

MEETING OF THE PARLIAMENT

Tuesday 18 May 2004

Session 2

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Scottish Parliament

Tuesday 18 May 2004

[THE PRESIDING OFFICER *opened the meeting at 09:30*]

Time for Reflection

The Presiding Officer (Mr George Reid): Good morning. Our first item of business this morning is time for reflection. Our time for reflection leader is the Rev Dr Richard Frazer, minister of Greyfriars Tolbooth and Highland Kirk in Edinburgh.

The Rev Dr Richard Frazer (Minister of Greyfriars Tolbooth and Highland Kirk, Edinburgh): Good morning. I thought that I would give you some food for thought this morning by talking a little bit about food.

It seems that there is hardly a religious tradition in any part of the world that does not set great store by food but, when a culture is secular or non-religious, I am interested to know what it thinks about, and what responsibility it takes for, food.

For nearly all religious cultures, the food chain from plough to plate is surrounded by ritual significance, sacred activity, deep communal significance and delight and celebration. Everyone who comes from the Christian tradition, as I do, knows that the centre of the Christian community is the holy communion. That sacramental attitude to food reinforces the idea that food is the starting point of human well-being. We can just about imagine life without cars and computers, but life without food is impossible.

To ensure that we enjoy wholesome food, we need good soil, reliable crops, stable weather patterns and, of course, farmers and people to prepare our food. Seeing the religious or spiritual significance of food has reminded us that sustaining those things is a sacred trust.

There is a rather odd short proverb in the Hebrew Bible that says:

"Better a dinner of vegetables where love is than a fatted ox and hatred with it."

I do not think that the writer is advocating vegetarianism or thinking about people's cholesterol levels, but he is saying something that is worth listening to in today's fast-food culture, in which the spiritual significance of food is under threat. Our lives are seduced by affluence. We eat processed food on the hoof or in front of the telly. In our struggle to enjoy a lavish lifestyle, we can damage not just our own bodies, but our communities and our environment. That is the fatted-ox—or the fast-food—mentality.

The writer of the proverb has an alternative vision: he advocates greater simplicity and appreciation. He thinks that when people have time for each other, there will be less strife. I suppose that that is what he calls the vegetable option—or the slow-food option.

As everyone knows, Scotland is the fast-food capital of Europe. Obesity, tooth decay, heart disease and numerous other ailments that can be attributed to poor diet are reaching alarming levels, especially among the poorest in our society. We are also losing the simple courtesies that we learn around family tables. All the while, some of the best farm land and the most delicious fruit, vegetables, meat and grain that can be had anywhere can be had here in Scotland.

As I think about those issues from a Christian perspective, I sometimes wonder whether the whole purpose of our food chain has been distorted. From plough to plate, should not the purpose in producing food in all its different forms be the promotion of the health and well-being of the people of Scotland? The reality is that we treat the food chain as though it were simply an extractive commodity industry.

From a Christian perspective, from that story in the Old Testament in which manna was provided to the people of Israel in the wilderness to the wine and bread of holy communion, food has been the sign and symbol of people's spiritual and physical nourishment. My wish is that we might recover that spiritual dimension to the food chain in our lives and recognise that promoting health through good food, feeding the world and sustaining the entire global food chain, in relation to which 6.2 billion people are so marginal, is a sacred trust. Thank you for listening to me this morning.

Children's Hearings

The Presiding Officer (Mr George Reid): The next item of business is a debate on the subject of the children's hearings review, "getting it right for every child". The debate will be concluded without any questions being put.

09:34

The Minister for Education and Young People (Peter Peacock): I am grateful to have the opportunity to set out some of the thinking behind the children's hearings review that we have commenced. It is pleasing that we will have a whole day's debate on the subject, which I hope offers the potential for some slightly longer speeches than would normally be allowed in Parliament. That will enable us to have much more developed arguments on some of the issues, which are important for Scotland as we move forward through the earlier part of this century.

Scotland's unique children's hearings system was conceived more than 40 years ago, when the Kilbrandon committee undertook its work. At the time, that work was widely welcomed and was thought to be pioneering and radical. It sought recognition that young people who were offending would in all probability need support, care and, in some cases, protection. At the same time, it recognised that those young people who were in need of care, protection and support might well offend in due course if they did not get that protection, care and support.

In recognition of the inextricable link between those sets of issues, the committee recommended that young people's needs and their deeds in the community should be addressed in the same system. It further recommended that attention should be paid to those matters in an informal hearing—a form of tribunal—involving all the key parties, rather than in a court.

Children's hearings incorporating all those features first began their work more than 33 years ago and, since then, they have dealt with hundreds of thousands of children in Scotland. However, as we all know, since the 1960s, when the system was conceived, society has changed a great deal. The number and nature of referrals to the system has altered radically. There is a greater volume of referrals than there has ever been—in the most recent recorded period, there were 38,000. Moreover, care and protection referrals to the principal reporter now account for more than 60 per cent of all referrals, which compares with a figure of just 16 per cent in the mid-1970s. In recent years, there has been a marked rise in the number of such cases—the figure has doubled since 1992.

We know that the structure of families is different from what it was all those years ago. Many more households are being formed and the extended family can be much more dispersed than it once was. Patterns of work have changed significantly, especially among women in our community, and drugs and alcohol play a far greater role in the lives of many families, particularly those of vulnerable children.

We also know that the hearings system faces a number of issues, such as the turnover of panel members, the speed at which the system works, the range of disposals that are available, matters of compliance with disposals and the ability of the hearing to affect only children's behaviour compulsorily. Therefore, it is right that, early in the life of this Parliament, the Executive, the Parliament and Scotland more widely should take stock of the children's hearings system.

The review that we have started provides an opportunity to refresh the fundamental principles of the system and to confirm what we want it to do as we move forward into the future. I stress that, in spite of what *The Herald* said last week—even though it was told on the record that its story was incorrect—the review is not about scrapping the system. It is about building on what we have and improving it. The partnership agreement, which guides the Executive's work, makes that clear.

Mrs Margaret Ewing (Moray) (SNP): I know that all members want a variety of people to be attracted to serve on the children's panels, because that is important. Will the minister tell me why, as I was told in a letter from someone who has served as a member of a children's panel for more than 20 years, the allowance for petrol has been reduced from 49p a mile to 12.5p a mile? Although that might not be a huge sum for some people, it is a lot for people on lower incomes.

Peter Peacock: I regret that kind of incident. The member will appreciate that such matters are administered locally—the local authorities make those decisions.

I am happy that the member has raised that issue, because one of the points of principle that we want to consider in the review is the extent to which we should allow variance in such matters across Scotland. The people who serve on the panels do so at great personal expense. As well as giving time and commitment, they subject themselves to some harrowing situations; they have to hear about or investigate harrowing family circumstances. As part of the review, we need to consider whether they are doing that without being adequately compensated for their costs. I will be happy to pick up that point and I hope that people will make representations about the subject as we move forward.

The review is not just about asking the kind of question that Margaret Ewing has asked; it is about asking important questions while holding on to the fundamental principles of the system.

Fiona Hyslop (Lothians) (SNP): The minister says that he wants to hold on to some of the children's hearings system's principles and that he does not want the system to be dismantled, but will he take this opportunity to say that he will not oversee the hiving off of youth justice to youth courts as part of the review?

Peter Peacock: I refer the member to our partnership agreement, which makes clear our position. The opening part of our consultation document sets out clearly what the partnership agreement says: it talks about retaining the system and keeping its principles at the heart of everything that we do. However, the review must also ask important questions about the performance of the system and it is in that spirit that we are moving forward.

I will set out some of the major questions that it is important for us to ask while holding on to the principles behind the system. We want the system to be able to respond better, more effectively and quicker and to have all the powers that it needs to make the key contribution that we want it to make in this early part of the 21st century. As part of our consultation, we want to hear the views of the public and young people as well as of the professionals and the volunteers who play a crucial part in the system. We also want to hear Parliament's views. That is why today's debate has been called and why we have not lodged a motion—we want to conduct the debate in an open and consultative spirit without having to divide on the issue at the end of the day.

Margaret Mitchell (Central Scotland) (Con): The minister has provided a graphic explanation of why we need to hear the views of the public and everyone else involved in the system in the review. However, will he explain why we are having this five-and-a-half-hour debate effectively in isolation and without that information at our fingertips that would allow us to discuss the matter fully and in an informed way?

Peter Peacock: That comment shows that one just cannot win in politics. If we had had this debate at the end of the consultation process, members would have said that we did not ask for their views early enough or give them an opportunity to inform the early thinking in the review. We genuinely believe that Parliament should have the same opportunity as every other part of Scottish society to express views on the system, to feed into the consultation and to do so without having to vote on the matter at the end of the day. We should not criticise but applaud the fact that we are giving such attention to the

system, because we need to get it right for the future.

As part of the process, Euan Robson and I undertook to attend a number of meetings. Indeed, we have attended large public meetings in Glenrothes, in Edinburgh, in Greenock and—last night—in Aberdeen. We did so to gauge views on the system and what it might do in the future, to give us an opportunity to explain and discuss the system and to assist understanding of what the system seeks to do. Several hundred people have attended the meetings and we are being helped in the process by panel members, the Scottish Children's Reporter Administration, social workers and other professionals who understand how the system works.

Eight more events are scheduled and I encourage anyone who is interested, including members, to come along. During the meetings, we use modern voting technology to gauge opinion on a range of issues and then feed that into our understanding of people's views on the system. We are also planning a series of special meetings to hear young people's views. When that series of meetings and events is complete, we will have received views directly from more than 1,000 people—and that does not include all the written submissions and other matters that we expect to have drawn to our attention.

The exercise is important. After all, the children's hearings system has occupied a special place in modern Scotland. It is considered to be special, unique and—for its time—innovative and forward thinking. For a start, it made the radical departure of adopting a single forum for considering the needs of all children. It also covers children from the point of birth until, in some cases, they turn 18.

Moreover, the system helps all types of children: from those who offend to those who are in need of care and protection; from those who are outwith parental control to those who are at risk from parental or other family abuse; from those who misuse drugs or alcohol to those whose parents misuse drugs or alcohol; and from those who do not attend school to those who are bullied or are bullying others at school. Indeed, it provides that help mostly outwith the formal civil or criminal court structure by drawing on the commitment and support of professionals and volunteers.

The children's hearings system puts the child's interests at the centre of all its work with the driving aims of protecting children, requiring them at times to confront their own behaviour and enhancing their interests. It ensures that, in cases in which public agencies have to intervene formally under law in the life of a child, they do so for justified and appropriate reasons. As Margaret Ewing mentioned, the system uses the commitment, skills and input of trained members

of the public and the local community to reach decisions on what is best for the child within that community.

For something that is so uniquely Scottish and that has drawn international praise, the system is little known among the general public. Furthermore, despite visits by people from across the globe over the years to study it, it has never been fully replicated elsewhere in the world. As a result, it is hard to argue, as has been done, that Scotland's children's hearings system has led the world in the philosophy of and approaches to dealing with children. No one else is following us.

One reason for that is that the hearings system has never been systematically evaluated to explore its full effectiveness. Panel members have reported innumerable individual cases in which a child's life has been transformed for the better and that child has grown in confidence and has begun to realise his or her potential. We know that supervision requirements are terminated early because the original perceived task has been reduced to levels at which voluntary support and engagement are sufficient in the child's interests. However, although the system has had many successes, we need the current review to evaluate where current outcomes are weak so that we can improve support for the child. We also need to build systematic evaluation into our processes in the future. That is why, as part of the first phase of the review, we seek the views of MSPs and the public on what the system should be doing and what it should achieve for children.

We have set out our belief that our integrated system, which deals with offending and care and protection cases within a single process, is still relevant. However, we invite comments on its ability to cope with modern complexity. We have given examples of the kind of care and protection cases that come before hearings in which complex mental health or sexual abuse issues may arise and ask whether a generalist approach is best for the child in all cases. We also ask whether, within a single system, there would be better outcomes for children and communities if panel members specialised to some extent. Those open questions have been asked against the backdrop of an integrated system.

We are also keen to hear views on whether we should have explicit objectives and targets for health, educational attainment and acceptable behaviour as outcomes of the system. Would such an approach allow us to look more systematically at the child as he or she matures and to identify where the system, working with parents and families, is or is not succeeding?

We are seeking views on the major question whether the hearings should have a direct influence over parents. Many people to whom I

have spoken in meetings or as part of our public consultation events recognise that many children's problems lie within the family, not within the children themselves. So far in the consultation, the general view has been expressed that families who need interventions, support and assistance should receive them. However, views begin to diverge over whether and how we should determine what constitutes good parenting and whether the children's hearings rather than a court should be a forum for requiring action by the parent. Indeed, that question in turn raises further important questions of what action might be taken if a parent still refuses to comply.

Those issues are not new. Kilbrandon wrestled with them 40 years ago and recommended that the hearings system should have some influence over parents. However, the Government of the day did not proceed down that road. At the very least, it is worth asking whether, if that decision had been different all those years ago, the outcomes for many children across Scotland would have been better.

Children's panel members and chairs have indicated in meetings that I have had with them and at public events that they often wish to be able to intervene in respect of the parent, but that they would seek action with the parent only if that was clearly in the child's interests. Alternatively, as we explore in the consultation, we could shift the focus of the hearings on to the needs of the whole family rather than just those of the child. Such radical options would alter the nature of the hearings and raise important questions about enforcement actions. However, if such powers achieve a better outcome for the child and children in a family, should we not seriously consider them in the review? I look forward to hearing members' views on the matter in today's debate.

In the consultation process, we also wish to explore the speed of action, the involvement of the child in the process and the links with and feedback of information to communities. The need for greater integrated working across agencies involved in the system is already emerging as a theme from the consultation process. The relationship between the hearings system and local government is characterised as a relationship with the social work department of a local authority. However, in law, the relationship is with the whole of the local authority and, if we are to be effective in the child's interests, it increasingly needs to be forged with wider public bodies, particularly health bodies.

I have been encouraged by comments made at the public events that education in many areas plays a significant role in the hearings system. Schools have a unique insight into children's lives and see young people more often than any other

agency. We need to use those insights effectively as part of the hearings system.

As we know, recent reports have constantly highlighted the need for the agencies involved to communicate and co-ordinate better and to demonstrate a readiness to work across boundaries to improve the lives of vulnerable children. How that can be done more effectively in the hearings system is an issue for the second phase of the consultation.

We know that one of the main frustrations among panel members—it is one of the reasons why there is a turnover of panel members—has been the lack of co-ordinated and effective implementation of their decisions. That has also contributed to a perception by some that the hearings system does not always work well. If a child is not seeing a social worker or is not getting access to other public services that the hearing has identified as appropriate, that sends out a message about the system. As Audit Scotland identified last year, problems were acute in certain local authority areas but not in all parts of Scotland.

Mary Scanlon (Highlands and Islands) (Con):

I come back to an issue that concerns me across the board in relation to children's hearings, mental health and various other matters. What sanctions are in place or what action is the minister willing to take when a local authority does not implement or follow through a plan that is agreed by a children's hearing?

Peter Peacock: I am very clear about that issue. Such failures to act are not acceptable in the system that we have created whereby the hearing has the status of a form of tribunal. When people give up time in the way that Margaret Ewing mentioned, dedicate themselves to the task, listen to difficult circumstances and come to decisions about what is to be done, it is unacceptable that those decisions are not implemented. That is why we have included in the Antisocial Behaviour etc (Scotland) Bill provisions to allow action to be taken when those decisions are not being acted on effectively. We also want to continue to examine the matter as part of the review to ensure that actions are taken.

We must ask whose fault it is if a young person goes through the hearings system and a particular disposal is designated by the panel but is not implemented and the child appears back in the hearings system a year later having offended again. Is it the fault of the system for failing the child at the point when they required interventions or is it the fault of the child? We must do what we can to ensure that we have fulfilled our responsibilities effectively.

The ability of local authorities to respond to requests for implementation does not always appear to be linked to vacancies in social work departments. There are issues for managers, which our review needs to consider, and there are issues about how we allocate resources to meet priority needs. There are also issues about ensuring that the action is not just a matter for social work departments or social workers; a range of other agencies and voluntary organisations must be able to help. We should remember that the Children (Scotland) Act 1995 placed responsibility on local authorities as a whole, not only on social work departments, to support hearings' decisions.

I started by explaining what we are doing by way of public consultation events. Beyond our public meetings, we are encouraging other organisations to meet to discuss the review in smaller local groupings. Each local authority community planning partnership has been approached and encouraged to use its planning mechanisms to seek the views of communities. Barnardo's and other organisations that work with children are contacting children and parents with whom they work to seek their views so that those views can be fed into the review process. Children's panel members and chairs are organising and taking part in meetings to help to inform discussions in their areas and to develop the issues.

Today's debate provides an early opportunity for MSPs to express their views. I am pleased that we have a full day's debate to discuss the system in full without having to vote on the outcomes today. We can express views and help to inform the review and the agenda that it should follow. I know that many members bring a range of experiences of the children's hearings system, whether from a social work background, from work as a panel member or from legal knowledge of the system.

The review is an important exercise. What emerges will help to shape the hearings system for the next 20 years or more. The current rate of referrals to the hearings system means that, during that time, the system is likely to impact on something like 750,000 young people in Scotland. That represents a lot of young lives needing support, protection and suitable interventions. Few things can be more important and I look forward to hearing the views expressed in today's debate.

09:54

Fiona Hyslop (Lothians) (SNP): The Scottish National Party welcomes this chance to discuss in depth the experience of the children's hearings system and the opportunities to develop it. However, we warn Parliament that it cannot preside over a lame discussion that paves the way for dismantling the children's hearings system—

any notion of hiving off youth offending to youth courts would do just that.

The children's hearings system, which considers the child in the round and takes into account all aspects of the child's life as part of a joined-up approach, must not be destroyed by partial or wholesale removal of its work on youth justice. I challenge the minister to rule that out. He gave an answer, but I am not sure whether he ruled it out.

The children's hearings system was established in 1971, but it has not simply been preserved in aspic. The Children (Scotland) Act 1995—to which the minister referred—made the children's hearings system consistent with the European convention on human rights. The act made the welfare of the individual child central to the process, developed care systems to consider the individual needs of the child and created the very important Scottish Children's Reporters Administration.

No one is saying that the Executive should not review the children's hearings system—we note that the review was included in the partnership agreement. However, what we are saying is let that be done in a climate of realism and with perspective. Let us be honest in the debate; if the Executive is considering hiving off some or all of youth offending to youth courts, it should at least be up front about that and place it centre stage in the review consultation papers.

This must be the third or fourth speech—it is a bit like "Groundhog Day"—that I have made on the topic in the past year. From members' business debates, such as the one secured by Scott Barrie, to debates on social work, child protection and youth justice, we come back time and again to the central role of the children's hearings system.

As well as the current consultation, many reports on the subject have been published: the Council on Tribunals report of June 2002; the Audit Scotland report of December 2002; the Executive's report on child protection; NCH Scotland's recent "Where's Kilbrandon Now?" report; and the interim report on the effectiveness of fast-track hearings.

I reflect the point made by Margaret Mitchell as to why we are holding this debate here and now, bearing in mind that we have spent considerable time on the issue in the past. The Parliament must not be used simply as an extension of a consultation process: this Parliament is about policy, legislation and decision making.

The operation of the children's hearings system needs to be reviewed, but the SNP's view is that the principle of the system—treating the child as a whole—is sound. Issues ranging from care and protection through to offending behaviour need to be dealt with together.

In order to serve Scotland's children we must consider what helps, and what hinders, the system in facing the demands and challenges of the 21st century. The SNP's position is to urge the Government to focus on prevention when considering the problems that face our children and the problems that young people cause, rather than concentrate efforts on firefighting and crisis management with policy and legislation that sometimes appear to be more about being seen to tackle the very real problems in society and not about delivering on the issue.

Children's experiences are changing. There has been a big shift in referrals from the early years in the 1970s. Since 1971, there has been a 7 per cent reduction in referrals on offence grounds and a 600 per cent increase in referrals on non-offence, care and protection grounds. Almost double the number of children are now referred on non-offence as opposed to offence grounds.

Johann Lamont (Glasgow Pollok) (Lab): Does the member recognise that many of the referrals on the grounds of care and protection are made because of the progressive attitudes that the police have adopted on domestic abuse cases? In my area, an automatic referral is made when a youngster lives in a house where such abuse takes place. That makes the figures look as if they are increasing, but the increase is as a result of a greater understanding of the experience of young people in their homes.

Fiona Hyslop: Johann Lamont makes a very important point. Recently, I spoke to West Lothian Women's Aid, for which an issue in relation to working with the police is how resources can be used most effectively to ensure that we concentrate on identifying children who are vulnerable and in need and, more important, that we give them the right treatment and support. We must ensure that the figures are not distorted. We need to look at the profile, because there is a powder keg that demands immediate and effective responses.

We know from the study into children's reporters in Glasgow that for persistent offenders—those who have had 20-plus referrals—the average age for initial referral is eight years old for care and protection purposes. Effective support at the age of eight means that problems are tackled by the age of 14; ineffective support at the age of eight means that society pays by the time the child is 14.

I will draw attention to the issue of drug abuse. One in 50 births in Scotland is to a family in which one of the parents abuses drugs. We know that those children are more likely to misuse drugs themselves and so become involved with the offending activity that often surrounds drug misuse at a later date. We know that, unless those

children are properly supported now, we are storing up problems for the future.

When children's hearings were first established, far more children were living under the care of statutory authorities or voluntary agencies. That number has fallen dramatically but, as the interim report on fast-track pilots shows, the profile of persistent young offenders shows that a disproportionate number of them are looked-after children. Whether in relation education standards, career opportunities or offending behaviour, the nation should hang its head in shame at the lack of progress in that area. We know from the experience of the children's hearings system and from Audit Scotland's report that the slow responses and lack of accountability of the statutory services—which has been touched on already—are a hindrance.

I turn to the issue of social workers. We acknowledge that more social workers are employed in Scotland than ever before; however, there are more vacancies than ever before. Since 1999, the number of children's social workers has risen by 15 per cent, but the number of vacancies has risen by 129 per cent. Demand for social workers is outstripping supply, and the Executive is complicit in the creation of that environment. Time and time again, we must come back to this: although we have fast-track training for social workers, we must look for more creative and inventive ways to recruit and train them as well as some basic, commonsense measures.

In that spirit, the SNP proposes a five-point plan to help to deal with the shortage of child protection workers. First, many people who work in the social care arena would like to go into social work and be trained, and we must ensure that their work environment enables them to do so. That may mean recruiting more administrators to cover the training period. We should remember that the biggest criticism of staffing levels in the Caleb Ness report concerned the shortage of administration workers in social work leading to poor communication.

Secondly, the Government should broker strategic arrangements in partnership with the voluntary sector to see whether, with secondments and career developments, we could stem the tide of those who are leaving council social work departments, allowing them respite from the pressured and often harrowing environment of child protection but not losing them from that vital area of support.

Thirdly, recent Government policy and legislation have created the vacancies, often through good intentions such as the provision of free personal care, adults with incapacity legislation, criminal justice measures and the recent additional support for learning legislation. A

climate has been created in which career prestige is gained through working in areas such as care of the elderly and criminal justice, which is drawing even more workers from the core preventive activity of child protection. The financial memorandums for, and the policy behind, such legislation should spell out the national recruitment implications.

Fourthly, the Government should lead a recruitment drive for people to fill caring, child support and education roles in the public services generally. I heard what the minister said about education, but I ask him to remember please that teachers are not social workers and should not be expected to carry out a social work function. The golden hello bidding wars in the social work field are vying with the bidding war for nurses, and golden hellos for teachers in certain subjects loom on the horizon. A joined-up approach to public service recruitment could help personal career development and progression without bursting the public purse on often wasteful competitive pricing.

Fifthly, there should be a McCrone-style review of social work conditions and remuneration. There needs to be a hard look at an integrated social work profession in which the recent drive for specialisation, coupled with enhanced career progression in certain fields, has compounded the problem of shortages in child care and protection.

Tommy Sheridan (Glasgow) (SSP): In relation to the recruitment problem in social work, does the member agree that the image that is portrayed of social workers has to be improved radically, especially by politicians but also in the media, and that we can play a role in that? Does she also agree that, through a McCrone-type settlement, it is time to return to national pay levels for social work staff instead of the ridiculous bidding war that leads to bigger shortages in some local authorities than in others?

Fiona Hyslop: I do not think that the bidding war is helpful or a good use of resources. We need to ensure that we enhance the status not only of social workers, but of all those who work with children. A comprehensive view should be taken of that. Indeed, the Education Committee is conducting an inquiry into child protection and has been thanked by those in the profession for trying to put forward a more positive view of what is required and of how society might regard that.

The SNP's proposals are made constructively by an Opposition that wants all parties in the Parliament to work together in the interests of Scotland's children. However, until social work issues can be resolved, the children's hearings system will continue to fail some children.

Supervision contact is often made once a month and sometimes twice a month. How can that

amount to regular contact? We also know that one of the concerns about the children's hearings system is the limited range of disposals. Time and time again, the criticisms that are levelled at the shortfalls in the children's hearings system arise from the limited range of disposals and an inability to force social work services and other agencies to deliver on recommendations. That point was made by Mary Scanlon. The NCH Scotland report found a lack of monitoring of decisions; failure by the system to implement the recommendations of the panel; and a limited range of disposals. Extending the range of disposals will be people and resource intensive, and that preventive investment must be acknowledged and supported. Restorative justice needs resourced support. More power and authority must be given to children's panels and there must be clear avenues for co-operation with the courts, when necessary, especially—as the minister said—in relation to the referral of parents and parenting orders.

An important question that is posed in the review is whether there is a role for family hearings. The SNP has long championed the role of family courts in cases of domestic abuse and in legal custody cases, but there may be times when such cases overlap with the children's panel's assessment of the child and their behaviour. There is a case for family hearings when behavioural issues in the family are central to the case and when other siblings are becoming increasingly affected. I will follow with interest the feedback from the review on that issue. However, we cannot lose the child-centred approach of the children's hearings system; therefore, a balance must be struck.

In conclusion, the case for children's hearings and the child-centred approach to care and protection and youth offending is sound. The system needs to be strengthened, not weakened. The children of Scotland deserve no less.

10:06

Miss Annabel Goldie (West of Scotland)

(Con): I, too, am slightly troubled by the time that has been devoted to this subject today. A genuine question arises concerning the object of the exercise. We are aware that the Scottish Executive has a two-stage review in place: I applaud that and think that it is a sensible exploration of where we have got to. The first stage of that review concerns principles and objectives and will conclude by mid-July. The second stage is to be a consultation on how we deliver those objectives and will commence in the autumn. In addition, the Justice 2 Committee, of which I am convener, is embarking on a youth justice inquiry. A great deal of useful activity is taking place; therefore, I question the usefulness of our spending a whole day talking about the

subject—and talking is what we are doing; we are not even debating the matter. It seems to me that the ground has already been ploughed and harrowed to considerable effect, and I am concerned that, by the end of today, we will be groping through dust. I hope that the Executive will have the sense to allow that dust to settle and let the established lines of investigation run their course.

I cannot help feeling that what might have been debated today to good effect would have been, for example, what is happening to stop slopping out and when that is going to happen; the rise in violent crime; automatic early release; the fact that we have only 140 police officers in our communities at any one time; or the escalation in drugs-related crime. Those issues are close to the hearts of the people of Scotland and matters of great concern to them. In talking about young people, should we not be considering why, according to a recent study by the University of Glasgow, children as young as 10 are dabbling in cocaine and heroin? To my mind, there would be a certain purpose in debating such issues. However, we are where we are, and it is important to be as constructive as possible. This opportunity permits us to state some general principles.

It is important that the Executive is more direct about its opinion of the Kilbrandon principles than recent newspaper leaks have suggested. The Kilbrandon rationale is still sound. Consideration of the whole child should still be the basis for the way in which we approach young people with problems; however, it is unfortunate that such gossip from the Executive is leaking into the newspapers.

The Deputy Minister for Education and Young People (Euan Robson): No, no, no.

Miss Goldie: The minister makes a completely unconvincing protest. He is not taking any of us in. The fact is that that gossip has deeply troubled children's panel members and reporters.

It is important that we acknowledge the underlying rationale of the Kilbrandon report and try to underline what, to be fair, the Antisocial Behaviour etc (Scotland) Bill demonstrates. Whatever measures are sought that involve parents—and, rightly, those cases have to be dealt with by the sheriff court—the reporter in the children's hearings system must be at the heart of the process, able to exchange information and have an input. Since the publication of the Kilbrandon report, we have certainly been confronted by new practical challenges, which I will come to in due course.

We should also use this opportunity to talk about the panel members. I am deeply concerned at what I can only describe as the low level of morale

that has existed among the panel members whom I have met in recent months. Many of them seem uncertain about the stature that they have in their communities and in the eyes of politicians. That is unfortunate. The Parliament must send out an unequivocal message that we laud and respect the work that children's panel members carry out and that they have our support.

Recruitment of children's panel members has already been referred to in passing, but I maintain that recruitment is an issue. We need to be clear about the reasons behind that problem. If people are minded not to participate in the children's hearings system because they are apprehensive about how they will be regarded or about how they will fit in and how the system operates, that is a serious flaw that needs to be addressed.

The other side of that coin is public confidence in the system. In various communities, I have heard acerbic comments from members of the public who clearly think that the children's hearings system is an unworkable soft option. I do not share that view, but the fact that such a view is abroad demonstrates that there is a need to reassure the public that the system can be made robust enough to deal with today's challenges, which did not exist in the late 1960s.

The challenges that confront us are alarming and they are very real. For example, we know that a physical attack occurs in our schools every 12 minutes—

Peter Peacock: That is simply not true.

Miss Goldie: The Minister for Education and Young People disputes that. Perhaps he will expand on that issue when opportunity permits.

The sad fact is that drug abuse is a regular occurrence for many young people. Crimes of vandalism, in which some young people are involved, are increasing. Disturbingly, just under 38,000 children were referred to the children's hearings system in 2002-03—the highest figure since the system began in 1972. According to the 2000 crime survey, half of all 12 to 15-year-olds have been victims of crimes such as harassment, bullying, assault and theft. In sum, the picture is far from attractive and it is clear that times are turbulent. No one disputes that those challenges exist, but the question that faces us all is how we meet them.

The challenges comprise two distinct issues. The first is that of the practical problems that arise from the failure of the existing system. Reference has already been made to the Audit Scotland report, but the follow-up report that was published in November last year detailed an alarming sequence of failings at every level. I will not rehearse those issues—as Fiona Hyslop said, the facts have been brought before us in several

debates in the chamber—but that report indicated some serious issues. If those failings are not addressed, neither the existing system nor any reformed system will be able to work. My desire is that the Auditor General for Scotland should command a six-monthly audit of the failings that were identified in his follow-up report so that we might ascertain whether any improvements are being effected. It is important to know what can be fixed and made better before we start tinkering with wholesale change to the system.

Secondly, some sensible suggestions are required about the structure and powers of the children's hearings system, given the completely changed circumstances that confront young people and children's panels nowadays. My party would send persistent and serious offenders who are aged 14 or over to youth courts. Removing that element from the children's hearings system would let the system cope and allow it to do what it is good at, which is taking an holistic view of what is happening to young people.

Robert Brown (Glasgow) (LD): Does the member accept that, far from allowing the children's hearings system to concentrate on what it is good at, the whole ethos of the system would be destroyed if we were to break it up and divide it in the way that she suggests?

Miss Goldie: No, I totally refute that. Our proposal tries to fortify and support the children's hearings system. We all recognise that early intervention is key. If the children's hearings system is distracted because a hard core of persistent offenders prevents our dealing with the category of young people who, as Fiona Hyslop mentioned, already demonstrate a disturbing pattern of behaviour at the age of eight, it is absolutely vital that we concentrate on those young people and get involved with them on a broad basis. It is right to remove the hard core of persistent offenders—who are a very small proportion of the troublemakers—and deal with them under a different arrangement. I defend our proposal as one that would greatly assist and strengthen the children's hearings system. I also think that 16 and 17-year-olds who display a recidivist pattern of behaviour should be sent to the adult courts as persistent offenders. However, that is a different issue.

Parenting orders will certainly have an important role to play, but we need to consider who will issue such orders and who will be responsible for their enforcement. That is a key issue. It is inappropriate to ask the children's hearings system to be responsible for imposing parenting orders because if there is to be enforcement, there must be sanctions. The sheriff court needs to undertake that obligation, although the children's hearings system should remain at the heart of the

information exchange process and be kept aware of what is happening. Many children's panel members would be understandably apprehensive about the prospect of issuing and enforcing parenting orders.

On the powers that children's hearings should have, a range of activity needs to be considered. We need more secure places, but we are all aware that insufficient numbers of places have been pledged by the Executive—no doubt the minister will comment on that when he winds up. Given the drugs problem confronting young people, we need to consider making drug treatment and testing orders available to children's hearings. Without such powers, it will be difficult for children's hearings to make informed decisions on the nature of the problems that they are asked to deal with.

My party also supports giving children's hearings powers of weekend and evening detention as well as powers to impose community service and supervised attendance orders. We need to ensure that young children are given a sense of their obligations towards their community and society. They need to be made to understand what the effects are when they breach the fundamental rules of orderly behaviour that we expect them to demonstrate. When my party first supported electronic tagging, we were derided by our opponents for doing so, but I am glad that the Executive parties have now seen the wisdom of our argument and conceded that point.

If the children's hearings system is under-resourced—like Fiona Hyslop, I contend that it is—we have a serious problem. If law and order and safe communities are the priority that the Executive frequently claims they are, there is no doubt that additional budgets and resources will need to be pledged to the children's hearings system. As Fiona Hyslop rightly identified, the social work element in the system is a concern.

Let me say that I applaud the provision in the Antisocial Behaviour etc (Scotland) Bill that will impose a more demanding obligation on local authorities to comply with the requirements of the children's hearings system. One can take a horse to water, but one cannot make it drink if the facilities are not there to provide that service. Without the facilities, there is a real difficulty.

Fiona Hyslop: Will the member give way?

Miss Goldie: I will, but I am not sure how much time I have left, Presiding Officer.

The Presiding Officer: We have quite a lot of time in hand this morning. You will have about two minutes left after this intervention.

Fiona Hyslop: Annabel Goldie has given a good example of how legislation in one area—the

Antisocial Behaviour etc (Scotland) Bill—has an impact on core care and protection activities. Does she recognise that such measures need to be seen as a whole and that the financial memorandums to all such bills should take into account the national recruitment policy for social workers and others?

Miss Goldie: That is a fair comment. Such statutory provisions that have all-party support also have financial implications, which I suspect are broader than the immediate area that is contemplated by that bill.

I hope that today's debate will be an opportunity to praise the work of panel members, who are an often untrumpeted band of heroes. We fail them and we fail our young people when we allow unsubstantiated gossip to percolate through the media, causing unnecessary alarm, apprehension and suspicion. We need to use our debate today to give a clear indication of our universal support for the children's hearings system and for the tremendous work that panel members voluntarily discharge within that system. We also fail our young people and the panel members if we gloss over patent deficiencies in the current system and are blind to the need for innovation and change. Although I think that this opportunity to express our views on the subject could have been slightly curtailed, I hope that some positive outcome will be manifest from it.

The Presiding Officer: I call Donald Gorrie.

Donald Gorrie (Central Scotland) (LD): Could you ask Robert Brown to speak before me?

The Presiding Officer: With pleasure. I now call Robert Brown.

10:20

Robert Brown (Glasgow) (LD): A slight surprise there, Presiding Officer.

I welcome the minister's comments and the quality of the consultation documents that have been produced. They are of an unusual and useful form and get at the heart of the issues that we want to examine, such as the generalist system, specialisation, links with child protection, evaluation, changes and influence over parents. They offer a helpful look at where we are going.

I was a little disappointed by the negative comments that were made by the Opposition parties' opening speakers. Members have an opportunity today to make an input at the start of the consultation process and to offer their thoughts on the framework and shape of the discussions. We certainly heard a bit about framework and shape from Annabel Goldie, but I will return to that later.

As Fiona Hyslop said, one child in 56 in Scotland is born to drug-abusing parents. That figure was given to the Education Committee recently by the social work services inspectorate. I do not know how many parents have serious alcohol problems—perhaps nobody knows—but it is likely to be significantly more than that. It has been identified that 23 per cent of 13-year-olds and 46 per cent of 15-year-olds will have drunk alcohol in the past week. We need to dig down into that matter a little bit, but it is certainly a worrying picture. The situation involving alcohol and drug-abusing parents, which lies behind many of the statistics that we are dealing with today, is horrendous and goes a long way towards explaining some of the problems that we are having in supporting and resourcing the children's hearings system.

I was impressed by the change in the nature of the referrals to the hearings since 1971. There has been a reduction in the number of those referred on offence grounds, although that has to be seen against the one third reduction in the number of children under 16. The little graphs in the consultation document illustrate the stark change in the number of children who are referred to the panel on non-offence grounds, primarily because of parental neglect or abuse. In 1976, there were 4,226 referrals on such grounds but, in 2002-03, there were 27,096 referrals, which is a 600 per cent increase.

We have put in place an elaborate system of child protection with Disclosure Scotland checks to ensure that people with dodgy backgrounds are not allowed to work with children, yet it is overwhelmingly clear that the most dangerous place for many children is in their own home, where they are at risk of neglect and abuse, not from strangers but from members of their own families. That gives some perspective to some of the issues that we have been talking about in that context.

Since I joined the Parliament in 1999—I note that other people joined the Parliament at that time as well—I have had the opportunity to visit projects of all kinds across the country. Many of those worthy projects are dealing with casualties of the system—young men and women who lack confidence and social skills, whose lives have been marked at an early stage by failure and discouragement and who are not job ready. Some of them have been in trouble, some have been addicted to drugs or alcohol, some have been dodging school and some have learning support needs. Successful projects such as Fairbridge are involved in confidence building and in developing skills and potential. There is common agreement that early intervention is more likely to be successful in resolving underlying problems. We saw a demonstration of that in Professor

Heckman's recent Allander series lecture, although I found many of the rest of his arguments unconvincing and repellent.

One clear connection can be made. A high proportion—perhaps around two thirds—of those who become neds, yobs or vandals at the age of 16 are the same children who were in need of care and protection at the age of five or six. That was the basic message of Lord Kilbrandon in his far-sighted report in the 1960s, in which he recommended that a single system be set up to consider all children, including those who offended and those with care and protection needs. They are a bit more cuddly at the age of six and a bit more stropky and obstreperous at the age of 16, but they are, nevertheless, the same children.

Further, a high percentage of young children in the hearings system have mental health problems, learning difficulties or a background in substance abuse.

Miss Goldie: Does Mr Brown consider that what he has described as the link between the situation when someone is six and the situation when they are 16 is acceptable and that that is a positive reflection of the system or would he concede that that link shows that something is not working?

Robert Brown: I will respond to that point in more general terms. The issue does not have a simple answer. That is an important point. There are societal trends that underlie all the statistics that we are discussing. Shortly, I will talk about the limited impact that Governments of any shape or form can have on those societal developments.

As has been mentioned already, there was a scare at the weekend when a Sunday newspaper suggested—based on the usual unattributable sources close to the First Minister—that there was a desire to break up the children's hearings system and establish a separate system for juvenile offenders. I have no way of knowing whether the First Minister's advisers are considering such a move, but I know that Peter Peacock has made it absolutely clear, in writing and in his speech this morning, that there is no such proposal. I know that Peter Peacock and the Executive aim to develop and improve the present system while holding on to its fundamental principles. However, I now know that the Conservative party certainly seeks to break up the system—we are indebted to Annabel Goldie for making that clear this morning.

The partnership agreement lauds the fact that

"Scotland has led the world in developing a system that puts the child at its centre, involves local people in deciding what is the right thing to do and focuses on the care and welfare of young people."

Forty years on from Kilbrandon, the Liberal Democrats support the current review of the system, which will ensure that

“it has the right set up and adequate resources to ensure that it does the best possible job to protect children”

For the avoidance of doubt, I tell the chamber that that statement from “A Partnership for a Better Scotland” describes precisely the position of the Liberal Democrats, who entirely support modernising and improving the system but would not countenance any suggestion of splitting it.

There are other interesting statistics in the consultation document. The number of reporters to the children’s panel doubled between 1971 and 1989 and then almost doubled again between 1989 and 2004. However, as has been touched on in many debates in the Parliament, the number of social workers has remained almost static—4,072 in 1971 and 4,918 in 2003. Those figures have to be treated with care because much depends on how professional staff are used, what support is in place, what referral projects are available, how many youth workers there are, how many cases are investigated but not taken to the hearing and so on. Broadly, however, if there are three or four times as many reporters for six times as many non-offence referrals and about twice the number of cases in total, it is not unreasonable to think that more social workers are needed.

In passing, I say that we do not need to take lessons in law enforcement from the Tories, on whose watch the problems escalated in the first place. As I said earlier, it is simplistic to say that such problems are caused by Governments, but an attitude or philosophy that believes that there is no such thing as society and downgrades the role of the community does not help. It is coincidental that we are meeting at the same time as the General Assembly of the Church of Scotland is meeting in our usual debating chamber, which is where those famous and chilling words were spoken. An approach that harps on endlessly about tougher punishments and new systems, such as juvenile courts, when punishments are already heavier than they were 20 years ago, flies in the face of all the evidence that suggests that detention, although necessary in some cases to protect the public, simply does not work and is, to boot, hugely more expensive than targeted early intervention, rehabilitation and reparative methods that divert young people from crime.

Mr Brian Monteith (Mid Scotland and Fife)
(Con): I always know an opponent is on the verge of defeat when he or she has to take out of context words that Mrs Thatcher once said. One would have thought that such people would have the confidence to use Mrs Thatcher’s words properly and in context and that that would be enough.

Given that the member says that he cannot take lessons from Conservatives, what does it say about him that the Conservatives, not the Liberal Democrats, supported the Airborne Initiative?

Robert Brown: I will come back to that as well, because there is a serious evaluation issue to be discussed.

Let us not be under any illusion: Mrs Thatcher’s comments may have been quoted in a variety of contexts, but does anybody really doubt that those words summed up the whole philosophy of Thatcherism, under which this country suffered in the 1980s and early 1990s? We are still picking up the pieces.

I do not want to repeat words from previous debates on social work shortages. The evidence is that the Executive’s recruitment measures are beginning to bear fruit. I hope that that recruitment will gather pace and meet the need over the months to come. However, we have to consider the role of the professional social worker and ensure that his or her work is focused on necessary tasks that only a social worker can do. Social workers should be properly supported and able to sustain the work of the hearings. The Parliament inherited a youth justice system that was grossly under-resourced; children’s hearings that in too many cases could not get social work reports or make supervision orders effective; a serious lack of effective disposal options to direct young people away from crime; a situation in which a lack of priority was given to serial offenders; and, above all, a system that failed to provide early interventions. The Executive is tackling all those things.

The review of the hearings system must, of course, consider the procedures for hearings to ensure that they are effective. The review must ensure that people understand what is happening. The spotlight of the European convention on human rights and the United Nations Convention on the Rights of the Child must illuminate the work, but we must not fall into the trap of becoming slower and more bureaucratic. The old adage about justice delayed being justice denied is especially relevant for children. We must consider how the fast-track powers for repeat offenders are working. The Liberal Democrats fully supported that innovation.

However, review of procedures is likely to be less central than review of disposals. The figures on disposals are revealing. The number of looked-after children has fallen from 14,610 in 1971 to 11,390 last year. However, of the latter, four times as many are at home with parents as was the case in 1971; rather fewer are with foster parents; and only a quarter as many are in care homes. Outcomes for children in homes have been consistently not poor but dreadful, so there has

been a major shift from care homes to parental homes. There have been big advances, but they will need time to be fully effective.

Investment, recruitment and standards are being tackled. However, I would like to suggest a number of specific points for attention—a mini, four-point action plan, if you like. First, we need targeted investment in research. Until recently, the Scottish Children's Reporter Administration was not even able to keep its statistics on computer. Anecdotal evidence has established that prison and detention generally do not work—and I suspect that evening detention comes into the same category—and that growing up in care is a huge risk factor for the future of young people. We know that early intervention is a good idea.

Secondly, I was very pleased to hear the minister stress the importance of evaluation. Many projects are good; some are not so good. We need to hear what works with whom, and we need to be able to target that work. That was the important aspect of the Airborne Initiative debate that we held a few weeks ago and it was not altogether picked up on by the other parties. Like the minister, I would like to hear evidence on how we can deal with families without losing the unique child-centred focus of the hearings system. Evaluation is not easy. An approach that tackles the easier end of the spectrum should not be compared with another approach that tackles the harder end of the spectrum. That would be comparing apples with oranges, not apples with apples.

Thirdly, successful projects should be rolled out across the country. We do not need a bureaucratic structure to do that, but we do need a lean and efficient research unit, possibly within the Scottish Children's Reporter Administration, to identify what works and what does not work. That unit should be funded to invest in success and to develop evaluation techniques to match those used by Her Majesty's Inspectorate of Education in schools. Above all, we have to fund, and to build on, what is successful. Success in this area is measured by changes in the lifestyles of individual young people—the human reality behind the statistics.

Fourthly, we must ensure that good information is available to panels on local social work resources and on what places are available on projects. The "Where's Kilbrandon Now?" report identified that need and stressed the lack of adequate monitoring of decisions and their outcomes, and the lack of continuity in individual cases with individual panel members.

Earlier, I touched on the link between parental neglect and later offending. Johann Lamont is entirely right to stress that care references might increase because of initiatives to tackle issues such as domestic violence. However, we have to

be watchful. The explosion in care cases is a warning that there could be a similar explosion in criminality in five or 10 years' time. I hope that that will not be the case, but we will have to get the review right and consider all the implications.

I look forward to this key review with interest and optimism. I want to ensure that one of the jewels in the crown of Scotland's juvenile care system is nursed, supported and improved. We have to build on its fundamental tenets. I look forward to the rest of the debate.

10:35

Ms Rosemary Byrne (South of Scotland) (SSP): I thank the minister for giving us this opportunity to discuss this crucial matter. The children's hearings system should be maintained. As he said, the system is admired throughout the world. We must build on its strengths for the future and it must be resourced and supported by the Executive, which must ensure that the resources are in place to make it work.

The minister described the changing structure of families and the rise in the number of children living with a drug or alcohol-abusing parent. One way in which we can strengthen the system is by ensuring that grandparents who look after children of drug-abusing parents are properly resourced and adequately supported. Members who watched "Frontline Scotland" last week will agree that we must address that issue as quickly as possible.

The key to dealing with all these issues is to ensure that children's services are adequately staffed and resourced, which is what panel members require in order to fulfil their role. That would ensure effective intervention. Nothing is more frustrating than seeing the continual return of young people to children's hearings because recommendations have not been put in place. Nothing is more frustrating than seeing parents crying out for help and support that are not delivered because the resources are not in place.

In many cases, young people go through the system—from nursery to the end of secondary school—without many issues being addressed. All secondary schools and an increasing number of primary schools have a system of joint support teams or joint assessment teams, in which a group of professionals—including senior management teams, educational psychologists, social workers and others, alongside the child and his or her parent or guardian—addresses the issues concerning the child. Those issues range from truancy to social, emotional or behavioural difficulties and mental health issues. The system should be part of an early-intervention system. Early intervention can make a huge difference. However, in my experience and that of many of

my colleagues in teaching, the system is often very frustrating for all involved, because recommendations made at meetings are often ignored due to a lack of resources. Team members then have the experience of seeing the young person continuing on a downward spiral of truancy or bad behaviour, to the distress of the most vulnerable young people and their families.

Often, a child with a record of truancy from a very early stage of primary school—one or two days here, one or two days there—will come into secondary school and the truancy will increase and accelerate. Before we know where we are, the child is jumping on the train, going all over the country and being lifted by the railway police. The child is then brought back to school and referred to the panel system. If that child, through a joint support team or joint assessment team, had had issues addressed, that would be one fewer young person in front of the children's hearings system.

Scott Barrie (Dunfermline West) (Lab): Rosemary Byrne spoke about early intervention. In the scenario that she has just described, it should surely have been up to the primary school to describe those early indications to the reporter, rather than wait until the problem had escalated. That is the key to the effective operation of the system.

Ms Byrne: That is exactly my point. The frustration is that the schools try to deal with these issues and refer the children but, very often, nothing happens and the downward spiral continues. Because of a lack of resources and a lack of supervision orders, we are completely frustrated.

Johann Lamont: Will the member give way?

Ms Byrne: No, I would like to go on.

We could deal with many of these matters before they reached the children's hearings system if we had the systems in the schools and if the local authorities were prepared to put the resources in. This is about funding and adequate resources. Local authorities need to be accountable. They need the back-up of children's services, so resourcing is required for child and family mental health teams, young persons' support workers and social workers. The children's hearings system should work alongside schools and the work of joint support teams and joint action teams should be complementary. Those teams should be extended to nursery education.

Through the community schools project, which is being rolled out, we have an ideal opportunity to ensure that those resources are in place—that is not impossible. The funding is available already. Much of the money for the roll-out of community schools is ring fenced and must be spent within a short time. Often, that spending has no strategy.

Many teachers complain that much of the money that originates outside the core funding for schools is misspent because it must be spent within three or four months and people must get their orders in. That does not work. That money is available and could be used to create a more effective joint support team and joint action team system in schools alongside existing community schools. Such a system should be rolled out across the board.

Some schools have staff to support parents. We should ensure that such provision is properly funded and continues, because it is required. We should not punish parents but work with them in schools at the crucial early stages.

We should support the children's hearings system by ensuring that we have enough social workers and that they are valued. That is crucial. Social workers are having a bad time and many of them will not join child and family teams because they know the stress that they would be under if they did. They know that they would not be supported and that they would be ostracised if something went wrong. We need to give those people the confidence to do their jobs.

To aid the recruitment and retention of social workers, we must ensure that pay and conditions are right. We should also consider offering people who work in social work and who are not qualified a pathway to becoming fully qualified.

We require an approach that is preventive, not punitive. That must involve early intervention, as I said. We need to work intensively with young people who are repeat offenders. The best way forward for that is in the community. We must ensure that adequate facilities are in place in our communities for all our young people.

We must wake up to the fact that between 40,800 and 58,700 children in Scotland have a parent who is a problem drug user. That is scary. Those statistics are frightening and it is time that we dealt with them. We must provide treatment for those parents and care and protection for those children.

The children's hearings system should remain. It should be strengthened and resourced to meet the needs of all those children and young people who for whatever reason require support in our communities. I hope that we can do that and that we will not split the system, which would be detrimental to our young people. We have a great system. We should resource it and make it work.

10:43

Mr Kenneth Macintosh (Eastwood) (Lab): This is my first opportunity to speak in one of the new open-ended all-day debates and I welcome the

chance to do so on children's hearings, not only because children's hearings are important, but because they lend themselves to a more discursive debate in which we can share ideas. However, I suspect that my open-mindedness and that of my colleagues will be tested before the end of the day.

I support the children's hearings system. Some years ago, I applied to sit on a children's panel in Glasgow, but I had to withdraw my application in May 1999, as one of the disbarring criteria for being a panel member is election to the Scottish Parliament. I reassure members that all elected representatives are deemed unsuitable—it is not just that MSPs are held in low esteem.

The children's hearings system is fundamentally sound and is based on strong principles, but I will describe some flaws that need to be addressed and changing circumstances that require new ways of working. One of the most obvious changes in the system is that panels now deal predominantly with neglect and abuse cases and with care issues, rather than with offending behaviour. The information that the Executive has provided in the consultation documents confirms that. It shows that the number of referrals of young people to the children's reporter on the ground that they have committed an offence has stayed fairly constant from 1976 to the present day at just under 15,000 a year, whereas the number of non-offending referrals has shot up from under 5,000 30 years ago to more than 25,000 now.

Whatever the reasons for that change—there are many—it has reaffirmed that the children's panel's central purpose is to deal with needs, not deeds. Most cases that panels deal with involve children who require care and protection. Members have made that important point. Much of the dissatisfaction with the hearings system focuses on the perception in some areas that it has failed to protect us from children's behaviour rather than the other way round. The system is sometimes viewed as being the soft option and—whether with justification or not—as being more concerned with culprits' needs than with victims' needs or the effect on victims of culprits' behaviour.

The way in which the system deals with cases amplifies that focus on care and protection over offending behaviour. Only one third of all referrals to the reporter are assessed as requiring a full hearing before a panel. In other words, most cases—whether they were brought to the reporter's attention by the police or whomever—do not make it as far as a children's panel. Of those that do, perhaps five or six in every seven cases concern neglect rather than criminal or antisocial behaviour. However, I have only anecdotal evidence for saying that.

I am certainly not suggesting that any perceived failings in the children's hearings system lie at the door of reporters. There are many reasons why cases do not proceed beyond reporters. However, it is at that point that we have the first major loss of confidence in the system. At that initial stage—especially when cases are marked for no further action—the system fails to deal sufficiently well with young people who are behaving unacceptably. It fails to reduce offending behaviour adequately and loses the trust of some communities.

Many people question how well the children's hearings system protects the communities in which we live and how well it protects law-abiding citizens from young thugs' behaviour. However, only rarely is a panel's decision seriously questioned. The serious cases that appear before panels of three lay people are dealt with well, by and large.

Although I suggest that some of the most important concerns about the system arise before a case reaches a hearing, I will not pretend that the hearing stage does not need reform. The most obvious reform, which I imagine many of us will mention today, is to ensure that a panel's directions are followed through. If a panel's main recommendation is to put a young person on a supervision order and no supervision takes place, we can hardly be surprised at the lack of effectiveness of the process.

The Executive is making strenuous efforts to recruit more social workers and I fully support the minister in that objective, which may be the most important improvement that could be made. However, the system has other weaknesses that need to be addressed. What do we expect of teachers, for example? Rosemary Byrne talked about that. As many teachers will say, they are not social workers, but they are often expected to act as social workers. At the children's panel, the views, role and responsibilities of teachers are crucial.

I am also mystified by the lack of support for children's hearings in comparison with law courts. When a case comes before a court, all parties had better have their evidence ready to present. Decisions that are laid down had better be carried out, or you can bet your life that a judge will bring the body or person responsible before them.

At a children's hearing, people do not turn up, orders or supervision requirements are not followed through and no one seems to monitor the situation, let alone do anything about it. The lines of accountability must be made clear to all concerned.

A different concern is not so much with the process as with decisions. I admit that I would

welcome further information on whether my fears are justified. It strikes me that we sometimes put too much emphasis on keeping children with their parents. Despite evidence that parents are, for example, drug abusers who have abused every one of their other children, we still wait until their baby is two or three before we bite the bullet and put the baby up for adoption. For those crucial two or three years, we all give parents one last chance, with the result that the baby goes in and out of short-term foster care instead of having a secure home with one of the thousands of families who are desperate to adopt a young child.

I will not pretend that easy decisions can be taken. As Education Committee members have heard said only too vividly during our child protection inquiry, managing risk is a difficult business in which we are too free and quick to allocate blame when things go wrong. Evidence and good practice exist and need to be made available to and used by children's panels as much as by anyone.

I want to say much more on the subject, but I hope that we will explore many of the complex and difficult issues at the heart of the debate over the course of the day. What do we do, for example, with the 13 and 14-year-olds whose behaviour the hearings are unable to improve? There are no easy solutions, but there are measures that we can take and the Executive is already taking some of them.

The move to introduce parenting orders in the Antisocial Behaviour etc (Scotland) Bill is one of the most welcome. I am glad that the minister mentioned that in his opening remarks. Not only do we need to widen the range of effective interventions that we can take, we need to encourage parents to face up to their responsibilities in the knowledge that it is neither possible nor desirable for the state to accept that role for every child who goes off the rails.

The family law bill will also give us the opportunity to look at the way in which people live their lives. That bill will allow us the opportunity to recognise the crucial role of grandparents and the stability that they can bring to young people's lives, of which ministers are only too aware and which Rosemary Byrne mentioned earlier. That role currently goes unrecognised and unsupported in the majority of cases. That much-used but little-practised phrase "joined-up working" would certainly go a long way to resolving many of the frustrations and difficulties that are currently experienced.

Although I mentioned only in passing the chaos wrought by drug abuse on many families and the need for us to maintain the battle against drugs, our work in tackling poverty is perhaps the most important of all. It is a rare occasion indeed when

the parent or parents of a child who appears before a children's panel have a job. If we can give every child in Scotland a warm home, if we can look after their health and provide a sound education, and if we can give their parents a job, we will do more for their future and our well-being than any reforms to the children's hearings system will do. We are engaged in all those tasks and I ask the minister to maintain his efforts in improving prospects for all our children.

10:51

Michael Matheson (Central Scotland) (SNP):

We have had a number of debates on youth justice in recent years, in the Hub and in the chamber. In the course of those debates, several members have raised concerns about how the children's hearings system operates. In one of those debates, two years ago, I asked ministers to review the children's hearings system. Therefore, I welcome the current review, despite the fact that it should have occurred at an earlier stage.

Over the years, many of those who have been keen to defend how our children's hearings system operates—including ministers at various points—have said that other countries look on our system with considerable envy. However, it is worth keeping it in mind that no other country has chosen to copy our system, largely because of a lack of detailed evaluation of the system, as the minister mentioned.

A system that was designed in 1971 is not necessarily fit for purpose in 2004. The review provides us with an excellent opportunity to modernise and equip our hearings system with the means and the tools necessary to make it more effective in the role that it must discharge in today's society.

I wish to address some of the general perceptions of the children's hearings system—that it is an easy option, that panel members are in some way do-gooders and, if one believes the media, that many of the cases that are referred to the panel are never dealt with in the first place.

First, the ethos of the hearings system is correct. It is child centred and it takes a holistic approach to dealing with the problems that a child might present before a panel. It is not an easy option; it is about taking an effective approach to dealing with a child's needs. A child who presents before a panel with a particular issue might be exhibiting behaviour that is symptomatic of a deeper, underlying problem. The model used by our hearings system aims to treat more than the symptoms displayed by a child.

There are those who question the effectiveness of the children's hearings system. By and large, it is effective, and one of its key strengths is that it

draws its members from the local communities that it serves. Our hearings system is almost entirely dependent on the good will of its panel members who are all volunteers. Without their time and commitment, the hearings system would simply not operate. When I have met panel members, I have been concerned to hear that they feel undervalued in their role. Panel members are not do-gooders; they are concerned citizens who deserve our support and recognition for the role that they play in our communities. Undermining the panel system and its members serves no one's interests. If one believes the press reports that cases referred to children's panels are often discharged without any problems being addressed, one would think that the system was not operating.

It is important to keep it in mind that the panels are only one part of the children's hearings system. Cases will be heard by the panel only if the reporter chooses to pass the case to the panel in the first place. Therefore, when the press reports that two thirds of cases dealt with by the hearings system are not discharged, not only are those reports inaccurate, they demonstrate a lack of understanding of how the hearings system operates. I hope that one of the functions of the review will be to heighten general awareness of the role and function of the hearings system.

Equally, although we might believe that the role of the hearings system is effective, it has been highlighted in a number of reports, including one published by NCH Scotland—"Where's Kilbrandon now?"—that there is a need for systematic evaluation of the effectiveness of the system in relation to its outcomes. That type of research is not only important to demonstrate the effectiveness—or lack of it—of the system, but to inform panel members of the effectiveness or otherwise of their role and to ensure that we continue to improve the system in future, rather than having to revert to another major review 20 years down the line.

However, the effectiveness of the hearings system is not purely down to the panel. Members have highlighted the need to ensure that the support services that work with the panel system must be adequately resourced. It would be wrong for the review to consider the panel in isolation from those other services. It is essential that we look at social work in this area because it has a key role to play in ensuring that the orders issued by the hearings system are implemented. Therefore, the provision of support services must be adequately considered in the course of the review.

Our hearings system will be most effective when it works in partnership with other agencies. That effective partnership is dependent on the

adequate planning and resourcing of those services. It comes down to the simple question: what is the point of a panel issuing an order on a child when social work does not have the staff or resources to ensure that the order is adequately implemented?

I hope that one of the conclusions to come from the review will be that we should extend the powers of the hearings system. In particular, it should be able to address parents' issues. From personal experience of sitting through panel hearings and from talking to panel members, I know that they are frustrated by their lack of power to address issues that the parents of a child might require to be addressed. If the most effective way of dealing with a child's problems is to address some of its parents' issues, that option should be made available to the panel. Whether that involves sending parents to parenting classes or dealing with an alcohol, drugs or financial problem, the panel should have the powers to allow it to address such problems. I have raised the matter previously in the Parliament and I am conscious that some members believe that, if we move down that route, we will move away from the child-centred approach that the panel presently takes. However, if we extend the powers of the panel to address some of those issues, we would preserve its ethos and allow panel members more opportunity and scope to address the child's problems more effectively.

In drawing my remarks to a close, I wish to raise two final points. First, local authorities are key stakeholders in ensuring that the panel system and the children's hearings system overall works effectively. I was concerned to learn only yesterday that, to date, few if any of the local authorities have organised consultation programmes in their own communities. I am aware that the Executive has its own roadshow, which is consulting in various communities, but it is essential that local authorities take on that role and that they do not do what they have been doing in some areas—leave it to the panel members themselves to carry out that consultation exercise.

Finally, I turn to remuneration for panel members, and particularly for panel chairs. I do not believe that panel members wish to be paid, or should be paid, for the role that they carry out, but I do believe that they should receive a reasonable amount of money to assist them in carrying out their duties. I hope that consideration will be given to how we can improve the system of remuneration for panel members and, in particular, for chairs of panels, who have a considerable number of duties to carry out, most of which they do in their own time and through their own good will. My understanding is that a panel chair legally has to provide a rota to the local social work department on only a monthly basis, but panel

chairs often carry out many other duties that are not recognised in the present system. I hope that that will be addressed by the Executive to ensure that panel members receive a form of remuneration that recognises the role that they play and the time and energy that they spend in doing so, while also recognising the fact that they are volunteers.

We have the opportunity to ensure that we have a children's hearings system that is fit for the 21st century. I believe that, if we get it right this time, we will have the opportunity to build on the good aspects of the system to ensure that it serves children in Scotland in future.

11:02

Margaret Mitchell (Central Scotland) (Con):

The Kilbrandon report's recommendations established the children's hearings system in 1971 as a single system to consider the needs of young offenders and vulnerable children. The system is designed to uphold the welfare and rights of those children, while addressing their behaviour. As part of the current review, the possibility of holding family hearings has been mooted, but that is not a move that I favour. I remain convinced that the focus must be on the needs of the individual child rather than on those of the parents or the siblings.

However, I do believe that there is a place for considering parenting orders as a disposal open to the hearings system, in order to address parental behaviour and responsibility. That would retain the unique child-centred and family-centred approach that is based firmly on the needs of the individual child. It is important to put the children's hearings system for the 21st century into perspective and to recognise that a child today is very different, by and large, from a child 30 years ago. A child today is much more mature.

In order to put the problem in context, it would be useful to look at some of the key facts. The Scottish Children's Reporter Administration's annual reports for 2001-02 and for 2002-03 confirmed that the total number of children referred to children's hearings represents approximately 4 per cent of all Scottish children. The vast majority of those referrals were made on non-offence grounds. However, there remains a relatively small hard core of persistent young offenders who are wreaking havoc in communities throughout Scotland. Local press and newspapers catalogue that offending every week. Examples include a six-year-old Kilmarnock girl and her eight-year-old brother who are now the subject of a police report and of a referral to a children's panel hearing after they terrorised American tourists visiting Dundonald Castle by attacking them with stones and forcing them to seek refuge in the castle for their safety. A Shotts couple were

forced to leave their home after their property was repeatedly vandalised and abused in a series of break-ins. Drunken youths have been making the lives of local people living close to playing fields in Bothwell, Uddingston an absolute misery by congregating there to drink, smash bottles and set fire to grass. The catalogue goes on.

If persistent offending is to be tackled effectively, that kind of behaviour must be addressed at the earliest possible opportunity. I therefore welcome the pilot fast-track children's hearings that are operating in East Lothian, Dundee and Ayrshire. They are aimed at dealing quickly and appropriately with persistent offenders who have committed five or more offences within a six-month period. However, if the children's hearings system is to realise its full potential and serve the needs of vulnerable children as well as the needs of those who offend, it must be fully resourced. That view is shared by NCH Scotland in its 2004 report "Where's Kilbrandon Now?"

There are two further areas that I urge the minister to address, which are certainly causing concern in the present system. The first involves the assessment of supervision requirements, which are currently hampered by social workers or ancillary staff failing adequately to facilitate good-quality, regular contact between parents and children. That in turn leads to its being much more difficult to rehabilitate those children. The 2003 Audit Scotland report highlights that problem. Its findings stated that between 300 and 500 children on supervision were estimated not to be getting the service that the children's hearings had prescribed.

The second area of concern revolves around inconsistencies in implementing national guidelines to assess the risk factor. That has resulted in a virtual postcode lottery, due to a failure to adopt a standardised approach, so that a relatively minor incident of domestic abuse could result in children being removed from a family in one area, while a much more severe incident in another area results in the children remaining with the family. That dual standard is not acceptable and I hope that the minister will address the issue.

This is an extremely important debate, so I deeply regret the fact that, once again, the minister has chosen to stage it at a time when the Parliament is not debating with the benefit of the full facts, which will be apparent only when stage 1 of the review into the principles and objectives is completed in July. That represents another missed opportunity by the Scottish Executive, and although I do not doubt the minister's genuine commitment to improving the children's hearings system, by denying the Parliament the right to a fully informed debate, he is quite simply selling Scotland and Scotland's children short.

11:08

Donald Gorrie (Central Scotland) (LD): I found that last remark pretty baffling. Like most other speakers in today's debate, I am 100 per cent in support of the children's hearings system. As Robert Brown said, the Liberal Democrats are totally in support of it. It is unfortunate that, as in most aspects of Scottish life, parts of the media consistently distort the whole thing and ruin the public's appreciation and understanding of the system. The media cause even more problems for Scotland than do politicians, and I think that something has to be done about that. Saying that may have ended my career, but it must be running to a close anyway.

As Robert Brown has said, we need more research in the whole area, not just about the efficacy of the children's panels but about all the other work that is done in the area, so that we know what works and what does not. In that connection, I am surprised that, unless I was asleep, nobody so far has mentioned the excellent report by a group of eminent people under Bishop Richard Holloway. Their study, on Kilbrandon 40 years on, did good research on what other countries were doing and on the efficacy of the children's panel system here, and it was very supportive of the children's panel system. It contains a lot of good stuff and I recommend it to anyone who has not read it.

It has been said that the disillusionment that obviously exists in many quarters with children's panels is the result of people not seeing things happening that they think should happen. That is not the result of the feebleness of panels, but of a lack of resources either in the panel system or—more often—in councils to deliver the services that are required. A panel will say that Johnny needs community service and a lot of attention to sort him out, but the council simply cannot or will not supply that. Therefore, proper resources must be provided to panels and councils.

The Communities Committee thought that the Antisocial Behaviour etc (Scotland) Bill, which is chugging along, could be interpreted as playing down the role of children's panels. I think that amendments have been lodged to improve the bill and ministers have promised to lodge more amendments. They have reaffirmed that the bill does not mean a downgrading of children's panels and they wish to make that absolutely clear in the bill. I look forward to those amendments being lodged.

We must try to involve children's panels more in overall policy, which is too reactive. Children's panels could play a part in its being more proactive—as the whole community must be—in order to sort things out. For example, it has been correctly said that many problems start when

children are quite young and with families having serious problems organising themselves. Families might have drink, drugs or simply bad behaviour problems, or might simply not know what to do. There must be involvement at an earlier stage and children's panels, with other authorities, have a role to play in that respect, in what I think the report calls "voluntary action".

There is a shortage of resources in that area, too. Foster parents are a group of people who make a contribution, but there is a great shortage of foster parents. At a recent meeting of foster parents, I was aghast to hear how many children in their first year of fostering have five or six foster placements until the right placement is found. That must make their position even worse. Resources must be targeted right at the start. I am no good at gardening, but if a person learns that something will not grow unless it is watered properly, it would be pretty stupid not to water it. We need to water families who have problems with young children.

Schools must be involved far more. Scotland—like many other countries—has a ridiculously compartmentalised governmental system; an example of that is that the Antisocial Behaviour etc (Scotland) Bill does not include the word "school". An amendment that I lodged and that was withdrawn used that word and I hope that schools will be mentioned later. Schools have a real and important role to play. They co-operate with children's panels, but much misbehaviour by people in society mirrors their misbehaviour at school. We must get a grip on the issue. Panels and schools could have a closer relationship than they currently have.

There are various groups that run systems to try to sort out kids who have trouble with truancy and bad performance at school and there are various ways of dealing with such matters. Robert Brown mentioned Fairbridge, which I have also visited. Its approach in schools is successful in turning around the behaviour of children. Yesterday, I visited Skill Force Scotland, which approaches matters in another way. The scheme was started in North Lanarkshire and the council deserves great credit for it, as does Jack McConnell, who was involved in helping to start it. Ex-military people work in the schools and children come four times a week or so, as if they were going to an ordinary class. There are good results in sorting them out. They stop truanting and will go on a week's adventure-type training. The scheme increases their self-esteem and social skills. One of the key issues is a lack of self-esteem, which is a Scottish disease, although it does not trouble MSPs—all politicians have far too much self-esteem. However, many citizens do not have enough self-esteem and need support. We must also use the talents of teachers and youth workers, as well as social workers, to deal with the

problem; that would help to make up for the lack of social workers.

If children are placed at the centre of things—as the Kilbrandon scheme says that they should be—that does not mean that we should never say no to them. The balance has tilted too far and many parents, teachers and police officers are afraid to say no to children. My concept of a liberal society is that there should be properly enforced discipline, which I hope will lead to self-discipline in young people.

A parliamentary committee should examine the whole area—not only alternatives to custody, but other schemes—in order to try to help people to sort themselves out at a younger age and to make real use of their education. I welcome the review and hope that it will lead to better things.

11:16

Scott Barrie (Dunfermline West) (Lab): Scotland's unique system of dealing with justice and child protection was set up as a result of the Social Work (Scotland) Act 1968. That radical piece of social legislation followed the work of the Kilbrandon committee, which reported some four years earlier. The 1968 act was innovative and far reaching in its reform of children's justice and welfare, in the inclusion of key provisions, such as the duty that it placed on local authorities to promote social welfare, and in bringing together many different services into newly created social work departments. However, the Kilbrandon report was published some 40 years ago, the children's hearings system in Scotland was established more than 30 years ago and the Children (Scotland) Act 1995 was passed nearly 10 years ago. Therefore, it is completely appropriate that we should now consider and evaluate the children's hearings system in Scotland.

Fiona Hyslop said that the children's hearings system had not been cemented in history and that it had evolved. However, in essence, the 1995 act took the provisions of the 1968 act and—with the exception of child protection measures—completely replicated them. Therefore, there has not been a complete and thorough review of the children's hearings system, which, as I said, is now 30 years old.

The debate is intended to be part of the Executive's consultation, so I will concentrate on the consultation rather than give a general discourse on the children's hearings system, or, indeed, on the perceived shortcomings of social work provision. I will deal with four themes—the issue of generalist versus specialist panel members; the children's hearings system and parents; links with the child protection system; and an overall evaluation. I also want to deal with an

issue that is not mentioned in the consultation, but which is one of the overarching principles of the 1995 act—the no-order principle.

On generalists versus specialists, part of the consultation suggests that we should consider extra training; I presume that that would be for certain panel members who could take up some of the more difficult aspects of work with which children's panels must now deal. There is merit in considering that issue, but we must be careful about becoming too specialist in our approach. It has been said that the great founding principle of the children's hearings system was to draw people from throughout our communities to sit on panels. If we expect people to become experts in one specific area, that could prevent people from coming forward and it would give undue relevance on the panel to the person who is perceived to be the expert, whether in offending behaviour, adoption—which is now a key part of some panels' considerations—or whatever.

Mr Macintosh: Does Scott Barrie agree that there does not seem to be any evidence that the decisions that are reached by panels are questioned to any extent by the public or by anybody else? There is general confidence in cases that go to panels and in the decisions that are reached by lay people—who have some training, but not specialist training—sitting together and administering lay justice.

Scott Barrie: I concur utterly with Ken Macintosh's remarks, which are supported by the evidence on how few panel decisions are appealed in the sheriff court, even though that course is open to anybody whose child is placed on a supervision requirement. The fact that appeals do not happen says something about how the system is held in pretty high regard.

The task that we ask panel members to perform is incredibly complex and difficult, therefore it is appropriate to consider training. It is important that panel members receive appropriate training not only before they become panel members, but while they are panel members. I remind members that the fact that a member has not undertaken sufficient training opportunities during their period as a panel member is one reason for their tenure not to be renewed.

Fiona Hyslop: Comparisons have been made with court duty. Does Scott Barrie agree that employers should respect time off for participation in children's panels and training, in the same way that they respect time off for participation in jury service?

Scott Barrie: I take on board the point that is made by Fiona Hyslop, who was kind enough to refer to the members' business debate that I initiated in October. She may remember that one

of the issues that we discussed on that occasion was the difficulty that some panel members have—particularly those who are in paid employment—in getting sufficient time off to undertake their duties. We also discussed the fact that some employers do not recognise the essential public duty that their employees perform, or the skills that the person can bring to their organisation in a variety of ways. Fiona Hyslop's point is valid.

My second point is on parents and the children's hearings system. Michael Matheson hoped that during the consultation we could consider giving wider powers to panels. I have mentioned in the chamber in the past my experience of appearing before a children's hearing at which the main issue that had to be addressed was not the young person, but the lack of appropriate parenting. We should examine that.

Before Parliament endorses the idea of giving panels wider powers without thinking through the implications, I counsel that if we give children's hearings greater direction powers over parents, we will open up the possibility of bringing legal representation into a system that does not have much official legal representation at the moment. One of the great beauties of the children's hearings system—although there are a number of members with a legal background who would perhaps disagree—is the lack of lawyers who appear. They appear in the sheriff court when grounds are being established, but it is rare for legal representatives to be present at the hearings.

Robert Brown: I come from a legal background, and I agree with Scott Barrie on that point. On the efficiency of panels, he may recall that the Scottish committee of the Council on Tribunals produced a positive report on the ways in which children's hearings work in comparison with other tribunals in the system. The children's hearings system succeeds in avoiding the bureaucracy and delay that are sometimes associated with other panels and with courts.

Scott Barrie: I thank Mr Brown for those comments.

On what we do about recalcitrant parents, when it is obvious that their inability or inaction is causing the problem, we need to examine the proposals in the Antisocial Behaviour etc (Scotland) Bill, which is being examined by the Communities Committee. If anyone has been following the progress of that bill, they will know that I am enthusiastic about the proposals on parenting orders. It is absolutely right that we have a mechanism that will put responsibility where it belongs, instead of a system that can place responsibility only on the young person through supervision requirements. I hope that the bill will

be passed as it is. We need parenting order directions to bed down before we proceed.

On child protection and links with the children's hearings system, the consultation document draws attention to the fact that we do not have a single system. I spent seven or eight years chairing child protection case conferences in a local authority, and it was a given that, if a case conference was held, a referral would be made to the reporter. In most cases, the reporter attended. One of the sad points to come out of the tragic Caleb Ness report is how the City of Edinburgh Council's child protection system and the children's hearings system were not linked up. Links had not been made between what was happening internally in the social work service and the wider children's hearings system. That situation could be remedied easily by ministerial guidance or by ensuring that we put child protection matters on a more statutory basis.

In his opening speech, the minister talked about evaluation. We need to examine the outcomes more rigorously and evaluate the children's hearings system. One of the things that sadden me about social work is the fact that we are not very good at ensuring that we have good outcomes for young people, whether they are under statutory supervision or receiving general assistance from social work.

The Children (Scotland) Act 1995 adopted a lot of things from the Children Act 1989 in England and Wales. In terms of child protection, the no-order principle, which I mentioned earlier, is a good one. We should try to get people to co-operate without having a statutory order. However, on offence grounds it is not always appropriate to delay bringing someone to a children's hearing. Perhaps we need to amend the guidance on the Children (Scotland) Act 1995 to ensure that we end up with a system that is more effective and that has earlier intervention. With those comments, Presiding Officer, I will stop.

The Deputy Presiding Officer (Murray Tosh): That comes as some relief to the timers.

11:27

Patrick Harvie (Glasgow) (Green): I apologise to members for my late arrival to the debate. I am sorry to have missed the minister's opening speech and the opening remarks from other parties.

I welcome the opportunity to be here, albeit late. The debate is surprisingly long and I hope that we all manage to keep going for the full day. The issue is important and I know that many organisations are keen to see us debate it properly. It is good to see that the review is taking place. Many of the organisations that I have been

in contact with are keen and enthusiastic about the review, which they believe is long overdue.

I am afraid that I will begin with a few criticisms before I move to something a little more positive. My first criticism relates to some of Donald Gorrie's comments on the Antisocial Behaviour etc (Scotland) Bill. We have to look at the children's hearings system and the bill in concert, because they impact on one another in many ways.

My main criticism is that the review is happening after the bill. If the Scottish Executive wants to open up dialogue and think creatively about how we intervene in the lives of young people who are at risk of abuse or harm, or those who are likely to offend or who are offending—often they are the same young people—it is clear that the review should have preceded the Antisocial Behaviour etc (Scotland) Bill. That applies not only to the review, but to reducing reoffending, alternatives to custody and a national youth work strategy. Those issues should have been considered first, because they are the supportive, creative and positive ways of addressing antisocial behaviour. If the Executive had done that, it would have been possible not just to create a better bill, but to gain broader support from the organisations that are criticising it.

My second criticism concerns public meetings. Members will know that it is not always easy to get wider participation in public meetings, but such meetings are an important aspect of the Executive's consultation on the review. I inform the minister that my office spoke to a member of a children's panel, whose day job involves working with a children's organisation, who found out about the discussion event in her city only two days before it took place. If people who work in the field are not aware that public debates and discussions are taking place, that calls into question the seriousness with which the debates are being promoted. Given that debate and consultation are part of the Scottish Parliament's and the Executive's process, we must do a little better.

My third criticism of the Executive concerns the leak to the press, which other members have mentioned. The floating in the media, a few days before this debate, of the concept that a punitive approach may be pursued through a separate system is not an acceptable way in which to conduct the exercise.

Peter Peacock: Patrick Harvie made it clear that he did not hear what I said, but I dealt with that matter explicitly. I make it clear that the press phoned my press office at the back-end of last week and were told unequivocally that there was nothing whatever in the story. They were then put in touch with the First Minister's press spokesperson, who also said unequivocally and on the record that there was nothing whatever in the story. Despite that, *The Herald* chose to

publish the story, in the full knowledge of what it had been told on the record and despite the fact that the story had no accuracy. The Executive has made its position clear—I wrote to *The Herald* the following day to do so. I have also written to the chair of the Scottish Association of Children's Panels and to the chair of the Scottish Children's Reporter Administration to make it clear that the Executive did not have a hand in the story and that we are the victim rather than the perpetrator of those actions.

Patrick Harvie: That is reassuring. I apologise again for not being here at the beginning of the debate. However, I invite the minister or the deputy minister in summing up to go a little further and say not only that there is no such proposal, but that if one is produced it will be resisted. That would be a much stronger indication of the policy intention.

I turn to positive aspects of the consultation. The documents in the pack contain a lot of good stuff, such as the recognition that we need to improve links with communities and the sense of ownership that people have of the children's hearings system. I agree with Scott Barrie's comments about the concern that too much specialisation may mean that lay people come to be perceived as experts. I am glad that the issue of specialisation is raised in the consultation, but we must be cautious in considering it. The consultation also recognises that the wider family context of children who are in contact with the system must be taken into account and that young people should be involved in the work of the system. Of course, we also need to evaluate the effectiveness of interventions. I am glad that we will have the opportunity to feed in to the debates on those important aspects.

Throughout Scotland, there are strong advocates of the principles and values on which the system is based. They include people who work within the system and others who work in a wide range of youth and community organisations. Robert Brown mentioned Fairbridge—recently I visited that organisation's Glasgow project and was impressed by its work, but it is only one of many such examples. I want to mention the dedicated and expert individuals who worked with NCH Scotland on the "Where's Kilbrandon Now?" report. I am sure that all members have read and taken seriously that report, which makes a valuable contribution to the debate.

The consultation recognises that the system is old, that it was designed for the 1970s and that much has changed since then. Politicians may blame one another for the dramatic increase in child poverty, but ultimately, we must all take responsibility for tackling it. The drug culture has developed and changed dramatically since those

days, although there have never been adequate services or humane policies on that issue. There has been a steady deterioration of communities, not only materially, but in human terms. As jobs, services and local life disappear, so does cohesiveness. There have been ever-increasing strains on public services such as social work and a deteriorating provision of youth work in many communities.

All those factors are root causes of both antisocial behaviour and some of the problems that the children's hearings system faces. Those few irresponsible politicians—I am glad that they are few—who advocate an ever-more authoritarian line, with the terms "thugs" and "neds" peppered throughout, have little to worry about, because at no level in society are the root causes of the problems being addressed. Those politicians will always have the consequences of the problems to kick against for the sake of cheap tabloid headlines.

11:35

Johann Lamont (Glasgow Pollok) (Lab): I welcome the announcement of the review of the children's hearings system. At one stage, a review was regarded as unnecessary because the system was seen as perfect and it was argued that people who were calling for it to be reviewed wanted to destroy it. I am glad that we have a consensus that a review is necessary and I welcome the opportunity to debate in a consensual way some of the issues that are highlighted in the review. As a consensual politician—and, I trust, not one of the authoritarians to whom Patrick Harvie referred—I would like to contribute to the debate.

I wish to highlight the role of volunteers in the hearings system. I appreciate the seriousness of the training that they undergo. From speaking to panel members in my area, I know how seriously they take their role, how much they are troubled by what is happening in the hearings system and how much they worry about the young people who come before them. They have expressed to me a frustration that arises because they feel that they cannot intervene early enough to make a difference and they have talked about how their job has changed over time. We need to consider how their expertise can be used at an earlier stage with young people.

In the review of the children's hearings system, it is important that the debate should be open and considered. There is a danger that if a person criticises the system at all, that is seen as being like swearing in church. If we do not allow a rigorous review, the debate will be closed down, although the difficulties will remain and people's attitudes to the hearings system may harden up. It

is simply not enough to say that the system is good, because that does not make it so. Although many people create the view that the system is beyond reproach, many others in communities, the police and schools feel that the system does not work in the interests of the young people who offend, the young people who are at risk or the victims of the offending.

When people argue that the system is beyond reproach, they often consistently talk about children, but when they talk about rights, they talk about young people. The danger is that we might infantilise all young people. We must recognise that we can have one system, but that it should be age appropriate. People also talk about self-esteem, but the problem in some of my communities is that young people are bristling with self-esteem that comes from behaviour that creates major difficulties for other people. There is a gap between what some claim for the system and what others feel from their experiences of it. That is why the debate should be open. No matter what the minister's view is, one part of the debate should not simply be closed down as unacceptable. If people are thinking about something, it should be debated and argued out rather than closed down in the way that Patrick Harvie suggested.

Robert Brown: Does the member accept that we must consider the system or the procedures through which we process people separately from the disposals and resources that are available to sort out the problem, once we have identified what it is and what we want to do with the children? Many of the issues in the debate are to do with disposals, whereas fewer are to do with the system.

Johann Lamont: I agree, but the simple point that I was making was that we do not help to build faith in the system if we tell people that they cannot discuss certain matters. The fact that people do not have faith in the system is a major problem in communities. The consequences of living in a community in which young people tell others that they are untouchable are that those people are silenced, disempowered and unable to take control of their and their children's lives. That is a major problem in some communities and it is why people begin to move towards the view that they must take matters into their own hands.

As I said, there should be one system, but it should be age appropriate. People criticise the hearings system, but, in general, they do not do so out of ignorance or hostility, but because they live with the failure of the system to protect them as victims. It is therefore important not to be complacent or to settle for the view that the issue is about resources alone. There is an issue of resources, to which I will come, but there are

many others. Equally, the issue is not simply about dysfunctional or poor families. The suggestion that poverty is the only cause of the difficulties is an insult to the poor families in my community who are dealing with their problems. Young people whose parents are desperately seeking help for them come into the hearings system, and the system can offer them help. If we simply give them the alibi that only those who have problems are in the system, that statement becomes a self-fulfilling prophecy.

Other actions can be taken to support young people, such as early intervention in schools, employment initiatives and tackling drug problems and domestic abuse, which are all partly about preventing young people from coming into formal systems of justice. Although I agree that teachers are not social workers, I must say that the points that Rosemary Byrne made about early intervention through fairly formalised, rigorous structures in school are important. We should examine how the hearings system uses the information that is gathered through joint assessment teams rather than reinvent the wheel when children come into school. I am not a social worker, but in the job that I did, we put our professional niceties to one side and worked with the young people and their parents. We were successful when the families acknowledged that there was a problem. If they said that there was no problem, that itself created a difficulty, and we had to acknowledge that.

Tommy Sheridan: I am sure that Johann Lamont agrees, particularly as some of the pilot areas are in her constituency, that the special nurturing work that has been done at primary schools to deliver precisely that early intervention and provide the environment to work with children with learning difficulties or behavioural problems should not only be spread throughout Glasgow, but practised throughout Scotland.

Johann Lamont: Absolutely. Glasgow City Council took the view that the nurture programme had to develop and I welcomed that. The programme is distinctive and targeted, and if being treated differently stigmatises young people, we must challenge the stigma rather than say that we cannot treat children differently.

I will mention briefly an attitude to the hearings system that exists in schools and among the police. I will talk about referrals, particularly non-attendance referrals, being marked "no further action". When I worked in teaching, there was a frustration about that, and I believe that that frustration still exists among guidance teachers who refer youngsters to the system on grounds of non-attendance. I am talking not about youngsters running about on trains all over the place, but about colluded non-attendance—young girls being

kept home to look after younger children, or nobody in a family taking sufficient responsibility to get up in the morning and send a young person to school. If we do not confront such problems early, we have the explanation of why there are youngsters in Polmont who have histories of literacy problems and truancy. We should look at the problem the other way round: if we address truancy, non-attendance and colluded non-attendance robustly and early and say that it is a priority for the young people concerned to get an education, difficulties might not emerge later.

The police tell me that not knowing what has happened to young people who have been referred to the system and not being confident that anything will happen to them has an impact on their effectiveness. It impacts on simple local policing and is in no way reassuring to victims.

When I worked with social workers, there was among them an interesting, if understandable, culture that we have to confront. They did not necessarily regard the hearings system as a friend, but saw their role as keeping youngsters out of the system. That is understandable because of some of the difficulties with the care system, of which we are all aware, but if home is not a safe place for young people, we have to find them a safe place. That does not mean not putting young people into the care system; it means giving them a care system in which we can have confidence. Social workers often regarded a panel decision to impose compulsory measures of care as a failure. However, in the same way that we expect school to lay down boundaries on behaviour—for example, on bullying—the children's hearings system has an important role in setting boundaries and encouraging young people to think about their responsibilities and be accountable for their actions. When parents have abandoned their role of setting boundaries, how much more important is it for society to set them for young people?

The worst thing that we can do for young people who are in homes where nobody cares for them is to have no expectations of them. When we ask for a rigorous hearings system, it is because we have an expectation that young people can change, not, as some Opposition members suggest, because we wish to abandon them. I hope that our local communities will be able to talk about the hearings system, be honest about what its difficulties are and confront the reality of young people's lives through the review and the Antisocial Behaviour etc (Scotland) Bill. We do neither young people nor anybody else any service if we pretend that the problems are always with us.

11:44

Mr Stewart Maxwell (West of Scotland) (SNP): I welcome the review. As many other members

have stated, it is probably overdue. The children's hearings system was a radical change from the system that went before, but it is not perfect—no system is—and it is now more than 30 years old. I pay tribute to all who work in the system, especially the volunteer panel members, because, as has been stated, if it was not for the volunteers in the system, we would have no system to work with.

The historical context of the children's hearings system is extremely important, because we must remember why we moved away from punishing children through the courts. In the 1960s, there was a great deal of concern that the legal system was letting young people down. It was felt that the system did not require them to face up to their actions and that it thereby contributed to their reoffending. Therefore, Lord Kilbrandon was asked to chair a committee to look into the problem, and one of the most noticeable things to come out of his review was the fact that the children who faced the criminal system were often the same ones who were in need of care and protection.

The children's hearings system was formed out of the work that Lord Kilbrandon and his committee did and, as many members have said, the hearings first sat in 1971. The system was to be grounded on a welfare-based, child-centred philosophy to deal with vulnerable children who required care and protection or needed their offending behaviour tackled. That ethos is crucial to the system's success, and I was glad to hear the minister put aside the comments that were made by *The Herald* last week and say that it is not the Executive's intention to split the system into a care and protection system and a punishment system. To do so would be to go backwards, rather than to improve the system.

The children's hearings system quickly became the envy of countries throughout the world for the humane and effective way in which it dealt with children and young people. Several members have mentioned that no other country has replicated exactly what we have done in Scotland. It is not unusual that no other country has done exactly what we have done, but other countries have learned important lessons and have taken the philosophy of that work. Members must remember that transferring from a juvenile court punishment system to a child-centred system, as we did in the 1960s and 1970s in Scotland, was a radical step. It would have been difficult for other countries to follow that example exactly and it is unfair to criticise them for not doing so.

I am glad that the minister cleared up the supposed leaks from the Executive, which led us to fear that it was considering the break-up of the unique children's hearings system. The problem is

not the hearings system, but successive Governments' continual underfunding of that system. The parlous state of support because of the lack of appropriate disposal options and a properly funded social work system is an endemic problem, as many members have said. The children's hearings system has considerable power to make recommendations, including to take a child away from his or her home into foster care, a residential school or secure accommodation—although that relies on spaces in secure accommodation being available, which is not always the case, due to the on-going or, one could say, endemic shortages in that area.

Research continues to show that those who offend and those who require care and protection often face the same difficulties. Research by the Scottish Children's Reporter Administration shows that more than 60 per cent of children who offend have already been referred to the children's hearings system, usually first between the ages of five and nine on care and protection grounds. A study written for the youth justice forum in Glasgow in 2001 examined young persistent offenders in Glasgow. It found that the majority of children who persistently offended had first appeared for non-offending reasons at an average age of eight. It also found that almost all those children came from unstable and violent homes and had originally been referred because of physical abuse, lack of parental care or alleged sexual abuse. Johann Lamont's comments about the problems in individual homes and dealing with problems robustly at an early stage are particularly appropriate in that context.

Even after 30 years, and despite all the good work that has been done, the link between young offenders and children who need care and protection is there for all to see. Given all the evidence that connects victims and perpetrators of youth offending, how can the idea of splitting the system into two—a punitive judicial system and a protective panel system to safeguard young victims—even be considered?

In recent years, the number of children who need care and protection has rocketed. In 2001-02, there were 36,820 referrals to the children's hearings system. Of those children, 60 per cent were referred because they were in need of care and protection and only 37 per cent were referred for allegedly committing an offence. In the past decade, referrals for children who have allegedly committed an offence have risen by 14 per cent, but in the same period, referrals for children who have been victims of an offence have risen by 27 per cent. The number of children who have been referred because of a lack of parental care—neglect, in other words—has risen by a shocking 247 per cent.

Several members' comments about the drugs culture that has arisen over the past two decades are particularly relevant in that context. The drugs scene and the drugs that are now endemic in our society have changed things beyond all recognition in the past two decades. There is no way that the Kilbrandon report could have foreseen the changes that drugs would wreak on society in the years to come.

The children's hearings system has been a great success over a number of years and Scotland should be justifiably proud of it. Given the recent massive rise in the number of neglect cases, the burden on volunteers and staff in the system has become almost intolerable. It is obvious that the lack of resources and of available places—and, perhaps most important, the drastic shortage of social workers to follow up on the recommendations that children's hearings make—is the most crucial shortcoming. There is no doubt that many children have been failed by the system, particularly those who are in the care system or are leaving care.

There is an acceptance that a lack of social workers and other problems in social work are having a detrimental effect on the system. Often, the reasons for delay in the system are caused by problems within social work departments. That is not a criticism of individual social workers and those who work in the system; it is a matter of fact that there are not enough people doing the job. The report from the Council on Tribunals, the Audit Scotland reports, the child protection audit and review and an Executive central research unit report into home supervision all found that social work services were lacking in ways that compromised the children's hearings system's ability to do its job.

Since 1999, the number of social workers has risen by 8 per cent, as has already been mentioned. However, vacancies have risen by 88 per cent. As Fiona Hyslop mentioned, over the same period, the number of children's social workers has risen by 15 per cent, yet the number of vacancies has risen by 129 per cent. That shows a great unmet need for social work services in general and for children's social work services in particular. The Audit Scotland report found that the shortage of social workers means that about 400 children are not getting the service that they require.

Until social work issues are resolved, the children's hearings system will continue to fail some children. It is time that the Executive seriously considered the establishment of a McCrone-style committee to address the recruitment problems that are evident in social work services. I urge the Executive to put away any notions of breaking up the children's hearings

system, to support our policy of a McCrone-style committee to attempt to put an end to the chronic shortage of social workers, and to promise to fund the children's hearings system adequately, particularly downstream from the hearings themselves. By doing so, the Executive could go some way towards ensuring that all children in Scotland who need the care and protection of the system actually receive it.

11:52

Karen Whitefield (Airdrie and Shotts) (Lab): I welcome the opportunity to speak in today's debate. As many members have said, Scotland has a unique approach to addressing the needs of those children who live in some of the most difficult circumstances in our country. The children's hearings system places the child at its centre and brings together a range of agencies to ensure that the child's future welfare is paramount when any type of intervention is decided upon.

As members have said, the children's hearings system was established more than 30 years ago, following the work of the committee headed by Lord Kilbrandon. Members are right to highlight all that is good about the system. It is based on the principle that children and young people who are appearing before the panel, whether they have committed offences or are in need of care or protection, have common needs for social and personal care.

Much has changed since 1971, when the children's hearings system took over from the juvenile courts. The Children (Scotland) Act 1995 and the United Nations Convention on the Rights of the Child are the most significant legal developments since that time. In a broader sense, children's rights and child protection have become much more prominent. That is as it should be. The conflict and tensions that can often exist between the rights of the child and the rights of the community have come to the fore in recent years.

As Fiona Hyslop and Ken Macintosh said, the number of cases that are referred to the children's reporter on non-offence grounds has risen considerably since the inception of the children's hearings system, from around 16 per cent in 1976 to 60 per cent in 2002-03. That is an important point, and it is for that reason that the Executive has decided that the time is right to review the system.

The Auditor General's report "Dealing with offending by young people" highlighted a number of failings in the system. In particular, it found that a small but significant number of young people were not receiving the required level of support from councils. That report estimated that between 300 and 500 children on supervision were not

getting the service that the children's hearings system had prescribed for them to address their needs and their offending behaviour. The report also highlighted a number of problems with the recording of cases and with the council's monitoring of the performance of services.

Allied to those problems were concerns over the shortage of qualified social work staff, which a number of members have already addressed. I am pleased that staffing problems have recently eased in North Lanarkshire, as the result of a particularly vigorous recruitment campaign. That difficulty faces almost every local authority in Scotland and it is essential that the Executive works in partnership with local government colleagues to implement lasting solutions to address problems in the retention and recruitment of social work staff.

Some members might have concerns about a perceived tinkering with the children's hearings system and might feel that the heart of the system—the child's welfare being placed at the centre of the process—is under threat. I do not believe that to be the case. Although I understand those concerns, I do not share them. I am convinced that the welfare of the child will remain paramount, because there is a willingness from all parties who are engaged in the debate to ensure that that is the case.

I do not believe that initiatives such as the youth courts and the measures in the Antisocial Behaviour etc (Scotland) Bill are an attempt to undermine the rights of the child; rather, they are aimed at tackling offending behaviour early and effectively. I have spoken with children's panel members from Lanarkshire, particularly from my constituency, and they do not want the Executive to hold back on introducing those measures, as Patrick Harvie suggested. They believe that such measures are needed in the communities where they live and work, that they will supplement the valuable role that panel members provide and that they deliver an effective structure for dealing with young people's offending behaviour at all stages of the process.

The youth courts aim to break repeat offending patterns among young people before they have time to become established. I am particularly pleased that they are working on a pilot basis in Lanarkshire and that they have now been rolled out to Airdrie, in my constituency. We should monitor how effective the youth courts are and whether or not they are delivering on the objectives that the Executive set for them. If the measure is successful, it will make the lives of those who are blighted by antisocial behaviour that much easier. It will also greatly improve the life of the young person whose offending behaviour has been challenged at an early stage. It is important

that we do not lose that in the debate. We should remember that improving the life of the child who has engaged in the offending behaviour is as important as addressing the offences that they have committed.

I am pleased that ministers are participating in the review of the children's hearings system. I am glad that they have been attending, and will continue to attend, public meetings across the country. It is right that any proposals to change a system that is firmly rooted in a community-based approach should go back to the community for its views, to ensure that they are listened to and are reflected in any changes that are implemented. I trust that ministers will give sufficient weight to communities' views and to their range of experience. The unique body of experience to be found among the ranks of the men and women who give up their time to sit on children's panels has rightly been highlighted. It is vital that we utilise their experience in any review of the service that the panels provide.

I look forward to the findings that come from the consultation process and to the renewed children's hearings system—a system that is fit for the 21st century, but that retains the founding principles of child welfare as set out in the Kilbrandon report all those years ago.

12:00

Mr Brian Monteith (Mid Scotland and Fife)
(Con): To get it out of the road before I move on to more positive aspects, I start by striking a discordant note, which relates to the nature of the debate. A number of members have commented on the fact that there is no motion for debate and, in particular, on the fact that five hours have been allocated to the debate. I support our having more plenary time and longer debates, but we have to put that in context. When we have discussed bills, such as the Nature Conservation (Scotland) Bill, which we passed recently, there have been instances of amendments not being debated fully because we were short of time. I say in particular to the Executive, which has such a strong influence on the business that we discuss, by all means let us have the opportunity for members to make serious contributions with serious time available to them, but let us ensure that the time is spread over a number of different subjects, in particular bills.

Stewart Stevenson (Banff and Buchan)
(SNP): Did Mr Monteith observe that for the debate in another place in London on the council tax—a subject that we are told exercises people considerably—only one twenty-fifth of the members were present in the chamber? Five times as many members are present for this debate than were present for that debate at

Westminster, which has five times as many members as does the Scottish Parliament. Does that not tell Mr Monteith something about the importance that members throughout the Parliament place on the subject that we are debating?

Mr Monteith: It rather tells me that Mr Stevenson should spend more time being concerned about the debates in this Parliament than about what is being discussed at Westminster. After all, I believe that he fought to have this Parliament, when I opposed it.

I move on to the more salient points of the debate. No one doubts that the children's hearings system is in great need of reform, given that a great deal has changed in society since 1964, when, as many members have said, Lord Kilbrandon first set out his innovative plans for dealing with young offenders and children at risk. We Conservatives value the children's hearings system, which is why we have made a number of suggestions this morning. Our policies include giving children's panels the option of imposing drug treatment and testing orders as a disposal. It is a sad fact of the times in which we live that children not only are getting involved in drug abuse but are doing so at a younger age than before. That type of disposal could prove a useful additional tool in the box for panels. My colleagues have expressed other ideas, such as imposing parenting orders, providing more secure places and having weekend detention. I hope that all those suggestions will be given serious consideration in the review that takes place.

Notwithstanding my complaint about the nature of the debate and its length, it has proved useful. I hope that it will not disturb Fiona Hyslop, Patrick Harvie and Johann Lamont too much to hear that I agreed with a great deal of what they said, even though they might feel that much of what they said was mutually exclusive—I for one saw consensus developing throughout the chamber.

I noticed that the minister was surprised when Annabel Goldie said that the number of attacks on school staff during the school day averages out at one every 12 minutes. I do not know whether the minister doubts the veracity of that statistic, but I would be interested to hear him challenge it or explain why he looked so surprised.

Robert Brown's comments reminded me why I might draw inspiration from Manchester Liberals, but I certainly do not draw inspiration from Scottish Liberals. If one wishes to have an open society in which individuals do not just have liberty but take responsibility for their actions, one has to be a Conservative and not a Scottish Liberal. Robert Brown's comments on Mrs Thatcher's remark that there was no such thing as society, which is quite an important aspect of what we are discussing

today, pointed out a wilful misunderstanding of what Mrs Thatcher was saying. That is significant, because it says more about the people who wilfully misunderstood what she said than it says about the people who supported her at the time.

She was saying that individuals, families and communities must be prepared to take responsibility for their actions. Her argument was that to dismiss problems as being society's fault was an absurd notion, because it amounted to saying that the perpetrators of any crime were innocent and that the rest of society—including even the victims of such crime—was responsible for it.

Stewart Stevenson: Will the member give way?

Mr Monteith: No, I must finish my point.

In that sense, it is clear that it is appropriate for Conservatives to support the children's hearings system, which is about drawing together the responsibility that individuals, families and communities must take for their actions. That is why we shall continue to put forward proposals that seek not to break down the system, but to strengthen it and make it more appropriate for the 21st century. If the review is conducted in that way, so that it produces an improved children's hearings system, I assure the minister that it will have the support of the Conservatives.

Robert Brown: Will the member give way?

Mr Monteith: I have just finished, actually.

The Deputy Presiding Officer: Oh, you have finished. Thanks.

12:07

Dr Elaine Murray (Dumfries) (Lab): There is no doubt that Scotland was well ahead of the game in 1971 when the children's hearings system was introduced, in that the new system represented clear recognition that offending behaviour was linked inextricably to a need for protection. That acknowledgement is not an excuse for all offending behaviour, nor does it suggest that offending behaviour is inevitable if a child is vulnerable and in need of protection. There was also recognition that the child had to be central to, and fully involved in, the system if that system was to be effective, and that children had to be encouraged to be responsible by making them accountable for their actions.

The Kilbrandon report, which preceded the introduction of the children's hearings system, recognised that the formal court system was highly intimidating, especially to young and vulnerable people. That ties in quite well with Scott Barrie's point about legal representation at hearings. He said that we might, if we over-legalise the system,

make it less easy for children to express themselves or to take a central part in proceedings.

Johann Lamont: Does the member acknowledge that, in some communities, difficulty is caused by lawyers actively hunting for work with families? They say that they are prepared to take on cases on attendance, for example, on the ground that they can win the case—even though the child might not have been at school for 70 per cent of the time—if they can establish that on one of the days on which the child was off, they were not well. Does the member think that that is unacceptable and that it goes against the commitment to look after the child's needs through the hearings system?

Dr Murray: I am sorry to say that, with some lawyers, nothing would surprise me.

The system provides a range of dispositions as alternatives to custody, so it is beneficial financially—the alternatives are much cheaper than secure accommodation, provision of which can cost up to £3,000 a week—and, much more important, it is beneficial because the alternatives are much more successful than custody. We know that almost 80 per cent of young people who are given custodial sentences at the end of the track go on to reoffend.

I have had a brief look at judicial systems in other parts of the world. It was interesting to find that youth systems in some other countries are beginning to adopt some aspects of our system. For example, Canada, which had one of the highest incarceration rates for young offenders in the western world, is reviewing its youth justice policies in recognition of the facts that sentencing is uneven and that use of the court system for minor offences is inefficient. The Youth Justice Board for England and Wales expressed concerns about similar disparities in sentencing.

In New Zealand, the juvenile justice system originally made a judicial distinction between children who were in need of care and those who offended. However, the authorities in New Zealand have begun to review the situation and to move away from traditional views on the causes of children's offending behaviour towards a system that challenges such behaviour and uses the court system only as a last resort. Indeed, a new system of family-group conferencing has been introduced and is delivering outcomes that are similar to those of the children's hearings system. The system also enables the victim to become involved, which provides a forum in which the young person can understand the consequences of their behaviour on others.

A similar system has been introduced in Ireland, which in 1998 had the highest rate in Europe of

incarceration of young people under 21. The Children Act 2001 contains provisions for family conferencing, which can take place if the offender admits his or her guilt, and in which the victim is invited to become involved. Moreover, the parents of the young person in question are also encouraged to become involved in developing a plan of restorative action.

I know that Guernsey is a small island, but in its recent review of such services it considered introducing a system that was very similar to the Scottish children's hearings system. Indeed, it noted that the benefits of our system were involvement of the community, the chance of effecting real and long-lasting improvements in children's lives and more effective targeting of the causes of criminal behaviour. Our system has significant strengths, although that does not mean that it does not have weaknesses or points that need to be addressed.

As other members have pointed out, there have been many changes in society over the past 30 years. For example, more parents and siblings have drug addiction problems and more children are being brought up in single-parent families. Furthermore, many more families do not have support from immediate or extended families. Because people are able to travel more, more parents are isolated and are not able to rely on advice from other family members as they try to tackle their problems.

I ask the Executive to consider some of the measures that have been introduced in other countries. Although the systems might not be the same, we might be able to import certain aspects into our own system to influence the way it works. I am sure that the system could be improved in certain respects. For example, processes could be faster, integration between agencies could be better and we could improve the system for inspecting and monitoring those aspects. Moreover, training for panel members could be changed and we need more emphasis on the responsibility that parents, families and young people must bear. At the moment, we have too much of a culture in which parents simply dump their kids on professional people such as teachers or social workers and expect them to do all the work.

There needs to be more focus on victims and restorative justice and we need better tracking of outcomes over longer periods to ensure that we know what works and what does not work. At the moment, we lack knowledge on that matter. I certainly believe that we need more trained personnel—no matter whether they be social workers or others—to work with young people. I agree with Tommy Sheridan and Rosemary Byrne that society needs to show more respect for

people such as social workers who work with young people. For example, social workers are often denigrated and blamed when things go wrong and dreadful statements such as "Those who can do, do; those who can't do, teach" are made about teachers. We need a culture in which the media and others do not simply blame or make disparaging remarks about those important professionals every time something happens. They need support, funding and training that are adequate to the jobs that they have to do now.

Margaret Mitchell: I agree that those people need to be respected, but does not the member accept that such respect has to be earned? At the moment, there is some concern in the courts about the way in which some social workers address their clients and children. After all, it is a two-way process.

Dr Murray: That is true. However, the negative image that those professions have been given has made it more difficult for them to recruit. We have evidence that people do not want to go into child protection because they are frightened of the pressures and stresses that will be placed on them.

I realise that I am running out of time. However, I just want to say that, if we manage to improve the system through the review, we will have fewer persistent offenders and less antisocial behaviour. Such elements are all parts of a spectrum of activity and if we get the review right we will be able to address other problems. That does not mean that we will not need to have disposals at our fingertips when things go wrong—after all, things always will go wrong. However, as Johann Lamont pointed out, we need to address problems at the very beginning before they escalate and cause grief to our communities and to society.

I welcome the review. We must recognise the strength of what we have in Scotland and we must be proud of our unique system, but we must recognise the need to reform it. Many people must feed into the process and into the review to ensure that we can effect the changes that will make the system more effective and which will result in better protection being provided for our young people and for our communities.

12:15

Margaret Smith (Edinburgh West) (LD): The jury is out on whether day-long debates without a motion work, but we have heard some interesting speeches already today. I hope that the minister will take on board many of the points that have been made by—to name but three—Johann Lamont, Scott Barrie and Michael Matheson.

I welcome the opportunity to take part in the debate. The Liberal Democrats support the key

principles of the children's hearings system—that the focus of the system is clearly on the needs, circumstances and behaviour of the individual child as a whole child, whether the child needs protection or is an offender.

We believe that the principles are still sound 40 years on from Kilbrandon, but that the practice is breaking down. It is clear that panel members, the police, the public and victims have lost confidence in the system—the process is often fed by the tabloid media. That is one of the reasons why it is right to review the system, but we should review it from the standpoint of protecting the principles of the system as well as protecting our children and our communities.

Children should be dealt with in the criminal justice system only in the most exceptional circumstances. Our task in reforming the children's hearings system is to reduce the number of young people who enter the criminal justice system by focusing very much on the kind of early intervention work that other members have talked about today. That work should be done in partnership not only with social work departments but with schools, other partner agencies and, crucially, it should be done with the support of parents if possible.

I welcome the review and I believe that it is a genuine attempt to improve the current system in the modern world. I welcome the robust statement that was made today by the Minister for Education and Young People in light of the comments in *The Herald*. I think that *The Herald* should hang its head in shame, bearing in mind what we have heard from the minister today. The issue is far too important to have the thousands of people who are involved in children's panels throughout the country worrying that the children's hearings system is not safe in the hands of the Executive or Parliament. I hope that if those people get the chance to read the debate today they will see that members throughout the chamber are very supportive of the great work that they do.

Despite a number of key reports having been published, there has not been a proper review of the system in its 33 years of operation. The system now has to deal with a number of different circumstances such as family break-ups, a lack of extended family support, drug or alcohol addictions and so on. That is why we must re-examine the system. We must never forget that as well as protecting communities from the actions of persistent young offenders, panel members have a key role in protecting young people.

There has been a worrying shift to referrals for care and protection rather than offence-related referrals. Care and protection grounds accounted for 60 per cent of referrals in 2002-03, compared with 16 per cent of referrals in 1976.

Johann Lamont: The member will acknowledge that although the main grounds for referral are often care and protection, there are also offending issues for some youngsters. That is not the simple division that it is sometimes characterised as being.

Margaret Smith: I understand that. The simple answer to that is to say that there is no simple answer. We must examine the issue in the round—I hope to come back to that later in my speech.

There are issues around parental neglect and poverty. I associate myself with the comments that Johann Lamont made. Many very poor families live in my constituency, but we do them a disservice if we say that poverty and their struggles and the challenges that they meet every day of the week are somehow an excuse for children getting into trouble, for families falling apart or for parents abusing their children. There is no excuse for any of those things.

Many members rightly highlighted the fact that the majority, or a great many, of those who are referred for offending behaviour will have been referred previously for care and protection. Whether we are dealing with children who are in care or with the children of addicts or abusive parents, we owe them a duty of care. We must ensure that they do not fall through the gaps between the key partners in child protection, education, social work and the youth criminal justice system. That is a lesson that we must learn from the recent Caleb Ness tragedy in Edinburgh.

We have to deal with children early in the process. Some of the stories that we have heard have mentioned the attitude that is taken towards truancy, for example. Tackling truancy is key to ensuring that a child receives the best possible education. Without an education, a child is much more likely not only to end up in a life of crime, but not to fulfil their potential in life. We should not concentrate just on those children who are not given proper care and who end up offending; we should think about those who are not given proper care and who end up not achieving what they might have been able to achieve in life because we have allowed things such as truancy to go unchecked.

I have spoken to children's panel members who have direct knowledge of the system, and key themes have come through. There continues to be a need for greater resources. Crucially, the partnership agreement acknowledges that adequate resources are needed for the service. However, we regularly encounter examples of needs not being met. Right now, the hundreds of excellent children's panel volunteers are being let down. Time and again, they know that decisions that they make will not be implemented or properly

supervised because of the lack of trained social workers and the lack of places on specialist programmes and—at the extreme—places in secure accommodation. Often, children who need protection are put in the same secure accommodation as those who are there for offending behaviour. I ask the Executive to address that. The Executive has undertaken several measures to recruit more social workers; however, there is also a need for greater administrative support for those key workers.

Although I felt that some of the opening remarks from SNP and Tory members might have been regarded as slightly churlish, I felt that there was merit in Fiona Hyslop's suggestions concerning recruitment and the possibility of secondments in and out of the voluntary sector and across other social work fields. In Edinburgh, in the wake of the Caleb Ness tragedy and the council's proposed shake-up of the social work department, we are dealing with a group of social workers whose morale is lower than ever. They are struggling with ever-growing case loads and feel that the public at large do not fully appreciate the job that they do. It is important that we take that on board and give them the support that they need in the difficult job that they do.

I share other members' concern about the lack of evaluation. Right now, panels know whether they have been successful only if a child is re-referred or not re-referred. If a child or parent refuses to co-operate, they can often escape the system with no follow-up. We need to introduce a new regime of evaluation to examine the outcomes for the child, to examine where the system breaks down and to see where it is working so that we can roll that out.

The Audit Scotland report tells us what children's panel members have been telling us for a long time: despite the fact that local authorities have a statutory obligation to implement children's hearings decisions, that is not happening. It is not unusual for a child to reappear a year down the line and for a panel to be told that there has been no social-work contact in that year. I welcome the setting up of a new inspection system; however, we cannot blame the children's panels if supervision orders are not supervised or if key personnel do not show up to a hearing.

I very much welcome Michael Matheson's comments about the need to look at the whole family. People might be concerned that that would detract from considering the child, but if we do not give children's panels the support and the powers they need to deal with parents, we will tackle only half the job.

12:23

Jackie Baillie (Dumbarton) (Lab): I am conscious of the time, so I will try to be brief.

It is widely acknowledged in Parliament that, for the past 33 years, the children's hearings system has served us well. It has provided Scotland's children with a unique support system that places the child at its centre. Like other members, I reject any implication from other quarters that criticism of children's panels is implied simply by the fact that the Executive is holding a review. However, it is equally to be acknowledged that there is a need for the system to be made fit for purpose, recognising the fact that there have been lots of changes over the past 33 years. Not least, children's rights have developed and expanded; we have the UN Convention on the Rights of the Child; and a Scottish commissioner for children and young people has recently been established.

It is not just about legislative or institutional change, however; families have changed, too. We have heard about examples of lone parents and grandparents being principal carers, and we have heard about parents who are habitual drug abusers. Therefore, it makes sense to review the children's hearings system now to ensure that it is as efficient and effective as possible in facing those challenges.

As the minister said, the Scottish children's hearings system is internationally renowned for its holistic approach to children's needs, which I believe is essential in a system that deals with many different types of children in many different types of circumstances. We know that the process of referral to a children's hearing often uncovers issues in the child's background—such as living with domestic abuse or living with parents who have a drug or alcohol addiction—that manifest themselves in behavioural problems such as missing school or, at the other extreme, committing offences. Consideration of all the factors before making a recommendation makes for much more effective interventions. It is clear that to deal with only one aspect of the underlying problems that affect a child is an approach that is doomed to failure. That is why I echo the minister's view that we need all agencies to co-operate in achieving the desired outcome. That must involve not only social work departments but other agencies both within local authorities and beyond.

Like others, I pay tribute to panel members. The hearings system would be unable to deliver such a high standard of support without the dedication of its members, who are ordinary people who have volunteered to help children in their communities. Having attended some children's panel meetings in West Dunbartonshire, I have been privileged to see that commitment in action. In my brief time

there, it became apparent how important it is to have local volunteers to deal with local cases. Such extra knowledge of a child's surroundings and of the services that are available locally enhances the panel's understanding of a case and of the disposals that are available. Panel members, who are committed volunteers, are a key strength of the system.

We should also listen to what panel members say. Knowledge of what works and what does not work is clearly important in informing the Executive's consultation. Panel members will highlight areas for improvement. The panel members to whom I spoke expressed their frustration at the limited amount of disposals that were available to them. Some said that, even in cases in which they thought secure accommodation or supervision by a social worker under a supervision order was needed, they were not always able to recommend those options because they knew that such services were not in place.

It is important to remember that the hearings system does not exist in isolation. Important though it is, it is but one step in a process that tries to change a child's life for the better. Therefore, in addition to considering how to improve the system itself, we need to consider ways of improving the services that surround it. Johann Lamont's comments offered an interesting critique of the services that lead to and from children's panels. Perhaps those issues need to be addressed urgently. If gaps in services are evident and hearings' recommendations cannot be met, that will clearly diminish the work that the panels do. Having a well-resourced system with the full range of disposals will make such an outcome less likely.

Fast-track hearings were piloted in Dundee, Ayrshire, East Lothian and the Borders because it was acknowledged that the hearings system has been less effective in dealing with persistent offenders. The aim of the fast-track hearings was to deal with the hard core of offenders—the 8 per cent of under-16 offenders who commit five or more offences—who are responsible for one third of youth crime in Scotland. The pilots used a variety of different methods that were appropriate to that group of people. Indeed, many panel members have also expressed support for using the principles of restorative justice. Perhaps further consideration should be given to that when people reflect on the Antisocial Behaviour etc (Scotland) Bill.

The Executive has estimated that the time between offence and referral to a programme could be one third quicker than it is under the current system. It is extremely valuable to have a system that is quick and efficient because early intervention is undoubtedly the best way to

prevent more serious offences from being committed in the future. The lessons that have been learned from the fast-track pilots should be applied more widely because their results were positive.

I will mention two final issues, the first of which is evaluation. The establishment of another way in which to evaluate the work of the children's hearings system could also help to reduce the chances of children encountering further problems. At present, once the panel believes that a supervision requirement is no longer needed, communication between the panel and the child stops. Evaluating the impact of the supervision requirement after that point might benefit the child in the future and prevent them from being referred back to the panel.

Lastly, should panels be able to intervene with the parents if, in the interests of the child, such intervention is desirable? The way that that question is posed seems almost to suggest that parents are somehow not involved in the situation. They are, however. Parents attend the hearings with their children. They are not only party to what is going on; they are essential partners in the process. That said, I can envisage circumstances in which panels would want to encourage or compel parents to do the right thing. On balance, provided that the focus remains on the child, I would have considerable sympathy with that suggestion.

I believe that the principles on which the children's hearings system was founded hold true today. Its approach is child centred and holistic and its strength lies in the fact that panel members are volunteers and members of their communities. They should continue to be a major tool in dealing with care and support of children as well as in protecting our communities, but we should never close our minds to the potential for improvement or to new and different ways of making provision. We must build on the work of the hearings system and ensure that whatever we put in place serves our future generations as well.

12:31

Meeting suspended.

14:30

On resuming—

The Presiding Officer (Mr George Reid): Good afternoon. We return to the debate on "getting it right for every child". I call Alex Fergusson, to be followed by Sandra White. Are you ready to go, Mr Fergusson?

14:30

Alex Fergusson (Galloway and Upper Nithsdale) (Con): No, Presiding Officer.

The Presiding Officer: In that case, can I assist you? Is Ms White ready to go?

Alex Fergusson: I am ready now, Presiding Officer.

The Presiding Officer: Off you go, then.

Alex Fergusson: My apologies, Presiding Officer. I was not expecting to be called quite so soon.

I say at the outset that I agree with my colleague Brian Monteith, who questioned why the Parliament should have a five-and-a-half-hour debate on the launch of a project, given that we are sometimes guillotined in stage 3 debates, which are in effect the last chance to alter legislation. That needs to be looked at. Nonetheless, I am pleased to take part in the debate and I welcome the review, which is badly needed—my only regret is the length of time that the consultation process will take.

The first point that I will make was put to me at a briefing with the chair of the children's panel in Dumfries and Galloway. It reinforced a point that has been made forcefully by several panel members in my constituency. Section 1 of the glossy, multicoloured consultation pack contains a two-page explanation of how the children's hearings system works at present, under four headings: "Incident", "Investigation", "Hearings" and "Outcomes". In the "Outcomes" box, the final determination that is available to a panel is to recommend a supervision requirement in secure accommodation. Like other members, I have a high regard for members of children's panels and the work that they do and I am sure that no children's panel member would make that ultimate recommendation lightly. However, as with all justice systems, an ultimate sanction is a necessity.

The problem in Dumfries and Galloway is that no secure accommodation is available. There is therefore an even greater reluctance to impose the ultimate sanction, given the panel's knowledge that the child will have to be completely removed from his or her local environment, with all the consequences that that will have on family contact, agency contact and other necessary processes of rehabilitation. That is a glaring gap in the local system, but it can be corrected relatively easily if the Executive has the will to resource the system properly—many members mentioned proper resourcing this morning.

I will highlight one or two other areas of the system that demand review, not to undermine it, as some members suggested this morning, but to

improve it, as Brian Monteith said we all want to do. The areas that I will mention arise from a case involving one of my constituents—I hope that that is acceptable—whose two children were taken from her, put into care and ultimately adopted, an action that many, including me, believe to be wrong.

The first concern is the grounds-for-referral document, whose purpose is to list the facts of the case that, if proven, satisfy the statutory test for bringing the child's case before the children's panel. It also provides the basis on which a child is taken into care. In my constituent's case, the first version of the document set out a number of grounds, including Munchausen's syndrome by proxy. Her local solicitor took the matter up with the reporter, who agreed to delete all references to the syndrome. However, the solicitor did not realise that those agreed deletions did not prevent the children's panel from raising any issues, including Munchausen's syndrome by proxy, if it chose to do so. In the event, it did choose to do so and, as a consequence, my constituent was continually faced with the allegation that she had agreed to the grounds for referral, even though the matter remained unproven. It cannot be right that an agreed deletion from the grounds for referral can become the reason and the basis for a child being taken into care.

Where it is considered that there is a conflict between a parent's interests and those of a child or children, a panel appoints a safeguarder. The theory is that, through the safeguarder, the panel can receive an objective report from the child's perspective. In this case, I understand that the safeguarder who was appointed was an ex-employee of the reporter's office who went on to work with the local social work department. The fact of her former work and contacts can hardly have improved the objectivity with which the case was considered. I believe that that was a failure of the checks and balances that should exist within the system.

We come now to the appeals procedure. A respected Edinburgh solicitor, from whom my constituent sought aid during her case, said in a letter:

"It is notoriously difficult to appeal decisions of the Children's Panel as the Sheriff has to decide whether or not the Panel came to an unreasonable decision. This is an almost impossible hurdle to meet. Unless a solicitor acting for a parent can show that there has been some fundamental legal error committed by the Panel or a technical breach of the rules it is very unlikely that the Sheriff is going to overturn the Panel's decision as unreasonable. Almost by definition if the Panel is able to set out their reasons coherently then the basis for that reasoning cannot be challenged."

Clearly, that solicitor came to the matter rather late in the proceedings and brought it before the

local sheriff in an appeal. The sheriff expressed concern and advised that the points that the solicitor was making ought to be taken back to the panel. The solicitor sought a hearing, but found that the panel was completely uninterested in any of the new points that were being made. I quote again from the solicitor's letter:

"I was met with an arrogant Panel and an arrogant Social Work Department who were convinced that they were right and were not prepared to even give any possible consideration to another point of view. While in theory there is an appeal from the Children's Panel, in practice solicitors know that the chances of bringing a successful appeal are virtually nil."

Finally, I question the increasing use of so-called expert witnesses in the civil courts and in matters of family law. Their evidence often carries enormous weight. Other experts may hold competing views, but they cannot have them aired in the adversarial surroundings of the system. Surely the system should encourage a consensus to be reached, especially when the outcome, as in the case that I have cited, leads to two children being removed from their natural mother, who is unlikely ever to see them again. As we recently saw in the case of Professor Sir Roy Meadows, far too much emphasis can be placed on so-called experts' evidence.

Johann Lamont: I agree that there is an issue about the weight that is given to expert witnesses. However, does Mr Fergusson agree that there is also an issue about examining what an expert witness's expertise is? In some cases, expertise was claimed but, when the claim was examined further, it was found to have no substance.

Alex Fergusson: Absolutely. I agree entirely with that point. I am aware of Johann Lamont's constituency interest in some of those cases. The fact that people can get into a position whereby the system deems them the expert and no other point of view is allowed is a real concern. As I said, there is an urgent need to review that part of the system and not shirk from the conclusions that will be reached.

On Sir Roy Meadows, I wonder whether the minister can say in summing up when the Executive will make public the report of the internal inquiry by the Scottish Children's Reporter Administration that was promised last March into cases in Scotland involving MSBP. My constituent deserves that report and she and many others deserve this review. The system is far from perfect and must be changed to become, as Michael Matheson said, fit for purpose in 2004.

14:38

Ms Sandra White (Glasgow) (SNP): I did not want to start my speech on a negative note but, like other members, I question why we are having

this debate in the chamber, given that no vote will be taken. In her speech, Fiona Hyslop referred to the fact that the Parliament is a legislative body and said that we should be legislating; we should not be debating a subject that, I believe, should be discussed by committees. As other members have said, the subject has been debated by the Education Committee and is being considered by the Justice 2 Committee. I believe that the committees are the right and proper place for such debates. The only debates that we should have in the chamber are those on which we have a vote.

I am concerned about the time that we have spent on the debate today. We recognise that the children's hearings system was introduced in 1971—although Scott Barrie mentioned 1968—which is a long time ago, but the subject should be debated by the parliamentary committees rather than in a full-day debate in the chamber. I agree with Donald Gorrie that a committee would be the proper vehicle for scrutiny of the overall situation of children's hearings and children's panels. However, the debate has started and I want to raise some issues. Perhaps the minister will give me some feedback when he sums up.

We should remember that the treatment of children in the home, the education system, the community and the justice system has a direct bearing on their behaviour. That is why I believe that children's panels and the children's hearings system, with its holistic approach, are the best way forward. I do not think that youth courts would be particularly helpful. We have heard from other members that England and Wales are considering reviewing their system of youth courts. As I have said before, it is 30 years or more since we considered the issue, so it may be time for us to look at it again. However, we should not do so in the chamber.

I will give members a couple of examples that illustrate why the holistic approach of children's panels and the children's hearings system is the right way forward. I refer to case studies in the papers that have been given to us. One such case relates to a girl called Kelly—obviously, that is not her real name—who is 14 and does not attend school regularly, as she falls asleep. If we look into the situation, we find that Kelly's mum is a drug addict and that Kelly has to look after her younger sister. Clearly, that is not Kelly's fault, as a children's panel would reveal.

Another case involves two young kids whose mother is regularly beaten by an abusive partner. Obviously, that has an effect on the children, who are not doing very well at school. I could give many more such examples. I am trying to explain that children's panels and the children's hearings system are the best way of dealing with those cases, as they examine all the facts holistically

and can put together a proper package for the children. We must be very careful before tinkering with the system.

Many members have mentioned members of children's panels, from whom I have received a number of letters. They state that MSPs are right to express concerns, because panel members are frustrated by the way in which they and the children who appear before panels are treated. However, they make it clear that their complaints are not directed against the children's hearings system. The problem is the lack of resources for panel members, as well as the lack of social workers and of funding more generally. That issue is very dear to the hearts of panel members. As has been said, they serve on a voluntary basis because they want to do something for society and for kids in the community. They are frustrated by the fact that their recommendations are sometimes not heard or adhered to—basically, agencies are ignoring them.

Some panel members say that agencies would dearly love to do something, but do not have the necessary funding. That point is central to any examination of the children's hearings system. We cannot ask people to develop the system when they do not have the necessary funding. We must take what they say seriously.

Johann Lamont and others referred to social work departments and other agencies and emphasised the need for a joined-up approach. That is an important point. I am not targeting social work departments—other local authority departments and schools have a role to play. Children's panels and the children's hearings system cannot act in isolation. We should do something to right the wrong that currently exists.

As has been mentioned, the Antisocial Behaviour etc (Scotland) Bill will put even more pressure on children's panels and on social workers. Earlier, I spoke about the need for an holistic approach. I did so because I am a member of the Communities Committee, which is considering the bill. Marrying the bill with the review would have been advantageous and might have produced a better approach to children's panels and the children's hearings system. That is the reason why I began my speech on a negative note.

We must also consider seriously the recruitment and retention of social workers, to which Stewart Maxwell referred. We cannot continue recruiting social workers and failing to keep them. I ask the minister in his summing up to provide me with an update on the fast-track scheme that was announced on 12 February to bring more people into social work, so that we can see how many people have taken up the option and where it is

being advertised. I note that the minister is nodding.

In his opening remarks, Peter Peacock said that the Executive is taking stock of the issue and that the review is not about scrapping the system. I took comfort from that, but I was concerned when he said later that our system has not been fully replicated elsewhere in the world. I hope that the minister will explain what he meant by that remark, which seemed directly to contradict what Elaine Murray said about the various places, such as New Zealand and Guernsey, that are adapting their systems and adopting a similar system to ours. It is a good thing that other countries are adopting our system.

Like other members, I believe that the system that is in operation is excellent. It needs a certain amount of attention and improvement, but it also needs more resources and it does not need to be pulled apart. When the minister sums up, will he assure us that there will be no two-track system for children's hearings and panels?

14:46

The Deputy Minister for Communities (Mrs Mary Mulligan): This morning's debate produced interesting and stimulating ideas. Contributions were wide ranging, as we would expect in a debate about a system that deals with all aspects of the child, and I am sure that they will be this afternoon, too.

I will take this opportunity to speak about the children's hearings system's role in dealing with antisocial behaviour. Members know that we are currently discussing the Antisocial Behaviour etc (Scotland) Bill in the Communities Committee. I will not go into precise detail about those discussions now, but I will highlight areas in which we are taking action to strengthen and build on the current hearings system. Hearings have a crucial role in relation to antisocial behaviour as well as in relation to offending and I will tailor my comments to those issues.

I start by making a couple of basic points. The children's hearings system takes a preventive approach. It deals with problems that have arisen or with the risk that problems are about to arise and it takes action to prevent such risks or problems from arising in the future and from dominating the child's life to a point at which the child remains at risk. The system does that by putting in place measures to support the child. It can limit a child's contact with certain individuals or access to certain locations and it can restrict a child's movement and liberty. Such steps are taken in the child's best interests, to protect his or her welfare. That is the system's approach to offending behaviour.

The absence of punishment in the children's hearings system can be a difficult concept for some people. It goes against the grain of what they feel should be the response to offending behaviour. We hear comments such as, "They should be fined or locked up," or, "They were referred to the children's panel but now they are back on the streets." Those points are made with conviction, but they ignore other factors. For example, the threat of punishment or detention does not often work. We are currently consulting on reoffending and on how to ensure that effective action is taken. The answer might not be to lock people up, particularly young people, many of whom have little appreciation of the consequences of their actions on others or on themselves. Despite their physical appearance, the young people involved are frequently very immature.

We must also observe and respect rights and process. People can be deprived of their liberty only when that is justified. That requires process and reflection.

Phil Gallie (South of Scotland) (Con): At what age does the minister think that children are aware of the consequences of their actions?

Mrs Mulligan: I think that I have already said that we need to consider that. At this stage of the consultation on the hearings system, it would be a little premature to state the age at which we think that children are aware of the consequences of their actions. However, in recognising the actions that are sometimes taken, we should not assume automatically that measures cannot be taken for children who offend—far from it.

The potentially long-term involvement of the children's hearings system can be far more challenging than a sentence. Children are required to face up to what they have done—a lawyer does not speak for them—and they have to reflect on how to avoid doing the same thing again. The measures, which, as I said, can be long-term, are subject to review and, if necessary, can be renewed.

Where there has been offending behaviour, children might have to attend courses that help them to face up to their actions, to understand the consequences and to make them realise that, if the behaviour continues, there will be further consequences for them and others. Children have to undertake reparation and apologise to their victims. That is a wide and challenging agenda, whose aim is preventive. The children's hearings system can and should be challenging for the child, especially as the measures that are taken will last as long as is necessary. It was against that background that the Executive began to develop proposals for dealing with antisocial behaviour that work with the grain of the system.

I accept that there is a perception among some people that the children's hearings system is soft—people say that it gives troublesome children and young people a slap on the wrist, that it does nothing to stop them being out on the street and that it cannot prevent offending behaviour. It is possible to understand those comments. People see the upset and distress that is caused by children's unacceptable behaviour. The children are reported to the police or directly to the children's hearings system and yet nothing appears to be done—the children might not be seen for a day or so and then they return. Communities find it frustrating if they perceive that nothing is being done.

A number of factors lie behind that perception. First, despite the unique place of children's hearings in Scottish life, the details of the system are not always understood. Secondly, although the children's hearings system takes supportive measures, concerns are expressed that some children do not respond or alter their behaviour immediately.

Mary Scanlon: Does Mary Mulligan share my concern about the average time that is taken from the incident to the final hearing? I understand that, in cases in which an offence has been committed, the time is 15 weeks and that, in cases not involving an offence, the time is 18 weeks. We can hardly blame the children's hearings system when panel members do not see the offender or young person until such long periods have elapsed, during which time the young person can reoffend persistently.

Mrs Mulligan: Mary Scanlon raises a valid point, which is why the Executive introduced the fast-track measures that will ensure that children are seen more quickly following an incident. The children will be aware of why they are being seen and what the incident involved. That is a good example of the Executive responding to concerns about the system.

Thirdly, we know that the problems that children face often lie in the wider family and that those problems have to be tackled before positive change can be effected for the child. Although a children's hearing can encourage parents to do certain things, it cannot compel them to do so, nor does it, under the current structure, have powers of sanction.

Finally, we have to face the fact that, as has been shown, the implementation of disposals has been varied across the country—again, I believe that that point was made this morning. We need to consider whether we should be more prescriptive in order to be more consistent.

All those factors contribute to people's perceptions of the children's hearings system.

However, the Antisocial Behaviour etc (Scotland) Bill will implement measures to enhance the work of the system. It will provide an additional mechanism for dealing with the children for whom the hearings system is not working. It will enable the courts to take action—and to do so quickly—to prevent unacceptable behaviour by making it clear that failure on the part of the child to respect the court's decision could have serious consequences.

The bill also provides a mechanism for requiring action by parents. A children's panel will be able to take further action in cases in which it has identified that parents are not responding to support services.

Patrick Harvie: The minister will be aware that the perception of many people who are close to the children's hearings system is that the Antisocial Behaviour etc (Scotland) Bill will result in more young people and children coming into contact with the court system at an earlier point than is currently the case. Given that fact and in light of the minister's view that the perception of some is that the hearings system is too soft—whereas the perception of others is that the bill is too hard—would it not have been reasonable to conduct the thorough review of the children's hearings system first and then to use the Antisocial Behaviour etc (Scotland) Bill to deal with what could not be dealt with in that way?

Mrs Mulligan: I recognise people's concerns about the children's hearings system and how we can improve what we have at the moment, but I also recognise that people are demanding that we deal with antisocial behaviour. We have to make progress on both issues. I do not accept the premise that more children and young people will find themselves involved with the courts as a result of the Antisocial Behaviour etc (Scotland) Bill.

On the action to help parents to support their children, the process of referral to the courts through the parental orders will ensure that parents are persuaded to play their part in relation to their responsibility for their children. The consultation exercise is considering whether the children's hearings system should have such powers. We will discuss that further.

We have set out a new procedure to ensure that action can be taken to remedy a defect in the provision of services. When a child is not getting the service that he or she needs—again, a concern that was raised this morning—those responsible for providing the service can be brought more readily to account. That means that a local authority that fails to fulfil its duty can be taken to court.

All those measures will work with the children's hearings system. Our aim is to ensure that whatever mechanism is put in place to deal with children is effective and helps to change behaviour to improve the lives and potential of children and to relieve communities of behaviour that destroys the quality of life of many. However, it is important to place on record the fact that the measures provided for in the Antisocial Behaviour etc (Scotland) Bill are meant to extend the options available to the children's hearings system. The bill seeks not to replace or undermine the children's hearings system, but to build on its strong base and to protect children and adults from the effects of antisocial behaviour.

14:57

Robin Harper (Lothians) (Green): I would like to address many of the issues that have been raised today but, because the subject has just been raised, I will first make a few observations about the Antisocial Behaviour etc (Scotland) Bill.

This morning, my esteemed colleague Patrick Harvie was criticised by Johann Lamont for linking poverty with antisocial behaviour. However, that was not what he said. He said that, if you return a person who is in danger of reoffending to an area of multiple deprivation including poverty, poor housing, peer drug culture and high unemployment, it will not be easy for that person to change their behaviour. We must, in the holistic sense that Sandra White talked about, address all society's ills—we cannot deal with the problems that we are talking about in total isolation from the other severe problems that some young people face.

The children's hearings system must be linked to the youth justice system and to the adult justice system. The Executive had it right when it supported projects such as the Airborne Initiative, which met with a high level of success in its work with seriously challenged young reoffenders. The project was not successful with all the people with whom it worked—it would have been unreasonable to have expected that, given the problems that the young people faced—but I suggest that its level of success was sufficient to justify continued funding of the project.

The underlying principle is important: when young people get into trouble, everything that is done must be done in their interests. That is the philosophy of the children's panels. Whatever we do with young adult offenders—who commit 70 per cent of all crime in the country—should be designed to return them to the community more self-confident, better educated and better able to survive in and contribute to their communities. That is vital.

I served on a children's panel for three years in the 1980s and I have many recollections from that time—one is of the training that I received as a panel member. As the ministers know, it is statutory that panel members receive 90 hours of training. They are not specialists; they are generalists. I submit that panellists are well-trained generalists who, throughout their careers on the panel, receive every year a further 50 to 100 hours of training in one form or another.

Peter Peacock spoke about specialisation, as did Scott Barrie, but I feel that the ideas that were expressed are non-starters that are based on a fundamental misunderstanding of how panels work. Panels do not—even with all the documents in front of them—necessarily know what the real problem is until they have started talking with the child, with the social worker and with the parents, or anybody else that the child brings along as a supporter. Children may do that—they may even bring a schoolmate along to the hearing. With all the evidence that is available before the hearing takes place and which panel members will have had for only two or three days at most, panel members will have some idea of what the problem might be. However, when they sit down and really start to talk, they might be completely surprised. It can be a tremendous shock.

If panel members were specialists, their training might be inappropriate to dealing with the reality of a situation. It is therefore much better to stick with what we have, which is thoroughly trained generalists who recognise their own limitations and who, if necessary, will call on reports from specialists before they come to decisions. In other words, if panel members really feel that they need specialist help, they call for a continuation. The question that then arises is this: can they get that specialist information and help in time? There is no point in their waiting 40 weeks for a psychiatrist's report; it must come within days and certainly within a few weeks. The fast-tracking that the Executive has talked about is essential. We should focus on that, not on spending money on training panel specialists.

An intractable problem that we faced in the Edinburgh west panel had to do with agencies and disposals. The problem has been common to panels throughout the country for the past 30 years. At no point, and in no panel, have there been sufficient people from agencies to cope with all the disposals that panels would have liked to make. As Alex Fergusson said, panels would sometimes like to make a certain disposal but, in the absence of an agency or a person to help them, they are not able to make that disposal.

I want to pick up on Elaine Murray's and Margaret Smith's points on early intervention, schools and mediation. Many family mediation

services are available in Scotland. I do not know how integrated the Executive's approach is, but I plead that mediation be used as early as possible. If we are to take more of a family approach in children's panels, the skills of mediators will be crucial.

There are plenty of examples of good practice in schools to help young people who have been in trouble and who have been referred to children's panels. Some children find it very difficult to cope with school. The classroom can be a totally inappropriate place for many young people because it is a place of fear and failure for them—when they enter a classroom, they know that they will fail. Examples of good practice exist in which schools, social work departments and other institutions combine to work with young children to give them confidence and help.

Through the review, the Executive should seek all the examples of best practice and all the ways in which it could best invest money to help young children so that they can have an education. We should not see school as the only place where they can be educated; it is appropriate to educate some young children separately from others until they gain the confidence to enter a classroom.

The debate and the time that has been devoted to it are appropriate because the subject is extraordinarily important. I look forward to having another debate of similar length when the review is completed.

15:06

Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD): It is a pleasure to follow Robin Harper's speech, which reflected his experience. I was keen to learn at first hand from such experience as soon as I was elected. One of my first acts after I was elected was to attend a panel hearing, because I wanted direct experience of the intervention that is right for young people at what is sometimes the most difficult stage of their life, as that intervention can have a direct impact on their future and on society.

Getting support packages right for those who are referred for protection can give freedom to someone who was previously being harmed. Getting supervision right—such measures can range from parental supervision or social worker supervision to secure accommodation or family supervision—is vital in reducing offending and in protecting and educating children.

For all those reasons, we must ensure that the review that we are debating develops and does not divide. It must build on the best of the current system and not bite away at the edges. I am pleased that the consultation pack starts with the section in the partnership agreement on hearings.

I say gently to Fiona Hyslop, who is determined to find a conspiracy around every corner, that I endorse, and have no need to add to, my colleague Robert Brown's comments about the partnership agreement's commitment.

Many members have spoken eloquently about their experiences of the hearings system. Margaret Mitchell, Annabel Goldie and Alex "the unready" Fergusson said that the debate should not be happening. Others complained that our Parliament is only part of a consultation process, but the Scottish Constitutional Convention was keen that the Parliament should have exactly such a role. The Parliament is the forum for debate in our country. It is a voice of the nation and has a shared voice with the people. It is right that we should debate the consultation while, I hope, the country at large is also debating it.

I will focus on two matters that may be constituency matters, but which have wider relevance. The first relates to the organisation behind the hearings and the institutional links to ensure that they work effectively. The second relates to a societal change that means that we may need even earlier intervention for some young people.

Before I do that, I will deal with social work, which other members have discussed. Social work has had a high profile in my area because of the social work case that concerned Scottish Borders Council. Before the social work services inspectorate's report was published last week, I met the chief executives of the council and of Borders NHS Board. I have since met them again and I have met the chairmen involved and the acting director of lifelong care and social work in the Borders. One of the biggest tasks locally is to restore morale among all the extremely hard working and dedicated social workers in the Borders. I have the utmost respect for those professionals and for their commitment to the profession and its aims. With other professionals and volunteers, those people ensure that hearings work. The consultation must be conducted in partnership with those who work in hearings.

There are examples of where the system fails. A serial housebreaker in his 20s, who was a vandal and absentee from school in his teens, and who was brought up in a broken or drunken and abusive household when he was five, suggests a failure of intervention at the earliest stages. My colleagues Robert Brown, Donald Gorrie and others highlighted that point and I am pleased to develop those thoughts.

However, I stress that, for every failure there are major successes, which the Kilbrandon review of the children's hearings system rightly highlighted. Currently, there are about 8,000 child protection inquiries each year. Some 27,000 children were referred to panels on welfare grounds in 2002-03.

One of the questions that the consultation posed was whether child protection should be linked more closely with the children's hearings system. Scott Barrie suggested rightly that primary schools have a role in referring children whom they identify as being at risk, as do parents and all those who work with young people and their parents. That means that resources would be directed at an intensive early stage and that, crucially, current resources should be diverted.

Two of the most depressing phrases that we hear when people have been let down are, "system failure" and "communication breakdown". Sometimes those phrases mask simple bad management or professional misconduct, but there is a malaise in organisations that breeds complacency. One of the best and most straightforward ways to militate against that is to ensure proper co-ordination and communication at local level.

One of the most exciting things that is happening in my constituency is collocation of the youth and adult justice teams, the police station and the sheriff court in Tweeddale. When the Scottish Court Service indicated its desire to close Peebles sheriff court, all the local groups, as well as the former Minister for Justice and my predecessor Ian Jenkins, got together to work up a reasoned and progressive approach to ensure proper collocation of all those agencies. I pay tribute to them all and to Scottish Borders Council for working together. We will have a unique and radical base of justice and crime prevention professionals in one building, who will not only communicate formally but work with and speak to each other regularly. Proper public access as well as close professional relationships can develop in one building in the heart of a community; that is exactly the way round some of the failures that we have all experienced to our cost. The lessons that we learn from that approach will be vital in development of the hearings system.

There is no doubt that Annabel Goldie would like to replace the children's hearings system with courts in the long term, but I think that we can learn a lot from much closer working along the lines of what Ken Macintosh suggested—a system that would fall between adult courts and youth social work with children's hearings, youth justice and social work teams working together.

I stress—I am pleased that Robin Harper also mentioned it—the mediation work that many local authorities are doing, which has to be properly co-ordinated with the youth justice team.

Organisations such as In Touch, Penumbra and initiatives such as "getting back to work", which all work in a local context, will be effective if they work with the hearings system.

Finally, I will mention a fast-track system that is developing in Selkirk where the police and the council have worked together with the hearings system's staff. I know that the Deputy Minister for Communities and the Deputy Minister for Education and Young People have witnessed at first hand the fast-track system in Selkirk and have heard the concerns about its future.

Other members have touched on the growing societal changes that put increased burdens and different pressures on the hearings system. Those have developed over the years and have brought an increase in referrals for protection.

If today's debate does no more than allow us to co-ordinate better youth justice, adult justice, the hearings system and social work, we will have done exactly what Parliament was established to do.

15:14

Paul Martin (Glasgow Springburn) (Lab): I do not always jump to the defence of the Executive, but on this occasion, I congratulate it on ensuring that today's debate is a comprehensive one that deals with a serious issue, as Robin Harper and Jeremy Purvis said, and for ensuring that it gives respect to the members of children's panels. We should reflect on Brian Monteith's and Fiona Hyslop's comments that they did not welcome the debate and wanted the debate's time to be reduced.

I think that we should also reflect on the Procedures Committee's recommendation that we hold debates such as this. It was that committee's recommendation that the Executive instigate debates such as this and I, as a member of the Procedures Committee, opposed the recommendation because of the very thing that has resulted today: I said that the Executive would be accused of trying to avoid votes on certain issues. I say that for the *Official Report*. Members should reflect on the fact that we find ourselves holding a debate such as this because of the recommendations of the Procedures Committee.

A number of important issues have been debated today, and I think that we can helpfully intervene in a number of areas to improve the children's hearings system. We have referred to the valuable work of the volunteers who give of their time to that system, and I want to put that on record.

On parenting orders, which are being introduced in the Antisocial Behaviour etc (Scotland) Bill, it is quite right that we have that running theme. We want to ensure that parents are more proactive in the process of tackling antisocial behaviour, and parenting orders will provide an opportunity to hold parents to account. I say that as the new parent of

a three-month-old baby. I have my responsibilities and only two hours' sleep per night as a result of them, but the role of parent should be valued. There is no God-given right to be a parent. Being a parent should have value attached to it, but we have seen that role being devalued in our society.

Ken Macintosh alluded earlier to the important role that parents play in guidance of their children. We must introduce proposals to ensure that parents value their role and to ensure that we can intervene to assist them in that process. If that means that we have to look at the difficulties that they may be experiencing with alcohol or drug addiction, we must make those interventions.

I refer to Robin Harper's point about poverty being the cause of many problems. Both my parents were brought up in extreme poverty and they turned out to be excellent parents. Poverty is not always related to parenthood.

Robin Harper: That is exactly what I was explaining. I said that we were not making that link, and that is on the record. What we are saying is that, if someone is returned to an area of multiple deprivation, where there is a drug culture, it does not make it easier for them not to reoffend.

Paul Martin: The point that I am making—I make it time and again in Parliament—is that poverty certainly makes lives difficult, but people from other backgrounds experience similar difficulties. Poverty is not an excuse for many of the challenges that we currently face in the children's panel system. We should look to the example of previous generations who, despite challenges, turned out to be the most effective parents that people could ask for.

A multi-agency approach has been referred to on a number of occasions. Almost every glossy document that is presented to Parliament talks about the need for a joined-up approach to delivering services on a number of issues. I am not convinced that what is down on paper is actually delivered in practice. There is a requirement for a more intelligent approach to how we deal with joined-up working. It is unacceptable in the 21st century that we continue in the children's hearings system with manual filing systems to track and monitor young people. There must be a more intelligent approach to managing the system—one that will make best use of the information technologies that are available.

I would like to make a plea in respect of Glasgow. A number of members have referred to the pressures on Glasgow's children's hearings system. As a result of the local government finance review, I expect us to consider how we can assist Glasgow with the extreme pressures that its social services are under at the moment.

Ensuring that recommendations are delivered is another issue to which a number of members have

referred. As parliamentarians, we often express concerns and we would be concerned if our recommendations were not delivered. Members of the children's hearings system are no different in that respect—when they make recommendations, they expect them to be delivered. The issue is not always about resources, but about how we manage recommendations and ensure that issues are managed and effectively monitored.

An external approach to managing recommendations and delivering them is possible. It appears that our resources are focused on ensuring that particular cases are delivered to the children's hearings system, but we are not as effective in ensuring that recommendations are delivered. Therefore, there might be scope for a new approach to ensuring that we deliver and monitor recommendations so that they are delivered effectively.

I will deal with a final issue, which has been referred to. There are real frustrations out there about the number of cases that are marked "No further action"—Mary Mulligan touched on that issue earlier. I often hear from police authorities, using what I call the database of excuses, that issues can be referred to the children's hearings system, but that they will be marked "No further action". I think that that is sometimes an excuse. Police officers have mentioned two examples to me. The first case involved a youth throwing a paving slab from a footbridge on the M8 motorway. That case was marked "No further action". The second case involved an attack on a police officer with a knife with a 14-inch blade, which again was marked "No further action". I am sure that the minister will agree that those cases should not have been marked "No further action" and I am sure that there are many similarly unacceptable examples.

In conclusion, the Executive has set in place a comprehensive consultation exercise. I have been impressed by the fact that the exercise is a good example of good practice in respect of how we should consult. Specific answers to questions are requested on a number of issues—I think that Robert Brown mentioned that earlier. I commend the Executive on its step in the right direction and on ensuring that a much more effective children's hearings system that supports those who take part in it will be delivered.

15:22

Colin Fox (Lothians) (SSP): I welcome the debate and its tone and the minister's three assurances that the review is centred on building on the successes of the children's hearings system. I also welcome the tributes that he paid to the children's hearings system—that is a lot of welcomes. Whether or not our new, temporary

surroundings have had an impact, I welcome the minister's attempt to draw constructive criticisms from all parties in the debate on the best way forward for the system in the next 30 years. As an aside, I say that I hope that we have more such debates in the Parliament because they will do it more credit as a consequence.

I hope that the minister—or perhaps the deputy minister, when he replies—will assure us that he spoke on behalf of all his colleagues when he outlined the fundamentally supportive context in which the review will take place. I confess that I sometimes wonder whether, if Lord Kilbrandon's report were received and delivered today, it would have quite the same impact as it had in the 1970s. In the current political climate, I fear that there is a danger that Lord Kilbrandon would be sent away to think again. His ethos of looking at the whole child, considering its offending behaviour in the context of its background, the circumstances at home and school and social factors, and getting children to take responsibility for their actions in a context and atmosphere away from courts and lawyers was welcome, as other members have said, but it does not sit easily in the current political climate. Perhaps the multiple successes that the children's hearings system can proclaim day in, day out best protect it from attempts to dismantle it or remove its case load to a court-based system.

I hate to kick a man when he is down—and for sure Tony Blair is down at the moment—but I remind the minister that the Prime Minister vowed after shadowing a certain Tory Home Secretary called Michael Howard that he would never allow Labour in Government to be outflanked on issues of justice and law and order from the right again. In my opinion, he has been as good as his word. However, in that context the ethos of Kilbrandon is a sitting duck. Perhaps it is the multiple successes that have protected it from being unravelled in the past.

Perhaps the minister will understand the suspicions about the review. He will also understand the suspicions of any of us who see a review that suggests that we follow the English model, because he knows that what inevitably follows is that a higher proportion of children are jailed—as has happened in England. In England, the greatest number of children are in prison since 1903. That is the consequence of following the English system.

I welcome the consultation document, which is well produced and contains many important facts and figures that contribute to the debate. However, what has inspired the review? In the document the minister states that the review is inspired by

“concern in communities that the system is unable to deal effectively with persistent offending”

and I understand the concern in communities. Reoffending is a multiple failure—of that there is no doubt. First and foremost, it is a failure of the individual to address the behaviour that offends their community. It is also a failure of all the agencies involved, including but not only the children's hearings system itself. Like other members, I have met a few children's panel members who are frustrated that they see the same youngster in front of them, when the previous order that was made against them was not implemented in full by the agencies that were supposed to implement it.

Johann Lamont: Does Colin Fox agree that one of the difficulties is that youngsters with accumulated offences do not even get in front of a panel? The police sit waiting until they are 16 before they move against them. Does he also agree that it is reasonable for communities to judge the effectiveness of the system by how it impacts on their lives, and so it is reasonable for communities to expect the review to be open to all possibilities?

Colin Fox: I will come to what communities can expect from the review. However, I venture that there was a particular tone in Johann Lamont's comments. I am uneasy, and I hope that other members are uneasy, about making statements in this chamber on whether a reporter should make one disposal or another. That would be us doing their job for them. I am confident in the work that reporters and the children's hearings system do. I am not happy about the way in which, in previous debates, we have given instructions to reporters or judges on the outcome of cases.

What are the grounds for concern? There are concerns that the children's hearings system takes far too long between an offence being committed and an adequate disposal being made. There is also a concern, which may only have been mentioned by the Tories, that the system is a soft option and is not effective in reducing reoffending. Therefore, there is a suggestion that we need more juvenile courts and more custodial disposals. For me, the use of youth courts for persistent offenders would begin to unravel Kilbrandon and the ethos behind the children's hearings system.

So, too, would Annabel Goldie's proposal to extend youth courts to cover 14-year-olds. That is another illustration of a dangerous unravelling of the ethos that Kilbrandon was based upon. It is disingenuous to say, “We want more disposals to be put in front of the youth courts, because that will give the children's hearings system the freedom to deal with the welfare cases.” That is not an honest proposal. The Tories' youth court proposal may not be the thin end of the wedge, because the wedge has already been introduced, but it is an attempt to further slide that wedge in.

The pledges that the Conservatives have made on the children's hearings system are not entirely convincing.

It has been said, rightly, that the issue is not only about resources or dysfunctional and poor families. That is true, but we know that a fully resourced children's hearings system works well and that, at present, the children's hearings system is not fully resourced. Along with Phil Gallie and Kenny MacAskill, I attended the Association of Directors of Social Work conference last week in Crieff. Members of the association told me about their fears of being overloaded and of not being given the resources that they need to carry out the functions with which society charges them.

I put on record my admiration for the job that panel members do. The dedication, commitment, common sense and desire to put something back into the community of those unpaid volunteers are admirable, but they are one of the best-kept secrets in the whole affair. The Parliament and the Executive need to promote the service and the job that panel members do and celebrate the successes of the children's hearings system. That is how we can make progress in the debate.

I must say that that was the quickest eight minutes I have ever had.

15:31

Phil Gallie (South of Scotland) (Con): In response to Colin Fox's comments about Annabel Goldie, I point out that she recognises the reality of the situation with children's panels—they are grossly overloaded, as the figures that I will present later demonstrate.

The criticisms that Conservative members have made about the timing and duration of the debate are not necessarily criticisms of its content; they are a comparison with the fact that in many debates on other issues in the Parliament, in effect, the guillotine is used. Paul Martin referred to his parents, so I point out that one of his eminent parents would certainly take great exception to the use of the guillotine.

Jeremy Purvis commented that the Tories wish to replace children's panels with the courts. I remind members that children's panels were introduced under a Tory Government in 1971-72. Labour members look slightly puzzled.

Scott Barrie: On a point of clarification, Presiding Officer. The panels were introduced in 1971, but the legislation that introduced them was the Social Work (Scotland) Act 1968, which was produced under a Labour Government.

Phil Gallie: The member needs to open up his ears—perhaps he could use my headphones. I

said that the panels were introduced by the Tory Government in 1971. If the Tory Government had wanted to set them aside, it would have done so, but it persevered with them for 20 years.

We join members who have welcomed and valued the panels' performance over the years. However, we must ensure that the effort, personal commitment and involvement of the many volunteers who give their time to the panels are rewarded, if by nothing else, by the knowledge that their deliberations and judgments are implemented. At present, that is not always the case—social work directors ignore many judgments, perhaps in part because of a lack of resources to implement them, but also because they do not concur entirely with the judgments that are made.

It is interesting that, today, in parallel with this Scottish Parliament debate in our temporary venue in the Hub, the Church of Scotland's church and nation committee debated the same issue in our temporary venue in the assembly hall. Its report makes several references to the work of children's panels and, in so doing, recognises both the care aspects and the disciplinary elements of the panels' responsibilities.

In its deliverance, the church and nation committee recognises

"the proven value of the children's hearing system and the need for it to be strengthened in order to fulfil its original remit".

I do not always align with church and nation committee reports, but I certainly go along with that comment. The committee adds that the decisions of children's panels must be made, and be seen to be, enforceable.

One aspect of the Executive's review document that will come as a surprise to members of the general public is the fact that the number of young offenders appears to be coming down from the figure that the panels originally dealt with 30 years ago. The worrying factor is that the number of children who are appearing on non-offence grounds has increased by 700 per cent, a figure that must give us all considerable concern. It appears that almost 4 per cent of Scottish children were referred to the reporter in 2002-03, which brings into question standards of parenting in Scotland. Perhaps that applies to only a considerable minority of parents, but we must all worry about standards of parenting. One problem that did not exist 30 years ago is that of children being born to drug abusers. Such children are disadvantaged from birth, because many babies are born addicted.

I have no doubt that the first priority of the vast majority of children's panel members is the children, but I have seen instances in which social

work reports that have been placed before children's panels seem to place a higher priority on the parents' interests. Paul Martin said that it is not a God-given right to be a parent. My belief is that it is a God-given privilege to be a parent, and with that privilege go great responsibilities. If those responsibilities are not fulfilled, parents must accept that, in some circumstances, they cannot be entrusted with children.

The hearings system is currently swamped by the volume of cases with which it is obliged to deal. Annabel Goldie suggested several ways of alleviating part of that burden, and I will suggest some further steps. I align myself with the comments that Rosemary Byrne made. She referred to the valuable resource that we have in grandparents and, perhaps, siblings of parents. Because of family ties and bonds, people are prepared to give their time, love and effort to looking after their children's offspring if those children are considered to be unfit to do so. I suggest that, when grandparents are given that responsibility, there is a responsibility on social work departments to ensure that grandparents are properly resourced to take care of a young child. Many grandparents cannot face doing that at a late stage in life with little financial resource. I would like to think that the Executive can get that message down to social work departments to ensure that they use the powers that they have to compensate where there is a need.

I note that there has been a reduction of 70 per cent in adoptions over the past 20 years.

The Deputy Presiding Officer (Murray Tosh): Your time is up, Mr Gallie.

Phil Gallie: If I look back over 30 years, I find that adoptions have fallen by 93 per cent. Twenty years ago, 280 babies in Scotland were adopted in their first year of life; last year, there were 20.

The Deputy Presiding Officer: Mr Gallie, I think that you might not have picked up that I signalled to you that your time was up.

Phil Gallie: Can I make one final point?

The Deputy Presiding Officer: Quickly.

Phil Gallie: I will very quickly make one point on ageism. Children's panels have a lot to offer. So, too, have older people, and I suggest that the minister should reconsider the ban on over-60s sitting on children's panels, because there are a lot of people who are now in retirement who could put much back into the system.

15:40

Trish Godman (West Renfrewshire) (Lab): I apologise for not having been here for the opening speeches this morning. I apologise because I will

probably repeat what members have already said. I will try to give an overview of my experience as a social worker, referring children to the children's panel. Perhaps this is because I feel an affinity with the debate, but I feel that it is a good way for ministers to find out what back benchers think about the subject, especially those back benchers who are not on the relevant committee.

The welfare of the child is paramount. That statement is as relevant now as it was in the report that Kilbrandon gave us when he introduced the children's hearings system under the Social Work (Scotland) Act 1968, which was put through the House of Commons by the then Secretary of State for Scotland, one Willie Ross—who was certainly not a Tory. The work that was done between 1968 and 1970 was carried out by the then Labour Administration; in 1971, the Tories implemented the measures, because they could not do anything else.

Phil Gallie: Of course the Tories could have done something else, just as the Labour Government did something else when it failed to implement Michael Forsyth's Crime and Punishment (Scotland) Act 1997. Labour chose not to do anything about it, because it believed that that was the right thing to do.

Trish Godman: I will not say that the Tories did everything wrong. The Social Work (Scotland) Bill was passed by the House of Commons and the Administration at the time pursued it. We now have that legislation, and that is what we are discussing today.

Phil Gallie said that children's panels are "overloaded". They are in some areas, but not in others. However, given that the legislation was first implemented in 1971, surely it is time for a review. Whether the system is overloaded or not, it is time for a review for lots of reasons that I heard Phil Gallie mention this afternoon.

When I took children to the panel in its early days, it was generally for truancy or glue sniffing—there was hardly anything else apart from that. Now, there is an increased incidence of drug misuse, involving parents and, sometimes, carers. There has been a 600 per cent increase in referrals on non-offence grounds, in other words grounds for the protection of children.

We read about children who fall asleep in class because they have been looking after younger members of the family, which is because their parents are stoned out of their minds. There are also children who witness domestic abuse, who are terrified to leave their home and go to school because they are frightened that their mother will be battered again.

There are children who are sexually and physically abused. Hand on heart, I would have to

say that, in those early days of the children's panels, social workers were not trained in the recognition of sexual abuse. We could pick up some of the physical abuse, but we were not trained in recognising sexual abuse. I hate to think of the number of children in those days who should have appeared in front of the children's panel for their protection, but who did not.

Rosie Kane (Glasgow) (SSP): Is Trish Godman, like me, concerned about children who come from such backgrounds being tagged and curfewed to stay at home in what are clearly dangerous conditions, when the streets might in fact be safer?

Trish Godman: Children will be tagged if it is appropriate; it would not be appropriate for the situations that I am talking about now, involving sexually abused children.

For some children, those circumstances are the society that they live in. Children's hearings should, and do, look at the whole child. Kilbrandon recommended the "social education" of parents. That was in 1968, but the proposal was not implemented. What do we find now, in 2004? We are having to address the issue in an Antisocial Behaviour etc (Scotland) Bill by introducing parenting orders for parents who fail to protect their children, or who put them at risk through their behaviour. If only we had recognised Kilbrandon's astute proposals as involving the whole child, into which comes the behaviour of parents.

A child is never referred in isolation. A child always has a link. They will have a parent, a sister, a brother, a friend, a neighbour or grandparents. Sometimes, there are reservations about those links, but children always have a link. I repeat: children are never referred in isolation.

The review must examine what has happened over the past 33 years. I recall from my experience in the early days of the children's panel that the child was usually very anxious when they were called. The parents, too, were anxious, and turned up in their Sunday best. They listened to what was said and tried to do the best that they could.

There was another way, which was taking children before the superintendent's court, which I think Scott Barrie remembers but perhaps others do not. That came about either through the children's panel or because we had a good relationship with the chief superintendent. He would stand up straight behind the desk, with all his scrambled egg on, and ladle into the kid with their parent present, saying, "You shouldn't be doing this. You shouldn't be doing that. You should be going to school." He would listen to what the parents had to say, then quieten everyone down and take them outside. Sometimes that was enough; we did not have to go any further

than that. We seem to have lost that system, although I do not know whether it would be as good nowadays as it was then.

Many more children are now referred on non-offence grounds. I agree with Mary Mulligan that for many kids it is enough to go to the children's hearing, but for many it is not. As members will know, we often hear children say, "It's my first time at the panel. I'll go along and I'll get supervision, but there'll no be any social worker." Given the change in the nature of referrals, surely the disposals have to change too.

There is no doubt that the service is patchy throughout Scotland and we must ask why. In a city such as Glasgow, given the number of people who will be referred and the number of children's panels that we will need to put together, it is clear, I suspect, that the service might not be what we would want. Is the number of social workers correct? We must consider the range of disposals and the number of referrals that there are in the first place. Do all the children that are being referred to the children's panel need to go? I am not absolutely sure.

Local authorities are responsible for the delivery of supervision requirements. Why are there so many unallocated cases? I was interested to hear the minister say that the Executive would address that and intends to pursue those who do not deliver the recommendations. I wonder what the Convention of Scottish Local Authorities will have to say about that. Some 25 of those on supervision have no social worker, but that is not new. I was at a list D school—St Euphrasia's in Bishopton—for a large number of years before I qualified. Girls who went before the children's panel went there for a year. They came in, the social worker said, "Here is Mary," and gave a bit of background on them and then they did not see the social worker again until the end of the year.

Scotland has a unique approach in the children's panels. Children are at the centre, with the roots in the community. However, changes in the types of referrals, in the number of children referred and in family structure must mean that there is a change in the response. We should not get rid of the hearings system, because it is best for children, but it must be modified better to meet today's challenges. Thirty years ago it was a radical reform. Now it is a wee bit hackneyed, but it is still the best and it must stay.

15:48

Mrs Margaret Ewing (Moray) (SNP): I welcome the review and the consultation process. It is important that we consider where we are with the children's hearings system. Great reference has been made to the dates along the road that has

brought us here today. We have heard about 1968, 1971 and 1995, which are all significant calendar dates in the history of the children's hearings system, but all roads that we travel need maintenance and quite often they need improved. The minister will be pleased to hear that that is the end of the transport analogy.

In the 1970s I served on the Westminster Select Committee on Violence in Marriage, which followed on the back of the *Finer* report—for those of us who have longer memories—on such issues. In the process of our evidence taking we visited Knowhead in Glasgow, which will be well known to people with a Glasgow background. We took evidence from Strathclyde social work department and from children's reporters and we watched a panel operate. My colleagues from the other parts of the United Kingdom were green with envy when they saw what we were doing in Scotland. As the minister said, the system is something special; we have been able to sell a good product to other people. Although other countries might not have wholly adopted the system, they are adopting sections of it.

Scott Barrie referred to the Children (Scotland) Act 1995 and the legislation that was lifted en bloc into it. I served on the committee that examined that act, and we had had to fight for years—with the help of the Royal Scottish Society for Prevention of Cruelty to Children, which is now Children 1ST—to establish an all-party group and have the legislation brought forward and debated. We were keen to make progress, but most of us, including the Deputy First Minister of this Parliament, were upset and disappointed that we did not have the overarching right to incorporate into the bill the principles of the United Nations Convention on the Rights of the Child. However, we were quite pleased with ourselves because we did make progress.

I wish the ministers well with the consultation and I hope that they receive a substantial number of responses to ensure that future developments in the children's hearings system are based on sound research and first-hand knowledge. Getting it right for children should mean exactly that. If we have any powers of persuasion in our areas, let us talk to people who are directly involved and ensure that they fill in the consultation document.

My second point has been referred to by the speakers who said that teachers are not social workers. That is a tautology. Teachers are not trained to be social workers, but an observant teacher is often the first person to find out that a child has particular difficulties. As long as there is a clear structure for teachers to observe within the rule of the law—not a huge bureaucratic system, but a clear structure of responsibility—they should have the right to report and discuss issues that

affect the children in their care. After all, they are in loco parentis. I speak with the authority of the experiences that I had to face when I first went into teaching, some of which shocked me because they were such a contrast to my happy childhood and what seemed to be a reasonable situation as a pupil and, subsequently, as a student.

Mr Macintosh: As Rosemary Byrne said, the matter is about not only the resources that teachers have, but their lines of accountability, and that also applies to social workers. The accountability of teachers and social workers to the panel is, even now, not clear.

Mrs Ewing: That is what I was trying to say when I referred to the need for a clear structure. I say to my colleagues from all parties that MSPs, MPs and members of the European Parliament are not social workers either, but much of our constituency work is, in a way, social work. What do we do? We usually refer matters up the ladder to an appropriate authority, so we could say that we are social workers as well. Everyone who works with children should have clear lines of accountability, as Ken Macintosh said.

Several references have been made to specialism. Like others, I have discussed the consultation document with people in my constituency and beyond, and I quote a response to question 9 in the questionnaire:

"You do not have to be a specialist to identify a child's problems. You may have to be a specialist to resolve them. The Hearing room is not the place to be doing this. You cannot turn a child's life round in 40 minutes."

We should bear that in mind when we talk about the various agencies and about trying to avoid delay when the hearing has been called. Panel members do not see themselves as lawyers, as the police or as members of other agencies. They see themselves as people who care about children and who try to find the best way forward for those children and their families. That is why disposals are critical. We must ensure that, when the need for a placement order emerges, the various forms of placement are all available. Unless placements are available, there is no point in saying that we want a secure unit, residential care, fostering or whatever.

I also agree with many of the comments that have been made about the image of social workers and panel members. I am not going to reiterate the points that we made last October in Scott Barrie's excellent members' business debate, but we must address the image of social workers and panel members. It was suggested to me that the media, particularly television, should give much more publicity to and promote positively the workings of the hearings system. If somebody slips through a net, that gets six-inch headlines; but we never hear about the good work that has

been done. A further suggestion is that soap operas could pick up some of the issues. They deal with so many other issues in society, why could they not deal with something such as children's hearings?

Because of the time, I will not go on to other issues. However, I will clarify for the minister something that I said when I intervened on his speech this morning. The example of a massive drop in the mileage allowance for a particular panel member came from Glasgow City Council. I believe that that emphasises the points that Johann Lamont and others have made about the fact that we need to look at how we fund the panels. We want a huge variety of people to be involved in the system. Mileage allowances will not matter for some people, but they are important for many people on low or middle incomes.

I have another letter from someone who works on a panel, who is critical of all the glossy documents. The letter states:

"If the glossy and idiot-proof layout of the publication encourages people to respond then the expenditure will have been worthwhile."

That is a positive message. I wish everyone well in the further consultation.

15:56

Elaine Smith (Coatbridge and Chryston) (Lab): Like others, I support a review and, unlike some members in Opposition parties, I believe that having an in-depth debate today is helpful for such an important subject. I was a bit baffled by Margaret Mitchell's closing comments; having this debate does not mean that we will not have any further debates on the subject.

As members will know, the children's hearings system is 33 years old and it has never been subject to a review. Therefore, it is imperative that we take full advantage of our opportunity to assess how this world-renowned system can be improved. I am sure that everyone in the chamber must welcome that step. Having the debate might help to raise the public's awareness of issues that have been discussed previously and bring it home to the public that referrals to children's hearings are not a soft option. The debate might help to clear up some of the myths about the system. I ask the minister to clarify whether, given Paul Martin's earlier examples, in-depth research to establish the facts about the process would be appropriate during the review.

As members will know, the review of the hearings system was included in the partnership agreement. However, I would have liked the review to be finished prior to the introduction of the Antisocial Behaviour etc (Scotland) Bill. Surely it would have been more practical and strategic to

review the system prior to passing legislation that will directly affect it. The bill will be in place before the review concludes, so perhaps the impact of its provisions relating to children can be considered during the review. I hope that the minister can comment on that. I remain concerned that antisocial behaviour orders for children could result in an undermining of the nature of the hearings system.

Scott Barrie referred in his speech to parenting orders and his support for them. Originally, I had concerns about parenting orders, but most of my concerns have been allayed by the stringent requirement for support systems to be in place before parenting orders can be used. There are no such systems at present. That is an important point that must be made when we talk about parenting orders.

Nonetheless, we are now at the review stage and it is important to remind ourselves of the founding principles of the hearings system, in that it takes children and young people out of the criminal justice system, involves local people and focuses on the care and welfare of young people. Those are fundamental principles that must be safeguarded throughout the review. I am a bit concerned about comments that indicate that everything could be subject to change. I hope that that does not include the fundamental principles.

I would like the review to build on the strengths of the hearings system, and particularly on the fact that it is simpler, quicker and cheaper than the courts and offers a more flexible response to a young person's situation, making decisions based on their needs. Young people play an important role in explaining their conduct and deciding on the best course of action. There is a high level of community involvement and the system provides a single forum for interagency co-operation.

Other members have referred to NCH Scotland's report "Where's Kilbrandon now?", which highlights the fact that, despite its many strengths, the children's hearings system has weaknesses that need to be addressed. The most significant point that the report makes is that the system has never been reviewed—it is welcome that that is now being attended to. I hope that the review will address the other weaknesses to which the report refers.

Many of the difficulties that the report highlights are related to the lack of resources and a shift in referrals from offence grounds to welfare. Referrals in recent years indicate that over the past 30 years there has been a huge change. As we have heard, care and protection referrals now account for 60 per cent of the total, compared with 16 per cent in 1976. That statistic is worrying, although I take on board Johann Lamont's helpful remarks on that.

The review must also consider how multi-agency working operates at present and, importantly, how experience and expertise in the voluntary sector can be better used and best practice rolled out. There has been discussion of the fact that we need our social work departments to be properly staffed and funded, so that social workers can provide the service that young people need.

Some of the difficulties in social work relating to retention and recruitment have had an impact on the efficient running of panels. Often reports are not prepared in time. They may even be prepared by social workers who are not allocated to the young person in question. I commend the Executive for the action that it is taking to address that.

Another difficulty that the NCH report highlighted was in recruiting and keeping panel members. Of course, that may be related to the failure to provide resources to implement panel members' decisions, which will inevitably lead to low morale. That crucial point needs much consideration during the review. It is imperative that resources are available to ensure that disposals that panels make are implemented properly and effectively. If that does not happen, the system will be undermined and will fail to provide the help of which many children and young people are desperately in need. We should not lose sight of the fact that young people who appear before panel members come from some of the most damaged and vulnerable families in our communities. In many cases, there is a need to remedy behaviour for the benefit of the child and of society as a whole, but that should be done through a preventive rather than a punitive approach.

A well-resourced and well-supported hearings system is crucial in helping to turn around the behaviour of young people. Like other members, I do not believe that we should follow the lead of England and Wales in taking a punitive approach to under-16s. Not only is the use of adult court processes for children inappropriate to their level of understanding and capacity, but it will increase, rather than reduce, criminality and delinquency. As Colin Fox pointed out, the punitive approach that has been taken in England and Wales has resulted in a high prison population among juveniles and non-custodial punishments based on deterrence and containment, rather than rehabilitation. Evidence suggests that such a system is not successful for children. Evidence in the NCH Scotland report shows that many young people in custody try to harm themselves, are subject to bullying, and that around 75 per cent of them reoffend. That is not the kind of system that I want to be copied in Scotland. Instead, the review should focus on the importance of sustaining

rehabilitation, the need for early intervention and appropriate disposals.

In his opening speech, the minister mentioned last week's press reports relating to concerns that the system may be dismantled, with panels dealing only with children who are referred on grounds of care and protection, while children who offend are dealt with by a juvenile court system. That would make no sense, because children who offend can also be vulnerable and in need of help. Offending behaviour can have its roots in the fact that someone is the victim of violence or abuse, perhaps in the home. The consultation document makes that point. Scotland's children's hearings system was established in recognition of the inability of the court system properly to consider welfare and justice issues together in respect of children, so it makes sense to ensure that the system remains the main decision-making forum for children and young people. I hope that in his summing up the minister will make it quite clear that there is no intention to use the review to split the hearings system. In his opening speech, he used the word "scrapping", which means something different.

The review signals the Scottish Executive's willingness to improve our children's hearings system, but I trust that the founding principles of the system—which are every bit as important now as they were 33 years ago—will remain as the foundations on which to build better-funded, better-resourced and better-supported services. Getting it right for our children will benefit not only the individual children, but society as a whole. Despite the Tory belief that there is no such thing as society—whether that is the original Thatcher version or the Monteith interpretation of it—society has a duty to our children to get the hearings system right.

16:05

John Swinburne (Central Scotland) (SSCUP): Scotland's children's hearings system used to be held in international regard. At its inception it was deemed to be radical, and the ground-breaking philosophy of Kilbrandon still stands strong today. However, the Scottish Executive presides over a system that in theory should be child centred and needs led but which in practice is failing as a result of an unwillingness to address the lack of options for hearings and the fact that the social services network is unsatisfactorily resourced. I fear that the Executive will take the easy option and move the goalposts rather than raise its game and resource the current system so that it can be effective.

Annabel Goldie and others made reference to the serious problem of drug abuse among young people. We must ensure that enough rehabilitation

programmes are targeted at young, vulnerable people.

Children's panels are supposed to be independent and innovative in helping children, but that is no longer the reality. Panel members use only a limited number of options and the system is failing the children that it was set up to help. Panel members are not empowered to suggest the right option for children because they are trained to do whatever overworked social workers recommend. That serious problem must be addressed.

All too often, when a panel imposes a supervision requirement on a child who has been stealing or who is out of parental control, the decision has no meaning either because the case remains unallocated in the social work department or because, although the child has been ordered to attend intermediate treatment that is supposed to occupy their time and teach them new values, places are scarce, and so no preventive work is done with the child. Moreover, there are simply not enough places for children who continually offend and there are certainly not enough secure units. Given that panels have so little power to do anything, it is little wonder that the system appears toothless to many children and that children continue to offend, paying the price when they are old enough to be imprisoned.

My knowledge of the children's hearings system has increased since I have been made aware of the plight of thousands of grandparents in Scotland who look after their grandchildren in unsuitable conditions. Social work departments rely on the cheap option of kinship care because there are not enough foster carers or places in care. Children are therefore placed with grandparents, many of whom admit that their homes are not the best option for those children. Social work departments are failing the grandparents and the children in such cases.

Scott Barrie: Does the member accept that before a children's hearing can make a supervision requirement that includes a condition of residence with a grandparent, the grandparent must be approved under the boarding-out regulations? Kinship carers and foster carers undergo exactly the same checks.

John Swinburne: The next time a group of grandparents comes to visit the Parliament—perhaps in the new building down the road—I will invite Scott Barrie to come along and hear their stories for himself. Those grandparents receive no funding and their grandchildren are being dumped on them by social workers—those are the grandparents' words, not mine.

We must urgently address the fact that financial assistance is cynically withheld from many

genuine carers. The majority of kinship care situations arise because of substance abuse by the children's parents. There are twice as many children of drug-abusing parents per head in Scotland as there are in England and Wales. For those parents, their drug problem is their first and, perhaps, only priority. We must accept that those parents do not have the ability to parent. In cases in which children have been exposed to chaotic parental drug abuse or subjected to neglect or abuse, they might have a range of physical and sociobehavioural problems that can be disturbing and difficult to deal with. Owing to a lack of services, children are given into the care of their grandparents, who are given no support to help them to deal with the children's behaviour. Many grandparents have told me that their grandchildren did not know what fruit is or how to use a knife or fork, for example. However, the children could show their grandparents where their mummies and daddies got their medicine or how to take drugs. New research by the University of Glasgow's centre for drug misuse research into the problems that are faced by those children in later life indicates that children of families in which drugs are abused are seven times more likely than other children to start using illegal drugs—and so the cycle continues.

The problem is huge and there is much still to be done. Certainly, a theoretical shift from welfare to punishment is not the right answer. Children are already being punished for a shift in Western political ideology, which has to be taken together with the under-resourcing and underfunding of successive Governments, and they should not be punished again. Unless the Scottish Executive lives up to its commitments under the ECHR and the United Nations Convention on the Rights of the Child—as enshrined in the Children (Scotland) Act 1995—that the welfare of Scotland's children is paramount, and unless it resources the Kilbrandon ethos, it is governing over a child welfare time bomb that will lead to even more serious criminal justice problems in the future.

I support fully Peter Peacock's sincere approach to the situation. I hope that he receives the financial backing that he requires.

I thank Jackie Baillie for her contribution, which was the most effective today. After today's debate, I eagerly await my first five-and-a-half-hour plenary debate on senior citizens.

Jackie Baillie *rose*—

John Swinburne: I am sorry; I am finished.

16:12

Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD): I agree with other members who have said that today's debate has been

worthy and worth while. Although much has been said about children's panels and their membership and about other aspects of the children's hearings system—a lot of what has been said has come from a higher source of information—I want to take a look at the issue from the other end of the telescope, as it were.

There is nothing wrong with taking a top-down approach to debates—indeed, many good contributions have been made today—but I want to look at the debate the other way round, from the children's perspective. To that end, with reference to John Swinburne's contribution, my research for the debate was undertaken yesterday with my 19 year-old son, during our drive down to Edinburgh from the Highlands. Our conversations were interrupted by fairly frequent telephone calls on the mobile from his grandmother, who relates very well to her grandson.

I take as my key this thought: last night, I did that very stupid thing that is part of the way in which our minds work: I woke up with a jump at half past 3 in the morning to think about something. All of us do that and, indeed, other members will know how, in the middle of the night—in the wee small hours—a small worry can soon become a much bigger worry. For some reason, our minds become irrational. I did not get a wink of sleep; eventually, I got dressed and came to the Parliament. I will return later to what woke me up.

If we are to look at the issue from the children's perspective, we need to debate issues such as sports and leisure facilities and the need to give children something else to do. As I have said many times in the Parliament, investment in such facilities is patchy across Scotland. As other members have said, volunteers are also involved and we have to take account of their contribution in addition to the contribution of paid staff. Sometimes, that is a resource issue, but at other times, it is not.

At the General Assembly of the Church of Scotland today, the Rev Alan McDonald, who is the convener of the church and nation committee, said that he believed in human resources and not in tagging. I do not want to get into a debate on tagging; I simply want to refer to resources, which is an issue, as we all recognise.

I fully endorse the sensible remarks that were made by Margaret Ewing and others on the social work front. I have spoken before about my experience as the Ross and Cromarty area social work chairman. I remember the divvying up of jobs at the statutory meeting at which that was decided. At the end of the meeting, when the chairmanships of the committees that dealt with roads and transport, education and planning had gone, the remaining chairmanship was that of the

social work committee. The line was, "Well, we will just give that to Jamie." That was because it was seen as a non-glamorous and non-sexy job. I remember how hard it was to get some of the social work issues on to the agenda of even the area community council. When we had problems, such as a child running away, in the two children's homes in the county of Ross-shire, the social workers strived mightily to sort the problems out. However, because of the council's political machinery, we would spend an extremely long time on a planning issue, but such social work issues were often skated over. Members will have heard me talk about that before, but I make no apologies for doing so again, as it is an important point.

In the church and nation committee of the Church of Scotland today, the Rev Alan McDonald spoke briefly of an experiment that was conducted in Dundee that involved old folk and threatening groups of youngsters. The people involved in the experiment got both sides to talk and mix together. That worked well, with the young people saying, "Actually, we can understand why some of the older people might find us a bit threatening," and the older people saying, "We can see where the young people are coming from. They haven't got enough to do." That comes back to the issue of volunteering. We must get older and younger people to interrelate. We must get young people to help out in old folks homes and so on. That already happens, but it needs to happen more. Similarly, we should say to the old people, "Come and watch the young people playing basketball and football." My generation and the generation of my parents take enormous pleasure watching young people taking part in such activities, whether they are their grandchildren or are not their relations at all.

The issue is also about respecting young people. Young people hold valid opinions—we are all aware of that from our contacts with modern studies classes and primary schools—and they should be listened to more. I believe that the day must come when two members of every community council in Scotland come from the fourth, fifth or sixth years of local secondary schools.

Robin Harper made a sensible contribution on the subject of schools. Sadly, we are locked into what is almost a rat race with regard to achievement. It is right that we get our children to attain the best academically, but there are some children whose skills lie in other areas. It would be extremely helpful if we were to recognise their abilities as being on a par with academic achievement. We are striving to do that but we are not there yet. By going down that road, we can start to address some of the problems that we know we face in relation to apprenticeships in

certain of the building trades and so on. We must find where a young person's abilities lie, compliment them on their abilities, reward them for their work to develop them and encourage them to move in that direction.

I said that I would return to what I was saying about waking up in the middle of the night and I now will. I ask members to cast their minds back to when they were young people. I speak as someone who is a matter of weeks from their 50th birthday—I cannot claim even to be middle aged these days. I am sure that everyone in this room can remember the worries and fears that they experienced when they were young people. For example, exams were frightening and your parents' arguments were scary. I remember, too, how easy it was to get into trouble. I remember getting into the syndrome that revolves around proving that one can do bad things better than someone else. To be quite honest, I was damn lucky not to be caught. I have told the chamber before how, at the age of 16, my son—who must be sick of me mentioning him in Parliament—did the inevitable: he went to a dance, drank too much and woke up in a ward in Raigmore hospital. He was very nearly in trouble. Had the bobbies been involved that night, it could have been far, far worse. Such things can happen to anyone. As I said, we must consider the issue from the other end of the telescope.

I endorse the Executive's attitude. I ask it to build on the excellent work that has been done so far and to try to take action on the points that I have made about involving children in communities, having more respect for children and giving them a voice on representative bodies. Those themes should be marbled through the Executive's work in this regard. In giving young people respect, we will increase their sense of citizenship.

Mrs Mulligan: Why did Jamie Stone wake up in the middle of the night?

Mr Stone: Have I got a minute left, Presiding Officer?

The Deputy Presiding Officer: You have about half a minute.

Mr Stone: In that case, with deference to the chamber, I shall conclude my remarks.

Mrs Mulligan: Why did Jamie Stone wake up in the middle of the night?

Mr Stone: I am not going to tell you.

16:19

Rhona Brankin (Midlothian) (Lab): Like colleagues, I am delighted that this debate is taking place. I welcome the review of the

children's hearings system, which is long overdue. As Scott Barrie said, it is 30 years since the original legislation. Like many others, I pay tribute to the people who were responsible for that legislation, to the people involved in the Kilbrandon report, and to politicians such as Willie Ross and, indeed, the Conservative politicians who followed up on the excellent work of the Labour Government that introduced the system. It was brave and ground-breaking legislation that has proved to be a beacon for other systems worldwide.

As many others have said, the system is a unified, single system. It considers in a holistic way the whole range of the child's needs. The child is at the centre. The previous system of juvenile justice simply was not working. Let us not let the Tories forget that.

Like many others, I want to put on record my appreciation of all those who are involved in the children's hearings system, especially those who volunteer to become panel members. I also want to put on record my commitment, the commitment of colleagues here and the commitment of the Executive to children and young people in Scotland, who have the right to live happily and safely, the right to be educated and the right to live healthily.

Many colleagues have talked about the challenges that we face; I would like to talk about some of them, too. In 2002-03, 38,000 referrals were made to the children's hearings system. That number has doubled since 1992—although I acknowledge that, as Johann Lamont pointed out, there are many complex reasons for that. It is important to acknowledge that 60 per cent of those referrals are now made for reasons of child protection. As many colleagues—such as Fiona Hyslop, Rosemary Byrne, Ken Macintosh and others who are involved in the Education Committee's inquiry into child protection—have pointed out, some children today live in family circumstances that are very different from those of 30 or 40 years ago. I am referring to the shocking statistic that one in approximately 50 Scottish children lives in a family where there is drug abuse.

The children's hearings system could be threatened if we do not talk openly about some of the challenges that face it. I welcome Johann Lamont's speech. She was very brave to say that we have to talk about some of those difficult challenges.

Many colleagues have raised the problems of the perception of the children's hearings system. In some quarters, there is undoubtedly an attitude that it can be a soft option. The nature of the work undertaken by children's panel members makes it difficult to publicise a success with a child or a

family. The soft-option attitude demonstrates a lack of understanding of the fact that nearly twice as many children are referred to the children's panel for care and protection as for offending.

Only 8 per cent of young people referred to panels have five or more offences. That fact is sometimes masked by the seriousness of the offending by that small minority. There is no doubt that a small minority of young people can make others live in fear. That happens in my constituency; the same goes for many of my colleagues. Paul Martin is right to point out that certain serious offences are sometimes not dealt with by the system. Sometimes the system fails at the implementation stage.

When we consider how best to deal with the minority, it is important that we acknowledge and maintain the strengths of the system. I welcome the point made by Mary Mulligan, the Deputy Minister for Communities, that the Antisocial Behaviour etc (Scotland) Bill is designed to work with the children's hearings system. It has been devised with that system very much in mind.

I welcome the discussion on parenting orders and am attracted to the idea of family hearings. As Elaine Murray pointed out, the systems of many countries now have family conferences. However, if we go down that route, we should avoid overlegalising the system. We have to keep the child's welfare as the main focus.

Like many members, I greatly value the community involvement that underpins the system. Any move to more specialisation must not threaten that, but I recognise that the job has become very complex for volunteers and that training and support are essential for them.

We are all far from complacent. Several members referred to the Auditor General for Scotland's report "Dealing with offending by young people: A follow-up report", in which he said that 25 per cent of young offenders who were on supervision did not receive a proper service and that one fifth of children who were on home supervision had no social worker attached to their family for months. That is simply not good enough.

The Auditor General's report showed some improvement, but huge inconsistencies remain around the country. Many members have drawn attention to the lack of disposals that are available to some panel members and to the shortage of social workers. However, it is important to note that some local authorities with significant staff shortages performed better on some measures than others that had a larger staff complement.

One of the biggest challenges is the failure to put in place a structure for evaluating the children's hearings system. Many members referred to that. We do not have enough

information to make an informed judgment about how the system is working and how we can improve it. We recognise that some children are referred to the reporter when they are very young. Sadly, some children who have problems go on to have problems when they are adolescents, and some of them continue to have problems when they are adults. I have worked with children who presented problems when they were aged three and who went on, predictably, to have problems and to be involved in difficulties when they were older.

Central to improving the system is building self-evaluation into it. I welcome the fact that in March, the First Minister, Jack McConnell, asked Her Majesty's Inspectorate of Education to take on that task. I look forward to hearing the results of that work.

There has been a remarkable degree of consensus in the debate. I welcome the debate. We do not often have the opportunity to make longer speeches, which has allowed members to raise a wide range of important issues. We have a system in Scotland of which we can be proud, but we must not shirk the challenges that we face in the year ahead.

16:28

Mary Scanlon (Highlands and Islands) (Con): Several good speeches and good points have been made today. I was especially struck by the point that Paul Martin made about poverty.

The consultation document refers to a 140 per cent increase in divorces and a tripling in the number of single parents since 1971. I was left alone to bring up my children when they were aged one and two and something that upset me more than anything else was the phrase "children from broken homes". My children were never near the children's hearings system and I hope that the increase in the number of marriages that break up will not be seen as creating unstable or insecure households for many children.

Annabel Goldie summed up the situation well by highlighting public confidence in the children's hearings system; the need to bring to children an understanding of their actions and of the implications and effects that their actions have on others; and the system's under-resourcing.

Rosemary Byrne, along with Margaret Ewing and many others, highlighted the role of the education system. That point is welcome.

Kenneth Macintosh talked about the emphasis on keeping a child with their natural parents. It is time that we revisited that, especially as many couples are desperate to adopt and to offer a stable and secure home.

Michael Matheson mentioned the need to involve local government, but we also need to involve the police fully, especially as 82 per cent of referrals to the children's hearings system come from the police. The police seem to see the same serious and persistent offenders time and again.

I was struck by Donald Gorrie's point about self-esteem. The First Minister has often mentioned confidence in our country, but we should have confidence in our children. That point needs further examination. On a separate and perhaps not unrelated issue, there have been 29 suicides in the Highlands this year, 27 of which have been young men. I appreciate the fact that all cases are unique, but I think that we need to do more to understand if young men feel undervalued. We may also ask why girls now consistently outperform boys in schools and universities.

Maureen Macmillan (Highlands and Islands) (Lab): Does Mary Scanlon accept the fact that some of those young men did not belong to the Highlands but, according to the police, came to the Highlands to get as far away as possible before they took their lives?

Mary Scanlon: There are, undoubtedly, many issues. We all need to understand more about the geographic location and to address that frightening figure.

Although the figures for care and protection for boys and girls are fairly equal, boys are responsible for more than 80 per cent of offences. We need constantly to examine that point.

Johann Lamont made an excellent speech with a passion and understanding that we have come to expect from her on the issue.

Robert Brown, the prophet of doom and gloom, spoke in his normal carping, critical and petulant manner. He need not have prophesied that, late or soon, we would all be deep drowned in gloom, as he made sure of that in the first three minutes of his speech. If he had any constructive points to make about the consultation process, I certainly missed them. When he told us what the Liberal Democrats would and would not support, I switched off entirely, knowing how meaningless those words were.

One of the main issues has been the problems relating to social work, many of which are mentioned in the Audit Scotland report. Unfortunately, the social work problems do not relate simply to children. We have all discussed the problems encroaching on care of the elderly; mental health; drug misuse, alcohol abuse and other problems; and the role of grandparents, who often become the carers, providing security, shelter, support and love in a desperately overstretched system. We need to look at the benefits system to examine the allowances that

are given for parental care of children, which could be paid to the grandparents in some circumstances.

Many members mentioned the excellent work and commitment of children's panel members. Given the issues of recruitment and retention, the question arises whether we should revisit the upper age limit of 60 for panel members. Although Jamie Stone is approaching 50, there are many who can do very good jobs at 60 and into their 70s. Many people who are freshly retired and who have a lifetime of experience could make an excellent contribution, as they have the time to do it that they may not have had during their working lives.

Paul Martin mentioned a new approach to local authorities; I, too, mentioned that in my intervention on Peter Peacock. It is not enough just to put on paper the fact that local authorities have a legal duty to implement a recommendation of the children's hearings system. The Parliament cannot always say, "It's got nothing to do with us. It's the responsibility of local government. Councils are democratically elected." It has got something to do with us. The minister has to say who is holding local authorities to account. If a child goes to Highland Council and it refuses to give him education, we all know that that is wrong. However, we are ignoring the fact that local government is not fulfilling its statutory responsibility and is failing our children. There may be good reasons for that, but we have to understand those reasons and hold local authorities to account. As Paul Martin said, we have to find a new approach.

Peter Peacock: I am grateful to Mary Scanlon for making that point. If she is referring to the Antisocial Behaviour etc (Scotland) Bill, there are provisions in that bill that are specifically designed to toughen the law and to allow the reporter to report to the sheriff or, if that is not happening, to allow the panel to instruct the reporter to report to the sheriff, if the local authority is not fulfilling its statutory duty. We are building in the strength that is required to ensure that that happens.

Mary Scanlon: There are certainly provisions in the bill, but we must ensure that they are implemented. That is the main point and it is something that Jackie Baillie also mentioned.

Seventy per cent of persistent offenders have been referred previously to the children's hearings system on non-offence grounds. If the first referral were to be given greater attention, priority and resources, that might reduce offending. Many members have made points about the children's hearings system and the criminal justice system. It is worth pointing out that a case in the children's hearings system costs £945, whereas a case in the criminal justice system costs up to £12,400. I

appreciate that we are not comparing like with like, but we must ask whether we expect the children's hearings system to handle cases on the cheap.

I am sure that a key indicator of the success of today's debate will be the minister's acknowledgement in his summing up of the new points that he has picked up in his consultation throughout the day.

16:36

Stewart Stevenson (Banff and Buchan) (SNP): We should recall that those who know no history are condemned to repeat it, so I shall therefore be visiting some of the background to the debate. I shall start, however, by welcoming the preparedness on the Executive's part to listen and involve members at this early stage. Nonetheless, I shall make some criticisms at a later stage.

It is interesting that, in this debate—our longest subject debate since Parliament first sat five years ago—we have never had fewer than two dozen members in the chamber. I have counted them. That is far more than we would see in the much larger Parliament at Westminster, and perhaps that tells us a little bit about how we are different.

I was slightly surprised at the Tories' ignorance of their contribution to our current system. The "Children and Young Persons Scotland" report was delivered in April 1964, and was therefore commissioned under a Tory Government. I say that not to praise the Tories, but merely to point out their ignorance, and that is, of course, a subject to which I shall return. It is worth quoting from that report of April 1964—40 years ago—because its language and the clarity of the exposition of the arguments within it are a model for today's reports. The report states:

"Wherever possible the aim must be to strengthen and develop the natural influences for good within the home and family, and likewise"—

Rhona Brankin should listen carefully, as this is not a new idea—

"to assist the parents in overcoming factors adverse to the child's sound and normal up-bringing."

It did not even start there. The 1964 report drew on the experience of the Liverpool police's 1949 juvenile liaison scheme. That raises an important point about the need to look beyond the confines of Scotland and the usual suspects, among whom I include MSPs, in considering the way forward.

In the 1964 report, we also read:

"In our view, referral should be made to ... panels for one reason only, namely that *prima facie* the child is in need of special measures of education and training."

That focuses on the needs of the youngster over the deeds of the youngster. The report went on to say:

"Panels must have available to them the services ... statutory and voluntary agencies whose work is such as to bring them into frequent contact with the family."

Perhaps, 40 years on, we have still to meet the aspirations of the 1964 report.

However, things are not all doom and gloom. The report's appendix contains statistics on the charges brought against young people, and between 1950 and 1962 there is no year in which the number fell to anything like the 14,404 charges that there were in 2002-03. I accept that fewer children are around, but fewer children are being brought to the attention of the system for criminal acts than before the system was put in place.

In 1964, it was not imagined at any point that the panel would be a soft option; instead, it would be the chosen option. The hearings system is a hard option if it operates well, because part of it seeks to have youngsters and children accept that they are guilty of a transgression against society's norms. It is not easy to stand in front of strangers and say, "I'm guilty of something that I should not have done."

That is the historical perspective. However, a lot has changed in our society since 1971, when the panel system came into operation. Indeed, when one considers how short a distance ahead in respect of changes in our society can be seen in reality, it is remarkable that a system that was established then still stands in good regard.

Volunteers have a central role in the panel system. According to the article in the *Aberdeen Evening Express* on his campaign trail around Scotland that Euan Robson has kindly provided, there are just under 100 panel members in Aberdeenshire. It is important to say that professionalism, which we expect of panel members, is not—I repeat not—about pay; it is about attitude, training and approach. Margaret Ewing made the point that we should ensure that we properly compensate people. Our world-respected hearings system must be scrutinised and we welcome that. When the minister sums up, I want to hear him assure us in the strongest possible terms that there is a future for our hearings system; if he fails to do so, he will go around Scotland pleading with people to put themselves forward as panel members, but those pleas will result in nothing. People will, of course, wish to wait and see what the system's future is. I am not saying that the minister has said that the panel system is to end—of course he has not said that—but he must paint a clear way ahead.

We have a system in which most of us believe—we certainly have a system in which most of us want to believe—but we currently lack the figures that would enable us to justify that belief to others with the necessary conviction. Therefore, we must have more facts about outcomes and the

constraints on possible success in the current system. For a start, we must be able to see the gulf between the proposals that panel members believe they should be able to utilise and those that, in practice, turn out to be available to them. We must also be able to see that timescales for youngsters who are waiting a dangerously long time for the right support and guidance are being brought down. We must have facts that help us to understand the difficulties that exist.

New services must be developed to meet new needs. We may be misleading ourselves when we talk about major drug problems. Of course, there is a major drug problem in our society, but there have been major substance abuse problems for a long time. My great-grandfather was born in 1824. T C Smout's social history of Scotland describes the many major substance abuse problems in the 19th century. In the 1950s, drink was a major problem that affected social cohesion. Therefore, drugs are a modern representation of a long-standing problem that has affected society and our children.

We must not forget the educational aspect of the panel system, which was adumbrated in the 1964 report. We see people leaving the care system with dramatically poorer educational outcomes. We do not know whether that is because people with less potential enter the system, or because people whom the system has already failed go in at the front end. We need to understand the reason better. Is the system failing? I do not think so, but it can be seen as a struggling system.

The consultation is fine as far as it goes, but it probably does not ask all the questions that should be answered. I hope that consultees will not feel that they should answer only the questions in the consultation. For example, how would family hearings fit in any updated and revised system? I am not sure that the consultation will draw that out from consultees. The consultation asks about the involvement of young people in the wider community, but it fails to ask whether resources to support needs are sufficient.

I have given a little of the historical background. Modern conditions will require modern solutions. In the 19th century, drink was a major problem and we looked abroad to the Gothenburg experiment—community-owned pubs that delivered value from the abuse of drink back into our societies. That helped a great deal. I do not say that that would help today, but we may find things if we look further afield.

Rhona Brankin asked for an informed debate. I think that we have had one today. It is a start, not an end. There is a conflict of interest in asking us for our views at this stage then asking us to make a decision later, but I hope that we are all mature enough, old enough and wise enough to resolve that conflict when the time comes.

16:47

The Deputy Minister for Education and Young People (Euan Robson): This has been an interesting debate for a variety of reasons. In the main, it has also been constructive and positive. Despite criticisms from MSPs about having a debate now, many panel members and practitioners in the system welcome it, as it highlights the review and the system.

As a number of members said in the debate, the review will raise public awareness and the profile of the hearings system. I put on record my thanks to members—Rhona Brankin, Michael Matheson, Margaret Ewing, Elaine Smith and many others—for their supportive remarks about the desirability of the review and I welcome the general support in the chamber for the fundamental principles of the system. We will take away the detailed points that have been made and give them due consideration.

I noted Paul Martin's comments about the Procedures Committee's deliberations. Peter Peacock and I decided to request a full-day debate on the review of the children's hearings system because of the importance of the subject. Moreover, we knew that not only was there a lot of interest among members, but there was a lot of experience. After Ken Macintosh had spoken about his brief encounter with the panel in May 1999, I was left unsure whether to commiserate with him or to congratulate him on what had happened. Robin Harper referred to the desirability of having a second debate, which I am sure will happen at a later stage.

Parliament should be quite clear that the review is not motivated by any desire to hive off youth offending to another system. As Peter Peacock made clear, the review is about strengthening, not dismantling, the hearings system—it could be said to be an improvement review. I confirm for Stewart Stevenson that there is a secure and sound future for the panel system.

As members will know, part of the process of the review includes public consultation events. I have attended two such events—one in Glenrothes and one in Aberdeen last night—and Peter Peacock has attended two as well. Both the events that I went to were well attended by a wide range of interested parties, including panel members, teachers, parents, social workers, police officers, health service representatives, community representatives and young people. The commitment of everyone at those meetings to assist in developing the best possible system for Scotland's children and young people has been extremely heartening.

I have been encouraged by the emergence of common themes and interested in some of the issues that participants in the events raised, of

which I will give Parliament a flavour, although without necessarily commenting on them. It was said that reporters' investigative powers need to be strengthened, that early interventions are essential for children and that panels' decisions need to be implemented. People argued that there ought to be better use of resources, more co-ordination of statutory and voluntary bodies and better provision of information and reports to panels.

Interestingly, many participants said that specialisation by panel members is not desirable. There is a strong preference for the continuation of the holistic approach, through which each member can sit on any panel. It was argued that, although advocacy mechanisms need greater definition, the granting of legal aid to children and others would fundamentally alter the ethos of the system. Some say that the hearings should have influence over parents and that 15-year-olds are falling out of the system because, in some areas, they are not referred to hearings. It was argued that the involvement of health service professionals needs to be improved. We had an interesting exchange in which a doctor in the audience said that he had not been consulted by a panel in 20 years, but a panel chairman said that he had written to general practitioners in the same area and had never had a response. We can do a lot of work on that.

Young people said that they did not always wish to air their views in front of parents, which applies especially to young people who are in care. We must consider that point carefully. In a number of the events, the training was said to be good, as Robin Harper mentioned. However, some people wanted certification of panel members, whereas others did not. The vivid remarks of two people who had experience of the English system will stay with me. They said that, whatever we do in the review, we should not underestimate the strengths of the hearings system but understand that it is a good system and build on it. That is what we hope to do.

The big common themes are the need for better-integrated working across agencies, the need for hearings to have more influence over parents and the need to continue with a single, integrated system that deals with child protection and offending together. Another theme is that we must maintain the focus on the child and his or her needs, although, interestingly, a number of people expressed the view that wider family needs should be considered. Finally, concern has been expressed about the ability of support services to implement hearings' decisions. It is important to put on record the fact that, as several members said, panels make not recommendations, directions or judgments, but legal decisions. Rhona Brankin eloquently described the inconsistencies in implementation across the

country. That is another important issue that will be drawn out in the review and on which we will need to act.

I return to the view expressed by young people who are involved in the system that there should be greater scope for them to have their views heard in confidence. We must ensure that the views of the child or young person are properly heard. At present, several mechanisms for doing that are in place and different people are tasked with representing the child's views and interests or with helping the child to represent their views. However, there seems to be inconsistency, confusion and maybe even overlap in how that aspect of the system works. We will consider how best the child's views and interests can be represented and heard.

A number of members mentioned the vital importance of social work in the hearings system and some requested figures on that issue. Sandra White was particularly concerned about how many people have entered the new fast-track system. I can tell her that 99 people entered at the first stage and that the plan is for 550 people to enter over a five-year period, resources for which have been made available. In addition, we ran the immensely successful care in Scotland campaign, the main website for which recorded 22,000 visits. Furthermore, the Scottish Social Services Council has issued 1,000 career information packs to inquirers through its website. That is an immensely important figure to hold on to.

There is a great interest in social work and there is no shortage of people who are willing to devote their lives to it. The Executive acknowledges that fact through investment in training, incentives to get people into understaffed areas and the leadership programme that we have developed. We are very keen to revive and improve social workers' professional standing.

Fiona Hyslop: I thank the minister for his remarks about the recruitment of social workers, but there is still concern about retention and the continued support and recognition of existing social workers. Will he comment on that?

Euan Robson: That observation is correct and it is the reason why we have asked the Scottish institute for excellence in social work education to consider how to develop on-going training for continuing professional development. Another member—I apologise, because I forget who it was—stressed the importance of arranging a career structure so that people from voluntary organisations can contribute to social work and move up a professional ladder. We are looking to do that.

Other important issues that have been mentioned in the debate include the need for more

appropriate communication about what happens to children in the system, especially if a child has been referred but does not go before a hearing, and the role that other service providers, such as education authorities and primary schools, feel that they can play in addressing emerging problems at an early stage. A recurring comment on the present system is that, by the time a child or young person is referred to the hearings system—and certainly by the time they appear before a hearing—it is often late in the day, sometimes too late, and the situation has already deteriorated to the point of crisis. If such children and young people can be identified and supported early and effectively, their needs and circumstances can be improved before matters have reached a serious stage.

Those points have been reflected in comments made today. They reinforce the view that there is scope for improvement in the system, but that the basic approach of the children's hearings system is sound and that there is a strong commitment to do what is right for the child.

In the few moments that remain, I will directly address some of the points that members have made. Elaine Murray mentioned comparisons with overseas systems; I assure her that we will consider those. Robert Brown rightly stressed the importance of research and of evaluating reports and projects across the system. Scott Barrie asked whether ministers would consider guidance on the no-order principle. Without making a commitment to such guidance, I assure him that we will consider whether it is necessary.

Margaret Smith said that, in Scotland, we can no longer afford to have young people who do not fulfil their potential. She is right, not only because of the importance of the individuals, but because of our aging population. In Scotland today, we need every young person to reach their full potential and to make the fullest use of their talents.

Jackie Baillie said that the lessons from the fast-track children's hearings, especially the welcome reduction in the time between the offence and the appearance in front of a panel, should be considered carefully. The fast-track scheme is due to end in March 2005, as she will know, and we will consider carefully the lessons from it.

Alex Fergusson raised a case from his constituency. He will appreciate that it is not possible for me to comment on a specific situation, but I say to him that, in 2003-04, there were 359 appeals, which represent less than 5 per cent of decisions. In more than a fifth of those—22 per cent of appeals—the sheriff upheld the appeal, so it is the case that appeals can be upheld.

Alex Fergusson: I take the minister's point on appeals, but the problem is that the sheriff can

only refer the decision back to the panel, which may not even consist of the panel members who made the original decision. I hope that the minister agrees that that must be considered a weakness in the system.

Euan Robson: I understand the point that Alex Fergusson makes, which we will consider carefully during the review. I thank him for raising the issue.

Mary Scanlon and John Swinburne referred to the age of panel members. The normal age for retirement is 65, not 60. The normal upper age for appointment is 62. We will consider that matter in the course of the review. If relevant and important points are made, we will happily consider them and, if a change requires to be made, we will make it.

Johann Lamont: Alex Fergusson also asked about the timescale for reporting on the review of cases involving Munchausen's syndrome by proxy and issues arising from the use of expert witnesses who might have given themselves an authority on the issue that they do not deserve. When will the report appear?

Euan Robson: We have received an interim report from the SCRA, but we will need to discuss it with the SCRA in more detail. We will consider what steps to take next and our discussions will cover such matters as when the report will be published. We hope to be in a position to publish it fairly soon. If the member has any further questions that she wishes to ask me on the matter, I will be happy to discuss them.

I reiterate ministers' commitment, as stated in the partnership agreement, to build on and refresh what is already a good system and

"to ensure that it does the best possible job to protect children."

We are in the early stages of phase 1 of the review. We welcome the fact that we have had this opportunity to hear members' views today. I look forward to attending further public consultations over the next few weeks, some of which will involve young people who have been through the system. I also look forward to hearing the views of people from throughout Scotland who want to help to build a picture of the hearings system that we want for Scotland in the future, so that we can polish what one member described as one of the jewels in the crown of the Scottish justice system.

The Deputy Presiding Officer: As there are no questions to be put as a result of today's business. I propose to suspend the meeting for one minute to allow those members who are leaving to vacate the chamber as quickly and efficiently as possible, after which we shall proceed with members' business.

17:02

Meeting suspended until 17:03.

17:03

On resuming—

Racism in Football

The Deputy Presiding Officer (Trish Godman): The final item of business is a members' business debate on motion S2M-1214, in the name of Bill Butler, on stamping out racism in football.

Motion debated,

That the Parliament condemns all racist incidents in and around football at every level; welcomes the work of "Show Racism the Red Card" in spreading the message amongst players and fans that racial discrimination within the game must be stamped out, and considers that the 42 Scottish Premier League and Football League clubs should sign up to the UEFA Ten Point Plan which sets out a framework for action to challenge racism in football.

17:04

Bill Butler (Glasgow Anniesland) (Lab): I thank everyone who signed up in support of the motion and I am delighted at the extent of that support—50 members from all parties. I also acknowledge the contribution of the major sponsors of the Show Racism the Red Card campaign, including the Scottish Football Association, the Scottish Professional Footballers Association, the Scottish Executive, Amnesty International and the trade unions Unison, the GMB and the Educational Institute of Scotland. I also thank all those at Show Racism the Red Card—especially Roddy McNulty, the Scottish development officer—who have provided assistance and support in helping me to highlight the campaign in my constituency.

One of the main ways in which the campaign has been valuable is in gathering the support of so many players and high-profile figures in giving their views and talking about their experiences of racism within the game. It is often the case that it takes admired professionals such as Henrik Larsson, Ryan Giggs and Thierry Henry to speak out on the subject before the media pick it up. Those players should be applauded for doing that.

Although the Show Racism the Red Card campaign commands the support of some of the biggest names in football, it is just as important that extensive work to combat racism be undertaken with young people and players at junior and amateur levels. With my colleague Des McNulty, I recently visited players and staff of Clydebank Football Club junior football team and their supporters at the Peterson park pitches in Yoker. I am sure that Des McNulty will agree that there was great awareness of the campaign and of the continuing problem of racism in football,

especially at levels of the game other than professional level.

I have had strong support from community organisations in Glasgow Anniesland and I thank particularly Maurice Fieldman, who is chair of Drumchapel Community Forum, for his backing of and support for the campaign.

High-profile racist incidents involving professional players are likely to be reported in the press; however, it is equally damaging when racist incidents occur at junior and amateur levels, which do not receive much media exposure. Although we are rightly appalled by headline-grabbing racist incidents, the day in, day out abuse and unreported incidents that take place in the lower leagues and amateur game cause most harm.

Racism is not just a football-related issue. If we are to combat it, it is vital that we educate young people about it from an early age. The Show Racism the Red Card campaign does much valuable work with schools; it encourages them to develop links with football clubs and authorities. Some 10 per cent of Scotland's schools registered to participate in its anti-racism campaign, which was run in conjunction with the Educational Institute of Scotland, which is greatly to be welcomed.

The campaign also offers a range of excellent resources that are readily available and I urge all members to work with schools, boys and girls footballs clubs and youth organisations in their constituencies and regions to help get the message across that racism cannot be tolerated whether it occurs on the football pitch, in the stands or on the terraces or elsewhere in our communities.

There is no doubt that the problem of racism in Scottish society is reflected in our national game. Although the racism towards black players that existed in the past has dissipated to an extent, it would be complacent to assume that the problem does not exist. Such vile displays of prejudice as bananas being thrown at black players may no longer be common—thank God—but racism is still there, insidious and pernicious. Recent comments by Livingston Football Club's Marvin Andrews highlight the current level of racist abuse that is directed at black players in the Scottish game. We should recognise the challenge in that.

I am sure that nobody has to be reminded of the disgusting and cretinous comments that Ron Atkinson made recently. That someone who has worked closely with black footballers at the highest level in the game in recent years can still hold and express such views shows how deep-seated this intolerance can be. It also shows that we are not going to get rid of racism overnight. It is a long-term challenge that we must not shirk.

The huge increase in the number of black players from Britain and all over the world who play in Scottish and English football leagues has played a considerable part in highlighting and, to an extent, in tackling the problem, but there is still a considerable amount of work to do. It is encouraging that a number of famous players have responded positively to the campaign. When Henrik Larsson was asked about racism, he acknowledged that there was a real problem and is on record as saying:

“to not like somebody because he or she has a different skin – that's stupid. You have to look beyond that”

to the “human being.”

Such wise words from players of Henrik Larsson's stature will do much to press home the campaign's decent commonsense message. However, if we are to succeed comprehensively, football's governing bodies and the clubs must act resolutely and ban permanently those who are caught shouting racist abuse from the stands. I realise that it can be difficult to pick out individuals, but when people are caught, they must be subjected to the harshest penalties.

Just as there can be no excuse for racism, there can be no excuse for hiding from the problem and backing away from the actions that are needed to combat it. The Union of European Football Associations has set out a 10-point action plan, which it has asked clubs to sign up to and implement. The plan outlines a range of measures for clubs to adopt so that they can avoid racist incidents and tackle them if and when they occur. The measures are not overly complicated and their implementation does not require huge amounts of money. They include, for example, taking action to prevent the sale of racist literature in and around grounds and encouraging stewards and the police to adopt a common strategy on dealing with racist abuse—those are straightforward plans that can be implemented.

It is disappointing that only one professional Scottish club—St Johnstone Football Club—has signed up to the UEFA 10-point plan but, on the positive side, several Scottish Premier League and Scottish Football League clubs have shown willingness to implement the plan fully in due course, and the SFA has recently reminded clubs about their obligation to demonstrate progress towards implementing the plan. All 92 professional English clubs have officially committed themselves to the plan; that commitment is being used as a building block to stop abuse at and around games.

Scotland, as the birthplace of football, should not be too proud to take a lead from its English neighbours.

Linda Fabiani (Central Scotland) (SNP): This morning, I heard for the first time that there has

been reluctance in Scotland to sign up to the plan. I am pleased to hear that some clubs are considering doing so, but why has it taken so long? It worries me that clubs did not sign up right away to something that is so worthy.

Bill Butler: I accept Linda Fabiani's point, but I do not wish to give the wrong impression. Although only one Scottish football club has formally signed up, that does not mean that the rest have failed to act. During the season, the Show Racism the Red Card campaign worked with all the major clubs in Scotland to get the anti-racism message across to fans. The Show Racism the Red Card weekend of action gave fans Scotland-wide an opportunity to show their backing for the campaign. I must put it on the record that I commend the support that has been shown by the SPL, the SFA, the SPFA and the clubs towards stamping out racism in football and in society. All 12 SPL clubs gave their enthusiastic assistance to the weekend of action. However, I hope that all clubs will take one additional step and sign up to the UEFA 10-point plan. We must all recognise the extent of the problem of racism in football by supporting the Show Racism the Red Card campaign.

I conclude on a positive note. The pleasure and joy that football gives to millions of people worldwide who follow and play the game is something that we can use to bring people together. At its best, the shared experience of football can unite people regardless of race, religion or origins. I ask all members to write to clubs in their constituency or region to ask them to adopt the UEFA 10-point plan. Members should encourage those clubs to get in contact with the Show Racism the Red Card campaign and to get involved in it.

We must continue to get the message across to football's governing bodies, to the clubs, to the managers and playing staff, to the media and to the fans that we all share responsibility for identifying, combating and eradicating racist behaviour whenever and wherever it occurs. Racist comments, gestures and violence must be confronted and dealt with in a thorough and consistent fashion. Scottish football, and indeed Scottish society, can only benefit from the coherent approach that is advocated by the Show Racism the Red Card campaign. I commend it to members.

17:13

Ms Sandra White (Glasgow) (SNP): I thank Bill Butler for instigating this debate on an important issue. The debate is about stamping out racism in football but, as we all know, the tentacles of racism do not start and stop at football grounds. I take this opportunity to congratulate St Johnstone,

which has been mentioned already, on signing up to the UEFA 10-point plan. The Show Racism the Red Card campaign and the clubs that are taking part in it are to be applauded, but its aims would be enhanced if all Scottish clubs signed up to the UEFA plan. The abuse of a person just because they happen to be of a particular race should not and cannot be tolerated in modern Scotland. As Bill Butler said, a number of players from all over the continent come to Scotland to play for Scottish football clubs, and in a world that seems to be shrinking it is beyond belief that racism is still practised.

We see racism every day not only in football grounds but in the streets. Like other members, I have been involved in work with asylum seekers; I have seen racism affect them and their communities, which is a sad state of affairs. Unfortunately, in Glasgow in particular we hear racist chants and see racist drawings, paintings and graffiti, which sprout in certain areas in which asylum seekers congregate. Such incidents perhaps happen after people come out of football matches. We should hang our heads in shame about that. I hope that those who are involved in such racist abuse are caught and told that their deeds do nothing for Scotland as a whole. Their racist message is not the one that we in Scotland want to send out to the rest of the world.

I agree whole-heartedly with Bill Butler and I take on board what he said about MSPs writing to their local football clubs, whether amateur or professional, and telling them to sign up to the excellent UEFA 10-point plan. I know that various initiatives are going on within football clubs throughout Scotland and that they have done a marvellous job, but signing up for the 10-point plan would enhance that and it would show people out there that we in Scotland mean business.

If I may, I would like to touch on another form of racism by quoting a definition:

"Racism is the belief of the superiority of a particular race, religion or ethnic group."

That definition of racism implies a much wider remit. Bill Butler referred to people's race, but we in Scotland must be honest and admit that racism involves religion as well as ethnic origin; we should look seriously at that. We have a particular problem in Scotland that we call sectarianism, but it is racism. We should perhaps tackle that in an holistic approach that tackles all forms of racism.

It does not matter whether someone is abused because of their colour or because of their religion. Nobody should be subjected to such abuse and we in Scotland should not just sit back and accept that it happens. The recent incident involving graffiti about Neil Lennon, which was scrawled all over a road, is particularly upsetting, not just for

the chap but for everyone in Scotland who looks upon footballers as decent people who are just doing a job by playing a game of football. They should not be subjected to that type of racism.

Again, I congratulate Bill Butler and I hope that something will come out of the debate. I will certainly be writing to all the clubs that I know of, both amateur and professional, to encourage them to sign up to the 10-point plan. However, we must tackle the other form of racism in Scotland, which is obviously sectarianism.

17:17

Mr Jamie McGrigor (Highlands and Islands) (Con): We can all agree with the terms of Bill Butler's motion and I congratulate him on bringing the debate to the chamber.

Racism has no place in any aspect of our society, but it is particularly offensive to all right-thinking people when racism rears its ugly head in the world of sport and recreation. We have, in fairness, certainly come a long way, though. One can recall well the offensive conduct of some Scottish fans, who threw bananas at the Rangers Football Club player Mark Walters, who was the first black player to play in Scotland. Such childish and offensive behaviour had no place in Scotland and it did not reflect the Scottish people's reputation for tolerance and moderation. It sent out an appalling message.

It is encouraging that there has been a reduction in that type of behaviour over recent years. However, it is disturbing that Bobo Balde of Celtic Football Club continues to be verbally abused and barracked because of his race and that Neil Lennon has received death threats. Of course, those threats have been sectarian in nature, but we should not forget that the sectarianism in Scotland is just as divisive and destructive as racism.

It is also encouraging that, despite the fact that many more black players operate in Scotland than did some years ago, people's attitudes have definitely improved. However, there is no room for complacency. It would be appropriate to congratulate the clubs and the players on their sincere and frequently determined efforts to combat racism, but we must always be aware that the problem has not entirely gone away and that it needs only a few irresponsible individuals to stir up the difficulty again.

Show Racism the Red Card has definitely been successful and there is much to commend in the UEFA 10-point plan, which contains practical measures that clubs can adopt to send out the firm message that racism is not welcome in their clubs. However, a European organisation is again attempting to impose a one-cap-fits-all solution

and is failing to recognise that the problem is greater in some countries than it is in others. There is common sense in the provisions, however, and I urge clubs to sign up to the 10-point plan, but that must be a decision for individual clubs, because they can put the message across best.

In recent times, the national team that most successfully amalgamated different races was France, as a result of which that team won the world cup. Recently, I was delighted to hear that South Africa will host a future world cup, which Nelson Mandela has said will be held on behalf of the whole African continent. I, for one, look forward very much to that.

17:20

Donald Gorrie (Central Scotland) (LD): I commend Bill Butler for lodging this excellent motion and especially for his point that the problem not only exists at the highest level of football—if one can describe anything in Scotland as that—but goes all the way down to community teams at different levels, including both adult and children's teams. It is a serious issue that we must address.

It is lamentable that the Scottish professional football clubs have not yet signed up to the UEFA 10-point plan. I have read the plan and it seems to be a very sensible document. It is up to the clubs to lead and set an example, which other people may follow.

Football in Scotland has a huge potential for good or for ill. We take football very seriously—possibly far too seriously. In numerous discussions that I have had over the years, I have found that many politicians—even elected politicians—are far more interested in football than in politics and would far prefer their club to win the cup than their party to win the election. Football is a very serious issue. It has the potential to bring people together and to generate huge community effort and support for clubs that unexpectedly win competitions. However, it can also bring out the worst in people. The problem is not restricted to racialism. When I was helping to start a community sports facility in Edinburgh, I used to spend Saturday mornings watching teams of school pupils play football. The children's parents who were watching used to make awful remarks. The abuse was not racial—it was abuse of the referee and everyone else present, including their children. At football matches, people go a bit mad.

Part of the problem is that football creates a sort of tribal loyalty, which has both good and bad aspects. Some people feel that because a war is taking place between their cave and someone else's, no holds are barred and they can say

anything that they like, including all sorts of things that they would never say normally. We must get people out of that way of thinking and show them that they can be positively loyal to their club or tribe without saying totally unacceptable things about other people.

Other members have mentioned the religious issue, which goes with the racial issue. Reference was made to the example of Neil Lennon. We must deal with all forms of prejudice, both racial and religious, together. The clubs must take a lead in educating people and changing attitudes. We have a part to play, but the clubs must help to educate their supporters and indicate that behaviour of this kind, whether on the pitch or on the terraces, is simply not acceptable.

17:24

Dennis Canavan (Falkirk West) (Ind): One of the first meetings of the cross-party group in the Scottish Parliament on sports, which I, as convener, helped to organise, was an excellent presentation by the Show Racism the Red Card campaign. That meeting took place more than four years ago and, since then, various efforts have been made to move the campaign on. Sadly, however, racism and racist abuse continue to plague Scottish football.

We sometimes like to think that racism is not as prevalent in Scotland as it is south of the border, but I am not sure about that. It is not very long since so-called football supporters in Scottish stadia were throwing bananas at black players.

Bill Butler and others mentioned Marvin Andrews, who has been an outstanding player for both club and country. Marvin Andrews spoke out strongly and courageously about the racist abuse that Bobo Balde suffered in the most recent old firm match. However, when reference was made to that incident on BBC Radio Scotland this morning, a listener sent in a text message that claimed that Balde got a hard time not because he was black but because he played hard and sometimes put the boot in. It is true that Balde tackles hard and it might also be true that he sometimes tackles too hard, but that is a matter for the referee. There is no excuse for any spectator to taunt any player with ape-like noises and gestures and obscene references to the colour of his skin. Racist abuse must not be tolerated in football or anywhere else.

I applaud Amnesty International and the Show Racism the Red Card campaign for encouraging clubs, players and supporters to team up against racism and for urging all 42 clubs in the Scottish Premier League and the Scottish Football League to sign up to the UEFA 10-point plan. It has been reported that, so far, only one of those 42 clubs, St

Johnstone, has signed up to the UEFA plan, but I am not sure that that is accurate. I recently wrote to Falkirk Football Club about the matter and I received a positive response that pointed out that Falkirk was among the first clubs in Scotland to take part in the let's kick racism out of football campaign and that the club supports the principles in the UEFA plan. I hope that all 42 clubs will soon sign up to the plan, because all clubs have a responsibility in that regard.

If clubs fail to face up to their responsibilities, they should be penalised. I accept that it is difficult to hold clubs responsible for every misdeed by every so-called supporter, but if there is conclusive evidence that the actions or omissions of a club are causing racist abuse, the club should be punished financially or by the deduction of points—or both. I am also in favour of tougher measures by the police and the courts to deal with people whose racist behaviour in football stadia would not be tolerated on the streets of Scotland.

I thank Bill Butler for securing the debate and I hope that the debate helps to ensure that football clubs, players and fans work together to get the message across that racism has no place in sport or in a civilised society.

17:27

Susan Deacon (Edinburgh East and Musselburgh) (Lab): I join with others in congratulating Bill Butler on securing this important debate. I also apologise to members, because I have another commitment and will have to leave the chamber before the minister responds to the debate.

I will take the opportunity to make a few comments and observations. I wholly support the call in Bill Butler's motion to football clubs throughout Scotland—whether they are amateur or professional—to sign up to the Show Racism the Red Card campaign and to the UEFA 10-point plan. Members have echoed that call. However, it is important that we also acknowledge that a huge amount has been done, as Bill Butler said. Some speeches have perhaps not sufficiently recognised just how much has been done in Scottish football and it is important that we put across a balanced message. We certainly call on Scottish football to do more and truly to show racism the red card, but we also recognise and applaud what has been done up to now.

It is important that action plans translate into practical action on the ground. I will briefly touch on some local examples of the kind of practical action that we should encourage. Members must forgive me for using Hibernian Football Club to illustrate my point; I acknowledge that many other clubs have undertaken similar initiatives. Hibs has

proactively supported the Show Racism the Red Card campaign with regular donations and player appearances at events. The club has distributed more than 10,000 posters in support of the campaign, as part of its ever-growing programme of school visits in the local area. In addition, Hibs supported the football against racism in Europe action week last year, as did many other Scottish clubs. In the case of Hibs, its support was particularly significant, as the club invited to the tie that week Edinburgh's first multicultural team, which was invited to take part in a half-time 10-minute challenge event to promote equal opportunities at Easter Road.

Furthermore, just as other clubs have done, Hibs has brought people into its ground to take part in discussions about these very issues. In February, the club supported a Show Racism the Red Card event in the stadium, which was attended by 100 Edinburgh schoolchildren. The children were given goody bags and were able to meet with the great and good of the club, past and present, to discuss racism. That is the kind of practical stuff that we need to build on. It is also important to capitalise on and exploit the wider community links that are being developed by many parts of the sport throughout Scotland.

In my discussions with Hibs, I have been very struck by the way in which the club has gone about this work. Some of its work on racism has come directly from—believe it or not—some of the work that it has been doing on health. Through joint working with NHS Lothian, for example, the club is meeting thousands of school pupils, both in the stadium and in the classroom. The club is able to use those opportunities to get across messages both about health promotion and about issues such as racism and sectarianism. There is something quite big and powerful in that work that we can build on both in football and in sport more generally across Scotland.

I will end by quoting Richard Caborn—if I am allowed to quote a UK Government Minister for Sport and Tourism in the Scottish Parliament. He said:

"Sport is a fantastic vehicle for achieving social change and equity. Football, in particular, can bring many millions of people together in shared experience, which in itself has the capacity to lead to greater mutual understanding and respect."

That is absolutely accurate. In Scottish football, we have a good foundation on which to build. As in so many other areas, however, there is much more to be done. I hope that we can work together with football and other sports to make further progress.

17:32

Mark Ballard (Lothians) (Green): I join in the congratulations to Bill Butler on securing the

debate. I share his support for initiatives such as Show Racism the Red Card.

I share the concerns that were expressed by Linda Fabiani, Dennis Canavan and Donald Gorrie about the failure of the Scottish clubs, with the honourable exception of St Johnstone, to sign up to the UEFA 10-point plan. The position in Scotland is in marked contrast to the 92 clubs that have signed up south of the border.

Bill Butler: I agree with Mark Ballard up to a point, but we are in danger of emphasising the negative rather than accentuating the positive. I made specific reference, which will be in the *Official Report*, to the fact that all the SPL clubs, and many other clubs, have made positive advances towards joining the Show Racism the Red Card campaign or are actively involved in so doing.

I am asking people to write to clubs to request that they take the final step of going for the 10-point plan. We should congratulate the clubs on what has been done so far and, at the same time, ask them to do that little bit more.

Mark Ballard: I agree fully with Bill Butler. We have to recognise the hugely positive steps that clubs have taken over the past 20 years. That said, there is still more to be done.

I went to my first football match about 20 years ago. It was a Leeds United match, at the time that Leeds had one of the most severe racism problems in the whole of the UK. Going to the ground—walking up to Elland Road with its massed ranks of National Front paper sellers and then hearing lots of racist chanting in the ground—was a scary experience. Twenty years on, things have changed dramatically for the better at Leeds United. That change came about because of the actions of groups of fans, the setting up of Leeds United against racism and the interventions of leading black players such as Lucas Radebe.

Although the situation at Leeds United and the other UK clubs that had racism problems is much improved, much more needs to be done. The key thing that happened at Leeds is that the link was broken. The vast majority of fans no longer regard racist chanting as an acceptable way of getting behind their team. They no longer regard racist abuse as an acceptable way of taunting a player on the other side. There is still a tiny hard core of racist fans who are attached to football matches, but they have been edged out. Breaking that link is the important thing to do.

I share Sandra White's concerns about sectarianism. The link that I was talking about exists in that regard as well. I know lots of Rangers fans who sing the songs not because they believe them or because they are sectarian, but because that is what people do when they go

to a footie match. It is about getting behind their team. We have to say that it is not acceptable to sing racist or sectarian songs. People might think that because they do not mean what they are singing and because it is only a football song, it is not important, but we have to say that singing such songs has an impact on society. We have to break the link.

There will always be a hard core of racists and sectarians who need to be challenged, but the vast majority of football fans who sing those songs do so not with racist or sectarian intent, but without thinking about what the words mean. That is why I welcome the creation of the new football chant laureate, whose mission is to create new songs for football matches. That will put behind us the racist and sectarian chants of the past and create a new way of bringing people together, which is what football matches and the singing of songs at football matches do wonderfully.

17:36

John Swinburne (Central Scotland) (SSCUP):

I declare an interest, as I am a director of Motherwell Football Club, the finest exponents of Scottish football. Motherwell has not signed up to UEFA's 10-point plan as we do not have a problem with racism. There are problems in Glasgow, but they are not to do with racism.

At Motherwell, we had Eliphas Shivute and Benito Kemble, two black players—two of my best friends in football, actually. Eliphas comes from a little desert country in Africa and, even on the low pay that he got at Motherwell, he earned more than the president of that country. He scored a winning goal at Ibrox and Benito, who came from Holland, scored a winning goal at Parkhead. They are both my favourite players for various reasons.

I have been going to Scottish football matches for 64 years.

Shona Robison (Dundee East) (SNP): I understand Mr Swinburne's point that there might not appear to be as great a problem at Motherwell as exists elsewhere. However, does he agree that it is important that the campaign be taken to all fans because, no matter how small the problem, certain things can still be getting said on the terraces and that it is important to counteract any form of racism, no matter how small it might be perceived to be?

John Swinburne: I agree that racism is despicable; anyone who indulges in racism is totally despicable in my book. However, racism is not the big problem in Scottish problem. The big problem in Scottish football is sectarianism. People talk about bananas being thrown at a player 10 or 12 years ago, but a fortnight ago people were throwing potatoes at Celtic players.

Where are we coming from? Such acts are down to the sectarian sickness that permeates the old firm. Neither of the clubs wants to stamp it out, although they pay lip service to doing so. In the Rangers programme from the Rangers v Motherwell match, there was a postage-stamp-sized corner of page 3 with a lovely bit of rhetoric about how Rangers want to stamp out sectarianism in football. However, while I was reading the programme, my thoughts were drowned out by the "The Sash", which is a popular song that Rangers fans sing—Celtic fans have an equivalent song that they sing at Parkhead. Sectarianism is the big problem in Scottish football, but it keeps the gates at a high level at all old firm games and that is why it is not being stamped out.

At one match, as has been pointed out, my team and all the opposing players stood and raised their red cards against racism. We are against racism. At our board meeting tomorrow night, I will propose that we sign up to the 10-point plan and I guarantee that we will do so. However, doing that will only be paying lip service to the problem. We can sign all the pious resolutions we like, but concrete action must be taken—such as fining clubs points if they cannot control their supporters. That would soon hit the old firm. It would also hit the clubs if a whole block of supporters from one part of their ground or another were not allowed in. I say a whole block because it is not one person singing, but thousands singing in unison.

The biggest problem in Scottish football is bitter sectarianism. People die out in the streets after old firm games. I have yet to hear of anyone who has died because of racial prejudice out on the streets of Glasgow, but people die regularly after old firm games. That must be stamped out.

17:40

Frances Curran (West of Scotland) (SSP): I, too, thank Bill Butler for securing this debate, which I welcome. I agree that progress has been made and we should applaud that progress. Campaigns such as Show Racism the Red Card and others are targeting young people. However, I agree that we have some way to go.

It was absolutely right that Ron Atkinson resigned following his appalling remarks, but what happened in the aftermath indicated just how far we have to go. The following day I listened to a phone-in on Five Live and was appalled by the comments and the texts as people tried to defend Ron Atkinson. Even more appalling was the column that Jimmy Hill wrote to defend the remarks. Major commentators are saying that the insults were no worse than insults about Jimmy Hill's chin. That shows how far we have to go. There were no mitigating circumstances; it was

racism and that is all there is to it. Ron Atkinson was right to resign and those who defended him should be ashamed of themselves. Their attitude has to be challenged. Racism has no defence; it is absolutely unacceptable.

Show Racism the Red Card can be part of the multipronged approach that we need to deal with the racism in our society that is reflected in football. The good thing about the campaign is that it is aimed mainly at young people. It is important that we aim at the new generation. It is also good that football fans are linking up—not just in Scotland or in Britain, but across Europe. Through this campaign and others, fans across Europe are joining together to support their teams—as Mark Ballard said—but also to say that racism is not acceptable. With Euro 2004 coming up, it will be important that such campaigns are visible. If racism raises its head and racist chants are heard, they must be challenged. Show Racism the Red Card will play a role in that.

There are anti-racist heroes in the game. Many black players have been heroes. After the appalling murder of Stephen Lawrence, Ian Wright was an absolute hero. The stand that he took in south London was fantastic. He reached many white people. It is excellent that Show Racism the Red Card has been able to involve very high-profile players in getting the message across.

Another good thing about Show Racism the Red Card is the schools pack, which was drawn up by the young school students. Drawing up the pack was a chance for them to consider their attitudes and to find ways of getting other young people to consider racist and anti-racist attitudes. It is a couple of years since I saw it, but I think that the video or CD-ROM in the pack is still the same. It is not only about tackling racism among young people but about getting to a layer of young people who are anti-racist but might not know how to tackle racism when they come across it in a football ground or at school. One part of the video or CD-ROM asks young people, "What would you do if you heard a racist remark at a football ground?" It then asks, "What would you do if you heard that racist remark being made by your mum or your dad? How would you deal with that?" The campaign is not just about tackling racism; it is about equipping people—young people in particular, but also society as a whole—to know what to do when they hear racist remarks at a football ground or elsewhere. It will help them to answer the question: "How do you challenge those remarks?" That is very important.

I have a friend who challenged the racist chants that were being made behind him when he was at Celtic Park not long ago. The chants were not dealt with, but we will not go into that. That is why we need the clubs to sign up to the 10-point plan.

We cannot just leave the matter in young people's hands. We need to equip them to challenge racism. Once football supporters have challenged that at a football ground, will they have back-up? We need to encourage a climate of challenging racism and of clubs backing up supporters who do that. That is why it is important for clubs in Scotland to sign up to the plan. Progress has been made. It would be a bad mistake to tar all clubs in Scotland with the suggestion that they are reluctant to sign up to the 10-point plan. The clubs have played a good role, but they need to sign up to and implement the plan.

I congratulate Show Racism the Red Card on its work since 1996, as it has added to the challenging of racist attitudes.

17:45

The Deputy Minister for Communities (Mrs Mary Mulligan): I, too, join in congratulating Bill Butler on securing tonight's debate on stamping out racism in football. I also welcome members' speeches, which have shown Parliament's commitment to ridding our country of the scourge that is racism.

We are committed to shaping a Scotland that is open, welcoming and safe for people who want to come and live here and make a valuable contribution to our diverse and multicultural society. The Executive has invested significant sums of money in local race equality work. In addition to our support for the Show Racism the Red Card campaign, we invest in the ethnic minorities grant scheme and in the Scottish Council for Voluntary Organisations' race equality development unit. Our funding of social inclusion partnerships addresses social exclusion issues for people from ethnic minority communities. The Executive is happy to support Bill Butler's motion and is fully committed to eradicating intolerance and discrimination wherever it surfaces and in whatever shape.

Many members have talked about sectarianism, which also needs to be tackled. That is a problem throughout Scotland. I caution that we do not think that sectarianism is an issue only on the west coast or for those who support the old firm teams; rather, it is an issue for many communities and it needs our attention just as much as racism in football.

Football is our national sport. It is played by many and watched by many either from the comfort of their armchairs or from the stands and terraces of grounds throughout Scotland. It has enormous influence. Football is a passionate game that generates many emotions and what happens on and off the pitch stimulates much discussion. I am aware of the racist chants that

have, unfortunately, been recently aimed at several high-profile players. Those must be deplored and condemned.

Today's debate presents an opportunity to acknowledge the tremendous work that the Show Racism the Red Card campaign does, and to recognise that much work remains to be done to change attitudes among a group that may comprise a relatively small minority of narrow-minded people, but which needs to be tackled.

The Executive's anti-racism campaign—entitled "One Scotland. Many Cultures"—celebrates diversity and promotes a multicultural Scotland. Football is a prime example of that. No one can doubt that the domestic football scene has been made richer by the likes of Henrik Larsson, Mark Walters, Bobo Balde and many others who have been mentioned.

Sadly, some people in our society use football to peddle their brand of racist politics. We must ensure that those cowards are properly dealt with, so I am pleased that football has taken steps to address the issue. The club licensing scheme that the Scottish Football Association has introduced is a positive contribution to that effort. The scheme places a responsibility on clubs to provide a clear policy against racism and sectarianism and requires that policy to be incorporated in supporters' charters.

One of the ways that has been suggested through which clubs can demonstrate their support is adoption of UEFA's 10-point action plan, which has been mentioned. It is true that, at the moment, only St Johnstone has officially signed up for the 10-point plan; however, as we have heard, many other clubs have shown that they are working towards fulfilling the aims of the plan. It is important that football take appropriate steps to rid itself of its unwanted image.

Let me be clear, however: I am not saying that football is sitting on its hands or working in isolation. The SFA is a willing and full partner in the Show Racism the Red Card campaign, as are the Executive and a number of other bodies such as the SPFA, the EIS and Unison. Several initiatives have been undertaken, some of which have been mentioned this evening. One day in January, at all six SPL matches, the teams and referees supported the campaign by displaying red cards before the games. The clubs also issued statements saying that they would not tolerate racism, made public address system announcements condemning racist chanting and used a full page in their match-day programmes. All that was part of the UEFA 10-point plan.

Such has been the success of the initiative that it is being extended to the SFL this coming season. I welcome that. Clubs have clearly

demonstrated their support for the UEFA 10-point plan and are more than happy—as Susan Deacon and John Swinburne said—to assist with any local project connected to the campaign. Footballers are regarded as being role models by young and old alike, so their involvement in the campaign is to be welcomed. It is heartening to hear public statements of their view that discrimination of any kind should not be tolerated.

As part of the campaign, a Scottish advisory group has been established to ensure long-term planning. The group will also work to ensure the involvement of fans and clubs. To that end, the Supporters Direct case worker, whose post is partly funded by the Executive, recently met Roddy McNulty to discuss how supporters' trusts can help to support the campaign. It is an essential part of the campaign to ensure that supporters' organisations are also signed up.

All measures that combat racism in football and any other sport in Scotland must be welcomed, which is why the Executive is committed to working with sportscotland to ensure that more young people—regardless of their cultural, ethnic and religious backgrounds—have more opportunities to take part in sport in Scotland. In March, sportscotland published its equity strategy and it is working closely with the governing bodies of sport in Scotland to eliminate discrimination.

The Show Racism the Red Card campaign reinforces the valuable work that is already under way in Scotland's schools. No one should be in any doubt that we are committed to stamping out racism in football. However, it is incumbent on everyone to do their bit, from the football authorities down to individual supporters.

I congratulate Bill Butler again on securing today's debate, which has demonstrated Parliament's clear commitment to creating a Scotland where diversity in every shape and form should be celebrated and where discrimination in every shape and form must be eliminated.

Meeting closed at 17:54.

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