



Northern Ireland
Assembly

COMMITTEE FOR THE ENVIRONMENT

OFFICIAL REPORT (Hansard)

Clean Neighbourhoods and Environment Bill

4 November 2010

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Cathal Boylan (Chairperson)
Mr Patsy McGlone (Deputy Chairperson)
Mr Thomas Buchanan
Mr Trevor Clarke
Mr Willie Clarke
Mr John Dallat
Mr Danny Kinahan
Mr Peter Weir

Witnesses:

Mr Seamus Donaghy)	
Ms Vivienne Donnelly)	Northern Ireland Local Government Association
Mr Donal McLaughlin)	
Ms Karen Smyth)	
Mr Chris Allen)	Northern Ireland Environmental Quality Forum
Dr Ian Humphreys)	
Ms Elaine Conway)	Children in Northern Ireland
Dr Linda Moore)	Children's Law Centre
Ms Jacqueline O'Loughlin)	PlayBoard
Ms Koulla Yiasouma)	Include Youth

The Chairperson (Mr Boylan):

I welcome Vivienne Donnelly from Belfast City Council; Donal McLaughlin from Lisburn City Council; Karen Smyth from the Northern Ireland Local Government Association (NILGA); and Seamus Donaghy from Armagh City Council.

Mr Weir:

Chairperson, in the absence of Roy Beggs, I want to declare an interest as a member of NILGA's executive.

The Chairperson:

I ask any member who wants to declare an interest to do so now.

Mr McGlone:

Speaking of Roy, has he left us?

The Chairperson:

Yes. We have sent a letter to thank Mr Beggs for his contribution. At the bottom of the letter, we stated that he must declare an interest wherever he goes. *[Laughter.]*

As normal, I invite the witnesses to provide a briefing for five to 10 minutes, after which I will invite members' questions. You are very welcome.

Ms Karen Smyth (Northern Ireland Local Government Association):

Thank you, Chairperson, for the invitation to present to the Committee. I apologise that there are no elected members with me today. Unfortunately, we were unable to bring an elected member. Our presentation might take slightly longer than you have asked, due to the complexity of the Bill and the details of what we want to cover. If you could indulge us, we would be very grateful.

The Chairperson:

Sorry; I have my wee clock, but I will take that on board.

Ms Smyth:

We will do our best.

NILGA has been working closely with the Department on the development of policy and guidance on clean neighbourhoods. That work is ongoing. Our oral evidence to the Committee will reflect that. However, local government broadly welcomes the legislation. We have a number of overarching concerns, which I will deal with before I pass over to my colleagues, who will deal with more technical issues.

NILGA's view is that much of the Bill is a new burden on local government in Northern Ireland. We disagree with the Department's view that the implementation of the legislation will be cost-neutral across local government. We believe that fixed penalty funding will not be nearly enough to resource the powers that are included in the Bill and that the full cost should not have to be met by ratepayers.

We strongly believe that there is a need for a lead-in period for the legislation and a need for clear guidance, which is required to allow councils to adapt to or prepare for new and additional powers. Many of the proposals will require clear and concise technical guidance to enable consistent and satisfactory implementation. We encourage the Department to work with us to produce appropriate new guidance or to revise existing guidance and to allow sufficient time for that vital activity.

More generally, NILGA is of the view that if the Bill provides discretionary powers, that may raise public expectations and will necessitate the provision of accurate and easily understood guidance so that those expectations can be managed. It will be up to each council to decide, in its corporate and community plan, which discretionary powers it intends to implement according to the limited resources that are available.

NILGA sees one serious omission from the Bill, which is the ability to deal with derelict property. Members will be aware that that is a massive issue. We believe that the Bill merely puts a sticking plaster on some issues and that there is an urgent need to provide powers to tackle derelict land, overgrown gardens and derelict premises. That problem is increasing, due to

pressures arising from the current economic situation. The Department has commented at length on that issue in its synopsis of responses. However, we ask the Committee to note that we would welcome further discussion between local government and the Department, to work towards resolution of current difficulties with derelict premises and to develop guidance for councils on the matter. I have brought with me a paper prepared by environmental health officers in councils that looks at those issues. I am quite happy to furnish the Committee with that information.

The last main overarching issue is rural proofing of the legislation. We are keen to ensure that appropriate rural proofing takes place, as rural district councils can experience very different issues to urban councils, particularly regarding the source of nuisance noises and smells, with rural dwellers having potentially different needs to those of an urban population.

A few other key concerns will be highlighted further into the presentation, such as who should be responsible for addressing fly-posting concerns, and we have some concerns about the repeal of article 4 of the Litter (Northern Ireland) Order 1994, but my colleagues will deal with that.

Ms Vivienne Donnelly (Northern Ireland Local Government Association):

I will deal with Parts 1 to 4 of the Bill. The proposals in Part 1, which relates to gating orders, are welcome. However, there are concerns that although those powers are discretionary, it may be that ratepayers will expect councils to enact them. The experience in Belfast City Council is that it is quite a resource-intensive process, so additional funding for that scheme would be welcome, bearing in mind that a gate costs about £4,000 to install and Belfast City Council's overall budget for administering alley-gating schemes throughout the city is £500,000.

We had highlighted that caravans had been omitted from the definition of vehicles. The Department acknowledged that and has said that it is already covered, and we ask that that be clarified in any guidance on vehicles that is issued.

In relation to the offence dealing with two vehicles for sale within 500 metres, members may be aware that the Street Trading (Northern Ireland) Act 2001 can also be used for that. Again, it would be helpful to have guidance on when it is appropriate to use which piece of legislation. One omission that we had highlighted is that vehicles awaiting repair that are parked on a street in

a residential area has not been addressed in the Bill. The Department acknowledged that but has said that it cannot accommodate it in the current timescales. Therefore, we ask that that be considered at a later date.

We welcome the additional powers that will allow councils to more effectively deal with and tackle issues such as littered pieces of land and leaflet distribution, a particularly prevalent problem for some of us. Councils face criticism for pieces of land for which they are not responsible, and there exists a great disparity between what is done about litter by councils and other land-owning bodies, which leads to an overall degradation of the environment across Northern Ireland. The Committee may wish to consider that as an issue still to be addressed.

In relation to street litter control notices, I am aware that the Department is updating the legislation in Northern Ireland to bring us into line with the UK legislation to deal with, in particular, cigarette litter resulting from restaurants, cafes and bars. However, a particular problem for us is cigarette litter coming from office blocks. It is unclear to us whether that will be addressed when the legislation is updated.

In my opinion, it is not cost-neutral to fund a service through the issuing of fixed penalties. In Belfast we issue between 1,200 and 1,800 fixed penalties for littering a year, and in our experience the funding that we receive though the fixed penalties does not support the full delivery of the service.

We would welcome the use of fixed penalties powers in relation to litter, particularly for some of the offences that have been cited in the Clean Neighbourhoods and Environment Bill, such as the giving of false names and addresses. Currently there is a power of prosecution but, in our experience, when those types of offences are brought before the courts they are not given that much weight and would probably be more effectively dealt with through a fixed penalty provision.

The main issue in respect of Part 4, which deals with graffiti and other defacement, is fly-posting, which Karen alluded to at the start. Councils in Northern Ireland are unanimous in their concern about the blight of fly-posting and the detrimental impact that such activity has in both

rural and urban settings. A thriving fly-posting industry operates in a vacuum in which councils are powerless to tackle the problem effectively. We operate in a vacuum in which we cannot deal with the problem due to a lack of robust legislation. The Planning Service has the necessary powers but does not enforce legislation because it is not regarded as a priority.

Under the Bill, councils will be given the power to pursue only those who physically affix posters to premises. Under the legislation that councils work to currently, we can only remove and obliterate posters and recover the costs of removal. That can necessitate the removal of 2,500 posters a month in Belfast and up to 200 posters a month in Derry. In addition to the untidy and unsightly appearance that fly-posting causes, there is an inevitable cost to the ratepayer for removal and obliteration. That currently costs Belfast City Council in the region of £90,000 a year.

We welcome the Department's response to the consultation. It recognises that councils need powers to prosecute the perpetrators and beneficiaries of fly-posting. We are encouraged by the fact that the Department seeks to amend the Bill to ensure that those key powers are available to councils as well as the Planning Service. We are pleased that the article that contains provisions to remove and obliterate fly-posters under the Local Government (Miscellaneous Provisions) Bill has now been retained; there had been a proposal to remove that article and replace it with clause 38. That retention will mean that we will not need to serve a notice in advance of removing or obliterating fly-posters. We are aware that the provisions could be improved and, indeed, have engaged in discussions with the Department about how they could be strengthened. We are happy to continue that engagement.

Our main concern in respect of clause 36, which relates to aerosols, is that it will require an additional resource. We also made representations that we would prefer the age limit to be increased to 18, although we recognise the Department's view that that could be difficult to enforce given that some 16- to 18-year-olds may require aerosols for work.

The final issue that I will draw to your attention is that of investigatory powers. It runs throughout the Bill and is common to some of the proposed powers. In the initial consultation response, we highlighted the fact that we felt that the Bill's overall powers needed to be reviewed

to ensure that they are adequate to allow us to properly investigate the new proposed defences and bring them before the courts. The Department considered our view and responded by advising that it felt that the powers in article 20 of the Litter (Northern Ireland) Order 1994 were sufficient to allow us to obtain information. However, my experience of article 20 is that it is a much more protracted way of carrying out an investigation. If the powers could be made available to us without the need to go through a written process, that would lead to a much more effective and efficient way of enforcing and investigating offences under the Bill.

Mr Seamus Donaghy (Northern Ireland Local Government Association):

I will deal with Part 5, which covers dog control enforcement. We welcome the new proposals, although we have a couple of concerns. The first is that we are adopting the legislation that is in practice in England and Wales, so, in having to resort to prosecution for failure to pay a fixed penalty, the council does not recover costs due to the Northern Ireland Magistrate's Court rules. The charges are limited to £75 and will, therefore, incur great costs on Northern Ireland councils.

The second concern relates to the repeal of article 4 of the Litter (Northern Ireland) Order 1994 and how that would diminish the ability to obtain information as in article 20 of the same Order. The new dog control order regime should ensure that we retain powers equivalent to those in article 20 of the Litter Order, particularly in relation to the ability to obtain information from any person. We know that the Department is aware of that concern, and we await clarification on that point.

Mr Donal McLaughlin (Northern Ireland Local Government Association):

I will deal with Part 6 and Part 7 of the Bill. As has already been said, the additional powers are welcome, but they will introduce an additional workload for councils, as new types of noise complaints will require a thorough investigation as opposed to the current arrangements, which allow only for advice and informal action to be taken. Councils will be required to establish detailed policies and procedures to ensure the successful implementation of the new provisions.

Local government has serious concerns about the cost to councils of carrying out works in default. An example of that is the removal of a vehicle that is causing noise in the street. We request that the Committee works with the Department to explore what, if any, additional

resources can be made available for councils to successfully undertake the new and enhanced powers.

Moving on to audible intruder alarms, it is often impossible to determine whether the sounding alarm is associated with an intruder alarm or with some other type of alarm system. That can only be ascertained after gaining entry to the premises containing the alarm. The Department should consider including noise associated with other alarms in the provisions. We would like clarification on whether the power of entry means that a warrant is not required to enter a property boundary in order to externally silence an alarm, and that a warrant is only required to enter any buildings. A lead-in period will be necessary for the implementation of the legislation, and we recommend that there be three months between the making of the legislation and the commencement order date, to allow councils to prepare.

One of our major concerns about Part 7 is the lack of clarity surrounding the definition of an owner. We have alerted the Department to that issue, which has implications for actions on landlords and agents, particularly those who live in the Republic of Ireland. We will take this opportunity to highlight the problem with that definition and ask that the definition from the old Public Health Acts be included in the new legislation.

We also believe that clause 60(14) should be extended to include the reference to flies in clause 60(1)(g), particularly those emanating from landfill sites and waste transfer stations. There is a probability of double jeopardy there, as the Northern Ireland Environment Agency is the licensing authority and the councils are the enforcement authority outside that.

Ms Smyth:

That is the end of our presentation. Thank you for being so kind in allowing us the extra time.

The Chairperson:

You did very well. Thank you for your presentation. It is important for the Committee to have your contribution to our scrutiny of the Bill. I want to pick up on a couple of points: you mentioned some issues in Parts 6 and 7, and we will seek clarification on those. You also mentioned a lead-in period, and I want to tease that out. At present, we are dealing with primary

legislation, and we have a problem with the secondary legislation and the follow-on to that. What do you mean by a lead-in period? How much time are you looking for to allow councils to roll out the process?

Mr D McLaughlin:

As we said, we would like at least three months, but in the case of the noise provisions and the provisions for dogs, we would like to have as long as possible, whether that is three months or six months or whatever is relevant.

Mr Weir:

You mentioned a three-month period in particular. A vast range of detail is involved, and I wonder whether you could provide us with a bullet-point summary outlining the lead-in time required for each of the different elements.

Ms Smyth:

We will get that information to you.

The Chairperson:

Thank you very much. You talked about the issue of fixed penalties and the need for recovery to be cost-neutral. Do you, as councillors, have any idea of the potential costs?

Ms Donnelly:

We employ three litter wardens whose salaries total approximately £75,000. They are supported by an administrative officer and a supervising officer. Those are hidden costs, so to speak, on top of the legal costs. If it is assumed that we can take in approximately £45,000 in fixed penalties, the remainder will have to be pursued through the courts, so, already, there is a cost involved in providing that service.

The Chairperson:

You mentioned the fixed penalty powers; will the lead-in period give you an opportunity to see what is working in that respect? You also mentioned that you wanted caravans to be included in the definition of vehicles. Mr Dallat, we are not talking about your area, where every caravan

that visits is lifted off the street.

Ms Donnelly:

We in Belfast have had a few problems with caravans that had been abandoned on private land. The residents were tortured with people going in and out of them and setting them on fire. We believed that we had no powers to lift them as we would an abandoned car. At the time, the opinion was that we could not deal with a caravan as an abandoned vehicle, but we note now that the Department is of the view that caravans can be included in that interpretation of the legislation. We want to make sure that that is clarified in guidance, because the Department has said that caravans can be included in the definition. However, we would like them be included in guidance just to clarify the point for future reference.

The Chairperson:

Thank God it is not a parochial issue.

Mr T Clarke:

Are caravans included in the definition of abandoned vehicles at the moment?

Ms Donnelly:

They are not specifically mentioned. The Department has said that the guidance in England for the equivalent legislation mentions that caravans fall within that definition.

The Chairperson:

Do you sit on Armagh District Council, Seamus?

Mr Donaghy:

I do.

The Chairperson:

You are lucky that you got in after I left it.

We have heard a lot about derelict buildings, and I want to address that issue. I know that you

have touched on it. How do you propose that we get around that? Derelict buildings are an issue for local councils.

Mr D McLaughlin:

The situation some years ago was that the planning legislation in England and Wales applied measures to deal with that issue. The same measures were not adopted in our planning Order here. At the moment, derelict sites where there are buildings are dealt with under the Pollution Control and Local Government (Northern Ireland) Order 1978. Where there is no building on a derelict site, we have no measures to deal with it. Some councils use the Rats and Mice (Destruction) Act 1919, but nothing else applies. We need a way to deal with the problem.

Ms Smyth:

I want to emphasise to the Committee that we are aware of the time limitations on the passage of the Bill. There are things that we would like to see included in it but we know that, given the time limitations, that may not be possible. We want to alert the Committee to the issues that we are facing and that need to be addressed as priorities. However, we are anxious not to allow certain issues to hold up the Bill, and we are willing to wait for another opportunity. The Bill may not be perfect, but it is important that it goes through.

The Chairperson:

Finally, I want to seek clarification on the gating orders. I do not know whether Armagh District Council has £500,000 to spare, but what are the average costs for alley-gating? You said that Belfast City Council has set aside money for that.

Ms Donnelly:

My colleagues tell me that Belfast City Council looked for funding, but, in the end, used its own funds. It has set aside a budget of £500,000 to administer alley-gating. It has advised, as has been quoted in some of the literature, that a gate would cost £3,000, but that cost has gone up to £4,000. That covers only the physical erection of the gate; they are very sturdy structures that have to comply with strict guidance. The quoted cost does not cover the nine- to-12 month lead-in time that is required to administer a project, which involves getting all the residents on board and obtaining consent from Roads Service. There is a lot of work involved, as well as a lot of

legal work.

The upside is that alley gates have reduced antisocial behaviour anywhere that they have been installed.

The Chairperson:

Alley-gating has been a success.

Mr T Clarke:

Why is alley-gating the responsibility only of councils? Some of the alleys will be on Housing Executive properties.

Ms Donnelly:

The council took alley-gating on as part of its community safety remit. Any group of residents can come together to ask for it, and Belfast City Council has issued guidance on its website on how to work through that process.

Mr T Clarke:

I have no problem with that idea. However, if antisocial behaviour among Housing Executive tenants in a Housing Executive area leads to a requirement for alley gates, why does the Housing Executive not pay for those alley gates?

Mr Weir:

When you talk about alley-gating, you are probably talking about gates at either end of an alleyway. There is virtually nowhere left in Northern Ireland that could be described as 100% Housing Executive. If it is being done along 20 houses, you will find that a number of those houses are privately owned.

Mr T Clarke:

Yes, but there is still a responsibility after the houses are sold. If it was primarily social housing to start with, the Housing Executive has a responsibility.

The Chairperson:

To be fair, in my own area, it is not only the Housing Executive but community organisations and residents' groups that tend to ask for alley gates. A lot of groups are involved. The split is normally 50:50, and there are regulations in respect of what is owned and what is leased.

Mr Weir:

Chairperson, you covered some of the points that I wanted to make. I have considerable nervousness about alley-gating. A general point was made about not being able to cover cost. I can see how some money might come in in a number of the aspects, but we may need to look at how to close the gap. It strikes me that, unless there is a subsidy from central government, alley-gating does not generate any income at all; that is the nature of it. I have grave concerns that councils could be left with massive public expectation but no money to cover it.

Perhaps you could send us details of how the £500,000 is broken down. I agree with you that derelict buildings are a major problem, and you will get back to us on the timescale of a lead-in period. The general point was made that there may not be enough money coming in to cover this range of things. Perhaps you could send us a synopsis of how you see the finances in each of the areas and information on whether there are any other ways of closing the gap. Some of the legislation may need to be a bit less ambitious. To be brutally honest, I do not see the gaps in the various areas being filled through central government providing a subsidy to local government. Therefore, we may need to change other legislation to allow greater cost recovery, for example. Perhaps you could provide us with a paper on all of that.

There may be items that cannot be taken on board through amendments. I wonder whether we should keep those in mind and refer to them in the Committee Stage report. There is not enough time to incorporate certain aspects within the legislation, but we should flag up any further actions that may need to be taken. I know that you cannot respond to us with that information today, but perhaps you will send it to us in paper copy.

Ms Smyth:

I thank Mr Weir for that very valuable contribution. We are beginning to look at the issue of cost recovery across a number of pieces of existing and new legislation. At the minute, we are limited

by the magistrate's rules. We may need to seek an alteration to those, given the current economic situation.

Mr Kinahan:

Most of my points have been covered. Thank you very much for the presentation. You said that alley-gating was successful. We will receive a presentation later that will claim that alley-gating forces youths into other areas and simply moves the problem around. Yet another group that I talked to said that it has worked wonderfully because it encloses communities and they can all go out. Will you expand on how successful it has been?

I agree entirely with Mr Weir: I would love to see the fixed penalty notice costs broken down to reveal what they cost councils. What increases do you think might be necessary? You implied that fixed penalty notices ought to be a bit stronger or higher to give councils a bit more money coming in to the coffers. I fully agree about the derelicts. A power is needed to identify who owns the building, because that often takes the longest time.

Mr W Clarke:

Thanks for the presentation. I was a member of NILGA some time ago. You are very welcome. Most of my points have been covered. As regards fly-posting, local authorities need to provide display boards for people to advertise their businesses. In my constituency, in Newcastle in particular, there were major planning problems about the location of display boards. What is NILGA's experience of that? What work needs to be done in parallel with the legislation to ensure that display boards are erected?

In relation to alley-gating, has any work been done to benchmark the savings in police resources, council office resources and, obviously, people's well-being? That would be an interesting figure. If there is a reduction in police personnel resources, they should foot some of the bill, be it through community safety partnerships or district policing partnerships (DPPs). What is your view on that? I think that they have proven to work extremely well.

I agree that the dogs legislation should have been in the Dogs (Amendment) Bill. I am a member of the Committee for Agriculture and Rural Development, which is currently conducting

clause-by-clause scrutiny of that Bill. It would not be feasible to include that in the Bill at this stage.

What would you like to see in the legislation regarding derelict buildings? What would make your job easier from an environmental health point of view? There are a number of examples in my area, but I will not go into them again. People do not want to be found, and the building could fall in to disrepair. It is a danger to people's health, with children running about and setting fire to it — the usual.

Ms Donnelly:

I will respond to the fly-posting issue and the mention of designated sites. To address the issue, we had an inter-agency group in Belfast a few years ago. We brought a company over from England that makes pillars and identified 20 sites throughout the city. Our stumbling block was that, although the planners said that they could probably give agreement, Roads Service said that there was no provision in the legislation, when it was consulted by planners, to allow the pillars to be located at those sites. Our difficulty is that there are very few privately owned sites in Belfast that would satisfy the people who want to fly-post because they want them in locations where there is heavy footfall and heavy traffic passing by. It came unstuck at that point because we could not get the permission through the process to put them up.

Mr T Clarke:

I am glad that you came across a stumbling block, because other businesspeople have to go through expensive means to advertise their businesses. Fly-posting has blighted the countryside and should not be allowed to happen, and we should not facilitate fly-posters by making it a cheap form of advertisement. People have gone to great expense to advertise their businesses or nightclubs and the services that they offer in other forms. Why anyone would put up some cheap form of totem pole so that it can be legitimately plastered with posters is beyond me.

Mr W Clarke:

What I am talking about is high quality board, not just some tacky sort of board. There would be a cost associated with advertising on that display. If we are serious about discouraging people from fly-posting, we have to provide alternatives.

Mr T Clarke:

We could send them a copy of the trade rates for the ‘Belfast Telegraph’ and ‘The Irish News’ and tell them to take out adverts in the newspapers.

Mr W Clarke:

People might not —

The Chairperson:

We could get into a debate on this. We should look at this in the round. We have seen in all towns that there is no point in going at 10.00 pm to advertise a disco. Mr Beggs has made a good suggestion that we should look into the cases of those who innocently have to deal with fly-posting and recoup the costs involved. The Committee should certainly look into that.

I agree that a board, properly managed, could be the answer, if people want to buy into it. We must also look at the smaller businesses that cannot afford to do so. They need other means and ways to advertise. Both points are valid and we will discuss it.

Mr Kinahan raised two points.

Mr Kinahan:

My first question was about how successful alley-gating is.

Ms Donnelly:

I would like to confer with colleagues who deal with alley-gating and get a comprehensive report for you on that, rather than commenting on it now.

Ms Smyth:

I think the alley-gating point was very valid. It is one of those issues that, if we had the relevant community planning powers and the power of well-being, would be much easier to deal with, and that applies also to other legislation that is going through the Committee. Aside from the police, we would bring in Mr Clarke’s point about the Housing Executive and look at things much more holistically.

The Chairperson:

Generally speaking, all parties and agencies are involved in that, including housing, Roads Service, the community and residents' groups. It is happening in the Armagh Council area already.

Mr W Clarke:

I asked a question about resources.

The Chairperson:

We will see that after the next Budget process.

Mr Kinahan:

I had one other question.

The Chairperson:

Mr Clarke, are you finished?

Mr W Clarke:

No. I asked about derelict buildings. What do you want to see in the legislation about that?

Mr D McLaughlin:

The chief environmental health officers' group (CEHOG) produced a document on that with recommendations. As Karen said, we will furnish the Committee with that document.

Mr McGlone:

Thank you all very much and good to see you again, Vivienne, though you are wearing a different hat.

You spoke earlier about caravans. Two or three things were mentioned, including the lack of definition coming from the Department, which was eventually sorted out. I thought about more rural areas, and it occurred to me that there are bits of articulated trucks abandoned throughout the countryside. I can think of one or two cases in which cat litter saturated with red diesel has

been just dumped. Is there an argument for clarification or an extension of the definition to include caravans/trailers? Should that be added to the list?

Ms Donnelly:

As far as I am aware, trailers are already included in the definition.

Mr McGlone:

That is fine.

The second thing is audible intruder alarms. Those can be very annoying, especially for someone living on an estate and working shifts. I do not know how someone can discern the difference between a smoke alarm and an intruder alarm, other than smoke coming out the windows. It is very difficult to do that. It is just an old hooter that goes off to alert people.

The nomination of keyholders would be extremely costly and difficult to the point of being impossible. That is completely undoable. You can go to a house one week, and find someone in it; go the next, and someone else would be in it; and go the following week to find absolutely no one in it. In the private rental sector in particular, you would find such a system catastrophic and totally unmanageable. To try to update it would be most unrealistic. The Electoral Office, with all its resources, has great difficulty in trying to update its information. As you well know, we have so many allegedly vacant properties that the resources required to do that, on what would become almost a monthly basis, would just be impracticable and undoable in the times that we are in, unless somebody has another solution. However, I really think that to get two nominated keyholders — who, like me, may lose keys now and again — is undoable. What are your views on that? Can someone tell me that it could be done with existing council or departmental resources? I honestly do not see it.

Mr D McLaughlin:

To be honest, I really do not know what we could say to that, Mr Chairman. I accept that getting the identity of some people in certain properties is a difficult task, and Mr McGlone gave a few examples of that. I agree that tenancies in the private sector change a lot, which would be difficult to follow up on. That sector is, probably, at times, one of the less responsible. I am not

from the noise end of things, so I may have to speak to some people who are to see what the situation is. However, I know that some people run a voluntary scheme and some of them have come in to us with the details. I would work on a more comprehensive scheme that requires everyone to do it. I do not know how that would work.

Mr McGlone:

Nor do I.

Mr D McLaughlin:

I do not know how we will chase up details.

Ms Smyth:

We will look into it and get back to the Committee.

The Chairperson:

Have a look across the Department and come back to us.

Mr Dallat:

Thanks for the presentation. It was a breath of fresh air, and the absence of elected representatives did not take away from it at all. *[Laughter.]*

The Chairperson:

Trust me, there are enough of them here.

Mr Dallat:

I have a couple of questions. To pick up a point concerning fly-posting: I do not want to sound parochial, but Coleraine is twinned with La Roche-sur-Yon in France, which sent over a gift. It was one of those circular things that you can put your —

Ms Smyth:

A parasol.

Mr Dallat:

It was the best thing ever happened, because it provided an alternative to fly-posting. That is one thing that we certainly learned from the French.

Election posters have to contain details of the agent responsible. Is it possible to require any type of public advertisement to have a contact on, so we at least know who put them up? Alternatively, should the venue where an event is held be responsible for the offence committed? It seems to me that that should be part of an agreement to hire a hall, hotel or whatever.

Ms Smyth:

Yes.

Mr Dallat:

I say that with all sincerity, because the town where I live, Kilrea, is obliterated with posters week after week. We get the council out to clean up the bus shelters, we leave the town tidy and, the next Monday, it is all undone again.

My second point concerns the term alley-gating, which scares the wits out of me. There was an interesting case, again in Coleraine, in which a wheelchair user took the council to the Equality Commission because alley-gating had been carried out, and the case was settled out of court. Is that something that is considered in every district? Does it have to be covered? As access could be an issue, must alley-gating be equality-proofed?

Ms Donnelly:

As far as I know, a great degree of consultation takes place in Belfast. My colleagues advised me that they prefer to have 100% commitment before going forward with a gating scheme. In some cases where they have not secured 100% commitment, they have brought in mediation. That is their approach. I suppose that those types of issues would be addressed through such discussions and negotiations, but I will clarify how that is addressed.

On the fly-posting responsible person issue: I agree that it would be easier to make the venue responsible. At the minute, the venue blames the promoter and we go round in circles trying to

identify who the responsible person actually is. I think that the legislation proposes that the person responsible will have to show that they took reasonable steps. That is the planning element that is proposed in the Clean Neighbourhoods and Environment Bill. The Department is looking at that, and I presume that it will go down the same route by giving us the same powers. The defence available will be to prove that reasonable steps were taken to avoid fly-posting.

Mr Dallat:

That is great. Thanks.

Mr Kinahan:

I asked about the scale of fixed penalty notices. What broader spread do you want?

Ms Smyth:

Sorry. I suggest that we come back to the Committee with a paper on the financial issues.

The Chairperson:

Mr Dallat raised the issue of alley-gating. Some people understand the concept, but I want you to put it down on paper. It is very valuable in some places. It is not a one-size-fits-all solution, nor does it suit every area, but we have seen the results of young people running up and down alleyways. They let off bangers, dump stuff and torture elderly people in particular. Sometimes, there are benefits, but alley-gating may not work in all areas. However, we are saying that the legislation contains an option for it, and if all the bodies get together and want it, that is good enough. We need to experience these things and then it might encourage others to look at it, at least. I want you to put on paper the advantages and the disadvantages, such as whether it restricts people's movements. Thank you very much.

Before I invite the next set of witnesses in, I want to refer to a letter from Roy Beggs. He wrote to ask whether the Bill provides the power for an innocent party to recoup costs from the beneficiaries of advertising for the removal of posters that have been fly-posted. He is talking about nightclubs and whoever else, and it is something that we need to look at.

Mr W Clarke:

Recoup costs from who?

The Chairperson:

Nightclubs, for example, go out and advertise. They get the benefit of that advertising, because whoever goes to the nightclub pays in. The local council has to recoup the money spent on removing fly-posted advertising. He was using that only as an example.

Mr W Clarke:

We are back to the issue of whether the promoter is responsible. The nightclub might have asked the promoter to advertise the business and paid him to do that.

Mr T Clarke:

It should be the nightclub's responsibility to go to the promoter.

Mr Weir:

You do not want to have to go after someone who may be the smallest person in the chain. For the sake of argument, it may be that an Eastern European immigrant who has been given a load of posters to put up may be fined, while there are people further up the chain who are actually responsible for it.

Mr W Clarke:

You can do that through the small claims court even now.

The Chairperson:

We will look at it in the Bill and decide.

OK. We will move on to the next briefing on the Bill, which is from the Environmental Quality Forum. I welcome the chief executive of Tidy NI, Dr Ian Humphreys, and Chris Allen, Tidy NI's local environmental quality officer. Please make your presentation for up to 10 minutes, after which members will have an opportunity to ask questions.

Dr Ian Humphreys (Northern Ireland Environmental Quality Forum):

Thank you for the opportunity to present evidence today. Chris Allen and I are employees of Tidy Northern Ireland, but we are here as members of the Northern Ireland Environmental Quality Forum, which is a relatively new body. It is about one year old and has met only four times so far. At the moment, it is made up of the councils of Northern Ireland and Tidy Northern Ireland, but it is open in future to including other bodies, such as landowning bodies, that may have a big interest in litter and other environmental crime issues.

We realise that the legislative approach to tackling those issues is one of a menu of things that need to be in place if we are to change behaviour in Northern Ireland. Ultimately, this is all about changing away from behaviour that costs us so much. Members have probably already been quoted the fact that 46% of people recently questioned said that they had dropped litter in the previous six months. That is the scale of the issue that we are dealing with.

The Environmental Quality Forum warmly and wholeheartedly welcomes the legislation as a big step forward in Northern Ireland. The Bill seeks to deal with an issue that has big social, environmental and economic impacts. The public see the issue much more broadly than the legislation tries to tackle it. People are out on streets and roads every day. Of streets that we surveyed, 97% had litter. This year, we have done more than 2,500 surveys. That is what the public are seeing, and they make no distinction between council land, Housing Executive land, Roads Service land or whatever.

That causes people concern, and they even feel less safe in neighbourhoods that are littered. Environmental crime of that nature can lead to other, more serious environmental crime. From the Tidy Northern Ireland perspective, we know that litter kills millions of animals every year, many of them marine species. Therefore, we are also trying to tackle that environmental issue. Of course, the Committee is well aware of the cost of £34 million. I apologise that I may have put £94 million in the literature that we sent out. Although that figure is a mistake, it is probably not far off the real cost. When we consider that £34 million is spent on street cleansing and that figures released yesterday showed that graffiti cost another £17.3 million, the bill for all the elements of the issues that we are tackling would add up to vast amount of money. By and large, we could save that money.

Many people tell me that the letters they receive from tourists show that the litter issue costs us money in another way. Tourists come here for the first time, we attract them to Northern Ireland, and they go home but do not come back. They tell their friends that this is a dirty country. I also know that companies coming here have refused to invest in Northern Ireland simply because they have seen the litter on the streets. Litter is a serious issue to us. We have to have the strongest legislation that we can to deal with it. To achieve that, we empower the people who enforce the regulations daily in the best way possible. We should not put up walls and barriers to enforcement action.

I said that we welcome the Bill, and we absolutely do. We want a no-nonsense approach to enforcement, which requires the legislation to be in place. I will now circulate a few graphs to make the point that we must get tough in using the legislation. Once it is in place, every council has to be willing and ready to use it and to enforce it.

The first of the graphs shows that in Southwark Council the public satisfaction with the street scene — what people go out and see on the streets — fell between 1997 and 2000. In the next graph, members see that an explanation starts to appear. Southwark Council did then what, by and large, we in Northern Ireland do now: go and pick up after people. That is our way. Councils are all geared up, lots of staff are employed with lots of kit and gear, so, if a problem is identified, if councillors ask for their street to be sorted out, we go and clean it up. We do not put the same investment into prevention through enforcement and campaigning against littering.

Southwark Council had a policy of collecting rubbish from the streets. In 1997, that amounted to about 6,000 tons. People got to know that their rubbish would be collected, and more lorries were sent round to do so. By 2000, the amount collected had gone up to more than 9,000 tons.

However, as you saw in the first graph, people's satisfaction with street cleanliness was dropping, even though more and more litter was being collected off the streets and there were more and more bags of rubbish. The point was that people saw more rubbish on the streets and more people out trying to pick it up, and the perception was that it was a dirtier neighbourhood to live in. Therefore, the council then took a no-nonsense approach and started enforcing, and it found that the public perception quickly and greatly improved. That was the impact of

enforcement.

Coming on to the Bill specifically, we want to be sure that any legislation that comes into place means that all landowners will adhere to the same standards. At the moment, the Bill focuses on councils, and councils take all the flak when there is a problem. There is a concern that the Bill does nothing to bring about improvements in what the public already see on other landowners' property, particularly those who might have Crown immunity, even if they are statutory undertakers, where litter is not seen as an issue that needs to be dealt with. The legislation, specifically clause 17(10), excludes any ability of councils to try and enforce on those lands where the bulk of other issues lie.

When we are surveying streets, we can pass streets on council land, and we often do because they have set very high standards. However, it may be that we would fail the transect just 2 ft behind, which may be held by the Housing Executive or Roads Service, because of the litter lying on it. That is what the public see. Therefore, we need something to address that. This legislation does not tackle that, yet it is a big part of public perception and of what the public here and visitors want to see improved.

Secondly, fixed penalty notices have to be set at a level that would be a proper deterrent, rather than people just thinking, "Well that is £50 gone here or £75 gone." For a lot of people that is nothing, and it is not going to be a deterrent. The cleansing costs are £34 million a year, and last year we issued about 3,500 fixed penalty notices for littering and dog fouling. If a "polluter pays" approach is taken, it would be a massive fee. For example, if, say, 10% of the cost of street cleansing is litter and dog fouling, the fixed penalty notice to cover that would be £1,000, rather than the £75 median range that we have now.

We need to strongly think about what level we are setting for the fines and what deterrents we want. Are we really going to be tough on this and make the improvements that we want, or are we just going to be careful to avoid upsetting people too much? If you drop litter in the USA, you face a \$500 fine or up to one year in jail, or both. If you drop litter in the harbour in Hong Kong, you face a £500 fine and up to six months in prison. I am not suggesting jail sentences for this, but I am suggesting that we increase the level of fines to something that is a proper deterrent

and that will put people off doing it again.

We have already said a lot in our submission, but my final point is that we need to be sure that this legislation is, as I said at the start, enabling of the enforcement officers. That links through to ASBOs, which are also an important element that can be in the armoury of the enforcement officers. That is mentioned in the English legislation and if we are going to have parity, it needs to be brought into the legislation here.

The Chairperson:

Thank you for your presentation. I want to clarify something. Say that somebody is walking down the street or through a housing estate and they fire something into somebody's garden, normally most people would go out and lift it and put it in the bin. However, if it happens repeatedly and it is not lifted, obviously it is then up to the council to serve a fixed penalty notice; that is what the regulation says. Where is the comeback in that? I know that you mentioned ASBOs, and we have to be very careful when discussing ASBOs in case we are isolating a part of the community and a certain age group. Is the problem with the fixed penalty notice the £75 limit? Are you asking that we raise that?

Dr I Humphreys:

The limit should be raised considerably. If people are fined for a second or a third time, those limits should be moved towards the upper level. That will have a deterrent effect. A lot of people can easily afford a £50 fine and not worry about it. To be honest, the fixed penalty notice is a pay-off; it is money in a brown envelope to forget about it. Therefore, there is no public knowledge of the offence and no deterrent for that person, whereas, if they go to prosecution, there is public knowledge that that person has been fined for littering, even if it is for the same amount. People do not want the public to have that knowledge, so that works as a deterrent. The fixed penalty notice is an easier and cheaper method of effecting a payment for a crime that has been committed.

Mr Dallat:

The argument that is often made against that is that if a £1,000 fine is imposed on someone who has no means of paying it, the whole purpose of the penalty has been defeated immediately

because although the person could be thrown in jail, the fine will never be paid, which could result in millions of pounds of unpaid fines.

Dr I Humphreys:

We will never stop everybody dropping litter and we will never catch everybody. If we have high levels of fines and when people reoffend, go through the court system — I am not suggesting that people go to jail — and have their names put in print, the public perception will be that they will get caught littering and suffer the embarrassment of being named. Therefore, most people will stop. I agree that we cannot stop everybody dropping litter. We have an issue in that regard.

Mr Dallat:

Surely enforcement is only one aspect. In this part of the country, there is, unfortunately, a culture of dropping litter. If you take the ferry over to Scotland, the first thing that you will notice is that the villages are tidy and neat. That is because people there simply do not drop litter. They feel very annoyed when they see other people doing it, but we are nowhere near that. Is there anything in the legislation that will positively encourage people to not litter?

Dr I Humphreys:

Danny's party brought a motion to the Assembly proposing a clean-up week, for which there was cross-party support. I am not saying that it has to be restricted to a week. I totally agree with you. I said at the start that there has to be a menu. The legislation is an important element because there are people who will not listen to any campaign or message. Very soon, we will write to every councillor and MLA to ask for their support for the big spring clean campaign. We will then move to engage the public, celebrities and the media so that it becomes socially unacceptable to drop litter.

Members have probably heard about the litter summit that is taking place next week. We are bringing over somebody from Texas who has run a 25-year campaign called Don't Mess With Texas. That has been very successful; there has been a 72% reduction in litter, and the cost of it, although it is for the state of Texas, is \$2 million a year. It has not increased in budget for 25 years and it has paid for itself. I totally agree with what you are saying. We have to have a balance. The legislation should come down heavily on those who ignore the law, but we want

something that will positively encourage the goodwill of the other half of people who do not drop litter and get very frustrated and annoyed about littering. It is not an issue about which people sit on the fence.

The Chairperson:

We will not regard this brochure about the summit as litter.

Obviously, we are going through the Waste and Contaminated Land (Amendment) Bill and we will look at the set of fines that it contains. Getting back to the point, legislation needs to specify a fine. We cannot impose fines on everyone who is walking down the street throwing litter, no matter how we go about it; it is about changing attitudes. However, a deterrent is needed, and we certainly support that. As the Bill stands, the limit is £75, and we will look at that as we go along.

I want to tease out the issue about the selling of vehicles. You say that there is an enforcement loophole.

Dr I Humphreys:

We have received advice from people who have looked at trying to enforce that in England. A person can have 10 cars on sale, all of which are 500 metres apart, and they just meet the person who wants to buy a particular car. It is a difficult situation to deal with effectively; it will cause a little bit more of a problem for people who want to sell multiple cars off the street. We are not suggesting an easy solution.

The Chairperson:

We will take that on board and ask the Department for clarification on that issue.

Mr T Clarke:

I am not saying this because I am involved in the motor trade, because I do not sell cars off the street —

The Chairperson:

It was a leading question; I am glad that you came in.

Mr T Clarke:

You are saying that a person can place a car every 500 metres, but if you think of the consequences of that, where is that person going to get a place to park a car every 500 metres? That is a considerable distance.

Dr I Humphreys:

That regulation has been circumvented in England by people who adhere to the legislation by having cars parked in that fashion. If it is your living, you will find a place.

Mr T Clarke:

I know that it happens, and I would welcome something that would prevent it happening. In the Randalstown area, for example, it happens on the hard shoulder, but that would not be 500 metres long. That is not going to be extended, and I do not know any other locations that would allow cars to be parked every 500 metres.

Mr Weir:

I think that there is a wee bit of a misunderstanding there.

Mr T Clarke:

Is there?

Mr Weir:

They are saying that the proposed legislation prevents cars being sold within a 500-metre limit; they are not advocating that it should happen.

Mr T Clarke:

I thought that they were saying that it would allow cars to be sold every 500 metres.

Mr Weir:

No. On that point, have you had any discussions with the Department whether, if it is a question

of closing the loophole, why a 500-metre limit was picked?

Mr T Clarke:

Why at all? Why not just ban it outright?

Mr Kinahan:

I thought that it was illegal to sell a car at the side of the road.

Mr T Clarke:

No, it is not. Instead of having a discussion about allowing cars to be sold every 500 metres, why not just say that vehicles should not be allowed to be sold on the side of the street?

Dr I Humphreys:

I am not a legal expert, but my understanding is that if you or I were to sell our single car on the street, we would want to be able to do that, because that is about us moving the car on, and that is a legitimate thing to do. It is about tackling people who run their business off the street and have a dozen cars for sale.

Mr T Clarke:

It is about the definition of “street”. Someone who legitimately wants to sell their one car, which they change every four years, can sell it from their drive. They are not going to be prevented from doing that, but there is a difference between the street and one’s drive. The blight is caused by people who park cars on the side of the road with “for sale” signs with contact numbers. That is what I deem to be “on the street”. Why not just say that cars cannot be sold on the street, but they can be sold from private property, which is an entirely different argument? It is about on-street trading. When you go to Londonderry to go towards Bridgend, there are loads of parked cars being sold by people running businesses illegitimately. If they want to sell cars from premises or from a private house, which they are entitled to do, that is different. It is the on-street trading that is the problem.

The Chairperson:

I agree; it is a valid point but, to be fair, not everyone has a drive. I do not know whether that was

a plug for a dealer; perhaps they should be advertised in ‘Auto Trader’.

Mr T Clarke:

You cannot park on a public road anyway, but if you park your car in your drive, you can advertise it in a magazine. In order to make it a fair playing field, there should be no on-street trading for anyone.

The Chairperson:

I totally agree with you, but it is the case that residents in older social housing estates can park only on the road outside the house, unless they concrete their front garden. However, it is a valid point and we need to look at whether there are exceptions in some respects, but you should be allowed to sell your car.

Dr I Humphreys:

That is why you can. This is trying to stop more than one car being sold on the street within 500 metres of another, to prevent a business, operating with 10 cars in a row, blocking everyone else from parking near the house.

Mr T Clarke:

Obviously you are not from the Antrim area, but if you go to Randalstown there is a legitimate garage on the right-hand side, John Mulholland Motors, the first garage you meet as you come off the roundabout. Just before you come to his garage, there are at least two cars every day, if not three, parked on the hard shoulder with “For Sale” signs. Why should John Mulholland pay commercial rates for all his advertising — on TV, press and whatever else — for his legitimate business, while other people can come up and park right beside his business and advertise their cars? We should remove that opportunity. Such cars should not be allowed to park in that public place.

Mr Kinahan:

This is dealing with that.

Mr T Clarke:

It is not, because one car can be parked every 500 metres.

The Chairperson:

It is something that the Department should look at. You brought it up, and I wanted clarification on it. Obviously, Danny, you would not have any problems with parking outside your front door.

Mr T Clarke:

He probably needs to cut trees down to get the helicopter in.

Mr W Clarke:

Thank you for your presentation. I agree with your point about other statutory bodies not being included in the legislation. You have the likes of councils, Housing Executive, Forest Service and Rivers Agency, and it even says that schools should be exempt. That is the very place that should be used for teaching young people about litter; I do not think that schools should be exempt. I agree with your comment on that. NI Water sites have litter strewn all over them; I have issues with that. Forest Service only does litter sweeps in forest parks; it does no cleaning in the general forest. I want clarification as to why that is. Is it to make the Bill competent? Why are the exemptions in it? Can you clarify that?

I think that the working classes are punished by fixed penalty notices. I have a serious issue with fixed penalties in general. If you are living on £75 per week, a £75 fine will mean a hell of a lot to you. There should be a sliding scale of fixed penalty, taking into account salary and economic background. To a millionaire, £75 is nothing; but to someone living on £60 per week, £75 is a hell of a lot of money. Every Department just sticks down £75 or £100 fines for fixed penalty notices in legislation without seriously considering whether that is a deterrent or whether it is punishing the working classes. That is what I see it doing. It does not make middle or upper class people think twice about dropping litter or dog fouling or whatever. Departments must think about fixed penalties and how they operate. That is my general opinion.

Dr I Humphreys:

If a case goes to court, the exact issues that you have talked about are taken into account. Ability

to pay is one of biggest elements in deciding the size of a fine. That is why sometimes cases go to court and the fine is less than the fixed penalty.

A lot of people who are fined are not from working classes. For example, one council recently noted the number plates of 500 people who were driving round dropping litter out of cars to identify the licence holders and issue article 20 notices. Those people were from across the whole spectrum. Litter is dropped from all sizes of car, four-wheel drives and so on. It makes no difference. The point is that everyone is doing it and until we come down hard on it and accept that it will cause pain in some places, we will not deal with it and we will carry on spending money on clearing it up. We spent £34 million this year and £28·3 million the year before; what is it going to be year on year? We have to start coming down hard on it.

Mr T Clarke:

I disagree with Willie Clarke about the scaling of fines. If you do not commit an offence, you will not face a fine. This is all about encouraging people not to get fined. There should not be a scale of fines, and you should not argue for more lenient treatment because you are at one or other end of the social ladder. If you drop litter, you break the law and you should be fined, regardless of your social standing.

Mr W Clarke:

You are missing the point.

Mr T Clarke:

No.

The Chairperson:

Hold on. There are two points here. From your point of view, it is a deterrent.

Dr I Humphreys:

Yes. It is about creating the perception in the public's mind that they will get caught if they drop litter. The message is that it is costly if you get caught, so do not do it.

Mr Buchanan:

One of the things that plagues our towns and cities is chewing gum, the majority of which may be thrown down by schoolchildren. How do you enforce a fixed penalty on a schoolchild?

Mr T Clarke:

Parents.

Dr I Humphreys:

As you are probably well aware, most councils shy away from issuing a fixed penalty notice to anyone under 16, or even older than that. Therefore, the message does not get across to the young people who drop litter.

There are councils in England, for example, who will legitimately take a picture of someone who has dropped litter, whether that is gum or any other form of litter. Quite often the person who dropped the litter will be wearing a uniform, so the council will take that photograph into the school and show the head teacher. The person who dropped the litter may have been asked their name and replied, "Mickey Mouse". The council will ask the head teacher whether they know the person, and it can be tackled in the school in that way. The head teacher will at least be aware that that person has committed an offence, even if the matter is taken no further.

Some councils are thinking about issuing fixed penalties to younger people. A great deal of caution must be taken in that area. Education about litter in schools should be the first port of call in tackling the issue with young people.

The Chairperson:

I agree with your last point. However, I take exception in that primary schools and the first and second years of secondary schools do a lot of good work to send the right message to children about litter. There is a gap, as there is in everything, but it cannot be denied that good work is being done. It is something that we need to look at. At what age can someone receive a fixed penalty notice?

Dr I Humphreys:

I may be wrong, but I think that the proposal is that anyone over 10 years old can receive a fixed penalty notice.

The Chairperson:

OK; I just wanted clarification.

Mr W Clarke:

I will back you up and say that young people are more responsible than older generations. A lot of good environmental education is given in schools. It is wrong to say that it is young people who drop chewing gum and litter. I know from my own child that children are very responsible about litter and chewing gum.

The Chairperson:

Alex Ferguson may have set the tone, given the amount of chewing gum that he chews. I wonder where he puts it. *[Laughter.]*

Thank you very much for your presentation. I look forward to incorporating some of your views into the report.

We will now have a briefing on the Clean Neighbourhoods and Environment Bill from children and youth groups. I welcome Linda Moore of the Children's Law Centre; Koulla Yiasouma of Include Youth; Elaine Conway of Children in NI; and Jacqueline O'Loughlin of PlayBoard. Are you happy enough with that pronunciation?

Ms Koulla Yiasouma (Include Youth):

I am; thank you very much.

The Chairperson:

We will give you 10 minutes for a presentation and then open it up to members' questions. Please be gentle with the members.

Ms Yiasouma:

Likewise, I ask the members to be gentle with us. I will begin by thanking the Committee and saying how pleased we are to be here giving evidence. I am the director of Include Youth. I am here to act, if you like, as mistress of ceremonies. I will briefly introduce some of our concerns about the Clean Neighbourhoods and Environment Bill before handing over to Jacqueline O'Loughlin, chief executive of PlayBoard and Dr Linda Moore, policy adviser for the Children's Law Centre, who will go through some of our substantive issues. Elaine Conway is here as policy manager for Children in Northern Ireland, and she will get involved in the question and answer session.

Like all right-minded people, Include Youth agrees that creating a safe and clean environment is vital for the well-being of all citizens of Northern Ireland. Although we support the proposed legislation's broad aims, we struggle to see how some of its actions — as they relate to children, young people and their families — will achieve the desired outcomes. We believe that they run the risk of further alienating, even criminalising, some of our already excluded young people.

Our broad concerns include how little recognition there is in the Bill of the adverse impact of gating orders on children and young people, and that there is no recognition of the impact of the issuing of fixed penalty notices to children, young people or their parents. The legislation seems to be a lift from England and Wales; it does not seem to have been sufficiently Ulsterised. It does not pay due regard to the specific circumstances of the North of Ireland. As such, it has missed an opportunity. The legislation and the Department of the Environment (DOE) consultation that preceded it take little cognisance of some of the excellent activities by councils and other agencies that divert and prevent littering, graffiti writing and other antisocial behaviour by children and young people.

We were really disappointed by the response from the Department of Environment to the concerns that we expressed in response to its first consultation. The substantive points that we raised remain unanswered. The consultation summary paper does not sufficiently represent the number of objections that we raised and little attempt seems to have been made to take account of our points. We are unsatisfied with the way in which some of the issues were addressed, particularly in regard to the best interests of the child and due process, which we believe

contravenes article 6 of the European Convention on Human Rights.

The Bill does not specifically address some of the criminal justice legislation as it relates to the fining of children and young people. There is no recognition that imposing a fine on or issuing a notice to a child may have child protection or safeguarding implications. The Bill does not seem to take cognisance of the impact of fixed penalty notices on already economically and socially deprived families. It does not sufficiently consider how punitive actions may result in the criminalising of children and young people. The legislation has absolutely no recognition or celebration of effective alternative approaches that are already quite prevalent in some of our communities.

Before handing over to my colleagues, I want to say a few words around fixed penalty notices. There is evidence from England and Wales of a marked increase in the number of children and young people being drawn into the criminal justice system through the use of pre-court sanctions. I understand and we recognise that fixed penalty notices are not a criminal conviction; however, breaching them is. We ask the Department to supply us with evidence that suggests that such a form of action actually reduces graffiti, litter and antisocial behaviour by young people.

As I have said, we are aware of many alternative projects and actions by council officials that tackle such issues effectively, and we urge the Department to undertake a review of those innovative practices with the aim of replicating them across Northern Ireland. Much is to be learned from an approach based on engaging the community, in partnership with children and young people and the public, and coming up with agreed solutions that need not include the punitive steps suggested in the Bill. I think that I speak for all four organisations when I say that we would be more than happy to assist in that process and to contribute any information that we have.

Finally, we appreciate that the Department talks a lot about guidance in its response to the consultation. We urge that key stakeholders — I have talked about some of those already — are engaged, even at this early stage, to help to develop that guidance so that it recognises the rights of children and young people and ensures clean and safe neighbourhoods.

Thank you for listening to my brief introduction. I hope that it was helpful. I will hand over to Jacqueline to talk a bit more about other things.

Ms Jacqueline O'Loughlin (PlayBoard):

Thank you. Good afternoon. I am the chief executive of PlayBoard, the lead agency for children's play in Northern Ireland. I, too, thank the Committee for inviting us along to give our views on the Clean Neighbourhoods and Environment Bill. I will draw on a broad range of research that is pertinent to PlayBoard's expertise in children's play. My input will consider the potential implications that Part 1 of the Bill, namely gating orders, may have on children and young people's mobility, territoriality and play and recreation affordances.

The Bill gives councils new powers to make gating orders to deal with problem alleyways. It states that gating orders will be used predominantly to address crime and antisocial behaviour in built-up areas. As Koulla highlighted, the practice of closing off alleyways is not a new concept. It has been in operation in England for many years. To date, the adult-led evaluations of gating order schemes — I emphasise that the evaluations have been adult-led — highlight that, in some circumstances, they have proved to be a useful tool in preventing problem behaviour. However, conversely, it has also been noted that, in some cases, the public have been denied a valuable right of access with insignificant benefit to security.

From an adult perspective, we all absolutely sign up to the prevention of crime and antisocial behaviour and the improvement of our local neighbourhoods; those aims are to be commended. Improvement in the community environment raises many issues that are of critical importance to both children and young people and other residents. I must point out that adult's views and perceptions of what constitutes a pleasing neighbourhood can differ somewhat to those of children. Bear it in mind that children spend a lot of their time hanging out and playing with friends in their home neighbourhood. The local environment can, therefore, have a major impact not only on health and well-being but on the ability to foster positive community identity and a sense of belonging among children and young people.

PlayBoard wants to highlight that the Executive's play and leisure policy framework and the accompanying implementation plan, which is in development, has a number of core themes that

are pertinent to the Bill, namely champions for play, places and spaces for play and access to play. A play space goes beyond its boundary. It is not just about fixed playgrounds and destination parks but the whole community. We need to consider the importance of children's ability to roam and to have free access in their home environment. Children and young people should be able to travel actively and independently when visiting friends or going out to play. Play and active travel are interwoven and sometimes indistinguishable.

The significance of children's play in developing resilience and well-being is widely documented; there is a body of research to support it. Therefore, it is essential that local communities and those who are involved in community planning recognise the way in which children and young people participate in play and recreation and that they appreciate the environmental conditions that promote such participation. For example, children and young people naturally seek out places where they are not scrutinised by adults. Alleyways and back entries are some of the places that present them with that opportunity.

It is perceived that gating orders will deter crime and antisocial behaviour. However, although they will improve crime rates in some areas, so-called nuisance behaviour among young people will not be put right by the mere installation gates or barriers. In fact, children will see that as a challenge or simply congregate somewhere else. Society could deem as antisocial the behaviour that they engage in at that other place, whether it is play or another activity. The root cause of children and young people being labelled as disaffected and antisocial must be addressed to reduce and eradicate any perceived annoyance caused. Therefore, it is necessary to protect children and young people's spaces from adult encroachment. Furthermore, when environmental conditions severely impact on children's ability to participate fully, more direct action may be required to restore favourable environmental conditions for children and young people's self expression.

Children and young people's activities should not be polarised but incorporated into wider environmental-planning processes. Restricting the youth of the highway can have a negative impact on children and young people, not least those with disabilities. Consideration must, therefore, be given to the requirements of the Disability Discrimination Act 1995. Children and young people are more likely to regularly use shortcuts, and alleyways provide those, giving

access to schools, shops and bus stops, and so on. Furthermore, parents use those back alleyways and rely on certain routes to ensure that their children are away from busy traffic and arrive at school safely.

Positive environments that offer safe opportunities for physical play and activity can strengthen community identity and foster a sense of pride and belonging in our children and young people. It is worth reflecting on the idea that urban planning and public health have joint roots. Looking back, we designed cities to try to reduce mortality rates and eradicate disease. Today, the issues are different, but no less important. We have huge levels of childhood obesity to deal with, as well as severe mental health problems, a myriad teenage suicides and child poverty. All those ultimately affect life expectancy. PlayBoard suggests that there is a strong incentive to find new and more collaborative ways of working that draw on community expertise, primarily those that are affected by policy decisions.

Children and young people, as well as those with experience of the built environment and the health sectors, should be consulted prior to the implementation of gating orders. In many of our neighbourhoods, children and young people have limited opportunities for play and leisure, resulting in a loss of enjoyment, freedom, confidence and independence that such activity brings. PlayBoard is concerned that alley-gating would further restrict and displace those opportunities.

We are aware that the Minister for Regional Development, who has policy responsibility for this legislation, agrees with the proposals set out in the Bill. However, we offer the following observations for the Committee's consideration and deliberation: although we acknowledge the genuine concerns of residents about crime and antisocial behaviour, the concerns of children and young people about the potential displacement of their play spaces because of the proposed introduction of gating orders must also be recognised. One should not be negated in favour of the other.

We recognise the rationale that underpins the Bill and understand that gating orders may have attractive benefits. It is proposed that they should be used as a safeguard against crime; equally, however, we recognise the potential for abuse of the legislation. We suggest that the rights of children and young people must also be safeguarded, which the introduction of the Bill has the

potential to harm.

A gating order must give consideration to compensating children and young people for the displacement and restriction of play spaces previously accessible to them. We are not suggesting that every neighbourhood has a fixed play park but a wider appreciation of the need for the environment for play.

Other mechanisms also need to be explored for addressing community problems, such as community development methodologies, play work, youth work and outreach programmes. We need to work with planners to create informal shared spaces that can be enjoyed by all residents. The proposal for gating orders may well be a catalyst for positive change in the environment and in reducing crime. However, it must be recognised that other progressive changes will also be required to address the issues and potential difficulties that the introduction of gating orders may cause, such as a lack of physical resources leading to social exclusion and increased polarisation of our children and young people.

The introduction of the legislation will require an increased level of co-ordination and ongoing commitment between policymakers at departmental and council levels to ensure that its implementation is maximised. The Clean Neighbourhoods and Environment Act 2005 has been in operation in England and Wales since 2006. We suggest that there is a need to reflect on the positive and negative lessons from that. Studies have highlighted that there has been a negative impact on children and young people.

We are concerned that public perceptions of crime and antisocial behaviour, along with the so-called demonisation of children and young people in the media, may fuel community expectations and a desire for gating orders. We suggest that some parameters and definitions should be established to assist clear evidence gathering to support successful implementation.

Finally, PlayBoard strongly advocates that the Department of the Environment respond to and engage with children and young people as equal citizens and primary stakeholders in their neighbourhood environments. It is essential that all residents feel a sense of ownership and can deliver on the issues that affect the local community in ways that respect and value their

contribution.

PlayBoard asks the Committee to consider how the Bill would impact on or support cross-departmental working and other social policy frameworks and initiatives such as those supported by the Office of the First Minister and deputy First Minister, including the programme for cohesion, sharing and integration, the child poverty strategy, the play and leisure policy, A Fitter Future for All and the community safety strategy. Although that list is not exhaustive, it is simply illustrative of the perceived connections with the Bill.

Linda will now make a brief presentation.

The Chairperson:

I am mindful of the time available, but I will give her an opportunity.

Ms J O'Loughlin:

You should have seen how much we made her cut down.

The Chairperson:

I can well believe that.

Dr Linda Moore (Children's Law Centre):

Thank you for the opportunity to address the Committee. I will talk about three issues, giving each one minute: equality screening, the consultation process and fixed penalty notices.

The draft Bill was screened out in the initial consultation phase and was deemed not to require a full equality impact assessment (EQIA). The children's organisations are extremely puzzled as to how and why that happened. In the screening exercise, the Department concluded that there was no indication or evidence that any of the section 75 groups have different needs, experience, issues and priorities in relation to the Bill. However, as you heard from my colleagues, children's organisations believe that children do have different needs and experiences in relation to the issues that the Bill raises.

Research supports that. For example, the Committee might want to look at research by Ursula Kilkelly and her colleagues for the Northern Ireland Commissioner for Children and Young People (NICCY) in 2004 and research recently published by Siobhán McAlister and her colleagues in Queen's University.

In its response to the initial consultation, the Department for Regional Development agreed that section 75 screening should be carried out on gating orders because of the potential adverse impact on children. Our conclusion is that the Department is in breach of its section 75 duties and that it has failed to provide adequate evidence of the basis for its decision to screen out the Bill. We do not understand it.

I turn to the consultation process. We draw the Committee's attention to the extremely limited consultation with children's organisations during the initial consultation process, despite the clear impact on children and young people. There were very few children's organisations on the consultation list. The fact that only three children's organisations responded — and those were late — shows not that we are not interested or that we are inefficient, but that the children's organisations did not know about the Bill or its implications. There was very little knowledge about it.

We also draw the Committee's attention to the statutory obligation inherent in section 75 to consult directly with those likely to be affected by a policy. We argue that that means children and young people. We consider that they are one of the groups who will be most directly impacted upon by the introduction of the Bill, and we would like to know what steps were taken by the Department to engage directly with children and young people. What child accessible documentation has the Department produced? We are not aware of any.

Koulla talked about the development of the guidance. There needs to be comprehensive engagement with all interested parties and stakeholders, including children's rights organisations and children and young people.

Koulla also touched on the subject of fixed penalty notices. In our responses to the initial consultation on the Bill in April, children's organisations were in agreement and the consensus

was that the proposals regarding fixed penalty notices were not appropriate if applied to children. We outlined the many reasons for that, including the disproportionate impact on children and their families in areas experiencing poverty; the inability of many children to pay fixed penalty notices, particularly under 16s, who generally do not have access to independent money and who will have to ask their parents to pay it; the potential net-widening and criminalisation of children and young people, which Koulla mentioned; and children's immaturity, relative to adults, which may mean that they do not fully understand the consequences of the legislation. How many children understand that it is an offence to drop litter? They may know that it is wrong, but they may not understand that there is the potential that fixed penalty notices may lead to custody.

We note that the Department has accepted that a different approach may be needed for children and young people for fixed penalty notices. We welcome that and we would like reassurance that they will not be used on children.

The Chairperson:

Thank you very much for your presentation. It is rare to be sitting as a Committee with four women staring down at us. I see one of my constituents in the Public Gallery; you are very welcome.

Earlier, we discussed the amount of legislation to be scrutinised and the work programme for the Committee. We are keen to process this Bill.

I want to tease out some of the issues and work with you to bring forward amendments. I have gone through the information that you submitted, and we welcome your suggestions. I want to pick up on a few points and then we will move on to members' questions.

We may have to go back and ask the Department about section 75 and the EQIA. I could answer your question very easily from a political point of view and from a party perspective. However, as Chairperson of the Committee, we will ask the Department why there was deemed not to be a need for that.

You mentioned the consultation. I previously had issues in getting consultation information

out to as many people as possible. There are lists, and we have tried the process using advertising and by writing to different groups. People often reply to consultations late, and, through the Committee, we have afforded people an opportunity to provide written presentations and to send those in late. Are you saying that the people who you represent have had their views included in the consultation process, or have some people still not been consulted?

Dr Moore:

A lot of people out there do not know. We have done what we can to put the word around. However, a lot of children's organisations and other community and youth organisations do not know about the consultation and are not aware that the legislation would affect them. Also, children and young people themselves have not been consulted, and it is vital for the guidance that they are.

The legislation has been lifted from England. A quick search of what is happening in England would inform the Department, as I am sure it is aware, that the legislation there has had a big impact on children. Indeed, in their guidance, many of the councils in England stated that a lot of the provisions are aimed at children and young people. Therefore, organisations representing children and young people should have been included in the consultation.

The Chairperson:

To be fair: we try to give everybody an opportunity. I will check out what the minimum and maximum consultation periods were, but I think that it was perhaps 12 weeks.

Ms Yiasouma:

The point is we did not get it. We heard about this only through —

The Chairperson:

I agree with you. However, to us, it is not a case of whether you are on the list or not on the list. We put the legislation out to public consultation. It is then up to people to take part. However, that is something that we will look at and ask the Department about.

I agree with what you said about young people's inability to pay, which Mr Clarke brought up.

That is something that we will look at as we go through the legislation. To be honest: we have to look first at the deterrent. An individual's actions must be looked at and the process must then be taken from there. Mr Clarke raised the issue about the amount of money and whether people would be able to pay —

Mr T Clarke:

Willie Clarke. I want it on record that that was Willie Clarke.

The Chairperson:

I take on board what you are saying about people's inability to pay, and we will look at that.

I want to talk about something that I have experienced. That is secondary, indirect experience, Mr Clarke, just to clarify, about gating.

Mr T Clarke:

Mr Trevor Clarke.

The Chairperson:

Yes. I pointed at you, but you had turned your back.

I take on board what the witnesses said about play areas. The legislation proposes measures for alley-gating. That would be an option. Alley-gating has been carried out in certain areas of Belfast and in my constituency. In an area in my town, alley-gating has been used to protect the people who live in a certain row of houses or whatever. There is a need, in some cases, for alley-gating. However, to be honest: my experience of working with young people shows me that there is a gap in how we are trying to deal with and educate our young people. I do not mean education at school, but education on littering and antisocial behaviour. We need to look at that in the round. A lot of good work is going on in primary schools and post-primary schools. I do not want to tie behaviour down to age, because it is not right to do that. However, unfortunately, in my experience, there has been an increase in antisocial behaviour in some areas. I want to find a way to get the right balance to address that.

I am not saying that alley-gating, as has been suggested by some people, is right. It is not a one-size-fits-all solution. We need proper consultation with all bodies, including the Housing Executive. That is the way that I am prepared to go and that is what I want the Bill to represent. The witnesses may be against that. If alley-gating is not adopted, what proposals are there to address it? If we do not agree with alley-gating, and it is for the Department for Regional Development, what can we include in the Bill to try to address the issue?

Ms J O'Loughlin:

That is quite a broad question. I am not against the concept of gating orders per se. We object to the fact that the consultation failed to engage the whole community. There are also issues around how we categorise antisocial behaviour. Is the act of two children kicking a ball up an alleyway enough to impose a gating order? That is important, because residents can perceive children and young people engaged in their normal play behaviours to be antisocial. By applying pressure on their local authority to apply a gating order, those residents could hold sway over the rights of those children. We need to take a balanced approach. Other methodologies could be incorporated in addressing such issues, but we must explore those further. They include community development, outreach youth work, play work, and so on.

Dr Moore:

If the Committee plans to amend the provision, it should note that one of our concerns was the method proposed in the Bill to consult about the gating of an alley, such as putting a notice in a newspaper. Well, that is great, but it does not involve children. If the Committee proceeds with an amendment, we would like it to include the need to consult with children and young people who are affected.

The Chairperson:

Totally, and, when the issue came up in the Chamber, we asked for proper consultation. An alley cannot be gated just because some people want it to be. Freedom of movement issues are involved, and, to be fair, I take on board the play issue, but most of the children who we know would be in bed by 10.00 pm or 11.00 pm. Our issue is about noise at 1.00 am, 2.00 am or 3.00 am. That may be something that we have to look at. However, I agree that we need to look at that further.

We talked about fixed penalty notices, and I think that a witness who gave evidence previously said that they would be applied from the age of 10. That is something we need look at that, but I wanted your views and for you to explain what you are doing to try to get the message across.

Ms Yiasouma:

We talked to quite a lot of the council officials who will implement those fixed penalty notices. We have not talked to all 26 councils. Of those we have talked to, not one said that this is a good idea for children and young people. I am not sure how helpful this will be, but they said that they try to use preventative or restorative approaches in the community. One council official said that it was hard enough for young people to get a job these days without a criminal record around their necks, so the official was not going to issue them with a fixed penalty notice.

We suggest that fining a child under the age of 16, maybe 18, amounts to a fine on their parents. That brings in a whole heap of issues, including the parents' ability to pay and the possible consequences for a child of a letter coming through the door stating, "Because of what your wee Jonny did, you have to cough up £50 or £100". Has somebody assessed what impact such a letter will have on what the parent does to the child? We regard that as using a sledgehammer to crack a nut. There does not seem to be any appetite for it. We have to stop antisocial behaviour, but if we want to go down the deterrent line as a method of — fixed penalties would be a last resort — other existing criminal legislation and enforcement powers can be used by councils. We are not sure why we would implement this as well, without looking at some preventative, diversionary and more community-based approaches.

The Chairperson:

I agree. However, there have to be deterrents. It is not all about antisocial behaviour. Mr Trevor Clarke wants to come in on that point.

Ms Yiasouma:

No, it is about —

The Chairperson:

Let us be honest: that is the impression that may be given by talking about fixed penalties and the stick approach as opposed to the carrot approach. We need to look at that when we have the opportunity to scrutinise the Bill. Ultimately, it is a deterrent. If it is an anti-litter exercise, about gating orders or reducing antisocial behaviour, whatever the case may be, we have to have some element of deterrent, and that is what we seek to achieve through the Bill. It may look, on the face of it, like we are trying the stick approach, but we are not. We want to amend the Bill so that everyone is included. There needs to be proper consultation before we make a decision on what is in the Bill and before we implement it. I know of children who got letters home from the PSNI for what were, believe me, very minor things. Those children, regardless of their age, are on the record now. It is something that we need to look at.

Mr T Clarke:

Speaking as a father of three children, I hate the fact that we are sitting here making excuses for young people.

The Chairperson:

Excuse me; no one is making excuses for anyone. We are here to put proper legislation in place. We have to look at everything that comes down the track. It is not about excuses.

Mr T Clarke:

Alley-gating is needed because of antisocial behaviour. If we do not create a deterrent, antisocial behaviour will continue. I hope that the legislation is brought in. If a letter from the PSNI ever comes through the door for a child of mine, I will pay the fine. The child will then be punished for the behaviour and pay me back through pocket money or whatever. Unless you create something that instils that approach in the home, you will not educate children. If we are going to exempt anyone under the age of 18 from punishment, we do not need alley gates. It is the younger people who cause most of the problems and nuisance in each of our constituencies. Elderly people are living in fear because of the activities that are going on at the back of their homes.

We need to create legislation that gives young people an incentive not to congregate in an area

or get involved in antisocial behaviour there. The only way to do that is to identify them. Some parents do not know where their children are, but most responsible parents would not let them behave like that anyway. If the fine comes through the door and wee Jonny is identified, any responsible parent will take action. We are being very woolly and protective of young people. This is only an observation, but it is a criticism of the witnesses. For people who represent young people, some of the comments —

The Chairperson:

No one is being woolly. We are allowing these people an opportunity to put across their views, which is the proper process.

Mr T Clarke:

I am disputing that.

The Chairperson:

How we deal with it will be taken in the round. You are right that a stick approach is needed, which is why I mentioned alley-gating. I have experience of it.

Ms Yiasouma:

Mr Buchanan is really hearing some excuses from me this afternoon. *[Laughter.]* We are not suggesting for a minute that the children or young people who litter, graffiti or take part in antisocial behaviour should be allowed to do so with impunity. We are saying that these proposals are not the best way of dealing with the problem. As a parent and citizen, I am as interested as anyone else in having a safe, happy, quiet life for me and my children. Having read some of this stuff, I am not convinced that it is the best way forward.

We need to use terms such as “last resort” and “exhausted all other avenues”. There are a number of other things that we can do to deter children from engaging in antisocial behaviour. You talk about parents paying fines and responsible parents. I have yet to meet a parent of any child, particularly a child with who Include Youth works, who does not want to be responsible. The problem is that some parents are struggling with how to parent their children, and they do not have the means to pay fines. We need to consider whether we are pushing people down a road

that alienates them. We want the children and young people involved to realise that what they are doing affects a number of other people and to ask themselves what they need to do to stop it. We are definitely not saying to let them get on with it and that it does not matter who they annoy.

Mr T Clarke:

Jacqueline said that she was not against alley-gating, but the first action point in the summary of your presentation states your opposition to gating orders. I do not know how you can say that you are not against alley-gating if your first action point states that you are. The cost implications mean that gating orders are not something that any council or other authority goes into lightly. I have been involved in a case recently that has involved the police, Roads Service, the Housing Executive and the council to try to deter young people from getting involved in antisocial behaviour.

However, in the words that you have just used, it is a last resort. They feel that they have to consider alley-gating, because they have exhausted all other avenues. The young people are not interested in being moved on and are not deterred by other measures, such as the removal of trees and improved lighting. I was amazed to hear today that Belfast City Council spends £500,000 a year administering alley-gating. I would have thought that if all 26 councils were here, they would say that they do not want alley-gating because it costs too much money; they only do it as a last resort.

Jacqueline, you said that you were not against it, but you did say in your presentation —

The Chairperson:

It is a summary of the four submissions, to be fair. That is why I said at the start that I did not want to go down the road of discussing some of the comments. Some of them call for a halt to legislation; that is not a route that we want to go down. You have heard both arguments. We are looking for proper consultation. Mr Clarke is right. A similar thing happened in my own constituency; we went through all the proper processes, and alley-gating was the last resort. That is all that I am saying. Councils do not close off any areas lightly. We will move on.

Mr McGlone:

Thank you for coming to the Committee today. You raised a number of issues, such as a lack of consultation. A number of organisations have not been consulted; clearly, we would like to hear which organisations those are. You mentioned some negative experiences of the legislation in Britain. I would like to hear what those are — I do not mean today, you can forward it to us — so that we can learn from the negative experiences, if there are any.

It is unfortunate that we have moved into an area of complete negativity, with the demonisation of young people, which was referred to earlier, and so on. Alley-gating is done to prevent crime and antisocial behaviour. I assume that there would be an extreme test of reasonableness in the approach to it. It is not all about children: there are the druggies and winos and all that associated with the problem. Although youngsters get a bit out of hand on occasion, alley-gating would have to be done in circumstances when they were totally out of hand.

The Chairperson:

Just for the Committee's reference, we must be careful about reference to certain types of people. Mr McGlone, you mentioned two names. We just have to be very careful.

Mr McGlone:

I did not mention any names.

The Chairperson:

No, but you mentioned a type of person. You need to be mindful of what you are saying.

Mr McGlone:

Sorry. That is fine, but that is the reality.

Mr Weir:

I think, Patsy, it should be referred to as "sobriety-challenged issues". *[Laughter.]*

Mr McGlone:

To be fair, those are the sorts of issues that have had to be dealt with in the past, along with the associated activities. That is reality. As I see it, if there is such a problem in an area that there is no other solution, the final recourse is to deal with it in that manner. I am not talking about installing alley gates everywhere, nor am I talking about demonizing youngsters in any way. I do not think that any council or local authority anywhere would adopt such an approach. If they were to close off alleys right, left and centre, we would want to question that.

We may get a wee bit out of sync in tightening up the extremities of something that is not going to be an extremity at all. To my mind there would be a test of reasonableness as regards alley-gating; if there is no other option, it must be done.

If you could relate to the Committee the experiences of negative effects as a result of such legislation in Britain, I would welcome that, so that we can learn from those experiences and feed that into our legislation.

Ms Yiasouma:

I will ask Elaine Conway to talk briefly about the consultation process and its flaws, then we will address the other two questions.

Ms Elaine Conway (Children in Northern Ireland):

I am glad that you have acknowledged the problems with the consultation. However, there is a real opportunity to look again at the consultation process during the development of regulations and guidance on this legislation. It seems that, in some parts of the Department, we can see very good practice in the consultations with children and young people. We know that the officials who led the work on the road safety strategy were very proactive in engaging with children and young people. If you talk to those officials, you will hear how they saw that that legislation had to be adapted in response to the needs of children and young people to make it more workable and deliverable. Where there is good practice in one part of the Department, we would like to see it mainstreamed throughout it. We welcome consultation and proactive engagement with children and young people. If you recommend that to the Department, it will be welcome.

The Chairperson:

We would appreciate it if you could send us any information that been requested.

Ms Yiasouma:

I will send the Committee information about our experiences. I do not have it to hand.

Mr Weir:

Thank you for your presentation. On the positive side, there was a great deal of clarity in your position, except with respect to one issue, which I want to tease out because I did not quite get your point. On the negative side, I must be honest: I fundamentally disagree with most of what you said.

Ms Yiasouma:

And I am his constituent as well.

Mr Weir:

We may share a constituency, but I am not sure that we are on the same planet.

The Chairperson:

I remind members that this session is being recorded.

Mr Weir:

I am more than happy for my views to be made public.

To be fair, your position has been clear. However, the only point I did not get is your concern about disability discrimination legislation with respect to gating orders. I may not have picked up what you said correctly. Can you expand on that and tell us what you are concerned about?

Ms J O'Loughlin:

That was to do with access. We know how the legislation works, how folk must have keys and so on to operate the gates. If there are residents who are disabled, that may impinge upon their ability to do what they need to.

Mr Weir:

This is to do with access to back alleyways?

Ms J O'Loughlin:

Yes. We need to take cognisance of the Disability Discrimination Act 2005 when we look at the process of putting gates in place.

Ms Yiasouma:

It is one of the sifting processes that needs to be done.

The Chairman:

Is that you finished with your constituent, Mr Weir?

Mr Dallat:

Thank you for your presentation. It is good to hear a point of view that challenges.

I am sure that you would subscribe to the whole concept of defensible space. Very often defensible space is sought to protect children. I do not want to name the town, but in the last couple of years, children could have lost their lives, as the absence of alley-gating allowed people to go into backyards and set oil tanks on fire, with the fire travelling through the roof space and the ceiling coming down on top of people. Do you accept that there are occasions when alley gating is the only option to protect children?

Ms J O'Loughlin:

Absolutely. This is about being reasonable and taking cognisance of wider community issues. What we are trying to do is extend the Committee's frame of reference and thinking process. We want you to recognise that children and young people are a constituent group that must be taken into consideration. We know of instances of alley-gating being used to defend play space and enable young people to go out and play. We know that that works. However, we must also reflect on the power that this gives to local authorities. There is potential for communities to want alley gates erected to counter what they deem to be antisocial behavior, but which we know is just children playing.

Dr Moore:

From our point of view, if we were developing policy and then legislation on clean and safe neighbourhoods, we would not start with the Bill. We would want to look at alternatives to alley-gating. We know that the Committee is pushing ahead with the Bill and is keen to get it passed, but we urge members to look at the legislation to see where opportunities to include a duty to consult young people can be built in. That duty already exists as part of section 75, but we want it built into the legislation so that, when it comes to the last resort of alley-gating, the council involved has a duty to consult with children and young people in the area.

Mr Dallat:

I am making the point that often children are very much the subjects of the protection afforded by alley-gating. For example, a single parent with three young children had her windows replaced on Friday, and on Sunday night they were broken again. It strikes me that alley-gating may offer those three children and their mother some protection. That is that.

I agree that it is hardly desirable to impose fixed penalties on children. However, in the past couple of months, I have been to some of the poorest parts of the world where children appreciate their environment. It caught my attention because there was no litter whatsoever. Are there better ways to cultivate the kind of culture that I have seen in other places, where children have very little going for them?

Ms Yiasouma:

Some of that can be seen in Northern Ireland. A council officer outside Belfast told us about a boy he had seen littering outside a training college. The council officer went into the training college to talk to a senior manager. They both sat down and talked to the young person, and, it would seem, the young person recognised where he had gone wrong.

There are a number of similar examples. Again in Mr Weir's constituency, the Youth Justice Agency and the council work together to help young people get involved in cleaning up. In the past year, my organisation, Include Youth, has been involved in six or seven environmental clean-up operations involving young people. So, quite a lot is happening. Nobody made them do that. We negotiated with them and supported them in reaching an understanding of their

responsibility towards the environment in which they and their neighbours live, and they participated willingly. Actually, on one of the trips, the biggest whinger was the project manager, not the young people, who had a great time and left with a great sense of achievement. God, I hope that he is not listening. *[Laughter.]*

The Chairperson:

Be very careful. The session is being recorded. Do not name the project.

Ms Yiasouma:

No, I will not. The project was fine. He was brilliant really.

A lot of council officers wanted to make the point that, rather than being used to set up structures around fixed penalty notices, the money may be better spent on prevention, intervention and engagement with young people in their communities.

The Chairperson:

And that is what we are looking to introduce through the Bill.

Mr Clarke, very quickly, we have to be out of the room before 1.15 pm.

Mr W Clarke:

Chairperson, you do that all the time.

The Chairperson:

I do not.

Mr W Clarke:

You do. You tell me to be quick and you let everybody else waffle away.

The Chairperson:

Normally, you are second or third to speak but, unfortunately, today you are bottom of the list.

Mr W Clarke:

Thanks, Chairperson, and I thank the witnesses for their presentation, which I found very informative.

First, I agree that a full equality impact assessment should have been carried out. If we are to cut and paste legislation from across the water, we should at least look at the consultation process that they went through. I also agree that young people must be consulted early on this or any legislation. Particularly if we are going down the road of alley-gating, the youth outreach work should be done first. Measures should be taken such as getting youth outreach workers to contact young people and explain to them that, if their behaviour does not improve, an alley will be closed off.

There are bigger issues, such as underlying factors of educational underachievement, parental responsibility, broken homes and home life generally, including abuse at home. Social services should take more responsibility on a number of issues, such as why young people are out on the street to such an hour.

There needs to be greater understanding that much of what we have been talking is a policing issue. The police have certain responsibilities, and, at times, councils seem to be continually doing the police's work. There is a greater onus on neighbourhood policing teams to work more closely with young people instead of demonising them. I heard it said earlier that the bother was being caused by young people, but adults cause a lot of bother in our neighbourhoods and communities as well, whether through drugs, drink or whatever else. I take on board what you have said, particularly about alley-gating being a last resort. The concept of it as a last resort should be included in the legislation.

Ms Conway:

You hit the nail on the head when you talked about the other agencies and education. There is a need to take a holistic view of children and young people. District councils, to give them their due, have really stepped up to the plate in that regard. They are very active; I am sure that some members will be familiar with the process of children's services planning, which operates at half-board level but actively involves district councils. There is a difficulty in seeing a piece of

legislation like this sitting outside the holistic framework for responding to and dealing with children and young people. We would like a response that looks at the whole child and what is going on in the home environment, in the community and in the school and promotes early intervention and preventative work and diversionary approaches. We need to look at approaches that involve everyone by creating partnerships that can look at proportionate and appropriate responses to children and young people and ensure that the services that they need are there when they need them.

Ms Yiasouma:

Willie Clarke spoke about policing issues. On Monday, the Minister of Justice announced a review of youth justice in Northern Ireland. Trevor Clarke talked about crime and antisocial behaviour; we hope that there will be a forensic analysis of young people's criminal and antisocial behaviour. The review panel needs to take cognisance of some of those issues so that there is read-across to other Departments.

Mr W Clarke:

That will help Departments as well.

Mr Buchanan:

I just want to make a quick observation. We can talk about what the police should be doing and what everyone else should be doing, but the reality is that the responsibility lies with the parents. If parents took control of their children, we would not have the difficulties and problems that we are faced with today. The police have responsibilities, and the other agencies and Departments have a role to play. I fully support the idea of early intervention, which stops things from coming to a head. However, we must not take our eye off the ball; the responsibility for children always comes back to their parents. If they do not take that responsibility, society is left to pick up the tab that we are talking about today.

Mr W Clarke:

I want to pick up on Mr Buchanan's point. I agree entirely with what he is saying, but it must also be recognised that some parents cannot look after themselves, never mind their children, and they need support for that.

The Chairperson:

I agree; there needs to be a holistic approach, and there is a collective responsibility on all of us to get this right. There is an opportunity to do that through this legislation, and we would welcome the reports and information that we have requested. We also welcome suggested amendments. We have heard a wide range of views, and to be fair to all members — even though, unfortunately, they all are male — we have all dealt with these issues as public representatives and we recognise the work that you are doing, and that you are part of the process. Thank you very much.

Mr T Clarke:

Are there any witnesses here from the South Down constituency? Newry and Armagh and North Down are represented. I just want to reassure Mr Willie Clarke that he will get a vote.

The Chairperson:

I can only assure you that I represent the best constituency in the North. Thank you.