrie: I echo the convener's comments and thank you for coming. I am not sure whether you won the lottery or the booby prize.

Mr Campbell, in your submission you set out that your 20-year background in social work gives you, as a parent, a different perspective on the issue. As you are well aware, the current law allows reasonable chastisement to be given as a justification for hitting children. Do you not think that that is a vague test? Given the difficulties that have been experienced in recent prosecutions, has that test not been shown to be imprecise? Is the bill trying to help the courts and parents by defining adequately what is and what is not acceptable?

Sam Campbell: Given the complex nature of the issues, it will never be possible to introduce legislation that will cover every situation. I would not be able to write down all the rules that we have applied in our family. I also could not say that they have been applied consistently, as they have not been. I have confidence in our current legal system. Sheriffs have the common sense to know when chastisement is reasonable. I am happy to leave things as they are at present.

Scott Barrie: You have more confidence in our current legal system than I do. I, too, have a background in child and family social work. I can think of a case that occurred 10 years ago, in which someone was assaulted with the buckle end of a belt. When the case went before the court, the sheriff considered the punishment to be reasonable parental chastisement. Would you agree with that ruling?

Sam Campbell: No.

Scott Barrie: But the sheriff thought so.

Sam Campbell: I am not sure whether I am allowed to say this, but he was wrong.

Scott Barrie: I would say that he was wrong.

Sam Campbell: I would like to add to what I have said about section 43. If the section needs to be clarified, I would like to see clarification of the injury that is done to the child—or lack of it. That, rather than anything else, should be the test of whether an offence has been committed.

Scott Barrie: In respect of section 43, do you agree with the Executive's proposal to outlaw the use of implements such as belts, wooden spoons and slippers?

Sam Campbell: No, given that something should clearly protect children in some other way.

Scott Barrie: What should that be?

Sam Campbell: The extent of the injury should be defined in some way so that it becomes one of the tests, as opposed to what caused the injury. For instance, a slipper would sometimes be much less injurious to a child than a hand on particular parts of the anatomy. It depends on the force that is used. Again, the issue is the test of reasonableness. I would like to leave that to sheriffs.

Scott Barrie: Is that not the current position, which is patently interpreted differently in different courts by different sheriffs on different occasions? Parents who ask social workers such as you what the law allows them to do and what it does not allow them to do cannot be spoken to with consistency. A person could end up in court and it could be found that what was done to a child was reasonable parental chastisement but, on another occasion, with exactly the same circumstances, it could be deemed that what happened was not reasonable chastisement and the person could end up with a criminal conviction. That is not the best way to proceed in such a complex area. We should be able to say what parents should and should not be allowed to do to their children.

Sam Campbell: That is a problem with the legal system. I do not know how that problem can be got round, but I do not think that your proposals are the way to tackle it.

Scott Barrie: Surely helping to clarify the law would get round the problem. To say that an implement cannot be used on any child gives a clear statement to a parent about what they can and cannot do. I accept that whether a child can be hit with the palm of a parent's hand is a different argument, but I would think that most people would agree that fairly clear guidelines on the use of implements should be put down.

Sam Campbell: It would be much better to put down guidelines about the harm or injury that is done to a child.

Scott Barrie: We will have to agree to disagree about that.

The Convener: Mr Campbell, your submission says that you

"strongly object to this intrusion into family life".

I heard what you said to Mr Barrie about the test of reasonableness, but I am interested in the question of "intrusion into family life". I accept your point but, as the rest of the world must live with how members of a family are brought up, I wonder whether the state should have an interest in how they are brought up.

Sam Campbell: I am sure that the state has such an interest and that it benefits from children who have been well brought up. Scotland benefits tremendously from many people who have been brought up in a similar way to how my children have been brought up. I am a Christian and do not presume to impose my Christian views on other people, but I believe that other Christians believe as I do. More important, a huge majority of people in Scotland, although they may not share my faith, share my views on the validity of Christian principles and their benefits in respect of bringing up children.

The Convener: Supposing that society was of the view that hitting children at a certain age was damaging to them, surely that would be a justification for intruding into family affairs.

Sam Campbell: Show me the evidence.

The Convener: I said supposing that society was of that view.

Sam Campbell: I do not think that there is evidence—I know that there is not.

The Convener: I am asking you to consider that there might be such evidence. Surely, if the state were concerned that there was evidence that hitting a child at a certain age was damaging, it would have a justification for intruding.

Sam Campbell: I am sorry, but I have lost the thread.

The Convener: Are you saying that there is never a reason for the state to intrude into family affairs?

Sam Campbell: No, I am not saying that at all. I am saying that in the context of this form of chastisement of children and bringing up children the state, in section 43, is attempting to intrude where it should not intrude. I know that the state has a duty to intrude in many situations on which I have worked for many years. However, as I said in my written submission, there is a crucial difference between violence towards and abuse of children, which goes on daily, and the chastisement that goes on in loving families. They are not the same and are not connected.

14:45

The Convener: Thank you. I want to move on to ask Trudy Kinloch about her statement. I see from your statement that you have four children.

Trudy Kinloch: That is right.

The Convener: So you can speak from personal experience. In your statement, you say that you are concerned about the proposal to ban smacking children under the age of three, which you do not think is very helpful. You say that it is difficult to explain to a small toddler why it is wrong to run into the road or put their hand into the fire. Will you give the committee a flavour of your experience? How do you train three-year-olds not to misbehave or put themselves in danger?

Trudy Kinloch: I can give an example about my third child, who is just under two years old at the moment. He keeps undoing the belt on his child safety seat in the car and he is too young to understand why he must wear a safety restraint. After he has undone the belt a few times and has had a couple of taps on the leg, he stops doing it.

The Convener: We heard evidence this morning from a panel of representatives of children's organisations. They suggested that there are other ways of training a child to watch out for danger that are just as effective. For example, children can be pulled away from the danger or the parent can raise their voice and say, "No, don't do that." Do you think that you could use those methods in the circumstances that you were talking about?

Trudy Kinloch: No, I do not think that I could. Raising one's voice can sometimes be more harmful to a child than using a mild physical rebuke and I do not think that it is always as effective. There are examples of where it might be more prudent just to pull a child away from danger, but each child is different. Parents know their children better than any one else does and are therefore better able to know what is appropriate to them at a particular time. I do not think that we can legislate for every contingency.

The Convener: What do you think about the fact that under the bill parents such as you could be prosecuted for doing exactly what you described?

Trudy Kinloch: It is very worrying. I would not like to go to prison for smacking one of my children. I do not think that such a law could be enforced. I am sorry, but I cannot remember what else I was going to say.

Bill Aitken: Do not worry—we frequently have the same problem.

The Convener: You are welcome to come back in if you remember. There are other provisions in the bill about the protection of children. There seems to be common agreement that we need to have stronger legislation on the use of implements to chastise children over the age of three. Do you support those provisions?

Trudy Kinloch: No, I do not. Someone can do just as much harm with a hand as with an implement and I do not think that people should hit children violently. I smack my children because I love them and I want them to be safe and learn what is right at a young age, so that they will grow up happily. I do not smack them violently and I do not think that it is right to legislate against loving parents.

Scott Barrie: How would a child know whether it is being hit in a loving way or in a violent way, given that Mr Campbell said that the key point is to do with the extent of the violence that is inflicted on the child?

Sam Campbell: The extent of the violence is to do with matters relating to prosecution. I said that the extent of the violence would be the deciding factor in whether there should be a prosecution. The other question is separate. The chastisement of children who are in a loving environment and know that their family unit is secure and that there are limits to the chastisement is not harmful.

Scott Barrie: On the issue of a child's development and the influence of parental chastisement, would you accept that consistency is more important than the methods that are used? Do you agree that consistency is the key to whether we are effective in bringing up our children rather than whether we are able to administer some form of corporal punishment?

Sam Campbell: Consistency is vital. I have known some families who have managed to bring up their children without ever having to chastise them physically—so they tell me and I have no reason to doubt them. However, I believe that such families are a tiny minority. I wish that there were more, but humanity is humanity.

Scott Barrie: We have heard today that 10 European countries have outlawed the use of physical chastisement. That appears to have been relatively successful. Although some of the countries did so only recently and we do not have a lot of evidence about the success rate, Sweden outlawed the use of physical chastisement 20 years ago and the policy appears to have been successful. For example, Sweden's general child abuse figures have gone down while the child abuse figures in Britain, which has continued to allow physical chastisement, have risen tenfold in the same period. Do you accept that there might be a correlation between those two figures?

Sam Campbell: No, I do not. The chastisement in a loving family environment that I am advocating

has nothing to do with child abuse and violence towards children.

The issue is complex. If children from a violent background are fostered or put temporarily in the care of Christian family that creates a loving environment, it would be totally inappropriate for any physical chastisement to be used on those children because of their previous experience. I am not saying that people have to hit children because there will be situations in which it will always be wrong to do so. I am saying that the Government should not intrude into the business of families in which things are going well and in which well-adjusted children are growing up.

George Lyon: I have been listening to what you have said with interest and am trying to work out what you advocate. It seems to me that you support section 43(1), which lays out the ways in which it would be decided whether an assault had taken place.

Section 43(1) says that the judge should take into account:

"(a) the nature of what was done, the reason for it and the circumstances in which it took place;

(b) its duration and frequency;

(c) any effect (whether physical or mental) which it has been shown to have had on the child; and

(d) the child's personal characteristics".

Would you support that?

Sam Campbell: By and large, yes—or at least as far as my understanding of it goes.

Trudy Kinloch: I do not have the bill in front of me, but what you just said sounds reasonable. However, I do not think that it is helpful for parents to have to go to court to prove that what they did was reasonable. That will not be helpful for many mothers, even if they are found not guilty. Going to court is a traumatic experience and you should not put mothers through all that for attempting to bring up their children in a way that they consider appropriate.

George Lyon: So you do not support section 43(1).

Trudy Kinloch: If that is what it would mean, no, I would not support it.

Scott Barrie: Other European countries have seen fit to introduce a total ban on physical chastisement and, as far as we understand, that has not caused major problems for citizens in those countries. What do you think is different in Scotland that means that that would not be acceptable?

Sam Campbell: I know that it would not be acceptable to the vast majority of the population of the country. I do not have figures—that is anecdotal evidence. I have not studied the issue, but the newspaper reports that I have read lead me to believe that all the evidence is anecdotal and that no systematic, objective research has been done into such bans in other countries. We need the evidence to be able to answer the question.

The Convener: The reason why we asked you to come to the committee was to hear about your individual experience. If you are able to comment on some of the research and experiences of other countries, that would be great. We have reached the end of the questions. Do you have anything else that you would like to say to the committee?

Trudy Kinloch: Scott Barrie referred to corporal punishment. However, I do not see my use of physical chastisement as corporal punishment; rather, I see it as training and correction. That is particularly true in relation to young toddlers. We are not punishing them but trying to teach them at an age when they do not understand verbal reasoning. I cannot see that the ban will do any good for loving homes if the parents are removed and put in prison for the trivial smacking of their children. I cannot see how we can have a law that is so unclear. I gather that Mr Wallace said that trivial smacking would not be prosecuted, but how is a parent to know what constitutes trivial?

I agree that child abuse is wrong. Resources should be put in place to help to prevent child abuse, rather than to prosecute parents who want to bring up their children to obey the laws of the country. If the children do not obey their parents, how will they learn to obey the law of the land when they are older?

I smack my children because I love them, not because I am angry or wish them any harm.

Sam Campbell: I have one or two points. One of the things that we have not talked about is shaking. I know that there have been some high-profile cases and such cases are to be abhorred and prosecuted with all vigour. However, confusion could arise if you grasped a child by the shoulders to get its attention. I would hate to think that someone could be prosecuted for that.

It is arbitrary to set the boundary at three years of age. We would have to address the problem of transition from one child-rearing regime to another at the age of three.

There is also the traumatic effect of police and social worker investigations—if those bodies have the resources to do them. From reading the background material, I believe that ministers were looking for something that has a speedy effect. It would be better and results would last longer if a comprehensive education programme were to begin, starting in schools.

I was watching the monitors and heard the views of some witnesses about the Christian basis for our beliefs. They said clearly that the Old Testament should be disregarded and that there is no reference to discipline in the New Testament. I beg to differ. There are clear references in the New Testament to the place of discipline at the heart of the family.

Because of my social work background, I come to defend the rights of children to be brought up in loving families with clear boundaries and consistent discipline. If ministers are looking for the best possible start in life for Scotland's children, the bill is not it.

15:00

The Convener: Thank you both. You gave clear evidence for which we are grateful. Your ordeal is over.

We are more or less right on time. I invite our next set of witnesses, Judith Gillespie and Eleanor Coner from the Scottish Parent Teacher Council, to come forward. Welcome to the Justice 2 Committee. You may be aware that we have been meeting since 9.30 am. You are our second-last set of witnesses but you are still welcome to come and speak to us. Thank you for your helpful submission. We will take questions for half an hour and, at the end, if there is anything that you believe has not been covered or any points that you would like to make, you may come back on those.

Scott Barrie: I start with a similar question to one I asked our previous set of witnesses. Most of your evidence is based on a survey that you carried out. That survey showed that most respondents were opposed to the Executive's proposals in section 43 on the physical chastisement of children. Did you consult on the use of implements such as belts and slippers?

Judith Gillespie (Scottish Parent Teacher Council): Yes, that was one of the questions that we asked. The Executive proposal on that was supported, but we suggest that subsections (1) and (2) of section 43 are adequate, because they are broad enough, while giving enough flexibility for the sheriff to pass judgment.

I will give an exemplar. One weary parent said, "Does a sock count?" One can laugh at that to an extent, but the question highlights a difficulty. Once the use of an implement is banned, an implement must be defined. The question is whether accidentally catching a child with a sock, because it happens to be in one's hand, is a prosecutable offence.

The difficulty is that an interpretation must be made at some point. We thought that subsections (1) and (2) of section 43 gave sheriffs adequate scope for interpretation and did not hold anyone as a hostage to fortune, because a reasonable person would say that the action was not what the legislation was intended to catch.

Scott Barrie: I fully understand what you say and I accept some of it. Do you accept that subsections (1) and (2) are no more than another way of stating the current law under the Children and Young Persons (Scotland) Act 1937? Given that one of the Executive's intentions is to clarify and codify the law so that parents and the rest of society are clear about what is and is not expected, do not we need the new provisions and to refer to implements, because the 1937 act does not mention implements?

Judith Gillespie: I accept that the 1937 act does not mention implements and that the original consultation said that the expansion was intended to clarify the way in which sheriffs should determine what is justifiable and take into account the nature, context and duration of the treatment. That would bring in consideration of the kind of force that was used, which would involve the use of an implement. We do not want to go to the wall on that, because it is clear that a majority of the people whom we surveyed supported the provision. I ask members just to hold in their heads the question whether a sock counts. At some point, a judgment must be made. Our organisation has gone slightly beyond the survey to say that subsections (1) and (2) are adequate to include such treatment.

The point that we make about shaking is that people do not walk around with an acute awareness of the law. Shaking and blows to the head are very dangerous for children, so it is more effective to put information about the risks in places where people will absorb it. That is why we suggest that, rather than mention those in the bill, the proper action is to give parents knowledge, so that they do not do those things, because we do not start from the belief that parents want to hurt their children.

If I can be slightly unfair, I will say that one difficulty with the bill is that it takes the social work dysfunctional family approach and does not consider normal parents' intentions towards their children. It is interesting that, when we followed up our survey with discussions, many people said, "Of course I don't smack or hit my child, but—". Normal parents do not start with the idea that they want to smack their children. Normal parents start with the idea that they will never do that. Often, they get caught up in a situation and then hit their children, so it is important that every parent understands the risks of shaking and of hitting a child round the head. That is why we suggest that information on that would be best placed in

children's clinics, where people would see it.

Scott Barrie: I take that on board. If the bill were passed as drafted, would it be right to confine the physical punishment of children to parents?

Judith Gillespie: Yes, because it is important that the parent-child relationship is quite different from any other relationship. It just so happens that we have fantastic evidence of that at the moment, in so far as a mother has gone to prison because of the actions of her child. A number of parties have proposed that parents should be made to clear up if their children cause damage and there is even a proposal that parents should lose child benefit if their children misbehave. Only in the parent-child relationship is the adult responsible for someone else's behaviour. The adult is responsible not just for the child's safety and well-being, but for the consequences of the child's behaviour. That does not apply in any other situation.

A childminder has the option of saying, "I will no longer continue to mind this child." Parents do not have that option—responsibility for the child remains theirs, whether they want it or not. The parent is responsible for the child's behaviour and for the consequences of that behaviour.

Scott Barrie: Thank you.

George Lyon: Do you believe that your organisation is representative and that your survey represents the views of the majority of parents in Scotland? That seems to be what you are saying.

Judith Gillespie: When we gave evidence to the Education, Culture and Sport Committee last week, we were tripped up by Tommy Sheridan because we used the word "parents". He asked us whether we were speaking for every parent in Scotland. I pointed out that there are 750,000 children in schools alone and that to find the number of parents one applies a multiplier of one and a half, which produces a figure of approximately 1,100,000. There are also the pre-school children.

Although we would never claim to speak for every parent in Scotland, I believe that the survey is representative of opinion. We have done similar surveys in the past, also using a random sampling method. We have discovered that although random sampling is not quite as sophisticated as scientific sampling, it is an extremely good sampling method. We are careful to use random sampling, so that we do not influence the result by choosing our respondents.

To a certain extent, the results of the survey were shaped by the people who responded. Those who support the bill were as motivated to reply as those who oppose the bill were. The pattern of response was established early on and it remained consistent. There was no sudden swing as a big load of responses came in—the response pattern was constant throughout. We received the responses piecemeal, not in a oner, and entered them on the computer as they came back.

We have followed up our survey by holding discussions with different people around the country. Bearing in mind my original caveat that we do not claim to have spoken to or consulted every parent in Scotland, I think that our survey is a fair representation, which has been tested as far as is reasonable. On that basis, I am confident about it. That is why, for example, I stand by the opinion that we received on the business about the implements.

George Lyon: That is fair enough. I am also interested in what you said in response to some of Scott Barrie's questions. Some of the arguments that are put forward are about how to deal with the difficult issue of abuse of children in dysfunctional families. Will you elaborate on your argument a bit more? Child protection seems to be the area to which most of the organisations that gave evidence this morning consistently retreat. They gave clear examples of how the law does not allow them to perform their job properly in the child protection field. How should we ensure that that issue is addressed properly? That seems to be what the bill is designed to do.

15:15

Judith Gillespie: My first point is that when most of the major abuse cases are investigated, they turn out not to be a failure of the law, but a failure in people's implementation of the law. People fail to move appropriately when there is a clear case of abuse. When many of the cases that have come to light are tracked back, it is found that people did not want to believe that there was abuse, such as the doctor who wanted to believe that Victoria—I am sorry, but I cannot remember her surname—was suffering from scabies rather than cigarette burns.

If we consider the law, as opposed to whether the law is being effectively implemented, we can see that the law as it currently stands is not at fault. When amending the law in this area, it is important that a line is drawn beyond which it is not appropriate for Governments to legislate. There is a point in people's activities beyond which Government should not pass a law. The bill proposes to outlaw what has been considered reasonable or justifiable in a reasonable family. We have already outlawed what is not considered reasonable and justifiable. By definition, we are moving into the area of reasonableness. There is a point at which the law must stop.

We feel that subsections (1) and (2) of section 43 give flexibility to sheriffs to identify the boundaries in the right kind of spirit. Surveys on the support for a ban on physical punishment of children have asked the question, "Do you support a ban as long as trivial smacking is excluded?" However, again there is a problem of definition—"trivial" must be defined. Furthermore, the non-inclusion of the word "trivial" in subsections (1) and (2) means that trivial smacking is not acceptable and would be outlawed.

People who support the bill's proposals if trivial cases are not prosecuted have been misled, because nothing in the bill says, "By the way, trivial chastisement is allowed." In fact, it is not clear that actions that people have suggested might be acceptable, such as grabbing a child, would be "justifiable assault". If one grabs a child to stop them running somewhere quickly, one could end up leaving a bruise on their arm, particularly if one responds quickly, as one does when acting with adrenaline. However, the bill does not consider that to be a "justifiable assault", so one could end up in a difficult situation. At some point there will have to be interpretation and that is why we think that subsections (1) and (2) are the proper ways to go.

George Lyon: It is clear that the point that you are arguing is contrary to what we heard from Executive officials and ministers. They said categorically that they seek only to clarify the existing legal position. You believe that section 43 would take us well beyond the existing position.

Judith Gillespie: Yes.

George Lyon: Your further point, which we have heard in other evidence, is about the definition of permitted action towards a child.

Judith Gillespie: Yes.

George Lyon: Your understanding is that no such action would be allowed because any action towards a child would be illegal.

Judith Gillespie: Yes. Section 43(1) is interesting because it refers to situations

"Where a person claims that something done to a child was a physical punishment".

Sometimes, smacks and things are not punishment but preventive. One could smack a child not to punish, but to prevent the child from doing something—that would be the purpose of one's action. For example, a child might have tried to poke out another child's eyes. One might have said, "Don't do that," and all that kind of thing and taken the child away, but small children are fascinated by eyes, because they are bright and all the rest of it, so one ends up smacking the child's hand. Is that punishment or is it a preventive measure? There would be arguments about that. In neither of the examples that I have cited would the action that was taken be regarded as a justifiable assault; according to the wording of the bill, they would be outlawed.

At some point, a judgment must be made from a wider perspective. The law is about interpretation and passing judgment. I am talking about situations in which someone is trying to stop one child hurting another child, has done everything that they can and eventually resorts to smacking.

Often a parent's purpose in smacking a child is to get their attention away from what they are doing. Small children can be very focused on their activity. Often parents' aim is to break that focus, so that a child stops doing what it is doing. If a child cries as a result of being smacked, the focus has been broken and the parent can start to sort out the problem, but first they have to break the child's focus and stop the activity.

That is direct parenting. People say nice, calm things about what can be done in a rational situation, but things do not always work out like that, however much a parent would like them to. It has been suggested that misbehaving children be put in a playpen. That may be a solution, but only if there is a playpen handy. If there is not, that is rather difficult. If a parent has more than one child in their care, which is not unreasonable—we have not yet passed a law that states that people may have only one child—they sometimes have to find ways of putting up a barrier between the children.

George Lyon: Do most parents who have reared young children believe that, if the current proposals had been in force then, they would have been liable to prosecution?

Judith Gillespie: Most people would say that they have not done anything that warrants prosecution. By that, they mean that they have not seriously punished their child. Our difficulty with the bill is that it does not say that. Most people would be subject to the provision relating to trivial smacking. When the SPTC carried out its survey and asked people whether they thought that trivial smacks would be permitted, a large majority of respondents said that they would. Most people think that the legislation is about prohibiting excessive punishment and are happy to support that. People do not regard what they have done as falling within the scope of the legislation, but it does. That is our difficulty with section 43(3). The provision deals with trivial smacking and indicates that it is not acceptable because unjustifiable assaults are already outlawed. Trivial assaults are being outlawed regardless of whether they are justifiable or unjustifiable.

George Lyon: This morning a representative of the Scottish Human Rights Centre argued that, in order to tackle seriously the problem of parents'

chastising their children unreasonably, a blanket ban is required. The witness argued that that was the only way of sending a strong signal and that, without a blanket ban, deciding what is or is not trivial would always be subjective. Do you agree with that point of view?

Judith Gillespie: I do not. The SHRC's view reflects the perspective from which it approaches the matter.

I refer the committee to two recent court cases in Scotland, one involving a teacher and one involving a Frenchman. They both claimed that they were smacking their children, but the courts judged that they were guilty of unreasonable actions. The law has shown itself to be robust. I am not sure about the situation in the North Lanarkshire case involving the teacher, but the child in the case involving the Frenchman was taken to hospital and examined for physical damage, which proved not to exist. However, the court still ruled that the father's actions were unreasonable.

We do not have to ban all physical punishment to give youngsters the right degree of protection and to safeguard them. The bill ignores the fact that parents are responsible for their children and that they should be trusted to exercise that responsibility responsibly. It would not be good if the law said that most parents in Scotland do not know how they should relate to their children. From the conceptual perspective, the bill is a bad comment on most parents and what they are trying to achieve. Most parents want to do their best for their children. They do not want to smack their children and will do so only in extremis. There must be a point at which we trust parents' judgment.

The Convener: I want to continue on the theme of trivial hitting. You said that the bill as it stands will catch all kinds of hitting, whether trivial or serious. We have heard evidence from a variety of witnesses that the law will in fact be applied sensibly—that prosecutors will have discretion not to prosecute for trivial hitting and that, even if they do, when the case reaches court, magistrates or sheriffs will act sensibly. What is your view on that evidence?

Judith Gillespie: That will still put people through the legal process, which is extremely traumatic. If the system involves the magistrate, the sheriffs or the procurator fiscal passing judgment, that will depend on someone's value judgments. We are saying that subsections (1) and (2) of section 43 involve the same process, but from a different starting point. Under our proposal, sheriffs would make the value judgment. Section 43 as it stands will simply switch the point at which the value judgment is made, but it will give rise to a lot of anomalies. Our submission highlights the fact that children who have a leap year in their first three years will have more protection than children whose first three years do not include a leap year. That is daft, but true. That kind of barrier and limit does not make sense, if, as you say, cases will not be prosecuted because someone along the way will make a judgment. If we are dependent on a judgment, the matter should be left with subsections (1) and (2).

The Convener: I am putting to you the evidence that was given to the committee earlier. The evidence was that we should not be too bothered about whether the law will criminalise innocent parents, because in reality it will not. Procurators fiscal will be sensible. When a procurator fiscal receives a police complaint about a mother hitting a child in a supermarket because that child ran away, the fiscal will not prosecute. A lot of people have made that presumption. Do you share it?

Judith Gillespie: I suspect that that will happen in practice, but we should not pass laws that will not be implemented. If the bill is passed, the law will say that physical punishment is not allowed. You are saying that someone, short of the sheriff, will evaluate the law and decide whether it applies.

The Convener: Hitting another person is not allowed, but procurators do not take every case of hitting to court. That is the analogy that is being drawn.

Judith Gillespie: I am not a lawyer, so we are straying into an area in which I have no expertise. My understanding is that, between two adults, if someone chooses not to go ahead with a case of hitting, that case will fall.

The Convener: Not in Scots law. In Scots law, the matter is entirely for the prosecutor, if it can be proved, and not for the complainer. I was just interested in your reaction to that.

The survey that you conducted is interesting. It shows that 44 per cent of those surveyed were in favour of the proposal to ban the smacking of children under the age of three. That is quite a high percentage.

Judith Gillespie: The figures show an interesting trend and the pattern confirms that trend. If we had done that survey 30 years ago, we would have found the same number of people who today believe that it should be illegal to smack a child of any age agreeing that it should be illegal to smack a child under three, and the number of people who today believe that it should be illegal to smack a child under three agreeing that it should be illegal to smack a child using an implement. At the moment, there is a welcome move in society away from any kind of violence to children. I know that I am interpreting the survey results, but I would say that we are still moving in that direction. Many of the 44 per cent of people

who said that it should be illegal for parents to smack a child under three did so on the basis that they personally do not smack, although we tried to make it clear that we were asking them whether the proposal should be made into law. There is a natural trend in that direction and it is probably better to support that trend than to impose a law.

15:30

The Convener: I want to narrow down your evidence in relation to other aspects of the bill. I hear what you say about trivial hitting and excessive punishment, but what about the aspects in between? Are you saying that the law of Scotland should allow parents a certain amount of physical chastisement below excessive punishment?

Judith Gillespie: No. We have said that subsections (1) and (2) of section 43 would set the pace in so far as they would probably always mean that children under three could not be smacked. There is a clear steer in section 43, which says that the age of the child, the effect on the child and the duration and frequency of the punishment must be taken into account. There is a clear indication that regular punishment is not acceptable and we support subsections (1) and (2).

The Convener: I do not think that there are any other questions. Thank you for your evidence. Is there anything that you would like to say in summary before you leave us?

Judith Gillespie: I would just like to reiterate the important fact that we are coming from the point of view of the normal, average parent, whatever their family circumstances might be. We feel that it is important that the law does not intrude into the relationship between the parent and child beyond what is necessary to safeguard the child when it is clearly and obviously the case that intervention is needed. We must trust parents. If, at a later date, we turn round and prosecute parents because they have failed with their children, we must follow the same pattern and say that parents have a level of responsibility and should exercise it. It is on that basis that we have difficulty with the more stringent aspects of section 43.

Eleanor Coner (Scottish Parent Teacher Council): I know little about the law but, speaking as a humble parent, I feel that many parents are quite scared by the bill and see it as an invasion of their privacy. Although I recognise that a process would be in place and the family would not end up in court, we must consider the effects on the family. If the bill is passed, there will be instances where action is taken, such as the cases that have been mentioned of the parent smacking her child in the car or the parent smacking the child who was trying to run out of the supermarket. Perhaps such cases would be stopped along the way, but there will be some cases in which the process will not be stopped. Those cases would have an incredible effect on the families concerned and that is what a lot of parents are worried about.

The Convener: I thank both our witnesses.

Judith Gillespie: We appreciate the committee fitting us in on such a long day. Thank you.

The Convener: I welcome our final set of witnesses, who are Norman Wells and Anne Morrison from Families First and Jeremy Balfour from Christian Action Research and Education. Thank you for coming and for your submissions.

I apologise for the fact that you are at the very end of our agenda. I do not know how much of the previous evidence you were able to listen to, but thank you for your patience. We must finish the meeting at 4 o'clock, because we have another Justice 2 Committee meeting to attend. We will go straight to questions. At 4 o'clock I will ensure that you feel that all the points that you wanted to make have been covered.

Scott Barrie: I, too, welcome the witnesses to the meeting. My first question is for Norman Wells or Anne Morrison. In your submission, you claim that 90 per cent of parents smack their children before the children have reached the age of three. Where did you get that statistic? I ask you to bear in mind the evidence that we just took from the SPTC on its survey, which showed that 44 per cent of parents said that they did not think that people should be able to smack their children. Judith Gillespie also claimed that a large proportion of parents did not smack their children. I am wondering how there can be such huge differences between the statistics.

Norman Wells (Families First): The figure of 90 per cent comes from work that was done by Penelope Leach, who is on the other side of the argument from us. There are wide discrepancies in the surveys, often because the questions are phrased in slightly different ways. That often accounts for wide divergences in the opinions that are given in surveys.

Scott Barrie: In your submission, you oppose the Executive's proposal to have a threshold at the age of three. Is there an age below which you think that a child should never be hit?

Norman Wells: The fundamental principle is that children must be protected from all forms of harm. That principle applies irrespective of the age of the child and of how that harm is caused. Children are individuals and they develop at different paces. Parents are in the best position to judge the best way in which to bring them up, and, if a child is disobedient or defiant, which form of,

and at what stage, discipline should be used.

Scott Barrie: Do you accept the Executive's premise that the proposals are about codifying and clarifying the existing law? In Scotland, parents can use the defence of reasonable chastisement, which courts have interpreted in contradictory ways.

Norman Wells: The proposals go beyond clarification. The Executive accepts that children are already protected from inhuman and degrading treatment and from unreasonable chastisement. To stipulate how and when parents can discipline their children in a moderate and reasonable way goes beyond the legislation that is in place.

Scott Barrie: Are the definitions of what is reasonable and unreasonable adequate? What I find reasonable you may find unreasonable and vice versa.

Norman Wells: That is right. It is obvious that different ideas exist, which is why we would like the focus to be more on whether the child is suffering harm. We should stand back from a situation, look at it and ask what is in the best interests of the child. Is it really in the best interests of the child to introduce case conferences with social workers, care proceedings—when the child will not be sure whether they can stay at home with their mum and dad—and possible court hearings? We should stand back, keep things in proportion and consider what is in the best interests of the child. We must ask whether the child is really suffering harm that warrants state intervention.

Scott Barrie: Given that that is the premise of the children's hearings system and is the paramount concern of the panel, surely there is adequate protection for children.

Norman Wells: The proposals go further than that. They are not addressing harm. The current system allows a degree of flexibility, which is also reflected in the factors that the European Court of Human Rights said must be taken into account in the A v UK case. However, under the proposals, if a child under the age of three is smacked or an implement is used—no matter how carefully, responsibly or safely—the factors become irrelevant because the parent will have committed a criminal offence.

Scott Barrie: Do you agree with the Executive proposals to outlaw the use of implements on a child of any age or do you support parents who use that as a disciplinary method?

Norman Wells: I go back to my earlier point, which is that the key principle is that children should be protected from all forms of harm. There are many ways in which children can be harmed. They can be harmed with a hand, a fist, an elbow, a knee, a foot or an implement. However, not all use is abuse. Most of us drive cars—we can drive carefully and responsibly or we can drive recklessly. There are all kind of things that can be abused, but we do not outlaw them just because there is potential for abuse.

Scott Barrie: On the analogy with cars, would you impose speed limits to which people have to adhere in different circumstances?

Norman Wells: Yes, that is right. We have a limit on the extent to which parents can discipline their children. They can only do so if it is done moderately and reasonably.

Stewart Stevenson: This morning we had some debate with those giving evidence as to the age at which a child ceases to be a child. I note in CARE's submission that there appears to be a desire to recognise that age as 18. That might suggest that the current ability that 17-year-olds have to marry without parental consent should be withdrawn. In the light of the fact that we give adult responsibilities to children at different ages, what is your view on when a child ceases to be a child and becomes an adult?

Jeremy Balfour (Christian Action Research and Education): As you say, our submission on part 3 of the bill says that 18 is an appropriate age. We understand that, at present, under Scots law a child is defined as an adult when they reach 16. Rights and responsibilities accrue to children at different ages. If the law were to be reviewed, we would seek to raise the age of adulthood to 18. However, we recognise that that is not the case at the moment.

The age at which children become adults varies. Children mature at different ages according to their circumstances. It is clear that girls mature earlier than boys. There is no clear line, although we need a clear definition in law. In practice, maturity evolves and one cannot say that a child is an adult just because they have reached a certain calendar age.

Stewart Stevenson: What would you have us, as legislators, do in that regard?

Jeremy Balfour: In regard to smacking?

Stewart Stevenson: The question occurs at several points in the bill. I know that you have not commented in your submission on all the points. For example, there is a suggestion that children aged 12 or more should be able to submit victim statements to the court. That would be a step in the process of evolving from childhood to adulthood. Currently, children are able to enter full-time employment at the age of 16, to marry with their parents' consent at the age of 16 and to marry without their parents' consent at the age of

17. There is a raft of different things at different ages. What is your view on the age of the child in relation to physical chastisement and smacking?

15:45

Jeremy Balfour: Any parent should be allowed to discipline their child. Under three is an arbitrary age and we do not understand why the Executive has chosen the age of three rather than any other age. Parents should be allowed to discipline their child at any age. Our fear is—and it has been picked up by other witnesses—that the Executive is saying that it is clarifying the law rather than extending it. Clearly, that is not the case. The law was defined by the case A v UK when four criteria were set down by the court.

If the Executive wants to clarify the law, rather than going down the statute route, the Lord Advocate could give advice to procurators fiscal, the Crown Office, sheriffs and judges on how he sees the law. That would be better than having a statute that says that if someone smacks a child who is under the age of three, they are guilty and there is no exception to that.

We have heard arguments that a minor smacking will not be prosecuted or the sheriff will take it into account. However, think of the pressure and strain that there will be on the family if a parent smacks a child on the hand in a shop. The social work department, the fiscal's office and the police will all investigate that.

First, is that a good use of limited resources? Secondly, that investigation does not happen overnight. The family will live under the cloud of what is going to happen for months. It is easy for us to sit around a table and say, "We don't need to worry because a parent won't be prosecuted or certainly will not be punished with a fine or imprisonment if it is a minor offence." That investigation will hang over a parent for a number of months, will put pressure on families and will limit resources.

Stewart Stevenson: Are you suggesting that the Parliament, which is supposed to represent all the people of Scotland, should not take a view and pass that view into legislation? Alternatively, are you suggesting that the proposals are defective, or is there a third thing that you are suggesting?

Jeremy Balfour: We are saying both. The Parliament should not pass legislation on smacking children under the age of three and should leave the law as it is. If the committee and the Parliament believes that the law, as Mr Barrie has said, is unclear, it could suggest to the Lord Advocate that A v UK should be used to define section 43(1)(a), (b), (c) and (d). That would give sheriffs and justices of the peace a clear idea of when they should be prosecuting and passing sentence.

George Lyon: As I understand it, your organisation would support the inclusion of the section 43(1) and (2). Is that correct?

Jeremy Balfour: Yes. Those two subsections simply redefine what has come out of A v UK, which our organisation supports. We would have no problem supporting those two subsections.

George Lyon: I ask the same question of Families First.

Norman Wells: Yes, in principle. The court must consider the factors that were laid out in A v UK. We have no difficulty with that.

George Lyon: Would both your organisations support the legislation on blows to the head, shaking or the use of an implement?

Jeremy Balfour: CARE in Scotland does not have a view. We recognise that some of our members would support a ban while others would see a ban as interfering with family life. CARE in Scotland therefore does not have a view on instruments or shaking.

Norman Wells: On the use of implements, I have said that we see the matter as one of seeking to protect children from harm, rather than defining how a parent corrects their child physically. A safe implement can be used carefully and responsibly, thereby causing the child no harm at all.

We have recommended the model of the Arkansas legislation on shaking, which outlaws the shaking of very young children, aged under three, because there is sound evidence that the vigorous shaking of young children is very damaging, even potentially fatal. We certainly support public education campaigns against shaking children, with the caveat, which someone mentioned earlier, that if a parent takes a child by the shoulder to get their attention, we would be cautious about that being interpreted by somebody else as shaking. Again, it is a matter of standing back and asking whether the child is being caused any harm and whether the child is at risk from the parent.

The Convener: Point 3 of your submission states:

> "The proposal gives rise to a number of anomalies … As the Bill is currently drafted, the reasonable chastisement defence would be available to a parent who performed violent actions such as punching a child in the stomach, kicking a child in the genital region or stamping on a child's toes, but not to the parent who gently smacks a toddler for defiance."

Do you accept that an objective of the bill is to narrow down the reasonable chastisement defence?

Norman Wells: Our point is that the defence of reasonable chastisement would still be open to the parent. In all probability the defence would not

succeed, but the parent would be able to use it if they carried out any of the actions that we listed. However, a parent could use a much milder physical sanction and not have any defence at all. They would have committed a criminal offence.

The Convener: I take the point. Perhaps I am misinterpreting what you are saying, but you seem to be non-committal about supporting the provisions of section 43(3), excluding your concerns about the age definition. Why should we not legislate further to narrow the scope of the defence and to reduce the prospect of someone harming a child with the use of implements?

Norman Wells: Existing law is adequate to protect children. The Executive has acknowledged that existing law provides adequate protection for children. If the courts are obliged to take into account the factors that are set out in the A v UK case, that is quite sufficient to evaluate what the parent has done and secure a conviction where a parent has acted violently and abusively.

The Convener: The law might be adequate, but perhaps we could go beyond it being adequate. I am suggesting that we could make the law tougher. I do not understand why you do not support the provisions in the bill, which would make the law tougher.

Norman Wells: The Executive is intervening into family life. It is taking away from parents the choice of how they correct their children in a reasonable way. There is no evidence to show that smacking a child under the age of three does the child any damage at all, if it is done in the loving context of a home where the child is valued and cherished, in response to—

The Convener: Do you think that it is more important to protect the rights of the family to discipline the child than it is to make tougher law about what parents can do under the definition of reasonable chastisement?

Norman Wells: What is in the best interests of the child is in the best interests of the family and vice versa. I do not subscribe to the idea that parents' rights are opposed to or should be set against children's rights. The overwhelming majority of parents love, care for and want what is best for their children and, as someone said earlier, they can be trusted to bring up and discipline their children in a way that is appropriate and that is best for their all-round development.

The Convener: I am not suggesting that parents' rights are necessarily at odds with children's rights. However, you seem to be saying that intrusion into the private life of a family, and its right to look after and discipline a child, is a more important issue for you than making the law more than adequate. Is that fair comment?

Norman Wells: I do not think that the law needs to be tougher. The state should intervene only in families in which children are suffering harm. How that harm is caused is irrelevant; in such cases, the state has a role to intervene and protect the child.

The Convener: I must differ with that interpretation. If we put to one side cases that involve children under the age of three, there is evidence that children have been harmed in cases where physical chastisement has been deemed reasonable. Although such cases might be in a minority, the law could be tougher. Perhaps the defence of reasonable chastisement is just a bit too broad.

Norman Wells: I understand that the Scottish Executive has cited only one such case, about which it seemed quite vague when the matter was raised in committee.

The Convener: The Scottish Executive has not spoken to its research yet—indeed, we have still to hear from it—although it has explained why it set the threshold at the age of three. The evidence that I was talking about came from research from outside the Scottish Executive.

If there were evidence that the way in which a family dealt with a child was harmful, would you accept that it would be the responsibility of the state to intervene with the appropriate legislation?

Norman Wells: There is no such evidence.

The Convener: What if there were such evidence?

Norman Wells: That evidence would have to show that the child was suffering some form of significant harm. Each of us in this room will have slightly different ideas about what is harmful to a child. Some of us might feel that it is harmful to give chips to a child four nights a week; however, would we really pass legislation to make it a criminal offence for a parent not to give their child a balanced diet?

The Convener: I do not know whether you are deliberately trying to avoid my question. However, I will ask it again. Are you saying that there are no circumstances in which it would be appropriate for the state to intrude into family life?

Norman Wells: I have said that if a child is suffering harm, it is appropriate for the state to act to protect him or her. That happens under existing law.

The Convener: Does CARE have a different view on the matter?

Jeremy Balfour: As I said to George Lyon, CARE does not have a formal view about the use in section 43 of the phrases

"shaking"

and

"the use of an implement",

because we recognise that our membership would be split on that issue. However, we are happy to hear what the committee and other people have to say about it.

Scott Barrie: I do not want to prolong the meeting unnecessarily, but I have a very quick question for Families First. In response to the convener's previous question, you stated that it would be justifiable for the state to intervene in a family when it appeared that a child was suffering significant harm. However, do you accept that the phrase "significant harm" is open to differing interpretations? For example, my interpretation of significant harm might differ from yours. The Executive is trying to clarify some parameters that people should not go beyond, which is more helpful than the current situation, in which everything is open to interpretation all the way along the line, including in the sheriff court. As I said, 10 years ago, the sheriff in Dunfermline sheriff court ruled that it was reasonable chastisement for a parent to use the buckle end of a belt across a bare buttock.

Norman Wells: In using the phrase "significant harm", I am drawing on a key principle that is set out in the Children (Scotland) Act 1995. Under the current law, a court must have regard to harm in assessing the defence of reasonable chastisement. If a child suffers objective and visible harm, it is the duty of the state to intervene and to act for the protection of that child. However, I am unhappy about people having their own views about what constitutes harm. For example, I may consider a certain television programme to be harmful to a child. Some people would agree with me and some people would not. However, unless I could show that the programme was causing a child significant harm—unless there was visible evidence of that—it would not be the role of the state to intervene and take action against the parent.

16:00

The Convener: Okay. I think that we have had a fair crack at that one. It is 4 o'clock. I offer the witnesses the chance to emphasise any points or mention any new ones that they think should go in the *Official Report*.

Jeremy Balfour: I have a brief point to raise. Section 43 is not a clarification of the law—it would extend the law to say that a parent cannot smack a child under the age of three. Mr Barrie asked about definitions. My definition might be different from his definition. Are we saying that not all smacking of children under the age of three will be prosecuted or punished with a prison sentence or fine, or are we asking somebody else to make a definition at a later stage?

If the committee believes that the definition that exists in Scots law, because of a European case, needs clarification, I suggest that that should not be done by primary legislation. As I said, it could be done by the Lord Advocate or through guidelines to the officials of court relating to the current definition in Scots law of the A v UK case. The advantage of that action would be that the law would be more flexible and, if society changed its views, rather than produce new legislation, the Lord Advocate could reflect the views of society in his guidance for sheriffs and judges. That would result in a far more flexible definition than one that was defined in primary legislation.

Norman Wells: I would like to say something on the European perspective. Others who have presented evidence today have suggested that nine or 10 European countries have outlawed physical correction altogether. I would like to place on record the fact that that statement is open to dispute. In four countries—Sweden, Finland, Norway and Denmark—an explicit ban has been imposed, but the other countries that are frequently cited do not explicitly outlaw all physical correction. They outlaw violence or abuse, which some people on the other side of the argument believe is to be equated with mild physical correction. However, physical correction is not explicitly outlawed in those countries.

Research on the situation in Sweden has been mentioned. The research that was undertaken by Joan Durrant, which was referred to earlier, has been subjected to a devastating critique by an American psychologist who considers that the research is very much opinion driven. He points to the fact that there have been more reports of child abuse in Sweden since the smacking ban was imposed. That means either that more parents are being taken to court for abusing their children than previously, or that the rates of child abuse are increasing. It could be that, if parents do not nip a problem in the bud and their child continues to misbehave, they could reach the end of their tether and lash out in an uncontrolled and violent way. There is also evidence that there is more violence in Sweden on the part of children against other children than there was before the ban on physical correction was imposed in 1979.

Anne Morrison (Families First): I would like to say that we would never promote what most people call hitting a child. The word hitting is used constantly to describe what I might call smacking. Hitting is something totally different and we would never advocate hitting a child—or any violence towards a child.

Another issue that frequently arises is the fact that parents resort to hitting a child as a last resort, when they are under stress. Perhaps parenting is sometimes difficult, but it is mostly rewarding and gives great joy. Most mothers—even those of us who are at home all the time with our kids—do not spend their lives stressed or wanting to resort to anything. For about 90 per cent of our time, we have a fantastic relationship with our children and get great joy from them. Chastisement, of which physical chastisement is one part—but not the major part by far—is a small part of a loving and stable relationship.

The Convener: I thank all three witnesses for giving their evidence, which was interesting. The final evidence that Norman Wells gave us is the first to challenge what we have heard to date on international comparisons. If any more information can be provided to us, we would be grateful to consider it.

Norman Wells: We can certainly provide that.

The Convener: I am sorry that the witnesses had such a long wait, but we are grateful to them.

That concludes a long meeting. I remind members about their obligations. Unfortunately, we will have another all-day session on Wednesday 5 June when we will again take oral evidence on the Criminal Justice (Scotland) Bill. Members will receive a note in their papers about the order of witnesses.

The final agenda item is item 5, on the payment of witness expenses, which members agreed to discuss in private.

16:06

Meeting continued in private until 16:10.

Members who would like a printed copy of the *Official Report* to be forwarded to them should give notice at the Document Supply Centre.

No proofs of the *Official Report* can be supplied. Members who want to suggest corrections for the archive edition should mark them clearly in the daily edition, and send it to the Official Report, 375 High Street, Edinburgh EH99 1SP. Suggested corrections in any other form cannot be accepted.

The deadline for corrections to this edition is:

Thursday 30 May 2002

Members who want reprints of their speeches (within one month of the date of publication) may obtain request forms and further details from the Central Distribution Office, the Document Supply Centre or the Official Report.

PRICES AND SUBSCRIPTION RATES

DAILY EDITIONS

Single copies: £5
Meetings of the Parliament annual subscriptions: £350.00

The archive edition of the *Official Report* of meetings of the Parliament, written answers and public meetings of committees will be published on CD-ROM.

WHAT'S HAPPENING IN THE SCOTTISH PARLIAMENT, compiled by the Scottish Parliament Information Centre, contains details of past and forthcoming business and of the work of committees and gives general information on legislation and other parliamentary activity.

Single copies: £3.75
Special issue price: £5
Annual subscriptions: £150.00

WRITTEN ANSWERS TO PARLIAMENTARY QUESTIONS weekly compilation

Single copies: £3.75
Annual subscriptions: £150.00

Standing orders will be accepted at the Document Supply Centre.

Published in Edinburgh by The Stationery Office Limited and available from:

The Stationery Office Bookshop
71 Lothian Road
Edinburgh EH3 9AZ
0131 228 4181 Fax 0131 622 7017

The Stationery Office Bookshops at:
123 Kingsway, London WC2B 6PQ
Tel 020 7242 6393 Fax 020 7242 6394
68-69 Bull Street, Birmingham B4 6AD
Tel 0121 236 9696 Fax 0121 236 9699
33 Wine Street, Bristol BS1 2BQ
Tel 01179 264306 Fax 01179 294515
9-21 Princess Street, Manchester M60 8AS
Tel 0161 834 7201 Fax 0161 833 0634
16 Arthur Street, Belfast BT1 4GD
Tel 028 9023 8451 Fax 028 9023 5401
The Stationery Office Oriel Bookshop,
18-19 High Street, Cardiff CF12BZ
Tel 029 2039 5548 Fax 029 2038 4347

The Stationery Office Scottish Parliament Documentation Helpline may be able to assist with additional information on publications of or about the Scottish Parliament, their availability and cost:

Telephone orders and inquiries
0870 606 5566

Fax orders
0870 606 5588

The Scottish Parliament Shop
George IV Bridge
EH99 1SP
Telephone orders 0131 348 5412

sp.info@scottish.parliament.uk

www.scottish.parliament.uk

Accredited Agents
(see Yellow Pages)

and through good booksellers

Printed in Scotland by The Stationery Office Limited

ISBN 0 338 000003 ISSN 1467-0178