

MEETING OF THE PARLIAMENT

Thursday 7 December 2006

Session 2

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Scottish Parliament

Thursday 7 December 2006

[THE PRESIDING OFFICER *opened the meeting at 09:15*]

Business Motion

The Presiding Officer (Mr George Reid): Good morning. The first item of business is consideration of business motion S2M-5285, in the name of Margaret Curran, on behalf of the Parliamentary Bureau, setting out a timetable for stage 3 consideration of the Adoption and Children (Scotland) Bill.

Motion moved,

That the Parliament agrees that, during Stage 3 of the Adoption and Children (Scotland) Bill, debate on groups of amendments shall, subject to Rule 9.8.4A, be brought to a conclusion by the time limit indicated, that time limit being calculated from when the Stage begins and excluding any periods when other business is under consideration or when the meeting of the Parliament is suspended, other than a suspension following the first division in the Stage in the morning and afternoon being called, or otherwise not in progress:

Groups 1 to 5: 1 hour 5 minutes

Group 6: 1 hour 50 minutes

Groups 7 to 10: 2 hours 20 minutes

Groups 11 to 17: 3 hours 5 minutes

Groups 18 to 20: 3 hours 25 minutes.—[*Ms Margaret Curran.*]

Lord James Douglas-Hamilton (Lothians) (Con): On a point of order, Presiding Officer. I do not wish to oppose the business motion, but I wish to make a point of order. There has been insufficient time between the grouping of amendments and stage 3 consideration. The timescale was little more than one full day. Given the many issues of complexity arising from the bill, there is a substantial risk that, with such a short timescale, parliamentarians could miss points of real importance.

I do not wish to make too much of the issue today, as we seek to improve the bill as much as possible before its likely enactment, but I understand that the Procedures Committee is likely to review the matter. If the timescales remain as tight as this, there is a danger that mistakes will be made and that the Parliament will have to revisit the subject with further legislation as soon as the eventual act is reviewed. With more time to consider amendments before a bill's final stage, it is more likely that we can get it dead right.

The Minister for Parliamentary Business (Ms Margaret Curran): I thank Lord James for indicating to me that he was going to raise his point of order, with which I have some sympathy. He will know that we consulted all the business managers on the Adoption and Children (Scotland) Bill. We do our very best to allow the maximum time. The Executive is giving attention to the principle that Lord James has raised. Obviously, we want to maximise the opportunities for members to scrutinise proposed legislation over the appropriate time. We will be examining that in both the short term and the longer term.

The Presiding Officer: I am grateful to Lord James. I, too, have some sympathy with the views that he has expressed. No doubt the Procedures Committee will consider the issue.

Motion agreed to.

Adoption and Children (Scotland) Bill: Stage 3

09:17

The Presiding Officer (Mr George Reid): The next item of business is stage 3 proceedings on the Adoption and Children (Scotland) Bill. Members should have in front of them the bill as amended at stage 2; the marshalled list, which contains all the amendments that have been selected for debate; a supplement to the marshalled list, which contains one manuscript amendment; and the groupings, which I have agreed. Amendment 154, as shown on the supplement to the marshalled list, will be debated with the amendments in group 3 and considered after amendment 72.

The division bell will sound and proceedings will be suspended for five minutes for the first division this morning. The period of voting for that division will be 30 seconds. Thereafter, I will allow a voting period of one minute for the first division after a debate; all other divisions will be 30 seconds.

Section 1—Duty of local authority to provide adoption support services

The Presiding Officer: Group 1 is on adoption services. I will put the question on the amendments to amendment 4 before putting the question on amendment 4 itself. Amendment 1, in the name of the minister, is grouped with amendments 2 to 4, 4A, 4B, 5 to 14, 80, 15 to 22, 81, 23 to 28, 82, 29 to 33, 83, 61, 62, 64, 65 and 75 to 79.

The Deputy Minister for Education and Young People (Robert Brown): I echo Lord James's earlier comments by acknowledging that the bill is technically complex, as is reflected by the fairly large number of amendments that are before the Parliament.

Barring Adam Ingram's amendments 4A and 4B, to which you referred, Presiding Officer, all the amendments in the group were lodged by the Scottish Executive. The Executive amendments all hinge on amendment 4, the purpose of which is to bring together various provisions on adoption support services and those categories of people who have access to them. That has been done to provide a clearer and tighter structure to part 1 of the bill. I took up the issue in discussion with the Education Committee at stage 2.

In the bill as amended at stage 2, the duty of the local authority is defined exclusively as providing an "adoption support service". That description is too narrow, given the bringing together of the various forms of pre-adoption, adoption and post-

adoption services. The definition would be liable to cause confusion, and it does not reflect the breadth of adoption services that a local authority is expected to provide. For that reason, we have returned to the terminology of "an adoption service" rather than "adoption support service". Under the revised structure, adoption support services now feature as a component of the adoption service, rather than defining it.

Amendment 4 takes the list of categories of people who are eligible to receive adoption support services from section 6(1) and inserts it into section 1. Accordingly, section 6 is removed by amendment 15. In addition, the list is reduced from 22 categories to 12, which must be a good thing. That has been achieved by combining categories, and no category of people has been excluded. In other words, there is no change in the policy effect of section 6. Amendment 4 also takes the list of services to which those categories of people have access out of section 6(2) and inserts it into section 1. Some of the categories that were previously listed at section 6(2) have been extracted from the list to form a subset of services called adoption support services, to which paragraph (e) of new subsection (1C), which amendment 4 adds to section 1, refers, and which is defined at new subsection (1D).

Restructuring the old section 6(2) allows different parts of the adoption service to be provided in different ways. Those parts that will be listed at proposed new section 1(1C) relate to the assessment of children who may be adopted, the assessment of prospective adopters, arrangements for placing children for adoption and the provision of information about adoption to the people who are listed at section 1(1B). I hope that everyone is entirely with me so far. Those parts of adoption support services include the provision of information, guidance and counselling for people who are affected by adoption.

In keeping with those changes, amendment 7 divides section 1 thematically into two sections in order to achieve a more logical, coherent structure. The first of those sections, "Duty of local authority to provide adoption service", provides a definition of the adoption service that a local authority has a duty to provide, with a definition of adoption support services as a component of that. The second section, "Carrying out of duties imposed by section 1", states the factors to which a local authority must have regard for the purpose of carrying out the duties that are imposed by the first of the two sections. It also states:

"A local authority may carry out the duties imposed ... by securing the provision of its adoption support services by a registered adoption service."

"Registered adoption service" is then defined.

Amendment 8 transfers the regulation-making power that was previously at section 6(4), as amended, to after section 1, in keeping with the bill's revised structure.

Amendments 12, 14 and 80 amend section 4, which provides for a definition of the adoption service under the Regulation of Care (Scotland) Act 2001. Section 2(11) of the 2001 act provided for the definition of the adoption service, and section 2(12) provided that,

"For the purposes of subsection (11)(b) above, the making of arrangements for the adoption of a child where the proposed adopter is a relative of the child is not an adoption service."

The amendments do not change that situation, but merely insert revised definitions at sections 2(11) and 2(12) of the 2001 act to reflect the restructuring of the bill. Parents and relatives should not be included under the definition of an adoption service, as that would mean private individuals being subject to inspection by the Scottish Commission for the Regulation of Care, which is obviously not what is intended.

Amendment 80 provides that, for a parent or relative, the making of arrangements for the adoption of a child or the placing of a child for adoption is not considered an adoption service. Amendments 18 and 20 amend section 8 to provide that a local authority must provide to a person mentioned in new subsection (1B) of section 1 information about adoption.

The remaining Executive amendments are all technical in nature and are intended to account for the changes in terminology and definition; to amend references to reflect the changes in the bill's structure; and to achieve a more logical, thematically grouped structure in the light of those changes. I ask the Parliament to support those amendments.

I am conscious of a glazed look in the Presiding Officer's eyes as I go through these amendments.

The Presiding Officer: Not at all.

Robert Brown: Amendments 4A and 4B were lodged by Adam Ingram. The purpose of amendment 4A is to include counselling and assistance to birth parents who are considering giving up their child for adoption as a distinct service under section 1. That service would be provided automatically, without assessment. The point here is whether counselling and assistance to birth parents who are considering relinquishing their baby at birth—obviously an important matter—can be described as adoption support. We feel that it is reasonable to include support to a birth parent who is giving up, or thinking about giving up, their baby for adoption under the label of adoption support services. In practical terms, that means that a birth parent in such a situation

would be subject to an assessment of need before the support services of counselling and assistance were delivered.

We view the automatic assessment as a positive mechanism rather than, as some people have argued, a means for local authorities to sift out people from receiving services, perhaps because of resource implications. The aim of assessment is to allow a structured, strategic, long-term approach to support, aimed at the specific targeting of services to needs, rather than generic provision in certain circumstances. It seems to us desirable that the complex needs of a mother who is relinquishing her child, when the emotional repercussions have lifelong implications, should be very carefully considered, perhaps almost more so than for anybody else who is receiving support of that kind.

That does not prevent such services from being delivered on an emergency basis under section 50, but a proper assessment thereafter is desirable for support planning and increasing the awareness of services available. In terms both of cohesive bill structure and of active management of birth parents' support needs, we want to retain that service under adoption support services with the associated amendment.

Amendment 4B would provide for services for supporting

"persons who may adopt a child"

and

"persons who have adopted a child"

and their families to be included in the definition of adoption support services in subsection (1D) that will be inserted by amendment 4. As far as we can see, that has already been accounted for by subsection (1D), which includes counselling, guidance and any other assistance in relation to the adoption process that the local authority considers appropriate under the definition of adoption support services, which are further defined as being provided to those who are listed at subsection (1B), including people who may adopt a child or who have adopted a child, and their children, or children treated by them as their children. As such, amendment 4B seems unnecessary, and it is rather vague, because it is not quite clear what is meant by the word "services" in that context, nor who is included in the meaning of the word "families".

I hope that Adam Ingram will accept my rather long and convoluted explanation of the matter, and will not move his amendments. I will be interested in hearing his comments.

I move amendment 1.

Mr Adam Ingram (South of Scotland) (SNP):

The minister will appreciate that we broadly support the Executive's amendments, for the reasons that he expressed; we have discussed these matters at committee many times. However, I will focus on the two amendments in my name. Amendment 4A, which was suggested by the British Association for Adoption and Fostering Scotland, makes it clear that services to birth parents who are relinquishing their children for adoption should be an integral part of the general adoption service.

Counselling and other assistance should be available on request, as is the case under the current law. If no provision of that kind is made in the bill, that service will be treated by local authorities as if it were a support service, which is not provided automatically on request but is subject to a needs assessment. Parliament is well aware that the assessment process is often subject to delays, and even waiting lists, depending on resource pressures at local authority level.

The BAAF Scotland argues that, by their very presentation, birth parents will need that service. It is not hard to foresee the prospect of young, perhaps desperate, expectant mothers breaking off contact with agencies that refuse immediate help. Section 50, on urgent provision, does not cover that scenario. Its focus is on an adoptive family facing urgent problems, rather than on a relinquishing birth parent.

Amendment 4B would extend the list of support services provided beyond the limited list that is laid out in subsection (1D) in Executive amendment 4. Adoptive families require access to services that go well beyond counselling, guidance and assistance in relation to the adoption process. Those services can range from specialist therapeutic services, helping traumatised children to heal psychologically, to respite care. As members will be aware, current provision is subject to a postcode lottery. Recognition in the bill of the wide range of services required by adoptive families is a necessary first step to improving the current system. If the minister will not accept amendment 4B, what commitment is he prepared to give that the types of services that I have mentioned will be included in regulations, as defined in amendment 8?

Lord James Douglas-Hamilton (Lothians)

(Con): I support Adam Ingram's amendment 4A, which would include in the categories that are introduced by amendment 4 the provision for counselling to birth parents who are considering relinquishing their child. That is necessary to make certain that access to such advice is rapid and available. I also support his amendment 4B, which

would tighten up the definition of what adoption services should be.

09:30

Mr Kenneth Macintosh (Eastwood) (Lab): The media focus on more controversial aspects of the bill has obscured the fact that improving the support that is available to adoptive families is at its heart. The needs of young people who are being adopted, and the demands that they place on families, are increasing all the time, as has been pointed out throughout stages 1 and 2, and the support that we offer families is therefore crucial if we are to make a success of families as adopters.

A lot of the detail about support has been left to regulation, and although I welcome the series of amendments outlined by the minister, including those on regulations, I seek further assurance that he will use those regulations to improve education and training for all those who deal with adoptive families. In particular, I ask the minister to consider further the concerns raised by Adoption UK, which has outlined a series of measures that it believes need to be addressed in detail if we are to support families. The measures that it considers necessary include access to specialist therapeutic psychological services, access to specially trained therapists, recognised specialist support centres, educational services, parent mentors and buddies, and intensive support for families who face disruption. If the minister can tackle those issues, as well as tackling the rather patchy and inconsistent provision of services across the country, that will address those concerns fully.

Iain Smith (North East Fife) (LD): I want to put on record the concerns that the Education Committee expressed about the way in which the bill appeared before it at various stages. When stage 3 is completed today, the bill will be substantially different from the one that appeared at stage 1, having been restructured twice, first at stage 2 and again at stage 3. That raises questions about members' ability to scrutinise effectively the overall shape of the bill as it goes through Parliament, and the Executive needs to look at that carefully in the future.

Part of the concern is simply that too much legislation is being put through the Parliament by the Executive, and that there are not enough drafting resources in the Executive to meet demand. I hope that the Executive will consider that matter seriously, both when it reviews the bill's passage through Parliament and in the future in relation to other bills. I do not wish to criticise ministers, or the bill team, who have done their best to get the bill right, but I have serious concerns.

When he sums up, can the minister assure me that there is nothing in section 1(1), on the duties of each local authority, that will prevent local authorities from working together to provide adoption services?

Robert Brown: I can assure Iain Smith that there is nothing to stop local authorities working together. That already happens in many aspects of the work that they do.

I accept what Iain Smith says about the restructuring of the bill. It was complex. We were bringing together different sorts of adoption services—pre-adoption, during the adoption process and post-adoption—to create a more comprehensive structure.

Fiona Hyslop (Lothians) (SNP): Does the minister acknowledge that that was not in the bill at stage 1, and that the redefinition of adoption to include the whole process—pre-adoption, during adoption and post-adoption—rather than simply what happens at the point of adoption was the result of cross-party pressure from the committee? That substantial rewriting of the bill has meant that it was not possible for the committee or the Parliament to make any changes until we saw the amendments that were lodged five days ago.

Robert Brown: I accept that, but it was always our intention nevertheless to improve adoption support services generally. As I recognised early in stage 2, the bringing together of the different structures did not produce a terribly cohesive framework in terms of the statutory wording. There has not been a significant policy change in most areas, but we now have a structure that is a bit more thematic and coherent than it was at the beginning of the bill process. I accept that it is difficult to get the scrutiny of complex legislative structures right, but we now have a structure that is capable of taking us forward much more successfully, to provide the coherent services that people who get involved in adoption, from whatever perspective, deserve and ought to have.

We have recognised from the beginning that adoption support is an important area that needs to be improved. When we come to regulation, it is against that background that we want to consider the sort of issues that Ken Macintosh, Adam Ingram and others have talked about, such as addressing patchy service provision across the country. Members will agree that such detailed matters are not for the bill; information will change over time as knowledge increases, so it will be right to include those matters in regulations. I assure members that we will consider the matters that will give flesh to the provisions.

I turn to Adam Ingram's two amendments—amendments 4A and 4B. Apart from the emergency arrangements in section 50, which

have already been mentioned, we should consider sections 8(1)(a) and 8(1)(b), and section 8(2), which allows the provision of services without assessment. It is important to consider the longer term; we should not simply deal with people in one moment and then move on. We want to be able to get involved when there are emergencies, so that we can deal immediately with problems, but we also want to be able to make long-term assessments and to maintain our involvement with families. That is what the bill, and the Executive amendments, will allow us to do. Amendments 4A and 4B are not necessary; in fact, if agreed to, they would add confusion to a coherent structure. I therefore urge members to reject Adam Ingram's amendments 4A and 4B—always assuming that he moves them.

Amendment 1 agreed to.

Amendments 2 and 3 moved—[Robert Brown]—and agreed to.

Amendment 4 moved—[Robert Brown].

Amendment 4A moved—[Mr Adam Ingram].

The Presiding Officer: The question is, that amendment 4A be agreed to. Are we agreed?

Members: No.

The Presiding Officer: In that case, there will be a division but we will first suspend for five minutes.

09:36

Meeting suspended.

09:41

On resuming—

The Presiding Officer: We will proceed with the division.

For

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Brownlee, Derek (South of Scotland) (Con)
 Byrne, Ms Rosemary (South of Scotland) (Sol)
 Canavan, Dennis (Falkirk West) (Ind)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fabiani, Linda (Central Scotland) (SNP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gibson, Rob (Highlands and Islands) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 Matheson, Michael (Central Scotland) (SNP)

Maxwell, Mr Stewart (West of Scotland) (SNP)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Morgan, Alasdair (South of Scotland) (SNP)
 Neil, Alex (Central Scotland) (SNP)
 Petrie, Dave (Highlands and Islands) (Con)
 Robison, Shona (Dundee East) (SNP)
 Scott, John (Ayr) (Con)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Tosh, Murray (West of Scotland) (Con)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
 Watt, Ms Maureen (North East Scotland) (SNP)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

AGAINST

Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)
 Baird, Shiona (North East Scotland) (Green)
 Baker, Richard (North East Scotland) (Lab)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marilyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)

Oldfather, Irene (Cunninghame South) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Swinburne, John (Central Scotland) (SSCUP)
 Wallace, Mr Jim (Orkney) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

The Presiding Officer: The result of the division is: For 36, Against 71, Abstentions 0.

Amendment 4A disagreed to.

Amendment 4B moved—[Mr Adam Ingram].

The Presiding Officer: The question is, that amendment 4B be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Brownlee, Derek (South of Scotland) (Con)
 Byrne, Ms Rosemary (South of Scotland) (Sol)
 Canavan, Dennis (Falkirk West) (Ind)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fabiani, Linda (Central Scotland) (SNP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gibson, Rob (Highlands and Islands) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Morgan, Alasdair (South of Scotland) (SNP)
 Neil, Alex (Central Scotland) (SNP)
 Petrie, Dave (Highlands and Islands) (Con)
 Robison, Shona (Dundee East) (SNP)
 Scott, John (Ayr) (Con)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Tosh, Murray (West of Scotland) (Con)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
 Watt, Ms Maureen (North East Scotland) (SNP)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

AGAINST

Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)
 Baird, Shiona (North East Scotland) (Green)
 Baker, Richard (North East Scotland) (Lab)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Swinburne, John (Central Scotland) (SSCUP)

Wallace, Mr Jim (Orkney) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

The Presiding Officer: The result of the division is: For 37, Against 71, Abstentions 0.

Amendment 4B disagreed to.

Amendment 4 agreed to.

Amendments 5 to 7 moved—[Robert Brown]—and agreed to.

After section 1

Amendment 8 moved—[Robert Brown]—and agreed to.

Section 2—Local authority plans

Amendments 9 to 11 moved—[Robert Brown]—and agreed to.

Section 4—Meaning of “adoption support service” in Regulation of Care (Scotland) Act 2001

Amendments 12 to 14 and 80 moved—[Robert Brown]—and agreed to.

Section 6—Adoption support services

Amendment 15 moved—[Robert Brown]—and agreed to.

Section 7A—Assessment of needs for adoption support services

Amendments 16 and 17 moved—[Robert Brown]—and agreed to.

Section 8—Provision of adoption support services

Amendments 18 to 22, 81, 23 and 24 moved—[Robert Brown]—and agreed to.

Section 50—Urgent provision

Amendment 25 moved—[Robert Brown]—and agreed to.

Section 57—Guidance

Amendments 26 to 28 and 82 moved—[Robert Brown]—and agreed to.

Section 58—Regulations about adoption support services

Amendments 29 to 33 moved—[Robert Brown]—and agreed to.

Section 79—Power to provide payment to person entitled to adoption support service

Amendment 83 moved—[Robert Brown]—and agreed to.

Section 9—Considerations applying to the exercise of powers

The Presiding Officer: Group 2 is on matters to be taken into consideration in the adoption process. Amendment 84, in the name of Paul Martin, is the only amendment in the group.

09:45

Paul Martin (Glasgow Springburn) (Lab): Amendment 84 would insert into section 9(4) the words:

“the value of a stable family unit in the child’s development”.

Section 9 will be important in the adoption process because it deals with the crucial preparation stages for adoption. It is important that the right tone be set during those stages. Amendment 84 emphasises the importance of a stable family and reflects an ethos that is in the best interests of the child. It would ensure that consideration would, by law, have to be given to

“the value of a stable family unit in the child’s development”.

During the bill’s progress, we have had a number of debates about whether we should include such a provision in the bill. We should not take for granted

“the value of a stable family unit in the child’s development”.

Rather, we should be proud to emphasise it by including those words in the bill, which we hope will be passed today. Given that children are considered for adoption because their families are not stable, we should ensure that at the early stages of the adoption process there is a legal requirement to give consideration to the value of a stable family, which would set the right tone for the future and ensure that children are given every possible positive opportunity.

Iain Smith: Will the member tell us what he means by “stable family unit”? How does he define the term in the context that we are discussing?

Paul Martin: I expected that question. There could be many personal definitions among the wide range of members of Parliament, the public and organisations that will have a responsibility to deliver the legislation. It is important that we consider amendment 84 not in isolation but in the context of the wide range of considerations that are set out in section 9, and in the context of other amendments to which the Education Committee agreed at stage 2. A wide range of issues must be considered in order to ensure that a family can give a child an opportunity for stability in the future. The approach in amendment 84 alone would not give a child such an opportunity, but it would make a positive contribution.

I move amendment 84.

The Presiding Officer: Seven members have requested to speak. That will be possible only if members speak for less than two minutes.

Fiona Hyslop: It is important that we legislate on matters that can be defined. Paul Martin said that people have personal definitions of the term “stable family unit”. Section 31 uses the term “enduring family relationship”, which is a different way of saying stable family unit. The courts and adoption agencies will ensure that children are adopted only by people who are in enduring family relationships, which will be in the child’s best interests. Section 31 therefore does exactly what Paul Martin wants the bill to do, so there is no need for amendment 84. If the change that amendment 84 would make has no substance, we must ask what it is for.

Section 9(3) says:

“The court or adoption agency is to regard the need to safeguard and promote the welfare of the child throughout the child’s life as the paramount consideration.”

The idea that a court or adoption agency would regard an adoption by an unstable family unit as somehow safeguarding a child’s welfare is absurd. We should stick with the bill, which provides that children can be adopted only by people who are in an enduring family relationship.

Paul Martin: Will Fiona Hyslop clarify what she means by the term “enduring family relationship”?

Fiona Hyslop: An enduring family relationship is one that the people who will do the vetting and assessment of applicants judge to be a continuing relationship that will maintain the child throughout its life.

Adoption is not just about the point of adoption; it is about the post-adoption period, which goes on for a long time. We have voted on the importance of adoption services throughout the child’s life; the Children (Scotland) Act 1995, which underpins much of the bill, also refers to the welfare of the child throughout its life. I am confident that “enduring family relationship” is the term that we need. The term has a legal, rather than a personal definition, so we should stick with the bill as it stands.

Dr Elaine Murray (Dumfries) (Lab): There is a question about whether amendment 84 is necessary, given that the bill places importance on enduring family relationships. However, to reiterate the importance of such relationships would not be to the detriment of the bill. Perhaps amendment 84 should have referred to “an enduring family relationship”, rather than “a stable family unit”, but we would create no problems by reinforcing the need for an enduring family

relationship when the best interests of the child are being considered.

We must bear it in mind that families in Britain come in many different shapes, sizes and types. I would be concerned about an implication that one type of family is better than another, but amendment 84 does not contain such an implication, so I am prepared to accept it on the basis that it would provide additional reassurance.

Lord James Douglas-Hamilton: I support amendment 84, which is eminently sensible and would provide a necessary safeguard. At stage 2, I lodged an amendment that would have made it harder for adoptions to take place in the context of casual relationships, which do not necessarily provide stability. That amendment did not command a majority on the committee, because it was felt that the process for adoption is so rigorous that the best interests of the child will always be paramount. However, something more is required.

I say to Fiona Hyslop that the wording in amendment 84 is not inconsistent with the phrase, “enduring family relationship”, but the addition of the word “stable” is important. Amendment 84 would provide an important indicator by stressing the need for stability in a family. I am glad to give Paul Martin my support on this occasion.

Iain Smith: I oppose amendment 84, which is also opposed by the British Association for Adoption and Fostering, whose advice and assistance has been invaluable to Education Committee members throughout their consideration of the bill.

I had two grounds on which to oppose amendment 84; I now have three grounds. First, the amendment is unnecessary. Secondly, even if it were necessary to insert the words that amendment 84 would insert, it would be inappropriate to do so at the start of section 9(4). Thirdly, if the phrase “stable family unit” has many definitions and can mean anything to anyone, its inclusion in the bill would not make for good legislation.

The fundamental principle of adoption that the bill will establish is set out in section 9(3), which says that the paramount consideration must be

“the need to safeguard and promote the welfare of the child throughout the child’s life”.

We should weigh up the value of every provision in, and proposed amendment to, the bill in the light of that fundamental principle.

Like Fiona Hyslop, I cannot envisage a situation in which a court or adoption agency, in exercising its powers under the bill, would consider placing a child for adoption in anything other than a stable family unit, whether the family was made up of a

married couple, an unmarried couple, a couple who had entered into a civil partnership, a same-sex couple who had not entered into a civil partnership, or a single person. That principle is emphasised in paragraphs (c) and (d) of section 31(3), which use the term “enduring family relationship” in the context of couples who live together.

David McLetchie (Edinburgh Pentlands) (Con): Will the member give way?

Iain Smith: I will give way briefly, but I have limited time.

David McLetchie: We agree that relationships must be enduring. However, an adoption is determined at a specific point in time and, because we have no crystal ball to tell us whether a relationship will endure, a judgment must be made on the basis of the circumstances at that time. Does the member therefore agree that the key issue is the stability of the relationship when the judgment is made, which is the issue that Mr Martin is trying to address in amendment 84?

Iain Smith: That is complete and utter nonsense. In any assessment of the suitability of a person or couple to adopt under section 17(2), an adoption agency will have to take account of the stability of the home—in the past and in the future—that the applicants would give to the child. The insertion of the words “stable family unit” is unnecessary and, I contend, perhaps even dangerous. Amendment 84 would add nothing to the bill unless the intention is to define the phrase “stable family unit” in a way that differs from the definitions of who can adopt in sections 31 and 32. As we have heard, there is no definition of “stable family unit”.

The Presiding Officer: You must close now.

Iain Smith: Section 9(4) sets out the child’s rights, by providing that the court or adoption agency must have regard to

“the child’s ascertainable views ... the child’s religious persuasion, racial origin and cultural and linguistic background, and ... the likely effect on the child, throughout the child’s life, of the making of an adoption order.”

Amendment 84 relates not to the child but to the suitability of the applicants and would not fit in with section 9. However, the fundamental reason why we should reject amendment 84 is that it is unnecessary, because the bill provides that the paramount consideration will be the need to safeguard and promote the child’s welfare.

Karen Gillon (Clydesdale) (Lab): I agree with Iain Smith’s concluding remarks and I cannot envisage a situation in which an adoption agency would not place a child in a stable family relationship. Therefore, I fail to see what the objection is to having those words in the bill, if we

are serious about putting stable family relationships at the heart of our adoption process and about putting children at the heart of the bill. The group of vulnerable children about whom we are talking may have been in unstable family relationships or in unstable care home situations, so what is wrong with saying in the bill that, when they move into another situation, it should be a stable family relationship?

Members say that there is no definition of the term “stable family unit” but, equally, there is no definition of the term “enduring family relationship”. What is the difference between them? The question is fundamental. Parliament should vote for amendment 84, because that would say what we have said in many pieces of legislation: that we want stability and the family to be at the heart of children’s development. I urge members to support Paul Martin’s amendment.

Mike Rumbles (West Aberdeenshire and Kincardine) (LD): I oppose amendment 84. I was interested to hear Paul Martin’s response to Iain Smith’s question. We are making the law of the land here, so we must be absolutely clear. To me, the fundamental question is what, in the 21st century, a family unit is. Paul Martin lodged amendment 84, but he cannot tell us what he means by the term “family unit”. He has made it clear that he does not know what the term means, but he expects us to vote for the amendment to include that term in the bill. I am sorry—that would not be good law and we should not support it.

Irene Oldfather (Cunninghame South) (Lab): I am in favour of amendment 84, in the name of Paul Martin. Section 9 is about considerations that apply to the exercise of powers. Amendment 84 seeks to put the needs of the child at the heart, core or centre of the adoption process, by emphasising the importance of a stable family to the consideration that agencies give to the matter.

It is difficult for most of us to know or even imagine the complex and tangled emotional web that children who are placed for adoption experience. Especially for children who are old enough to understand, adoption by its nature brings with it a past tragedy and, possibly, rejection. There is every possibility that children come to the process emotionally scarred, through no fault of their own. Therefore, the importance of a stable and loving relationship must be a primary consideration and should be enshrined in statute, because that would give powers to adoption agencies to deal with the matter appropriately. I support amendment 84.

Christine May (Central Fife) (Lab): It is important to remember that, when we make law, we should take account not only of whether the proposals are compatible with other legislative measures. We should also, as far as possible,

take account of the wider public interest. For any law to have support, it is important that the wider public interest be considered. We have received representations from many groups giving various views on the issue, although I must say that I am concerned that relatively few of them talked about the interests of children, which is what the bill is about. It is vital that we reassure everybody who might be concerned, including children, that we are talking about stable family relationships.

Susan Deacon (Edinburgh East and Musselburgh) (Lab): Is not it the case that amendment 84 and at least one other amendment were lodged so late in the day that there has been little opportunity for any external bodies to make representations on them? Given that the mover of amendment 84 said that several debates took place on the issue during the passage of the bill, I seek clarification of why the amendment was lodged only 24 hours before this debate and was not embraced in the bill earlier.

Christine May: That is probably an issue for the mover of the amendment to deal with in summing up. My view is that amendment 84 will give greater clarity in the bill on the circumstances in which adoption will be considered. Therefore, I support it.

10:00

Donald Gorrie (Central Scotland) (LD): I ask the minister to clarify one important point. Obviously, there are differing views about the correctness of amendment 84. Parliament has taken many measures to help groups that have previously been discriminated against. We can take pride in that, but one unfortunate by-effect is that some people have mistakenly got the idea that we are in some way opposed to marriage. As a Parliament that represents society, we must make it clear that we support stable and long-term relationships of all sorts and we must encourage people who believe in marriage to get married. Many of us are married and know that it is helpful in going through the rocky patches that any relationship goes through. We have said it before, but I would like the minister to say again absolutely clearly that, in helping other groups, we in no way denigrate marriage, and that people who are forming relationships and who believe in marriage should be encouraged to get married. That would help to assuage many fears in the country.

Patrick Harvie (Glasgow) (Green): Christine May says that amendment 84 would introduce greater clarity, but we would have a bill with two forms of the same concept, using the terms “enduring” and “stable” respectively. Paul Martin, in closing, needs to explain with greater clarity what difference he intends the amendment to make. He says that it would strike the right tone. I

and many members have sympathy with the idea that we need to strike the right tone in our debates on the issue. However, even if we get the tone right, that will not mean that we have a created good legislation.

I am yet to hear how decisions would be different if amendment 84 were agreed to. If Paul Martin wants to convince undecided members, he must say what decisions are at present being made wrongly because such a provision is not in law, what decisions would be made wrongly if the provision was not part of the bill when it becomes an act and what difference he intends it to make.

Robert Brown: The debate has been useful. I say immediately that the Executive is taking a neutral stance on amendment 84. Nevertheless, it may be helpful to give members some background to the amendment, because some issues have been raised. At stage 2, Paul Martin lodged an amendment that sought to place a duty on courts and adoption agencies to consider married couples before any other prospective adopters. There was a lot of discussion about that and we resisted the suggestion on the ground that it would create a hierarchy of couples, with married couples automatically above all others, which we did not think was a desirable message to send out.

I echo Donald Gorrie's comments, which struck the right tone, to use Patrick Harvie's words. The Executive supports marriage and all forms of stable long-term relationships. It supports those relationships particularly as the backdrop to adoption legislation. However we arrive at it, the central issue is that the well-being of the child is paramount. Under section 9(3), that will be the overriding consideration that comes above all others. It could be argued that section 9 deals primarily with issues to do with the child, although as Irene Oldfather pointed out, it goes a bit beyond that and is on considerations that apply to the exercise of powers. Section 31 deals with the quality of adopters. One could make arguments about all that.

The central point for Parliament to determine is on definitions. Paul Martin wants to introduce into the bill the phrase

"the value of a stable family unit".

What does that mean? How is it defined? How will the courts interpret it? Those questions must be answered before Parliament decides on amendment 84. I was grateful to Paul Martin for not moving his amendment at stage 2, which was the right thing to do. At that time, we said that we would discuss the matter with him, which we have done.

Karen Gillon: What does the minister take amendment 84 to mean?

Robert Brown: It is for Paul Martin to define what he means by amendment 84.

The overriding consideration is that the stability of any couple who are adopting a child is of the ultimate importance. That is central. Section 31 will already require the court to consider, among other aspects, whether a couple who do not have the recognised legal status of marriage or civil partnership are living together in an enduring family relationship. In assessing whether a couple meets that requirement, a court will in essence consider the same factors as it would consider under amendment 84.

In my view and the view of my officials, amendment 84 would add no additional legislative meaning to the bill. However, it is for Parliament to decide whether the additional security that would be given by the amendment is important.

Bruce Crawford (Mid Scotland and Fife) (SNP): Will the minister confirm what legal advice the Executive has had on the terminology in amendment 84?

Robert Brown: I have just dealt with that. I said that the phrase "enduring family relationship" in section 31 seems to mean pretty much the same thing as the terminology in amendment 84. The official advice that we have is that the amendment would add no legislative meaning.

Dennis Canavan (Falkirk West) (Ind): If the Executive is neutral on amendment 84, will the minister tell us how he is going to vote and why?

Robert Brown: That is a matter that I will determine and indicate shortly. Members will see during the vote which way I will vote. I am putting forward the Executive's position on the matter.

Paul Martin: We have had a robust debate on an important element of the bill.

The issue of definitions has been raised. I can think of a number of definitions in sections of the bill and amendments that have been passed by the committee that have to be clarified. Some of them are quite straightforward. For example, section 15 says that the child should be

"at least 19 weeks old".

That is absolutely straightforward. However, section 17 says that the agency must submit a report on

"the suitability of the applicants".

How is the suitability of the applicants decided?

There are a number of definitions that need clarification in the bill. I accept that there could be a number of interpretations of amendment 84: many members have interpreted it in different ways. However, the important thing about the amendment is that section 9 deals with the

preparation stages of the adoption process, which I believe to be the most important part of the bill. It is the section that deals with the time when the future of the child is considered. I make no apologies to Patrick Harvie when I say that that is the part of the bill in which we set the tone for the consideration of the future of that child.

As Karen Gillon re-emphasised, children who are up for adoption will have been through a traumatic experience and some of them will have come from families that are not stable. I make no apologies for using the word "stable". The official definition of the word, in the "Oxford English Dictionary" is

"not likely to give way or overturn; firmly fixed".

I make no apologies for setting that in place. I think that we should make no apologies for ensuring that, at an early stage in the process, the child is given the best possible opportunity.

I appreciate that we should consider whether to include in the bill a number of definitions, but I could say that in relation to a number of amendments that members have lodged.

Mike Rumbles: Will the member give way?

Paul Martin: Mr Rumbles did not give way to me, so I will not give way to him.

I want amendment 84 to be included in the bill. It sets in place the tone for the future.

The Presiding Officer: The question is, that amendment 84 be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brownlee, Derek (South of Scotland) (Con)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Canavan, Dennis (Falkirk West) (Ind)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gillon, Karen (Clydesdale) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, John (East Lothian) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)

Johnstone, Alex (North East Scotland) (Con)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 McMahan, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Petrie, Dave (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Swinburne, John (Central Scotland) (SSCUP)
 Tosh, Murray (West of Scotland) (Con)
 Welsh, Mr Andrew (Angus) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Brown, Robert (Glasgow) (LD)
 Byrne, Ms Rosemary (South of Scotland) (Sol)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Fabiani, Linda (Central Scotland) (SNP)
 Finnie, Ross (West of Scotland) (LD)
 Fox, Colin (Lothians) (SSP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Glen, Marlyn (North East Scotland) (Lab)
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Grahame, Christine (South of Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Lochhead, Richard (Moray) (SNP)
 Lyon, George (Argyll and Bute) (LD)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Maclean, Kate (Dundee West) (Lab)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 Morgan, Alasdair (South of Scotland) (SNP)
 Neil, Alex (Central Scotland) (SNP)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robison, Shona (Dundee East) (SNP)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)

Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Swinney, Mr John (North Tayside) (SNP)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
 Wallace, Mr Jim (Orkney) (LD)
 Watt, Ms Maureen (North East Scotland) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

ABSTENTIONS

Hughes, Janis (Glasgow Rutherglen) (Lab)

The Presiding Officer: The result of the division is: For 59, Against 51, Abstentions 1.

Amendment 84 agreed to.

The Presiding Officer: Group 3 comprises minor and consequential amendments. Amendment 85, in the name of the minister, is grouped with amendments 89 to 93, 106, 107, 109 to 112, 114, 47, 48, 50, 55, 141 to 147, 149, 69, 70 and manuscript amendment 154.

Robert Brown: The group consists entirely of minor and technical amendments. Amendment 85 will remove from section 9 text that is no longer necessary because we accepted an amendment from Ken Macintosh at stage 2, which inserted similar text in the start of the section. Amendment 89 will remove section 24, which is unnecessary because its effect is identical to that of section 19(4).

Amendment 90 will insert a new and more modern phrase into section 27. The concept of placing a child for adoption is familiar to practitioners and is in keeping with the language and approach of the bill. A similar change will be made by amendment 93, which will amend section 28.

Amendments 106, 107, 109 and 110 will all make changes to references to a child's age. The amendments are purely technical and will ensure that, throughout the bill, the age of a child is referred to in a consistent way.

Amendment 91 will improve the clarity of section 27 and remove any potential for confusion by removing a circular reference to a relevant period within which a child must be returned to a local authority by prospective adopters.

Amendments 92, 111 and 114 will all remove definitions of a registered adoption society. We have now provided a single definition for the whole bill, which will be introduced by amendment 143.

Amendment 112 will replace the word "applicants" with the phrase "prospective

adopters", which is more accurate because, at the point in the process that section 65 deals with, people are not yet applicants. Continued use of the word "applicants" would also create internal consistency throughout the bill.

Amendment 47 is a drafting amendment that will make the wording of section 91(7) consistent with that of section 91A(4).

Amendment 48 requires more explanation. Members might be aware that there has been a great deal of discussion with stakeholders on what the interaction between the new permanence order provisions and the existing children's hearings provisions should be. I am grateful for the insights that the stakeholders have brought from their various perspectives and their differing views. I want particularly to mention Professor Kenneth Norrie, the BAAF, the Law Society and the Scottish Children's Reporter Administration in that regard. It is thanks to them that we have created a bill that will enable the two systems to work together for the benefit of the child. Amendment 48 is one of a number of amendments that will create that alignment. The amendment makes clear that it is only during the process of the application for a permanence order, and before the outcome of the application has been determined by the court, that no supervision requirement can be made or varied in relation to the child. Amendment 50 is consequential on amendment 48.

Amendment 55 will move section 92 to after section 93, which will improve the structure of the bill because section 92 deals with the duty to apply for variation or revocation, which should logically come after section 93, which provides the general power to revoke.

Amendment 141 will add clarity to the definition of "applicant", without changing its meaning. Amendment 142 will add clarity to the definition of "guardian", without changing its meaning. Amendment 144 will improve the definition of "relative". It will provide that grandparents, brothers, sisters, uncles and aunts be considered relatives of a child, whether by half-blood or full-blood and whether or not by affinity. The amendment will also include civil partners of relatives within the definition. Amendments 145 and 146 will remove text that has been made redundant because of clearer definitions at section 111.

Amendment 147 relates to an insertion into the Social Work (Scotland) Act 2001 and includes the relevant sections of the bill in references to regulation-making powers. The amendment will make paragraph 11 of schedule 2, the effect of which is the same, unnecessary. Amendment 149 will remove it.

Amendments 69 and 70 will combine two subsections into a single subsection and will change the order of references in the subsection to reflect the order as stated earlier in the bill.

Finally, amendment 154 is a technical amendment that will ensure that the reference to “relevant person” is inserted in the correct place.

I will be sitting an examination on this group of amendments at the conclusion of today’s proceedings.

I move amendment 85.

Amendment 85 agreed to.

After section 9

The Deputy Presiding Officer (Trish Godman): Group 4 is on onward referral of prospective adopters. Amendment 86, in the name of Michael McMahon, is the only amendment in the group.

10:15

Michael McMahon (Hamilton North and Bellshill) (Lab): In speaking to my amendment 86, I will be as brief as possible and limit my explanation of its purpose to two points. The first is legislative and the second is practical.

The issue of how faith-based adoption agencies will operate under the new legislation has featured at every stage of deliberation on the bill. In spite of assurances from ministers, those who work in the faith-based agencies remain concerned that they will not be able to continue to operate as they would like to unless legal protection is provided to them.

It is important to note that my amendment would not take away any entitlement that is given to anyone in the bill. It seeks merely to protect the status quo as it relates to the faith-based agencies. Some have argued that the protection that the agencies seek can be provided in regulation, but the reality that they face is that there may be some who, in order to pursue an unreasonable test of the law, will seek to force faith groups to act against their philosophical beliefs.

This might not be the best analogy to use, but the Parliament introduced an act to deal with the fur farming trade not because of what it was doing—in fact, such a trade did not exist in Scotland—but because of what might happen if legislation did not exist to prevent the emergence of an unwanted scenario. That is all that the faith-based adoption agencies are seeking through the amendment—to be protected from what might happen.

There are other, possibly more important, practical considerations. The faith-based agencies

do not have to exist, but they do exist, due to a desire to provide a specific form of adoption service. In doing so, they provide a service that is used by the wider community and which supports the public authorities. If, for whatever reason, the agencies are prevented from operating under their own auspices, they might not be able to continue to provide a service at all. The resultant gap in service provision would have to be filled somehow and the funding would have to come entirely from the public purse. The agencies receive financial support from the public purse, but a huge section of their funding comes from charitable donations. The agencies would not be able to continue without either funding stream.

I ask members to support my amendment, because I believe it to be a reasonable amendment that would do no more than enshrine the status quo in the bill, which will be an important piece of legislation.

I move amendment 86.

The Deputy Presiding Officer: A considerable number of members wish to speak, so I will give members a strict two minutes.

Dr Murray: During the Education Committee’s consideration of the bill, we heard evidence from the faith-based agencies and we considered the issue of their not being forced to do things that would be against their conscience. It is important that they are protected and not forced to do anything that is against their conscience and their ethos, but the minister assured us at stages 1 and 2 that nothing in the bill will change the current situation and that the matter could be dealt with in guidance.

I have some concerns about that, and I am also concerned that amendment 86 does not say anything about people’s right to exercise their conscience. It states only that adoption agencies must refer people on. I have some anxiety about the wording of the bill, and I would like to hear a little more about the effect that the amendment would have on the faith-based agencies. Could the matter be dealt with less controversially in guidance?

Margaret Smith (Edinburgh West) (LD): Amendment 86 is unnecessary. Not only does it reflect what happens at the moment, but the matter is already covered in guidance and the national standards, so there appears to be no need for it. Ministers have given the faith-based agencies clear assurances.

I seek guidance from the minister, because it seems to me that the amendment relates at least in part to a reserved matter. The question of whether an adoption agency can turn people away is a matter for anti-discrimination law. The Labour Government’s legislation on discrimination in the

provision of goods, services and facilities will cover any services that are bought on contract with public money and it will be effective from April next year. An affirmative instrument will be laid early next year. I ask the minister to comment on how amendment 86 would sit with that.

The amendment is illogical, discriminatory, or both. It states:

“Where an adoption agency decides not to assess a person as a prospective adopter ... it must refer that person”

elsewhere. However, on what basis would an agency decide not to assess someone? On what basis would it refer the person on? Surely that assumes that some assessment has already taken place.

We know the reason for the amendment, because Mr McMahon was explicit about what he meant at stage 2: the Catholic adoption agencies want to be able to turn away gay couples and unmarried couples without properly assessing their ability to be good parents. An assessment will be performed, but it will be no more than an assessment of whether the couple are unmarried or gay. It will not assess whether the couple can provide a child with a loving family home. Current practice runs counter to the amendment, in that an assessment of sorts would have to be done.

In the end, referring prospective parents elsewhere is simply discrimination once removed. Would the Parliament support the amendment if it was targeted at Catholic couples, Muslim couples, black couples or women? It would not. Neither, then, should it pander to the discrimination against unmarried or gay couples.

Lord James Douglas-Hamilton: I am glad to support Michael McMahon’s amendment, which is wise and far-sighted and should be supported by the Parliament. He raises an issue that I raised with the minister during the stage 1 debate. In response to my question, the minister said that it was not necessary for the bill to state explicitly that faith-based adoption agencies would not be compelled to help same-sex couples to adopt. I believe as a matter of conviction that it is right that we should not put people in positions in which they are expected to act against their religious faith or principles, whether their religion is Christianity, Islam, Judaism or any other. It is wrong to think that we are talking only about Catholic-based agencies. We are dealing with a much bigger issue than that.

I made it clear that, although I welcomed the minister’s reassurance, it was desirable that this sensitive matter should be clarified in the bill. As Margaret Smith rightly said, other legislation could give rise to legal actions against faith-based agencies. The amendment would send a clear

signal to faith-based agencies that their valued work can continue unhindered in a way that is acceptable to everybody concerned.

The Deputy Presiding Officer: Before I call Fiona Hyslop, I use my power under rule 9.8.4A to extend the debate on the next group by 20 minutes, which must conclude by one hour and 25 minutes after the time that proceedings began.

Fiona Hyslop: The SNP values the role that faith-based agencies play in adoption, and the Education Committee was extremely impressed at stage 1 by their contribution. All parties—including Lord James, Elaine Murray, Kenneth Macintosh and others—agreed that the bill will not prevent faith-based agencies from referring people on. Why would we include in the bill something that is not necessary? We have an assurance from the minister that the faith-based agencies will continue to be able to refer people on. It is right for them to be able to refer on those people whom they cannot help.

There is another argument about the philosophy and the approach of the bill, which puts the rights of the child first. Indeed, the only rights in the bill are the rights of children. That reflects the history of children’s policy and the Children (Scotland) Act 1995, which put the rights of children first. To put the rights of adoption agencies or the rights of adoptees—

The Minister for Education and Young People (Hugh Henry): Will the member take an intervention?

Fiona Hyslop: May I take an intervention, Presiding Officer?

The Deputy Presiding Officer: Very briefly, minister.

Hugh Henry: If I could perhaps address the point about the national care standards and why Michael McMahon thinks it is important for the matter to be covered in the bill, there is a slight difference of emphasis, because he is addressing some of the concerns that adoption agencies might not be able to—

The Deputy Presiding Officer: Minister, it is an intervention.

Hugh Henry: Sorry.

The Deputy Presiding Officer: I can give Fiona Hyslop only two minutes.

Hugh Henry: Okay.

The Deputy Presiding Officer: Carry on, Ms Hyslop.

Fiona Hyslop: I know that there is a difference of opinion within the Executive, but the minister should not use the Opposition to make that point.

It is important that the bill does not give rights to adoption agencies or adoptees. Such rights would be superfluous, because the rights of children are paramount.

Michael McMahon used the Fur Farming (Prohibition) (Scotland) Act 2002 to justify his amendment, but that reveals the flaw in his argument. We want faith-based agencies to be able to refer people on and there is nothing in the bill to prevent that. On those grounds, I reject amendment 86.

Kate Maclean (Dundee West) (Lab): I speak strongly against amendment 86. If we insert the provision that it proposes into the bill, we will give a green light to adoption agencies to discriminate. The main priority of any adoption agency, faith-based or otherwise, should be the good of the children with whom they are dealing. If we give any agency the right to discriminate, that will not be the case.

Karen Gillon: If the argument against amendment 86 is that it is unnecessary because the matter is already covered in guidance, is the member happy with the guidance containing the exemption that the amendment suggests?

Kate Maclean: No, I am not happy with the guidance. Two wrongs do not make a right. The anti-discrimination legislation that will come into force next year will take care of that and will probably make the provision that amendment 86 would insert obsolete anyway. If any organisation feels that for ethical or moral reasons it cannot conduct its business within the law, it should not be in that business. I urge anybody who cares about children and equal opportunities to oppose amendment 86.

Patrick Harvie: Lord James Douglas-Hamilton told us that amendment 86 is wise and far-sighted, but it is exactly the opposite. If some adoption agencies are going to continue to discriminate, it is a good idea that they refer people on to an agency that will not discriminate. It is a good idea to have that rule. However, it is a bad idea for us to pass an amendment to put that in the bill because, as Kate Maclean says, that will be taken as our sanctioning and explicitly approving of such discrimination in law.

We can have an argument about whether such discrimination is acceptable or unacceptable. What surprises me most is that it was Michael McMahon who lodged amendment 86, given that his party wants Westminster to deal with discrimination issues for us. His party is dealing with such issues at Westminster through legislation and policy.

It strikes me as short-sighted and unwise for members to agree to an amendment that cuts across the anti-discrimination work that is being

done, whether they are in the party that is progressing that work or an Opposition party. I ask members not to support amendment 86, not to give discrimination an explicit endorsement and not to cut across the future work on equality that will be done elsewhere.

Iain Smith: Fiona Hyslop highlighted the cross-party support for the position taken at stage 1 that there is no need to insert in the bill the provision that amendment 86 proposes, given that faith-based agencies will be able to continue to operate in the way that they do at present. At stage 1, it was suggested that there was such a legal opt-out in the equivalent legislation in England and Wales, but that is not the case. Neither the Adoption and Children Act 2002 nor the associated subordinate legislation contains any such opt-out. No one has presented evidence to suggest that faith-based adoption agencies in England and Wales have any difficulty operating within that legislative framework, so I do not see why they would have any difficulty working under the proposed Scottish framework. There is no need for amendment 86 to protect the position of faith-based organisations.

We have to address the issue of discrimination. The guiding principles of the Parliament require us to recognise the need to promote equal opportunities for all. If we want to be true to our responsibilities, we must reject amendment 86. Should we put in the bill a provision that says that it is okay to discriminate? Margaret Smith referred to the grounds on which it would be possible to assess a person as a prospective adopter. It would not be acceptable to discriminate on the grounds of race or disability—that would cause an uproar—but, apparently, it is okay to discriminate on the ground of sexual orientation. The proposed provision says, in effect, that the judgment of an adoption agency about who is suitable to adopt can be made on grounds that have nothing to do with whether they would provide a secure, safe and loving home for a child.

The bill will not prevent faith-based adoption agencies from continuing to operate according to their own faith-based criteria, but we should not put in the bill a provision that gives them a specific right to discriminate.

10:30

Susan Deacon: In the discussion on an earlier amendment from my colleague Paul Martin, we were told how important it was that we set the right tone in legislation and that we send out the right messages. That is true, and we should think about that carefully when we vote on amendment 86 and as the day progresses. In all the earlier discussions at stages 1 and 2, we united around the clear message that what mattered was Scotland's children and that what was best for

them would be at the heart of our consideration of the bill.

In the light of earlier debates and decisions, we are in danger of sending out a message that, rather than acting in the best interests of all Scotland's children and considering all the evidence and the measured discussions that there have been over many years, at the last minute we are willing to bow to just one voice, one view and one constituency of opinion. That is the wrong message to send out, and we should remind ourselves what the bill is about.

Faith-based adoption agencies are terribly important, which is why the Education Committee considered the matter carefully and why ministers have given firm assurances. That is the right way to deal with the matter. I urge colleagues to reject amendment 86.

Mike Rumbles: The key issue is how adoption agencies decide not to assess a person as a prospective adopter. Can adoption agencies just turn away anyone whom they want to turn away? Amendment 86 refers clearly, in effect, to Catholic adoption agencies. However, such agencies—which I have to say do a fantastic job—are specialist adoption agencies; they do not take everybody. The guidance already allows specialist adoption agencies to refer people who do not meet their criteria to other adoption agencies. What is wrong with that? I am happy with the guidance, which seems perfectly fair, logical and reasonable. There is no legal doubt about it.

Karen Gillon: Is guidance legally enforceable?

Mike Rumbles: Let us not dance on the head of a pin. The guidance is clear. We are talking about enshrining in the law of the land the ability to discriminate, which is completely wrong. If we agree to amendment 86, we will, as many of Karen Gillon's colleagues have said, enshrine discrimination in law, and I will be ashamed of her if she supports it. As others have rightly said, we must not pander to prejudice, but consider the interests of our children first and foremost.

The Deputy Presiding Officer: Hugh Henry has asked whether he can speak and, given that he will not be the minister summing up, and that it is clear that members are concerned about this issue and wish to have as much dialogue on it as possible, I will call him after Ken Macintosh.

Mr Macintosh: I am uneasy about some of the debate that we have had about amendment 86. I remind members that the bill is not a gay rights bill or a bill about married or unmarried parents, but a children and families bill. I say without hesitation that I will reject some of Roseanna Cunningham's later amendments, because I regard them as anti-gay.

It is clear that some members also see amendment 86 as discriminatory, which is unfortunate, to say the least. I for one would not vote for something that I saw as discriminatory. It is interesting—and, I hope, reassuring—to note Margaret Smith's comment that not only do we already have strong anti-discrimination legislation in this country, but further measures to reinforce the law are being pursued at Westminster. In other words, the provision proposed in amendment 86 will not be able to be used to discriminate against anyone on the grounds of their sexuality or marital status. On the contrary, the provision is worded in positive rather than negative language. It does not say what an adoption agency cannot do, but what it should do to assist anyone who comes forward as a potential adopter.

Does anyone here seriously question the excellent work carried out by faith-based adoption agencies? As my colleague Wendy Alexander pointed out at stage 2, we do not have enough voluntary sector adoption agencies as it is.

I will finish by drawing parallels. I regard faith-based adoption agencies in a similar way to how I regard denominational schools. It is important for the huge number of people in this country for whom faith is core to their values and upbringing that they have access to an adoption agency that reflects that faith. A parallel approach—this reflects my support for amendment 86—is positive action rather than positive discrimination. The amendment does not discriminate against anyone, but positively supports those who value their religious faith.

The Deputy Presiding Officer: I call Hugh Henry, who will be followed by Karen Gillon.

Alasdair Morgan (South of Scotland) (SNP): On a point of order, Presiding Officer. What precedent exists for calling a second minister to speak at such a stage? It is understandable that special treatment should be given to a minister who is leading on a bill for the Executive, but another minister should be treated in exactly the same way as an ordinary member is treated. I seek an assurance that if Hugh Henry is called, all members of other parties who seek to speak in such debates will be treated in the same way.

The Deputy Presiding Officer: I hope that I treat members fairly. I decided to call Hugh Henry as an ordinary member, which is why I made my announcement.

Hugh Henry: As Robert Brown said, the Executive is neutral on the issue. However, I hope that I can clarify several matters that have been raised. [*Interruption.*] I will attempt to do so as an ordinary member. Indeed, I have the right to do so.

It has been suggested that the national care standards should not apply. Some people want

them to be abolished. However, we must be clear that the debate is not about abolishing the national care standards—they will still exist and will ensure that what amendment 86 suggests should be done will be done. A slight difference is involved, however, with respect to the duty to refer people who cannot be assessed to another adoption agency. Michael McMahon has suggested that we should go further than the standards in saying that we should ensure that a person shall be referred to another agency. That addresses the point that Patrick Harvie made about it being right to refer people on.

Fiona Hyslop: I have a serious point to make. Does the minister see the amendment having any unintended consequences, not in relation to faith-based agencies but in relation to local authorities, which are defined as adoption agencies?

Hugh Henry: I do not see any unintended consequences. Robert Brown gave assurances on the consequences at stage 2. Michael McMahon seeks to clarify matters and to ensure that people will be referred to another agency—I refer to the point that Patrick Harvie made. The opportunity for an agency to discriminate will be avoided. The question whether discrimination had occurred would depend on the reasons for the referral.

Karen Gillon: The debate is developing into a debate on the rights of adults as opposed to the rights of children, but nobody in Scotland has the right to adopt a child.

Like Ken Macintosh, I would not support any form of institutionalised discrimination, but respect cuts both ways. I respect the rights and views of faith-based adoption agencies, including their right to have their views heard in this chamber and to be heard and respected in Scotland. The difficulty with debates such as this one is that respect seems to go in only one direction.

I will support Michael McMahon's amendment 86, because it is right that we should respect faith-based organisations, which make an important contribution to Scotland's public life. It is also right that we should respect the right of people in the gay community and people from every part of society to seek to adopt. That said, no person has the right to adopt.

Robert Brown: Peter Peacock and I made it clear to the Education Committee and the Parliament that the Scottish ministers want faith-based adoption agencies to continue their work, which is a valuable additional service to the services that local authorities and others offer. Indeed, I want faith-based adoption agencies to find more adoptive parents, to provide services to a range of adults and children, and to appeal to their faith-based communities to secure more adoptive parents who can meet all the stringent

requirements of the adoption process and can give good homes to children who need them. That is the central point that we should bear in mind.

Ministers have consistently made it clear that nothing in the bill will alter the position or practices of Roman Catholic adoption agencies. In practice, if an adoption agency thinks that it is unable to assist a child or prospective adopter, it should refer them to another adoption agency that could provide the necessary service and support. That is the current practice of adoption agencies.

Karen Gillon: Will the minister take an intervention?

Robert Brown: No, I will continue.

Standard 20 of the national care standards for adoption agencies includes a power to refer people who cannot be assessed to another agency, so the amendment will make no difference to what happens in practice. I hope that the Roman Catholic adoption agencies will be reassured by the reassurances that have been given at stage 2 and today on that matter.

I will deal briefly with the Westminster equalities legislation, which has been mentioned and is an important backdrop for information. As members are aware, consultation is being carried out on regulations on discriminatory practice in the supply of goods and services under that legislation. The Parliament will want to consider whether including the proposed provision in the bill would be helpful. It would not affect what may happen at Westminster. Equalities legislation is UK legislation, and agencies will be required to comply with it and regulations that are made under it. Peter Peacock and officials have engaged with the UK Government on how agencies will be affected. However, I say again that we do not intend to affect the practices of the Roman Catholic adoption agencies; rather, we want them to continue to do their good work.

The matter must be decided by members: as has been said, the Executive has taken a neutral stance. However, that background information will help members in putting matters in context as they make a decision on amendment 86.

Michael McMahon: I will press amendment 86.

It has been made clear to me that faith-based adoption agencies want to operate within the provisions of the bill, but they fear that they will not be able to do so unless they are given the legislative protection that they need. Despite the minister's assurances, they are not reassured that that will be the case.

As Elaine Murray and other members have said, the agencies currently refer people on, and they have been advised that they can continue to do so. If they are referring people, they cannot be

being discriminatory, therefore all the arguments about inclusion of the provision in the bill being discriminatory cannot be justified. There is no logic in such an argument. Indeed, the Scotland Act 1998 seeks to protect religious beliefs and compels us to ensure that that is done. Protecting faith-based agencies is not pandering to discrimination and prejudice, but not protecting them could result in prejudicial action being taken against a religious group.

Iain Smith: I said that the legislative framework that the bill proposes already exists in England and Wales, and there is no evidence that faith-based organisations there have any problems operating under it. Does the member have any evidence of problems for organisations that are working under that framework in England and Wales?

Michael McMahon: I have been told by the faith-based adoption agencies that they are concerned about what might happen. That is why the amendment was lodged.

I want to respond to what Fiona Hyslop said and to refer to comments that she made at stage 2. I have not used the word "rights". The issue is not that someone's rights will be taken away or that rights will be given; the issue is protection for agencies so that they can operate within the law.

The fear of the faith-based adoption agencies that they will be forced out of business has been confirmed by what members have said. It is clear that some people want faith-based adoption agencies to operate outwith the criteria that they set and to be told by the Parliament how they will operate, despite their religious beliefs and the ethos under which they are delivering a first-class service.

If amendment 86 creates any difficulties, I cannot understand how we can solve them by dealing with matters in guidance or regulations. There is no logic in saying that it is all right to deal with such things in regulations rather than in the legislation. I do not follow how anyone can believe that providing protection to one group for the delivery of a service without taking away anyone's entitlement must be discriminatory and will diminish the service that is being provided.

The reality is that faith-based adoption agencies provide a high-level service. I cannot believe that the Parliament would wish to do anything that would take them out of the sector in which they operate and deliver that high standard of service. I therefore ask members to support amendment 86.

10:45

The Deputy Presiding Officer: The question is, that amendment 86 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Canavan, Dennis (Falkirk West) (Ind)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gillon, Karen (Clydesdale) (Lab)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, John (East Lothian) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Johnstone, Alex (North East Scotland) (Con)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Matheson, Michael (Central Scotland) (SNP)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Petrie, Dave (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Tosh, Murray (West of Scotland) (Con)
 Welsh, Mr Andrew (Angus) (SNP)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Brown, Robert (Glasgow) (LD)
 Brownlee, Derek (South of Scotland) (Con)
 Byrne, Ms Rosemary (South of Scotland) (Sol)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)

Curran, Frances (West of Scotland) (SSP)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Fabiani, Linda (Central Scotland) (SNP)
 Finnie, Ross (West of Scotland) (LD)
 Fox, Colin (Lothians) (SSP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Glen, Marlyn (North East Scotland) (Lab)
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Lochhead, Richard (Moray) (SNP)
 Lyon, George (Argyll and Bute) (LD)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Maclean, Kate (Dundee West) (Lab)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 Morgan, Alasdair (South of Scotland) (SNP)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Neil, Alex (Central Scotland) (SNP)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robison, Shona (Dundee East) (SNP)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinburne, John (Central Scotland) (SSCUP)
 Swinney, Mr John (North Tayside) (SNP)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
 Wallace, Mr Jim (Orkney) (LD)
 Watt, Ms Maureen (North East Scotland) (SNP)
 White, Ms Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)

ABSTENTIONS

Boyack, Sarah (Edinburgh Central) (Lab)

The Deputy Presiding Officer: The result of the division is: For 55, Against 58, Abstentions 1.

Amendment 86 disagreed to.

Section 16—Home visits

The Deputy Presiding Officer: I am using my power under rule 9.8.4A of the standing orders to extend the debate by a further 10 minutes. The debate on group 5 must be concluded by one hour and 35 minutes after the time that proceedings began.

Group 5 is on the location of the residence of

applicants to adopt. Amendment 87, in the name of the minister, is grouped with amendment 88.

Robert Brown: Amendment 87 relates to adoption under Scots law when the applicant does not have a home in Scotland. Under the Adoption (Scotland) Act 1978, people who are domiciled in Scotland but who are living in another country are eligible to adopt under Scots law; however, the act is silent on which local authority should be given notice of an application by the prospective adopter and which local authority must see the child in the home of the prospective adopter.

At stage 2, Lord James Douglas-Hamilton lodged an amendment to specify that the relevant local authority would be the one that was chosen by the applicant and approved by a court. He withdrew the amendment, however, after I assured him that we would address the matter at stage 3. It was an absolutely valid point that he raised. It seems to me that it is not necessary to require a court to approve the local authority. That would be overly bureaucratic and would require overseas applicants to face additional, unnecessary hurdles that Scottish-based applicants are not required to face.

Amendment 87 places the duty on the local authority in whose area the applicant has a home. If the applicant does not have a home in Scotland, it places the duty on the local authority that the applicant has notified. I think that that is a reasonable solution. When the applicant does not have a home in Scotland, it is probable that they will choose a local authority with which they have some connection—perhaps where they lived last or where the child lived in Scotland. I do not think that the approach will result in certain local authorities being deluged by such notifications, as this type of case is very rare. More than that, the consistent approach to the assessment of prospective adopters throughout Scotland should mean that no particular advantage would be gained by notifying one local authority rather than another.

This is a small part of the bill dealing with a situation that will not arise very often; nevertheless, it is important that we get the provisions right. It is a child protection issue, and we should not allow technical issues to prevent adoption by persons overseas under the supportive structure of Scots law that the bill would put in place. I ask members to support amendment 87, and I pay tribute to Lord James Douglas-Hamilton for raising the issue in the first instance.

I move amendment 87.

Lord James Douglas-Hamilton: I will be brief. I thank the minister for these amendments, which emphasise the fact that adoption by people who

live overseas will be readily achievable in practice, where that is appropriate. The amendments also put in place mechanisms to ensure home visits that are comparable to those that are received by prospective adopters who live in this country, which is a necessary safeguard.

Amendment 87 agreed to.

Section 18—Notification to local authority of adoption application

Amendment 88 moved—[Robert Brown]—and agreed to.

Section 24—Duty to give notice where child looked after by other local authority

Amendment 89 moved—[Robert Brown]—and agreed to.

Section 27—Return of child placed for adoption by adoption agency

Amendments 90 to 92 moved—[Robert Brown]—and agreed to.

Section 28—Looked after children: adoption not proceeding

Amendment 93 moved—[Robert Brown]—and agreed to.

Section 31—Adoption by certain couples

The Deputy Presiding Officer: Group 6 is on adoption by same-sex couples. Amendment 94, in the name of Roseanna Cunningham, is grouped with amendments 95 to 98.

Roseanna Cunningham (Perth) (SNP): I echo what Karen Gillon said—that there is no such thing as an absolute right to adopt for anyone, no matter what their circumstances are. Many heterosexual couples and single people are turned down for a wide variety of reasons. I presume that, if the bill is passed unamended, many same-sex couples will also be refused, for a wide variety of reasons.

Much of the debate that has raged over the past week has been based on the premise that this is something to do with gay rights. It is not. I do not believe that it has anything to do with gay rights. It is about what is in the best interests of the children—although, clearly, there is a difference of opinion as to what that might be. Is that difference of opinion not to be reflected in the chamber? The truth is that including same-sex couples in the category of those who can apply to adopt gives many people serious cause for concern. Indeed, if the results of the Executive's consultation exercise are an accurate reflection of the view in the country, that must include a majority of Scots.

I share those concerns, and I said so during the stage 1 debate on 13 September. I know that that

came as something of a shock to people, as I do not suppose that I was ever in the category of the usual suspects. However, because I did not feel that what the bill proposed was right, I had a choice to make. I could have said nothing. Some people have suggested that that is what I should have done. That would certainly have been the easy way out. However, I believe that families matter. It is society's networks of families that are its strength—I assume that that is a given. The traditional family pattern is still what prevails throughout society in Europe, Africa, Asia and the Americas. It is under stress, to be sure, but it still provides the basis for the upbringing of the vast majority of children, and society is the poorer when it breaks down, as we frequently debate in the chamber under different headings.

Patrick Harvie: I do not think that any of us would disagree with the member's assertion that we should protect the great majority of children; however, we should also protect the minority. Her amendments do not prevent children from being brought up by same-sex parents, as has always been the case—there have always been same-sex parents—but they remove the legal protection of both parents when the child has been adopted. Why is that the right way in which to protect that minority?

Roseanna Cunningham: The amendments do not remove any existing protection; they simply reinstate the current scenario, to which I understand that the member objects.

In the early stages of the bill, the Education Committee noted that there was little evidence, one way or the other, in respect of same-sex adoption because of the lack of available research. It took that to mean that there should be no bar on same-sex adoption. I take it to mean that we should tread cautiously. Frankly, I feel reinforced in that view when even the Institute for Public Policy Research—not known for its right-wing approach on issues—has recently made it clear that all the evidence shows that

“children who grow up in an ‘intact, two-parent family’ with both biological parents do better on a wide range of outcomes”

than those who do not. A Child Trends research brief from 2002, which may be where some of the IPPR's information comes from, summarises the position as follows:

“research clearly demonstrates that family structure matters for children, and the family structure that helps children the most is a family headed by two biological parents in a low-conflict marriage.”

Those may be challenging assertions for some people but, frankly, if that is where the evidence takes us, I have to ask the question: do not children who are placed for adoption have the same right as those who have not lost their

parents to have the chance to be taken into a family that accords with the traditional form?

Iain Smith: I am slightly confused by the logic of Roseanna Cunningham's argument, which appears to be that even if parents abuse their child or cannot cope with bringing up their child because they have drug problems, they should stay with that child because they are the biological parents, and the child should not be taken away to be adopted by parents who would be safer.

Roseanna Cunningham: I say with the greatest respect to Iain Smith that that is not the logic of my argument. He is arguing on the basis of false comparisons. We can all trade worst-case scenarios. I am trying to argue for the best case.

We already know that age limits apply to adoption and fostering. Perhaps that is age discrimination, but I presume that we set those limits on the basis of what we believe to be in the child's best interests. That is all that I am concerned about.

The language that I have used is deliberate, because I do not believe that people must believe in God to be persuaded by hundreds of thousands of years of human biology. We are what we are. I am heartened by the many messages of support that I have received. I note from *The Scotsman* yesterday that that includes support from no less than Professor John Haldane.

Linda Fabiani (Central Scotland) (SNP): Who is he?

Roseanna Cunningham: My colleague Linda Fabiani says, "Who is he?" She knows perfectly well who he is.

I do not expect everyone to agree with what I have said; I am simply doing what I believe to be the right thing.

I move amendment 94.

The Deputy Presiding Officer: I wish to call a considerable number of back benchers but I may not be able to call them all. Each speaker has a tight two minutes.

Jackie Baillie (Dumbarton) (Lab): I speak against Roseanna Cunningham's amendments 94 to 98. Like many members, I have thought long and hard about the issue. It is important to set the discussion in context. Karen Gillon was right to say that absolutely no one—whether heterosexual or homosexual—has an automatic right to adopt. Adoption—never mind fostering—is not decided overnight. A comprehensive and detailed assessment is made of a family's suitability in the context of the child's interests. The courts decide every case on the basis of what is in the best interests of the child, not the adopter.

That is the nub of the matter. Children are of paramount importance in the debate. We all

acknowledge that children need stable and loving families. Without question, they deserve the best possible start in life. It is worth reflecting on the known outcomes for children who live in care, no matter how good that care is. Those children have lower educational achievements and poorer health than children of the same age and they are more likely to have experience of the criminal justice system. Children of all ages and stages of development need love and support. Knowing all that, I find it difficult to think that anyone honestly believes that creating inappropriate barriers to adoption is right.

Somebody who came to the debate cold would be forgiven for thinking that we were considering for the first time giving homosexual people the right to adopt. Fiona Hyslop is right—the bill is entirely about the rights of children and not those of anybody else. However, homosexual people have been able to adopt since the 1930s—almost 80 years ago—so that is nothing new. A large number of same-sex couples are parents and many have adopted, but in such cases, only one person is legally recognised as the parent. The bill will allow both parents to be so recognised.

I have examined the bill's sections again and again. They do no more or less than afford both parents the right to be recognised as parents. They do not confer new rights to adopt, diminish the fact that the child's interests are of paramount importance or replace the detailed and comprehensive assessment of a family's suitability.

The Deputy Presiding Officer: You should finish now.

Jackie Baillie: I urge the Parliament not to prevent any child from having the best possible start in life and I urge members to reject the amendments.

11:00

Margaret Smith: I oppose the amendments in Roseanna Cunningham's name, which take us to the question that many have asked: what is the bill all about? It is about what is in the child's best interests and about providing children—many of whom are in care—with a safe, stable and loving family home. Set against that background, the amendments not only discriminate against gay couples, but are illogical and in children's worst interests.

The right of gay couples to adopt jointly is supported by the Parliament's Education Committee, the British Association for Adoption and Fostering, the Church of Scotland, Engender, children's charities such as Barnardo's, lesbian, gay, bisexual and transgender groups, the Equal Opportunities Commission and Unison. Some

seek to portray the issue as being about the right of gay people to adopt. That might be the case if gay people had never been able to adopt but, as we have heard, that is not the case. The bill will simply extend to people the right to come forward as prospective parents as couples rather than individuals. The bill aims to expand the pool of prospective parents and to give children greater stability.

Today, I speak primarily as a mother of five children. I say on the record that I therefore have no intention whatever of using the bill myself.

Since the 1930s, the law has allowed single, unmarried and gay people to adopt children. In fact, couples are often assessed together, but only one partner can assume legal rights. People who put themselves forward to be adoptive parents know that they will be vetted strenuously—that is right—yet gay and single people have managed to adopt and no evidence suggests that they are anything other than loving parents.

The bill will help to clarify the situation so that a child can be adopted by both partners, unlike at present, when only one partner can become the legal adoptive parent. What happens when a parent dies or when a couple split up? Why add more trauma to a difficult time for a child by requiring the other partner to go to law to try to become a legal parent? Why continue to have households in which the state perpetuates unequal legal relationships between parents and their children?

The Deputy Presiding Officer (Murray Tosh): You must close.

Margaret Smith: I hope that the Parliament will defeat the amendments overwhelmingly and send a clear message to Scotland's children that their welfare is our foremost concern. We want them to live in happy, stable and loving family homes in a tolerant and modern country in which discrimination of all kinds is tackled and defeated.

Fiona Hyslop: The Scottish National Party rejects the amendments in Roseanna Cunningham's name and will vote against them, because they do not reflect the SNP's view. The debate must be about children's rights, not about adults' values. As Karen Gillon said, the debate is in danger of becoming a debate about values and about what adults think of other adults, when it should be about what is in the child's best interests.

I agree with Paul Martin, because I think that enduring family relationships and stable family units provide the best way to ensure continuing stability for children. That is right, but we did not need Paul Martin's amendment. We acknowledge that couples can provide an enduring family relationship. As Margaret Smith said, we must

ensure legal stability if one member of a couple dies, so that children who are affected have a parent who can continue the enduring family relationship and the family unit. Precisely for the reasons that Paul Martin gave, we must ensure that same-sex couples can adopt as couples and not just as individuals.

We must reflect on the fact that we live in a world in which people are not queueing to adopt or to foster. People who wish to adopt or foster are valuable individuals and we must encourage, in a fair way, more people to adopt or foster.

I want a Scotland in which children's rights are paramount. I do not want to hear about the old arguments and the old ways of Scotland. I want a new, modern and progressive Scotland. Sometimes, it is easy to be popular and more difficult to be right. Let us be right.

Lord James Douglas-Hamilton: What I will say is exactly what I said when I took the Children (Scotland) Bill through the House of Commons: the child's interests must be paramount. Roseanna Cunningham's amendments are far too discriminatory. I will give just one example. In a close-knit family, if the father and mother were killed in a tragedy or a car smash, would it be right or appropriate to discriminate against the devoted uncle who happened to have a gay partner? It would not be, because the uncle and his partner might be the best people to act in place of the parents.

A blanket discriminatory ban is not in keeping with the spirit of the 21st century. No legislative bar should prevent social work professionals on the ground and experts in court from allowing the best and most suitable adoptions to proceed. I personally oppose the amendments.

Patrick Harvie: I am pleased that members from across the political spectrum are speaking against the amendments and labelling the amendments clearly as prejudiced. Prejudice is wrong not only because it is nasty and hurtful. It is wrong to prejudge same-sex couples as inadequate parents not only because it insults them, but because it removes the possibility of making the right decision in the circumstances when they are appropriate and worthy couples to be adoptive parents. The amendments are wrong in principle and in practice.

To read some of what has been said in correspondence that we have received and the coverage of the subject in the media, one might almost imagine that a gang of adoption agencies was going round knocking on the doors of every same-sex couple and billeting children with them at random. We are talking about making careful decisions about every couple and every applicant on their own terms. To allow joint adoption so that

a person may become an adoptive parent with their partner is absolutely logical.

Some of the other nonsense that we heard in the media included phrases such as “against nature’s design”. That is obviously a religious argument and if one wants to make such an argument, one is perfectly entitled to, but nature does not have a design. In nature, sexual diversity is the norm everywhere—in all species, in all human societies at all times. Same-sex relationships have always existed; some same-sex couples have always been parents. We will do completely the wrong thing today if the chamber does not comprehensively reject the introduction of prejudice into the bill.

Scott Barrie (Dunfermline West) (Lab): I, too, oppose the amendments in Roseanna Cunningham’s name. The bill refers to the concept of enduring family relationships in numerous places and we have discussed that already. Before Roseanna Cunningham moved her amendments, she said that families matter. It is true that families matter, but they come in all shapes and sizes. As we pass the bill today, we have to recognise the Scotland of 2006 and not the Scotland of 1978, which was the last time that we had a major reform of our adoption law.

As other people have said, it is not the case, that single people cannot adopt; the difference is that they cannot adopt as part of a couple. If we are serious about giving young people the best opportunity in life to experience a stable family environment, it is important that people who live as a couple in a long-term relationship and who can provide that enduring family relationship are able to adopt as a couple. It should not be, as it is at the moment, that only one partner adopts and the other is just an added-on extra. That is the crux of the debate today—it is about providing young people with the best possible start and stable families. If that is what we want to achieve, we need to reject the amendments in Roseanna Cunningham’s name.

The Deputy Presiding Officer: At this stage, I advise members that I am using my power under rule 9.8.4A of the standing orders to extend the debate on group 6 by half an hour. The debate requires to be concluded by 11.39 to incorporate the vote before question time.

Phil Gallie (South of Scotland) (Con): I congratulate Roseanna Cunningham on having the courage to stand up and say what she said today. We are debating a serious issue; we are talking about the future of our children and our society. It is right that there should be balance in the arguments that are presented in a place such as this. I believe firmly in her comments. In the light of the problems that we face in youth justice today, there is considered opinion that the best

way to bring up children is in a heterosexual relationship. It is important that there is both a father and a mother influence and from that view I will not be dissuaded.

Patrick Harvie talked about prejudice, but the nastiness in the e-mails that I have received has been the opinion that everybody who is in favour of Roseanna Cunningham’s amendments is some kind of religious bigot. I point out that in a chamber such as ours, religions of all persuasions have a place and should not be swept under the carpet or be something that is not to be spoken about.

I will vote in support of Roseanna Cunningham’s amendments. Once again, I congratulate her on her courage in coming forward with her words and her amendments.

Dr Murray: Although I recognise that it has probably taken a lot of courage for Roseanna Cunningham to lodge her amendments, I totally disagree with them. As others said, the Adoption of Children (Scotland) Act 1930 allowed single people to adopt whether or not they were in unmarried relationships and whatever their sexuality. Theoretically, those single adoptive parents could be involved in serial or multiple relationships with others. The bill extends the adoption process to include unmarried couples who are able to offer a child a stable, loving home with two people to love, support and continue to support them for the rest of their lives.

Most children who are adopted are not babies; they have come from difficult circumstances, they might suffer from disability, they might be vulnerable or they might have undergone terrific trauma. The opportunity to be involved in a caring, loving family where two people will love, support and protect a child’s interests is a hell of an improvement for many of those children and might be something that they have never known. The fact that the adoptive parents might be an unmarried or a homosexual couple is far less important than the love and support that they are able to offer those children.

Iain Smith: I am saddened that we have to consider amendments 94 to 98, because the issues that they raise were thoroughly aired at stage 1 and roundly rejected by the Parliament when it approved the general principles of the bill.

It is important to state that the bill will not create a right for anyone to adopt; it removes certain restrictions on who can apply to jointly adopt a child. Every applicant to adopt will be required to go through the same stringent checks on their suitability, whether they are married, unmarried, a same-sex couple, in a civil partnership or a single person.

The ability of applicants to provide a safe, secure and loving home and to safeguard and

promote the welfare of the child should and will be the determining factor of whether they can adopt. The bill is about the right of the child to have its life chances significantly enhanced and not about the rights of potential adopters.

As has been said, there is nothing in the present law that prevents a child from being adopted by a gay man or a lesbian in a long-term relationship. However, the current law prevents those partners adopting jointly and taking on jointly the responsibilities and rights of being adoptive parents, even if they already share those duties. The argument is about improving the rights of the adopted child in such circumstances. There might be problems if for some reason the adoptive parent is unavailable and his or her partner is unable to exercise parental responsibilities and rights. What happens if the adoptive parent dies? Is the child then to be taken away from the partner whom the child considers to be just as much his or her parent as the adoptive parent was?

That situation was summed up by Scotland's commissioner for children and young people, Kathleen Marshall, in her stage 1 evidence to the committee. She said that section 31 would help to clarify the existing situation as both partners would obtain legal status as adoptive parents. As both partners would have a legal relationship with the child, the child would benefit from the greater stability that that would bring and an enhanced level of security would result, as formal legal ties would exist between the child and both adults.

Once again, it is about the child and not the parents. Surely, if we believe that the rights of the child are paramount, it supersedes any other consideration. Any course other than to reject Roseanna Cunningham's amendments is just blind prejudice.

Linda Fabiani (Central Scotland) (SNP): I decided to contribute today because of my concern about some of the letters and e-mails that I have received over the past week from people on both sides of the argument. They generally place the wrong emphasis on the issue. Indeed, in an awful lot of cases, they show no understanding of the current law. Some express views that might reflect their creed or morality and others feel strongly that we are dealing with an equalities issue. However, with the exception of a very few of the missives that I received, the main point has been missed, as other speakers mentioned. We are talking about children or young people who, for whatever reason, are not fortunate enough to live in a home that is neither institutional nor temporary and who may have to share attention and care with many others, even at the time in their lives when they most need that bit of extra individual attention. That happens despite the best efforts of those who care for young people in such

circumstances—carers are drawn from all parts of society and walks of life and have varying beliefs and orientations, but their common ground in the majority of cases is commitment to those for whom they care.

If passed, amendments 94 to 98 would maintain the status quo instead of allowing a child to have two legal parents as part of a stable family relationship. As we heard from Iain Smith, two parents would offer a potential safeguard against any future disruption in the life of a child who might have suffered disruption enough.

I urge members to vote against the amendments, which I believe are clearly opposed to the best interests of the child.

11:15

Murdo Fraser (Mid Scotland and Fife) (Con): I wish to address not so much the substance of Roseanna Cunningham's amendments but the atmosphere of this morning's debate in the chamber and the wider debate that has taken place over the past week.

Whatever we think of these amendments, there is no doubt that Roseanna Cunningham has raised genuine concerns that are shared by many people. Many believe that children need male and female role models and they are concerned that adoption by same-sex couples excludes such a possibility and is simply not in children's best interests.

People who express such views are not homophobes, extremists or—as some suggest—religious nutters. They have genuine concerns that should not be dismissed with name calling and abuse. The point is that although such views might well be unpopular in the chamber, they reflect wider concerns throughout Scotland. We in the Parliament should take seriously and reflect on the views of people outside the chamber, even if we disagree with and subsequently dismiss them.

Patrick Harvie: Will the member give way?

Murdo Fraser: I am sorry; I do not have time.

I believe that we all want to live in a liberal and tolerant society; indeed, we have heard as much from different parts of the chamber. However, one old definition of a liberal is someone who allows all opinions to be heard, except those with which he disagrees. We are in danger of falling into that trap in this debate. The Parliament needs to be a bigger and better place than that and I commend Roseanna Cunningham for at least giving us the opportunity to debate these issues.

Ms Rosemary Byrne (South of Scotland) (Sol): I oppose this group of amendments. We are in danger of losing sight of the fact that, through

the various stages of the bill, the principle that guided the Education Committee's work was the child's best interests. As many members have pointed out, under current legislation, a single person can already adopt a child. I cannot emphasise enough the point that, in agreeing to amendments 97 and 98, we will leave children in a vulnerable position, because there will be no arrangements to deal with them if, for example, a partner in a same-sex relationship dies. The bill takes the right approach and moves us forward.

The mainstay of the bill should be the provision of a loving and secure environment for children. The sexuality of and the nature of the relationship of those who adopt does not matter, as long as they can provide children with security and love. The provisions were unanimously accepted in the committee's stage 1 report and have been supported by many organisations, including BAAF Scotland and, as members have pointed out, various children's organisations.

If they are agreed to, these unhelpful amendments will introduce discriminatory provisions into the legislation. We should not be having a debate on whether people are being prejudiced against others. Instead, we should be having an open debate on how we can give these children the right future under the right circumstances. As members have pointed out, everyone who wants to adopt will be assessed to find out whether they are the right person. That should be all that is required.

Pauline McNeill (Glasgow Kelvin) (Lab): I oppose amendment 94, not because it is discriminatory per se but because it is not in the child's best interests and does not meet the challenge that we face.

I have always believed that the driving force behind the bill is to deal with the problem that too many of Scotland's children are in care and have no permanence or love in their lives. As step-parents and foster parents know, adopting or taking on other people's children is a huge commitment. I wish that it would happen, but the idea that huge numbers of lesbian and gay couples—or, indeed, other couples—will come forward to adopt because of the bill is simply a fallacy.

Couples are much more likely to have the resources and stamina that are required to take a child into a family. We should also remember that, in certain cases, more than one child might need to be adopted. However, the bill does not create any rights. Instead, it extends the eligibility of those who are suitable to adopt children to include unmarried and same-sex couples. Sexual orientation should not be a barrier to adoption and any decision must be based on the child's best interests.

Anyone who intends to adopt already undergoes a rigorous test that includes finding out who the role models are, what the extended family is like, and the durability of their relationship. If any same-sex or unmarried couples covered by the bill's provisions do not pass the existing test, they will not be allowed to adopt. I do not think that we are doing very much other than—rightly—extending eligibility. Such a move is in the interests of the 30,000 children who are in care and for whom we have a duty to provide a range of options.

David McLetchie (Edinburgh Pentlands) (Con): I find myself opposing amendment 94 but in favour of amendment 96 which, after all, is in line with the principle of the stability of the family unit that was set out in amendment 84, in the name of Paul Martin, which the Parliament agreed to earlier. People who are married or who have entered into a civil partnership have made a legally binding commitment to one another, and I respect that. People who adopt a child are not acting as befrienders or foster carers. Instead, in becoming the child's parents, they are entering into legally binding commitments with the child. Why should we have adoption legislation in this country that allows people who are not prepared to make a legally binding commitment to each other to make a legally binding commitment to a child? That does not seem to be a rational way of promoting the stable family values that should lie behind any decision to allow a couple to adopt.

I urge members to vote against amendment 94 but to vote for amendment 96.

Robert Brown: This has been a very good debate on one of the central issues that arose during the bill's consideration but which, I must point out, is not the bill's central purpose.

I have known Roseanna Cunningham for a number of years and profoundly respect her abilities, but I hope that she accepts that a number of members in the chamber profoundly disagree with her views. That said, she has done us a service in allowing us to debate the issue once again and, I hope, to reach some result. At the end of the day, the chamber is the premier forum for parliamentary debate and it is right that the issues should be raised here.

Amendments 94 to 98 seek to prevent same-sex couples from being eligible to adopt. However, they do not remove the possibility of individual homosexual and lesbian people applying to adopt, which can still happen under section 32. Although some of the amendments seek to narrow that provision, they do not change it. Paradoxically, if amendment 94 and the other amendments in the group were passed, people who had committed themselves to civil partnerships or who were in enduring relationships would be unable to adopt, whereas single people, people who perhaps might

hide their situation or people who were in more incidental relationships would still be able to. Even the terms of these amendments contain an oddity.

Roseanna Cunningham's argument is very clear. It has nothing to do with testing the stability of relationships, nothing to do with finding out whether a relationship is enduring, nothing to do with the personal suitability of prospective adopters and nothing to do with what is in the child's best interests. It is all about dealing with a situation in which the proposed adopters are gay. The preference underlying the amendments is that rather than allowing children to be adopted by gay couples who are in a certified civil partnership, who have lived together faithfully for a number of years and who have decided to go through the rigorous adoption process—or even allowing them to be adopted by a gay individual—they should languish in residential institutions. As members have pointed out, the big issue behind the bill is to improve the lot of the many children who are born into difficult family situations. If Roseanna Cunningham has any qualms about gay couples adopting, I should point out that the logical consequence of her amendments is that children who live with same-sex couples should be removed from that situation. We have heard no evidence that suggests that there is any shade of support for either proposition.

Same-sex couples already raise adopted children. As a number of members have pointed out, having been assessed as part of a couple, one partner in that couple can adopt a child, while the other partner can apply for more limited parental rights and responsibilities.

The bill is about giving greater rights to children. By allowing such couples to adopt jointly, it will mean that children will have two adults with full parental responsibilities and rights to look after them. I take Lord James Douglas-Hamilton's point about the situation in which there is an accident and one parent is killed. The bill will provide more stability and support to children in such a position.

Homosexual and lesbian people already raise children—who are often their own biological children—with the same love and compassion as other parents. We should not discourage people who have given the decision to pursue adoption careful thought and who have gone through a lengthy and rigorous assessment process. After all, there is no magic ingredient to parenting. The skills and temperament that are required to raise a child come from a person's life experience, not from his or her sexual orientation. Children face many challenges as they grow up. Knowing that they have a family who loves and cares for them will be a bedrock for meeting those challenges.

As with all prospective adopters, same-sex prospective adopters will undergo a rigorous

assessment process. It is right that not all applicants will be approved, regardless of their background. Many people come forward and some fail. Once they have been approved, prospective adopters must be matched with a child. A range of checks prevents an adoption order from being made when the child does not want to be adopted or when the prospective adopters are not suitable to raise that particular child. Any adoption order must be made by an independent court, on the basis of very full scrutiny and with advice from a curator ad litem who has been appointed specifically to protect the child's best interests.

The amendments raise European convention on human rights issues. Although there is no right to adopt, any provisions that seek to restrict people's ability to adopt fall broadly within the ambit of article 8 of ECHR, which provides a right to respect for private and family life.

Phil Gallie *rose*—

Robert Brown: In relation to that right, article 14, which prohibits discrimination on various grounds, comes into play. Unless there were objective justification for treating same-sex couples differently, doing so would amount to discrimination that breached the convention.

The central point is that the bill is about children and their rights and welfare. It is also partly about our ability as a society to remove children from a home environment that is profoundly damaging to them and to place them in a home where they will be valued, respected and encouraged and where they will thrive. It will provide a modernised framework for better assessing, supporting and approving or rejecting adoptive parents on grounds that boil down to ensuring that the best interests of the individual child are paramount. That is what inspires the whole bill. It is not about restricting the opportunities for children to be placed in a good home on general grounds, whereby certain types of family are de facto unsuitable. That would be discriminatory and, in modern Scotland, unacceptable. As we have heard, many of Roseanna Cunningham's SNP colleagues are distinctly uncomfortable with the amendments. I urge the Parliament to reject them and to do so overwhelmingly.

Roseanna Cunningham: When I hear some members applaud my courage, if nothing else, I am sharply reminded of that famous "Yes Minister" sketch in which the politician's courage in pursuing a certain course of action is commended by civil servants who want to get the politician to do something else entirely. In today's debate, I have been told that I have courage by members on both sides of the argument.

At the outset, I said that these amendments were about my view of what is in the best interests

of children. I am sorry that quite a lot of the debate—whether inside or outside the chamber—has not been about that. I believe that what I have proposed is in the best interests of children, although I accept that other people have different views. I notice that no one has referred directly to the evidence on what is in the best interests of children, which I quoted earlier.

This morning, I was told that about 60 per cent of adoptions break down. We are talking about situations that are highly unstable even as things stand. Throughout the debate, I have tried to keep my language and tone as calm and rational as possible. Notwithstanding the whispering campaign—or, in the case of Patrick Harvie, not so much a whispering campaign as a shouting campaign—the idea that somehow I am being a puppet for someone else is ridiculous. Anyone who examines my voting record on such matters will realise that that cannot be the case.

I said that some folk had suggested that I should have said nothing but, frankly, that is an extraordinary suggestion to make. First, as I have had occasion to say in connection with other bills, committees are not rubber stamps for Executive legislation, but neither is the Parliament a rubber stamp for committee deliberations. The fact that an issue has been dealt with in committee does not mean that there can be no debate on it in the Parliament as a whole.

Secondly, if the Parliament had had no debate on adoption by same-sex couples, we would have woefully misrepresented the views of voters, which cannot be right.

11:30

Phil Gallie: The member will have noted the minister's reference to the ECHR and his lack of courage in failing to take an intervention on that topic. How many countries in Europe have adopted same-sex adoption practices?

Roseanna Cunningham: I cannot answer Phil Gallie off the top of my head, but I know that only one or two other countries have done so. I do not know what debates are going on elsewhere.

I was talking about debate in the chamber. All of us need to remember that debate is only debate if there is more than one side of an argument. Many people inside and outside the Parliament have suggested that there should have been no debate about adoption by same-sex couples, but that would have been a ridiculous position in which to have found ourselves.

Thirdly, if we are not allowed to have such debates, that is tantamount to saying that the right of free speech does not apply—or, more to the point, that it applies only in circumstances in which people agree with one another's opinions.

Margaret Smith: Will the member give way?

Roseanna Cunningham: I have to finish.

There are arguments for and against adoption by same-sex couples and I have some sympathy with what I have heard from some of the members who will not vote for my amendments. However, as I said at the outset, I was doing what I believed to be right. If I do not have the right to do what I believe to be right, what is the Parliament about?

I will conclude by reading from an e-mail that I received this morning from someone who wrote:

"I have two adopted children in their 20s, still coping with adoption issues. In adoption the interests of the children are paramount. They have to cope with rejection—starting when their chums taunt, 'That's not your real Mummy and Daddy.' Thank God mine don't also have to cope with their parental sexuality. I am comfortable with same sex legal partnerships—not my issue at all. But, just as adults over 38 are rejected as potential foster parents because the children would struggle with having older parents, so the interests of the child must rule out same-sex parents."

We already discriminate. All that I am saying is that I think that the rights of the children mean that we should not take the step that is proposed in the bill.

The Deputy Presiding Officer: The question is, that amendment 94 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

While the vote is proceeding, I advise members that, in view of the number of extensions to individual time limits this morning, the Presiding Officers are likely, with the agreement of business managers, to be inclined to invite a motion from the floor this afternoon to extend the overall time available for today's business by 30 minutes, if necessary. That would mean that the debate on whether the bill be passed would start at around 4.30 pm, with decision time at 5.30 pm.

FOR

Adam, Brian (Aberdeen North) (SNP)
Aitken, Bill (Glasgow) (Con)
Cunningham, Roseanna (Perth) (SNP)
Fraser, Murdo (Mid Scotland and Fife) (Con)
Gallie, Phil (South of Scotland) (Con)
Matheson, Michael (Central Scotland) (SNP)
Morrison, Mr Alasdair (Western Isles) (Lab)
Munro, John Farquhar (Ross, Skye and Inverness West) (LD)

AGAINST

Alexander, Ms Wendy (Paisley North) (Lab)
Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
Baillie, Jackie (Dumbarton) (Lab)
Baird, Shiona (North East Scotland) (Green)
Baker, Richard (North East Scotland) (Lab)
Ballance, Chris (South of Scotland) (Green)
Ballard, Mark (Lothians) (Green)
Barrie, Scott (Dunfermline West) (Lab)

Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Brownlee, Derek (South of Scotland) (Con)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Byrne, Ms Rosemary (South of Scotland) (Sol)
 Canavan, Dennis (Falkirk West) (Ind)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
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 Fabiani, Linda (Central Scotland) (SNP)
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 Finnie, Ross (West of Scotland) (LD)
 Fox, Colin (Lothians) (SSP)
 Gibson, Rob (Highlands and Islands) (SNP)
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 Glen, Marilyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Johnstone, Alex (North East Scotland) (Con)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lochhead, Richard (Moray) (SNP)
 Lyon, George (Argyll and Bute) (LD)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McLetchie, David (Edinburgh Pentlands) (Con)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Morgan, Alasdair (South of Scotland) (SNP)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Murray, Dr Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)
 Peattie, Cathy (Falkirk East) (Lab)
 Petrie, Dave (Highlands and Islands) (Con)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)

Robison, Shona (Dundee East) (SNP)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, Tavish (Shetland) (LD)
 Sheridan, Tommy (Glasgow) (Sol)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
 Wallace, Mr Jim (Orkney) (LD)
 Watt, Ms Maureen (North East Scotland) (SNP)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

ABSTENTIONS

Oldfather, Irene (Cunninghame South) (Lab)

The Presiding Officer: The result of the division is: For 8, Against 101, Abstentions 1.

Amendment 94 disagreed to.

Amendment 95 moved—[Roseanna Cunningham].

The Deputy Presiding Officer: The question is, that amendment 95 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Cunningham, Roseanna (Perth) (SNP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Johnstone, Alex (North East Scotland) (Con)
 Matheson, Michael (Central Scotland) (SNP)
 McLetchie, David (Edinburgh Pentlands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)

AGAINST

Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)
 Baird, Shiona (North East Scotland) (Green)
 Baker, Richard (North East Scotland) (Lab)
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 Ballard, Mark (Lothians) (Green)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Brownlee, Derek (South of Scotland) (Con)
 Butler, Bill (Glasgow Anniesland) (Lab)
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 Fabiani, Linda (Central Scotland) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Fox, Colin (Lothians) (SSP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
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 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
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 Macmillan, Maureen (Highlands and Islands) (Lab)
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 Marwick, Tricia (Mid Scotland and Fife) (SNP)
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 McCabe, Mr Tom (Hamilton South) (Lab)
 McMahan, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
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 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Murray, Dr Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)
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 Petrie, Dave (Highlands and Islands) (Con)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robison, Shona (Dundee East) (SNP)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, Tavish (Shetland) (LD)
 Sheridan, Tommy (Glasgow) (Sol)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)

Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
 Wallace, Mr Jim (Orkney) (LD)
 Watt, Ms Maureen (North East Scotland) (SNP)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

ABSTENTIONS

Oldfather, Irene (Cunninghame South) (Lab)

The Deputy Presiding Officer: The result of the division is: For 11, Against 98, Abstentions 1.

Amendment 95 disagreed to.

Amendment 96 moved—[Roseanna Cunningham].

The Deputy Presiding Officer: The question is, that amendment 96 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Cunningham, Roseanna (Perth) (SNP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gillon, Karen (Clydesdale) (Lab)
 Johnstone, Alex (North East Scotland) (Con)
 Matheson, Michael (Central Scotland) (SNP)
 McLetchie, David (Edinburgh Pentlands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)

AGAINST

Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)
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 Ballard, Mark (Lothians) (Green)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Brownlee, Derek (South of Scotland) (Con)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Byrne, Ms Rosemary (South of Scotland) (Sol)
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 Eadie, Helen (Dunfermline East) (Lab)
 Fabiani, Linda (Central Scotland) (SNP)

Ferguson, Patricia (Glasgow Maryhill) (Lab)
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 Fox, Colin (Lothians) (SSP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Glen, Marilyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
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 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
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 MacAskill, Mr Kenny (Lothians) (SNP)
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 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McMahan, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morgan, Alasdair (South of Scotland) (SNP)
 Muldoon, Bristow (Livingston) (Lab)
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 Murray, Dr Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)
 Peattie, Cathy (Falkirk East) (Lab)
 Petrie, Dave (Highlands and Islands) (Con)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robison, Shona (Dundee East) (SNP)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
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 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
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 Sheridan, Tommy (Glasgow) (Sol)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
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 Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Wallace, Mr Jim (Orkney) (LD)
 Watt, Ms Maureen (North East Scotland) (SNP)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)

Wilson, Allan (Cunninghame North) (Lab)

ABSTENTIONS

Oldfather, Irene (Cunninghame South) (Lab)

The Deputy Presiding Officer: The result of the division is: For 12, Against 95, Abstentions 1.

Amendment 96 disagreed to.

Section 32—Adoption by one person

Amendments 97 and 98 not moved.

Section 33—Parental etc consent

The Deputy Presiding Officer: Group 7 is on parental consent. Amendment 100, in the name of the minister, is grouped with amendment 103.

Robert Brown: Amendments 100 and 103 will make important adjustments to the grounds on which a parent's consent to an adoption order can be dispensed with by the court.

Amendment 100 will amend section 33(2A). As amended at stage 2, subsection (2A) requires that, before a court can dispense with consent, not only must the welfare of the child require that the consent be dispensed with but either subsection (2B) or subsection (2C) must also apply. Amendment 100 will mean that, even where subsections (2B) and (2C) do not apply, the child's welfare alone will be enough to allow consent to be dispensed with. Amendment 100 is an important amendment as it widens the grounds on which consent can be dispensed with while still applying an appropriate test that respects the rights of the parents. The amendment will reduce the risk that the making of an adoption order will be delayed or will not take place at all because neither of the grounds at subsections (2B) and (2C) quite fits.

Amendment 103 will amend section 33(2B) so that, where a parent or guardian is unable to exercise parental responsibilities and rights—other than those regarding contact with the child—the court can dispense with their consent. Without such an amendment, the consent of a parent who maintains contact with the child but does not exercise any other parental responsibility or right could not be dispensed with.

I move amendment 100.

Mr Ingram: I thank the minister for lodging the amendments in the group. As he will be aware from the representations that he received, including my own, much concern was expressed at stage 2 that the grounds for dispensing with parental rights and responsibilities had been excessively narrowed such that the bill made no requirement for a court to take into account the past history and conduct that had led to the child's current situation. The fear was that, in practice,

that would mean an increase in the number of contested cases and a fall in the number of successful adoptions. Amendments 100 and 103 will rectify that situation and, therefore, will be widely welcomed.

Lord James Douglas-Hamilton: I, too, raised these matters in the committee. The amendments go some way to correcting a flaw in the Executive amendments at stage 2 that would make it too easy for birth parents to reclaim a child who had already formed bonds with his new parents. I am grateful to the minister for amendments 100 and 103, which should be agreed to.

Scott Barrie: Obviously, it is much better if an adoption order can be made with the birth parents' consent, but it is important that we get the grounds right for dispensing with parental consent. Amendment 100 goes a long way to ensuring that, in the adoption process, absolute primacy is given to what is in the best interests of the child. I thank the Executive for lodging amendment 100 in particular.

Amendment 100 agreed to.

Amendment 103 moved—[Robert Brown]—and agreed to.

The Deputy Presiding Officer: I suspend consideration of amendments. There will be a brief suspension while the Presiding Officer takes the chair.

11:39

Meeting suspended.

11:40

On resuming—

Question Time

SCOTTISH EXECUTIVE

General Questions

Audit Scotland (Howat Review)

1. Derek Brownlee (South of Scotland) (Con): To ask the Scottish Executive what information Audit Scotland has been provided with in respect of the findings of the Howat review. (S2O-11343)

The Minister for Finance and Public Service Reform (Mr Tom McCabe): None.

Derek Brownlee: That is a surprise. The Howat review was given the task of, among other things, identifying the programmes that do not match with the partnership agreement priorities or are not performing well. Mr McCabe refused to list what those programmes are in his written answer to me, which stated:

“All programmes are open to audit by Audit Scotland and scrutiny by the Committees of this Parliament, where issues about performance can be explored fully.”—[*Official Report, Written Answers*, 17 November 2006; S2W-29674.]

Given that neither the committees of the Parliament nor Audit Scotland has been allowed to see any of the Howat report's findings, can the minister tell Parliament today how many programmes did not perform well and which they were?

Mr McCabe: I will be delighted to tell Parliament the exact contents of the report when we publish it at the appropriate time. We have already explained that we are absolutely committed to publishing the report. It will be published along with other relevant data at the time of the spending review in 2007. That is the appropriate time for doing that.

Mr John Swinney (North Tayside) (SNP): Without disclosing what seems to be the most precious document the Scottish Executive has ever received, can the minister indicate whether the Howat review believed that any Scottish Executive programmes are, in principle, not performing as effectively as they should and are therefore worthy of being subject to a change in the financial arrangements that the Executive makes for them?

Mr McCabe: Mr Swinney is wrong in his description of the document. His description emanates from the fact that the Scottish National Party and other parties in the chamber have little

with which to concern themselves. They are desperate to find a hook on which to hang their criticisms of the Executive. They criticise us for a brave decision to ask individuals from outwith the Government to examine the programmes of expenditure and to give their views on possible expenditure profiles. That is exactly what we have done and no one forced us to do that. *[Interruption.]*

Presiding Officer, I am trying to answer the question, but I would appreciate a bit of help in getting the shouting behind me to stop.

The Scottish Executive has done that without being forced by anyone. We have engaged in a process that few other Governments have engaged in and been willing to hear the views of external contributors. At the appropriate time, we will publish that information.

Mark Ballard (Lothians) (Green): This Parliament was set up with a commitment to power sharing and transparency in its budget process. How can the minister reconcile that with withholding information from Audit Scotland and from parliamentary committees until after the decisions have been taken?

Mr McCabe: I have already explained the position, which we could go over time and again. I repeat that we are absolutely committed to publishing the information and we will do so at the appropriate time.

Blue Badge Scheme

2. Jackie Baillie (Dumbarton) (Lab): To ask the Scottish Executive when it will publish its review of the blue badge scheme. (S2O-11373)

The Minister for Transport (Tavish Scott): The Scottish Executive is currently consulting on two specific amendments to the regulations governing the blue badge scheme. The closing date for the consultation is 29 December. Responses to the consultation will be published by 4 February 2007. We will subsequently make appropriate amendments in a statutory instrument.

Jackie Baillie: As the minister will be aware, I am consulting on a bill proposal to make all disabled parking bays legally enforceable and the proposal is already meeting with considerable support.

Given that many disabled people have reported abuse of the blue badge scheme, I hope that the minister will ensure that the review of the scheme is truly comprehensive. I commend to him the investigation into blue badge abuse that has been established by City of Edinburgh Council. I strongly urge him to learn from that experience and to reflect that in the review.

Tavish Scott: I welcome the initiative that Jackie Baillie has taken on an important issue of public concern, especially for those who are principally affected by such abuse. I am aware of the incidents that she mentioned in the City of Edinburgh Council area and the successful investigation that the council has had in recent days. That success is a tribute to all the officers who have been involved in sorting out the problem.

Our own research in this area will be published next spring. It seeks to find and alleviate the problems caused by abuse of street parking. We will look closely at the research and we will monitor Jackie Baillie's bill.

Ms Sandra White (Glasgow) (SNP): In a debate on this issue in 2004, the then Minister for Transport stated that local authorities had the necessary powers to prevent the misuse of disabled persons' parking bays. Will the minister clarify for the many people who are angered by that misuse whether that is still the case?

Tavish Scott: Local authorities have those powers and it is important that they use them in conjunction with other agencies. The incident involving the City of Edinburgh Council that Jackie Baillie mentioned is an example of agencies working together successfully to alleviate a particular problem. I hope that other local authorities will look at that success and assist those who are directly affected by the concerns that we all share to tackle this problem.

Karen Gillon (Clydesdale) (Lab): During the review, it has come to my attention that there might be an anomaly in respect of local authority operated vehicles that are attached to day care centres. Drivers of such vehicles experience difficulty accessing disabled parking facilities because their vehicle does not have the blue badge. Will the minister look into that and let me know how it will be resolved?

Tavish Scott: I am grateful to Karen Gillon for raising that issue. I was not aware of it and will be happy to look into it and see what measures can be brought in immediately to deal with that specific problem. I will write to her on that point.

Community Justice Authorities

3. Karen Whitefield (Airdrie and Shotts) (Lab): To ask the Scottish Executive what progress has been made on community justice authorities. (S2O-11403)

The Minister for Justice (Cathy Jamieson): The community justice authorities are making good progress towards taking up full responsibilities in April 2007. All chief officers are in post and the eight area plans for reducing reoffending for 2007-08 have been submitted for

scrutiny by the national advisory body. The area planning process has involved the CJAs in working with a wide range of partner agencies to translate the national strategy for the management of offenders into local priorities for reducing reoffending.

Karen Whitefield: I am grateful to the minister for her response. What action is the Executive taking to monitor the implementation of community justice authorities in line with the national strategic framework? Also, and in particular, how will the Executive ensure that CJAs consult local communities and take their views and needs into account?

Cathy Jamieson: It is important to recognise that one of the key reasons for setting up community justice authorities is to connect better the criminal justice system with how we deal with offenders in local communities. That is why so many different local bodies are involved with the community justice authorities. Karen Whitefield is right to make the point that account should be taken of local communities' views. That is why elected members play such a critical role in the process; they have the opportunity to consult communities.

We will monitor the effectiveness of community justice authorities. I look to them to assist us in setting future targets for the reduction of reoffending.

Prison Population

4. Pauline McNeill (Glasgow Kelvin) (Lab): To ask the Scottish Executive whether it is concerned about the predicted rise in the prison population. (S2O-11396)

The Minister for Justice (Cathy Jamieson): We are reforming the way we manage offenders in prison and in the community to reduce the likelihood of reoffending. That means ensuring that our courts can deal appropriately with those who require to be held in custody either as punishment for their crimes or for reasons of public safety, but we also want to ensure that a robust range of community sentences and support services is in place to give individuals in custody the right opportunities for rehabilitation on their release.

Pauline McNeill: The chief executive of the Scottish Prison Service, Tony Cameron, indicated to the justice committees that as a result of the Custodial Sentences and Weapons (Scotland) Bill, the prison population is expected to rise to up to 1,100. Does the minister agree that it is now time to speed up the commitment to the programme for alternatives to custody? If Mr Cameron's figures are correct, they will cause serious concern. Given the Scottish Prison Service's other problems, such as overcrowding, does the minister agree that we

need to ensure that we build our new prisons as swiftly as possible? The chief executive also said that it could take up to four years to build the new Low Moss prison, if it is given planning permission. Will the minister consider how that period of time could be shortened?

Cathy Jamieson: As Pauline McNeill will be aware, we have put in place several initiatives to ensure that we have additional facilities in the existing prison estate, including some quick-build facilities. It is true that the lead time for a new prison is normally four to six years and that there have been planning permission problems for the potential new site at Low Moss. It is important that the Scottish Prison Service ensures that the prison estate is fit for purpose. We also need to ensure that the right people—the people who require to be in prison—are the ones who go there, which means that our community sentences have to be robust. A wide range of community sentences is already available, but I am always open to the possibility that they can be improved.

Mr Kenny MacAskill (Lothians) (SNP): Given that the minister appears to think that one of the solutions is the creation of more private prisons, is she conscious of the comments made by Professor Allyson Pollock about the cost of public-private partnership in the health service and the difficulties that might apply to the Scottish Prison Service? More important, given the recent report of the Scottish Consortium on Crime and Criminal Justice, is she appalled that it would appear that if Addiewell prison is built in the private sector, Scotland will have the highest percentage of prisoners in private prisons anywhere in the world? At a time when George Bush's United States of America and Arnold Schwarzenegger's California are rolling back and realising the folly of private prisons, is it not absurd that we should seek to be world leaders? Is it not time to recognise that prisons are too vital to leave to the vagaries of shareholders and that they must be a state responsibility?

Cathy Jamieson: Kenny MacAskill seems to be one man with many voices. He cannot have it both ways. We cannot say that we need to ensure that our prison estate is fit for purpose and that people who need to be locked up are locked up, and then say that we should not try to get the best value for the public purse.

It is shameful that the Scottish National Party would cancel some of the existing PPP contracts for our schools. If it wants to do the same with our prisons, it has to be honest with the public and say that there will be no new prisons under the SNP.

Phil Gallie (South of Scotland) (Con): Irrespective of any change in sentencing policy, does the minister recall the then Minister for Justice predicting in 1999-2000 that there would

be a considerable fall in the prison population? He did not consider the cost of implementing the European convention on human rights and how that would affect future justice budgets. Does the minister have figures that show how much that flawed decision has cost us? Will she advise us how much it will cost us in the future?

Cathy Jamieson: I am always amazed at Phil Gallie's ability to bring the ECHR into any question.

It is very important that we look forward to what we need to do to modernise our prison estate and how we might deal with the problems of automatic early release and implementing the legislation to end that. We have been honest about the costs of that policy; they are laid out in the bill's financial memorandum. I appreciate that there are different views and positions, but it is important that we are able to implement that policy; we will have to deal with the consequences of it.

Broadband

5. Roseanna Cunningham (Perth) (SNP): To ask the Scottish Executive whether it has received the consultants' report referred to by the Deputy First Minister and Minister for Enterprise and Lifelong Learning in his answer to question S2O-11145 on 23 November 2006 regarding delivery of broadband access to those who are currently excluded from this technology. (S2O-11346)

The Deputy Minister for Enterprise and Lifelong Learning (Allan Wilson): Broadband access is of key importance to the Executive. We have already delivered broadband to every community and more than 99 per cent of households, placing us ahead of most other countries on coverage. Our reach report, which sets out the final gaps, has been received. We will outline its findings and our approach to addressing the issue shortly.

Roseanna Cunningham: I thank the minister for his response and look forward to getting further details of the report. Does he understand my constituents' frustration at their continuing lack of access to broadband? Is he aware that some people who live no more than 9 miles from Perth are unable to make a broadband connection? One constituent so affected lives less than 3 miles from Perth. Those are hardly remote rural communities. Does the minister accept that, as a result of that problem, there are considerable barriers to the development of rural businesses? Can he indicate a timescale for resolving the problem?

Allan Wilson: I understand the frustrations of the 1 per cent of communities who have not been able to access broadband. Someone in that 1 per cent is 100 per cent unenabled. People in my

constituency, in parts of Arran and elsewhere, have a similar experience.

The rough timescale is as follows. We will make an announcement very soon, in which we will outline our approach to implementing the reach report and the finance that will be available to support it. The reach process will be rolled out in the early months of next year, so we will have a clear approach by around the end of March.

Maureen Macmillan (Highlands and Islands) (Lab): The Deputy Minister for Enterprise and Lifelong Learning will be aware of my long-term interest in this matter. I note that the announcement of the general proposals for providing access to the presently unserved areas will be made soon. It cannot come soon enough for the people I represent. I ask the minister for some indication of when we will know where the further roll-out of broadband will be supported by the Executive. Will he assure me that there will be sufficient funding to meet people's aspirations?

Allan Wilson: The programme will be funded. As I have said, we are currently finalising a clear methodology, which will use several criteria. The levels of unfulfilled demand, predictions for the areas with no coverage, business need, cost and the value-for-money implications of providing solutions will be taken into account, if indeed technical solutions are available. Not every problem that has been identified with us will necessarily have a technical solution.

Post Office Closures

6. Mr Mark Ruskell (Mid Scotland and Fife) (Green): To ask the Scottish Executive whether it has assessed the economic impact and reduction of amenity in communities arising from the closure of post offices. (S2O-11412)

The Deputy Minister for Enterprise and Lifelong Learning (Allan Wilson): The Scottish Executive has co-sponsored research commissioned by Postwatch Scotland that has assessed the economic and social importance of post offices. The Executive has also commissioned a study to find out what aspects of their local post office people most value. It has helpfully informed our contribution to discussions in the United Kingdom Government on the future of the post office network.

Mr Ruskell: The minister will be aware that many people, in urban and rural areas, are concerned that they will lose the hubs of their communities with respect to the delivery of not just public services but private services. When the Executive consults on the Westminster proposals to change the funding formula for rural post offices, will it fully explore the issues with communities? Will the minister also ensure that

the Executive lobbies Westminster so that no decision is made to change the formula until after the Parliament reconvenes following the election, when we will have a full opportunity to debate the proposals in the chamber?

Allan Wilson: I agree with part of that. Fundamentally, any solution for the sustainable future of rural or urban post offices needs to include community engagement. No decisions have yet been made by the UK Government. I do not wish to pre-empt whatever may be said elsewhere, but it has been clear for some time that there will need to be a national framework and continued public subsidy. Within those two parameters, community engagement is vital to ensure that people have a say in the future of their communities' development and that, where post offices play an important role in community development, there should be full consultation and engagement with communities.

Dr Sylvia Jackson (Stirling) (Lab): I thank the minister for the Executive's continuing commitment to post offices, particularly those in smaller communities where they are usually combined with general stores. Does he agree that smaller communities such as Gartmore and Fintry in my constituency should be commended for their proactive role in setting up action groups that bring together the wider community and support from agencies, including the Post Office, to re-establish post office facilities?

Allan Wilson: That is exactly the sort of initiative that I was referring to when I responded to Mark Ruskell's question about the importance of community engagement. If we argue, as we all do, that a rural post office, or indeed an urban one, can be the hub of the community, it is important for the community to be engaged in the future development of that community hub. The Fintry initiative is an interesting example of how innovation will play an important role in the future of rural and urban post offices.

First Minister's Question Time

12:00

Prime Minister (Meetings)

1. Nicola Sturgeon (Glasgow) (SNP): To ask the First Minister when he will next meet the Prime Minister and what issues they will discuss. (S2F-2598)

The First Minister (Mr Jack McConnell): I have no immediate plans to meet the Prime Minister.

Nicola Sturgeon: I remind the First Minister that, in response to previous questions, he has refused to state his view on the replacement of Trident. On 23 November, he said that it was essential to have a debate first, and that it would be wrong to state a position at the start of that debate. Sure enough, at 11 o'clock on Monday morning, the day a three-month debate was formally kicked off, the First Minister's office duly confirmed that he still had an open mind. However, at 6 o'clock on Monday, the First Minister said:

"I agree with the decision of the UK government"

to replace Trident. What were the compelling arguments that turned him from don't know to gung-ho in seven hours?

The First Minister: It is easier to comment on a decision after it has been made than before it is made. Ms Sturgeon may find it easy to have a preconceived position regardless of the evidence, any analysis or any proper discussion, but I take a far more serious approach to my responsibilities and to the defence of the nation.

I believe that the decision announced by the United Kingdom Government on Monday, in the light of current international circumstances, was right for two reasons. First, I do not believe in any unilateral action to disarm either Scotland or the United Kingdom. Secondly, I believe that the UK Government was right to announce that the number of warheads should be reduced, that the number of submarines on operational duty—and perhaps even the number of submarines in existence—should be reduced and that, in the next UK Parliament, there will be a further decision to be made about the future of the warheads themselves. On all those bases, I believe that the decision was right for the moment, and that it allowed further opportunities for multilateral disarmament in the future. That is right for Britain and right for the world.

Nicola Sturgeon: Can we get this clear? What happened on Monday was that the Prime Minister told the First Minister what his view was to be, and

the First Minister complied. Now that the First Minister has got a position, I would like to explore his logic just a little bit more. He also said on Monday that he believes in disarmament, and he seems to have said that again today. However, does not the Government's white paper actually make nuclear proliferation more likely, not less likely? Tony Blair says that nuclear weapons are "the ultimate insurance" and a vital element of national security. He also says that he would be prepared to use them in a first-strike attack.

My question for the First Minister is this: what does he say to other countries that cite their national security and their need for an insurance policy as justification for developing nuclear weapons of their own?

The Presiding Officer (Mr George Reid): Let me again make it perfectly clear that for seven and a half years we have allowed questions on reserved matters that have an impact on Scotland, and on areas for which the First Minister has executive responsibility or on which he has taken a position.

The First Minister: I make it clear, as I have done before, that I lead the Labour Party in this Parliament and that, unlike Ms Sturgeon, I do not take my orders from a leader in London.

I have consistently said in this chamber that I believe that it would be wrong to have a knee-jerk reaction, particularly in advance of a decision, to universally disarm our nuclear deterrent in Scotland or in the UK. I have also said that I believe that it would be wrong to take a decision, without even looking at the evidence, to maintain the full system that is currently in place. That is why I welcome a decision that protects Scotland's and Britain's national interests in an increasingly dangerous and uncertain world. At the same time, I welcome the fact that the UK Government has decided to reduce the number of warheads by 20 per cent; to reduce, if possible, the number of submarines by 25 per cent; and to allow, as stated in the white paper, a decision to be taken in the next Westminster Parliament as to whether or not the warheads are even renewed at all.

That is the right decision for multilateral disarmament worldwide; it is the right decision in an uncertain world; and it is a decision that the Scottish National Party could never take because it is not serious about government, not serious about the defence of the nation and certainly not serious about being in Britain.

Nicola Sturgeon: Perhaps the First Minister should remember that just one nuclear warhead can wipe out entire populations. That is why they are morally wrong.

Is it not the case that the decision to replace Trident, publicly backed on Monday by the First

Minister, represents the most appalling hypocrisy? It robs the UK of any moral authority in arguing the case for non-proliferation. Is it not also the case that he is out of touch not only with the majority of Scots on this issue but with those in his own party who say in a parliamentary motion lodged yesterday that there is

"a convincing ... military, economic and political"

case to be made

"for the non-renewal of Trident".

If the First Minister really believes in disarmament, should he not have the courage and honesty to make the case against new weapons of mass destruction instead of meekly following Tony Blair's line?

The First Minister: Ms Sturgeon's position appears to be that the world would be safer, and that it would be morally right, for only other countries to have nuclear weapons and for those countries to find it easier to use them in an increasingly dangerous and uncertain world. I believe that she is wrong and that her party is wrong.

I believe, as I have said in this chamber consistently for at least six months now, that the only way to reduce the nuclear arsenal worldwide is through multilateral action and certainly not through weakness. I believe that it is essential that Britain continues on a path begun by the previous Conservative Government—I will give it some credit for that—but maintained and pursued by the current Labour Government to reduce Britain's nuclear arsenal by 70 per cent since the time of the cold war and by 30 per cent since the election of the Labour Government in 1997. To continue down that path, to reduce the number of warheads by a further 20 per cent, to reduce the number of submarines by a further 25 per cent and to ensure that in the next Parliament at Westminster there will be a further vote on whether or not to renew the warheads—those are the right decisions for multilateral disarmament, the right decisions for the security of our nation and the right decisions in an increasingly uncertain and dangerous world.

Nicola Sturgeon: May I remind the First Minister that—

Mike Rumbles (West Aberdeenshire and Kincardine) (LD): On a point of order. Presiding Officer, you have just made a ruling that questions may be put to the First Minister when the First Minister has made his position public in a public statement. That is fair enough. However, it is quite clear from the First Minister's responses now that he is speaking as the leader of the Labour Party and not as the First Minister of Scotland in this coalition. Would you make that quite clear please?

The Presiding Officer: Those are matters for the coalition and, if you are patient, Mr Rumbles, you will find that the issue may be taken care of in just a minute.

Nicola Sturgeon: I remind the First Minister that eight countries in the world have nuclear weapons, and 180 countries in the world do not have nuclear weapons. I want Scotland to be in the majority.

The real difference between the First Minister and the SNP is that he is happy for £25 billion to be wasted on nuclear bombs, whereas we want that money to be spent on better schools for our children, better pensions for our old folk and a better health service for all. He is for weapons of mass destruction; we stand for building a better Scotland for all. Is that not why more and more people now want an SNP Government?

The First Minister: If the SNP believed in better schools, better health care and improvements for our young people, it would not support the abolition of public-private partnerships, the ending of the school-building programme, the ending of the hospital-building programme and the many other improvements that we see in the fabric of our public services in Scotland; and it would support new school buildings, new hospitals, new health centres and—yes, Mr MacAskill—new prisons as well.

If the SNP believed that we needed resources in this country to spend on education, health, tackling crime and so on, it would not even support independence for Scotland, because it would not want the Scottish budget to be cut by billions of pounds as a result of the loss of the union dividend; it would not want Scotland's economy made weaker because the companies in Scotland that trade with the rest of the United Kingdom had more barriers in place for that trade; and it would not want the family ties that exist in the United Kingdom disaggregated by the creation of a foreign country on our borders. That would be inappropriate in the 21st century when interdependence should be the value that we hold dear.

Mr Jim Wallace (Orkney) (LD): Will the First Minister confirm that the answers on Trident that he has just given have been expressed by him as leader of the Labour Party in Scotland and that there is no collective agreement or collective responsibility among members of his Executive on the position on Trident that he has adopted? Will he also accept that many people—not just in my party—believe that the decision on Trident has been rushed and that no decision needs to be taken until 2014?

The First Minister said that we live in an “uncertain and dangerous world”. Where does he

think that our independent nuclear deterrent should be targeted?

The First Minister: As the Prime Minister made clear this week and as others have made clear, with much common sense, any indication of where and in what circumstances our nuclear deterrent would be targeted would be foolhardy. No Government has ever given such an indication and it would be wrong for Government to do so on this occasion.

I am very happy to confirm not only that I am speaking as leader of the Labour Party in the Parliament and that there is no collective responsibility among Labour and Liberal Democrat ministers on the issue, but that I regard the decision as one that is rightly made by the Westminster Parliament. It is a decision for the United Kingdom Government to take and it is for members of this Parliament on all sides and in all parties legitimately to express their view on the decision. I am happy to express my view, having taken some stick during the past six months for taking a considered approach to the issue and listening to the evidence, and for taking a view on the basis of the evidence and the actual decision that was made. I will defend my position on that basis.

I want to make it clear that I expect people in my own party as well as in the Executive to speak from their consciences and to speak their own minds. We live in a democracy, and I want people to do that.

Margo MacDonald (Lothians) (Ind): On a point of order, Presiding Officer.

I apologise, Presiding Officer. I disagree fundamentally with what the First Minister said, but that is not why I got to my feet. The First Minister said that he was speaking as leader of the Labour Party. This is First Minister's question time, not Labour Party leader's question time.

The Presiding Officer: As I said, the answers are not matters for me, although the questions are. That is a matter for the coalition.

Cabinet (Meetings)

2. Miss Annabel Goldie (West of Scotland) (Con): To ask the First Minister what issues will be discussed at the next meeting of the Scottish Executive's Cabinet. (S2F-2599)

The First Minister (Mr Jack McConnell): At next week's meeting the Cabinet will discuss issues that are not only important to Scotland but the responsibility of this Parliament.

Miss Goldie: Earlier this week, the Scottish Executive, or what passes for the remains of it, announced its national transport plans. I say, “plans”, but the announcement amounted to yet

another glossy brochure that said nothing at all. The Executive committed to delivering the existing programme—how bold is that?—taking forward another strategic review and publishing yet more plans. Can the First Minister tell me what specific new proposals—or proposal; one will do—he has?

The First Minister: There were significant new proposals, particularly in relation to buses, in the plans that were announced earlier this week, which will be welcomed by people the length and breadth of Scotland, who want improved bus services. I congratulate the Minister for Transport for negotiating those arrangements and for making sure that they are going to happen.

I want to make this absolutely clear. If Annabel Goldie does not believe that it is bold to build new trains and new railways, for example between Stirlingshire and Fife, the Borders and Edinburgh and Airdrie and Bathgate, or that it is bold to support a new tram system for Edinburgh, which will reduce congestion and make life easier and more convenient for everyone in the city, or that it is bold and important for us in the 21st century to have a rail link between our capital city and its airport—perhaps she shares the SNP's view on that—or that the many other actions that are being taken on roads, on increasing direct flights in and out of our airports, on improving bus services and on improving freight on our railways are bold measures, she has a funny view of transport strategy and transport policy.

Miss Goldie: Miss Goldie did not ask for a history lesson on proposals that are already in the public domain; Miss Goldie asked for a specific new proposal. Let me give the First Minister a true reflection of the Scottish Executive's transport record. The Executive froze the extensive Conservative programme and then reinstated bits of it—big deal. Scotland wants to know about the First Minister's stance on big issues such as a fast rail link between Edinburgh and Glasgow and, perhaps most important, the Forth road bridge. Will he tell us exactly what he plans to do about a new Forth crossing and when he plans to do it?

The First Minister: I have made it clear that those, from Fife and elsewhere, who use the Forth bridge will not be left without a crossing. I make it very clear indeed to Miss Goldie and others that the Executive's current plans to invest in new railways, roads, direct flights in and out of Scotland, improved bus services, freight transport by rail, trams in Edinburgh and, in particular, a railway from our capital city to its airport, are commitments that are looking forward, because they are not in place at present. Of course they are commitments for the future and they are all budgeted for and will all be put in place. Only by re-electing those who are at present responsible for that programme will Scotland move forward on

transport, because it is clear that the Conservatives and the nationalists would not be committed to the same improvements in Scotland's transport system.

Miss Goldie: Rather than say every week that he has made his position clear, why does the First Minister not just actually make his position clear? After eight years, I would have thought that the Executive would be beyond publishing expensive brochures that promise only more expensive brochures. The 2002 transport delivery plan promised a car park and a roundabout and we thought that we were short-changed then, but the 2006 version does not even give us that. Ten years ago, the then Conservative Government had identified and secured ground for a crossing over the Forth. Is it not about time that the Executive stopped waffling and got on with the business at hand, including immediate work on a new crossing for the Forth?

The First Minister: As I said in the past in answer to a similar question, those who think that we can design a bridge without first carrying out a technical survey are losing the plot completely. Let there be absolutely no doubt that we will not leave the people of Fife or the east of Scotland—in particular, those of the north-east—without the ability to cross the Forth. Anybody with any common sense would be able to work that out.

The important point is the commitment in the transport strategy to the direction of travel—funnily enough, that might just be important in a transport strategy. We set out clear objectives to improve journey times and connections, to reduce emissions and to improve quality, accessibility and affordability. It is important to have those objectives at the core of our transport strategy, unlike the Conservative's so-called transport strategy back in 1997. It is precisely because of those objectives that we commit to spending 70 per cent of our investment in transport on public transport and commit not only to the new railways from Stirling to Fife, in the Borders and from Airdrie to Bathgate, but to the investment in trams, our airport rail links, new direct flights in and out of Scotland and new bus services. There is also the improvement in the quality of bus services to which we also committed this week. All those issues matter in Scotland, which is why our transport strategy is grounded in reality and practical action, not just in the warm words of the Tories from 10 years ago.

Volunteering (Children's and Young People's Activities)

3. Dennis Canavan (Falkirk West) (Ind): To ask the First Minister what measures the Scottish Executive is taking to encourage people to

volunteer to help with sport and other activities involving children and young people. (S2F-2611)

The First Minister (Mr Jack McConnell): We are encouraging people to volunteer in sport and other activities through project Scotland, the active schools programme and other initiatives.

Dennis Canavan: Is the First Minister aware that, at a recent meeting of the cross-party group on sport, which was attended by representatives of various sports bodies and voluntary organisations, concern was expressed that the Protection of Vulnerable Groups (Scotland) Bill might deter many good people from volunteering to work with children and young people? I accept that the protection of children is paramount, but does the First Minister agree that children would be the losers if there were not sufficient volunteers? Will the Executive therefore consider whether the £100 million bureaucracy that will be created by the bill is the best way in which to protect children?

The First Minister: We have to have an appropriate balance in relation to the important role of volunteers in the community. We would all agree that, since the demise of school sports in the mid-1980s, fewer volunteers have been involved in sport in communities and it is imperative for the future of our country that we involve more and more people in that area. However, we need to strike a balance between that aim and protecting children. There have been examples, including in the area of sports, of young people being abused by people who were looking after them.

Getting that balance right is the objective of the legislation that is before Parliament. We want to reduce bureaucracy and make it easier for people to volunteer while reassuring parents that people who are volunteering in the community have been checked.

Ministers will, of course, listen to all representations that are made on the bill and will respond to those who make them. In addition, however, I urge members not to have an immediate response to some of the more frightening reactions to the initial proposals in the bill. It is important that we keep our eyes on the streamlining of the process and bear in mind the occasions when people slipped through the net because the procedures in the bill were not in place.

If we are going to have more volunteers in sport in the community, we will also need more facilities. In that regard, I warmly welcome the announcement by the Minister for Tourism, Culture and Sport that we will be providing £7 million for a new community stadium in Aberdeen.

That is long overdue and will be good for that city and the whole of the north-east of Scotland.

Dennis Canavan: I also welcome that announcement.

Is the First Minister aware that, if the Protection of Vulnerable Groups (Scotland) Bill goes ahead in its present form, about 1 million people—that is, about a quarter of Scotland's adult population—will have to go through disclosure checks and that any criminal record that such people have might be disclosed, even if it is completely irrelevant to working with children and other vulnerable people?

In view of the limited legislative timetable that is available between now and the May election, will the First Minister consider shelving the bill until the full implications have been thought through and a better system of protecting children and other vulnerable people can be introduced at a later date?

The First Minister: If the bill were shelved unnecessarily and, six months or nine months later, an incident involving a youngster occurred that could have been avoided if the legislation had been in place, we would all regret that—all of us in this Parliament would, no matter what our views on the Protection of Vulnerable Groups (Scotland) Bill.

The serious way in which to handle this issue is to listen to the representations, take them on board, answer the questions that require to be answered and make any adjustments that are required—all the while ensuring that, at the end of the day, Scotland's children are properly protected. Our objective is to create a proportionate, balanced system that puts the interests of the children first. When ministers respond to the discussions that are currently taking place in the committee, they will have in mind the fact that, while speed is important, it is not of the essence. What is essential is that we get the legislation right.

Disabled Access (Public Buildings)

4. Jackie Baillie (Dumbarton) (Lab): To ask the First Minister what action can be taken to ensure that full and easy access to public buildings is available for disabled people. (S2F-2605)

The First Minister (Mr Jack McConnell): The Disability Discrimination Act 1995 requires those who provide services to the public to make reasonable adjustments to the physical features of premises in order to allow access for disabled people. Scottish building standards include provisions to make new or renovated buildings accessible, and these will be strengthened further from May 2007.

Jackie Baillie: I am sure that the First Minister is aware of the recent *Sunday Mail* investigation into disabled people's access to existing buildings. With the help of a team of wheelchair users, the *Sunday Mail* found that, in parts of Scotland, people cannot get into shops, post offices, railway stations, housing offices, libraries and town halls. In some cases, astonishingly, people cannot get into hospitals. However, in other parts of Scotland there is excellent access to many public facilities, including the Glasgow Royal Concert Hall, which was singled out for special mention.

Will the First Minister do what he can to encourage the best possible standards of access and ensure that they are the norm in buildings so that disabled people can truly access all areas?

The First Minister: There are two issues here. The first is personal behaviour, about which I will say two things. First, people who do not have disabled badges should not use disabled parking spaces and they are wrong to do so. I hope that people will take more personal responsibility for that choice throughout Scotland. Secondly, one of the reasons that some people give for doing that is their perception that the badges are misused, so those who have badges should ensure that they are used properly and consistently. In that way, we will have buy-in from all sections of the community to what is an important procedure and policy.

The second issue is the consistency of the application of byelaws and other measures throughout the country. Although we do not have a provision yet on Jackie Baillie's proposed bill, I welcome the fact that she has initiated the debate. There is a debate to be had, but we need to think carefully about what the conclusions should be.

Flooding

5. Richard Lochhead (Moray) (SNP): To ask the First Minister what steps are being taken to ensure that the risk of flooding for communities is reduced. (S2F-2603)

The First Minister (Mr Jack McConnell): We have increased resources for flood prevention in Scotland from £4 million in 1999-2000 to £42 million in 2007-08, so there has been a tenfold increase in resources since devolution. Funding is made available for flood prevention schemes submitted by local authorities that meet the Executive's criteria. Since 1999, 20 such schemes have been completed, and recently we increased the grant rate to meet 80 per cent of the eligible costs and encourage more local authorities to submit schemes.

Richard Lochhead: The First Minister will be aware that the past week has been an anxious time for many communities that are at risk of flooding, given the number of flood warnings that

are in place. He might also be aware that the number of severe flood warnings in 2005 exceeded the total number in the previous five years, since the warnings system was put in place.

Does the First Minister agree that it is now time to carry out a thorough review of flood prevention in Scotland with a view to expediting the process for getting schemes up and running and making sure that the appropriate funding is in place? Is he aware that in Moray, even with an 80 per cent contribution from the Government, the need to find the remaining 20 per cent from taxpayers' money is crippling the local authority, which has to divert money from other budgets? Does he agree that that is unacceptable and that the system puts an unfair burden on Moray, which has severe flooding problems?

The First Minister: We had a review and we now have a national flooding strategy, which is the right thing to have. It was important to put that in place. It is absolutely right that we have increased the budget tenfold in the past eight years, and it also right that spending on flood prevention at the local level is initiated by local authorities. They should be in touch with their communities and should make decisions democratically and locally before they come forward with appropriate technical proposals. The funding is split 80:20 to reflect the funding split for local authorities in general revenue, with 80 per cent coming from Government grants and 20 per cent being raised locally. That is the right split.

One of the worst things that could happen in the next few years for local authorities such as Moray Council would be for the local government budget in Scotland to be reduced by £1 billion, as Ms Sturgeon proposed recently, with a capped local income tax. That would reduce the resources that are available to Moray Council and others and it would probably lead to flooding schemes not going ahead.

Central Heating Programme (Scottish Gas)

6. John Scott (Ayr) (Con): To ask the First Minister what action it is taking to address the backlog of work that Scottish Gas inherited when it was awarded the contract for the central heating programme. (S2F-2600)

The First Minister (Mr Jack McConnell): Officials in Communities Scotland have regular meetings with Scottish Gas to ensure that those who are eligible under the programme have the work carried out as quickly as possible. I understand that the targets will be met by 31 March. The communities ministers will meet Scottish Gas shortly to discuss progress with the programme.

John Scott: Will the First Minister confirm that, of the 6,000 or so central heating systems due to be installed by Scottish Gas between 1 October and the end of March 2007 under the new contract—in other words, 1,000 systems per month—fewer than 100 gas central heating systems and almost no electrical central heating systems have been installed in the past two months? What is he going to do to speed up the delivery of the programme, particularly outside the central belt of Scotland, where virtually no systems have been installed?

The First Minister: As I said, Communities Scotland is having regular meetings with Scottish Gas to speed up delivery and ensure that there is progress with the programme. The communities ministers will meet Scottish Gas soon to discuss the progress that is being made on programme as we move towards the end of March and the end of the financial year. We have a commitment from Scottish Gas that all the central heating systems that can be installed by the end of March under the current budget will be installed. It is precisely because of the demand for the systems that we have increased the budget by £5 million to ensure that more people have central heating this winter than would otherwise have been the case. That is, of course, a decision that will be implemented.

12:30

Meeting suspended until 14:15.

14:15

On resuming—

Question Time

SCOTTISH EXECUTIVE

Health and Community Care

Long-term Skin Conditions

1. Richard Baker (North East Scotland) (Lab):

To ask the Scottish Executive what services are provided for people with long-term skin conditions, including psoriasis and psoriatic arthritis. (S2O-11375)

The Deputy Minister for Health and Community Care (Lewis Macdonald): National health service boards provide services in line with clinical need, including on-going specialist care for those with chronic psoriasis or psoriatic arthritis.

Richard Baker: The minister will be aware of the great reduction in waiting times at Aberdeen royal infirmary for treatment of conditions such as psoriasis, thanks to the appointment of new staff in dermatology. Can he assure me that the Executive will continue to improve services for patients with psoriasis and psoriatic arthritis by appointing staff such as specialist nurses and by increasing training for general practitioners and nursing staff in handling such conditions?

Lewis Macdonald: We hope that the good example that Mr Baker cites from NHS Grampian will be replicated elsewhere. High-quality specialist treatment in a hospital setting is very significant for those who have psoriasis in a severe or chronic form. Many cases are dealt with in a primary care setting. We want that service to be maintained and improved.

Roseanna Cunningham (Perth) (SNP): The minister may be aware that some weeks ago Richard Baker and I co-hosted a dinner with Psoriasis Scotland. At that event it was impressed on all of us how seriously the condition affects people's normal day-to-day living. I was made very aware of the need for early diagnosis, especially at GP level, because only with early diagnosis can effective treatment be put in place that will have an impact. Can the minister say more about how he hopes GPs will be made more aware of and able to assess and pick up the disease in its early stages?

Lewis Macdonald: I am aware of the work that Roseanna Cunningham and Richard Baker have done jointly in this area and of the points Roseanna Cunningham makes, which arise from discussions that took place in the Parliament a few days ago. We recognise the increasing importance

of primary care and of delivering care to people with conditions of this kind in the community, which can bring better and quicker treatment to patients and reduce unnecessary burdens on the secondary care sector. I have asked my officials to meet early in the new year representatives of the organisation that visited the Parliament the other day to discuss with it some of the measures that can be taken and to encourage its engagement with the Long-Term Conditions Alliance Scotland, which we have encouraged to represent the interests of all those with chronic conditions.

Colin Fox (Lothians) (SSP): Given that patients with long-term skin conditions are among the many patients with chronic conditions who must pay for their prescriptions—currently £6.75 for each item—will the minister tell us whether psoriasis will be included on the list of chronic conditions that will be exempted from charges in the Executive's forthcoming review of prescription charges? Will he also let us know when the review will be published?

Lewis Macdonald: I am sure that Mr Fox has been following the matter with interest. He will know that we are still considering the representations that have been made to us. We expect to respond to a number of those representations in the near future.

Dental Services (Highlands and Islands)

2. Dave Petrie (Highlands and Islands) (Con): To ask the Scottish Executive what the average and maximum waiting times are for patients seeking appointments with dentists and orthodontists in the Highlands and Islands. (S2O-11349)

The Deputy Minister for Health and Community Care (Lewis Macdonald): The national maximum waiting time for a first time out-patient appointment with a consultant following referral, including the specialty of orthodontics, is 26 weeks. All NHS boards are meeting that commitment. We intend to reduce the national maximum waiting time to 18 weeks from the end of 2007. I understand that in the year to 30 September, the median waiting time for a first out-patient appointment in orthodontics in the Highlands and Islands was 152 days.

Dave Petrie: The figures that the minister has given concern me and, I hope, many others.

Is the minister aware that, in October this year, the waiting lists for dental care in the Highlands and Islands reached more than 29,000 people and that although dentists in the region are eager to take on new patients it is nigh impossible to do so because of those tremendously long lists?

Lewis Macdonald: I do not accept that analysis. We would encourage dentists in the Highlands

and Islands who wish to take on national health service patients to do so. We have provided significant financial incentives for them to do that. I was delighted to visit the Highlands just a few days ago to open a new NHS dental facility in Caithness, from where six dentists will serve the whole of that area, and to visit the extension to an existing NHS dental surgery at Culloden, which will serve the area east of Inverness. Between them, those two NHS initiatives will serve, and will be able to register, some thousands of patients in the Highlands over the next 18 months. That is a positive trend.

I encourage dentists in the Highlands who have deregistered their fee-paying adult patients to revisit that decision in view of the greatly increased financial incentives for them to treat all categories of patient on the NHS. If they do that, they will help to reduce the waiting lists even more quickly.

Acute Hospitals (Glasgow)

3. Mr Frank McAveety (Glasgow Shettleston) (Lab): To ask the Scottish Executive what progress is being made in modernising acute hospitals in Glasgow. (S2O-11392)

The Minister for Health and Community Care (Mr Andy Kerr): Huge progress has been made in modernising acute hospitals in Glasgow, and overall investment is around £1 billion. Building has commenced on the new £100 million Victoria hospital and on the £100 million new Stobhill hospital. Further to that, the children's hospital will open in 2011, the new southern general hospital is due to be completed in 2012—it will be one of the largest and most advanced hospitals in Europe—and the next phase of the £87 million west of Scotland cancer centre will start seeing patients in February 2007. All those developments are good for Glasgow and good for Scotland, and they prove our commitment to investing in the future of health services in Glasgow and across Scotland.

Mr McAveety: I welcome the additional level of resources that is being provided to Glasgow's acute hospital services. I especially welcome the progress that is being made on the new Victoria hospital, which serves the southern part of my constituency. Does the minister agree that that investment has been required for years, that any calls to halt such investment on the basis of the funding package would be placing ideological prejudice before the needs of patients, and that such baleful prejudice has no place in a modern acute hospital investment programme?

Mr Kerr: I wholeheartedly agree. Some would have our patients treated in outdated Victorian hospitals. Indeed, I understand that the Victoria infirmary was opened when General Custer was suing for peace with the Indians. I believe that the

investment that we are making in our health service is about patients and patient care, and we put patients first.

Cancer Treatment Targets

4. Shona Robison (Dundee East) (SNP): To ask the Scottish Executive when the target of 95 per cent of cancer patients starting treatment within two months of urgent referral will be met. (S2O-11332)

The Minister for Health and Community Care (Mr Andy Kerr): I have consistently pointed out to national health service board chairs at our monthly meetings that I expect every effort to be made to deliver the necessary 95 per cent performance level. The Scottish Executive is providing additional support in the form of an expert team to assist boards in achieving and sustaining that target. Following the additional measures taken by the Health Department, I expect the target to be achieved by April 2007 and consistently maintained thereafter. All boards have been asked to confirm in writing that they will achieve that.

Shona Robison: I remind the minister that the target was supposed to have been met by the end of last year. Is he aware that, back in July last year, he said that action would be taken to reduce waiting times, that in October last year he said that he would be closely monitoring future performance, that in March this year he said that he would closely monitor how each board performed, that in June he said that he would probe long waits, and that this month he has said that hit squads would be sent into boards that underperform? He will understand that we now want action rather than words. How can he reassure us that firm action will indeed be taken this time to address the huge regional variations that exist in cancer waiting times in Scotland? Will he commit to reporting to Parliament on an on-going basis on the progress that is being made in health boards?

Mr Kerr: As ever, we have no recognition from the SNP of the lowest ever waiting times in our national health service history and no recognition of the hard work of the staff involved—but that is the SNP's prerogative, not mine.

Shona Robison should be aware—but clearly is not—that the published figures are six to nine months old, so she should recognise that the figures that we published lately are from April to June of this year. Many of the measures that I have put in place give me the assurance that we will be able to perform as we should.

Of course, it is not all bad news. I can reassure patients in Scotland that colorectal cancer performance is up 14 per cent, lung cancer performance is up 12 per cent and blood cancer

performance is up 16 per cent. Performance on many other cancers has improved and is getting better.

It is unfortunate that the target has not been met for 31 patients out of a total of 181. I have set in train a number of measures and have sought reassurance from boards, because there are no excuses for not meeting the target by the date that I mentioned in my initial response.

Mrs Nanette Milne (North East Scotland) (Con): Given the failure to meet targeted cancer waiting times so far, does the minister still think that it is wise to promise that by the end of next year patients will wait no more than nine weeks for magnetic resonance imaging or computed tomography scans and other key diagnostic tests?

Mr Kerr: Yes, I do. If the member had paid any attention to the recent performance statistics from our national health service, she would have seen that the trajectory for performance delivery on that target is secure. Therefore, the £50 million investment that this Executive is making in the key diagnostic tests will deliver for patients and will do so by the date that we have set.

Mental Health Patients (Abscondings)

5. Margaret Jamieson (Kilmarnock and Loudoun) (Lab): To ask the Scottish Executive whether it will consider the recommendations of the independent inquiry into the care and treatment of John Barrett, published in November 2006 by NHS London, when it considers NHS Ayrshire and Arran's critical incident review on the abscondings of Mark Biggley. (S2O-11387)

The Deputy Minister for Health and Community Care (Lewis Macdonald): Yes. We are currently considering the report in detail along with the critical incident review.

Margaret Jamieson: Does the minister agree that the safety of the public can be determined only by the police? Does he also agree that guidance must make it clear to all clinicians that the police must be partners in assessing the risk posed by all restricted patients?

Lewis Macdonald: I accept Margaret Jamieson's points, which she has made previously. As of today, we are consulting on new care programme approach guidance, which will require that henceforth in cases of this kind the police must be involved from an early stage in considering any proposal for unescorted leave involving a restricted patient. An initial risk assessment should be held within six to eight weeks of admission to the system and should be repeated at regular intervals. In addition, I know that Margaret Jamieson will be interested to know that, pending completion of the consultation and the introduction of the guidance, Strathclyde police

and NHS Ayrshire and Arran have agreed that the police will continue to be involved in those decisions in future and have put in place new protocols that reflect their recent experience.

Care Homes (Highlands)

6. John Farquhar Munro (Ross, Skye and Inverness West) (LD): To ask the Scottish Executive what further provision is being made to increase the number of beds for elderly people in care homes in the Highlands. (S2O-11359)

The Deputy Minister for Health and Community Care (Lewis Macdonald): That is a matter for Highland Council. I understand that it is currently seeking bids from the independent sector to secure 168 care home places for frail older people.

John Farquhar Munro: I am sure that the minister is aware of Highland Council's proposal to dispose of at least six of its care homes, which he will understand is causing alarm and distress among existing residents and raises concern for the future care of the elderly in the council's area. What assurance can the minister give on residential care provision in the rural parts of the Highlands in the short and long term?

Lewis Macdonald: As I said, the primary responsibility lies with the local authority, which is accountable for the decisions it makes. I understand that the 168 places that Highland Council seeks to commission are at five locations in different parts of the Highlands. John Farquhar Munro may wish to raise the matter with the local authority.

The NHS's interest is in discharge from hospitals and ensuring that people can access appropriate discharge options in their locality. NHS Highland will continue to work with Highland Council and Argyll and Bute Council to ensure that such provision is in place.

John Swinburne (Central Scotland) (SSCUP): What steps are being taken to accelerate the implementation of Professor Kerr's report relative to care in the community for elderly people in the Highlands?

Lewis Macdonald: A range of measures is being introduced to meet the Kerr report's recommendations. I am pleased to say that the targets set by the Executive a year ago in "Delivering for Health", in response to Professor Kerr's report, are very much on schedule. We will continue that process of encouraging more care to be delivered to older people in their communities, to reduce unnecessary admission to hospital and to speed up discharge. There has been further progress this year on avoiding delay in the discharge from hospital into the community. We

will seek to drive that progress further in future years.

Chronic Obstructive Pulmonary Disease

7. Dr Elaine Murray (Dumfries) (Lab): To ask the Scottish Executive what action it is taking to heighten awareness among the public and medical practitioners of chronic obstructive pulmonary disease. (S2O-11400)

The Minister for Health and Community Care (Mr Andy Kerr): General practitioners are incentivised through the general medical services contract to address COPD. We have been encouraging the development of managed clinical networks for COPD, to integrate services. The network approach gives people with COPD a stronger voice in the future design of services.

Dr Murray: The minister will be aware that COPD kills some 5,000 people in Scotland each year—more than transport accidents, breast cancer, liver disease and illegal drug use put together. It is also one of the three leading causes of absence from work. As the principal cause of COPD in Scotland nowadays is smoking, what action is the Executive taking to ensure that smokers and potential smokers are aware of the prevalence of that health consequence of smoking?

Mr Kerr: Our comprehensive smoking cessation efforts, combined with our smoke-free Scotland legislation, have contributed to the chief medical officer's recent statement regarding his perception that lung cancer could be a disease of the past in Scotland a few decades from now. That is heartening news; nonetheless, we continue our efforts. We have increased and redoubled our efforts in relation to smoking cessation. In the gallery is Calum Baxter from Edinburgh, who wrote to me about his primary school project. We did not introduce the smoking ban just for the people who use Scotland's pubs, clubs and restaurants; we did it for our young people, and I thank Calum for his project.

National Health Service (Car Parking)

8. Alasdair Morgan (South of Scotland) (SNP): To ask the Scottish Executive when it expects to receive the report of the review of car parking arrangements in each NHS board and when it expects to respond to the conclusions of that report. (S2O-11325)

The Minister for Health and Community Care (Mr Andy Kerr): Health Department officials are currently putting together a full report from the information received and I expect to receive that in due course.

Alasdair Morgan: I hope that the minister is still in office when he receives it. That could be taken two ways.

Does the minister agree that improper parking in hospital grounds can be a real problem, particularly when emergency vehicles are obstructed? That is a particular difficulty in rural areas, where patients often have no means of getting to hospital other than the car. Does he further agree with boards such as NHS Dumfries and Galloway that the use of NHS funds to implement and enforce regulations, and then to collect fines from those who breach the regulations, would not be a good use of NHS money? Will he say, therefore, whether he will seriously seek and implement a solution that will tackle the problem of improper parking and relieve boards of the financial penalties of curing the problem?

Mr Kerr: I am reluctant to go into the detail of the project the member describes because I do not know the full facts. There are rules on how we manage hospital parking. It should not be about income generation, and any money that is generated should provide better hospital services. Some parking management schemes, such as that in Tayside, have proven very successful. This is a difficult and complex area and I am pleased that the member recognised that in the earlier part of his question.

I will consider every project and its appropriateness, and I will raise matters with board chairs as appropriate. Nonetheless, it is best for boards, which are closer to the issue than I am, to develop their own schemes. Many schemes, including valet parking for cancer patients and close access parking for patients with transport movement difficulties, have worked extremely well. On other occasions, we have not done it so well. I want to ensure that everyone goes to the high benchmark of best practice. That is what the current review is about.

The Presiding Officer (Mr George Reid): Question 9 has been withdrawn at short notice.

National Health Service (Access to Information)

10. Irene Oldfather (Cunninghame South) (Lab): To ask the Scottish Executive what importance it places on ensuring that patients have adequate access to health service information. (S2O-11401)

The Deputy Minister for Health and Community Care (Lewis Macdonald): We recognise that the provision of relevant, high-quality, accessible information is essential to allow patients to access the local health services that they need and to become partners in decisions

about their care. The Scottish health council led a national conference on the subject last month to establish how we can continue to improve the provision of patient information.

Irene Oldfather: Does the minister agree that although the increasing availability of information on the internet is welcome, it is not suitable or accessible for all service users, particularly the elderly? Does he also believe that every possible effort should be made to enable elderly service users to understand their rights? Will he undertake to consider how information could be made more readily available to vulnerable groups to empower them to ensure that their patient and/or resident rights in relation to national care standards are protected?

Lewis Macdonald: I am happy to consider the point that Irene Oldfather raises. She has made it before and I have a good deal of sympathy with it. We want to ensure that people not only have theoretical access to information but are able to obtain it. I understand her point that information that is primarily available on the internet is not equally available to all. We will certainly consider any suggestions that she may wish to make, and I invite her to write to me with some.

Environment and Rural Development

Green Christmas

1. Mike Pringle (Edinburgh South) (LD): To ask the Scottish Executive how it is encouraging people to have a green Christmas. (S2O-11366)

The Minister for Environment and Rural Development (Ross Finnie): The Scottish Executive supports the waste aware Scotland campaign, which provides a range of tips through its website—www.wasteawareScotland.org.uk—for a greener Christmas. Those include using wrapping materials that have been manufactured from recyclates, re-using wrapping paper and decorations, using rechargeable batteries instead of disposable ones, and recycling cards and Christmas trees. Practical support and facilities are provided through local authorities' recycling facilities—many of which make special arrangements for handling Christmas trees—and other Executive-supported initiatives, such as the Woodland Trust's annual Christmas card recycling scheme.

Mike Pringle: I congratulate the Scottish Executive on the green Christmas tips that are on its website. Does the minister agree that the major problem at the moment is excessive packaging, which is particularly evident at Christmas? What discussions are taking place with retailers throughout Scotland to reduce the level of

packaging, not only at this time of year but throughout the year?

Ross Finnie: There is continuing dialogue between retailers and the Waste and Resources Action Programme. WRAP—it is aptly named—is sponsored by the Scottish Executive Environment and Rural Affairs Department and the Department for Environment, Food and Rural Affairs. It has a continuing programme to reduce retailers' packaging, but I regret to say that, although the volume has been reduced, retailers have not necessarily been successful in reducing the total number of layers. In a number of programmes, the thickness of the films that are used has been reduced drastically, but I continue to press retailers to reduce the layers of wrapping that they use.

Eleanor Scott (Highlands and Islands) (Green): Does the minister agree that a green Christmas is just the start of a green future? Does he also agree that the greenest Christmas present that anybody could receive this year is membership of the Scottish Green Party? It might be particularly suitable for disillusioned Liberal Democrats who are disappointed at unsustainable decisions, for example on the M74 extension, that have been made by some Liberal Democrat ministers.

Ross Finnie: I am not sure that I need to join the Scottish Green Party, but we could exchange Christmas gifts. That might include my sending Eleanor Scott the works of John Locke, a well-known Liberal Democrat philosopher who was perhaps the first to make clear as a political philosophy that we in public office and those who are elected hold our office in trust and do so to hand on to the next generation the best possible conditions. I would be happy to exchange Christmas gifts, but it is unlikely that I would sign an application for membership of the Green party.

Genetically Modified Crops (Testing)

2. Rob Gibson (Highlands and Islands) (SNP): To ask the Scottish Executive whether it monitors the testing of crops for GM traits so that the necessary GM test templates can be made freely and widely available internationally. (S2O-11327)

The Deputy Minister for Environment and Rural Development (Rhona Brankin): No, because genetically modified organisms cannot be authorised for marketing in the European Union before a specific detection method is available, and those detection protocols are freely available on the Community reference laboratory website.

Rob Gibson: Given the recent controversy over LibertyLink rice 601, does the Scottish Executive believe that the competent authorities should

routinely test imports for the presence of all the experimental traits that have been identified?

Rhona Brankin: The issues raised in the question are currently subject to proceedings for judicial review, and as the question relates to an active case I am unable to comment at this stage. However, I can say that food and feed business operators, including importers, are responsible for ensuring that the products that they sell do not contain unauthorised GM ingredients. Enforcement of legislation on GM food and feed is the responsibility of local authorities, which are responsible for taking the necessary actions to ensure that imported food and feed comply with the requirements of food law, including the regulations governing the sale of GM food and feed.

Farmers Markets

3. Margaret Smith (Edinburgh West) (LD): To ask the Scottish Executive what action it is taking to support and encourage farmers markets. (S2O-11360)

The Minister for Environment and Rural Development (Ross Finnie): The Executive welcomes the development of farmers markets in Scotland, and support services for the Scottish Association of Farmers Markets are provided by the Scottish Agricultural Organisation Society, which receives core funding from the Executive.

Margaret Smith: The minister may be aware that Edinburgh's award-winning weekly farmers market attracts 300,000 shoppers and contributes £1.6 million to the rural economy and £800,000 to the city centre economy each year. Farmers markets represent a good opportunity to buy local. What is the Scottish Executive doing to increase the procurement of local produce within the public sector?

Ross Finnie: I am well aware of the *Country Life* award, and I congratulate all those involved in the Edinburgh market on both showcasing Scottish produce so well and providing the consumer with such a satisfactory product.

Purchasing local is a clear element of our food strategy, and it is important that we promote Scottish produce in all cases. As the member will probably be aware, we have reviewed public procurement arrangements and we are keen to ensure that, for example, the project carried out in Ayrshire in collaboration with the education authority is replicated throughout Scotland. We have issued material to enable people to understand how better to ensure the procurement of local goods.

John Scott (Ayr) (Con): In asking this question, I must declare an interest as a farmer and a past

chairman of the Scottish Association of Farmers Markets, which has already been referred to.

Will the minister do all that he can to encourage rural diversification by ensuring that at least one of the programmes yet to be agreed under tier 3 of the land management contracts supports diversification into retail, such as farm shops, food networks and farmers markets?

Ross Finnie: Final decisions on the content of tiers 1, 2 and 3 will depend ultimately on the funds that are available, and as the member is well aware that is still subject to negotiation between ourselves and Europe. However, I will certainly bear in mind the fact that diversification has to be part of that, and I will take into account his comments on entry into retail and other similar businesses.

Alasdair Morgan (South of Scotland) (SNP): The minister will be aware that farmers markets form an important tourist attraction in many other countries—France springs to mind. What liaison has been undertaken with VisitScotland with a view to marketing farmers markets in a more co-ordinated and effective manner?

Ross Finnie: I am unable to give an answer. I am aware of some discussions, but I am unaware of the detail. My best course would be to write to the member and advise him of the up-to-date position.

Dalgety Bay Beach (Radioactive Contamination)

4. Helen Eadie (Dunfermline East) (Lab): To ask the Scottish Executive what progress it has made in discussion with Her Majesty's Government on cleaning up radioactive contamination on Dalgety Bay beach. (S2O-11380)

The Minister for Environment and Rural Development (Ross Finnie): My officials met Ministry of Defence officials on 2 November to discuss the progress that has been made by the consultants whom the MOD appointed to identify the extent of contamination at Dalgety Bay. The Dalgety Bay forum will meet on 19 December to receive an update on the progress that the MOD has made. That will be the forum's first meeting since April. I am pleased to say that its membership has been extended to include the community council and the sailing club, which previously were not represented. I will report the outcome of the meeting to Helen Eadie.

Helen Eadie: I am delighted that the community council has been embraced as part of the forum. Is the minister aware that the residents of Dalgety Bay have experienced the problem for more than 16 years? Also, is he aware that hundreds of thousands of pounds have been spent on studies

of one sort or another? When does the minister plan to take remedial action? What representations will he make to Her Majesty's Government specifically to address the need for a joint resolution of this important issue for the families of Dalgety Bay?

Ross Finnie: I am conscious of the continuing importance of the matter to Helen Eadie. She will be aware that the matter is essentially one for the MOD, because it is reserved. She will also be aware that the latest decision to have a study specifically to identify the extent of the contamination was made as a result of pressure from her and others in the area. All that I can do is ensure that the MOD—which we meet regularly—provides the answers, so that a plan can be produced as quickly as possible to deal with the contamination.

Mr Mark Ruskell (Mid Scotland and Fife) (Green): In his evidence on the Environmental Assessment (Scotland) Bill, the minister asserted that some Ministry of Defence plans and programmes in relation to the environment would be covered by the bill. Is he aware of any strategic plans that the MOD has for clearing up radioactive mess around Scotland and the UK? Does the Environmental Assessment (Scotland) Act 2005 apply to those plans and programmes?

Ross Finnie: I am not aware of any MOD plans or programmes, but I remain of the view that, if a public body produces a proposal or plan that would have a material environmental impact, it should be caught by the 2005 act. If the member has information that suggests that the MOD has such plans, I would be happy to pursue that.

Recycling (Glasgow Tenement Households)

5. Paul Martin (Glasgow Springburn) (Lab): To ask the Scottish Executive what progress has been made on the recycling initiative for tenement households in Glasgow. (S2O-11390)

The Minister for Environment and Rural Development (Ross Finnie): In September 2006, Glasgow City Council was given an indicative award of nearly £27 million for the period to 2020 to implement a recycling service for 110,000 households in multi-occupancy properties in Glasgow. I understand that the council intends to start the roll-out of the scheme in February 2007.

Paul Martin: I welcome the significant investment in recycling in Glasgow. However, are there any specific initiatives to deal with the challenges that the roads infrastructure creates for the collection of material for recycling or with the difficulties with collecting material from tenements? What additional investment could be provided to meet those challenges?

Ross Finnie: As Paul Martin might be aware, the award was made to Glasgow following two pilot schemes that were conducted in a collaboration between my department, the local authority and other local authorities that face the same problems in collecting material from tenement properties—not just their physical location or the absence of adequate space and facilities in the back courts, but access for appropriate vehicles. Those factors were taken into account in the award to Glasgow City Council.

The council will produce six-monthly reports on the progress of the recycling projects and those reports will be used to assess whether the issues that Paul Martin raises are being adequately addressed or whether further action needs to be taken.

Rural Development (Housing)

6. Ms Rosemary Byrne (South of Scotland) (Sol): To ask the Scottish Executive what measures it is taking to promote rural development, for example by addressing issues in relation to poor housing. (S2O-11334)

The Minister for Environment and Rural Development (Ross Finnie): The Executive takes a wide variety of measures to promote rural development and thriving rural communities. In 2006-07, we are investing £119 million in affordable housing, and private sector property owners in rural areas have benefited from £24 million of investment, in part to help tackle below-tolerable-standard housing. We expect all social landlords to achieve the Scottish housing quality standard across social housing by 2015.

Ms Byrne: Does the minister agree that urgent action is needed? In response to questions that I asked in November, Malcolm Chisholm said that 30,000 households in rural Scotland are living in damp houses, 78,000 households in rural Scotland are living in homes with a poor energy rating and 109,000 households in rural Scotland—25 per cent of rural households—are living in fuel poverty. Given the rising fuel costs and the standard of the houses in question, urgent action is needed. What is the minister going to do now?

Ross Finnie: As I said in my previous answer, this year we have allocated £119 million for housing in rural areas, compared with last year's sum of £97 million. The Executive has responded in kind to the problems that the member has identified by increasing substantially the level of investment in this area.

Rob Gibson (Highlands and Islands) (SNP): Given the number of people who live in overcrowded houses or in caravans, will the minister give us an idea of the progress that is being made in creating forest crofts, which will

allow more rural dwellers to remain in their communities?

Ross Finnie: As the member will be aware, although the provisions in the Crofting Reform etc Bill will ensure that we can have forest crofts, the bill is not yet through Parliament. Once it is through—I expect to receive Rob Gibson's support in ensuring its swift passage—we will be able to discuss the timescale to which we will establish such crofts.

Genetically Modified Organisms (Contamination)

7. Linda Fabiani (Central Scotland) (SNP): To ask the Scottish Executive whether it considers that action is required to ensure that crops are not contaminated by unauthorised GM organisms. (S2O-11329)

The Deputy Minister for Environment and Rural Development (Rhona Brankin): Action is already taken. Seed suppliers must ensure that the seed that they market for crop production is not contaminated by unauthorised GM organisms. The Scottish Executive's GM inspectorate monitors compliance with that requirement.

Linda Fabiani: How will the Executive ensure that our local authority monitoring programmes are able to detect unapproved experimental GM traits and imports before they enter the supply chain in future?

Rhona Brankin: As I said, food and feed business operators, including importers, have a responsibility to ensure that the products that they sell do not contain unauthorised GM organisms. Of course, responsibility for the enforcement of legislation lies with the local authorities.

Recycling (Central Fife)

8. Christine May (Central Fife) (Lab): To ask the Scottish Executive what support it is giving to recycling in central Fife. (S2O-11391)

The Minister for Environment and Rural Development (Ross Finnie): Fife Council has been awarded more than £71 million from the strategic waste fund to introduce kerbside recycling, green waste collection schemes and new and improved recycling centres and collection points.

Christine May: I appreciate the support that the Executive has given to recycling in central Fife through the strategic waste fund. The minister will be aware that Fife Council submitted a subsequent application in January. When will he invite the council to start work on the outline business case, given that the delay is giving rise to fears of increased fines for missing waste-to-landfill targets? Will the minister meet me and

officials and elected representatives of Fife Council to discuss the matter?

Ross Finnie: Yes. I am well aware of concerns expressed by Fife Council and other local authorities in connection with the allocation of phase 2 of the strategic waste fund. I had a meeting with representatives of the Convention of Scottish Local Authorities at lunch time on that very subject.

I am anxious to proceed, and I deeply regret that technical issues have led to delays. As the member said, we have clear targets to divert waste from landfill.

We must ensure that we continue to progress recycling throughout Scotland. In that context, I will be happy to meet the member and officials to discuss the matter further.

Adoption and Children (Scotland) Bill: Stage 3

Resumed debate.

14:55

The Presiding Officer (Mr George Reid): We resume stage 3 consideration of the Adoption and Children (Scotland) Bill. Members should have the bill as amended at stage 2, which is SP Bill 61A; the marshalled list, which contains all the amendments that I have selected for debate; a supplement to the marshalled list, which contains one manuscript amendment; and the groupings, which I have agreed.

The division bell will sound and proceedings will be suspended for five minutes for the first division on an amendment. The period of voting for the first division will be 30 seconds. Thereafter, I will allow a voting period of one minute for the first division after a debate. All other divisions will last 30 seconds.

I invite the Minister for Parliamentary Business to move a motion under rule 9.8.5A of the standing orders to extend the next time limit by 30 minutes, which will have the knock-on effect of extending all remaining time limits by 30 minutes.

Motion moved,

That, under Rule 9.8.5A, the time-limits for groups 8 to 10 be extended by 30 minutes.—[*Ms Margaret Curran.*]

Motion agreed to.

The Presiding Officer: I therefore expect the debate on whether the bill should be passed to begin shortly before 4.30 pm and decision time to be around 5.30 pm, although it might be just a little earlier.

Group 8 is on permanence orders. Amendment 104, in the name of the minister, is grouped with amendments 105, 34 to 36, 115 to 117, 37, 38, 42, 44 to 46, 129, 131, 56, 60, 63, 66, 148, 67, 68 and 71 to 74.

Robert Brown: We begin round 2 of the debate.

Amendment 104 is simply a technical amendment that will replace a reference to a permanence order to provide consistency of expression with the rest of the bill.

Amendment 105 was lodged to define the term “parent” in sections 33(2) and 33(2A). It will bring the definition of “parent” in those sections into line with the definition that will be used in the section that sets out the conditions for a permanence order with authority to adopt. Amendment 115 is also relevant in that context.

Essentially, amendments 34 to 38 and amendment 115 will divide up the provisions that were originally contained in section 84. This is another restructuring issue. Members of the committee thought that that section was too long; the amendments address their concerns.

I do not think that Lord James Douglas-Hamilton will press amendment 116, but I will resist it if he does so. He lodged a similar amendment at stage 2, when the clarity of the provisions was its attraction. However, I hope that we have now addressed the problems in a satisfactory manner in amendments 34 to 38 and amendment 115. At stage 2, I set out my policy concerns about his amendment, so we do not need to rehearse them again.

Lord James Douglas-Hamilton's amendment 117 would not add anything new to the bill—all the provisions that the amendment proposes are already contained in the bill. Under section 37(2), the making of an adoption order will extinguish the parental responsibilities and rights that were previously held and will therefore bring a permanence order to an end. Under subsection (2) of the new section to be inserted by amendment 35, the duration of a permanence order is otherwise clearly provided for. That provision is not new—it will replace section 84(9).

Amendments 42, 44 to 46, 129, 131 56, 60, 63, 66, 148, 67, 68 and 71 to 74 are technical, consequential amendments that arise from the redrafting of section 84. Amendments 42, 44 and 45 will replace references to subsection (4) of section 84 with subsection (1) of the new section that will set out provisions with regard to the ancillary provisions of a permanence order. Amendment 46 will replace the reference in section 90 to subsection 84(6) with a reference to the new section that contains the conditions that must be met before a permanence order that grants authority for a child to be adopted may be made.

Amendments 129 and 131 will replace the references to section 84(5) with references to the new section that contains the conditions that must be met before a permanence order that grants authority for a child to be adopted may be made. Amendments 56, 60, 63, 66, 148, 67, 68 and 71 to 74 are consequential.

I move amendment 104.

Lord James Douglas-Hamilton: My amendments in the group were drafted by Janys Scott, who is an advocate, part-time sheriff and one of the foremost experts in Scotland on the subject. I am grateful to the minister for agreeing to see me with her and Michael Clancy of the Law Society of Scotland.

I will not enter into a debate on whose drafting is better, and I cannot claim that every detail of what I have proposed has been accepted. Nevertheless, I thank the minister for accepting a great deal of the spirit of my amendments through the expert wording of his own draftsman. It was kind of him to give us an hour and a quarter of his valuable time. I feel a little like the man who abstained from taking any alcohol but who was presented with a bottle of cherry brandy. Not wishing to appear ungrateful, he replied, "Thank you for the gift and the spirit in which it is given." Because I am grateful to the minister for lodging amendment 104 and the associated amendments, I will not move my amendments in this group or the associated amendments in subsequent groups. I will support the Executive's amendments.

The credit for the minister's substantial movement should go not just to him, but to the Law Society of Scotland and to Janys Scott of the Faculty of Advocates.

15:00

Mr Ingram: I welcome the Executive's amendments and congratulate Lord James Douglas-Hamilton on his diligence and persistence in pursuing his concerns in the matter of permanence order provisions.

Robert Brown: I was grateful for the input of members of all parties and their expert advisers, and for the meeting with the Law Society, which Lord James Douglas-Hamilton mentioned. That input has focused minds on the technicalities of a difficult and complex bill, and the bill has benefited from it. I am also grateful to both Adam Ingram and Lord James Douglas-Hamilton.

Amendment 104 agreed to.

Amendment 105 moved—[Robert Brown]—and agreed to.

Section 51—Adoption support plans

Amendments 106 and 107 moved—[Robert Brown]—and agreed to.

Section 52—Duration

The Deputy Presiding Officer (Trish Godman): Group 9 is on assessment of an adopted person's requirements beyond the age of 18. Amendment 108, in the name of Adam Ingram, is the only amendment in the group.

Mr Ingram: The minister will be familiar with the debate that we had in the Education Committee on the Education (Additional Support for Learning) (Scotland) Act 2004, concerning the importance of making provision for the transition periods in young people's lives, such as that which occurs

when they move from school to college. The principle behind amendment 108 is similar.

Members will be aware that adopted children nowadays have often been traumatised by early life experiences and that the damage that has been done can have a lifelong impact. It is, therefore, important that their access to services, such as those that are provided by child and adolescent mental health teams, is not cut off at the age of 18. Access to appropriate services needs to be planned for, so that there is a seamless transition in the provision of services to meet the needs of young people in that situation. However, according to agencies in the field, such as Adoption UK, seamless transitions are, unfortunately, the exception rather than the rule.

When the law changed in England, that difficulty was not picked up down there and has developed into a serious problem. We have an opportunity to address the issue now. I therefore commend amendment 108 to the chamber.

I move amendment 108.

Lord James Douglas-Hamilton: I am minded to support amendment 108 because, as Adam Ingram has said, it would permit a smooth transition from children's services to comparable adult services for people who still very much need that support after the age of 18. Without the amendment, there is a danger of necessary services either being withdrawn or not being replaced. I feel that the amendment would provide an important safeguard.

Robert Brown: I am grateful to Adam Ingram for lodging the amendment, which hits on the head an important area that, as he rightly says, we have all had experience of in other fields—not least during our consideration of the Education (Additional Support for Learning) (Scotland) Act 2004.

I accept entirely the central point. However, under the bill, adopted children will have access to adoption support services under an adoption support plan, which will detail the services that the local authority provides to a child to meet any needs that have been identified and assessed. Adoption support plans will cease to have effect when a child reaches 18. Amendment 108 would require a local authority to consider whether a child needed adult services, although it would not require the local authority to take any steps in that connection.

The amendment is unnecessary, because under the more coherent approach that we now have to adoption services, the bill provides for people to be able to access adoption services throughout life. Even though that will not be provided for in an adoption support plan, it ought to happen as a matter of course. I say to Adam Ingram—this is

the important point—that I am happy to progress the issue in the development of good practice and subsidiary stuff, such as the consideration of guidance, as we try to move towards having high-quality services that are spread evenly throughout Scotland and to fill in the gaps that have been identified during the passage of the bill. I hope that he will accept that assurance as genuine and will therefore ask to withdraw the amendment, which would not advance the situation.

Mr Ingram: I appreciate what the minister said about the focus of amendment 108. I also appreciate that we can deal with some issues in regulations. On the basis of the commitment that he has given, I am prepared to withdraw the amendment.

Amendment 108, by agreement, withdrawn.

Section 55—Reassessment of needs for adoption support services

Amendment 109 moved—[Robert Brown]—and agreed to.

Section 61—Connections between the register and birth records

Amendments 110 and 111 moved—[Robert Brown]—and agreed to.

Section 65—Preliminary order where child to be adopted abroad

Amendment 112 moved—[Robert Brown]—and agreed to.

Section 66—Restriction on removal of children for adoption outwith Great Britain

The Deputy Presiding Officer: Group 10 is on the meaning of "protected child". Amendment 113, in Hugh Henry's name, is the only amendment in the group.

Robert Brown: Amendment 113 will replace part of section 66(9), which defines a protected child for the purposes of restrictions on removing a child from Great Britain with a view to adoption outwith the British isles. A person who takes or sends a protected child out of Great Britain for the purposes of adoption commits an offence. The amendment will make a protected child one who is habitually resident in the United Kingdom or a Commonwealth citizen, rather than a British subject or a citizen of the Republic of Ireland, as the bill currently says—that reflects previous legislation.

The original definition was taken from the Adoption (Scotland) Act 1978 and is outdated. I am told that citizens of the Republic of Ireland were previously included because of former intercountry adoption connections with that

country that are no longer directly relevant. The amendment is in line with the updated definition that is used in the Adoption and Children Act 2002, which is appropriate for a unified approach. In practical terms, the amendment will make a technical update.

I move amendment 113.

Amendment 113 agreed to.

Section 12—Adoption societies which are not registered adoption services

Amendment 114 moved—[Robert Brown]—and agreed to.

Before section 84

Amendments 34 to 36 and 115 moved—[Robert Brown]—and agreed to.

Section 84—Permanence orders

Amendments 116 and 117 not moved.

Amendment 37 moved—[Robert Brown]—and agreed to.

Section 85—Conditions and considerations applicable to making of order

The Deputy Presiding Officer: Group 11 is on conditions and considerations applicable to making of permanence order. Amendment 119, in the name of Lord James Douglas-Hamilton, is grouped with amendment 120. I understand that Lord James does not intend to move amendment 119.

Lord James Douglas-Hamilton: I will not move amendment 119 for the reason that I gave during the debate on an earlier group: I am content with the technical amendments lodged by the minister.

Amendment 119 not moved.

Robert Brown: Section 85 already sets out the conditions and considerations applicable to making a permanence order, which include the condition in section 85(5)(c) that the court must be satisfied before making a permanence order that no person has the right to have the child living with them or otherwise to regulate the child's residence. That was the issue that bothered Lord James. I will say nothing further on the subject because of his change of position.

Amendment 120 makes it clear that the paramount consideration of the court in granting a permanence order is the welfare of the child throughout his or her childhood. That reflects the fact that, apart from including responsibility to provide guidance as far as the age of 18, a permanence order lasts only until the child is 16. That differs from section 9(4)(c), under which the

welfare consideration with regard to the making of an adoption order is to be the effect on the child throughout their life, as is appropriate.

Amendment 120 moved—[Robert Brown]—and agreed to.

After section 85

Amendment 38 moved—[Robert Brown]—and agreed to.

Section 86A—Effect of order on existing parental right

The Deputy Presiding Officer: Group 12 is on definition of "relevant child". Amendment 39, in the name of the minister, is grouped with amendments 40, 41 and 43.

Robert Brown: Amendments 39 and 40 are consequential on the removal of the term "relevant child" from the sections replacing section 84. The amendments replace the reference to "relevant child" with a reference to

"the child in respect of whom a permanence order is made".

Wonderful are the ways of the drafters in such matters.

Amendments 41 and 43 are also drafting amendments that are consequential on the removal of references to "relevant child". The reference to the section that will replace the pertinent part of current section 84 in section 88A(1)(b) makes it clear that section 88A deals with a child

"in respect of whom a permanence order has been made".

The label and definition are therefore unnecessary.

I move amendment 39.

Amendment 39 agreed to.

Amendment 40 moved—[Robert Brown]—and agreed to.

After section 87

The Deputy Presiding Officer: Group 13 is on parental responsibilities and rights subsisting after making of permanence order. Amendment 121, in the name of Lord James Douglas-Hamilton, is the only amendment in the group.

Lord James Douglas-Hamilton: As I explained earlier, amendment 121 is associated with amendments 116 and 117, in relation to which the Executive has already made concessions. Therefore, it is not necessary for me to move amendment 121 at this stage.

Amendment 121 not moved.

Section 88A—Exercise of parental right under order

Amendments 41 to 43 moved—[Robert Brown]—and agreed to.

Section 89—Variation of ancillary provisions in order

Amendments 44 and 45 moved—[Robert Brown]—and agreed to.

Section 90—Amendment of order to grant authority for child to be adopted

Amendment 46 moved—[Robert Brown]—and agreed to.

Section 91—Proceedings

The Deputy Presiding Officer: Group 14 is on variation of permanence order: proceedings. Amendment 122, in the name of the minister, is grouped with amendment 123.

Robert Brown: Amendment 122 is essentially an amendment for the sake of consistency in the bill. Section 91 already lists those persons who are entitled to make representations to the court in any proceedings relating to variation of a permanence order. Those include the local authority; the child; any person with parental responsibilities or rights in relation to the child; any person who has had a duty conferred on him or her by the order; any person who had parental responsibilities or rights in relation to the child immediately prior to the making of the order; and anyone who had parental responsibilities or rights in relation to the child immediately prior to a previous variation of the order. It also includes any other person who, in the opinion of the court, is able to “demonstrate an interest”.

We lodged an amendment to section 86 at stage 2 to allow anyone who simply claims an interest to make representations to the court in proceedings for an application for a permanence order, rather than first having to demonstrate an interest in the opinion of the court. Amendment 122 ensures that the same criteria apply in proceedings for a variation of an order. There is no change in the substance of the matter. Any person who simply claims an interest will be able to make representations. The court will take those representations into account in its deliberations if it considers that they are valid.

Amendment 123 is a technical amendment that seeks to clarify the relationship between the two provisions in section 91(5) by inserting an “or” between paragraphs (a) and (b), as the “other” in paragraph (b) means that the two provisions have to be mutually exclusive.

I move amendment 122.

15:15

Lord James Douglas-Hamilton: I am grateful that the minister has lodged amendment 122, which removes the burden of having first to demonstrate an interest before being allowed to make representations to the court. It is very unlikely that those who claim to have an interest will not be genuine, and the court should be allowed to weigh up the various views.

Amendment 122 agreed to.

Amendments 123 and 47 moved—[Robert Brown]—and agreed to.

After section 91

The Deputy Presiding Officer: Group 15 is on the interface between permanence orders and supervision requirements. Amendment 124, in the name of the minister, is grouped with amendments 125, 49, 126, 51, 52, 153, 53 and 54.

Robert Brown: The interface between permanence orders and the children’s hearings system is a complex but important area that has given rise to a great deal of comment and, indeed, has been the subject of some discussion with Lord James Douglas-Hamilton, Adam Ingram and other members. I repeat my thanks to those who have contributed to the discussions on the bill’s provisions in this area and I hope that we have listened carefully to all that has been said. Although what we have come up with is not our original proposal, we think that it provides the best practical way forward for the child and the process.

Amendment 124 seeks to place a duty on the children’s hearing to prepare a report for the court if it proposes to make or to modify a supervision requirement, when there is a live application for a permanence order or when such an order is subject to variation or amendment. If the court is content with the proposal, it can remit the child’s case back to the hearing under section 91A(3), which allows the hearing to make or to modify the requirement. Without such a remittal, the wider terms of section 91A would prevent the children’s hearing from doing that.

Two principles apply to the period when the permanence order is live. First, if there is a conflict between the permanence order, which is a court order that has been made by a higher authority, and the supervision requirement, which is a broader, longer-term provision, the permanence order should prevail. Secondly, as the children’s hearings system is usually responsible for providing for the welfare of children, the people who are involved in the system are, given their previous involvement in such matters, perhaps the best equipped to hold the detailed discussions that

are sometimes necessary. Amendment 124 seeks to make that link in that regard.

Amendment 125 seeks to delete section 91A(2), which says that

“No supervision requirement in respect of the child may be made or varied”,

and to replace it with wording that takes account of the fact that, in addition to being varied, the supervision requirement might require to be modified under section 73(9)(d) of the Children (Scotland) Act 1995 to insert in the requirement any requirement that could have been imposed under section 70(3) of the 1995 act.

Amendment 49 is a tidying-up amendment that seeks to clarify the provision in section 91A.

Amendment 126 is linked to amendment 124, which seeks to introduce the new section on the duty of the children’s hearing to prepare a report for the court. It seeks to make it clear that the court’s power to remit cases to the children’s hearing is not limited to cases in which it receives such a report. For example, proceedings during a permanence order application might bring up a matter that is best handled by the children’s hearings system. Under section 91A(3), the court has the power to remit a child’s case to the children’s hearing on its own initiative, as well as when it receives a report from the children’s hearing.

On amendment 51, in the name of Adam Ingram, the question is whether, in the period between the making of an application for and the granting of a permanence order, the court should deal with all matters relating to any existing supervision requirement to which the child may be subject. Amendment 51 suggests that, with a few specific exceptions, that should be the case. We do not agree, because we think that the expertise and experience of the hearing and the court are different. We do not think that a sheriff is the best person to decide how best to conduct a routine review of a supervision requirement or handle minor truancy or petty offending incidents. Discussions on such matters properly belong with the hearing; it would probably be of no advantage to the child or the process to have them dealt with by a court.

We accept that there is a risk that, in some cases, a children’s hearing might make supervision requirements—particularly in relation to contact, which is potentially the most contentious area—that send the child in a different direction from that in which he or she will ultimately go after a permanence order is made. To remedy that, we have given the court an ability to make interim orders. Amendment 153 will ensure that if there is any conflict or inconsistency, interim orders will prevail over any supervision

requirement. In that way, we hope that matters will come together in the end.

Amendment 52 will ensure that the wording of section 91B(1) mirrors that of section 91A(1); it has no substantive effect. The purpose of amendment 53 is to ensure that in section 91B, as in other parts of the bill, the phrase

“variation of a permanence order”

includes amendment of the order to give permission for the child to be adopted.

Amendment 153 makes it clear that if a child in respect of whom an interim order is made is subject to a supervision requirement and the provisions of the order conflict or are otherwise inconsistent, the provisions of the order prevail. If I remember rightly, that issue was dealt with in a manuscript amendment at stage 2, as a result of an accidental omission at an earlier stage. I may be wrong about that because I have lost track of which amendment is which. Amendment 153 is an important amendment, at any rate.

Amendment 54, in the name of Adam Ingram, seeks to deal with the situation in which the permanence order has been made and the children’s hearing proposes to vary an existing supervision requirement or to make a fresh one. We are clear that, once a permanence order has been made in respect of a child, the child should be treated in the same way as any other child, which includes preserving their right to have any relevant issues that affect them dealt with by the children’s hearing rather than by the court. As I said at stage 2, that will avoid legal aid and a panoply of other matters coming into play when that is not necessary. We do children no service if a case of minor truancy or an offending issue that arises some years after the permanence order was made leads to the involvement of a court as well as a children’s hearing. We receive complaints about the difficulty that children have in following all the events that swirl round them as important decisions about their lives are made.

We acknowledge that, in a few cases, after a permanence order has been granted, a birth parent who has some remaining parental responsibilities and rights might seek to trigger a review of a supervision requirement, perhaps with a view to obtaining greater contact than is allowed for under the permanence order. Such cases will be rare because birth parents will often be left with no responsibilities or rights. The supervision requirement will usually be revoked when the permanence order is made, so there will be no requirement to review. That is what we anticipate will happen in most cases.

If there is a review, the hearing is likely to be wary of making a supervision requirement that would conflict with the permanence order.

However, if the hearing took a decision that the local authority or the reporter thought was misguided, remedies would be available. The local authority can appeal a procedurally flawed or clearly unreasonable decision to the sheriff and can seek to vary the permanence order, which would bring in the arrangements to do with the permanence order being live and would allow interim orders to be made that superseded the supervision requirement, if the court agreed. In addition, the local authority can seek to vary the order to remove the birth parents' remaining parental responsibilities and rights, if they are being abused to trigger vexatious reviews. There are plenty of remedies to deal with those relatively unusual circumstances.

Group 15 is a complex but important group of amendments. We take the view that during the period of activity of an application for a permanence order—or of an application to change it—the permanence order will prevail, but incidental matters will be dealt with in the usual way by the children's hearing. Once the permanence order is in place, the children's hearing comes into its own in the usual way, as it would if the children were living with their own parents. That provides a logical, philosophically acceptable and—I hope—practical framework for such matters to be dealt with.

I move amendment 124.

Mr Ingram: As Robert Brown rightly said, the amendments in group 15 address a complex area of the law and practice. The adoption policy review group was exercised by the issues with which the group deals. The key problem stems from an overlap between the children's hearings system and the courts that deal with adoption. The adoption process can be derailed if the two bodies cannot be aligned and end up making contradictory or differing decisions.

To solve that problem, the adoption policy review group made two recommendations. The first of those would govern what happens when a permanence order application is made for a child who is subject to a supervision requirement. The recommendation was that, during the period when the permanence order is being determined, any existing supervision requirement should continue in force but any changes should be made by the court rather than by the children's hearing that made the supervision requirement. In addition, any interim orders that are made by the court should supersede inconsistent conditions of the supervision requirement.

The point at issue is that the Executive's attempts to implement that recommendation in sections 91A and 91B appear not to be fit for purpose, even with the adjustment that is proposed in amendment 153. BAAF Scotland has

provided a detailed technical analysis, which is informed by not just legal expertise but practical professional experience, as to the reasons why that is so. I hope that the minister and other members have received a copy of that analysis.

The upshot is that there is a fear in professional circles that, because the interface between the court and the children's hearing is not set out in line with the APRG recommendation, local authorities will not use permanence orders. If that is so, the bill's key reform mechanism will be dead in the water. That is a situation that none of us would wish to see. Amendment 51 is offered as a solution to the problem of implementing the APRG recommendation.

We are in a very unhappy predicament here. Serious questions are being asked about, essentially, the competence of the bill's draftsmanship. Last minute manuscript amendments were made to critical provisions in the bill. I do not see how the minister can convincingly rebut the detailed criticisms that are made in the BAAF briefing. Members present should be aware that the briefing and amendment 51 were prepared by the independent legal adviser to Sheriff Principal Graham Cox's adoption policy review group and that BAAF has the support of the Association of Directors of Social Work in its concerns. I urge the minister to accept amendment 51 and thereby dispel the fears of a fundamental flaw in the bill.

Amendment 54 would reinstate the APRG's second recommendation, which the Executive has decided not to implement, on the interface between the court and the children's hearing. The provisions in amendment 54 would govern what happens after a permanence order has been granted and the hearings system is still involved, or wants to become involved, with the child. The amendment would again give the court primacy for any variation of the conditions of the permanence order. The fact that such children would be treated differently in the hearings system would be offset by the consideration that there must be some limit to what a hearing may do about the residence, contact and basic welfare aspects of the life of a child who is already subject to a court order. If a permanence order is to work, it must provide a significant level of security for the child.

I intend to move amendments 51 and 54.

Scott Barrie: It is crucial that we get the interface between the court system and the children's hearings system right if we are to move forward with permanence orders. As members may or may not be aware, tensions have always existed since the Boarding Out and Fostering of Children (Scotland) Regulations 1985 (SSI 1985/1799) made it difficult to talk about adoption when, under the Social Work (Scotland) Act 1968,

the children's hearings system was being used to place a child. Things got very confusing because the word "adoption" was not allowed to be mentioned at the children's hearing, as the law did not allow for that, even though everyone knew that that was the reason why the child was being placed under a supervision requirement.

We need to be careful that we get the interface between the children's hearings system and the court system right. If we fail to do that, the concern among some people is that the permanence order will not be used. There are too many good ideas in child care legislation that have never been properly implemented—although the idea was sound, the legal framework in which it was to be enshrined became too difficult and people shied away from it. Today, we have to ensure that we have that right and that we have a piece of legislation that is fit for purpose.

15:30

Our difficulty is with the different roles and responsibilities of the two systems. We have to be careful to ensure that a supervision requirement from a children's hearing can in no way impede the process of the permanence order. That goes to the crux of the matter that we are discussing. When the court is considering making an interim or full permanence order, there should be nothing in any supervision requirement that might still be in place that could be used to subvert the order. Because of the way in which reviews can be called—albeit that it might be the annual review—several people, including the young person, can request a review under the 1995 act. That means that several people have the opportunity to interfere with the process.

I listened carefully to the minister and he seemed to be quite clear that that would not be allowed to happen. However, I would be interested if he could expand on that during his summing up; it strikes at the heart of what we are discussing. If the supervision requirement that a children's hearing makes on a child and the court are going in slightly different directions, and the two do not properly interface, we could end up with a piece of legislation that does not just confuse but acts in a contradictory way for the young person. I want to hear from the minister a very clear exposition of how, when the court is deciding on the interim order and granting the permanence order, we can be sure that supervision requirements that are made by a children's hearing will not interfere with that in any way.

Iain Smith: It is important that we have a proper debate on this issue today and that members should not forget that the bill is about considerably more than what we debated this morning. The point about the interface between the children's

hearings system and permanence orders and the courts has exercised the Education Committee since the start of our consideration of the bill.

In our stage 1 report, we said:

"Concerns were expressed about the lack of detail over how permanence orders and the Children's Hearings system will interact. Despite the fact that both systems put the interests of children first, the two systems serve very different functions. The adoption system (of which permanence orders will form part) creates a permanent new family for a child within a legal framework of rights and responsibilities. The Children's Hearings system addresses temporary problems that can be handled within the existing family and involves lay members of the community."

In our recommendation, we welcomed the minister's commitment to address the need for clarity about the interaction between permanence orders and the children's hearings system, and the fact that he stressed the need for guidance to be issued on the subject. We also considered the matter at stage 2 and here we are talking about it again at stage 3.

It concerns me that this is a complex area and stage 3 is not the best time to try to sort out such issues. I am concerned about the system that we end up with, whatever Parliament approves. There are two approaches: Adam Ingram's approach, which comes from BAAF Scotland, and the one that the minister presented. Neither the committee nor the Parliament has had the opportunity to interrogate the two systems to find out which is the right one to adopt.

Fiona Hyslop: I agree with the member's comments. Given that the ADSW, which will have ultimate responsibility for so many of these children, supports the amendments in the name of Adam Ingram, does he not think that we should pause for reflection and go with the ADSW? It will have to apply the legislation and it is telling us that it wants the amendments in the name of Adam Ingram.

Iain Smith: That is part of the debate that we are having. It is difficult to consider these issues at stage 3, especially when there is such a divergence of views on such a crucial matter. It is very difficult for members who have not been involved in this process. Robert Brown talked about the Deputy Presiding Officer's eyes glazing over this morning, but I think that everyone's eyes will glaze over. I should say that Mr Brown was not talking about the Deputy Presiding Officer who is in the chair just now—I just want to make that clear. It is understandable when we are dealing with a complex technical issue. No one can know how the interfaces will work until they are applied. It worries me slightly that if the professionals have decided that the interfaces will not work, they will not even try to apply them in order to find out whether they do. That cannot be allowed to happen.

I am not saying that the Executive's amendments are wrong or that the amendments from BAAF are wrong. I am saying that, whatever approach we adopt today, we must try to ensure that it works and that everyone buckles down to that task. I am not a legal expert and have never been involved in the children's hearings system. The comments of Scott Barrie, who has been involved in child social work, were valuable, but it is difficult for us to make decisions on the issue today.

I want the minister in his response to provide a clear indication of why the Executive has decided to take a different route from the one that was proposed in the APRG's report. What is the best response that it can give at this stage to the BAAF briefing that has been issued to members? I accept that it has had a short time to respond to that briefing, just as BAAF had a short time to respond to the Executive's amendments. I want to get a clear indication of why the Executive is proposing to take the route that it has chosen and how it will ensure that the system functions, if it is put in place.

As has been said, permanence orders are a crucial part of the bill. They are about changing the lives of young people who go into local authority care and about moving from the very uncertain system that we have had until now to a system that, by definition, gives young people a degree of permanence in their lives. It is important that we get the system right and that practitioners do not say that they will not use it because they think that the courts or the children's hearings system will muck it up. Let us get clarity on this important issue from the minister in his response.

Lord James Douglas-Hamilton: Although I am a non-practising Queen's counsel, it is most unlikely that I will be involved in court proceedings on this subject. I am glad to support the amendments in the name of Adam Ingram, which would enable the court to handle all matters relating to a child during and after the application for a permanence order. It is very much in the interests of children that there is clarity and consistency of decision making about their welfare. Scott Barrie echoed that point.

The current legal structure, which allows the court and the children's hearing to make conflicting decisions, causes distress and uncertainty. Executive amendments at stage 2 alleviated the problem considerably, but not entirely, when an application for a permanence order is pending before the court. The problem has not been tackled at all in situations where a permanence order is in place, which gives rise to the particular need for amendment 54.

I understand that the minister is reluctant for cases to be referred back to court when no

application is pending but, under sections 90 and 91, the court already has a role, particularly where the welfare of the child in respect of whom the permanence order was made is affected by a material change in circumstances or where there are changes to the circumstances of the child's parents, the child's guardian or a number of other specified persons. As well as the Association of Directors of Social Work, the Law Society of Scotland, from which I have received representations on the issue, is strongly of the view that the court is the most appropriate forum for variation of the central aspects of a permanence order. It believes that the children's hearing should not make orders that further redistribute parental responsibilities and rights after a permanence order has been made.

This is very much a matter of balance and judgment. I believe that the two amendments in the name of Adam Ingram resolve the problem and I am happy to support them.

Euan Robson (Roxburgh and Berwickshire) (LD): As has been said, this is a complex and difficult area of the law. I find it difficult to understand why, after two years of deliberation, the APRG's recommendations should be set aside. It would be helpful if the minister would explain that further. I appreciate that the recommendations were made on a majority basis, but they followed very detailed and careful consideration of the issue.

I am particularly concerned about the situation after the permanence order is made, which was the subject of the second recommendation of the APRG. There is obviously an important role for the children's hearings system but, once an order has been made and variation to that order is sought, I am not at all clear that the children's hearing is the appropriate forum for alterations to be put in place.

The detailed briefing from BAAF, particularly on amendment 54, gives cause for concern. The Executive has come forward with a ranking system, but that system appears to be dependent on an interim order. If an interim order is to be sought on the basis of a dispute, or potential dispute, how can we be clear that a court will grant that order? If, for example, an order is sought to head off a potential dispute, there may be no cause shown, so the court will not be minded to grant the interim order. Also, if local authorities are in some way deterred from seeking interim orders, because the court will not grant them, the purposes of the bill relating to permanence orders will be undermined.

It would be helpful to hear from the minister precisely why the APRG's recommendations have not been followed, and to have a clear indication from him as to why the court is not the appropriate

forum for alteration after a permanence order has been made.

Robert Brown: I thought that I had set out as clearly as I could in my introductory comments the basic outline, as well as some of the detail, of the way in which we were trying to approach the matter. To summate, because it is important that members have it in mind, we took the view that there is a difference between the period when the permanence order is live and the period when the permanence order has been granted and is in place, at which stage the function of the court is defunct. The policy has been developed on that basis.

I entirely accept that, having said initially that we were going to accept the recommendation of the majority of the adoption policy review group, we moved away from that position as we worked through the implications of that recommendation in detail. I apologise to members for that but, as I have said, it is a complex area of the law and it was important to get the bill right as the policy developed. I stand by my position that the arrangements that we have in place are both philosophically right and practical. After the bill goes through, we will certainly examine the detailed arrangements that are put in place, to consider whether there is a need for guidance or for other arrangements to reinforce that position.

I take seriously Iain Smith's point about the fact that practitioners must be confident about using the new arrangements that will be in place. At the moment, we are in the middle of a debate about that. The proposition before us is the one that the Executive is making about how that should be done, and I have explained the different functions that I envisage the children's hearing and the court having in that regard.

At stage 2, if I recall correctly, I talked about what I saw as the disadvantage to the process and to children of having to go to court for all sorts of routine issues. There will be situations in which legal aid applications must be made, there will be delays and there will be the involvement of the higher authority, which might not be necessary for many of the detailed issues that come before a children's hearing, particularly if the issue arises a number of years down the line after the permanence order has been granted, as it could be to do with something entirely different, such as offending when the child gets into the teenage years.

Mr Ingram: I want to separate out two issues. The minister is talking about a situation that arises after the granting of a permanence order, but the major concern is about a situation in which a permanence order is pending. That is when the court should have paramouncy. As I understood it, the Executive accepted the APRG's

recommendation and the amendments that the minister lodged were designed to implement it. However, because it was thought that the Executive amendments would not implement the recommendation, I lodged amendment 51. Can the minister focus on that issue and guarantee categorically that the Executive amendments are fit for purpose?

15:45

Robert Brown: In fairness, a number of points have been made in relation to both the provenance of the permanence order and what happens once it is in place. I will deal with both those situations.

We have considered the practical implications on the ground of having to work these things through. We can visualise a number of situations that may arise. A permanence order may be applied for while a supervision order is in existence. Obviously, there is a potential for conflict, but we try to deal with that issue in the amendments. The court is able to make interim orders to bring that conflict to an immediate end if it sees fit. It has been suggested that the court might not have all the information, might not see fit to do that and might not take the matter forward but, as I understand it, interim orders are available at various stages and can be brought back if necessary at a later stage. Therefore, that is not an overriding concern. When, during that period, there is a conflict between a children's hearing order and a permanence order, the permanence order will rule, as we have already said in—I think—section 91. That is an important overarching principle, regardless of the practical details of how it works its way through.

There might be no supervision order. In that case the situation is more straightforward and there is not the same complexity.

I refer also to the powers that the children's hearing has in this situation. As we indicated previously, while a permanence order is pending—while it is live before the court—the children's hearing can go through the routine processes to continue a supervision order or it can get rid of the supervision order. However, it cannot vary the supervision order, impose new conditions on it or do things of that sort that might cause conflict with the permanence order. I do not see that there is practical conflict between the potential of the supervision order, the actions of the children's hearing and the reality of the permanence order in the way that some members have made out. In any event, such a situation will arise in only a limited number of cases.

I must deal with the situation after the permanence order is granted. At that point, in the

vast bulk of cases—90 per cent of cases or whatever—the permanence order will get rid of the supervision order. The supervision order will no longer be necessary and will be finished with. However, in some cases, the court will decide to continue the supervision order. In that small minority of cases, there will be a live supervision order to be considered.

In that situation, a new supervision order issue might come forward; something new might come before the children's hearing for determination. In that event, the children's hearing can take matters forward as if it were coming to the matter afresh, but remedies are available. If various people think that the hearing has gone off the rails, the court can be brought in on the matter, either by an appeal against the determination of the hearing or by bringing back the permanence order, varying it or applying to vary it and thus bringing on board all the other arrangements in relation to interim orders and so on.

To cut a long story short, I think that the procedure is understandable and workable and that it is better than one in which everything must go to the court, which is the alternative proposal. I say that because, as we have discussed and determined already, the children's hearing and the court have different functions. Children's hearings are better equipped to deal with the shorter-term issues that arise and are potentially more expeditious than the court, as there is no need to apply for legal aid or to deal with the complexities that go with that.

To summarise, we must satisfy people that the permanence orders should be used, are worth while and do not bring complications. I do not think that they do and I think that that will become clear when the legislation goes through and is seen as a whole. We will certainly take on board the comments that have been made and I am more than happy to consider other arrangements that we can make to encourage good practice, explain the outcome of the legislation to people and ensure that practitioners are comfortable with and confident about the ways of taking matters forward. In the light of observations from members, the Executive will have to take that on board, perhaps with greater urgency than I had anticipated when I proposed the arrangements.

I hope that that has dealt with all the issues that have arisen on the matter. I would propose that the Executive's basic approach in this regard is correct, as is the way forward for the arrangements. The Executive's approach avoids that of amendments 51 and 54, which would clutter up matters and cause all sorts of other confusions. This is a complex matter. I am sorry to have to explain it at stage 3. The basic framework was there at stage 2, and what we are doing, after

discussion with the various interests and further consideration of the detail, is tidying up one or two loose ends, which, hopefully, will make the arrangements foolproof.

Amendment 124 agreed to.

Amendments 48, 125, 49, 126 and 50 moved—[Robert Brown]—and agreed to.

Amendment 51 moved—[Mr Adam Ingram].

The Deputy Presiding Officer: The question is, that amendment 51 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division. We will have a suspension while the division bell is rung and members return to the chamber.

15:51

Meeting suspended.

15:55

On resuming—

The Deputy Presiding Officer: We will now proceed with the division.

For

Adam, Brian (Aberdeen North) (SNP)
 Byrne, Ms Rosemary (South of Scotland) (Sol)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fabiani, Linda (Central Scotland) (SNP)
 Fox, Colin (Lothians) (SSP)
 Gallie, Phil (South of Scotland) (Con)
 Gibson, Rob (Highlands and Islands) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 McLetchie, David (Edinburgh Pentlands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Morgan, Alasdair (South of Scotland) (SNP)
 Neil, Alex (Central Scotland) (SNP)
 Petrie, Dave (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Sheridan, Tommy (Glasgow) (Sol)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Tosh, Murray (West of Scotland) (Con)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
 Watt, Ms Maureen (North East Scotland) (SNP)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

AGAINST

Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Canavan, Dennis (Falkirk West) (Ind)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marilyn (North East Scotland) (Lab)
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Wallace, Mr Jim (Orkney) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

ABSTENTIONS

Baird, Shiona (North East Scotland) (Green)

Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)

The Deputy Presiding Officer: The result of the division is: For 35, Against 65, Abstentions 7.

Amendment 51 disagreed to.

Section 91B—Interim orders and revocation of supervision requirement

Amendments 52, 153 and 53 moved—[Robert Brown]—and agreed to.

After section 91B

Amendment 54 moved—[Mr Adam Ingram].

The Deputy Presiding Officer: The question is, that amendment 54 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Byrne, Ms Rosemary (South of Scotland) (Sol)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fabiani, Linda (Central Scotland) (SNP)
 Fox, Colin (Lothians) (SSP)
 Gallie, Phil (South of Scotland) (Con)
 Gibson, Rob (Highlands and Islands) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 McLetchie, David (Edinburgh Pentlands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Morgan, Alasdair (South of Scotland) (SNP)
 Neil, Alex (Central Scotland) (SNP)
 Petrie, Dave (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Sheridan, Tommy (Glasgow) (Sol)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Tosh, Murray (West of Scotland) (Con)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
 Watt, Ms Maureen (North East Scotland) (SNP)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

AGAINST

Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)
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 Barrie, Scott (Dunfermline West) (Lab)
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 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Canavan, Dennis (Falkirk West) (Ind)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
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 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marilyn (North East Scotland) (Lab)
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
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 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Wallace, Mr Jim (Orkney) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

ABSTENTIONS

Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Curran, Frances (West of Scotland) (SSP)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)

The Deputy Presiding Officer: The result of the division is: For 34, Against 64, Abstentions 9.

Amendment 54 disagreed to.

Section 92—Duty of local authority to apply for variation or revocation

Amendment 55 moved—[Robert Brown]—and agreed to.

Section 94—Revocation: order to be made under section 11 of 1995 Act

16:00

The Deputy Presiding Officer: Group 16 is on the revocation and variation of permanence orders. Amendment 128, in the name of the minister, is the only amendment in the group.

Robert Brown: I trust that amendment 128 will not cause as much excitement as the last group.

The amendment is designed to ensure that, on revoking a permanence order, the court should consider whether a section 11 order should be made. For example, revoking the permanence order may be appropriate, but only with some adjustment of the allocation of parental responsibilities and rights that pre-existed it. Although the court should consider whether an order should be made, it is under no obligation to make such an order. It is a tidying-up amendment in that respect.

I move amendment 128.

Lord James Douglas-Hamilton: The point was raised by the Law Society, and I am grateful to the minister for having lodged the amendment as a result. I hope that it will be passed.

Amendment 128 agreed to.

Section 94A—Local authority to give notice of certain matters

Amendments 129 and 131 moved—[Robert Brown]—and agreed to.

Section 96—Restriction on making of orders under section 11 of 1995 Act

Amendment 56 moved—[Robert Brown]—and agreed to.

Section 97—Permanence orders: rules of procedure

The Deputy Presiding Officer (Murray Tosh): Group 17 is on rules of procedure applying to fathers without parental responsibilities and rights. Amendment 57, in the name of the minister, is grouped with amendments 58, 59 and 138 to 140.

Robert Brown: The rules of court should make provision for the situation when a child is to be adopted, by means of either an adoption order or a permanence order with authority to adopt, and the unmarried father cannot be found. However, the provisions sit more appropriately in sections 97(2)(b) and 106(2)(b) so that sections 97(3)(b) and 106(5) refer only to who the person is, rather than create a condition. The change is achieved by amendments 57 and 59 for sections 97 and 138 and by amendment 140 for section 106.

Amendment 58 is designed to ensure that the unmarried father is notified of the fact that application has been made for a permanence order with authority to adopt, as well as the date and place that the application will be heard. That will speed up the process by allowing him to prepare his case in time, should he wish to do so. Amendment 139 replicates that provision with regard to an adoption order.

If I am not mistaken, the amendments deal with an issue raised at stage 2.

I move amendment 57.

Amendment 57 agreed to.

Amendments 58 and 59 moved—[Robert Brown]—and agreed to.

Section 102—Proceedings to be in private

Amendment 60 moved—[Robert Brown]—and agreed to.

Section 103—Regulations about allowances in respect of looked after children

The Deputy Presiding Officer: We move now to group 18. Amendment 133, in the name of Rosemary Byrne, is grouped with amendments 134 to 137 and 152.

Ms Byrne: I lodged an amendment at stage 2 on kinship care allowances. I listened to the committee's points, and I have tried to adjust the amendment accordingly.

My main thrust is to ensure that we recognise the role of kinship carers in our society and that there is equality across the country in payments for kinship care. At the moment, local authorities may or may not provide for kinship carers, and the criteria are different from one local authority to another. I have noted the amendments in the name of the minister, and I know that, when he heard the discussions at stage 2, he was keen to accommodate some of the points. I am interested in what he will say, but I am clear that my purpose in lodging the amendments was to make progress on developing a national strategy for kinship caring.

Many kinship carers are grandparents who are left to look after children due to many different circumstances in children's lives, but often because of drug or alcohol misuse. It seems that elderly people, retired people and people who have not prepared for caring are left to pick up the cost. It costs less to our communities for families to look after children than it does for them to be looked after under local authority care. It is also important to stress that children fare better in kinship care than in local authority care.

I welcome the minister's efforts to accommodate the matter in the bill and I will be interested to hear what he has to say. My main point is that we should make progress with kinship care allowances in our communities.

I move amendment 133.

The Deputy Presiding Officer: I ask for two-minute speeches because quite a few members wish to speak. I call Fiona Hyslop, to be followed by Lord James Douglas-Hamilton.

Fiona Hyslop: These amendments represent an important development. When the bill was introduced, there was no reference to kinship care. At stage 1, the minister was criticised for not including fostering and we were told that progress was being made on that, but it was not until 26 October that he met a reference group on fostering care and kinship care and it was only yesterday—one day before the stage 3 debate—that we finally got the national fostering and kinship care strategy, which states:

"we have commissioned an independent survey of all the entitlements ... to which kinship carers may be entitled."

I pay tribute to Rosemary Byrne, Paul Martin and the others who have raised the issue of the support that relatives can give children, but the ministers' amendments are Johnny-come-lately policymaking. His proposals have come at the very last minute.

I am pleased that the minister responded to members' requests for a kinship care strategy and for financial support for kinship carers, but I regret that the proposals are so late. The next session of Parliament can pursue the matter with far more vigour than is possible now.

The change is so drastic that the bill's long title will have to be amended. One of the minister's amendments seeks to remove the reference to fostering because, all of a sudden, the bill is being broadened to include kinship care. That is a good move, but it is happening at the last minute and only a day after the launch of the fostering and kinship care strategy.

I welcome Rosemary Byrne's comments and look forward to supporting her amendments.

The Deputy Presiding Officer: I will change the process marginally because some of the amendments in the group are the minister's amendments. That is not reflected in my script, but I should ask the minister to speak to his amendments before anyone else is called to speak.

Robert Brown: Thank you. I was slightly caught on the hop there, I am afraid.

I am bound to say that I object to the tone of Fiona Hyslop's comments. It is important to put the matter in context. The preparations for the bill, the arrangements for it to include provisions and powers on fostering allowances and the arrangements for the fostering strategy have all been in the public domain for a long time. They are not new things that have suddenly emerged, as Fiona Hyslop suggested, and there was no conspiracy.

Last night, Hugh Henry and I launched the consultation on the national fostering and kinship care strategy at a reception for foster carers and kinship carers at Edinburgh Castle. The strategy is an important development. I hope that there will be a generous response to it from members. I know that members will take a keen interest in how the consultation progresses. Incidentally, I enjoyed meeting the foster carers and kinship carers last night and hearing about their experiences. Hugh Henry and I are aware of the difficulties that they face.

The consultation and the strategy will play a key part in the development of our policy on kinship carers and foster carers. The consultation invites people to comment on how the current arrangements for the support of kinship carers can be improved. That includes not just financial support but other types of support as well. Depending on the outcome of the consultation, I intend to ask officials to develop guidance that builds on the existing guidance on the 1995 act. That approach recognises that local authorities already have powers under the 1995 act to make payments to carers to support children in their care.

The new guidance could also include the outcomes of the independent survey that we commissioned of the tax and benefit system and how it supports kinship carers in Scotland. One of the aims will be to ensure that kinship carers receive clear and helpful information about how they can receive financial support for children or young people in their care. The purpose of the regulations that might emerge will be to deal with the issues that affect children rather than to provide the basic benefits system that supports adult carers.

I pay tribute to Rosemary Byrne's longstanding interest in kinship care. When she lodged an amendment on it at stage 2, I told her that I was attracted to the principle behind it and was keen to ensure that the Executive had the powers to do whatever we needed to do when it came to developing the strategy. That is the background to why we lodged amendment 134, to which I will come in a second.

Rosemary Byrne's amendment 133 would have the benefit of making it easy to determine eligibility for allowance. Carers will either have parental responsibilities and rights or they will not, so the issue is relatively straightforward. However, as far as I can see, many kinship carers will not have that legal clarity, so the amendment is rather too narrow to do what Rosemary Byrne and I both wanted to do. Her amendment 135 would compel ministers to make regulations, which is unusual in this context—if not unprecedented—and I would not want to take that approach.

Executive amendment 134 follows on from our commitment at stage 2 to consider further the matter of allowances for kinship carers. It will catch more people and is therefore more encompassing than Rosemary Byrne's amendment 133. The criteria for eligibility under any regulations made would be able to be extended to those carers who have stepped in before the child has become formally looked after by the local authority and where the carers by that action have relieved the local authority of a duty that it would otherwise have had towards the child. That echoes the comments that Rosemary Byrne made in introducing this group of amendments. It would include those who have taken on the duty instead of the local authority, rather than on behalf of the local authority as foster carers do. I therefore do not see those particular allowances as equivalent to fostering allowances, because they have to be dealt with in a slightly different context.

There is an important distinction. Kinship care in this context does not include arrangements whereby a grandmother takes care of the children in order to enable the parents to go out to work, or where an uncle or aunt take the children to their home in the Western Isles for the school holidays, for example. It must refer specifically to children who would otherwise have gained the label "looked-after children". We have to have a division in that regard. One of the difficulties with Rosemary Byrne's amendment 133 is that a relative in such circumstances might seek to gain a contact order under section 11 of the 1995 act, which would then trigger the allowance. That would therefore not be a good way to proceed. We have to look to the substance of the situation.

Kinship care does not include care provided by a parent or legal guardian of the child. Amendment 136—and the fact that the parent is excluded from the definition of “relative” in section 111 of the bill—makes that clear.

Although I am seeking to extend the regulation-making power in the way that I have just described, I want to make it clear that our first port of call will be to develop the guidance to which I referred earlier. If it becomes clear that guidance alone is not effective in addressing the issues that I anticipate will be brought to the fore in the strategy consultation, the power will be there to be used.

Amendment 137 is to ensure that those relatives who take on a permanence order to clarify their legal relationship to a child would not lose their eligibility for allowances under any regulations under section 103. It also addresses the issue of those cases where relatives have gained parental responsibilities and rights by means of a section 11 order.

Amendment 152 amends the long title of the bill, which Fiona Hyslop mentioned, to reflect our discussion and provide that the allowances in the regulations will not cover only those children who are in foster care. For that reason, rather than the provisions on kinship care, the long title of the bill needs to be changed.

I ask members to support amendments 134, 136, 137, 152 and to resist amendments 133 and 135. I hope that, in the light of my explanation, Rosemary Byrne will accept that we are providing a more comprehensive basis for regulation, which will enable her to seek to withdraw amendment 133 and to not move amendment 135.

This is important. As members of Parliament we have all had representations from people and met people who have suffered considerable difficulties in this context. We want to make substantial progress in this area in a way that will bring relief to a number of people.

Lord James Douglas-Hamilton: Rosemary Byrne should think twice before not moving amendment 135. I understand the minister’s argument that ministers should have total discretion. Amendment 135, however, would ensure that regulations must include, rather than may include, certain provisions. Ministers do not always welcome having an obligation placed on them. Robert Brown will claim that he is a reasonable minister and will always act reasonably, but how can we be certain that future ministers will be as reasonable as he is? Is it really so unfair to place a requirement on ministers, rather than merely providing an enabling power?

Robert Brown: Did Lord James Douglas-Hamilton ever claim that he was a reasonable

minister in his lengthy and distinguished ministerial career?

Lord James Douglas-Hamilton: I suspect that I did.

16:15

Iain Smith: I defend Robert Brown from the outrageous suggestion that he is a reasonable minister.

I congratulate Rosemary Byrne on bringing kinship care to the fore. She consistently raised the subject during committee meetings at stage 1 and stage 2. If she had not done so, there is no question in my mind that the Executive’s amendments would not have been lodged.

The issue is important. I am pleased to say that a document on the national fostering and kinship care strategy was published yesterday—Fiona Hyslop referred to it—because I think that there has been reference only to a national fostering strategy until now. The change is welcome because we must recognise the important role that relatives can play in bringing up children who have been affected by the problems of their natural parents. Children’s development will benefit if they can be kept in their extended families. That Rosemary Byrne has raised the issue is therefore welcome. That said, I hope that she will not press her amendments because those in the name of the minister will give ministers greater discretion on how to progress matters in the future.

It is important to study the financial arrangements relating to kinship carers and to ensure that we do not encourage people to do unacceptable things, such as take children away from their natural parents in order to get their hands on money. It is also important to ensure that there will not be interaction with the benefits system in a way that will disadvantage people in the long term.

I welcome the amendments in the name of the minister.

Dr Murray: I welcome the amendments. Issues relating to kinship carers have become more prominent in discussions on the bill. I am certainly not the only member who has received representations from constituents on the matter, which, as Rosemary Byrne said, seems to be becoming more pressing as more and more families—sadly—have alcohol and drug abuse problems that require relatives to take care of children. Relatives of children have said to me that if local authorities had to accommodate the children who are affected by such problems, they would be considerably out of pocket. It seems to be unfair that relatives should have to bear such financial burdens.

Fiona Hyslop was a little unfair to ministers when she complained about the consultation document. There is not a strategy yet—there is only a consultation document. Guidance or regulations will be produced as a result of that consultation.

On amendment 135, I say to Lord James Douglas-Hamilton that it would not necessarily be appropriate to say that regulations must be made before the results of the consultation are known. The bill's current phraseology is probably more appropriate.

Fiona Hyslop: Will the member take an intervention?

Dr Murray: I have just finished. I am sorry.

Donald Gorrie: I congratulate Rosemary Byrne on her amendments, which have obviously triggered a response.

I take a simplistic view. For 10 years or more, people have lobbied me about grandparents who are getting a raw deal from the system, financially or otherwise, and I have agitated on their behalf. I am sure that every member has been lobbied in the same way. Many of the rules that have been drawn up in the past have been hostile to grandparents and other relations. The idea seemed to be that some person plucked off a shelf somewhere would look after children better than their grandparents would, which is ridiculous. Financial arrangements have been strongly in favour of non-relations and against kinship carers and grandparents looking after children.

Some grandparents are greedy, not-very-good people, as some parents, members of the Scottish Parliament and other people are. We do not want carte-blanche for all grandparents, but we must give them a fair chance to contribute. The fact is that, on the whole, grandparents look after children better and give them better support and a better start in life than other people do. Therefore, it is important that we get the right result. If that result comes from a great new document, that is fine. However, I reserve my judgment. Robert Brown was, as usual, persuasive, but I was not persuaded.

Ms Byrne: I thank the minister for his attention to this issue; unfortunately, I am not wholly convinced by what he said. My problem is something that Donald Gorrie hit on—the length of time for which we have been going over and over the issue.

I was at a kinship care conference on Saturday. A lot of hopes have been raised, and people were describing their circumstances and telling their stories, which were heartbreaking to hear. It is time to move forward, and the only way to move forward is to support my amendments. They may

be narrow in some ways, as the minister said, but they can be expanded on and nothing has to be too definitive as we move forward. That would be a positive start and would send a signal to those kinship carers who are struggling and who are looking to see what we are going to do in the bill.

I am pleased that the long title will be amended, and I will support amendment 152. The minister has moved some way, and I am happy to support one of his amendments. Nevertheless, I ask members to support both amendments in my name.

The Deputy Presiding Officer: The question is, that amendment 133 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Byrne, Ms Rosemary (South of Scotland) (Sol)
 Canavan, Dennis (Falkirk West) (Ind)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Fabiani, Linda (Central Scotland) (SNP)
 Fox, Colin (Lothians) (SSP)
 Gallie, Phil (South of Scotland) (Con)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gorrie, Donald (Central Scotland) (LD)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 Morgan, Alasdair (South of Scotland) (SNP)
 Neil, Alex (Central Scotland) (SNP)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Sheridan, Tommy (Glasgow) (Sol)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
 Watt, Ms Maureen (North East Scotland) (SNP)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

AGAINST

Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)

Brown, Robert (Glasgow) (LD)
 Brownlee, Derek (South of Scotland) (Con)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McLetchie, David (Edinburgh Pentlands) (Con)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Petrie, Dave (Highlands and Islands) (Con)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, John (Ayr) (Con)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

The Deputy Presiding Officer: The result of the division is: For 38, Against 69, Abstentions 0.

Amendment 133 disagreed to.

Amendment 134 moved—[Robert Brown]—and agreed to.

Amendment 135 moved—[Ms Rosemary Byrne].

The Deputy Presiding Officer: The question is, that amendment 135 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Brownlee, Derek (South of Scotland) (Con)
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 Gorrie, Donald (Central Scotland) (LD)
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 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 McLetchie, David (Edinburgh Pentlands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Morgan, Alasdair (South of Scotland) (SNP)
 Neil, Alex (Central Scotland) (SNP)
 Petrie, Dave (Highlands and Islands) (Con)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, John (Ayr) (Con)
 Sheridan, Tommy (Glasgow) (Sol)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
 Watt, Ms Maureen (North East Scotland) (SNP)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

AGAINST

Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)

Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McMahan, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Etrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

The Deputy Presiding Officer: The result of the division is: For 44, Against 63, Abstentions 0.

Amendment 135 disagreed to.

Amendments 136 and 137 moved—[Robert Brown]—and agreed to.

Section 106—Rules of procedure

Amendments 138 to 140 moved—[Robert Brown]—and agreed to.

Section 109—Orders and regulations

Amendment 61 moved—[Robert Brown]—and agreed to.

Section 111—Interpretation

Amendments 62, 141, 142, 63, 143, 144, 64 and 65 moved—[Robert Brown]—and agreed to.

Schedule 1

REGISTRATION OF ADOPTIONS

Amendments 145 and 146 moved—[Robert Brown]—and agreed to.

Schedule 2

MINOR AND CONSEQUENTIAL AMENDMENTS

Amendments 147, 66, 148, 149 and 67 moved—[Robert Brown]—and agreed to.

The Deputy Presiding Officer: That takes us to group 19, on the prohibition of the publication of material at children's hearings. Amendment 150, in the name of the minister, is the only amendment in the group.

Amendment 150 not moved.

Amendments 68 to 72, 154, 73 and 74 moved—[Robert Brown]—and agreed to.

The Deputy Presiding Officer: Group 20 is on the Adoption (Intercountry Aspects) Act 1999. Amendment 151, in the name of the minister, is the only amendment in the group.

Robert Brown: Members will be pleased to know that I have only one or two sentences to say about amendment 151. The amendment provides that references to enactments in section 1 of the Adoption (Intercountry Aspects) Act 1999 include acts of the Scottish Parliament. That is necessary so that regulations that give effect to adoptions under the Hague convention can apply provisions of the bill to such adoptions. I would be grateful if nobody questioned me on that.

I move amendment 151.

Amendment 151 agreed to.

Amendments 75 to 79 moved—[Robert Brown]—and agreed to.

Long Title

Amendment 152 moved—[Robert Brown]—and agreed to.

The Deputy Presiding Officer: That ends the consideration of amendments.

Adoption and Children (Scotland) Bill

The Deputy Presiding Officer (Murray Tosh):

The next item of business is a debate on motion S2M-5041, in the name of Peter Peacock, that the Parliament agrees that the Adoption and Children (Scotland) Bill be passed.

16:26

The Minister for Education and Young People (Hugh Henry):

The bill is important. In some respects, it is complex. It is timely and worthy. We can take credit from much of the way in which the Parliament has handled the bill. I pay tribute to the committee for its work to bring Parliament to this stage and to Robert Brown for the work that he has done during discussions not just with the committee, but with others. As Lord James Douglas-Hamilton and others said, Robert Brown made himself available to discuss fairly sensitive and important issues. We are all the better for that communication and deliberation and we now have a bill of which we can be proud.

Adoption is a crucial way to provide stability and security for some of Scotland's most vulnerable children. The current law on adoption is almost 30 years old. Since the Adoption (Scotland) Act 1978 came into force, much about adoption has changed, as have the circumstances of children who need to be adopted—they have changed not only since 1978, but during the past few years. We have all heard the stories about the impact on many communities of alcohol and drugs. Sometimes, children need to be taken into care. Adoption needs to be sought for many such children. We must rise to the challenge that confronts us.

As a result of several factors, very few healthy babies are given up for adoption. It is much more common for an older child to be removed from his or her parents because they cannot provide the safe and secure home that every child deserves. As a result, fewer children are being adopted. In the past 20 years, the number of adoption applications has fallen from about 1,000 per year to about 400 per year.

It is unfortunate that the current legal framework often fails to meet children's needs. That reality poses challenges for everyone who is involved in adoption. We need to act on several fronts. We need to encourage more people to adopt. We have heard today a vigorous and somewhat passionate debate about who we encourage to adopt. Robert Brown has put on record the significance of marriage in our society and our desire for more married people to offer to adopt children. We recognise that there are others who

are equally loving and caring and who are in stable environments, whether or not they are married, who wish to adopt. We need to reflect that in our legislation.

We need to provide better support for adopted children and their families and we need to provide greater security and stability for children who are not adopted for whatever reason. I think that the bill does that. It comprehensively overhauls adoption to provide a modern and robust system that meets the varied and complex needs of children. It improves support for people who are affected by an adoption by giving clear access to adoption support services, which can be vital in helping an adoption to succeed and in helping adopted people to cope with the experience in the short term and throughout their lives. Such support can also help other people who have been affected by an adoption: not just the child, but the child's parents, members of his or her birth family or other members of the adoptive family. The provision of support is not time limited. The bill makes it clear that people who have a need for adoption support services will be able to access them whenever they need them.

As I have said, and as others have discussed, the bill provides for a wider range of people to adopt than is currently possible. We have had a vigorous debate about that and I believe that the decision that the Parliament has taken is correct. We need to reflect the circumstances in which many people now live their lives. We need to recognise that many people are capable of providing a warm, loving and supportive family environment for children, irrespective of the differences in their circumstances. It is right that we do not insist that joint applicants for adoption must be married couples.

We allow married couples to adopt jointly, but we need to recognise that other people in partnerships should be allowed to adopt jointly, too. I think that that will have positive effects. It will provide children who have been adopted into the families concerned with greater legal protection, because both adults will have full parental responsibilities. That is indeed important for the adults, but it is equally important for the children. We should not overlook the psychological benefits of the child having a strong legal relationship with both adults. I hope that the overall impact of the bill will be to encourage more people to come forward to adopt children.

It is right that we do all we can to support children. The bill will improve the lives of children who cannot live with their birth families but who are not adopted. Most important, the bill provides a new court order, the permanence order, which Robert Brown has valiantly tried to describe in delivering to the Parliament a better understanding

of that complex subject. All those things we have now put in place.

There is much that the Parliament has delivered since 2003 from which we can take satisfaction. Because of the work that we have done, many groups in society are far better off now than they were. In some respects, one of the defining themes of the Parliament in the past few years is what we have done for children, across a range of portfolios. Rightly, we have tried to consider the interests of children and to deliver what is best for them. I think that the Adoption and Children (Scotland) Bill fits very neatly under that key priority. The bill will deliver for some of Scotland's most vulnerable children. It is long overdue. It recognises the reality of 21st century Scotland. I hope that, as a result of the bill, there will be an improvement in children's quality of life, and better rights and support for children who badly need it.

I move,

That the Parliament agrees that the Adoption and Children (Scotland) Bill be passed.

16:33

Mr Adam Ingram (South of Scotland) (SNP): I take this opportunity to thank all those people without whose assistance proper scrutiny of the bill would have been an almost impossible task. Some sections of the bill have undergone substantial restructuring and rewriting since introduction. It has been a complex business indeed.

The clerks to the Education Committee and the agencies that work in the sector—a special mention goes to the British Association for Adoption and Fostering Scotland, which has been particularly responsive to our demands—have borne a heavy burden with good grace. No doubt they will be glad to put that burden down at the end of today. I also thank Robert Brown. He has shown exemplary willingness at all times to take on board with courtesy and consideration the many representations that were made to him.

That said, I echo the point of order that Lord James Douglas-Hamilton made this morning at the start of our stage 3 consideration. The bill's complexity and the many changes that it has undergone from its introduction to the end of stage 2 should have resulted in an extended period of reflection and discussion prior to stage 3, but that period has been much more truncated than normal. I do not think that even the minister can say, hand on heart, that this piece of legislation has emerged from the process in its best form.

As I indicated earlier, we in the Scottish National Party are particularly concerned about whether the provisions on the interface between the children's hearings system and the adoption courts are fit for

purpose. If that interface turns out to be flawed in practice, the Parliament will need to rectify the situation through new primary legislation in the next session.

The SNP supports the bill and welcomes the broad thrust of its provisions. We see it as an important part of the bigger policy framework that must be put in place if we are to address the overwhelming disadvantages that are faced by children who are taken into care. I also welcome the publication of the Executive's national fostering and kinship care strategy, which is out for consultation from today—better late than never.

It must also be recognised that policy implementation is as important as policy development. A key test for the bill will be the construction of regulations that ensure the development of adoption support services that meet adoptive families' needs. We await with interest the introduction of subordinate legislation on this matter and on adoption allowances.

I have two more specific points, one positive, one negative. I still believe that the bill's biggest sin of omission is its failure to give a voice to children under 12 who are involved in the adoption process. I regret that amendments that sought to provide access to independent advocacy were voted down at stage 2. After all, the child is at the centre of the adoption process and has a right to be heard.

Finally, I am glad that Parliament used reason and common sense in dealing with the controversial issue of extending the pool of adopters. We must recognise that the bill's approach ensures that the child's interests are paramount. All prospective adoptive parents must undergo a very rigorous assessment process to determine their suitability to adopt a child. A great deal of care is taken to ensure that individual children will be matched with suitable adoptive parents.

I welcome the fact that the bill extends the pool of adopters beyond married couples, given that nowadays many other family arrangements can provide security and stability in children's best interests. As a married person with four children, I believe that marriage is the best family arrangement in which to bring up a child, but I am not prepared to rule out, because of marital status or gender, opportunities for vulnerable children, many of whom have been subjected to abuse or neglect by their natural parents, to find loving homes with parents who are suitable in every way.

The SNP will vote for this bill at decision time.

16:38

Lord James Douglas-Hamilton (Lothians) (Con): I thank the minister very much for the tremendous trouble that he took and the dedication that he showed when he handled this subject in committee. I also thank the clerks for being prepared to go the extra mile in dealing with our amendments. The new Minister for Education and Young People should be congratulated on his moral courage in speaking as an MSP on a matter of conscience. Such a precedent is very healthy and welcome.

This extremely important bill seeks to modernise and tidy up the existing legislative framework that governs adoption. Adoption is legally defined as the process by which responsibilities and rights in respect of a child are legally taken on by new parents. It is clearly a pivotal process in the child's life and one which, by its very nature, gives adopted children a vulnerability that others lack. That is particularly true when the child has been looked after by a local authority.

Children are seldom taken into care unless they have experienced a trauma, such as abandonment, abuse or even parental drug or alcohol misuse. The state therefore has a special responsibility to protect children who are involved in adoption and, as far as possible, to make certain that they are placed in an environment in which they will thrive. The test must always be that the best interests of the child will be the paramount consideration.

I will talk first about the extension of eligibility to adopt and go on to discuss the future of fostering and kinship care. Eligibility for consideration as adopters will be extended to include cohabiting but unmarried mixed-sex couples and cohabiting same-sex couples, regardless of whether they are civil partners. I use the phrase "eligibility for consideration" because, as Adam Ingram said, all such couples will have to undergo the same rigorous, case-by-case assessment of their suitability that married couples and individuals must go through at the moment. No one will automatically have a right to adopt. As I have already said, the interests of the child will be paramount.

The two arguments for widening eligibility are that it will increase the number of adoptions and that it will remove the bar that prevents potentially appropriate adopters from being considered. The need to increase the number of adoptions has never been more pressing. The publication in the past few weeks of a report on children who are looked after by local authorities revealed that over the past five years there has been a rise of 20 per cent in the number of such children.

In my view, blanket discrimination against a whole group of people is not in accordance with the spirit of the 21st century. By the same token, I would argue that prejudice and discrimination against older married couples should be discouraged.

The Deputy Presiding Officer: You have one minute.

Lord James Douglas-Hamilton: I will bring my remarks to a close and say merely that the bill represents an important milestone in the clarification and improvement of the procedures that relate to children who cannot live with their birth parents. I support the bill.

16:42

Iain Smith (North East Fife) (LD): On behalf of the Liberal Democrats, I welcome the bill. It is important and passing it will mark a significant change in the opportunities that are available to many of the most disadvantaged young people in Scotland.

In my role as the convener of the Education Committee, I put on record my thanks to the committee's clerks and advisers, especially Professor Kenneth Norrie, without whom we would not have been able to get through such a mammoth task. Consideration of the bill has been a weight on the committee's shoulders since some time before the summer. I am pleased that that particular weight has been taken off our shoulders, although the Executive has already placed another one on them.

I also put on record my thanks to my fellow committee members. The committee has worked extremely well in scrutinising and proving the bill, with the result that the bill that will be passed today is significantly better than the one that the Executive presented us with on 27 March. At stage 1, significant and useful evidence was received during our informal sessions with people who are involved in the fostering process and in submissions and formal evidence taking. Thanks to that evidence, the committee produced a report that showed that there was a need for significant change to the bill's structure.

Significant policy changes were not required because there was general, cross-party agreement on the policy objectives—that is why members worked so effectively on the bill. It was clear that the bill's structure was fundamentally flawed but, to be fair to the Executive, it responded extremely positively in changing the structure in line with the committee's recommendations. As a result, stage 2 scrutiny was made difficult because it was hard to get a clear picture of what shape the bill would have once the changes had been made. The fact that further significant structural changes

have been made at stage 3 has again made it difficult to obtain a clear idea of the bill's appearance once its passage has been completed.

However, the bill is important because it states clearly that the interests of the child should be the paramount consideration throughout the adoption and permanence order processes. Despite the huge public debate and the debate that we had this morning about who can adopt, the bill's primary focus is on improving the life chances of children who come from the most deprived backgrounds. Permanence orders are an extremely important part of that. They have not received as much publicity and discussion as they ought to have done, because people have focused on adoption. Permanence orders will change the way in which children with difficulties are able to access services. They will provide a permanence in their lives that is perhaps missing at the moment.

The provisions on permanence orders are important and it is vital that we ensure that they work. For that reason, I ask the minister to reflect in his concluding remarks on today's debate on the interrelation between the courts and the hearings system and to ensure that the issue is kept under permanent and constant review. I hope that, if problems emerge and we find that the model that has been put in place does not work, the Executive will commit itself to return to the Parliament quickly with any legislative changes that are necessary to ensure that the system works.

My one other regret about the bill is that I believe that it is unfortunate that we agreed to amendment 84 this morning. In years to come, when people look at that provision, they will say, "What on earth is that doing there? Where did that come from?" It concerns me that legislation is being passed with provisions that have no function and no purpose and with a definition that does not make any sense.

Finally, I thank the minister for his constructive engagement with the committee and members on the bill. Working together, the Executive, the committee and members have ensured that the bill is fit for purpose and fit for the young people in Scotland.

The Deputy Presiding Officer: We move to open debate. Speeches should be of four minutes.

16:46

Patrick Harvie (Glasgow) (Green): It is probably to be welcomed that all the more contentious amendments to the bill were dealt with this morning. Once that boil had been lanced, the Parliament was able to move on to debate the

wider issues surrounding the adoption system. I think that we all agree on many of the principles, including that the best interests of the child should be key.

We all recognise the great commitment and contribution that adoptive parents make in our society. Many such parents would downplay the contribution that they make by emphasising that adoption is a rewarding experience. I am sure that that is the case, but many adoptive parents take on a very challenging experience. We should be proud to associate ourselves with the contribution that they, and all those who work to support them, make to our society. I am very glad that, in the bill that we will pass, we will make that recognition on a basis of equality for all adoptive parents—we will do so without the taint of any irrational prejudice that might have been included in the bill and that some members sought to introduce.

As we finish our consideration of the bill, I want to say two things to members. First, some members have told me that it is unfortunate that we keep having to return to issues around sexual minorities and that it is unfortunate that those issues dominate debates unnecessarily. My response to that is that, at one time, challenging racism and sexism was not an easy thing to do. The progress that has been made in our society did not happen by magic or by accident but because people were willing to push sometimes unpopular arguments in the face of opposition.

Secondly, I want to point out that the phrase "votes of conscience" seems to arise, these days, only in relation to issues such as how sexual minorities should be treated in our society and reproductive rights. I am a great supporter of the principle that we should all vote according to our conscience all the time. I certainly do not think that members should in any way be disciplined or frowned upon for voting or speaking according to their conscience. That is an important principle. How would members feel if discrimination and prejudice against their family was given greater dispensation? That is what is implied when it is said that votes on issues such as Roseanna Cunningham's amendments should be treated as votes of conscience, in some higher regard than any other vote that we have in this chamber.

We have a bill that I hope all members will be able to support. The Greens will certainly be happy to do so and I congratulate the Executive and Opposition members who have contributed to bringing the bill to its current state.

16:50

Dr Elaine Murray (Dumfries) (Lab): I, too, thank all those who helped the committee with its consideration of the bill, and all the witnesses who

came to or wrote to the committee. I also pay tribute to the ministers who listened carefully to the concerns that were brought to them by the committee and who have been prepared to change the bill and adapt it according to those concerns. That does not always happen, and I do not know that it happens south of the border in quite the same way that it happens here. It is a strength of our Parliament that ministers are prepared to listen to committees and take on board their concerns.

I return to what the bill is about. Despite the way in which it has been trailed in the media, the bill is not about anyone's right to adopt. I have to say to Patrick Harvie that the bill is not about challenging homophobia. I am perfectly happy to challenge homophobia, but that is not what the bill is about.

Patrick Harvie: Does the member acknowledge that if we allow the children of same-sex couples to continue to be disadvantaged by not having the legal protection of both their parents, that is an issue of equality and equal dignity for those children?

Dr Murray: I will come to that, and I support that position. However, it is not what the bill is about.

The bill is about increasing the opportunities for those children who are no longer able to live with their birth parents to become part of a stable and loving family in the broadest definition of the word. That family may be one in which a man and woman are married, and it may be one in which two people of the same sex want to bring up a child together.

The bill introduces obligations on local authorities to provide support and services to families who are involved in adoption, and that includes a wide range of people who will be touched by adoption. By introducing the permanence orders, the bill creates greater stability for children who are in foster care or who are awaiting adoption. It is a pity that permanence orders have not been more prominent in the wider public perception of the bill, because they are probably the most important part of it.

The bill deals with kinship care, and I was pleased to see that issue progressing through the committee. It is important that those constituents who brought the issue to their MSPs can see it being raised in the chamber and dealt with in legislation and regulation. I hope that grandparents who for various reasons are looking after their grandchildren will eventually have the opportunity to be recompensed and will not have to bear the financial burden that would otherwise fall on local authorities.

Of course, the bill has not been without controversy and this morning several contentious amendments were debated. Again, I do not agree

with Patrick Harvie when he talks about lancing a boil; members have the right to bring issues of concern to the chamber. They represent the views of constituents and faith communities that have been presented to them. Whether or not I disagreed with Roseanna Cunningham's views—as I did—she had every right to bring them to the chamber. I welcomed the opportunity to discuss and vote on such issues, because it meant that we demonstrated a fairly strong position with regard to the amendments and reflected the views of the majority of members of the Parliament. That was valuable.

I do not agree that issues of conscience are always about sexual orientation. There are many other issues of conscience, including war—an issue on which I once voted contrary to my party—and disarmament.

I recognise that the BAAF Scotland had concerns about the interface between the children's hearings system and permanence orders. I hope that we got that right; I had to bow to the superior knowledge of the minister, Adam Ingram and the BAAF on those issues, but good work was done on that.

The bill is not anti-marriage. It recognises that families come in many varieties and that the stability of the adoptive family's environment and the love within that unit can make a difference to those children who can no longer live with their parents and who need to be adopted. That, rather than the controversial issues, is what we must carry forward.

16:55

Ms Rosemary Byrne (South of Scotland) (Sol): All the effort that has gone into the bill has been in the best interests of the child. I thank the minister for the moves that he has made; we all agree that he has listened. I also thank the clerks to the Education Committee for the tremendous support that they have given to our work on the bill, which has been complex.

I agree with Lord James Douglas-Hamilton and Adam Ingram that, had we had more time, the end result may have been better. However, Solidarity supports the bill and welcomes the changes that will make a difference to children's lives. Permanence orders will make a significant difference. I hope that guidance will clarify the interface between those orders and the children's hearings system. Allowing same-sex couples to adopt is a welcome move. I will not say more than that, because I think that we have dwelled far too long on the issue. It goes without saying that extending and expanding the number of people who can adopt is a good thing.

I am grateful for the work that has been done on kinship care, as that is the issue on which I focused particularly. Although my amendments were not agreed to, we have moved significantly in the right direction. I welcome the further work that was announced today. We must be clear about the importance of the extended family in children's lives. I hope that guidance will show that the first port of call when children have troubled situations in their lives and their parents cannot look after them appropriately—for whatever reason—will be the extended family. I believe that so strongly that I would like the minister to give an assurance on the issue when he sums up. When I spoke on the amendments relating to kinship care, I said that the outcomes of children who are looked after by local authorities are very poor. There have been efforts to improve the situation, but we have not solved the problem. Introducing permanence orders and giving a role to the extended family are among the best things that we could do to improve children's lives.

The issue of family group conferencing was not mentioned. On Saturday, at the conference to which I referred earlier, I was lucky enough to see a presentation on the issue by Children 1st. I hope that the minister will consider including in guidance family group conferencing, advocacy for children and all the other elements that are extremely important for improving children's lives. I agree with Adam Ingram that we should consult those under 12, because many 10 and 11-year-old children are more than capable of telling us with whom they would like to live and how they would like their lives to be shaped. I regret that that has not happened.

I regret, too, that in the debate we did not go into the issue of therapeutic services and support for families. I know that those are available to some extent. However, we need to up the ante and to acknowledge that it is no longer babies who are being adopted, but very challenging young people who have gone through a very difficult time in their lives. I hope that we can ensure that the financial support and services that are needed to support families—whether they are fostering, are kinship carers or are adopting—are provided.

16:59

Euan Robson (Roxburgh and Berwickshire) (LD): I welcome the passage of the bill, in which I have had a long-term interest. I echo the thanks that have been expressed to all those who contributed to it, especially the members of the adoption policy review group, which was chaired by Sheriff Cox.

The bill is a major reform by anyone's reckoning. As the explanatory notes say, it

“is intended to modernise, improve and extend the system of adoption in Scotland”.

I believe that it does exactly that; in the modern vernacular, it does what it says on the tin. Parliament was right this morning to decide that in the future unmarried couples will be able to adopt jointly, after the rigorous scrutiny that anyone who adopts must go through. That has been the practical outcome of the unsatisfactory legal procedures that have been in place for many years, and we are now enabling what has in reality happened for years, by simplifying the appropriate legal processes.

There are two other areas of particular importance in the bill, one of which is the provision of adoption support services. It is welcome that the new statutory framework makes those services an integral part of the adoption process. However, the permanence order is perhaps the most innovative part of the bill. It was clearly necessary to provide for long-term security, short of full adoption, for children and young people who, for whatever reason, cannot live with their natural family.

I do not want to dwell on this area, but I continue to have concerns about the relationship between the children's hearings system and the court. The minister's welcome assurances about especially careful implementation are therefore entirely appropriate, and I am sure that he will want to work closely with the British Association for Adoption and Fostering and other relevant agencies.

One important area that has gone almost without comment today concerns the changes to adoptions from foreign countries. The safeguards that will be introduced are overdue; they will cover adoptions from countries that have not signed up to the Hague convention on the protection of children and co-operation in respect of inter-country adoption. Those important changes deserve due recognition.

Throughout the debate on the amendments today, and in earlier debates, the focus of what we are doing has been described as acting in the best interests of children, and that is clearly the fundamental point about the bill. What is in the best interests of children is what should happen. That is the culture of the courts and it is good that the bill makes it clear that that should be the statutory purpose as well.

Why are we doing all that? The key purpose is to achieve better outcomes for children in Scotland. It is quite clear from all that we know about children in official local authority care that their life chances, for whatever reason, are not as good as they would be if they were in a stable family setting, permanently adopted or in secure fostering. The permanence order is an important

development in that area, because it ensures exactly that. It ensures the kind of background that will foster and enhance children, so that they can fulfil their full potential in later life.

The bill is founded upon the key principles of the best interests of the child and better outcomes for the child, so it is immensely welcome. That is why the Scottish Parliament was formed. The Parliament is able to deliver in that policy area and to reform the law in a way that is consonant with the needs of the country. I particularly welcome the bill and I commend it to the Parliament. I hope that it will be passed later this evening.

17:03

Mr Kenny MacAskill (Lothians) (SNP): I, too, welcome the bill. As was mentioned by the minister and by Scott Barrie, the statute that has been in place until now was enacted in 1978. As a practising solicitor in this city many years ago, I had a great deal of involvement with that act, all too often in opposing freeing orders for adoption.

When I was first involved in the law of adoption, I simply assumed that adoption was one of those things that had been with us since time immemorial, and that it was covered by one of those ancient Scottish acts that went back to the middle ages. Only when I was given lectures, free gratis, by Professor John Triseliotis, professor emeritus of social work at the University of Edinburgh, did I learn about the real history of adoption. In fact, adoption came into the law of Scotland only in the late 1920s. Prior to that, there had just been an assumption that if parents died someone would take in the children. Whether that was the uncle to whom James Douglas-Hamilton referred or a neighbour, they simply took in the child and the child's situation would be dealt with simply by the laws of inheritance, if need be, to cover their financial well-being. The children would simply take the name of the person who adopted them. We have never had the nonsense of deed poll in Scotland; people can call themselves what they want, so the children were called by the name of their adopted parents.

Adoption was introduced in the late 1920s, because in the carnage of world war 1 we lost a whole generation and, as a result, many children lost their fathers. That coincided with the period of Edwardian values. At a time when illegitimacy was still a great stigma, many children were living with people who were not their parents. There was a great deal of angst and worry that the presumption would be that the child was illegitimate, rather than a child whose father had died in service in world war 1. A law of adoption was therefore created, and I understand that the same happened south of the border. Adoption law reflects the values and nature of society. We introduced the law because

there was a need to address the social mores and the issues that had arisen from the tragedy of the great war. However, our society has moved on. The Adoption (Scotland) Act 1978 is no longer fit for purpose and does not reflect our requirements in 21st century Scotland. That is why the legislation must be changed.

The debate has been good so far, although some comments that were made earlier were unedifying. As the minister said, everybody is aware that, tragically, the vast majority of children who are freed for adoption in Scotland are not bouncing, cherubic babies: they are the children of parents who have an alcohol problem, a drug addiction or some other problem. They are often deeply troubled or disabled children, who people do not want to have in their home or are unable to cope with. Rather than impugn the intentions and integrity of individuals who offer them a home, we should be grateful that there are people, of whatever sexuality, who wish to take them in and provide them with that environment.

The bill is not about driving forward an anti-homophobic position or a position on equalities. As all members, in particular Adam Ingram, have said, the issue is to retain the ethos of the law of Scotland that was introduced in 1930 and continued in 1978—the interests, care and welfare of the child are paramount and anything else is irrelevant. That is why I support the bill and will be glad to vote for it at decision time.

17:07

Mr Frank McAveety (Glasgow Shettleston) (Lab): Like many members, I welcome the debate that has taken place on the bill. I also welcome the work that was undertaken by colleagues on the Education Committee and thank all those who gave evidence and advice to the committee.

The primary function and purpose of today's debate is the creation of an adoption law that is relevant in 21st century Scotland. I thank Kenny MacAskill for the history lesson that he gave us on adoption over the past century or so.

As many members have said, the bill's primary focus is the best interests of the child rather than the interests of the adopter or the adoption agencies. On balance, that is right. Such an approach is in line with the direction of travel of most of the adoption policy that has been developed over the past 20 years.

Much heat was generated by this morning's debates on the amendments on the role of faith-based adoption agencies and the legal extension of adoption to same-sex or unmarried couples. However, the detail of the bill contains incredible advances, which many members have identified in their speeches.

The fact that we have updated the legal framework for adoption will provide much greater reassurance for the family unit, whatever the definition of such a unit. By providing legal security for the adoptive parents, we have therefore further enhanced the stability of any family unit and deepened the capacity of the family relationship within it.

The creation of permanence orders, like many of the other measures that I have explored in detail, is a substantial advance that will make a real difference to adoption policy in Scotland.

Like many members, I am keen that the fostering strategy will open up the opportunity for much more imaginative and innovative solutions for kinship carers and widen the role that foster parents and others in care situations can play. We have also given substantial support—through the creation of legal frameworks and, I hope, the provision of resources—to the range of adoption services to ensure that there are core plans for those who are adopted and for families who have taken children on board.

The ambition is to create a Scotland in which we increase the number of potential adopters. Furthermore, we must ensure that we create the space for people to feel comfortable coming forward to adopt. That is why we should address kinship care issues.

I want to focus on a couple of issues that popped up in this morning's debate—legitimately so, because it is in the nature of the Parliament that we should have passionate debate on issues of complexity and great moral consequence. I rarely speak in public on this issue, largely because of respect for my two children. I am an adoptive parent, and I would say to everyone in the chamber that the scrutiny that an individual or a couple undergoes is as rigorous as could be imagined. We should not underestimate the expectations that are placed upon adopters. The interests of the children are central to that.

Equally, I am conscious of the moral consequences, about which members expressed their concern this morning. I welcome Paul Martin's and Michael McMahon's amendments. I do not accept that those amendments represent irrational prejudices. It is unfair to use such terminology. While I may not understand the complexities of the debate and I may not even be totally interested in it, I was left in no doubt about its importance on Sunday afternoon, when my mother said, "I don't always know what goes on in that Parliament, son, but I've lit a candle for you this week." That is reassuring. We cannot legislate away the level of belief of my mother and many others in Scotland. We cannot bulldoze away that level of concern. We need to find consent in this debate.

The bill has advanced the issue of adoption in Scotland and has changed its context, but we need to ensure that we take as many people with us as we can. The measured contributions today on most issues have resulted in that, and Scotland and adoption are stronger because of it.

The Presiding Officer (Mr George Reid): We move to closing speeches. I apologise to the member who has not been called.

17:11

Scott Barrie (Dunfermline West) (Lab): Many people outwith the chamber have put a great deal of work into ensuring we get a new adoptive and permanence regime that best meets the needs of our young people in the 21st century. We all owe them, and those members who have worked so hard as well, a great debt of gratitude. Changes in societal norms have meant that there has been a seismic shift in the types of young people requiring adoption or long-term planning over the past four decades. Most adoptions now involve older children; as members have said, very few involve relinquishing babies. Indeed, step-parent adoptions make up by far the biggest proportion of current adoptions.

Just as there have been changes in the groups of young people requiring adoption, there have been changes in the groups that have been willing to offer an adoptive placement. This morning's debate indicated that. The debate included an extensive discussion on adoption by same-sex couples—Parliament was clear in its view on that issue. I do not wish to reiterate what I said in that debate, but, as other members have said in their closing speeches, it is crucial to remember that this legislation is not about adults' rights to adopt or care for young people in the long term, but about the young person's right to be brought up in an enduring family relationship that best meets their needs. I sat on the fostering and adoption panel at Fife Council for about six years, and I was always clear that it was never my key role to find children for childless couples. My key role was always to find the best possible placement for the child we were discussing. It is very important to remember that in the debate.

The bill is not just about adoption—it contains new provisions on permanence orders. I agree with other members that we have not discussed the concept of permanence orders thoroughly enough at stage 3. Permanence orders have great potential. I hope that they will be used extensively by practitioners, because they provide a real way forward to provide the legal security that many young people require but which cannot be given by the children's hearings system, with its necessity for an annual review. It is utterly impossible to plan permanently for a child's

childhood if it is necessary to return every year in order to secure a placement. I hope that the concerns that have been raised about the interface between the courts and the hearings system can be resolved. If clarification is needed, I hope that it can be provided in secondary legislation.

The bill reflects and acknowledges the Scotland in which we live and its families. It seeks to continue to place the needs of children and young people at the forefront of deliberations on their future. The bill is good for the young people of Scotland and for their future. For that reason, if for no other, we should unanimously support the bill this evening.

17:15

David McLetchie (Edinburgh Pentlands) (Con): I welcome the bill and will vote for it. Attention has focused on a limited number of controversial issues, most of which were debated this morning. I suppose that that is inevitable. Much that is valuable in a great deal of legislation passes without public comment, which gives a distorted perspective on the Parliament's work and the process of law reform. I suspect that that is the way it has aye been and will aye be.

People who are willing to adopt or act as foster carers or befrienders should be valued in our society. They should certainly be thoroughly vetted, be informed about and aware of the responsibilities that they are taking on and be supported financially and personally. However, they should certainly not be deterred by a process, a procedure or a perception that they do not conform to an identikit or politically correct view of what an adoptive parent should look like.

Adoption differs from foster care and befriending, in that it is for life for the parents and the child. It is a second chance for many of the most vulnerable children in our society who have been damaged and traumatised by their experiences of life with their birth parents. That is why I welcome the changes that have been made in the course of the bill's passage, in particular through amendment 84, in Paul Martin's name, to include the importance of a "stable family unit" as one of the factors that is to be taken into consideration when an adoption application is being considered. That is important because the stability of a family unit is capable of being assessed and evaluated when the adoption order is made, whereas endurance in family relationships is essentially a matter of speculation.

I find it odd that, if so much importance is being placed on stability and the enduring nature of relationships, we are allowing people who are not married to each other or have not entered into a

civil partnership to adopt children. Although I acknowledge that people may choose to have children of their own outwith marriage because of some objection to the institution, I do not see why they should be allowed to adopt others' children. If a couple cannot make a binding commitment to each other, the law of adoption should not allow them to make a binding, lifelong legal commitment to a child. It is not too much to ask people to make a commitment to each other before they make a commitment to a child.

However, the Parliament has decided the framework for eligibility to adopt in its debates today. I hope that those who are responsible for running the adoption system and making such important decisions will reflect on the concerns that have been raised in the bill's passage and that they will make sound and careful judgments in future in the interests of the children involved.

17:18

Fiona Hyslop (Lothians) (SNP): The journey has been long and intense for everybody who has been involved in the process. I thank everybody concerned: the Education Committee's special adviser, Ken Norrie, and BAAF Scotland for their exceptional advice; the minister for his responsive approach to the bill, which is to be welcomed; our clerks, who have had to endure a great deal; and Iain Smith for steering us through the process since March.

It has also been a long journey in policy terms. Kenny MacAskill was right to say that adoption reflects the mores and norms of the time. Before devolution, the need to update adoption law was loud and clear, but it is only because we have the Parliament that we have been able to give the required time and attention to update the law. Although I have some criticisms about the last-minute restructuring of much of the bill, the bill team is also to be commended for taking a comprehensive approach to redrafting the bill.

One point that came up time and again was the importance of the child's opinions, as did the fact that their rights should always be paramount. That is grounded in the Children (Scotland) Act 1995, which Lord James Douglas-Hamilton steered through Westminster, and it is important that we are grounding the bill in the same principle.

The bill is just the legislative part of the journey of caring for looked-after children; the policy agenda has still to be progressed. That is why the strategy consultation is vital, why tackling the educational opportunities for looked-after children is important and why the family group conferencing that was mentioned should be examined and embraced.

I, too, want to refer to the more controversial debates that we have had. Apart from at conception, parenting and sex have nothing to do with each other. Parenting is about caring, nurturing and supporting, and many children would be horrified by the fact that their parents actually had sex. Adam Ingram is correct to identify the issue as being about same-gender parents, because it is not about sex. We should reflect on that.

A serious point needs to be raised about funding and resources. We heard a lot of evidence at stage 1 on the continued need for children to be looked after, both in institutions and in foster care. Sadly, many children may not be able to be adopted, and the Executive's idea that some financial provisions would be reduced because of the reduction in the number of children must be revisited.

Another vital point that led to the restructuring of the bill was that adoption support services should be continuous both pre and post-adoption. Some of the points about the drugs, deprivation and neglect faced by some of our children must be addressed. The problems related to attachment disorders that may affect children in the early months of their lives can still affect them seven or eight years later. It is important that the support exists, so I hope that as part of the policy agenda we will consider the therapeutic services that need to be addressed.

I regret the way in which permanence orders have been dealt with. I sincerely think that we may have gone into a problematic area that will cause difficulties, and Parliament and the Executive in the next session may have to consider primary legislation to rectify that. There will be a need for prompt post-legislative scrutiny.

Again, I thank everyone concerned. I am pleased that the Scottish National Party will support the bill.

17:23

The Deputy Minister for Education and Young People (Robert Brown): I thank colleagues for the tone of the closing debate, which has been excellent. There have been some enormously brilliant speeches, not least Kenny MacAskill's historical tour de force and the introduction of Frank McAveety's mum into the proceedings.

I begin by thanking all those who have helped to mould the bill: the adoption policy review group, which began its work in 2001; the many organisations and individuals who gave their input to the Executive in their evidence to the Education Committee; the Executive and parliamentary officials who supported our work on what has been

a complex and technically difficult bill; and the members of the committees, particularly the Education Committee, that scrutinised the bill. Perhaps above all, I thank the individuals who in private conversation and in public have told us about the challenges and barriers that confront potential carers and adopters and the young people who are fostered or adopted. The bill has benefited greatly as a result, and it will meet the needs of the children and adults whom it will affect and for whom it will stand the test of time.

I agree with Scott Barrie on the centrality of finding homes for children rather than children for homes. He hit on a significant truth. I also agree with David McLetchie's comments about adoption being a second chance for many young people. Those important insights helped to set the tone of the debate.

I do not want to rehash the debate about same-sex couples, as the issues have been fully aired. We have heard good speeches: from Fiona Hyslop during that debate; from Adam Ingram in this debate; and from many other members from across the chamber. My only comment is that the passage of the bill is another step on the way to a liberal, tolerant and inclusive Scotland that the vast majority in this chamber and across the country want.

I do not want to enter further into the debate on permanence orders—I do not think that I have enough brain cells to cope—but we will keep an eye on their development. As many members have said, there is an issue with implementation, which is, as always, nine tenths of legislation. Iain Smith was right to say that permanence orders are central.

At the heart of the debate has been the desire to improve the lives of the many children who have simply appalling starts in life. Euan Robson, in particular, spoke about that. Many children's life chances have been blighted by the action—or inaction—of adults to whom they should have been able to look for succour, nurture and support, but many of those children have been rescued by the selfless dedication and love of skilled foster or adoptive parents.

Over the years, I have had the privilege of meeting many such parents and young people, and to say that the experience is humbling is an understatement. Hugh Henry and I met another such group last night at the launch of the fostering strategy at Edinburgh Castle. [*Interruption.*]

The Presiding Officer: Order. There is too much private conversation. This is an important speech.

Robert Brown: I never come away from such meetings without learning something or picking up a valuable insight. Last night, I learned from young

Jamie about the down-heartening effect of the stigma—from school, neighbours and sometimes communities—and personal challenges that foster children experience. Our attitudes and our systems need to deal with that. I contribute that insight to the debate.

The Parliament and the Executive are increasingly focusing on the challenge of children who suffer in the care of inadequate or abusive parents or parents who are addicted to drugs or alcohol. Such children become, to one degree or another, the responsibility of the state as protector of the weak and as corporate parent. Aspects of our work that are germane to that challenge include our strategies for looked-after children and for young people who are not in education, employment or training; the Education (Additional Support for Learning) (Scotland) Act 2004; the fostering strategy; the youth work strategy; the getting it right for every child agenda; and the Adoption and Children (Scotland) Bill.

We know that society has not done well. The educational attainment of looked-after children has been flat for a decade, and both the children's hearings system and children's services in general have been under increasing pressure. However, amidst those severe long-term challenges, there are points of light and hope on which to build. The work of adoptive parents, foster parents and kinship carers such as grannies and granddads is central. As Scott Barrie and others said, the social context of adoption has changed and there is now a greater understanding of individual identity and how it plays out for children and their relationships with their natural parents and significant others in their lives.

I refute a point that Rosemary Byrne and others made about children under 12. It is not the case that children under 12 are not involved in the processes. There was a technical amendment about that, and the Children (Scotland) Act 1995 requires the voices of children under 12 to be heard.

When the Parliament passes the Adoption and Children (Scotland) Bill tonight, as I hope it will, it will be a milestone, but in many ways it will also be a start. We will move forward with the agenda of improving adoption services within the new and more coherent framework. We will develop permanence orders, which will bring greater security to adoptive parents and young people alike. We will develop better support arrangements for adopters, fosterers and kinship carers, not just in money terms but in terms of training and support, including support for foster parents who have been subject to accusations. That was not mentioned today, but it is a significant issue in relation to attracting more fosterers and adopters to meet children's needs. It is particularly poignant

to think of young children suffering as we come up to the Christmas season.

The bill will make a real difference to the lives of children who cannot live with their birth families. It provides a much-needed modernisation of adoption that recognises the varied and increasingly complex needs of children who cannot live with their birth families. It provides for the challenges that adoption can pose and offers stability for children who are permanently away from their natural parents but will not move on to adoption.

All the evidence shows that fostering and adoptive placements provide by far the best future for many abused, neglected and vulnerable children and young people. I finish by thanking all the fosterers and adopters—grains of sand on the beach of challenge, as it must sometimes seem to them—for all their work and love and care for their young charges. They make a profound difference and I speak for everyone in the Parliament when I say that we are enormously grateful to them.

I commend the motion to the Parliament.

Decision Time

17:29

The Presiding Officer (Mr George Reid): We come to decision time. There is only one question to be put tonight.

The question is, that motion S2M-5041, in the name of Peter Peacock, that the Parliament agrees that the Adoption and Children (Scotland) Bill be passed, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)
 Baird, Shiona (North East Scotland) (Green)
 Baker, Richard (North East Scotland) (Lab)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Brownlee, Derek (South of Scotland) (Con)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Byrne, Ms Rosemary (South of Scotland) (Sol)
 Canavan, Dennis (Falkirk West) (Ind)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Eadie, Helen (Dunfermline East) (Lab)
 Fabiani, Linda (Central Scotland) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Fox, Colin (Lothians) (SSP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Glen, Marlyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lochhead, Richard (Moray) (SNP)
 Lyon, George (Argyll and Bute) (LD)

MacAskill, Mr Kenny (Lothians) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 MacDonald, Margo (Lothians) (Ind)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McLetchie, David (Edinburgh Pentlands) (Con)
 McMahan, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Monteith, Mr Brian (Mid Scotland and Fife) (Ind)
 Morgan, Alasdair (South of Scotland) (SNP)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Murray, Dr Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, John (Ayr) (Con)
 Scott, Tavish (Shetland) (LD)
 Sheridan, Tommy (Glasgow) (Sol)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Tosh, Murray (West of Scotland) (Con)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
 Watt, Ms Maureen (North East Scotland) (SNP)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Davidson, Mr David (North East Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gillon, Karen (Clydesdale) (Lab)
 Mitchell, Margaret (Central Scotland) (Con)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)

ABSTENTIONS

Adam, Brian (Aberdeen North) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Petrie, Dave (Highlands and Islands) (Con)

The Presiding Officer: The result of the division is: For 101, Against 6, Abstentions 6.

Motion agreed to.

That the Parliament agrees that the Adoption and Children (Scotland) Bill be passed.

Volunteering (Edinburgh and the Lothians)

The Deputy Presiding Officer (Trish Godman): The final item of business is a members' business debate on motion S2M-5188, in the name of Sarah Boyack, on Edinburgh's volunteers: a century of change. The debate will be concluded without any question being put.

Motion debated,

That the Parliament recognises the launch of "Edinburgh's Volunteers: A Century of Change", an exhibition which celebrates the history of volunteers in Edinburgh and the Lothians and outlines the development of volunteering in this area over the centuries; considers that all MSPs should visit the exhibition, which is located at the Museum of Edinburgh on the Royal Mile until 3 March 2007 and includes photographs, objects and oral histories about volunteers; recognises the collaboration of the Living Memory Association and the Volunteer Centre Edinburgh to provide tremendous assistance in the creation of this exhibition, and further notes the importance of volunteer contributions to enriching the lives of the people of Edinburgh and the Lothians over the last century.

17:32

Sarah Boyack (Edinburgh Central) (Lab): The idea for the exhibition, Edinburgh's volunteers: a century of change, came from the Living Memory Association and the volunteer centre in Edinburgh. I thank the 40 volunteers who helped by assembling the exhibition and recording their experiences and memories of volunteering. Their personal mementos, photographs, membership badges and minutes of meetings are all fascinating records of the history of volunteering in Edinburgh and the Lothians. I thank my intern, Chris Bradt from America, who, by volunteering for me, helped to draft the motion and put together the background information for the debate.

The ages of the people who helped to put together the exhibition ranged from 12 to 86. Their contributions included fighting for the International Brigade; helping with the girl guides, Boys Brigade and football teams; working at the city farm; helping at local museums; helping with health-related projects; carrying out research; and doing counselling work. There was also a volunteer who worked as a peace and humanitarian volunteer in Palestine and Iraq. A tremendous range of volunteering was covered.

The exhibition gives us a chance to record our thanks for the contributions of those individuals; celebrate the difference that they have made in their communities; welcome the contribution of other members of the public in Edinburgh and the Lothians; and reflect on the changing context of volunteering.

The exhibition highlights the fact that social problems, expectations and ideas about what is acceptable change over time. However, the ethos of people helping other people and giving of their time remains a constant.

Edinburgh is a fascinating city. We experienced major social change as the move from the country to the town led to the expansion of the heart of the city and the joining up of our urban villages. Much of the philanthropic work in those days was generated by the churches, as religion was seen as an antidote to people's poor health and living conditions and the social problems of drunkenness, prostitution and crime, which were prevalent at the time.

The Boys' Brigade was started in Edinburgh. The minutes of its first committee meeting at the mission hall in Leith record that three activities would be vetoed: boxing, dancing and character dressing. I do not know what character dressing was at that time, but the reference is fascinating.

There was a different response in the city centre. When I was carrying out research for the debate, I discovered that Heart of Midlothian Football Club was formed from a dancing club at the corner of Dumbiedykes Road and Holyrood Road, which is just around the corner from the Parliament. Hearts' website states:

"The lads from the dance club ... decided to play football and ... a policeman directed the lads from the Tron Kirk to the Meadows, where he thought their energies could be put to better use kicking a ball rather than hanging around the streets."

Some things do not change.

In the 19th century, Edinburgh was full of church-inspired and church-organised activities. There were evening meetings, orchestras, choirs and the temperance movement, which had a junior section—that is another reminder of difficulties that have not disappeared. During a visit by people from St Patrick's church to the Scottish Parliament a fortnight ago, I was reminded that Hibs—I am being fair—were formed by the church to provide healthy physical activity for young boys. Much of what we take for granted in Edinburgh has a long history.

The focus had shifted by the beginning of the 20th century. The state was seen as having a role in providing for people who were living in impoverished conditions. Over time, the state has addressed many of the social inequalities that the early volunteering organisations and charities were set up to address.

Throughout the 20th century, a wonderful range of voluntary organisations has joined churches in the city to help the diverse and changing range of groups that need our help. One of the most powerful parts of the exhibition shows the

contribution that volunteers who went abroad to help have made. The photographs of Edinburgh volunteers who served in the International Brigade bring history alive. It was fitting that the exhibition was opened by Steve Fullerton, who was a serving member of the International Brigade.

Work has continued in the aftermath of last year's make poverty history coalition. Members of all parties have been involved in the fair trade, aid and trade justice movements. Across the city, there has been an incredible expression of support for the work that has been done. Schools, churches, theatres and businesses have worked with the voluntary sector to make a difference to some of the most impoverished people in the world.

One exhibit records the work of humanitarian volunteers in Palestine. Those people do not want just to draw political attention to the plight of the Palestinians, important though that is. Their work is also aimed at making us think about the practical assistance that we can provide. Palestinian goods, such as embroidered goods, ceramics, carvings and olive oil, are sold at Hadeel in my constituency. Such goods bring real economic benefits to communities that live in desperate circumstances. The new Polish and other migrants who have come to the city are also developing and adding to our traditions of volunteering and providing cultural bridges to well-established local communities. I have been told by charities that they are bolstering their work.

Volunteering work has many faces. In the past few months, I have been with volunteers at the Barnardo's shop in Gorgie, some of whom have served in that shop for 25 years. I have worked with volunteers who give out advice on tackling fuel poverty in the Community Service Volunteers Scotland, Energy Action Scotland and ExxonMobil project, and I am sure that colleagues are aware of the thousands of parents who run amateur football clubs in the city. Regardless of the weather, those parents sacrifice their Saturday and Sunday mornings so that their boys and girls can play safely. A huge amount of work is being done.

As we approach Christmas, it is right that attention will focus on people who are homeless or alone. Many groups do a huge amount to help such people. The positive experiences that volunteering can bring to people who get involved in it should be highlighted. I have met people who have been involved in the Cyrenians FareShare project who started out as clients for the Cyrenians and became volunteers; some of them have moved into employment. Their confidence and pride in their achievements are incredible and should be valued.

I want to say something about the wider political challenges. This week, the excellent “Inspiring Volunteering—A Volunteering Strategy for Edinburgh” was published. I recommend it to everyone. It is the result of work by the public sector and volunteering and community organisations. In responding to the debate, I would like the minister to reflect on ensuring that the voluntary sector is sufficiently well funded to co-ordinate the army of volunteers in Edinburgh—there has been an army of volunteers here over the past 100 years. All the voluntary groups and organisations with which I work constantly chase resources. Let us see whether we can do more to help them out. Local authorities, for example, now have three-year funding horizons. Why do not they pass such financial certainty to all our voluntary organisations? Doing so would help. Realistic funding with full cost recovery would also help so that voluntary organisations can develop innovative projects and we can ensure that good projects are kept going.

I finish by saying something about project Scotland, which is a great project that we should be doing more to support. I am proud that the Canongate youth project was one of the first groups to work with project Scotland, and I have seen how valuable those volunteers are. Let us, in the Scottish Parliament and the Scottish Executive, give a lead by supporting staff to become active in volunteering. With unemployment in Edinburgh at a record low of 2.4 per cent, we need to find ways to enable people who are in employment to become involved and to play their part in volunteering.

I hope that colleagues will make their way to the fascinating exhibition that is just up the road and take some time out of their busy schedules to celebrate and enjoy the wonderful contribution that volunteers have made to Edinburgh and the Lothians over the past century.

17:40

Mike Pringle (Edinburgh South) (LD): I congratulate Sarah Boyack on securing the debate. We do not say enough in this Parliament about the key role that volunteers play in the life of our nation. I am particularly pleased that volunteers in Edinburgh have been singled out in the motion.

Throughout Scotland, around 500,000 people volunteer their time in some way. Many of the services that we take for granted would not run without the unpaid support of volunteers. The Royal National Lifeboat Institute comes to mind, as well as the facilities in many hospitals that are run by the Women’s Royal Voluntary Service. Across our constituencies, there are numerous youth clubs, scout and guide groups and sports

clubs that are all run by volunteers. That does not include all those who work far and above the hours that their paid work requires of them. Volunteers not only provide a vital service to many people, but are vital to our economy.

I want to highlight one aspect of volunteering that is making a real difference in Edinburgh South. Over the past few years, we have heard a lot of talk in the chamber about antisocial behaviour, and we have passed laws aimed at eradicating that problem. That is right and proper, but the best answer to antisocial behaviour is to prevent children from getting into a culture of behaviour that many find antisocial.

That is where the great volunteers of the bfriends project come in. They are part of Children 1st, the national children’s charity that used to be called the Royal Scottish Society for Prevention of Cruelty to Children—which had the rather long acronym, RSSPCC. Currently, bfriends in south Edinburgh has 20 volunteers who are matched up to 20 young people. They meet up with those young people at least once a week to provide support and friendship. The volunteers are of all ages, ranging from 16 to 80, and they get involved for lots of different reasons. They want to build up their curriculum vitae, to get involved in their community, to do something totally different in their spare time, or just to help.

The volunteers can have a huge impact on those vulnerable children and young people, often providing the only stable and constant influence in their lives. They teach them respect and spend time with them, thus diverting them from many of the triggers that can lead to a pathway to antisocial behaviour. Without the volunteers, there would simply be no bfriends support for those young people, who often have chaotic and difficult home lives or lack self-confidence. Sometimes, the young people want a volunteer to talk to about their worries; sometimes, they just want some time out from home or to have someone for themselves.

I will highlight the importance of the bfriends project by telling the story of Neil—that is not his real name. He is 11 and his mother and grandmother, who looked after him, both died recently. His father has a new family and wants nothing to do with him. Neil has lived in a children’s home, but has finally been fostered. His behaviour is challenging, and there is a real risk that he might be excluded from school. Each week, a bfriends volunteer takes Neil to the cinema, goes bowling with him, takes him to the swimming pool or teaches him to bake a cake. He really enjoys that time, and it gives his foster parents some time out. The befriender is a stable influence in Neil’s life. They do not have to do it,

but the befriender is now involved in meetings to plan for Neil's future.

That, in a nutshell, is the value of volunteers. They give of themselves so that others can have hope for the future. We salute them today and pay tribute to them. I hope that this century will be as productive for volunteers as the previous century was.

17:44

Mr Kenny MacAskill (Lothians) (SNP): I, too, pay tribute to Sarah Boyack not simply for lodging an important motion for debate but for making an excellent speech. I was taken by many of her comments. We have life's great circle and the fact that there never seems to be anything new. As she said, Scots have contributed to volunteering not simply at home, but abroad. That minded me that I was recently in Singapore and that it was not simply in Edinburgh that the Boys Brigade was formed by Scots. We might be ashamed of things in the British empire and Scotland's contribution to it, but we should be proud that we founded the Boys Brigade in Singapore, where I understand it lives on. Sarah Boyack's comments about the founding of Hearts and Hibs football clubs lead on to present problems with youth behaviour, on which Mike Pringle commented.

It is important to recognise volunteering—that is why Sarah Boyack lodged the motion. For many good reasons, the Parliament has made it harder to volunteer. We have—correctly—legislated on some matters. In some instances, there is no alternative to that. Dennis Canavan and the First Minister have commented on that. Having recognised why we legislated and the consequences of that, we must take opportunities for review when we have to—the First Minister mentioned that. We must recognise the importance of volunteering and take time to pay tribute to and thank volunteers. We are occasionally remiss in doing that and that is why Sarah Boyack's motion and speech are welcome.

Volunteering is part of our history. Yesterday, we debated trade unions. We must acknowledge that Edinburgh as a society has been built not only by businesses, soldiers or the labour movement and the trade unions, but by ordinary people. They might not have done acts of fantastic work such as building the castle, but they have done acts of great kindness that have been important to making the city and providing its fabric. What matters is not just great acts, but little individual bits that come together to make the city and to make it a community. That is the importance of volunteering—it is part of the basis of the community.

Sarah Boyack made the point that the world is much more complicated. The issue is not simply about always thanking people for volunteering; we must acknowledge that in the modern world, volunteering is much more complicated, not simply because of disclosure, but because of the 24/7 society in which we operate. In the past, people left the factory at 4 o'clock and took the boys club. Now, they may work split shifts or continental shifts. If they are not on continental shifts, they may be looking after the children. People who have separated from a spouse may see the children at the weekend. That has had a major impact on boys clubs and many clubs that involve girls. We must always acknowledge that life is much more complicated. The book called "Bowling Alone"—I do not remember its full title—comments on that. We must remember other aspects of a much more atomised society.

I will not get into an inappropriate political debate, but we must remember that there is such a thing as society. We are members of the human race. Whether we come together in a boys club, a church or a chapel, we do that because we believe that a better way to operate exists.

For politicians, it is easy to comment on people who have transgressed against society—I even had to leave earlier debates to comment on criminals and such matters. However, we are loth to take time to comment on people who have contributed substantially. That is a perverse rule of politics. When we have the opportunity to say thank you and well done and to say, "You have made the city as much as the politicians or the great and the good have," we should take it. I therefore feel privileged to have participated in the debate.

17:49

Mrs Mary Mulligan (Linlithgow) (Lab): I, too, congratulate Sarah Boyack on securing the debate. In my many years as a member of the City of Edinburgh Council and then as an MSP in West Lothian, I have met many people throughout Edinburgh and the Lothians who have given of their time and volunteered. As many others have said, those people are unassuming. They do what they do because they enjoy it and see some benefit from it. They ask for no reward, but it is important to take time occasionally to recognise the work that they do daily, weekly and monthly.

Just last Friday, I had the pleasure of presenting millennium volunteer certificates to two young girls in the Bathgate area. We are constantly faced with a negative presentation of young people, and we only ever hear about young people when there are difficulties. However, there are many young people in all our communities who give of their time, just as older people do, and it is important that we

recognise that. As Kenny MacAskill said, without them and their contribution to the community, many things would not happen.

Some older people have spent almost a lifetime giving of their time. It is not always easy. People have other responsibilities, including work, caring and the sheer daily grind. It is difficult to find time, but some people have done it for years on end.

The Home Aid organisation is located in Bathgate. Although it has paid employees, it could not be sustained if it were not for the fact that people give of their time to come and help with the recycling initiative there. It is important that such organisations are there.

Volunteers themselves benefit from what they do, as we accept. They develop confidence and skills that they might not have had previously, and they are generally made to feel better about themselves. We have to remember that their contribution to the community is immense. Without them, we would not have many things that we do have.

I will mention another award that I presented last week, to the Volunteer Centre West Lothian. It was the first centre in Scotland to be recognised through gaining the investing in volunteers quality standard. Investing in volunteers has been designed to ensure that an organisation's volunteers receive the best possible management support and that organisations receive maximum benefit from volunteers' contributions. The standard is based on four areas of volunteer management: planning for volunteer involvement, recruiting volunteers, selecting and matching volunteers and supporting and retaining volunteers. Without that support, some volunteers would find it quite difficult to do the great work that they do.

I congratulate the Volunteer Centre West Lothian on gaining the award. Jim Gallagher and his team are paid employees, but those on the centre's board are not; they are volunteers themselves. It is thanks to the support and encouragement that they provide to the volunteers that we have such an army of volunteers in West Lothian. It is important to recognise that.

17:52

Lord James Douglas-Hamilton (Lothians) (Con): I warmly welcome Sarah Boyack's motion. I am glad to have the opportunity to speak about an essential element of our community: our volunteers. Perhaps I should mention an interest: I am chairman of the Edinburgh support group of Hope and Homes for Children, a charity that helps orphans in Africa and eastern Europe. Volunteers are invaluable to that charity, which helps some of the world's most desperate children.

There is not one MSP who does not wish to make a difference. I hope that my colleagues will celebrate the outstanding examples of Edinburgh's volunteers and visit the exhibition. I attended its opening with Sarah Boyack. It was a splendid Edinburgh occasion. The exhibition includes photographs, displays, objects and oral histories about Edinburgh's volunteers over the years. It is thanks to the collaboration of the Living Memory Association and Volunteer Centre Edinburgh that the exhibition has been made possible. It is a great tribute to our volunteers, and I hope that it will encourage and inspire others to follow their impressive example.

Whether for a few hours a year, monthly, weekly or daily, all those who volunteer play an important role. The point was highlighted by William James, a pioneering American psychologist and philosopher, who once said:

"Act as if what you do makes a difference. It does."

Edinburgh's volunteers have worked tirelessly over the past century. If it was not for all those men, women and children who have given up their time to help others, we would most likely be living in a very different society.

I recently volunteered for a morning as part of make a difference day. I worked at the Barnardo's shop in Stockbridge. I thoroughly enjoyed the experience and sold a selection of items on behalf of Barnardo's. I do not know whether Sarah Boyack remembers the American advertisement showing Richard Nixon, which I think carried the slogan, "Would you buy a second-hand car from this man?" All I can say is that I sold a second-hand suit to a very senior official from Falkirk, which proves that, whatever people might think of politicians, volunteers are held in high regard. I am very glad to have volunteered during that weekend, and I believe that the efforts of the volunteers were not in vain.

It is hard in these few words to do justice to volunteers, who work selflessly and with great dedication. At the very least, we who are fortunate enough to be in the Scottish Parliament can with admiration and pride recognise their tremendous efforts and collective hard work over the past 100 years. After all, as has been said before, no one can do everything, but everyone can do something.

17:55

Robin Harper (Lothians) (Green): I apologise in advance for having to leave immediately after my speech, but more than 100 guests are waiting for me downstairs at a Children 1st reception to honour Margaret McKay.

Although I was one of the first members of Community Service Volunteers' retired and senior volunteer programme, my speech is mainly about young people. On Monday, I had the privilege of attending the YoungEdinburgh awards ceremony. This year's programme has been hugely successful: 1,600 young people have been nominated for awards. I pay tribute to the City of Edinburgh Council's youth services department and the *Edinburgh Evening News* for sponsoring the event. I had the privilege of giving the environment prize to a group of young people from Broomhouse who had absolutely transformed a piece of waste land into a really attractive children's playground by clearing away the glass and rubble and then encouraging people to suggest ideas for the space.

A little while ago, as rector of Aberdeen University, I addressed the organisation Inspire. As a result of that meeting, I want to raise with the minister the issue of voluntary organisations' inability to recover their full costs, which places a huge strain on them as they struggle to maintain the quality of their services. Third sector organisations have struggled to secure funding for their overhead costs, which has led to underinvestment in management, leadership, external and internal infrastructure, strategic development and governance. The difficulty has been exacerbated by a trend on the part of the sector's funders towards funding the direct costs of projects instead of contributing also to overheads or core funding. The Executive knows about this problem; I am simply reminding the minister that more needs to be done to help these organisations.

I want to finish with a few more tributes. I realise that this debate is about volunteering in Edinburgh, but I was very impressed to learn that, this year, students at Aberdeen University, Robert Gordon University and Aberdeen College have raised £50,000 and distributed the money to more than 70 charities. I also want to mention a group of people from Edinburgh who studied at Newcastle University. They have been encouraging students in Newcastle to come up and run the Edinburgh marathon, raising more than £20,000 for a charity that supports an orphanage in India. Moreover, CSV, the British Trust for Conservation Volunteers Scotland and the Duke of Edinburgh's award scheme have been enormously successful, particularly in Edinburgh, in getting young people to volunteer. After all, it is good for them; it gives them a sense of achievement, self-confidence and self-worth.

Like Lord James Douglas-Hamilton, I volunteered on make a difference day and worked in Barnardo's little bookshop on Clerk Street. I am afraid that I probably bought more books than I

sold, but I think that the organisation still did well out of my contribution.

I congratulate Sarah Boyack on securing this debate. It is lovely for us all to have an opportunity to pay tribute to the tens of thousands of volunteers throughout Scotland, particularly those in Edinburgh.

17:59

Donald Gorrie (Central Scotland) (LD): I congratulate Sarah Boyack on securing a debate on an excellent subject.

The first volunteers were probably military people. I know that Sir Walter Scott enjoyed galloping about as a cavalryman to prevent Napoleon's invasions—which, of course, never happened. A famous event in the later 19th century was the wet review, at which thousands of gorgeously dressed volunteers marched about in a thorough Edinburgh downpour.

The army of hospital people organised by Elsie Inglis were more effectual volunteers. Based in Edinburgh, their activities emerged from the city's medical and women's suffrage movements. There should be a memorial to what they did, so that we remember it more than we do at the moment.

In a more modest way, my mother was a volunteer—she made some lifelong friends from her time as a fire watcher during the war. She and her fellow volunteers stayed up all night looking out for German bombers, in case they should bomb and start fires. Fortunately, that did not happen very often.

Dancing has been mentioned. Yesterday I presided at the annual general meeting of 6VT, which is the title of Edinburgh City Youth Cafe. Usually, people stay away from AGMs, but 6VT's was crowded out, largely because it had an exhibition of breakdancing. As well as just about destroying the youth cafe's floor, it attracts in huge numbers of boys and girls, some of whom have gone to foreign countries to demonstrate their breakdancing. Should any organisation want to attract people to its AGM, it should get in touch with 6VT and it will provide some breakdancers.

There is a serious side to my mentioning the youth cafe in that, like many other organisations, it is permanently struggling for money. Although its turnaround project has been extremely successful in helping young people, who started off in the wrong way by getting into trouble at school and with the police, to sort themselves out, it is about to stop getting funding. The cafe has three drop-in open nights a week, which are hugely successful in attracting people—ethnic minority young people, in particular, find it congenial—but it is not able to fund them properly.

Sarah Boyack mentioned funding. We have still not cracked the business of providing organisations with continued funding. We go in for short-term project funding. Another danger is looming in the form of the vetting and barring bill. Careful thought needs to be given to ensure that well-intentioned measures do not cause even more trouble to volunteers, who are already diminishing in number.

Whether by being a sports coach, showing people round a museum or, as someone else mentioned, teaching a young person to cook—I could certainly do with a volunteer to teach me how to cook—the attraction of volunteering lies in sharing enthusiasms, either on a one-to-one basis or with a group. Such activity is not only highly satisfactory to the person who does it, but it does a huge amount of good for society. Long may volunteers exist, but we must fund them and learn that we should not strangle them with red tape.

18:03

Mark Ballard (Lothians) (Green): I join other members in congratulating Sarah Boyack on securing the debate.

I commend the Volunteer Centre Edinburgh and its partners for the launch of “Inspiring Volunteering: A Volunteering Strategy for Edinburgh”, which is an extremely impressive document. The fact that it contains a comprehensive, 26-point action plan means that it goes beyond offering a vision of how it would like the world to be and provides a concrete strategy for achieving a better situation for volunteers.

As we have heard, volunteers make a massive contribution to all aspects of the life of the city of Edinburgh. They have a hugely positive impact in enhancing the quality of people’s existence. I was struck by the strategy document’s estimate that volunteers contribute at least £60 million annually to Edinburgh. That is a quantification of just the monetary benefits, which are achieved as a result of people doing activities such as working in a shop to raise money for charity, which Lord James Douglas-Hamilton got involved in. Beyond that, however, there is the huge impact on quality of life, which cannot be quantified in monetary terms. That is a massive change, particularly for socially excluded people working as volunteers and receiving support from volunteers.

The Scottish Executive has recognised the contribution that volunteers make. The national volunteering strategy, which was published in 2004, stated that

“Action to support volunteering is action to tackle poverty and disadvantage”

and that

“Action to support volunteering is action to support community activity and build respect for others.”

That is a welcome statement but, as we have heard in this debate, it needs to be matched with real support—particularly financial support. The rules of the game must be changed so that voluntary organisations get that security of funding and, in particular, get the full cost of recovery that Sarah Boyack and Robin Harper talked about.

We all know that that is the good stuff about volunteering. I am also pleased that there is a recognition in the strategy of the importance of managing the volunteer experience. The strategy says that most volunteering is well managed and supported but that, for some, the volunteering experience is not as good as it could be. There is a particular emphasis in the strategy on the need to professionalise support for volunteers. Volunteer support is not easy to do well. Maximising the benefit for volunteers takes professionalism. That is how we can get the best out of volunteering. It is important to recognise that volunteering is not necessarily a cheap option. It can deliver huge benefits, but there needs to be proper support, financial support and management.

In a previous career, I worked on a project that was involved in getting more young people— young men in particular—to become involved in volunteering. I was surprised to learn that the group of young men that is least involved in volunteering is made up not of those from disadvantaged backgrounds but of those who have jobs and are busy with a range of other activities. Those are the people on whom we have to focus. Sarah Boyack mentioned sports clubs and it is true to say that that group of people are involved in sports clubs. However, they do not regard that as volunteering, because they see volunteering as working in a charity bookshop or something like that. Their activities need to be recognised as volunteering.

Alongside the investing in volunteers award that Mary Mulligan talked about, which the Volunteer Centre West Lothian has done well to achieve, there is a parallel award for employers. We should focus on how we can encourage Edinburgh’s big employers to maximise the support that they give their staff to get involved in the community. I know that that is reflected in the strategy.

I congratulate the Volunteer Centre Edinburgh on achieving such a comprehensive vision of the future.

18:08

The Minister for Communities (Malcolm Chisholm): I join with others in congratulating Sarah Boyack on an excellent choice of subject for

debate. It provides a good combination of history and issues that are very much of the moment. I must also offer my congratulations to the Living Memory Association and the Edinburgh Volunteer Centre on an excellent exhibition, which I enjoyed very much when I saw it this week.

One comment in the visitors book said:

"You can hear the voices coming off the walls".

I certainly agree with that. The photographs, the artefacts on display and the stories of volunteering through the ages, told mostly in the volunteers' own words, are exceedingly evocative. Another visitor had added:

"Great to see the changes in the Scottish Way of Life".

The exhibition certainly highlights the changes that there have been in volunteering. However, I was also struck by the similarities. For example, the reasons for volunteering seem to have remained fairly constant over the years: to do good for others; to deliver mutual aid; to participate; and to be part of a movement or a community.

Of course, many people initially volunteer for the simple reason that they have been asked to do so. I was struck by the story of Sheina Wardlaw who, back in 1953, was asked by a friend to help out with the cubs one night a week and continued to volunteer for over 40 years.

Today, being asked by a friend is still the main way in which people get involved in volunteering. I would recommend to all voluntary organisations the Volunteer Development Scotland leaflet "20 top Tips for Asking", which of course gives top tips on how to use that most traditional method of recruitment to maximum effect. For example, it suggests using word of mouth to increase the number of potential volunteers that can be appealed to and outlines ways of finding routes into different age groups, those with disabilities and different ethnic groups.

We are proud that people from many different countries have chosen to work, study and often make a home in Scotland. That is, among other things, a huge opportunity for the voluntary sector. Those who are settling in Scotland appear keen to give something to their new communities. In Edinburgh, for example, one in five new volunteers is from European Union accession countries, particularly Poland.

So what has changed? I wonder whether members were struck by how little government was mentioned in the exhibition. Given the success story that is so well illustrated in the exhibition, what, we might ask, is the Executive's role? In the past, the voluntary sector has done a great job alongside us, but quite often without us. When I think about the possibilities for change,

and of the benefits for individuals and communities, for service delivery, for personal development, and for training that we can achieve by working together, I get very excited.

Such a change does not come from government but from working together with voluntary organisations, social enterprise and the social economy—what we are increasingly calling the third sector. As I said at our first—and, may I say, very successful—third sector summit just two days ago, I use the word "third" not to suggest that there is a pecking order of first, second and third but to mean that the sector is a third force for action, alongside and fully comparable to the public and private sectors.

I want to mention two key documents: the Scottish Executive's "Volunteering Strategy" and "A Vision for the Voluntary Sector", which is rightly subtitled "The Next Phase of Our Relationship". Before I talk about the Executive's volunteering strategy, I also congratulate those who are involved in producing "Inspiring Volunteering: A Volunteering Strategy for Edinburgh", which has just come out.

With the Executive's volunteering strategy, we want to open up the benefits of volunteering to all and to create a Scotland where everyone who wants to volunteer can do so readily in a high-quality volunteering placement where the volunteer gives something, but also gains. Volunteering has always provided a chance to socialise, an increased sense of self-worth, and a sense of belonging. That is still true today, but increasingly we see properly developed and resourced volunteering opportunities as a way of gaining skills and as a way into work or further training or education.

"A Vision for the Voluntary Sector" sets out the roles that we recognise that the sector performs in Scottish life: it is a service delivery partner; it contributes to building strong communities; it is an advocate and develops policy thinking; and it is an agent of change. I look forward to working in full and equal partnership to support those roles. The sector has already achieved a great deal and by working together I think that we can achieve much more.

A particular focus of the speeches tonight has been on young people. Mary Mulligan talked about young people giving of their time to be volunteers, whereas several other members talked about people working with young people. Sarah Boyack very even-handedly talked about the origins of both Hearts and Hibs—people working with young people more than 100 years ago. Mike Pringle talked about bfriends, a project in his constituency in which people of various ages work with young people in a one-to-one relationship. Many of the projects mentioned are examples of the

intergenerational work that we are so keen to support and that will feature in the forthcoming strategy for a Scotland with an aging population.

I have an example of people working with young people. On Monday night, I presented a trophy to the Pilton youth and children's project, which is in a league for various youth teams in the greater Pilton area. I was struck by the many people working as volunteers with those groups either on their specific activities or in the management groups.

It would be wrong not to mention other volunteers, particularly this week when we had a magnificent reception in Edinburgh Castle on Tuesday night for many hundreds of the women throughout Scotland who give of their time to work with women's aid groups, rape crisis groups and others. We were saying thank you to as many of them as we could.

We should not forget Robin Harper's reference to the retired and senior volunteers programme. Volunteering for older people will feature strongly in the forthcoming strategy.

Sarah Boyack mentioned Project Scotland, which has been hugely successful in building its brand and raising awareness of volunteering and which has provided more than 800 young people with high-quality volunteering placements. Speaking for the Labour Party, the First Minister pledged that we would have a commitment to expand Project Scotland in the manifesto for the next parliamentary elections.

Sarah Boyack, Robin Harper, Donald Gorrie and Mark Ballard all talked about funding. We are fully committed to the principle and practice of full cost recovery. Guidelines for funding will be published shortly and will include a presumption of three-year funding. I made that clear at the third sector summit this week.

In conclusion, I return to the exhibition. I was struck by one more thing that does not seem to have changed in the past 100 years—the fact that some volunteers do not think that they do volunteering. For example, Anne Cain, who organised older people's lunches in Leith and harangued her shop customers to leave small change in order to throw a party, thought that she was just "helping out". She certainly did not think that she was doing anything extraordinary. We recognise that that continues to this day. People who do good in our society do not much like the do-gooding label. In our you won't believe what you can do! campaign, we show that volunteering is not about selfless sacrifice or superhuman efforts—we know terms of that sort make volunteers or potential volunteers curl up into a ball of embarrassment.

However, much as many may dislike it, today I would like to say on the record that volunteers are doing good. Without their time and skills and effort, voluntarily given, our communities, our country and many individuals would be a lot worse off. In the words of Harriet Eadie, director of the Volunteer Centre Edinburgh,

"We are a much richer society if we help each other".

I am happy to support the motion and urge all members to visit "A Century of Change" at the earliest opportunity.

Meeting closed at 18:16.

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