LOCAL GOVERNMENT AND TRANSPORT COMMITTEE

Tuesday 25 November 2003
(*Afternoon*)

Session 2

£5.00

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LOCAL GOVERNMENT AND TRANSPORT COMMITTEE
9th Meeting 2003, Session 2

CONVENER

*Bristow Muldoon (Livingston) (Lab)

DEPUTY CONVENER

*Mr Andrew Welsh (Angus) (SNP)

COMMITTEE MEMBERS

*Dr Sylvia Jackson (Stirling) (Lab)
*Mr Bruce McFee (West of Scotland) (SNP)
Michael McMahon (Hamilton North and Bellshill) (Lab)
*Paul Martin (Glasgow Springburn) (Lab)
*David Mundell (South of Scotland) (Con)
*Tommy Sheridan (Glasgow) (SSP)
*Iain Smith (North East Fife) (LD)

COMMITTEE SUBSTITUTES

Bill Butler (Glasgow Anniesland) (Lab)
Colin Fox (Lothians) (SSP)
Mr Kenny MacAskill (Lothians) (SNP)
Mr Brian Monteith (Mid Scotland and Fife) (Con)
John Farquhar Munro (Ross, Skye and Inverness West) (LD)

*attended

THE FOLLOWING ALSO ATTENDED:

Mary Scanlon (Highlands and Islands) (Con)

THE FOLLOWING GAVE EVIDENCE:

Mairi Brackenridge (Association of Directors of Social Work)
Alastair Brown (Royal Environmental Health Institute of Scotland)
David Cumming (Association of Directors of Social Work)
Jacqueline Cunningham (Royal Environmental Health Institute of Scotland)
Gordon Greenhill (Society of Chief Officers of Environmental Health in Scotland)
Ian Kelly (Society of Chief Officers of Environmental Health in Scotland)
Alan Miller (Scottish Children's Reporter Administration)
Marion Pagani (Glasgow Children's Panel)
Tom Philliben (Scottish Children's Reporter Administration)
Jim Steer (Strategic Rail Authority)

CLERK TO THE COMMITTEE

Eugene Windsor

SENIOR ASSISTANT CLERK

Alastair Macfie

ASSISTANT CLERK

Euan Donald

LOCATION

Committee Room 2

Scottish Parliament

Local Government and Transport Committee

Tuesday 25 November 2003

(*Afternoon*)

[THE CONVENER *opened the meeting at 14:11*]

Interests

The Convener (Bristow Muldoon): Today's is the ninth meeting of the Local Government and Transport Committee in the second session of the Parliament. Last week, Parliament agreed that Tommy Sheridan would replace Rosie Kane on the committee. Given that this is Tommy Sheridan's first meeting as a full member of the committee, I invite him to declare any relevant interests.

Tommy Sheridan (Glasgow) (SSP): None.

The Convener: That was succinct.

Rail Industry

14:12

The Convener: Item 2 on the agenda is evidence from the Strategic Rail Authority. The evidence follows on from the decisions that the Office of the Rail Regulator is considering on future maintenance levels in the rail industry. Obviously, those decisions will have a significant impact on the SRA. Before I invite Jim Steer to make some introductory remarks, I advise members that the committee will be taking evidence from the rail regulator and the Minister for Transport in due course—the evidence from the SRA will be taken in that context. After we have heard Mr Steer's introductory remarks, we will move on to questions from the committee.

Jim Steer (Strategic Rail Authority): I start by explaining that I am the managing director of strategy and planning at the SRA in London and I am responsible for all the forward planning and policy in the SRA. I was pleased to respond to the invitation to appear before the committee and I am happy to answer any questions that you want to put to me.

One of the critical areas in which the committee will be interested is the interim review process. I welcome the fact that, as the convener said, the committee will be talking to the rail regulator and Network Rail, because the interim review was an important process that was triggered by the emergence of Network Rail after Railtrack had gone into administration. The rail regulator set in process a sequence of consultations, in which the SRA is, like the Scottish Executive, a statutory consultee. The process is drawing towards a close and the rail regulator is expected to publish his final conclusions in December.

The rail regulator asked for submissions on the draft conclusions that he published last month to be made to his office by 21 November. The committee should find that Network Rail's submission is available on the internet—I did not check to see whether it was there this morning, but I believe that that was the intention. The SRA's submission will be made public shortly.

The importance of the interim review is that it will establish the charges that are to apply for the use of the rail network over the next five-year period, which is the period that the rail regulator is looking at. The interim review is particularly important for the SRA because the charges that the regulator determines, which are based on his assessment of the efficient cost of the network over the next five years, fall to the train operating companies. In turn, the companies pass any difference in charges through to the funding agencies, in

particular the SRA and, in respect of the franchise in Scotland, the Scottish Executive. The interim review is obviously an important process for all parties to be involved in.

During the summer, our submissions to the rail regulator were the subject of consultation. Some parties were critical of the shortage of time that was available for the consultation. We regret that we were unable to allow a full three months, but the availability of time was prescribed by the dates between the regulator's third set of conclusions and his provisional conclusions—that covered the period between July and September.

14:15

The SRA was concerned about two key issues that affect the rail network: cost and the performance reliability that is achieved through the combination of the train operators and the infrastructure provider. Following consultation, we asked the rail regulator to take two policies into account. First, we asked him to adopt differentiated standards—sorry, I should say "differentiated policies"—with respect to maintenance and renewal as a function of how busy the individual routes are. Secondly, we asked him to take another look at the way in which Network Rail can take engineering possessions of the network to carry out necessary work, including maintenance and renewal or, indeed, enhancement.

The regulator responded to those two proposals. He indicated that he did not believe that the policy of differentiation was particularly new. He accepted it in principle, but said that it was not for him to prescribe to Network Rail which routes should qualify for different levels of maintenance and renewal spend. He said that that was outwith his remit as a regulator and that it was not his job to micromanage or decide on a route-by-route basis what Network Rail should do. Network Rail has noted and acknowledged that conclusion and, unless there is further change or a further submission is made to the rail regulator, we expect that in summary to be part of the regulator's final conclusions.

The revision of possession arrangements has been characterised as giving the network operator longer periods of possession, but it is a little more complex than that. It is designed to enable Network Rail to achieve cost savings through more efficient use of the time available to do work on the track. The regulator has acknowledged the sense of taking that revision forward but, in his provisional conclusions, he indicated that he would like the issue to be made the subject of what he calls a "reopener"—in other words, after further work is done and conclusions have been drawn, the issue can be brought back and adjustments can be made. We are continuing to press for the regulator to take on board what we believe to be a realistic level of saving to be achieved through that policy. No doubt he will be considering that matter over the next couple of weeks as he draws his final conclusions.

I hope that those introductory remarks were helpful, convener.

The Convener: Thank you very much. Do you think that the relationships between the rail regulator, the Strategic Rail Authority and various parts of the industry need to be reviewed, given that the structure of the industry has changed in recent years? I am thinking in particular of the establishment of the SRA, the change in the status of Network Rail and the fact that the role of the regulator was established in order to regulate between fully privatised network providers and privatised train operating companies. Given the changes of recent years, is a review required of the relationship between the regulator and the SRA?

Jim Steer: I do not think that those changes in themselves trigger a need to change the organisations' roles, functions and relationships. The SRA and the rail regulator agreed a protocol, which I think was a necessary step, as the relationship between them under the previous leadership was not always as smooth as it should have been.

Although each organisation has distinct and different roles, we feel that we work well together. The rail regulator, if he were here, would stress his independence, as he has been doing publicly over the past few weeks. He has a different function from that of the SRA, which is ultimately accountable to ministers as a non-departmental public body. There is value in those two roles continuing. Network Rail is a different animal from Railtrack, and the rail regulator is of the opinion that the function of independent regulation remains just as important. I have no reason to doubt that.

The Convener: You said that the SRA will shortly be publishing its comments to the rail regulator on his interim recommendations. It might be difficult for you to give us details, but could you give us a flavour of what the SRA's comments are likely to be?

Jim Steer: I will outline the critical issue that we have been attempting to deal with. The provisional conclusions, which were published in October, propose a significant increase in the level of track charges, which, to put a round number on it, go up to £5 billion per annum. The charges are currently in the low £3 billions—in other words, there is to be an increase of roughly £1.8 billion per annum.

The financial provisions for rail in Great Britain as a whole are set out in the 10-year plan, which contains a budget for the public sector spend. Those provisions do not anticipate an uplift in track charges, certainly not of the same order of magnitude as that detailed in the regulator's provisional conclusions.

The question has been how we can reconcile the need for additional funds to go into the railway, as determined by the independent regulator—as I have explained, that requirement passes through the train operating companies and effectively comes back to the Government or taxpayers to fund—with the inevitable limitations that are set by spending reviews on available funds, particularly in the short term. Our response has been to try to reconcile those factors.

As I believe is already known, the question centres on the extent to which Network Rail is capable of raising debt finance to fund the gap between what is likely to be determined as needed and what is currently available in the short term from the public purse. To answer that question, we must think not only about the calculation of the shortfall, but about the basis on which the banks that lend money to Network Rail will be repaid—what is the medium-term and longer-term financial prospect for Network Rail? As members can imagine, that is not a simple or straightforward matter; indeed, it is what we have been engaged with and it is, in brief, the main issue in our submission.

Mr Andrew Welsh (Angus) (SNP): If I heard you rightly, you talked about "differentiated standards" regarding maintenance and renewals and then changed that to "differentiated policies", in the context of the role of the rail regulator being non-prescriptive. Will you clarify what you meant?

Jim Steer: I corrected myself because Network Rail already applies different standards across a set of categories of route. Whether it does so sufficiently accurately is another question, which will be for the regulator to decide.

We proposed a simple distinction between two categories of route in our network outputs specification. We suggested in the first category that Network Rail should be encouraged to undertake maintenance and renewals in much the same way as it had planned in its business plan. The regulator is busy assessing the costs of that. We said in relation to that first category of route—the simplest definition that we could find of the busiest passenger and freight routes—that the SRA would seek to secure additional funds to speed up progress in improving performance reliability and so forth.

On the remainder of the network—the less well-used parts of the national network in Great Britain—we suggested that it would be more sensible to look at ways of containing maintenance and renewal spend where possible, because of our concern about the overall cost in the networks. We were seeking to contain costs while achieving performance improvements where they would be most beneficial.

Mr Welsh: So you are operating a double standard.

Jim Steer: We are seeking to ensure that costs are spent on the network where they deliver best value for money.

Mr Bruce McFee (West of Scotland) (SNP): I am concerned about the line that you have drawn in the sand in relation to what you deem to be the primary routes—in London and the south-east of England—and the main secondary lines, and the extent to which they attract the maintenance renewal moneys and deferments. I notice that you talk about the containment of costs instead of a deferral of costs in relation to other secondary lines. Most lines in the Strathclyde Passenger Transport area fall into the "other secondary" category, despite the fact that they represent more than half the rail journeys that are made in Scotland. If, according to you, the review is designed to look at the areas that are the most used, I suggest that placing virtually the entire SPT area into the category of deferred maintenance renewal, which means that there is no money to be spent, is detrimental to that area. Is it not a fact that the policy will simply be to treat people in the west of Scotland as second-class citizens as far as rail travel is concerned?

14:30

Jim Steer: I do not accept that. The point that we are making is that choices have to be made. Network Rail already makes choices and we felt that, given the scale of the funding that is needed for the network, it was right to strengthen the distinction that is drawn between the busiest routes and the less busy routes. Through the rail regulator, we should seek to get Network Rail to focus on ways of getting best value for money. The distinction that we drew between categories of route was based initially on Network Rail's categories—it has a hierarchy. We modified that and we certainly listened to responses to our consultation. We included what we believed to be the primary longer-distance routes in Scotland, even though arguably, on traffic-density grounds, they would be less busy than a good number of routes south of the border.

The question is not simply about deferring maintenance and renewal; it is about considering whether the significant renewal expenditures for the routes are strictly necessary. We encouraged

Network Rail to confer with the users of the routes and the operating companies to assess the best course of action.

I am happy to answer any follow-up on that, but it is important to recognise what the rail regulator has in effect done with our submission. He has said that, although our submission is very interesting in principle, it is for Network Rail to decide in practice what it does at individual-route level. I do not recognise from our submission Bruce McFee's description of the policy. In any event, it will be for Network Rail to decide how best to manage the policy. The rail regulator also commented on retaining the network's capability. That is why it is important that the committee should hear from the rail regulator and Network Rail in assessing how the policy will affect individual routes in the west of Scotland, for example.

Mr McFee: Yes, but with respect, we are not talking about an individual route. We are talking about a decision that will affect the entire SPT area. We are talking about a network that carries more than half of Scotland's rail passengers, not about an isolated route. You mentioned the consultation. How many of those who responded to the consultation supported the no-investment decision in the SPT area? Do you think that the designation of the lines as "other secondary/rural/freight" will have a negative effect on passenger or freight services, given that there are alternatives?

The Convener: Perhaps when you answer that question, Mr Steer, you could also mention the containment of costs to which you have referred. According to information that I have had from Network Rail, there has been a substantial increase in maintenance and renewal in recent years. In relation to your proposals, what do you anticipate will happen within Network Rail in Scotland in years to come?

Jim Steer: I will answer the convener's question first as a prelude to my response to Bruce McFee's question. The backdrop to our suggestion on how best to manage the expenditure on the network does not involve a flat expenditure profile. The increase is mainly on maintenance and renewal spend, although there is also an increase in operation spend. The figures that I cited are drawn from the provisional conclusions and were produced after the regulator had taken his view on efficiency. In other words, the issue is not just about allowing Network Rail what it says it would like to spend; the figures are produced after detailed and rigorous studies. There is a substantial increase. Just to put it in one context, I should point out that the increase is higher than the total cost of franchising all passenger rail services across the country.

Part of that spend is undoubtedly due to the intention in Network Rail's plans to make good a backlog of renewal work. As a result, there is an element of catching up for the period of underinvestment that certainly took place during the Railtrack years and even—though for rather different reasons—during the last years of British Rail. Making good that backlog will itself improve the network's performance.

On Bruce McFee's specific questions, we are not proposing that no investment be made. Instead, we propose that maintenance and renewal should be questioned on different parts of the network. Similarly, we did not suggest the definitions for main and other routes; instead, we adjusted Network Rail's definitions and added in certain routes in Scotland that consultees told us were very important and believed should have been included. We listened to their points, accepted the case and included those routes.

It is true that there are many lines in the Strathclyde network and that, taken together, they carry many of the passengers within Scotland. However, I am afraid that we have to make tough choices when we seek to contain budgets. We feel that we set out those choices clearly and fairly and asked for people's responses. As a result, in answer to Bruce McFee's question whether anyone welcomed the move to contain costs in Strathclyde or the west of Scotland—if I might slightly rephrase it—I do not think that anyone responded in such a way. Although quite a few consultees said that a policy of differentiation was plausible and sensible, they went on to say, "I don't want you to apply it to my railway, thanks very much." I guess that such a response is not particularly surprising. However, I urge the committee to find out from Network Rail and the rail regulator what Network Rail will do in practice, because that will determine the outturn in your area of interest.

Mr McFee: I want to clarify—

The Convener: Bruce, you jumped in a bit ahead of things. I wanted to come to Sylvia Jackson first.

Mr McFee: I want to finish my point.

The Convener: Please do so briefly.

Mr McFee: Are you telling me, Mr Steer, that if the policy goes ahead it will have no detrimental effect on passenger or freight transport within the SPT area?

Jim Steer: I am telling you that it will be for Network Rail to decide how to manage its network. At the moment, it has to take account of the regulator's direction. The regulator has said that he understands and appreciates why a policy of differentiation is being followed. I do not know

what his final word on the subject will be. However, he will not prescribe that this or that line in Strathclyde or the west of Scotland should or should not be subject to a particular policy.

Mr McFee: With respect, you are not answering my question. Can you give me a yes or no answer?

Jim Steer: I cannot answer for what the rail regulator will say in a few weeks' time.

The Convener: I think that Iain Smith has a supplementary question, after which I will call Sylvia Jackson.

Iain Smith (North East Fife) (LD): What is likely to happen to secondary routes in relation to containment and maintenance costs? I understand and accept that primary routes will have priority in order to improve performance. However, will secondary routes be maintained to ensure that performance does not deteriorate?

Jim Steer: The network outputs statement makes it clear that the intention would be to minimise any deterioration in performance. We cannot rule out the possibility that what you suggest will happen. The rail regulator could adopt our policy and say, "Yes, fine, I'll tick the box. Please go away, Network Rail, and implement the policy." However, the regulator has not done that. I am afraid that you will have to ask Network Rail that question if you want an absolutely clear answer.

Iain Smith: I was trying to get clarification of the SRA's position. Is it your intention that the SRA's policy will not result in any deterioration in the secondary network?

Jim Steer: If the policy is adopted, there could be some deterioration. We have outlined the ways in which we would expect Network Rail to minimise that. We have suggested that performance impacts could be not only minimised, but possibly eliminated by careful examination of timetabling. The impact of any change in maintenance and renewal is that temporary speed restrictions are imposed on the network. That is what is happening today because we are experiencing the backlog of underspend on maintenance and renewal. Provided that those restrictions are properly provided for in the timetable, there need be no adverse impact on performance.

Speed restrictions in the timetable are undesirable at all times, but there are many of them on the network at the moment. Many users are probably simply unaware of them. Provided that the network is properly managed, there need not be a damaging impact.

Iain Smith: Are you saying that if an extra 10 minutes is added to the journey time, the train will not be 10 minutes late?

Jim Steer: No. I do not think that the impacts would be anything like 10 minutes.

Iain Smith: I was using 10 minutes as an example.

Jim Steer: But seriously—

Iain Smith: I am being serious as well.

Jim Steer: Quite. However, the point is that extending journey times by a minute or two already happens to reflect the engineering allowances on the routes. The changes will be of that order of magnitude. Provided that the changes are properly managed, there need not be any damaging effect on performance.

Dr Sylvia Jackson (Stirling) (Lab): I want to get to the heart of the rationale behind the policy. If I understood you correctly, you said that the SRA looked at the busiest routes and the best value for money. I want to ask about audits, which provide information on the condition of the track and, hence, on safety factors. Where would audits come into that policy? A point in the rail structure that is not on a busy route might become unsafe.

Jim Steer: That is an extremely important issue. We made it absolutely clear that in applying the policy there could be no compromise of any safety standards whatever. As you imply, it is clear that there could be a situation in which expenditure would simply have to be made for safety reasons. That would be the case irrespective of the type of route.

Dr Jackson: You mentioned that the decisions would have to be made by Network Rail. Would the SRA flag up the areas in which sufficiently deteriorating conditions could lead to safety problems?

Jim Steer: No. Network Rail has to manage that matter on a day-to-day, minute-by-minute basis.

Dr Jackson: Does Network Rail have that information?

Jim Steer: Yes.

Tommy Sheridan: I have been interested to hear some of the answers so far, which seem to have been deflected a wee bit on to Network Rail. You mentioned that Network Rail, rather than the SRA, had come up with the definitions of Scotland's rail network as other secondary, rural and freight-only routes. However, the SRA states that

"a targeted increase in inspection and assessment where appropriate, will be used to maintain existing safety levels."

What do you mean by targeted inspection and assessment? What are the criteria for determining what is appropriate? Who will decide those criteria?

Jim Steer: I have not sought to deflect anything on to Network Rail. I have answered the committee's questions as directly as I can. I am afraid that the nature of the railway is that more than one party is involved. Some of the issues inevitably fall to Network Rail. The rail regulator's response to the network outputs statement has made it clear that decisions on how that should be implemented in practice are in Network Rail's court.

On the question of inspections, there are group standards that Network Rail sets out for itself and which it is obliged to follow. Those standards are part of Network Rail's safety case and it will follow those standards on those routes. The SRA does not get involved in the detail of that.

Tommy Sheridan: You do not get involved in the detail, but in your document you give us guarantees about the maintenance of safety levels. I am interested in how you can give us guarantees when you are not involved in the detail.

Jim Steer: I am not sure that we give you guarantees of safety levels, except to say that nothing that we are doing must be allowed to compromise the established rail industry safety processes. They will always override any other consideration.

14:45

Tommy Sheridan: Section 3.25 of the network outputs statement makes the point that

"a targeted increase in inspection and assessment where appropriate, will be used to maintain existing safety levels."

You tell us that you will maintain safety levels, but say that you are leaving the details to someone else. That is what I am worried about, particularly given the designation of Scotland's railways, which I and other members fear means that the maintenance and renewals will not be of the standard that we had hoped for. That is why I make that point, and I will extend it. The document also states:

"The SRA does not expect that the policy of differentiated maintenance and renewals will require significant amendments to its franchising programme".

Why do you think that there is no need for significant changes in the franchising programme, if—as we hope—we will have an improvement in track renewals and maintenance? Are you satisfied with the current level of track renewals and maintenance? You do not seem to be happy with it, and neither are we.

Jim Steer: No, we are not happy with it. That is why we support in general the rail regulator's conclusion that it is right that—even after a fairly large sum of money is taken out for the assessment of inefficiency in the way that Network Rail is going about the activities it inherited from Railtrack—there should be a significant increase in spend on infrastructure maintenance and renewal. That is the point that I made earlier.

The current backdrop is not a steady-state one against which any policy should be judged. It is an improving network that is being funded to make good a backlog of underspend over a considerable period of time. If the policy that we set out was adopted, in full and in part—which it is clear it is not going to be, in the sense of this part of the network and that part of the network—I would not expect it to affect the definition of franchises, because to do so it would have to materially change the network's capability to support franchise services. That is not what we would expect to happen, and I do not think that anyone has suggested that it could happen. At the limit, it may mean, or it may have meant, differences of the odd minute or two in journey times, but those arise from year to year in any event, as the network is subject to specific works.

Tommy Sheridan: You further state, in section 4.3:

"On the secondary network, provision would be focused on longer weeknights".

What do you mean by that? Are we talking about night work being undertaken and, if so, will there be strict supervision of who is contracted to do the night work? Will you ensure that no 16 and 17-year-olds are being pulled off the dole to be deployed at night on Scotland's railways?

Jim Steer: Yes. The possessions policy is extremely important. Engineering work tends to be crammed into a few hours of the week; it tends to be done at weekends, much of it at night. What we put forward—we did not do so without consulting Network Rail in detail—is a policy shift, which would mean that, on different types of route, different times of the day and night and different times of the week would be used to carry out engineering work. Some routes are busiest at the weekend and some are busiest during the week. Routes that carry freight are often busy at night and routes that do not carry freight might carry nothing at all at night. The question is whether better use of human resources—the labour teams—and of plant and equipment can be achieved through better planning of the times that are made available for engineering work. We believe that, with proper planning, it would be possible to make significant savings and we are urging the rail regulator to take that into account.

The committee will know that the maintenance teams are being brought back in house by Network Rail, whose management responsibility it will be to ensure that the work force is properly equipped, trained and qualified. Of course, it is the intention that renewal works will continue to be subject to competitive tender—or rather, that they will continue to be contracted out. That balance in arrangements between private sector and state owned—not that Network Rail is state owned, technically—is pretty much the same as that which pertains across much of Europe.

Tommy Sheridan: I have a couple of other questions for later, but I have a final one on safety. According to your document, the SRA

"has a responsibility for the whole railway and all who use it."

What are the SRA's approach and attitude to the increasing practice of cattle-packed trains, in which people are packed like sardines? I very much hope that there will not be a disaster soon but, at peak times, it is increasingly the case that trains do not have anywhere near enough carriages to allow safe travel and passengers are not secure in seats.

Jim Steer: Our attitude is that safety is, and will always be, the first and foremost concern when we consider any policy decision on the railway. We have highly specific directions and guidance on addressing overcrowding. We are endeavouring to do that, but it is difficult to do so within tight financial constraints. I am pleased to say that, jointly with the Scottish Executive, we have been able to fund relatively modest, in railway terms, investments to enable longer trains to operate. Using longer trains is usually the best means of addressing overcrowding in the first instance, although there are limits to what it can achieve.

We know from experience that the larger-scale projects that would allow more trains to run on the network often trigger resignalling schemes and new track schemes and tend to be extremely expensive. Our policy is to seek to manage the network and to get out of it better value for the travelling public. That can mean all kinds of changes to timetables and the deployment of rolling stock. There are two aims to that—a more reliable service and less overcrowding. We are working actively on trying to achieve that.

Mr Welsh: I asked what the difference was between differentiated standards and differentiated policies. I suggest that they are the same thing, because differentiated policies will lead to differentiated standards. You seem to be saying that there are two standards. The first relates to primary routes that will have add-ins and investment that will catch up on past investment failure. The second relates to secondary routes, on which expenditure will be minimal. By definition, such contained expenditure will not catch up on past investment failure. I want to clarify whether the primary routes are basically the Scotland to England routes and the secondary routes are everything else.

Jim Steer: That is not the case. The routes in Scotland that are in the first category include all the routes that go across the border with England, but they also include the route between Edinburgh and Glasgow via Falkirk and all the routes between Edinburgh/Glasgow and Perth, Dundee, Aberdeen and Inverness, as well as the links to Hunterston and Grangemouth.

Those latter categories are not part of what Network Rail would define as the primary network, but they are the routes that we believe should benefit from additional investment, which is subject to our ability to secure the funding, to speed up the performance improvement. We would expect that to apply across the network. That rate of improvement would be mitigated by a review of maintenance and renewal spending. However, the backdrop that I am suggesting, which is one of catch-up and improvement in performance, is not restricted to what you referred to in summary—and I welcome the summary phrase—as the primary network but applies across the network. The £5 billion—if that turns out to be the amount—will be spent on the entire network, not just the busiest part. However, we have said that it makes sense to focus the balance of that investment on the busier routes. We think that that is a commonsense approach that would be taken by any prudent organisation.

Mr Welsh: The SRA indicates that this strategy might result in

"some degree of journey time extension on less well-used parts of the network."

Can you give an assurance that that will not disadvantage the single-track Highland rail lines where such delays have more of an effect?

Jim Steer: I acknowledge that point. There are situations in which the odd minute or two—which is what we are talking about—could make a single-line section of railway line, some of which are quite lengthy, inoperable. In those circumstances, you would expect, I would expect and the SRA would expect that Network Rail would say simply that it had to do the necessary work because, if it did not, it would have lost a fundamental bit of the network capability. In other places, the minute or two—if that is what the length of time turned out to be—might not have such a damaging effect.

Mr Welsh: Are you sure that

"some degree of journey time extension"

means the odd minute or two?

Jim Steer: Yes.

Mr Welsh: You are sure of that.

Jim Steer: Yes.

Mr Welsh: I will be interested to check that against delivery.

Can you give an assurance that what are referred to as other secondary, rural and freight lines will not be allowed to deteriorate to the level at which services are so poor that the route could be faced with closure?

Jim Steer: I can give you that assurance.

Mr Welsh: We are talking about the majority of Scottish rail lines. Are you sure that you can give an absolute assurance?

Jim Steer: Yes.

Mr Welsh: What industries would be affected?

Jim Steer: I am sorry; I do not follow you.

Mr Welsh: You have told us that no services will be allowed to deteriorate to the level at which routes will be closed and that we are faced elsewhere by extensions in journey times. We are talking about the majority of rail lines in Scotland—

Jim Steer: Let me get this clear. You asked me for an assurance that the routes would not deteriorate to a point at which they would have to be closed. I gave you that assurance.

Mr Welsh: They will not be allowed to deteriorate to a point at which they could not be used, but how much improvement could they expect to receive over the coming period? That is a linked part of the equation for those who use the services.

Jim Steer: Indeed. I suggest that the provisional conclusions that the regulator has come to are the best pointer to the detail on improvement. They set out targets for Network Rail over the five-year period for reductions in temporary speed restrictions, the number of broken rails and so on. The general direction is towards an improving network capability and reduced delay minutes for users of the network. Again, I repeat that we are supportive of that and would like investment to be targeted to maximise its value and speed up performance improvement on the busier sections.

Mr Welsh: What assurances can you give about the future of rail freight services in Scotland? Have you any idea which industries would be affected? It is obvious that industry wants the most efficient freight service, and we want to get as much material as possible off the roads and on to rail. Where do you see the future of freight services in Scotland?

Jim Steer: When you say that the routes will be affected, you seem to imply that they will be deleteriously affected. I do not believe that they will be affected in a negative way. We have deemed the principal freight-flow routes in Scotland to be part of the primary network anyway. Network Rail will seek to maintain those routes because they are important flows that it is obligated to carry through its agreements with the freight train operating companies.

We see a strong future for rail freight. Scotland is an extremely important part of the national picture for various reasons. Longer-distance flows are clearly more attractive for rail operations than shorter-distance flows. That is a generalisation, of course, and there are exceptions. There are some very efficient shorter-distance rail freight flows in Scotland, and where those represent value for money the SRA would be highly supportive of them.

15:00

The Convener: Paul Martin has a question.

Paul Martin (Glasgow Springburn) (Lab): My question has been covered.

David Mundell (South of Scotland) (Con): I want to ask two questions. The first is about the maintenance of rail property—stations and the wider estate—at a level that only meets health and safety requirements. Do you not think that it will make stations less attractive to the travelling public if they are resourced to operate at a level that only meets health and safety requirements?

Jim Steer: That is a matter of current debate between Network Rail and the rail regulator. The rail regulator has made a provision for a certain amount of money for the maintenance and renewal of stations, and Network Rail has questioned whether that is sufficient. It is possible that the level of spend—I could probably dig the figures out if you were interested—is above the absolute minimum for health and safety requirements. Nevertheless, you are right that the quality of stations is a factor in the overall attractiveness of the railway service.

David Mundell: It would be helpful if you made those figures available to us. In the wider context, as you confirm, it is important that stations are attractive to people, who will not consider using them otherwise.

From time to time, there has been speculation in the media in Scotland about the impact of the vertical integration of maintenance. Would there be a significant benefit if we moved back to an integrated approach to maintenance?

Jim Steer: I take it that you mean by vertical integration the same organisation maintaining the infrastructure and running the train services.

David Mundell: Yes.

Jim Steer: That approach has some advocates. However, the difficulties in creating or recreating that position are often overlooked, such as the difficulty of dealing with rail freight. Rail freight is now in the hands of four or five major private sector companies that have invested in locomotive fleets, wagon fleets, and so on. They have invested several hundred million pounds—not modest amounts—and they rely for their business on having access to a rail network. If you had the groups representing that part of the rail industry here, they would say that they were strongly against vertical integration. They would anticipate that that would mean the ScotRail franchise and the Scottish part of Network Rail coming together in some form, and they would anticipate it being much harder for rail freight in Scotland to secure a growing and expanding future.

We want both passenger rail and rail freight services to expand. Indeed, that is in our directions and guidance and it is part of what we are trying to achieve. That is one of the serious factors that count against thinking about vertical reintegration, and there are a number of others. However, there are advocates for vertical reintegration.

The Convener: Until now, we have largely covered issues relating to maintenance and investment in the existing network. You will obviously be aware that—

Dr Jackson: Could I just come in with two related questions? I did ask if I could.

The Convener: I would like to make some progress, as we are overrunning quite badly at the moment. I would like to move on to some of the aspirations for enhancing the network in Scotland. One of the biggest spending areas relates to providing extra capacity at Waverley station. I know that there has been much discussion between the SRA and the Scottish Executive about the plans for Waverley's enhancement. It seems to me that Waverley is the sort of project that should have involvement from the SRA because of its importance to the network as a whole. However, I also recognise the pressures that are on your budgets because of the decisions that the rail regulator is currently pondering. What is the current state of play in discussions between the SRA and the Executive? How much of a role do you foresee the SRA playing in such a redevelopment?

Jim Steer: The discussions continue. We are meeting colleagues from the Scottish Executive, not quite daily but certainly every week, to discuss the issue. I understand that the Minister for Transport met the Secretary of State for Transport earlier this month to discuss the subject. It is for the ministers to say what the conclusion of that discussion was, but I have no doubt that they will have talked about Edinburgh Waverley as well as other issues.

We will obviously be guided by what we are told by ministers in the Department for Transport and in the Scottish Executive, but our feeling is that Edinburgh Waverley is an extremely important station. It is experiencing growth, which presents challenges, and there are elements of the station's infrastructure that could clearly do with improvement. Access is not as easy as it should be and some features of the station are undoubtedly confusing to users, and it would be a fine thing to improve matters. As members are well aware, the costs of doing that kind of work for a station as large as Waverley are very significant indeed. Here, as in other parts of Britain, we are faced with the problem of inadequate public funds to make the investment that many people feel is needed.

The Convener: When do you expect to reach a firm conclusion among yourselves, various other Government bodies, the Department for Transport and the Scottish Executive as to what will be proposed for Edinburgh Waverley?

Jim Steer: The discussion is about the steps that could be taken. Everybody appreciates that, if there is a funding constraint, we must consider what we can do with the limited funds that are available. At present, the SRA has no spare funds, I am afraid, but we go into a spending review next year and we shall certainly be seeking to secure additional funds. We will have in our minds the investments that are on the table in Scotland as well as in England and Wales. In terms of funding from the SRA, there is unlikely to be any short-run conclusion, but I believe that the work that has been done on the options available at Waverley is close to concluding what a first prudent step might be. That might be just a matter of weeks away.

The Convener: I want to move on to the modernisation of the west coast main line, and I believe that Tommy Sheridan has a question on that.

Tommy Sheridan: When will we get an hourly service on the west coast main line to London? The original plan was to raise the track speed to 140mph; will that speed ever be reached and, if so, when? When will the Pendolino trains reach 125mph and will they have tilt operation?

Jim Steer: The hourly train to London from Glasgow is planned for 2005. The 140mph target has been deleted from the programme, but the rolling stock has that capability and it has proved

that it can operate perfectly safely, even tilting, at 140mph. In future, it would be feasible to upgrade at least parts of the route to that speed if it was found to be worth while.

Although 140mph makes for snappy headlines, it does not make a huge difference to journey times on the west coast main line when compared with 125mph. The journey time saving is approximately five to 10 minutes, even on the longest route, which is London to Glasgow. It is important to upgrade the route so that we can get 125mph operation and tilt operation, which would avoid the need to slow down and speed up between curves. At present, that upgrade is on track for introduction in September 2004 in the section between Crewe and Euston which, although it is in England, will benefit the Anglo-Scottish traveller. The trains are cleared for 125mph operation, they are running and they will be capable of running with 125mph tilt progressively over the route during next year. The current plan is to introduce a 125mph tilt timetable in September 2004. That date has not been finally agreed, but it is the current plan.

Tommy Sheridan: Many of your answers have mentioned restriction of public funds. Obviously, you have overall responsibility for the amount of money that is being invested in the rail network and I hope that you are aware of the amount of money that is being extracted from it. How much public money has been invested in the rail network since 1996? How much has been extracted in the form of profits from the 26 train operating companies during that same period?

Jim Steer: My goodness. I am not sure that I can answer off the top of my head about the amount of public money that has been invested since 1996. It will certainly run into several billions of pounds.

The profit margins of the various train operating companies are not very high. The franchises have been let on the basis of tight margins and several of the train operating companies have failed to achieve their projections and have not made the expected profits.

Tommy Sheridan: So, if I were to say to you that during that time public investment reached £9.97 billion and the profits extracted amounted to £7.25 billion, would you dispute that?

Jim Steer: In terms of the train operating companies, totally. The amount is nothing like that.

Tommy Sheridan: Perhaps we could ask you to provide those figures.

The Convener: It would be useful if you could provide them.

Jim Steer: I am sorry, but I am not sure that I can extract from all the sources the profit levels of the train operating companies. However, I will undertake to do what I can.

Tommy Sheridan: It would be useful if you could because, in response to David Mundell, you talked about vertical integration. I am in favour of that and I like to call it rail sanity. For the record, when you talk about increasing the track charges from £3 billion to £5 billion, you are saying that you will charge the train operating companies more to use the track and we will pay that cost, so the companies will not pay anything extra.

Jim Steer: That is correct.

David Mundell: I have a small supplementary question on the west coast main line and faster trains. Will it be the case that smaller stations on the route will be less used by those trains? When there are faster trains, will there be—perversely—fewer services on the west coast and at stations such as those at Lockerbie and Carstairs on the route, as the service will migrate towards stops at larger stations?

15:15

Jim Steer: I am not sure whether the detailed plan for station calls for the 2005 timetable has been drawn up. As far as I am aware, the service between Lockerbie and Edinburgh, for example, has improved over the past couple of years and I am not aware of any proposals to reduce it.

David Mundell: I am reassured by that; however, that service has not in fact improved, as there are fewer services. I hope that an outcome of faster trains and an SRA policy thrust would not be fewer stops.

Jim Steer: The issue of station calls at minor stations always involves balance. Obviously, local communities must be served without there being undue extensions of journey times for perhaps the 98 per cent of passengers who will enjoy the momentary station call but think that it has added another five minutes to their journey. There will always be such issues, but certainly no policy direction that the balance will shift one way or the other is implicit in the west coast main line upgrade.

Dr Jackson: Which Scottish stakeholders did you consult in developing your strategy?

Jim Steer: I am afraid that I do not have the list in front of me. We certainly received many responses from various agencies in Scotland.

Dr Jackson: Perhaps you could let us have the list.

Jim Steer: I would be happy to provide it.

The Convener: That brings us to the end of the first evidence-taking session. I thank Jim Steer for

giving evidence and all members who participated in the session.

Before we take evidence on the Antisocial Behaviour etc (Scotland) Bill, we must consider a paper from the clerks. Earlier, I mentioned that the committee intended to take evidence from the Office of the Rail Regulator and Network Rail, but perhaps I was a little presumptuous, as the committee must first agree to take evidence from them. Do members therefore agree with the paper's proposal that we take evidence from the Office of the Rail Regulator and Network Rail?

Members *indicated agreement*.

The Convener: We will have a two-minute break while the first witnesses to give evidence on the Antisocial Behaviour etc (Scotland) Bill come in.

15:18

Meeting suspended.

15:21

On resuming—

Antisocial Behaviour etc (Scotland) Bill: Stage 1

The Convener: We welcome the first panel of witnesses this afternoon as part of our consideration of the Antisocial Behaviour etc (Scotland) Bill. The panel comprises Gordon Greenhill, who is head of environmental health at the City of Edinburgh Council; Ian Kelly, who is head of environmental operations at Stirling Council; Jacqueline Cunningham, a member of the council of the Royal Environmental Health Institute of Scotland; and, finally, Alastair Brown, secretary of the Scottish pollution control co-ordinating committee. I believe that Gordon Greenhill wants to say a few words of introduction on behalf of the panel before we move to questions.

Gordon Greenhill (Society of Chief Officers of Environmental Health in Scotland): My colleagues might also wish me to clarify the difference between the society and the professional body. The society is made up of the lead officers in environmental health in each of the 32 local authorities in Scotland. What we bring today is not a view from Edinburgh or Stirling but a view from across the range of authorities.

As the committee is probably aware, the World Health Organisation defines health as the mental, physical and social well-being of Joe Public. The bill covers that ambit fairly well. If someone thumps out bass notes on their stereo every night of the week, their neighbour's mental health and their physical health will certainly be affected. Similarly, if we do not keep the streets free from litter and other accumulations, there will be an impact on people's social well-being.

We welcome the bill. Initially, we had reservations about the range of duties that the bill encompasses. We thought that sufficient legislation was available to the police in Scotland particularly in the area of noise. The consultation was a very good example of one in which the documents were issued quickly. Having looked again at the documents, we think that it is clear that we were slightly out of kilter with those who responded. We are happy to revise our position today. Although the police were empowered to take action, practical examples showed that—because of the pressure of other work—they were not actually responding to public complaints about noise. In Edinburgh, the response time for a noise-nuisance complaint from a neighbour is four hours. That is not sufficient for the person who is suffering that nuisance every single night of the

week. By the time the police arrive, there is no evidence.

We are grateful for what part 1 of the bill says about antisocial behaviour strategies. In most councils, such strategies are driven by housing departments. The problem is seen as a housing matter and antisocial behaviour teams concentrate on local council housing. In Edinburgh, that represents only 11 per cent of the housing stock. The bill proposes a broad church—with various partners coming on board, and with consultation of communities on what should be in the strategy. That is very welcome. Our profession would hope to participate actively in that.

We would like to raise a number of technical points on noise. However, they may not be for this committee; we may raise them with the Executive. We would like to have further discussions on the technicalities of the bill in relation to noise measurements.

A couple of years ago, the environmental health profession embraced the legislation on the introduction of fixed penalties for littering, dog fouling and the like. We were told by all sources that we would end up with a sore face out on the streets. That has not happened. We have served more than 1,000 fixed-penalty notices and we have not had one physical assault. We have had one or two verbals, but that is to be expected. We have a 98 per cent payment rate. That tells me that people are saying, "It's a fair cop, guv'nor. I did it."

We have highlighted concerns that if we start handing out fixed penalties at 2 o'clock in the morning, people will respond aggressively. However, I am not convinced that that will be the case. Once people have been confronted and had something pointed out to them, they will normally comply. A small number of people will respond aggressively—that is where we will look for our colleagues in the police force to back us up—but I do not expect there to be a major problem with fixed-penalty notices, regardless of the time of night.

However, the profession does expect problems with staffing. There is a dire shortage of environmental health officers throughout Great Britain. Our society is trying to address that, in collaboration with our colleagues in the Royal Environmental Health Institute of Scotland and in the universities. Because of the staffing problem, we should not be restrictive and say that a person carrying out certain duties must be an environmental health officer. The society finds that unacceptable. As long as they are competent to undertake a duty, and have the proper authorisation, suitably qualified officers should be able to carry out noise patrols.

We disagree with the Executive's suggestion that community wardens will be able to serve fixed penalties for noise. The legislation requires the person serving the notice to do quite a scientific measurement, then go through a legal procedure, and then—if there is an appeal or if the notice is not paid—go through the procurator fiscal and ultimately the courts. In my experience, community wardens are very good at what they do at street level, but they are not enforcers—and they are not competent in acoustics. It is optimistic to ask people at that level to undertake such duties. The bill also suggests that the police will do noise measurements. I do not know many police officers who are competent in acoustics. Something has gone awry in the bill.

Part 6 deals with littering and environmental improvements. The expansion of fixed-penalty notices is greatly to be welcomed—they have worked in Edinburgh. Sometimes, cultural change is effected through education; at other times it is effected through enforcement. Drink-driving and seatbelt legislation are examples of that. People did not willingly put their seatbelts on until legislation was introduced. In a similar way, people will not willingly stop littering, or abandoning waste, unless there is a cultural change. That may have to be effected through enforcement. That is happening in Edinburgh.

On the financial aspects of the bill, which have been articulated in the financial memorandum, there is under-provision. There may be sufficient money for the noise provision, bearing in mind that the Executive has taken the sensible line of allowing councils to decide whether to adopt a 24-hour service. If a council has very few complaints about noise at night, why should it adopt the measures or have the statutory duty imposed on it? Things might pan out quite well, as the major conurbations might take on the duties. There is a great deal of discussion about partnerships even at this early stage. East Lothian Council has asked the City of Edinburgh Council whether it will do its noise work at night; I am happy to do so, as long as East Lothian Council pays me.

15:30

There is under-provision in relation to fixed-penalty notices. The assumption is being made that there is hard-and-fast cash for community wardens and what we in Edinburgh call environmental wardens, who come under environmental health. I have 35 environmental wardens, who are at slightly higher education and qualification levels than are the community wardens and who deal with enforcement. The provision for them comes from temporary moneys from various sources in the Scottish Executive. If the Parliament wishes us to continue with fixed-

penalty notices to stop dog fouling and littering, £20,000 for the whole of Scotland will not be enough. It is being assumed that EHOs can take on extra burdens and that they can go down the street and issue a fixed-penalty notice for example. The targets that have been set in relation to food hygiene inspections mean that the EHOs are rushing from one premises to another to get their inspections done, so they do not have time to take on extra duties. Adequate provision should be made to allow councils to employ people who can be concentrated around schools and carry-outs where the problem of littering occurs.

My final point is contentious and I will throw it into the pot for discussion. Part 8 refers to the registration of landlords, where they are errant and misbehaving and not paying for common repairs and the like. Experience has been gained in the past two years of the licensing of houses in multiple occupation. That has raised the standards and health and safety levels for people in quite high-risk premises. In Edinburgh, 2,000 houses are now licensed as houses in multiple occupation. To say that those houses were poor does not quite cover it; there were three-bedroom flats with 17 people in them. They were brought up to a proper standard with a proper number of people living in them so that the conditions are decent. Why are we stopping at the registration of the bad landlords? Why do we not register every single piece of rented accommodation in Scotland, so that all such accommodation is brought up to a decent standard? Why is it that the houses with five bedrooms are registered, but the single parent living in a single end can be exploited in rented accommodation?

The Convener: Thank you for those introductory remarks.

Dr Jackson: I notice that the society said that it very much welcomed the openness and transparency of the consultation process. Does the Royal Environmental Health Institute of Scotland also welcome that?

Jacqueline Cunningham (Royal Environmental Health Institute of Scotland): We have of course welcomed that openly. We also welcome the bill, although a number of its aspects give us cause for concern or merit further scrutiny where REHIS is involved.

I do not know whether members are familiar with REHIS, so I will give you some background to the organisation. REHIS was established in 1983, although its roots go back to 1875. It was incorporated by royal charter in 2001. Its main objectives are to promote the enhancement of environmental health by stimulating general interest in and disseminating knowledge of environmental health matters to all concerned. It is also involved with promoting education and training in matters related to environmental health and with maintaining high standards of professional practice and conduct on behalf of environmental health officers in Scotland.

Various aspects of the bill concern environmental health including the noise, fly-tipping, litter and housing aspects that Gordon Greenhill gave the committee a flavour of earlier.

In answer to your question, REHIS welcomes the openness and transparency of the document.

Dr Jackson: My second question is about the noise nuisance service. Gordon Greenhill has already welcomed the 24-hours-a-day, seven-days-a-week idea that is in the bill. However, both your organisations' submissions state that more could have been done to apply the powers that already exist rather than use new legislation. Could you expand on that concern?

Jacqueline Cunningham: From REHIS's point of view—on behalf of environmental health officers, environmental health practitioners and those involved in the environmental health profession—there are a number of ways in which we can deal with noise issues in society.

The bill introduces a fixed-penalty element, but a route currently exists under the Civic Government (Scotland) Act 1982 whereby a police officer can act upon certain types of noise arising from dwellings. It may be necessary to find out why that existing option is not working properly. I do not feel that that option has been explored to its full potential.

Dr Jackson: Is Gordon Greenhill's view the same?

Gordon Greenhill: I agree to an extent, although that legislation has been on the statute book for many years—since 1982—and you could count on one hand the number of premises that have been prosecuted by the police. The public get to the stage at which they think, "What is the point of complaining?" and give up. If they phone my department and say, "My neighbour's telly is blaring," I will say, "That is a police offence." I then mark down that I have met my statutory performance indicator because I have got rid of the case and abandoned that person—I have passed them on to another agency. If I meet the person who phoned me a year later, they will say, "Nothing ever happened." The police do not have time to concentrate on responding to such complaints.

If you ask the Association of Chief Police Officers in Scotland, it will tell you exactly the same. It is a matter of priorities. If there is a fight in Lothian Road or noise in Marchmont, which incident will they go to? If a dedicated noise team

is set up, people will get some relief from the problems that they face week in, week out.

Paul Martin: You say that such complaints are a matter for the police and that the complainer ends up giving up. Is it not the case that they give up because when they speak to the police, the police say, "It is a matter for environmental health"? That game of tennis becomes part of the local set-up. We then find that there are not enough resources involved in dealing with the case not only from the point of view of environmental health but from the point of view of the police. The police, who deal with all the calls, do not enforce the legislation because they do not have the resources to deal with the issue. They do not solve the original problem. Is not that the point?

Gordon Greenhill: I agree entirely. The public have not been best served for many years in relation to domestic noise. I agree that it is like a game of tennis. If you mention the provisions on noise in the Civic Government (Scotland) Act 1982 to a local bobby, he will not have a scooby what you are talking about, because they do not use the provisions of the act—they are not trained to do so. It is not the fault of the individual police officer who gets a call about noise. They are not aware of the legislation and do not enforce it regularly.

You are right that perhaps the environmental health profession should have made a stand sooner on the issue of people whose health is continually eroded by domestic noise. However, we did not have any powers to do so. If we had gone to the Environmental Protection Act 1990 or the earlier legislation—the Control of Pollution Act 1974—we would have been using a sledgehammer to crack a nut, as that legislation was not designed to deal with such scenarios; it was meant to deal with large factories, pubs, clubs and the like. Legislation to deal with domestic noise was not available to us. I have seen examples of the scenario that you describe on many occasions, with people having repeatedly to go backwards and forwards.

Paul Martin: Is there a case for having an enforcer to ensure that the agencies work together to deal with the issue in the first place? One of the issues for complainers is that no one is willing to take responsibility. Aside from the fact that the police have their own operational commitments, there is a lack of co-ordination between the agencies.

Gordon Greenhill: There is not a lack of co-ordination. In fact, I suggest that co-ordination has improved over the years. We now have joint protocols with the police. For example, we examine recurrent complaints to ascertain whether there are patterns to them. The legislation needs to be changed—it is as simple as that. If an authority is not undertaking the duties that it is empowered to undertake, that is because it has other priorities. The police will not say that they do not deal with domestic noise; they will say that their classification of such complaints means that they are dropped down the scale to a four-hour response. Someone might complain about a party being held at 6 am, but that party will no longer be happening by the time the situation is responded to, and the police will write the matter off as having been achieved.

Mr McFee: I recognise the game of tennis that is being described, having spent 15 years as a local government councillor. The police give such matters a very low priority on their agenda. Environmental health officers or directors say that they do not have the appropriate powers to deal with some of the situations that have been described, and that people should instead go to the police. It is a vicious circle.

You said that community wardens did not constitute a suitable body of people to carry out noise monitoring in co-operation with your officers. Your comments suggest that you are not being protective in this matter; in other words, it is not simply a question of your wanting environmental health officers and nobody else to undertake the tasks in question.

In your opinion, would it be useful if another grade of staff was created, whose specific job was to deal with noise monitoring? I am mindful of the small size of environmental health departments and of the small number of officers who work for local authorities. They are engaged in food hygiene, weights and measures and various other areas of responsibility. Is there a case for the creation, under local authorities, of posts for people who, although they might not be trained as environmental health officers, can carry out the function of noise monitoring? They would preferably be at least 6ft 2in to enforce the legislation. If you think that there is a case, what would the cost of such an operation be? I support the proposals but, looking at the way in which they have been written up, I am concerned that not terribly much is going to change.

Gordon Greenhill: Let me take your last point first. I disagree with what you say about the way in which the proposals have been written up. I foresee a lot of change taking place if councils embrace and implement the proposals.

However, I agree entirely with your other point. I had no intention of staffing a 24-hour service with EHOs, first, because it would be costly, and, secondly, because the officers are not available. We manage the situation with EHOs, who have full qualifications in the range of duties relating to the enforcement of environmental health, but we also have enforcement officers. Some of them carry out food hygiene inspections; some have public health

duties; and some carry out infectious disease investigations. There are a number of recognised courses that we could use. For example, REHIS runs a number of courses on noise, whereby certifications can be obtained. Alternatively, diplomas can be obtained from the Institute of Acoustics. A number of organisations award qualifications, with which people can demonstrate that they are competent and fair. We have to be equitable across the city. A measurement in one area has to be the same as one in another area—there should be no deviation.

To answer your question, we should indeed have other competent people undertaking properly managed environmental health functions. Environmental wardens are similar, in that they are trained to a certain level and carry out enforcement of a number of acts. They do not do the full range of duties, however.

Mr McFee: The financial memorandum states that around £2.5 million will be provided for local authorities throughout Scotland to cover the noise nuisance proposals. Would you say that that is inadequate?

Gordon Greenhill: That sum will be inadequate if the proposals are taken up throughout Scotland.

Mr McFee: Do you have an alternative ballpark figure?

Gordon Greenhill: I would have said that about £3.5 million would be required for that.

Iain Smith: The questions that I was planning to ask have mainly been covered, but I would like to follow up on one issue. REHIS's submission to the Scottish Executive makes it very clear that responsibility for issuing fixed-penalty notices for noise nuisance—and indeed responsibility for some of the bill's other provisions—should be limited to environmental health officers. However, we have heard clear evidence that there is a shortage of such officers. Is the proposal realistic or do you accept the suggestion that other officers could be trained to carry out that important duty?

15:45

Jacqueline Cunningham: The root of the problem is that, although I would like to have more environmental health officers in the system, local authorities have neither the facilities nor the funding to train EHOs to such a level of competence. Earlier, someone asked whether officers in local authorities could be assigned to specific rather than general areas. However, that arrangement already exists. The general EHO is more or less a thing of the past; local authorities now have specific EHOs who are tasked with examining one particular subject.

At the end of the day, a ticket does not necessarily have to be issued by an EHO, as long as the person in question is properly trained within their profession, has the right degree of competence and is suited to the job. Having an environmental health officer dishing out litter notices is perhaps not the best use of resources.

Iain Smith: Do you think that the institute has a role in drawing up specifications for training that people must have before they are given the power to issue notices?

Jacqueline Cunningham: The institute is open not only to environmental health officers. In fact, a number of different specialists and technical officers who are employed by local authorities and have the right academic qualifications and practical experience have gained corporate membership of the organisation. The opportunity that you have outlined is already available.

Paul Martin: As one of the Executive's concerns is graffiti, the bill proposes to ban the sale of spray paint to under-16s. How would such a step impact on and improve the situation with graffiti?

Alastair Brown (Royal Environmental Health Institute of Scotland): REHIS supports the proposal to ban the sale of spray paint to under-16s. However, I am not too sure whether we are able to quantify either the problem or the improvements that might emerge from such an initiative. Anecdotal evidence suggests that there have been various problems with under-16s and spray paint and the institute feels that such a ban would mean marked improvements on the current situation.

That said, the situation must be properly evaluated. In that respect, we have suggested proposals that are similar to those dealing with alcohol, fireworks and so on, in which we try to evaluate whether shopkeepers are abiding by the law.

Paul Martin: The bill also seeks to make the power to serve fixed-penalty notices for littering offences available for fly-tipping offences. The Executive believes that such a measure will allow minor cases of litter on private land to be dealt with in the same way as cases of litter on public land. Do you welcome that step? Are there enforcement issues that must be addressed in that respect? Like most members of the Scottish Parliament, I speak from experience of local issues. One of our main concerns is that, although we can legislate for such offences, we might not be able to enforce the legislation. Moreover, what methods can we use to ensure that we detect such offences? I appreciate that if you had an answer to that question you would copyright it, but I think that it is worth asking.

Gordon Greenhill: It is a fair question. Because of a lack of resources, councils and the Scottish Environment Protection Agency have not dealt with the problem of fly-tipping well—I was going to say that we have abandoned it, but that is a poor choice of words.

We have tackled fly-tipping in Edinburgh through fixed-penalty notices. One of the things that I disagree with in the bill as drafted is the requirement that we have to see the person fly-tipping. That will not happen, will it? We do not have the resources for that. I would like a slight change to the bill. As I said, I have been talking about the minutiae with the people who drafted the bill. I would like the bill to enable action based on evidence within the fly-tipping itself.

We have taken it down to gutter level. We put a fixed-penalty notice on a sauna when we opened the rubbish that had accumulated on private land and found various things that traced it back to the sauna. The fiscal took that case. Why do we have to see someone fly-tipping if there is a receipt from a hot food carry-out in among the dumped rubbish? Let us let the fiscal decide. Let us take those cases to court, and let us not limit the provision to our having to see the person fly-tipping, because that will limit our ability to respond.

We welcome the fact that the power to take action is being opened up to the police and SEPA—the more, the merrier, as far as I am concerned. However, I do not see the police rushing about giving fixed-penalty notices for fly-tipping.

Paul Martin: Are there good examples of joint working with the police authorities?

Gordon Greenhill: Yes. There is also good working between local authorities and SEPA. We undertook various initiatives in the Edinburgh situation, in relation to dumping round about the civic amenity sites. The police are very helpful in many situations, if they are given time to plan. They need to have their downtimes worked out and officer time available. It all comes down to when the officers will be available. If we plan with the police well before we want to do a blitz and tell them what we want, they will co-operate. However, at certain times of the week in a city, there can be a problem if we say, "We need you now. Someone is fly-tipping."

Alastair Brown: One of the key issues is the liaison between different agencies that we talked about earlier in relation to noise nuisance and domestic situations. One of the problems has been that, up to now, the various agencies have operated almost in a vacuum—they have been operating separately. An environmental health officer can sometimes be dealing with a case of noise nuisance only to find out that the police are dealing with the same case and have been dealing with it for a long time, unknown to the EHO. There are various instances of agencies not working in co-operation with one another. If the proposals in the bill are to work and improve the situation, systems must be in place whereby the various agencies liaise with one another and work with some kind of co-operation.

Paul Martin: Again, it comes back to the point about how we ensure that the agencies work together. There are some examples of good practice.

Gordon Greenhill: It comes back to the strategy that is elaborated in part 1 of the bill, which puts a statutory duty on us to liaise, show that we have liaised and have information-exchanging systems. The bill is unique among pieces of legislation in making it compulsory for the chief constable and the local authorities to get together, agree information systems and publish what they are going to do strategy-wise after consultation. That is great.

Alastair Brown: In my day job, I work for Glasgow City Council, which has seconded an officer from Strathclyde police. The idea is that, as well as coming out and engaging in initiatives on issues such as dog fouling, fly-tipping, litter, noise nuisance and so on, the officer will also act as a go-between between the environmental health professionals in Glasgow City Council and Strathclyde police's local divisional commanders and so on. There is a lot of mileage in such a scheme, in which the officers do not just co-operate and liaise, but are based in the same office and deal with the same cases at the same time so that everybody knows what is going on.

Mr Welsh: The problem with fly-tipping, especially in rural areas, is the difficulty of catching the people who are doing it. In your introductory remarks, you expressed a favourable view of fixed-penalty notices. However, some people have argued that fixed-penalty notices might not be the best way of dealing with such offences. They claim that offenders give false details and that fixed-penalty collection rates are poor in some areas. What is your opinion?

Gordon Greenhill: I agree that, in certain areas, there has not been rigorous enforcement. The bill's explanatory notes stipulate that if, for example, you can prove that someone has dropped 14 tonnes of waste on a piece of land—which is a criminal offence—you would not give them a fixed-penalty notice, as that would decriminalise the matter; you would proceed with statutory measures through the courts to have the full fine imposed. You would have to weigh up, through experience, whether the incident is serious fly-tipping and should proceed to the

procurator fiscal or whether, for example, a builder who has arrived after the dump has shut has dumped a wee bit of material nearby.

I have a great deal of sympathy with the rural authorities, as their situation is much more difficult, given that they have vast areas of land to deal with. In Edinburgh, we have mobile closed-circuit television cameras and stationary CCTV cameras located in areas where we know that fly-tipping takes place. I do not know what rural authorities could do in that regard, other than go to the n^{th} degree to get the evidence. If the authority is aware that fly-tipping takes place between 9 and 11 at night, it should put its officers out at that time as there would be no point having them out from 9 to 5.

The issue is one of good management in local government. However, I appreciate that rural authorities struggle in relation to fly-tipping.

Mr Welsh: Do you think that the fixed-penalty notices would be appropriate for a certain level of littering?

Gordon Greenhill: Absolutely.

Mr Welsh: In the financial memorandum, the Executive states that the cost of implementing the new provisions would be minimal, since the intention of the proposals would be to reduce the occurrence of the offence rather than to increase the number of notices issued. You seem to be asking for more staff, however. Do you disagree with the Executive's view?

Gordon Greenhill: I highlighted in my introduction that finance of £20,000 across the whole of Scotland would not be enough to allow us attack the issue with vim and vigour.

Mr Welsh: Can you estimate what you think the costs might be?

Gordon Greenhill: I have not given thought to that or discussed it with my colleagues across Scotland. However, I would have thought that every authority should employ a couple of guys to patrol the area and act as deterrents in the manner of environmental wardens—they would wear a uniform and be visible and so on. I would guess that that might cost perhaps £500,000 or £1 million. I do not know, though. The issue is difficult to quantify and I would have to speak to my colleagues in rural authorities to find out what they think that they would need to allow them to have a bit more bite.

Mr Welsh: Could you do that and give some figures to the committee at a later date?

Gordon Greenhill: I would be happy to do so.

Paul Martin: One of the proposals in the bill concerns community reparation orders for 12 to 21-year-olds. A number of respondents have raised the concern that the removal of graffiti could present some environmental problems. What are your views on the introduction of such reparation orders? Do you have any environmental concerns relating to, for example, the removal of graffiti?

Gordon Greenhill: I would not like to comment on reparation as there are people in other professions who are far more qualified than I am to talk about those aspects of the bill. I have not dealt with any of the aspects of the bill other than those that I see myself as being responsible for enforcing.

There would have to be proper supervision of reparation orders—I am sure that we would not get kids to go and clean up shark-infested waters or deal with dangerous chemicals. There would be a risk assessment of any form of reparation, including the removal of graffiti. I do not think that the removal of graffiti presents a major danger, other than that of elbow strain.

Alastair Brown: REHIS supported reparation in its response to the consultation. We would like fixed-penalty notices to be accompanied by community reparation orders.

Paul Martin: Are there any health and safety concerns that you are aware of?

Gordon Greenhill: There is a health and safety aspect to everything. You need a risk assessment to find out whether an activity is dangerous. If a 12-year-old were standing on a box scrubbing off spray paint, I would ask my medical colleagues to tell me whether that was dangerous to his health, because I am not qualified to comment on such matters.

David Mundell: I want to go back to what you said at the start. If I followed you correctly, you seemed to indicate that, initially, you were sceptical about the bill's making any difference and then you formed a view that it would make a difference. I was not quite sure what you said had swayed you to the view that the bill would make a difference to your day-to-day work.

16:00

Gordon Greenhill: Initially, we were asked to comment on "Putting our communities first: A Strategy for tackling Anti-social Behaviour", which was a weighty tome on which we had little time to comment. Its proposals on issues such as noise were obviously open to debate and posed the question, "Why do we want new legislation when there are sufficient powers?" Now that we have seen the bill and the comprehensive feedback on it, we have a more informed opinion of what people are saying across the range. Perhaps, as a profession, we were too insular; it is nice to hear what other people think should be done. With the

benefit of hindsight and the feed-in process, I think that the bill is about right. "Putting our communities first" was too broad. The bill is focused on what the Executive wants to achieve and we welcome that.

David Mundell: What in the bill will make a specific difference?

Gordon Greenhill: I can see that we might need reinforcements. My colleague Ian Kelly will answer that.

Ian Kelly (Society of Chief Officers of Environmental Health in Scotland): I will try to explain the difference that the bill will make. When we responded to the first consultation, we saw the duty on noise nuisance as an added burden, particularly for small local authorities. We took the view that the police had adequate powers under the Civic Government (Scotland) Act 1982. We also reckoned that in small—particularly rural—authorities, the demand for a 24-hour service would not be high, so we could not see the sense in saying to those authorities that we wanted them to provide for a 24-hour response to antisocial noise. At that time, we thought that the existing powers were adequate, but that we might need to consider community planning and to get partnerships established between the police and environmental health officers so that we could ensure that we enforced section 54 of the 1982 act.

The difference is that the bill, in adding powers to environmental health officers' duties, contains so many benefits. For example, it has a really novel approach to warning notices and fixed-penalty notices. What we have at the moment amounts to nothing, unless the police choose to go in and whip away someone's hi-fi, whereas the bill contains a sensible midway measure.

City authorities might be able to staff up to enforce the bill, but although smaller authorities, such as mine, can see the benefits of the bill we reckon that we might have to consider other ways of implementing its provisions. We might need to go to other authorities and to have a joined-up approach. We notice that Government funding is available. By using that funding and a joined-up approach to tackling the problem, we will operate over a bigger area and will expand the demand for the noise nuisance service. It is a simple question of the scale of the problem. If we have more EHOs for more authorities, we might be able to implement the service. The good points in the bill forced us into a rethink of how we tackle noise nuisance.

David Mundell: I want to return to the enforcement and staffing issues. I think that Jacqueline Cunningham made a point about non-environmental health officers doing some of the tasks in question, because of the difficulties in recruiting or funding EHOs. In the evidence that it gave to us, Highland Council indicated that it had difficulty not only in recruiting qualified people to do the job, but in recruiting people who would do the job in a trained-up way—if I can use that expression. Are you satisfied that, even if we do not have environmental health officers carrying out enforcement measures, it will be possible to recruit sufficient people to enforce the bill?

Jacqueline Cunningham: Such scope exists—there are people out there who could satisfy the requirements. Ideally, as I said previously, I would like to see people involved in the environmental health profession following the route of the environmental health officer—where that role previously sat. I explained previously the problems that we have recruiting environmental health officers, but I do not see any huge problem in trying to recruit people with the necessary expertise to fulfil the requirements to undertake noise surveys, noise assessments and noise monitoring.

Alastair Brown: It could be dealt with by using people who are registered with an approved board, for example. We do that already with some of the other environmental health functions.

The Convener: That draws us to the end of questions for this panel. Thank you for your evidence.

I welcome to the committee the next panel on the Antisocial Behaviour etc (Scotland) Bill. We have Mairi Brackenridge, the justice services manager from South Lanarkshire Council, and a member of the criminal justice standing committee of the Association of Directors of Social Work. We also have with us David Cumming, who is the head of children's services at Glasgow City Council social work department and a member of the children and families standing committee of the ADSW. Welcome to you both. Before we move to questions, do you wish to make an introductory statement?

Mairi Brackenridge (Association of Directors of Social Work): Yes, we would like to make a couple of brief points. I will take a broad overview, and mention something specific about staffing issues, and David Cumming will look in particular at issues relating to the children's hearings system.

We welcome the opportunity to present this evidence. We recognise the detrimental impact that antisocial behaviour can have on communities and on individuals. However, our evidence is based on a considerable level of professional social work experience and expertise—David Cumming and I have between us 59 years of experience in social work—and it is from that

professional background that we raise concerns about various aspects of the bill.

We are concerned that if the measures are put in place they will not impact significantly on antisocial behaviour. We are concerned that the proposals will, in fact, lead to the criminalisation of individuals, and that they will be drawn into the criminal justice system more than they would have been previously. In the longer term, that could potentially increase the number of young people who go to prison, and alienate yet further a group of young people who are already disadvantaged and alienated from society.

We recognise that the bill has taken on board a number of the concerns raised during the consultation process, and that it is recognised that antisocial behaviour is not typical of young people's behaviour. We welcome the fact that the bill recognises the importance of the children's hearings system, and we welcome the additional funding that is proposed, and the opportunity that that presents, particularly for early intervention, although there are issues about how some of the funding for outcomes has been arrived at. We need more detail before we can comment on whether it is adequate to deal with the problems raised.

It is important that any antisocial behaviour strategy that is developed works closely beside other planning activity aimed at improving the well-being of communities, and alongside service planning processes that address the particular needs of different groups of people within our communities, particularly children's service plans, youth justice plans, criminal justice plans, health plans and police plans. In dealing with antisocial behaviour it is important that we prevent the circumstances in which that behaviour arises, and ensure that where such behaviour does arise, we encourage young people to desist from it in future. There is an important body of evidence from the "what works" research that shows that desistance is critical to sustaining change within the community.

In contrast to what I heard colleagues from environmental health say a few minutes ago, we have good examples within local government of across-the-range agency working to deal with the issues that affect young people in the community, and positive examples of co-operation between agencies to try to effect change within the community.

I turn to staffing and, in particular, to section 104 of the bill, which deals with local authority accountability. We believe that it is very important that we are held accountable for our work. However, the staffing problems that social work departments face at the moment cannot be underestimated. The lack of value of social work and social care means that the problems have gone on for a number of years.

The initiatives by which the Government proposes to address some of the problems are positive, but it will be at least five years before we see results across the board. It is important that we do not look only at the resource requirement when we look at how to staff adequately. The investment that has been made in youth justice is beginning to pay some dividends. It allows us to work intensively with young people. That said, other parts of the service are not resourced to provide that intensity of support.

The staffing issue will not be resolved only by investment in social work training. For example, the introduction of the new diploma means that there will be no new graduates in the year 2006. Authorities must have long-term plans that address the problem of staffing. Such plans include growing our own: encouraging people without qualifications to enter the profession, take qualifications and move through to social work posts.

Pay and conditions for social workers also need to be addressed. Unfortunately, we are in a position at the moment where councils have to compete with one another in order to recruit what is a scarce resource. If the pool of social workers is not large enough, councils simply shift the problem from one authority to another. That problem needs to be addressed. As I said, I agree that we should be accountable for the work that we do, but we must have the resources that we need to carry out that work.

David Cumming (Association of Directors of Social Work): I will comment briefly on the establishment of social work departments following the Social Work (Scotland) Act 1968. As the committee will appreciate, that act followed the Kilbrandon report, and established the children's hearings system. My colleagues will, no doubt, talk in more detail about that system.

We have a deep concern about young people, from as early an age as 12, being introduced into what would in effect be an area of adult criminal activity. The Kilbrandon recommendations sought to introduce civil proceedings into the complex area that pertains to children and their families. Without wishing to be jingoistic, we must recognise that Scotland, through its children's hearings system, has been at the forefront of child care law and of developments in child care. Many countries look enviously at what we have established over the past 27 or 28 years. It is important that we do not try to transplant into Scotland the circumstances that might pertain to other parts of the United Kingdom. There are some quite specific differences between the two.

We also need to recognise the pressures on the children's hearings system. The volume of referrals and pressures all the way through the system affects the Scottish Children's Reporter Administration, the children's panel members and the social workers who have to compile and complete reports. However, we believe that concerns about young people should properly be subsumed into the children's hearings review rather than be dealt with in this legislative process.

In December 2002, an important document, "Dealing with offending by young people", was produced by Audit Scotland. Indeed, an update was produced a few weeks ago. The report highlighted the difficulties that we currently have with how we deal with young people. Too many resources are loaded into the processes whereby we assess young people and too few into the effective treatment and assistance of young people with complex needs, as well as of young people within their families. We need to bear in mind that holistic approach.

Parenting orders feature strongly in the bill. It is important that we continue to work co-operatively with families. All our work with children, whether they are looked after by the local authority or looked after and accommodated by the local authority—which in old money means being in care—is predicated on our work with families. Children are loyal to their families and it is important to hold on to that. Parenting orders will introduce a degree of compulsion that is not necessarily required. We believe that the existing legislation on children's hearings has sufficient teeth and provides sufficient opportunities to apply a co-operative approach with parents. The ADSW believes that a formal system of parenting orders would probably target some of those hard-pressed parents who have great difficulties with managing their children as they grow up. Those parents are sometimes single and they are often women. We all have difficulties with managing children, so we should not view the problem as someone else's—it is a common one. We need to find ways in which we can work co-operatively to assist people in dealing with that task.

16:15

On restriction of liberty orders, I want to comment on whether electronic tagging could be an alternative to secure accommodation. Scotland currently has 96 secure beds and the Executive announced in March that a further 29 would be introduced between now and 2007. The circumstances under which a child can be detained in secure accommodation fall into three broad and straightforward areas. The first is where a child continues to abscond from what is deemed to be a place of safety; the second is where a child may endanger himself or herself through their behaviour; and, conversely, the third is where a child may endanger other people. We have difficulty in seeing the relevance of tagging young people in circumstances that are already complex. As members can imagine, within those three categories, a number of care and protection issues need to be considered for the benefit of the young person who is involved. Those issues are considered consistently.

If we try to apply electronic tagging alone as an alternative to secure measures, we should be mindful that some children remain in secure accommodation for a number of months, although we would hope that the time would be as short as is required and that, during that time, there would be programmes that were tailored to their needs. In our view, those are the proper courses of action, which should be continued when young people leave secure accommodation and go back into the community, although perhaps with a different emphasis and intensity. We do not believe that young people at their earlier stages have the necessary degree of maturity to comply with restriction of liberty orders.

The Convener: The Executive has said that its consultation on the bill was unprecedented in scale and participation. Mairi Brackenridge reflected on the fact that some aspects of the proposals had been amended to take account of issues that came out of the consultation. What is your overall feeling about the consultation? Was it sufficient and has the Executive responded sufficiently to issues that arose from it?

Secondly, I note in the ADSW's written submission and in some of the remarks that the organisation believes that many of the problems of antisocial behaviour can be tackled using existing measures. Why is there a broad perception in many communities that the problems are not being tackled—by a range of public agencies? What needs to be done through existing measures to tackle adequately the problem of antisocial behaviour?

Mairi Brackenridge: Antisocial behaviour is a complex problem. The behaviour of a very few people can have an impact on a community beyond the numbers that are involved. The perception of what is happening in the community can be distorted by the behaviour of one or two people. For example, in some of the work that we are doing locally with the police, we recognise that in some areas we need to look at services for one or two people. Changing the behaviour of those one or two people would have an impact on a much wider group of young people. The 40 or 50 people who congregate around those one or two may not be a particular problem, as those young people may be able to be diverted into other

activity. The problem is with the one or two.

Another issue is that the media can contribute to the fear of crime. The way that crime is reported locally can distort the level of crime in that area. Sometimes, the actual number of offences is much lower than people perceive. All of that contributes to the problem.

There has also been a change in the way that society operates. Increasing home and car ownership means that people have a different perception of how young people in the street should be dealt with. When I was young, it was common for young people to play in the street. It was common for the neighbours to take responsibility for ensuring that the young people's behaviour was monitored. However, if the street is full of parked cars, it is much more difficult for children to play there, both because of safety concerns and because people round about are fearful that their cars will be damaged.

The bill and the consultation document, "Putting our communities first", have responded to a real public concern. However, our profession's concern is that what appear to be solutions to the problem of antisocial behaviour will not address the underlying causes. We are concerned that the bill has not taken that fully on board. As David Cumming said, the problems are often complex and may be to do with poverty, drugs and alcohol misuse, or abuse within the family. Those issues will not be addressed by a simple order. For example, from my local authority's experience over a number of years of dealing with restriction of liberty orders for adults, we know that a restriction of liberty order for people in the 16 to 18-year-old age group has less success in changing behaviour if it is not supported by programmes. The community planning processes that we now have, and the fact that we have to find ways of engaging with the community, should mean that we can talk to the community and find strategies to address some of those issues.

On the existing measures, I think that many of the issues concerning children under the age of 16 could be dealt with adequately by, for example, putting together a supervision package with the children's hearings. For those over 16, some of the issues could be addressed in the context of a probation order or by a deferred sentence or with a diversion. One reason that we have been unable to do some of those things to date has been a lack of resources. We have either not had sufficient social workers to go round or not had the resources to develop the services that are needed to support those measures. There has been considerable investment in youth justice funding, but I think that councils are only beginning to see the benefit of that. That could begin to tackle in an intensive way some of the behaviours that exist in the community. Part of our argument is that the Executive has not allowed the time to show whether existing measures can make a difference. It has introduced yet another raft of measures that just make the picture much more complex.

Dr Jackson: First, you mentioned the importance of community planning. Do you think that a greater range of organisations and groups should be involved in that? At present, only the police and the local authority are involved in community planning, although the Scottish ministers have the power to direct registered social landlords to be involved. Should a statutory duty to participate in community planning be placed on other people?

Secondly, you mentioned that you thought that there were some very good examples of interagency working. Do you believe that information sharing, which is an important part of that, could be improved in any way?

Mairi Brackenridge: I understand that, in several areas in Scotland, the community planning process works effectively if a range of agencies can be brought in, such as those responsible for health and employment. It would be important that the same responsibility is placed on them as is placed on the police and local authorities. Many of the issues to do with prevention and desistance, for example, and that are associated with the problems that communities face, are also to do with health and could be addressed by health promotion. Some desistance issues could be helped by creating employment opportunities and alternative ways for people to feel that they are using their time productively. It is important that other people should feel the same sense of responsibility felt by the police and the local authorities because, frankly, we cannot do it without their support.

I am talking from the point of view of social work, but I believe that information sharing has improved considerably. Examples of that are shown by some of the youth justice work that we have developed so that we can analyse community profiles, consider the issues, and share information on some of the young people who cause the most concern. We are trying to work out a strategy that will resolve some of those problems without necessarily bringing young people into the formal system, so we have to think about how we can involve youth services and other diversionary activities to help to do that. We are beginning to see some good examples of how that works in practice. There are also some good examples of how information sharing can work in child protection or in the management of serious offenders in the community.

There are sometimes problems with people using data protection and confidentiality as a way

of not sharing information and those should be resolved because it is not helpful to have just part of the picture.

David Cumming: Although it is true that information sharing between agencies has improved immeasurably, it still has to catch up in the wider community. Recently, I picked up Strathclyde police's newspaper, *The Leader*, in my local supermarket; I thought that it was an excellent way of putting youth crime and what is being done about it into context in a straightforward way that most people will understand. The daily newspapers do not give that same perspective and people will read and believe what they see. There is an area of broader information sharing that must be improved collectively.

Dr Jackson: I was thinking specifically about the police being included in effective information sharing, so you might want to comment on that. The other issue is that if the community planning process is bringing other partners into the process already, it could be argued that a statutory duty is not needed to bring the partners to the table because it is going to happen anyway. That is the meaning of the bill; it does not intend to exclude people.

Mairi Brackenridge: There are positive examples of people coming together already, but if we want to effect some change, everyone must have the same level of responsibility for achieving that change. It is not just about planning and talking. It is about putting plans into action and about people accepting responsibility for doing that.

Dr Jackson: Was your understanding of information sharing broader—including the police?

Mairi Brackenridge: Yes.

Paul Martin: Is not the technology that we use to share information also an issue? Information sharing is not just something that we use to target people so that we can lock them away; it is also an opportunity to attract them so that we can assist and support them. We talk about a nice strategy where everyone works together, but I do not see any evidence of social work and other related services sharing information to ensure that we support individuals. I cannot see that happening with the technology that is available, although I know that there is some technology in the outer circles.

The data protection issue comes up every time the matter is discussed. The legislation allows chief constables to share information, but is it the case that local authorities use excuses all too often and say that they cannot obtain information because of the Data Protection Act 1998? That is a great myth, because they can do so.

16:30

Mairi Brackenridge: We do not have a major problem with the police sharing information with us. It can sometimes be a problem in cases where there is no evidence: what does one do with the information? However, that is a different issue. We sometimes have difficulty with information sharing in relation to patient confidentiality—that is a major issue.

Theoretically, information technology systems should support our work, but many systems need a lot of development. Where agencies have developed different systems, those systems are not always compatible. Huge investment in resources is needed to address that problem, but by the time it has been addressed, the technology has moved on. I have been involved in the discussions about the integration of Scottish criminal justice information systems and there are problems with that. However, ways can be worked out locally to share information and track young people. Some of the evidence from the youth justice audit suggests that that is possible, although it is obvious that technology allows better tracking of people over time, and allows examination of outcomes.

David Cumming: I will add a comment about what information it is important to share. As always, the starting point is whether there is a joint shared assessment. Work is continuing—probably all too slowly—to try to arrive at a shared inter-agency assessment of the needs of children and young people. Such an assessment can still be discreet about a young person's needs and the reasons why they are involved with various agencies. Work on that is continuing throughout Scotland through the modernising Government agenda, but it will take some time, for the reasons that Mairi Brackenridge mentioned.

Information systems tend to be developed disparately. Even at assessment level, it takes time to develop a broad shared approach and ownership, but we are not so far away from having that. Although our computer systems are not always able to speak to one another, we have some good common denominators that can be built on; they are the key.

Mr McFee: I want to clarify a point before we move on. Community planning got off to a shaky start in several areas, particularly from the local authority perspective in relation to health authorities. Do you think that health authorities should, as a minimum, have a statutory duty to participate?

Mairi Brackenridge: Yes.

David Cumming: Yes.

Mr McFee: Everyone is aware that there are dire staffing problems in most local authority social work departments. Those problems result in authorities pinching key personnel from one another, and some local authorities have been involved in programmes to try to engage more people in considering social work as a career. Will you tell us about some of the initiatives that are taking place in local authorities? Will you also give an indication of the number of qualified staff that you require Scotland-wide to handle your current case load, and the number that you would require to handle the case load if the bill were passed as introduced?

David Cumming: We mentioned the Audit Scotland report, which benchmarked two dates. One is December 2002, which is, of course, retrospective. At that point, there was a 13 per cent vacancy rate throughout Scotland, which represents about 180 social workers. When Audit Scotland updated that benchmark in the past few weeks, the vacancy rate had risen to 14 per cent or 14.5 per cent, which represents about 250 social workers. Even that figure is out of date, because it too was retrospective.

To understand the staffing difficulties, we have to trace the problem back quite some time—it is not just a feature of the past few years. At the inception of the national health service and community care legislation, local authorities took on a different set of responsibilities and, to be frank, a number of staff who had previously been involved in child care services migrated into other areas of adult care. That is a long-standing problem, and there is also a long-standing problem with investment in services that are purely for children—I exclude education from that, because separate arrangements have obtained for the development of certain services in education. That is where the origin of the difficulty lies. As Mairi Brackenridge said, there will be no magic answer or silver bullet that will allow us to fix the problem within a defined period. We know that no social workers will exit training in 2006 so, taking the normal attrition rate into account, we will not necessarily be in a better position for some time to come.

That has all informed local authorities' consideration of what we ought to do. There have been necessary initiatives within local authorities to ensure that the loss of social workers was stemmed. Local authorities have introduced inducements of the golden-hello type to attract staff. I do not disparage those—some staff have come out of training courses with student debts and any form of assistance that will address that is important—but local authorities also realise that there is in such inducements an element of robbing Peter to pay Paul, which we should try to avoid.

Scotland is a small place and does not have a huge reservoir of expertise. In the future, the emphasis will have to be on how we can return to what we had when I came into social work as a graduate trainee: we had trainee schemes and we made attempts to develop our staff. Such things are important, not only because they mean that we are more likely to retain staff longer, but because we are more likely to ensure that staff gain adequate experience. Staff do not gain experience only through completing two-year or three-year academic training—such training needs to be backed up over considerable time with supported and supervised practice.

That will be the remedy in the long run but, having said that, the situation is the same as that on which our environmental health colleagues touched earlier, in that local authorities are not operating only with qualified social workers—we have moved away from that position. It is vital to hold on to certain duties that require the training that is provided by the diploma in social work, which will be replaced by the new degree in social work, but we already use other disciplines within social work and we have a plural approach. We work with the police, culture and leisure services and community education—whatever they are termed within individual authorities—and we also work with schools. It is fine for us to work with education, but what does that mean? It is important that teachers also have opportunities to work alongside other disciplines, which has become possible through some of the moneys from the changing children's services fund that have come on stream in the past 18 months.

There is quite a culture change but, as Mairi Brackenridge said, it is sometimes important that, rather than make a precipitate set of further changes, we should as a strategy allow a measured approach to finding out what investment has been made and whether it works. Even against the backcloth of significant underinvestment in children's services over the past 11 years, we are beginning to see some green shoots. However, it will be some time before we see the full benefit in staffing and in delivery of a holistic approach to services.

Mairi Brackenridge: Bruce McFee asked us to quantify the additional staff that we might require. However, that is difficult to do because it depends to some extent on individuals' assessed needs. As research shows, we have to tailor a service to individual needs; after all, to offer too intensive a service might increase a person's problems. We have to aim the service at a person's needs rather than seek a one-size-fits-all solution.

Following on from David Cumming's point, I think that such an approach would require additional resources for diversionary and youth-

related activity, community education or whatever. Additional support might also be needed to address issues that manifest themselves in schools. Moreover, more social work staff might be needed for the young people who require the most intensive involvement. As we are beginning to learn from some of the youth justice work that has been carried out, we need staff with protected case loads, because they can give young people who require intensive involvement the intense support that is needed and will not be pulled in all directions by the demands of their case loads. Indeed, I think that such a lesson is translatable into other areas.

Mr McFee: David Cumming mentioned Audit Scotland's latest report, which shows that performance throughout Scotland could best be described as patchy. I was concerned by the failure of some social work departments to meet statutory duties in relation to care plans, supervision of offenders under the age of 21 and so on. In fact, one local authority could provide no evidence that it had put any plans in place for supervising offenders under the age of 21, despite the fact that that is a statutory duty. Would the introduction of the bill's measures as they stand, and within the proposed time scale, adversely affect existing social work services?

David Cumming: The weighting in the Audit Scotland report was more in favour of processes than disposals. In other words, there was more about the assessment of need than there was about the provision of assistance to young people. In relation to the bill, the fact that some of the additional resources will inevitably have to be put into assessments of need raises the question whether we will be able to deal adequately with some long-term and very complex needs that are currently being met. The committee must appreciate that excellent work is still being carried out, even against the backcloth of significant vacancies throughout Scotland. We should not paint a picture of gloom and doom, because that is not the case. However, we have to recognise that additional pressures exist and that to carry out the work properly staff must be present at the right part of the process. As for the suggestion that extra staff should be provided at the front—or assessment—end of the process, although we have to start by assessing the work that needs to be done, we do not want to focus predominantly on that area, only to realise that we do not have enough time or expertise to deal with the other, probably more important, end.

Mairi Brackenridge: We should also remember that the most recent Audit Scotland report is now a year old. Things have changed in that time.

We are also concerned that the bill's proposals concentrate only on certain types of behaviour. As we have said, the reasons for young people's antisocial behaviour can be very complex and can involve other issues. If we concentrate only on certain behaviour, we could miss out other underlying issues such as child protection, which might be involved and which we should examine in our work.

Paul Martin: The bill seeks to provide the children's hearings system with sanctions when a local authority fails to meet its obligations to provide to an excluded pupil services such as supervision or education. What are your views on that proposal? Will it create tensions between the local authority and children's hearings?

16:45

David Cumming: The children's hearings system has an expectation that decisions will be carried out. The difficulty—which was touched on in the Audit Scotland report—is that there has been and is currently a significant gap before decisions can be implemented. From work in our authority, we recognised that it takes too long until we are able to assign workers. In relation to our staffing gaps there have, frankly, been times when we have over-performed. In other words, we have managed to deal with an area of work better than the gap in staffing levels would usually allow. It is important that it is understood that there is corporate responsibility.

A number of young people also need to be supported in their regular attendance and education in schools. They are sometimes not the young people who are known immediately to children's hearings. Some of the current investment in joint services—where staff work alongside teachers in schools—is very much directed at dealing early with young people so that they do not become disengaged, potentially excluded, and then come in at another point in the spectrum, at which they might require the completion of their education away from their homes in residential schools or ultimately—because it is part of a spectrum—within secure accommodation. Early intervention is important, but it is also important that we have resources that allow us to carry out timeously the decisions of children's hearings.

Paul Martin: You are not the first group of professionals to come to the Scottish Parliament and say that there are resource issues. Resources will always be an issue, and we will always face challenges. However, is the issue sometimes the way in which resources are configured? I know that one of the issues in relation to social work resources is the way in which staff are apportioned to various specialties within the service. That is another challenge. If all the social workers want to work with children, and they all choose their own

specialties, the social work profession will be faced with a challenge.

Mairi Brackenridge: Such things are never simple to sort out. My background is as a generic social worker in a Glasgow peripheral scheme, where the demand was for children and families services. We created a specialism because children and families dominated. The introduction of legislation in the early 1990s was positive for community care services because the quality of service improved considerably. The same goes for ring-fenced funding for criminal justice, which improved considerably the work that was done with offenders in the community.

We now feel that the pendulum has swung, so how do we work to ensure that the different bits of the specialism are properly integrated? There is no doubt that people who develop professional expertise in particular areas of work can produce much better quality services for people. That was the original vision of the Kilbrandon report—social workers should be able to turn their hands to everything—but the profession is conscious that we have to examine how some of that can be better integrated.

We are holding discussions with the Scottish Children's Reporter Administration—which may say more about the subject—and with children's panels on how we should exercise that shared responsibility. We recognise that the lack of staff creates a problem, but how—within the resources that are available—do we meet the requirements of the panel in a way that will satisfy it?

Paul Martin: I have one final question, on comments by the Scottish Children's Reporter Administration. In its response to the consultation, it raised concerns about the meaning of supervision. It suggested that the exact meaning of supervision should be spelled out in law. What are your views on that?

David Cumming: Do you mean supervision by a qualified social worker?

Paul Martin: Yes.

David Cumming: We have considered the matter locally and nationally. The application of supervision by a single qualified social worker is not always necessary because valid programmes may exist that are more comprehensive than such supervision. The two things go hand in hand. In some cases, the entry point into supervision must be as soon as possible after the disposal and must be carried out by a named worker. However, that person is not always required to carry through the work for a longer period.

There is evidence of effective alternative practice. Young people appreciate work that is undertaken with them such as group work, anger management and cognitive skills programmes. One might feel that such programmes are imposed, but I do not believe that that is the case. Young people in secure accommodation who have told me about the programmes in which they are involved understand the benefit of those programmes. The work is not always done by qualified social workers, but by trained staff who follow accredited programmes. Programmes must be accredited and consistent and they must be completed because it is worse to tackle only half a programme than it is not to tackle it at all.

Iain Smith: I am a little slow on some of the issues, but I think that the gist of your written and oral evidence is that the present powers are adequate to deliver the bill's policy objectives and that additional powers would not be required if sufficient resources were available.

David Cumming: That is one of our main points. Another key factor is that the bill will potentially, although perhaps not actually, introduce more young people into the criminal justice system. It is an important principle in Scottish life, never mind Scottish law, that young people should not start off early in life with criminal records.

Iain Smith: So, another concern is that the bill might ratchet up the system and make early intervention more difficult, even though such intervention is probably the key to solving the problem. You think that the balance of the bill is wrong because it focuses too much on the top end and not enough on initial entry and early intervention.

David Cumming: We are in no way trying to minimise the extent of the problem as people in communities perceive and experience it. However, we should get the matter in proportion and find out how many young people are persistent offenders and how often we do not engage with them. I suggest that we seldom ignore those young people. Given the number of persistent young offenders and the available responses, the children's hearings system would be a preferable and positive way to make progress. I am not sure that addressing children's behaviour through the court process will achieve more. The early evidence from youth courts shows that some of their activity is synonymous with, or similar to, what would take place in well-resourced children's hearings in which panel members, social workers and other staff—whether teachers or other professionals—were trained to follow through the decisions.

Mairi Brackenridge: Given that whatever we do is linked to activities in the community planning and service planning processes, early and appropriate intervention with young people is important. There is no reason why community

reparation could not be carried out as a condition of supervision orders in children's hearings or as a condition of probation, for those who are over 16 and already involved in the adult system. In fact, in several authorities throughout Scotland, work is being developed in conjunction with victim organisations and community organisations on reparation as a diversionary activity, and work is being done with young people who are on supervision or on probation.

From our perspective, the danger is that creating yet another order will confuse the picture. The legislation says that community service, for example, is supposed to be an alternative to custody, but in practice it is often down-tariffed to be used for people who are not at risk of being placed in custody. It is not clear where yet another order would sit, which leads to confusion. The aim of a community reparation order could be dealt with as a condition of a supervision or probation order. Community reparation can be important for the community and the young person who is involved in difficulty, but an order is not needed to achieve that.

Iain Smith: You say that there is no reason why community reparation cannot be part of existing provisions, but the public's impression is that it does not happen and that young people think that they are above the law and can get away with murder—that is a slight exaggeration—or with activities that cause difficulty in communities and that they should not get away with. The public do not think that community reparation happens under the present legislation. How do we get that right? If you think that the present legislation is adequate in requiring such activities, why do they not happen? The answer cannot concern only resources. Something must prevent children's hearings from imposing such conditions.

Mairi Brackenridge: One element is that our profession has been defensive; we respond to criticism of what we do not do as well as we could, rather than publicise what we do well. Plenty of schemes are making a difference to communities, so perhaps we need to shift publicity to some of the positive activities that take place.

Glasgow City Council has an early intervention community reparation scheme and we have such a scheme in South Lanarkshire Council. Several authorities throughout the country are undertaking such schemes, which are viewed positively by the community organisations and victim organisations that benefit from them. Perhaps we have not publicised enough the benefits of such schemes.

There is room for expansion. Reparation that involves young people can be relatively complex and I am not sure whether it will be resolved simply by creating another order. However, we could consider guidance to the children's hearings system and the court system on considering reparation as a condition of an existing order.

David Mundell: Is one danger of the bill that it will create a public expectation that things will be different after it is passed, when they will not be? What direct impact will the bill have on your operations? Will your resources be stretched further?

David Cumming: Resources are likely to be stretched further. As we said in relation to the comments in Audit Scotland's report, it is important to recognise where additional resources will be wanted. We are not necessarily advocating the recruitment of more social workers, because they are not available and certainly will not be available in the next few years. We have already recognised that a multi-agency approach must be taken to what are sometimes complex issues.

I will digress slightly. We have one of the largest adult prison populations in western Europe and it is growing. Political direction and will are required to reduce that figure, but that is not helped by a populist press that might exaggerate all the criminal activity that takes place. Our approach to criminal activity is specific to the UK and it really stands out when one contrasts it with what takes place in other European countries, although some other countries also stand out.

Who populates our adult prisons, especially local prisons? They are the same people who have been seen at earlier stages in their lives, which is perhaps a good reason for introducing the bill. Some of those adults require specific assistance—they might have a reading age of 11, they might have missed a lot of schooling, or there might be all sorts of family issues that have resulted in their being poor parents or poor citizens in later life. We suggest that some remedies should come at the earliest stages, and the children's hearings system allows complex issues to be addressed. That requires resources, and time must be spent with an individual, but it does not always require a social worker; it requires someone with a dedicated approach.

We have various planning mechanisms that bring more players into the system than ever before; we now have a much more inclusive approach. The ADSW believes that we already have several parts to our repertoire and we do not need additional ones, which will probably over-complicate an already complex area of public concern.

17:00

Mr McFee: The financial memorandum to the bill identifies a need for up to 700 intensive programmes for young people across Scotland who are subject either to ASBOs or to electronic

tagging. According to Scottish Parliament figures, that would cost some £13 million during the next two financial years. Based on your experience, do you think that that is an accurate estimate?

David Cumming: We have looked at the figures but we are not in a position to comment on the specifics. It is clear that an intensity of resource will be required to follow those programmes through.

Mairi Brackenridge: We would like the meaning of intensive programmes to be made more explicit. I said earlier that it is important to ensure that the level of intervention accords with the young person's needs and with the risk of their being involved in further trouble. Research shows that if we put everyone through an intensive programme, we will increase the likelihood of their being involved in trouble. We must be careful with both assessment and the targeting of activities.

We would appreciate the opportunity to unpick what is meant by the 700 intensive programmes and how that figure was arrived at so that we can say whether it is adequate or whether a different focus is needed. The solution is not just about programmed work; it might be as simple as considering young people's needs in the education system, or the needs of young people who have left school but are not in employment. What are the needs of young people who have missed out on schooling? How can they be supported into employment through literacy and numeracy skills? A range of activities support desistance from antisocial behaviour and not all of them are related to social work programmes.

Mr McFee: My final question is where you get the chance to use your imagination. If you possessed a magic wand—I am sure that you sometimes wish that you did—and had additional resources, such as qualified staff and money, would you invest them in the provisions that are advocated in the bill? If not, what would be your alternatives?

David Cumming: How many minutes do I have?

Mr McFee: I have got all day.

David Cumming: One of our maxims is early intervention—not necessarily chronologically, at an early stage in a child's life, but at an effective point in an offending career. When a young person perceives that the consequences of his or her actions are not picked up upon it is likely that he or she will repeat them, so they become more entrenched.

If there was a magic wand, I would say that investing in additional service on an interdisciplinary basis, which we have been trying to do, is important. The universality of education is also vital. Many of the young people with whom we deal have been excluded from formal education at various points in their life. We must recognise that the experience of some young people is chaotic and is contingent on other circumstances. Drugs in the broader family is one such circumstance, sometimes at a very early stage in a person's life. Some infants will experience difficulties as they are growing up, to the extent that the behaviour even of some infants in foster care is unduly difficult. I am not talking about the terrible twos; I am talking about undue difficulty in the ability to care for the child consistently, especially if there have been disruptions within the family. We should develop that and consider how such disruption affects a child at 10 and at 14. Early intervention, punctuated along those lines, has to be effective.

Earlier today, I talked to some colleagues about effective parenting programmes. We do not have many such programmes in the United Kingdom. A number of forms of assistance are provided, but not always in a structured way. Demonstration projects have operated in the health sector. The triple P—positive parenting programme—came through a project called starting well, which operates in Glasgow. That is predicated on evidence from Queensland in Australia, where a much more universal service is provided and people talk openly about their parenting programme.

It is necessary to recognise that, as parents, we all have difficulties from time to time in knowing how to enable our child to grow up healthily and become an active citizen. However, certain parents need more than occasional advice and support; they need a more structured approach. That is not to say that parenting orders as laid down in the bill are the solution that I would provide with the magic wand, but the fact that such orders might be more universal means that they will not stigmatise the young people concerned—who will already have experienced a lot of stigma in their lives. That is perhaps part of the magic answer, which is probably some way into the future.

We have some early opportunities to base the strategy on what is working with pre-school children. It would not be difficult for us to develop those sorts of programmes in other areas. Again, that would be done selectively, not for the whole population. However, if such programmes were universal, all of the population might wish to avail themselves of it from time to time. In deprived areas, some of the normal support provided by extended families will not be present.

Mairi Brackenridge: If I had a magic wand, it would be used to put in place an infrastructure of services that allowed people access to appropriate

services 24 hours a day, seven days a week, while providing staff with proper conditions and not relying on them to provide services as an add-on to their current job but seeing that as an important part of their job.

The other aspect would be sustainable funding. We have seen some good projects come and go. For example, youth services have been involved in what could be broadly described as diversionary activity, but the funding has run out and there is no other source of funding. We want funding that allows sustainable development.

I would also like there to be more investment in research and training in Scotland so that we can understand what works in a Scottish context. We must train people to the level required to do the different types of activity that need to be done—whether that is to deliver an accredited programme or to be a qualified social worker. It is necessary to be able to train people so that they are competent to carry out whatever task we ask them to carry out.

Paul Martin: I will take David Cumming and Mairi Brackenridge back to an earlier point. In some communities, the issues have been blown out of proportion. David Cumming referred to the way in which the tabloids have dealt with them. What is your picture of the situation? The picture locally is that people have seen a deterioration in their local community and can provide evidence of that. People in Croftcroighn Road, Birnie Court, Red Road and Sighthill have all seen a deterioration in their community, which is not due solely to youth disorder—a significant part of it is down to the destruction of investment.

I have given you the specific example of Croftcroighn Road in Ruchazie, where there has been massive investment but which is now experiencing a demolition phase. There are many other examples throughout Glasgow of demolition phases resulting from deterioration in, damage to and vandalism of council property. What specific example can you give me of a local community blowing a problem out of all proportion? When have you arrived somewhere, asked what was wrong and found that people were concerned simply about local youths playing on their bikes or playing football in the street, which is not a problem?

David Cumming: We were not suggesting that there is no problem, but that the problem should be put in a proper context. Let us say that the experience that you have described in certain parts of Glasgow is real. That is not necessarily typical for the whole of Scotland. The overall number of persistent offenders is relatively low. The situation that you described may not be representative of the whole of Scotland.

As a profession, we are anything but complacent about this issue. We know about it, because we continue to be involved in dealing with it. We are not trying to minimise the problem. We recognise that communities need to be reassured about what is happening. Sometimes we may be slow to explain what is happening—either for the sake of individual confidentiality or out of defensiveness. We are usually asked to account for things that are going wrong, rather than for things that are working well.

We tend not to publicise what is working well. There are already many successful, effective services. The research that we lack might also indicate that, whether or not we intervene, some young people will outgrow antisocial behaviour as they mature. For others, that will not be the case, and we must have effective and structured approaches to dealing with those young people. We can tell early on whether a young person is unlikely simply to grow out of difficult behaviour and will experience a number of problems. The issue of young people's access to and experience of education has been raised. If someone is not literate or numerate, we cannot expect them to find gainful employment.

Those are issues that the various programmes that exist must and do address. It is not a question of our saying, "Problem? What problem?" We recognise that there is a serious issue, but we are asking whether the bill is the best means of responding to it.

Mairi Brackenridge: We have recognised that improving a local neighbourhood is not just about doing up the houses. That is why it is important for everyone to be involved in community planning processes. Improving an area is about bringing in sustainable employment opportunities and identifying the local services that need to be introduced to support them. For example, if drugs are a major issue in an area, how do we introduce services that begin to change the way in which people behave? Some of the social inclusion partnerships provide better examples of how we can develop more sustainable communities than existed under the old urban programme and other initiatives. We have learned from those.

If Paul Martin seeks a concrete example, I can provide one. In our area, we have a youth diversionary programme called Streetbase, which operates football games on a Saturday night, when young people are most likely to go drinking. Streetbase runs competitions to which young people come along. They engage and drink less, because they are too tired to drink when they go home, and the level of antisocial behaviour in the community drops.

Such projects do not require a huge financial investment. Football games are a perfectly

appropriate activity—for young men, in particular—and they make a significant difference to people's ownership of the community. One of the reasons why the project works is not only because it is a proper activity that is targeted at young people, but because the youth workers who are responsible for organising the football matches have got adults from the community to volunteer to coach the young people in the football teams. That has made a huge difference. There will always be one or two young people who will continue to cause problems and who will require different interventions, but the project has reduced the level of disturbance due to antisocial behaviour in a couple of our local areas.

17:15

The Convener: That brings us to the end of our questions for this panel. I thank Mairi Brackenridge and David Cumming for their evidence. We have overrun quite considerably. I am sorry if we have held you back.

Okay. I welcome our final panel for the day. First, I apologise sincerely for the fact that we are running about 45 minutes behind the time that we indicated was likely to be the start of your session. I am sure that you appreciate that the bill is one of the major bills of the second session of the Scottish Parliament. The questions that members wish to put to witnesses reflect that fact.

I welcome to the committee Tom Philliben, the west of Scotland reporter manager for the Scottish Children's Reporter Administration; Alan Miller, the principal officer for the Scottish Children's Reporter Administration; and Marion Pagani, the chair of the Glasgow children's panel and the former chair of the children's panels chairmen's group. I invite Alan Miller to make an introductory statement on behalf of the panel.

Alan Miller (Scottish Children's Reporter Administration): Like the committee, we recognise the importance of the bill. It raises many issues that go beyond the scope of the specific measures that are included in the bill. Children's reporters and panel members deal every day with the young people who are living examples of the effects of social injustice and multiple deprivation. We are also aware that, in many cases, we are dealing with young people whose behaviour is a cause of great difficulty to their families, schools, police and communities. We take extremely seriously the need to deal with that behaviour and its causes.

We believe very firmly that the children's hearings system can deliver the policy objectives that are sought by the Scottish Parliament and the Scottish Executive. We are confident that ministers recognise that too. The system can deliver because it is an integrated system that deals with problems and their causes and with children in the family context. Because of that, it has the scope to deliver the sort of joined-up solutions that are needed in such cases. The system is also flexible and efficient in terms of time and cost.

We are focused on real change, which is difficult to achieve, because we are dealing with families and young people whose experience of life is one that none of us would wish for ourselves. However, change is what we are about. Undoubtedly, the big challenge for the system—the most obvious and striking challenge—which you discussed with the previous witnesses, is delivery of the outcomes that result from the decisions that children's panels and reporters make. Issues of prevention and support also arise—we want to avoid children and families having to reach a children's hearing before they get the services that they desperately need.

We are confident that the children's hearings system is moving forward. For example, we are now nine months into the pilot schemes for fast-track children's hearings. Those pilots clearly demonstrate what the system can do with some of the most persistently offending and troublesome young people when there is real commitment to work together to achieve improved outcomes and when that commitment is backed up by joint planning, intensive programmes and the resources to deliver those programmes.

The bill is part of the overall approach to dealing with crime and social disorder—in particular, youth crime and social disorder—and their causes. We welcome the focus that the bill and the consultation have put on those issues. The way forward—including the measures in the bill—must be to have integrated and joined-up solutions that engage with communities and take advantage of the strengths and potential within them. The solutions must focus on prevention, support and—where it is needed—intervention.

We will be happy to answer members' questions on the overall strategy and the specifics of the bill.

The Convener: The Executive believes that the consultation process was of unprecedented scale. What do you feel about the consultation? Was it sufficient and has the Executive responded appropriately?

Alan Miller: The consultation process has certainly been different from the traditional approach of producing a paper and waiting for people to respond. Ministers and others have made a great effort to get out and about around Scotland to meet people in communities. We have met ministers and MSPs at a number of meetings. That has certainly helped to produce a richer

tapestry of responses and it has been a helpful model for the future.

Paul Martin: The bill will impact on the formulation of the antisocial behaviour strategy, which will be the responsibility of each local authority in partnership with the chief constable. Is that a good idea, or should you be more involved in formulating the strategy? Rather than being involved as and when required, should you be fully involved?

Alan Miller: Local authorities and the police are the right people to drive the strategy because it has to be central to community planning and it has to link with many other strategies that are also primarily the responsibility of local authorities. The Scottish Children's Reporter Administration is referred to in the bill as a statutory partner in the process. We welcome that. It may be that children's panels should also be specifically referred to.

In the implementation of the strategy, it will be crucial to join up strategies and services. Antisocial behaviour measures are moving into the arena of young people and families, so services that have traditionally focused on antisocial behaviour will have to work closely with services that have traditionally focused on children and families.

We must avoid getting into cartoon situations in which, for example, the housing officer in a local authority says, "I want to evict this family because they are bad tenants," and the social worker in the same local authority says, "But what about the kids?" We are talking about two arms of the same local authority, which is in overall charge of developing and meeting the interests of the community in its area. That is a real challenge. Some local authorities are much further ahead than others with such joining up. However, we certainly welcome the opportunity to be part of the process. One of the messages that we will bring is that there must be integrated strategies and integrated services to deal with the issues and with families.

Paul Martin: Will equality in the partnership be an issue that might arise again? As you said, the police will drive matters in partnership with the local authority and you will be seen as another partner, but you will not have the same status that they have. Will that create what I have always referred to as a database of excuses? Will it lead to people saying that they do not have responsibility for matters, because the police and the local authority deal with them? Is not that the cause of many of the difficulties and challenges that we currently face? Would it be better for all partners to have an equal role in driving matters forward? Ultimately, many breakdowns in the current system go back to the children's panel.

Alan Miller: I can speak only for our organisation in saying that we will certainly be committed to being part of the process, of implementation of the strategy and of the solution. The key to the matter is the need to define clearly the outcomes that strategies will deliver and to be clear about what each partner will bring to the table and what they will be responsible for taking away. There are many useful lessons from the children's services plans. In many cases, those plans were wish lists of all the nice things that we would like to do to begin with, but they did not have any sense of priority, costs or what the impacts would be. They are increasingly focusing much more clearly on the priority actions that need to happen, who will deliver them, what they will cost and what will be produced.

Paul Martin: We discussed information sharing with the other witnesses. We face a serious problem in sharing information and we never seem to get things right. The Data Protection Act 1998 is always referred to and a number of myths exist about what information can and cannot be shared. How can we sort things out once and for all? Does that act need to be revisited, although the issue in question is not a devolved matter? The bill includes elements of information sharing.

Alan Miller: Tom Philliben can give practical examples of what is happening in Glasgow. In general terms, there are measures in the bill that are intended to give a clear signal that data protection legislation should not stand in the way of effective joint working. That is helpful, as the data protection legislation is complex. In work to challenge and change families and young people whose behaviour is causing difficulties, we are not simply dealing with specific one-off issues such as the offence in question, but with many background factors and issues relating to sensitive personal data, not just personal data. Therefore, such a clear statement is helpful. Perhaps a review of the hearings system could be considered with such a statement in mind and the statement could also be incorporated into the Children (Scotland) Act 1995, where it would be equally helpful. The committee will find it useful to hear from Tom Philliben about practical examples from Glasgow.

Paul Martin: First, could you say exactly where the data protection legislation is complex if a chief constable makes it clear that he is happy to share information with you? Do you mean in relation to medical records, for example? I appreciate that the issue is complex, but is it the primary issue?

Alan Miller: That is a real problem. In many cases that come before children's hearings, the fundamental issues are as much to do with parents as with children. It is clear that medical practitioners have real professional and legal difficulties with sharing some information.

Paul Martin: Do you accept that that is another part of the excuse circle? Someone who does not want to take a case forward will say, "There are data protection issues. Let's move on to the next one."

Alan Miller: I would not describe that as an excuse, as medical practitioners have been—

Paul Martin: No, I am not talking about that issue; I am thinking of people from other authorities that are dealing with a case. For example, a police officer might say, "I'm afraid the data protection legislation prevents me from sharing that information," when that is not the case.

Alan Miller: People have to some extent been overwhelmed by the complexity of the data protection legislation. All of us in children and families services are on a learning curve and there is now more confidence about how to deal with such issues.

17:30

Tom Phillibe n (Scottish Children's Reporter Administration): It is probably worth saying that a lot of staff in a lot of different agencies have been concerned about the data protection legislation. Although there is no lack of willingness on the part of our staff or our partners' staff to share information, they have not felt themselves to be fully equipped to know what can and cannot be shared. I take your point that there is a perceived difficulty, but you will find that SCRA staff have adopted a robust position: we are sharing information and learning as we go. We feel that the important thing to do is to share information about children and families. For example, locally throughout west region, we produce from our database a note of the top 10, 20 or 50 young people who are involved in offending. That information is given to reporters and shared with colleagues in the local authority.

We do not have a difficulty with the police sharing information with us. The police, as is the nature of their business, report young people who commit crime to us—there is an easy flow of information between the SCRA and the police. In fact, this morning, I received a report from one of the divisions in Glasgow telling me about 20 young people about whom the police have particular concerns, which means that we can now consider on an interagency basis how to deal with those young people effectively. We have quite good local arrangements and a reporter can at any time access the information and talk directly to colleagues in social work or other agencies about it. Difficulties sometimes arise with agencies that are not entirely au fait with child protection and youth offending issues; those agencies can become hesitant about sharing information, but we are not reticent about addressing that problem locally.

On a practical level, our referral administration database system also flags up when a young person hits the persistent offender category, which means that we are immediately alerted to a particular difficulty. That again allows a discussion with the local authority on how it deals with such young people. On a national level, we now have a data protection officer to deal with the perceived difficulties with data protection. The officer gives guidance and support to our staff, which helps to settle the nerves about data protection.

Iain Smith: The Scottish Children's Reporter Administration's written submission indicates that virtually all the new measures that the Scottish Executive proposes in the bill to deal with antisocial behaviour by children and young people

"can be achieved through the Children's Hearings System—as long as service delivery is improved so that existing powers can be used more creatively and fully."

What are the barriers to that happening? Why are existing powers not being used creatively and fully, so that communities still think that there is a problem that the present system is not addressing?

Alan Miller: The first and most obvious barrier is the well-known difficulty of staffing in local authority services, particularly social work services. That is as much about people as about money. Behind that are some other linked difficulties. The previous witnesses spoke about the sense of purpose and direction in care in the community services and in criminal justice social work services when national standards and objectives were introduced. Children and families services have lacked that sense of purpose and focus on outcomes; there is no doubt that they have fallen behind in that respect.

One issue is that staff who are struggling with increasing case loads are not able to get clarity about what they are trying to do; sometimes, what they are trying to do seems impossible. That has undoubtedly been a factor in the downward spiral that has taken place in children and families services.

Another factor is that, only five or so years ago, there was perhaps too much smug complacency among politicians, the public and professionals about the work of the children's hearings system and the services that are engaged with it. There is no doubt that there has been a steep learning curve for us all over the past few years, especially in dealing with youth offending.

We are far better placed now than we were four or five years ago to address needs and deeds—to address behaviour and the underlying causes of

that behaviour. In every part of the country there are good examples of projects and programmes—in the local authority sector and in the voluntary sector—that are applying evidence-based practice and making a difference in the lives of young people. There has been a huge and very fast learning curve, which still continues today.

Iain Smith: Part of the issue is that the hearings system is reliant on the services that are available for the disposals that it can give. Is the system too reliant on social work services? Does it give sufficient access to other agencies that provide services for disposals that may be appropriate in particular cases?

Marion Pagani (Glasgow Children's Panel): I can answer for Glasgow's children's panel; Tom Philliben and Alan Miller will provide the national perspective. In Glasgow, we would hope for better joined-up and interagency working. As I said in my submission, we feel strongly that certain children who have had a decision made about them at a hearing need to be dealt with not just by the social work department. If the problem has been solely school based, the education department may need to deal with it. Community workers can also have a role to play in supervising children. Given the crisis that we face in Glasgow, we must be able to look to that. The Executive may also have a role to play in looking at the responsibilities of local authorities. I know that local authority accountability is one of the issues that the bill covers and I believe that local authorities need to examine how they service the decisions of children's hearings.

Alan Miller: Let me reinforce that. A small but significant legal change took place when the Children (Scotland) Act 1995 came into force in 1997. Prior to that, when a child was placed under supervision by a children's hearing, it was the duty of the director of social work to implement that order. The 1995 act made it clear that it is the duty of the local authority corporately to implement such orders. However, there are still question marks in many people's minds—and, indeed, in the minds of some local authorities—about what that means. It seems to me that some of the measures in the bill help to clarify that by making it explicit that the duty extends to the full reach of local authority services and of services that are provided by partner agencies.

Iain Smith: Finally, one issue that the Audit Scotland report highlighted is that too much time is spent on the process and not enough time is spent on the disposals. Are you concerned that some of the measures in the bill will result in more process and even less time for disposals? Are you concerned that the bill will not address the issue of the lack of resources for disposals?

Alan Miller: It is up to all the agencies that will be involved in the implementation of the measures to ensure that the focus is kept on outcomes and real work and that we do not get tangled up in processes. Processes should not be used as a substitute for real work. In the hearings system, we are clear that children and families should not come to a children's hearing to get a ticking off or something of that sort. They come to a children's hearing when there is a need to consider providing a legal underpinning to the work that is to be done with them.

Mr McFee: The bill would provide the children's hearings system with sanctions when a local authority failed to meet its obligation to provide services in relation to the supervision of excluded pupils. The committee has received a number of communications about that. Do you think that the provision could be problematic? Might it alter the relationship between the hearings system and local authorities? If so, how might that be resolved?

Marion Pagani: I hope that, rather than alter or damage the relationship, the provision would gee up local authorities to do more to prevent a situation arising in which a children's panel had to ask the reporter to call the local authority to account. As I said, all the key agencies within the local authority must co-operate. There is a role for local authorities to play in ensuring that those agencies—and their partner agencies from the independent sector—are accountable for their work. That might not have been the case in the past. Mairi Brackenridge said earlier that we should consider what works, but sometimes projects that have worked well have not been carried forward. Equally, projects have not always been held accountable when they have not worked well. I hope that the provision would, rather than have a damaging effect, bring agencies together to work collaboratively.

Mr McFee: So you believe that there is a need for the sanction, but you hope that it would not have to be used. You think that the existence of a sanction would gee up local authorities—I think that that was the expression that you used.

Marion Pagani: At the moment there is a need for such a sanction, because panels' decisions are not implemented, as a result of the factors that the witnesses from the ADSW spoke about. We have to be aware that a decision that is made about a child who has been referred to a hearing must be implemented and the work must be done at that point in the child's life.

Mr McFee: I think that that was a fair answer. You probably heard us ask the previous group of witnesses whether supervision should be defined in law. I wonder whether your view is the same as theirs. Is it possible to define supervision and, if

so, would it help local authorities to undertake their duties if the definition were set out in law?

Alan Miller: In our response to the consultation paper, we suggested a multistrand strategy for considering that problem. We welcome the fact that some of the elements of that strategy are now reflected in the bill.

As a starting point, we should be clearer about the better outcomes for children, families and communities that we want the children's hearings system and other services that work around it to produce. That would give us all a clear bottom line, which might be the reduction of offending, the reduction of risk to children or the promotion of social inclusion and life opportunities—probably all those outcomes are needed for a balanced score card. We need to be able to say, "This is what we are all aiming to produce." On the back of that, we need clear standards for the delivery of basic services. The youth justice standards, which were published in January and are now being implemented through the fast-track hearings, represent the beginnings of a good model for that.

We called for a clarification of the meaning of supervision. As I think we said earlier, the bill helpfully goes some way towards that by making it clear that supervision is a corporate responsibility that runs across the whole local authority. It is also important to keep the children's hearings system in the frame about any non-delivery issues. The bill seems to achieve that. Pieces are falling into place. Ultimately, the bill seeks to establish a performance culture throughout not just the hearings system, but all the services that work with children and families. It should also highlight the fact that our job is to deliver improved and changed life circumstances for children, young people, their families and the communities in which they live.

17:45

Mr McFee: In summary, do you think that the strict legal definition of supervision that was first envisaged would be a blunt instrument and that instead we should focus on outcomes and outputs?

Alan Miller: Instead of providing some mechanical description of the number of visits or contacts that are to be made, any definition of supervision needs to focus on outcomes. Some children who are subject to supervision need 24/7 contact and supervision and in some areas of the country they are receiving that. On the other hand, some children who are subject to supervision do not need that level of supervision and may need only one or two specialist resources. However, although needs are different in each case, the key requirements are to assess the risks and problems for the child and family, to have a plan to meet those risks and problems, and to deliver that plan. If those ingredients were included in the definition of supervision, we would be much further down the road.

Marion Pagani: In considering the definition of supervision, we cannot forget the appropriateness of the service to the child's needs. Indeed, we should not be too prescriptive in our definition of supervision; the child's needs and the appropriateness of the service that the child is about to receive must always be taken into account.

The Convener: Our final question concerns the bill's proposal to introduce community reparation orders and to allow local authorities to appoint officers to supervise individuals who are subject to such orders. What are your views on those issues?

Alan Miller: In relation to children in particular?

The Convener: Yes.

Alan Miller: To put that in context, I should point out that, although about 14,000 children and young people are reported to us every year because of offending, fewer than 100 children and young people each year are convicted for offences in the criminal justice system. As a result, the majority of children who offend are dealt with in the children's hearings system. It might be useful to consider the proposal as part of a range of possible measures for those who go through the criminal justice process. However, the question whether it requires a separate sentencing outcome is probably beyond our expertise.

As far as the children's hearings system is concerned, it is increasingly apparent that such measures can be built into the package of supervision where required. A supervision requirement can contain such conditions as the children's hearing deems appropriate for the treatment, guidance, protection or control of that child. To a great extent, such conditions are limited more by resources or imagination than by the law. It is possible to build in elements of reparation or other programmes as long as they clearly contribute to treatment, protection, guidance or control of a child.

Tom Philliben: There is some frustration in the system, partly because children and families services were somewhat slow in picking up lessons that had clearly been learned in other parts of social work, such as those that deal with the adult criminal justice system. We have known for quite a long time what sort of intervention is effective in reducing offending, but it has taken longer than we would have liked for that expertise and style of supervision to filter into the children's hearings system.

We are now well past that day. The work that is currently done with young people and supervision is very different from the work that would have been done even a few years ago. For example, on community mediation and reparation, the restorative justice project in Glasgow is a good example of a wide interagency interest, which includes not only the reporter and people from social work and education—the usual suspects—but private firms, such as FirstBus, and the fire brigade. All of those are involved in the delivery of a service to improve the situation in communities. That project includes the potential for a community task to be undertaken, for mediation and for reparation to be made to individual victims of crime. There has been a big change over the past few years in the service that is delivered.

Initially, the restorative justice element of the project in Glasgow was available in relation to young people who had committed only one or two offences—at the light end of offending, if you like—before they progressed to more serious involvement. However, we are now looking at making that service available to children through the hearings system. For young people who are on supervision and who begin to offend, we hope to use the same reparation and mediation service, so that those who are further up the tariff are likely to benefit from the service.

David Mundell: I have a short question for Marion Pagani. Members of Dumfries and Galloway children's panel recently told me that they were very much opposed to the bill, because they felt that it would not practically assist their work. I am not clear whether you are expressing the same view.

Marion Pagani: Are you talking about the whole bill?

David Mundell: Yes.

Marion Pagani: We welcome the bill for communities' sake. Work has to be done to reduce antisocial behaviour across the board, not only with young people, but with adults. The bill can work. As has already been said today, children's panel members are making decisions about children and work within the hearings system is on-going and being carried forward. However, if the bill assists panels by pushing local authorities to do work, that will be welcome. The situation is fragmented nationally. In Glasgow, I have problems that may not arise in Dumfries and Galloway. I would not say that the hearings system can work with none of the bill's proposals; we can work with some of the proposals, but we do not agree with a lot of them.

The Convener: That brings us to the end of questions. Thank you all for your evidence, which has been valuable. Once again, I apologise for keeping you here until this late hour.

Subordinate Legislation

Road Traffic Act 1991 (Special Parking Area) (Scotland) Order 2003 (SSI 2003/508)

17:53

The Convener: I ask committee members not to run away just yet, because there is a final item on the agenda, which, because of the length of the meeting, I hope we will deal with promptly.

Item 5 concerns three pieces of subordinate legislation. The first is the Road Traffic Act 1991 (Special Parking Area) (Scotland) Order 2003, which is a negative instrument. No members have raised any questions with the clerks on the instrument and no motion for annulment has been lodged, so can I confirm that we have nothing to report?

Members *indicated agreement.*

Road Works (Sharing of Costs of Works) (Scotland) Regulations 2003 (SSI 2003/509)

The Convener: Secondly, on the Road Works (Sharing of Costs of Works) (Scotland) Regulations 2003, no points have been raised and no motion of annulment has been lodged. Is it agreed that we have nothing to report?

Members *indicated agreement.*

Road Works (Reinstatement) (Scotland) Amendment (No 2) Regulations 2003 (SSI 2003/512)

The Convener: Finally, on the Road Works (Reinstatement) (Scotland) Amendment (No 2) Regulations 2003, no points have been raised and no motion to annul has been lodged. Is it agreed that we have nothing to report?

Members *indicated agreement.*

The Convener: Thank you.

Meeting closed at 17:54.

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Printed in Scotland by The Stationery Office Limited

ISBN 0 338 000003 ISSN 1467-0178