



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

# MEETING OF THE PARLIAMENT

Wednesday 28 November 2012

Session 4

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## Wednesday 28 November 2012

### CONTENTS

	<b>Col.</b>
<b>BUSINESS MOTION</b> .....	13993
<i>Motion moved—[Joe FitzPatrick]—and agreed to.</i>	
<b>PORTFOLIO QUESTION TIME</b> .....	13994
<b>EDUCATION AND LIFELONG LEARNING</b> .....	13994
College Reforms (Adults with Learning Difficulties) .....	13994
Draft Budget 2013-14 (Science) .....	13995
Students from Most Deprived Backgrounds (Support).....	13995
Youth Education and Training (West of Scotland) .....	13997
College Funding (2013-14 and 2014-15) .....	13998
School Pupils (Access to College Courses) .....	14000
College Places (Waiting Lists).....	14001
Universities (International Co-operation) .....	14002
College Staff .....	14002
Schools (Safe Transport Routes) .....	14003
School Examinations (Aberdeenshire Council) .....	14004
Students (Foreign Language Qualifications) .....	14005
Tuition Fees (Non-European Union Students) .....	14006
Universities (Applications) .....	14007
Schools (S4 Subjects) .....	14008
Colleges (Female Students) (West of Scotland) .....	14009
Curriculum for Excellence.....	14010
<b>PUBLIC SERVICE PENSIONS BILL</b> .....	14011
<i>Statement—[John Swinney].</i>	
The Cabinet Secretary for Finance, Employment and Sustainable Growth (John Swinney).....	14011
<b>SOCIAL CARE (SELF-DIRECTED SUPPORT) (SCOTLAND) BILL: STAGE 3</b> .....	14022
<b>SOCIAL CARE (SELF-DIRECTED SUPPORT) (SCOTLAND) BILL</b> .....	14060
<i>Motion moved—[Michael Matheson].</i>	
The Minister for Public Health (Michael Matheson).....	14060
Jackie Baillie (Dumbarton) (Lab) .....	14062
Nanette Milne (North East Scotland) (Con).....	14065
Bob Doris (Glasgow) (SNP).....	14067
Claudia Beamish (South Scotland) (Lab) .....	14068
Gil Paterson (Clydebank and Milngavie) (SNP) .....	14070
Malcolm Chisholm (Edinburgh Northern and Leith) (Lab) .....	14071
Jim Hume (South Scotland) (LD).....	14072
Mark McDonald (North East Scotland) (SNP) .....	14073
Nanette Milne.....	14074
Dr Richard Simpson (Mid Scotland and Fife) (Lab).....	14075
Michael Matheson.....	14078
<b>BUSINESS MOTION</b> .....	14081
<i>Motion moved—[Joe FitzPatrick]—and agreed to.</i>	
<b>DECISION TIME</b> .....	14083
<b>MUSIC TUITION</b> .....	14084
<i>Motion debated—[Iain Gray].</i>	
Iain Gray (East Lothian) (Lab) .....	14084
Clare Adamson (Central Scotland) (SNP) .....	14086
Jenny Marra (North East Scotland) (Lab).....	14088
Liz Smith (Mid Scotland and Fife) (Con) .....	14090
Tavish Scott (Shetland Islands) (LD).....	14091
Stuart McMillan (West Scotland) (SNP) .....	14093

Patricia Ferguson (Glasgow Maryhill and Springburn) (Lab) .....	14094
Alison Johnstone (Lothian) (Green).....	14096
Malcolm Chisholm (Edinburgh Northern and Leith) (Lab) .....	14098
The Minister for Learning, Science and Scotland's Languages (Dr Alasdair Allan).....	14099

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## Scottish Parliament

Wednesday 28 November 2012

[The Presiding Officer *opened the meeting at 14:00*]

### Business Motion

**The Deputy Presiding Officer (Elaine Smith):** Good afternoon. The first item of business this afternoon is consideration of business motion S4M-05011, in the name of Joe FitzPatrick, on behalf of the Parliamentary Bureau, setting out a timetable for stage 3 consideration of the Social Care (Self-directed Support) (Scotland) Bill.

*Motion moved,*

That the Parliament agrees that, during stage 3 of the Social Care (Self-directed Support) (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 a meeting of the Parliament is suspended (other than a suspension following the first division in the stage being called) or otherwise not in progress:

Groups 1 and 2: 30 minutes

Groups 3 to 5: 1 hour

Groups 6 to 8: 1 hour 20 minutes.—[*Joe FitzPatrick.*]

*Motion agreed to.*

## Portfolio Question Time

### Education and Lifelong Learning

14:01

**The Deputy Presiding Officer (Elaine Smith):** The next item of business is portfolio questions on education and lifelong learning. In order to get as many members in as possible, I would be grateful for succinct questions and answers.

#### College Reforms (Adults with Learning Difficulties)

**1. Neil Findlay (Lothian) (Lab):** To ask the Scottish Government how college reforms will impact on adults with learning difficulties. (S4O-01526)

**The Cabinet Secretary for Education and Lifelong Learning (Michael Russell):** When college is the right choice of learning for students with learning difficulties, our reforms will place greater emphasis on equipping them with the skills that they need for life and work. We will engage with groups representing the interests of those learners to ensure that we make progress.

**Neil Findlay:** Now that we know that significant cuts are occurring in courses for adults with learning difficulties, what is the Government doing—now, this year—to provide opportunities for young people who want to learn but are told that they are either too old or there is no place for them?

**Michael Russell:** As I have pointed out, colleges are providing courses for those for whom college is the right choice of learning. Colleges are required to set out in their outcome agreements how they will ensure access to entry-level courses. The Scottish Government, working with the Scottish Further and Higher Education Funding Council and Scotland's Colleges, is updating its guidance on support for students with profound and complex needs. That has led to the creation of a network of specialist regional advisers who are helping colleges to plan provision for that group. That is the reality of what is taking place.

**George Adam (Paisley) (SNP):** Will the cabinet secretary outline what considerations will be made for students with learning disabilities as part of the outcome agreements?

**Michael Russell:** For the year 2012-13, colleges have been asked to ensure that access to entry-level courses—courses that are of primary importance to that student group—is set as widely as possible. From 2013-14, the number of students with additional support needs enrolled on accredited learning will be measured as part of

next year's college outcome agreements. The Scottish funding council will negotiate with colleges to ensure that they are responding appropriately to regional need.

I had a very productive meeting with the cross-party group on learning disability, at which the Scottish Consortium for Learning Disability was represented. I would be delighted to meet the consortium to explain where things currently are, and I understand that such a meeting has been arranged after I committed to it last week.

### Draft Budget 2013-14 (Science)

**2. Gavin Brown (Lothian) (Con):** To ask the Scottish Government what its "Government outcomes" are for science as noted on page 61 of the draft budget 2013-14. (S4O-01527)

**The Minister for Learning, Science and Scotland's Languages (Dr Alasdair Allan):** The outcomes to which the member refers are those that are set out in our well-established national performance framework and, in particular, those relating to science learning, skills, employment and economic potential—all key components of sustainable economic growth.

That section of the draft budget 2013-14 refers to funding programmes that are run by the office of the chief scientific adviser. Those support a wide range of informal science learning and public engagement initiatives, including our science centres and festivals, and they help to ensure that science plays its part in our drive for a smarter, healthier and greener Scotland.

**Gavin Brown:** It does, indeed, refer to the budget for the office of the chief scientific adviser, which was £6 million in 2012-13 but will be slashed to £3.4 million in the next financial year. How will that help the Government's outcomes?

**Dr Allan:** The member will be aware that several functions of the chief scientific adviser are now being carried out by the funding council, which accounts for some of the changes. For example, the overall downturn in the budget for the science centres is considerably less than advised because of that factor. In 2012-13, £2.5 million has been allocated for science centres alone, aside from other aspects of outreach.

### Students from Most Deprived Backgrounds (Support)

**3. Liz Smith (Mid Scotland and Fife) (Con):** To ask the Scottish Government what financial support will be available in 2013-14 for higher and further education students from the most deprived backgrounds. (S4O-01528)

**The Cabinet Secretary for Education and Lifelong Learning (Michael Russell):** From the

academic year 2013-14 onwards, students in higher education with a family income of less than £17,000 will have access to an annual income of £7,250 through a combination of bursaries and loans. That minimum annual income is part of a package of changes to student support that, together with our commitment to free tuition fees, will provide the best overall package of support in these islands.

We will maintain the college student support budget at over £95 million for 2013-14. Additionally, we are maintaining education maintenance allowances, investing a total of £31.6 million in 2013-14, so that students from poorer backgrounds have the support that they need to access learning.

**Liz Smith:** As I understand it, the Scottish Government's intention is to increase the overall budget for the Student Awards Agency for Scotland over the whole of the spending review period. Can the cabinet secretary outline why there has been a change in policy focus from bursaries to the loans system and why, in the next year, we will have a 9.5 per cent real-terms cut in student support and tuition fee payments?

**Michael Russell:** I think that it is quite obvious why we would change the basis of it: so that we can get, if I may be frank, more bangs for our buck. We are getting that with the co-operation and, indeed, the help and support of the National Union of Students, which believes that the progress that we are making is the right progress for students in Scotland. I was pleased that Robin Parker of the NUS took part with me in the media event at the University of Glasgow to launch these changes.

I do not think that anybody would accept that there has been any diminution of our support to students. It is quite the reverse—we have the best student support package and access to education based on the ability to learn, not the ability to pay. That means that we are investing in our higher education system. There are, of course, different approaches, but I am pleased that the representative body for students strongly supports what we are endeavouring to do.

**Hugh Henry (Renfrewshire South) (Lab):** Can the cabinet secretary confirm the view of the Scottish Government that a loan is now regarded as part of income?

**Michael Russell:** What I can confirm is that this change is warmly welcomed by the vast majority of students and the NUS—[*Interruption.*]

**The Deputy Presiding Officer:** Order.

**Michael Russell:** It has been designed with their support in mind. We are endeavouring to ensure that, in times of difficulty, we can support

our students and our further and higher education systems. If members in the chamber have other prescriptions that they would like to bring into place, they should bring them to debate and to a policy discussion, and we will discuss them.

I am very happy to stand four-square behind these proposals.

**Joan McAlpine (South Scotland) (SNP):** Can the cabinet secretary tell me how many students who are studying in further education colleges in Scotland would have to pay fees if they were on similar courses in England, under the coalition Government and under the fee regime that is now favoured by Labour's cuts commission? *[Laughter.]*

**The Deputy Presiding Officer:** Can we have order, please?

**Michael Russell:** It is interesting that Labour members laugh at the idea of tuition fees. If Labour members wish to bring forward a policy that supports tuition fees, they are quite entitled to do so, but they should do so openly and honestly.

For my part, I have to say to the member that, unlike the United Kingdom Government, we believe that education opportunities should be based on the ability to learn and not on the ability to pay. That underpins our policy that provides free tuition to full-time students in both colleges and universities. It is why around 177,000 college students had their fees waived or met by SAAS in 2010-11. A policy of charging students would impinge on college students as well. It is important that that is remembered across the chamber.

#### **Youth Education and Training (West of Scotland)**

**4. Stuart McMillan (West Scotland) (SNP):** To ask the Scottish Government how the opportunities for all policy is being implemented in the west of Scotland. (S4O-01529)

**The Cabinet Secretary for Education and Lifelong Learning (Michael Russell):** Opportunities for all is an explicit commitment by this Government to an offer of a place in learning or training to every 16 to 19-year-old in Scotland who is not engaged in employment, education or training. It is being delivered across Scotland by local authorities and their partners, including Skills Development Scotland, colleges, third sector providers and Jobcentre Plus.

This year, local authorities in the West Scotland region received £599,241 specifically to support the delivery of opportunities for all, including 16+ learning choices and activity agreements. Additionally, North Ayrshire Council and Renfrewshire Council, both of which are in the West Scotland region, are receiving £1.6 million of

the extra £9 million funding available this year to support youth employment. Those authorities are also benefiting from £19.8 million of funding from the European social fund until September 2013 and £4.3 million of funding from the European regional development fund until July 2014.

**Stuart McMillan:** What assurances can the cabinet secretary provide to the college sector that the opportunities for all policy will be maintained during college reorganisation and that reorganisation provides an opportunity for the sector to consider running courses that have been scrapped or which have the potential to generate longer-term and stable employment?

**Michael Russell:** I am sorry to croak, Presiding Officer, but my voice is slowly giving way. *[Interruption.]*

**The Deputy Presiding Officer:** Please continue, cabinet secretary.

**Michael Russell:** Under opportunities for all, all 16 to 19-year-olds are guaranteed an offer of a place in learning or training if they are not already in education or a job. Achieving the policy's aims will involve a contribution from all parts of the post-16 system; as colleges will be an important part of that, we have prioritised places for 16 to 19-year-olds. The regionalisation of our colleges will encourage a far closer alignment with economic need and the delivery of skills that will indeed lead to longer-term and stable employment. I also note that the Post-16 Education (Scotland) Bill, which takes us a step closer to that ambition, has been published today.

**Margo MacDonald (Lothian) (Ind):** I congratulate the Government on its vision, but what methods are used to ensure equity of standard with regard to places on college courses that do not offer either apprenticeships or full training but which are part-training in nature? Who controls the standard in that respect?

**Michael Russell:** That is a very good question. A variety of people are involved in verifying and ensuring a constant standard for college courses. However, certain college courses spread among a number of different colleges are of a different grade and standard. This morning, I had a very interesting discussion with the chairs of the Lanarkshire colleges, and one of the issues that they are looking at in their federation proposal is a means of ensuring a common standard across the colleges in precisely the sort of course that the member has highlighted. Indeed, another benefit of the regionalisation proposal is that it provides a way of driving up standards.

#### **College Funding (2013-14 and 2014-15)**

**5. Drew Smith (Glasgow) (Lab):** To ask the Scottish Government what funding has been

allocated for colleges for 2013-14 and 2014-15. (S4O-01530)

**The Cabinet Secretary for Education and Lifelong Learning (Michael Russell):** As the member will be aware, the funding allocated for colleges for 2013-14 and for 2014-15 is set out in the relevant Scottish Government spending review and budget documents.

**Drew Smith:** I am sure that we are all looking forward to scrutinising the figures for the following year.

Over the summer, I was closely involved in the fight to save Freshlink Foods in my Glasgow region, and the cabinet secretary will be aware of the crisis in the industry in other parts of Scotland. Although we all welcome the focus on youth unemployment, will the cabinet secretary ask his officials to specifically examine what more can be done in future years to support adult returners in areas affected by industrial closure?

**Michael Russell:** Drew Smith makes a very good point. Indeed, I draw attention to the additional resource that has been provided in West Lothian, for example, where the Vion closure has created conditions in which further investment in the college sector is required to meet immediate need. In those circumstances, one immediate need was English for those for whom it is not a first language. When such events occur, we need to respond well and promptly through the partnership action for continuing employment initiative and other activities. I know that the member has been very active on the issue and assure him that the Scottish Government, too, will be active on it.

**Liam McArthur (Orkney Islands) (LD):** In committee, the cabinet secretary has acknowledged the difference between the amount allocated for the delivery of higher education in colleges and the amount allocated to universities. Given his argument last week that he will endeavour where possible to secure additional funding for the college sector, does he see an opportunity to redress the difference in the amount that colleges and universities receive for delivering higher education courses?

**Michael Russell:** The member is right to say that the issue has been raised; indeed, the National Union of Students Scotland has done so. I have made it clear that there are differences in the way in which courses are delivered and in the cost bases that apply to them. In particular, the cost base of a four-year university course is often much higher. I have argued sometimes that there may be an opportunity for the higher cost base to be reduced rather than the other way round, but I understand the issue and the point that Liam McArthur makes. It is not easy to see how we

could balance those differences out, but the matter needs continued debate and I am happy to continue to discuss it.

**Colin Beattie (Midlothian North and Musselburgh) (SNP):** Will the cabinet secretary outline how the draft budget will invest in the college estate in 2013-14?

**Michael Russell:** The Scottish Further and Higher Education Funding Council will allocate funding in support of new and continuing estate development projects in colleges and higher education institutions. For example, projects at Glasgow School of Art and Coatbridge College are on-going, as well as preparatory work on the three non-profit-distributing projects in Glasgow, Kilmarnock and Inverness, each of which includes elements that are part funded via capital. The funding council will also provide capital maintenance of around £22 million to the college sector.

Each of the three NPD projects—major projects of renewal of the estate—is due to move into construction during the academic year 2013-14 and will provide new, high-quality college facilities that are fit for the 21st century, as exist throughout Scotland. Indeed, I was pleased to be at Forth Valley College in Stirling yesterday to see its wonderful new campus and the tremendous work and enthusiasm within it.

#### **School Pupils (Access to College Courses)**

**6. Lewis Macdonald (North East Scotland) (Lab):** To ask the Scottish Government whether it will increase access to college courses for senior school pupils. (S4O-01531)

**The Cabinet Secretary for Education and Lifelong Learning (Michael Russell):** Colleges are required to balance a range of priorities in the difficult financial climate, not least of which is the need to offer economically relevant courses to young people who are at risk of unemployment. Nevertheless, many colleges continue to provide significant opportunities for school pupils through skills for work courses and in other ways.

Ultimately—I am sure that Lewis Macdonald recognises this—colleges themselves are responsible for whom they enrol and the courses that they offer, based on their own assessments of local economic need.

**Lewis Macdonald:** The cabinet secretary mentioned skills for work courses. Other such excellent arrangements are in place. Given the view of the curriculum for excellence management board that the senior phase of the curriculum for excellence can be successful only if local authorities, schools, colleges and their partners work together on planning and delivery, what guarantee can he offer that all those senior school



pupils for whom a college experience would be the most appropriate will be able to access college courses in the future? Given the budgetary pressures to which he referred, will he provide colleges with the necessary resources, provide education authorities with the relevant resources or support both to increase such access in future?

**Michael Russell:** I am keen that as many young people as possible benefit from the interaction between the school stage and the college stage. Indeed, there are good examples of that all over the country. The number of school students aged 15 to 18 getting college experience in 2010-11—the latest figures—was broadly the same as in 2007-08.

There is no question but that college experience can benefit school pupils, but there is a need to ensure that colleges and local authorities are able to afford those things. As I said earlier, I was at Forth Valley College yesterday, where 800 young people from schools are enrolled in a range of academic, transitional and vocational provision. Good things are happening. I want to encourage them to continue to happen despite the financial pressures.

#### College Places (Waiting Lists)

**7. James Kelly (Rutherglen) (Lab):** To ask the Scottish Government what steps are being taken to give access to college places to those on waiting lists. (S4O-01532)

**The Cabinet Secretary for Education and Lifelong Learning (Michael Russell):** As I have said in the chamber several times, the extent to which waiting lists are an accurate measure of demand is a matter that we are investigating with colleges. That said, we are funding colleges to deliver the same volume of learning as in 2010-11, and our opportunities for all programme means that every 16 to 19-year-old who is not in education or employment will get an appropriate offer of learning.

**James Kelly:** Previously, the cabinet secretary told the chamber that the concept of waiting lists was “utterly false”. Does he now accept that waiting lists exist?

**Michael Russell:** I have made it clear that not every entry on what are called waiting lists equates to a learner who has been—in a phrase that some members have used—“turned away”. Some people apply for more than one course. That is not a way to measure demand. So-called waiting lists were never intended to do that.

To be fair, we are working on an audit so that everybody is clear about what so-called waiting lists are and show. They do not mean that no alternative places are available. Indeed, some colleges have continued to advertise vacancies.

The underpinning truth is this: the opportunities for all programme ensures an offer of a suitable place in learning or training for every 16 to 19-year-old who is not otherwise in education or employment. I hope that that is clear enough.

#### Universities (International Co-operation)

**8. Kevin Stewart (Aberdeen Central) (SNP):** To ask the Scottish Government what is being done to boost co-operation between Scottish universities and their international counterparts to enhance research and student opportunities. (S4O-01533)

**The Cabinet Secretary for Education and Lifelong Learning (Michael Russell):** The Scottish Government has invested record levels of funding in our universities to ensure that the sector remains internationally competitive and a highly attractive destination for students and researchers. In addition, specific support for research pooling and the development of innovation centres builds on the willingness of Scottish researchers to collaborate within Scotland and with leading researchers wherever they may be located.

**Kevin Stewart:** I thank the cabinet secretary for his answer. Following the announcement that the University of Aberdeen is to be involved in two pioneering research partnerships—with the private sector and with universities in Brazil and the rest of the United Kingdom, as part of the science without borders initiative—can I be assured that the cabinet secretary will continue to ensure that those projects are backed so that we give students the opportunities that are currently available?

**Michael Russell:** In the interests of brevity, I say “yes”.

**Neil Bibby (West Scotland) (Lab):** If Scotland leaves the UK, as is the Scottish National Party's policy, can the cabinet secretary guarantee that there will be no reduction in research council funding for Scottish universities?

**Michael Russell:** Given that funding for research depends primarily—and, indeed, overwhelmingly—on the quality of the research, I can see no reason why the quality of our research should diminish. Therefore, I am sure that Mr Bibby would not want to be a scaremonger. If he thinks his way clearly and laser-like through the issue, he will realise that research funding will follow research excellence, and the excellence of Scottish research is absolutely guaranteed. I hope that that leaves the member in no doubt at all.

#### College Staff

**9. Jenny Marra (North East Scotland) (Lab):** To ask the Scottish Government what reduction there has been in the number of college staff in the last year. (S4O-01534)

**The Cabinet Secretary for Education and Lifelong Learning (Michael Russell):** On the basis of data from the Scottish Further and Higher Education Funding Council, the number of college staff, expressed as full-time equivalent, fell by 396 from 12,687 in 2009-10 to 12,291 in 2010-11, which is the latest year for which published figures are available. That represents a reduction of 3 per cent.

**Jenny Marra:** I thank the cabinet secretary for his answer. Can he reiterate his commitment to no compulsory redundancies in the current merger process?

**Michael Russell:** Yes. That has been my position and remains my position. I cannot enforce it because of the previous Labour Administration's decision to remove that power, but I am happy to say—indeed, I have said so on another platform where Jenny Marra raised the question—that the answer is, again, yes.

#### **Schools (Safe Transport Routes)**

**10. Jamie Hepburn (Cumbernauld and Kilsyth) (SNP):** To ask the Scottish Government what guidance it provides to local authorities to deliver safe transport routes to schools. (S4O-01535)

**The Minister for Learning, Science and Scotland's Languages (Dr Alasdair Allan):** Safe transport routes to school are a matter for individual local authorities. The Scottish Government provides funding to Sustrans to work with schools and local authorities to encourage schools to develop travel plans for their pupils and teachers and to identify safe routes in their areas. In addition, in 2010 Transport Scotland funded the Transport Research Laboratory to produce a guide to improving school travel safety. The TRL is currently undertaking a review of the use of the school travel guide and will report its findings in early 2013.

**Jamie Hepburn:** I thank the minister for that answer. As the minister may be aware, North Lanarkshire Council plans to close Abronhill high school and to transfer its pupils to Cumbernauld high school, which would involve pupils from Abronhill walking to school along some routes that are considered to be very unsafe—they are very remote, go through wooded areas and are very poor underfoot. Many parents and pupils are concerned about the proposal. Does the minister agree that it is important that North Lanarkshire Council take those concerns very seriously indeed, before it comes to any decision on the future of the schools?

**Dr Allan:** Yes—indeed I do. Although any change in the route that is taken to the school is obviously a matter for the local authority to

consider, I hope that North Lanarkshire Council will consider very seriously indeed any representations and concerns that are put to it by parents. It is obviously important for pupils and their parents that they are able to get to and from schools safely. I am aware that North Lanarkshire Council's consultation on the proposal to close Abronhill high school has recently ended, and my understanding is that the council plans to take a final decision in the new year.

#### **School Examinations (Aberdeenshire Council)**

**11. Alex Johnstone (North East Scotland) (Con):** To ask the Scottish Government what discussions it has had with Aberdeenshire Council and the Scottish Qualifications Authority about the preparedness of secondary schools for the new curriculum for excellence examinations. (S4O-01536)

**The Minister for Learning, Science and Scotland's Languages (Dr Alasdair Allan):** The Scottish Government, Education Scotland and the Scottish Qualifications Authority continue to work closely together to monitor the preparedness of secondary schools for the new national qualifications and to support the implementation and understanding of curriculum for excellence. As part of that process, Scottish Government and Education Scotland officials are in contact with Aberdeenshire Council and have offered support to the council and its schools.

**Alex Johnstone:** I have received a great deal of correspondence from parents of children at a number of schools in Aberdeenshire who are concerned that decisions that the council or individual schools are making will result in their children being limited to a maximum of six exam courses in secondary 4. What can parents do if they have such a concern, and what can the minister do with Aberdeenshire Council to encourage it to reconsider its position?

**Dr Allan:** The obvious answer, as Alex Johnstone will be aware, is that the parents will have to make representations directly to the local authority. However, I hope that I can reassure him by pointing out that although the Government has never attempted to direct schools and local authorities on a default number of subjects to be studied, we have always made it clear that the purpose of the new curriculum is flexibility, and that the number of subjects should be tailored not only to the needs of individual schools and communities, but to the needs of individual young people. We would always expect schools and local authorities to tailor the options that are available to young people to their needs as individuals.

**Lewis Macdonald (North East Scotland) (Lab):** Given that, in practice, many councils are making the judgment to offer the same number of

courses to pupils in a year group—specifically, we are talking about S4—will the Government consider issuing guidance to employers, colleges and universities to ensure that the judgments that local education authorities make do not disadvantage young people when they seek employment or post-school education?

**Dr Allan:** The Government engages constantly with employers and with colleges and universities to talk about the structure and meaning of the new qualifications. I can only repeat what I have just said, which is that the Government does not direct local authorities on the number of subjects that are to be studied to examination level, although we expect local authorities to provide a structure that is sufficiently flexible to allow discretion to be shown for individual pupils.

### **Students (Foreign Language Qualifications)**

**12. David Torrance (Kirkcaldy) (SNP):** To ask the Scottish Government what plans it has to increase the uptake of foreign language qualifications among university students to increase their employability. (S4O-01537)

**The Cabinet Secretary for Education and Lifelong Learning (Michael Russell):** The acquisition of language skills starts long before our young people reach university, and we are taking steps to radically improve the learning of languages in schools by creating conditions that will allow children to learn two languages. In higher education, student demand is a key driver in the decisions that universities make on the courses that they offer. The demand for languages remains strong and, on the whole, Scotland is well supplied with modern language provision at degree level.

In a broader package of support for outward mobility of students, our outward mobility fund provides students with help to study overseas. All those steps will help our children and young people to prepare for the globalised and multilingual world in which we now live.

**David Torrance:** The developments in the European labour market, the current mobility programmes and increasing internationalism strongly underline the need for university graduates of all disciplines to acquire practical and useful language competencies. Does the cabinet secretary agree that offering such abilities, as is done through the University of Edinburgh's languages for all scheme, is a major factor in providing future access to job markets and business success?

**Michael Russell:** Yes. The languages for all programme at the University of Edinburgh is a superb opportunity to add to the learning experience and to improve language skills for the

market and for wider reasons. More than 2,000 students have already taken part in the programme, and I know that student interest in it continues. Many of our excellent universities are improving their language provision. Some already offer language study as a credit-bearing part of their degree programmes. For example, the modular first-year course at the University of Aberdeen has had a big increase in language study. I am pleased that that is taking place. The outcome agreements that have been negotiated between the Scottish Further and Higher Education Funding Council and the universities highlight the broad language opportunities that exist.

### **Tuition Fees (Non-European Union Students)**

**13. Marco Biagi (Edinburgh Central) (SNP):** To ask the Scottish Government whether it will consider the fees charged to non-European Union students in the context of the forthcoming post-16 education reform bill. (S4O-01538)

**The Cabinet Secretary for Education and Lifelong Learning (Michael Russell):** We have no plans to amend the current legal position that allows universities to set their own tuition fee levels for non-EU international students. However, we recognise the importance of certainty around costs in difficult financial times, and we therefore support the move by the University of Edinburgh in particular to fixed or pre-announced stepped fees for international students.

**Marco Biagi:** Earlier this month I hosted an event at which non-EU students from across Scotland objected to the unexpected increases in annual fees, and called for the introduction of fixed fees as the cabinet secretary has just described. Will he encourage other institutions to follow the very welcome example of the University of Edinburgh, either through dialogue, a code of practice or perhaps through the Scottish Further and Higher Education Funding Council outcome agreements, so that that transparency is universal?

**Michael Russell:** Marco Biagi is right: in the case of non-EU international students, there is merit in making the costs of study for the whole of the degree programme open and transparent at the time that the student applies. That would certainly be a great help to international students in managing their finances.

I am sure—knowing how they work—that other universities are well aware of the lead that the University of Edinburgh has taken, and that they will be thinking about what they can do to match or even exceed that good example.

**Malcolm Chisholm (Edinburgh Northern and Leith) (Lab):** At the end of August I met a group of

international students at what was then called Edinburgh's Telford College, who, among their other concerns, were stunned to find that their fees had more or less doubled this year compared with last year. The fees have subsequently been reduced, but is it right that further education colleges should be able to charge whatever fees they like to non-EU international students?

**Michael Russell:** It is right that colleges can make their own decisions about that, and not have them imposed. However, charging whatever fees they like would not be precisely what they would want because there is, to be blunt, competition between colleges, and anybody who was completely out of line would not get students to attend.

I agree that there needs to be openness and transparency at the time of application. Sudden changes to the amounts that are charged—in the midst of a course—are unacceptable. That is bad practice. I hope that, in future, all those who charge international students recognise that and, as I say, follow the University of Edinburgh's lead.

#### Universities (Applications)

**14. Mike MacKenzie (Highlands and Islands) (SNP):** To ask the Scottish Government what information it has on how the number of applications to Scottish universities compares with the rest of the United Kingdom. (S4O-01539)

**The Cabinet Secretary for Education and Lifelong Learning (Michael Russell):** Based on the previous significant figures received from the Universities and Colleges Admissions Service on applications to higher education courses in academic year 2012-13, the number of applicants to higher education institutions in Scotland increased by 0.1 per cent. The number of applicants to higher education institutions in England decreased by 8.6 per cent, compared with a 9.9 per cent decrease for institutions in Wales, and a 0.3 per cent increase for institutions in Northern Ireland.

**Mike MacKenzie:** Does the cabinet secretary agree that higher education should be based on the ability to learn, and not on the ability to pay?

**Michael Russell:** My good friend and Argyll neighbour Mike MacKenzie will not be surprised to hear that I agree whole-heartedly with him. He is absolutely right on that issue. Scotland is one of the few countries in Europe that is investing more in higher education. That is the foundation of our long-standing success, and it is one of the reasons for the world-class quality of what we deliver. Education should be available to people based on their ability to learn, not their ability to pay. By so doing, we are investing in the future of our entire society.

#### Schools (S4 Subjects)

**15. Liam McArthur (Orkney Islands) (LD):** To ask the Scottish Government whether all secondary schools have decided how many subjects pupils will be able to study in secondary 4 and at what stage they will choose these subjects. (S4O-01540)

**The Minister for Learning, Science and Scotland's Languages (Dr Alasdair Allan):** Schools and education authorities across Scotland are working with their learners, parents and wider partners, with support from Education Scotland and the Scottish Qualifications Authority, to develop and finalise their curriculum models for the senior phase, including the number of subjects. They are making use of the flexibility that curriculum for excellence provides to develop models that best suit their circumstances and needs and, as I indicated earlier, the needs of individual learners.

**Liam McArthur:** I listened carefully to the minister's answers to Lewis Macdonald and Alex Johnstone, but does he accept that there are concerns about a potential narrowing of the curriculum? Notwithstanding what he says about leaving discretion to local authorities, which is a fair point, those concerns exist, and it may be worth engaging directly with local authorities to ensure that any narrowing of the curriculum does not happen in a haphazard fashion.

**Dr Allan:** The Government and Education Scotland are more than happy to engage with local authorities and schools about those issues, and indeed on any cases that the member wants to bring to the Government's attention.

The point that the member raised in his initial question about the stage at which choices are made is relevant, in that we see a transition to a model in which choices are not prematurely made before the end of secondary 3. We certainly do not see curriculum for excellence being about narrowing choice; quite the reverse—it is about introducing flexibility and choice into the system to meet individual needs.

**Hugh Henry (Renfrewshire South) (Lab):** I note what the minister said about the responsibility of local authorities and his expectation that curriculum for excellence should not narrow opportunities. Will he issue guidelines to local authorities so that they are clear about what they are doing and so that there is a degree of consistency throughout Scotland?

**The Deputy Presiding Officer:** Alasdair Allan.

**The Cabinet Secretary for Education and Lifelong Learning (Michael Russell):** Alistair Darling?

**Dr Allan:** Did you say Alistair Darling? I think that the cabinet secretary has a cold. We will blame it on his ears.

All I would add is that the engagement that takes place with local authorities is on-going, as the member will be aware. I am more than happy to discuss that with any local authority that comes to me. The Government will continue that, through Education Scotland and directly.

**The Deputy Presiding Officer:** I hope that the *Official Report* reflects that I did in fact say Alasdair Allan.

### **Colleges (Female Students) (West of Scotland)**

**16. Mary Fee (West Scotland) (Lab):** To ask the Scottish Government what reduction there has been in the number of female college students in the west of Scotland since 2006-07. (S4O-01541)

**The Deputy Presiding Officer:** Michael Russell this time.

**The Cabinet Secretary for Education and Lifelong Learning (Michael Russell):** Assuming that the member means the west college region, which includes those communities that are currently covered by Reid Kerr College in Paisley, Clydebank College and the Inverclyde campus of James Watt College, the number of female students expressed as a full-time equivalent has declined by 0.2 per cent between 2006-07 and 2010-11, the latest year for which published figures are available. That represents a reduction of 16, again expressed as a full-time equivalent.

**Mary Fee:** Given that women are often responsible for childcare, does the minister agree that the reduction in part-time college places will have more of a detrimental impact on women?

**Michael Russell:** I have just given the member the figure of 0.2 per cent between 2006-07 and 2010-11—a reduction of 16. I agreed with the good point that was made by Alison Johnstone last week that we need to be eternally vigilant on this matter and do everything that we can to ensure that women continue to be—and they are—a majority of college students. Those are the facts, but we will always work hard to continue to ensure the best opportunities for everybody, particularly for women who may be disadvantaged.

**The Deputy Presiding Officer:** If you are quick—Clare Adamson.

**Clare Adamson (Central Scotland) (SNP):** Can the cabinet secretary give a breakdown of the numbers by gender of those taking part in the modern apprenticeship scheme?

**The Deputy Presiding Officer:** Order. There is too much chatting.

**Michael Russell:** There has been a considerable improvement in that matter over recent years and I hope that there will continue to be so. Skills Development Scotland publishes management information on the modern apprenticeship programme on its website, broken down by framework, age of apprentice and gender. In 2011-12, I am pleased to say that 43 per cent of modern apprentices supported by the Scottish Government through SDS were female.

### **Curriculum for Excellence**

**17. Gordon MacDonald (Edinburgh Pentlands) (SNP):** To ask the Scottish Government what its position is on whether the curriculum for excellence will give young people the values, qualities and skills that they will need to be successful. (S4O-01542)

**The Deputy Presiding Officer:** Alasdair Allan.

**The Minister for Learning, Science and Scotland's Languages (Dr Alasdair Allan):** I stand corrected. I think that my colleague may in fact have misheard you. I apologise.

The curriculum for excellence is firmly focused on the needs of individual learners and on providing them with the values, qualities and skills that they need to progress successfully to further learning and employment. It is about raising standards in education and ensuring improved outcomes for all young people. I know that we are all agreed on those objectives and that everyone is working together to deliver them.

**The Deputy Presiding Officer:** Gordon MacDonald—as briefly as possible, please.

**Gordon MacDonald:** YouthLink Scotland recently held a conference in Edinburgh to celebrate youth work week. What role can youth work and the community learning and development sector play in implementing the curriculum for excellence?

**Dr Allan:** Youth work and the CLD sector have a significant role to play in the implementation of CFE. They are important delivery partners that offer young people valuable opportunities and the Government is more than happy to work with them.

## Public Service Pensions Bill

### **The Deputy Presiding Officer (Elaine Smith):**

The next item of business is a statement by John Swinney on the United Kingdom Public Service Pensions Bill—legislative consent motion. The cabinet secretary will take questions at the end of his statement, so there should be no interventions or interruptions.

14:40

**The Cabinet Secretary for Finance, Employment and Sustainable Growth (John Swinney):** I welcome the opportunity to make a statement on public service pension reform. I begin by putting on record this Government's commitment to public service pensions that are affordable, sustainable and fair, and our gratitude to those who deliver high-quality public services across Scotland. I know the value that Scotland's communities place on effective, responsive public services, and I look forward to decisions on all the terms and conditions of Scotland's public service workers being taken here in Scotland.

However, that is not the current position. The majority of pensions policy remains reserved. The UK Government sets the basic terms for public service pensions in Scotland, and I have been pressing UK ministers to give clarity on the extent to which they plan to allow the Scottish Government to decide the detail of Scottish schemes and on their position on the second year of employee contribution increases. Such clarity is vital to enable us to pursue discussions in good faith in Scotland. That clarity has emerged only recently, and I regret that it has taken such a long time for the UK Government to be clear.

Beyond all else, what has emerged is that the UK Government has conflated the approach to public sector pension reform with its austerity agenda. Her Majesty's Treasury is intent on raising more than £6 billion of extra revenue from additional pension contributions, £0.5 billion of which is to come from Scotland alone. That is deficit reduction; it does not improve the sustainability of pensions.

We believe that pension reform should be taken forward in partnership with public sector workers rather than being imposed by Treasury direction. We believe that, at a time of wage restraint and financial hardship, it is wrong to ask public employees to pay more for their pensions in this way, but the simple reality is that, once again, the UK Government has threatened punitive financial penalties that would hit public services across Scotland if we break from the constraints that it has imposed.

It is against that background that I can update Parliament on four key aspects of pensions policy: the UK Government's approach to employee pension contributions in 2013-14 and the Scottish Government's response; the latest position on long-term pension reform and how it relates to Scottish pension schemes; issues of competence that are raised by the UK Government's Public Service Pensions Bill; and the next steps here in Scotland.

On employee contributions in the short term, the Scottish Government has repeatedly set out its opposition to the UK Government's policy of increasing employee contributions at this time and in this way, including during debates in the chamber on 17 and 30 November 2011, so it is with regret that I must relay that the UK Government has confirmed, in a letter to me that is dated 22 October, that it expects increased employee contributions in Scotland from April 2013, for a second year. In that letter, the Chief Secretary to the Treasury confirms:

"In line with our normal funding rules, in the event that the Scottish Executive chooses not to implement the further increases in contributions, the Treasury would make an according adjustment to the Scottish Executive Budget. Similarly, in the event of any time overrun beyond April 2013 the Treasury would have to reduce the Scottish Executive Budget by £8.4m for every month's delay."

If we refuse, we face a £100 million reduction for each and every year in which the increases are not applied, which amounts to more than £8 million less for public services each month, on top of the cuts that Westminster has already imposed. I am left with the stark reality that that is too large a burden to impose on communities, and the Scottish Government has no effective choice but to implement the second year of the increases from April 2013.

We will ensure that our approach provides protection to low-paid staff, for example by supporting a Scottish living wage and ensuring that no one who earns less than £15,000 on a full-time-equivalent basis is faced with an increase. I can also confirm that we will not impose increases on the local government pension scheme. That reflects the responsibility that local authorities have for that scheme.

As regards longer-term pensions reform, Parliament knows that in March this year we initiated negotiations on long-term reforms of our main pay-as-you-go schemes. We did so in good faith, based on statements from UK ministers that we could determine the shape of new schemes as long as they were implemented within agreed legislative and financial constraints.

Cabinet secretaries met key employers and trade unions to confirm the need for new schemes to be career average revalued earnings—CARE—

schemes, to fit within UK Government cost estimates, and to be ready for April 2015. Those were our only non-negotiables.

No sooner had negotiations begun than we received the first of a series of letters from the UK Government introducing fresh constraints. Over the summer and autumn, I sought clarity about the scope that we had to depart from UK Government scheme designs and to press for a timetable that suited Scotland's interests. We made stakeholders aware of the uncertainty over how far the UK Government would interfere in our negotiations. Despite the willingness of all partners, detailed negotiations stalled while we waited for the clarity that we all needed.

A combination of the UK Public Service Pensions Bill—which will shortly finish its House of Commons committee stage—and letters from, and a recent discussion with, the Chief Secretary to the Treasury have at last provided some clarity. They have made it clear that current schemes must be closed by April 2015 and new schemes put in their place, although there are protections for people who are within 10 years of retirement. It is also clear that normal pension ages must equal the state pension age, or 60 for police officers and firefighters.

Scottish legislation cannot alter those constraints unless the UK Government's pensions bill is amended before it becomes law. The chief secretary previously said:

"if the Scottish Government choose to proceed differently they will have to bear the cost."—[*Official Report, House of Commons*, 20 December 2011; Vol 537, c 1216.]

He has now confirmed that the Scottish Government has even less flexibility than that on how to design those schemes in Scotland. Notwithstanding those constraints, I reaffirm the Government's commitment to engage in meaningful negotiations with our negotiating partners in order to utilise all remaining flexibility to deliver schemes that are appropriate to the interests of people in Scotland. Such flexibility must be affordable and sustainable within the context of the limitations of existing public finances.

I will now deal with issues of legislative competence. For a small number of public bodies and individual office-holders, it is this Parliament—not Westminster—that sets the terms for the pension schemes. When the UK Government drafted its Public Service Pensions Bill, it sought to take back our ability to decide on those schemes.

Given this Government's opposition to the way in which the UK Government is conducting long-term pension reform, the lack of flexibility and the lack of certainty being offered, we cannot willingly put those remaining pension schemes under UK

Government control. Where we can act differently, we will take the opportunity to do so. Six small schemes are affected. We will assess their financial health and, if change is necessary, it will be done by this Parliament in line with our values. The Scottish Government is not prepared to cede those powers to Westminster. That is why I have lodged a legislative consent memorandum setting out the Scottish Government's refusal to bring forward any such motion.

I should emphasise that the UK bill does not contain any other provisions—over pensions for local government, the national health service, teachers or police and fire staff—that would trigger the Sewel convention. We do not believe that the UK Government has the moral authority to dictate on public service pension schemes in Scotland, but it does have the legal authority to do so.

Finally, I confirm the next steps that the Scottish Government will take. I said earlier that negotiations had stalled while all parties waited for the UK Government to give clarity on what could and could not be agreed. The time that it has taken to get that clarity—set alongside the UK Government's lack of willingness to listen to our calls for a realistic timetable—means that the implementation timetable has become an even greater issue. We will continue to press that point.

We have barely 28 months to conclude negotiations, prepare the necessary legislation and ensure that employers and scheme administrators can prepare their systems and processes before the April 2015 deadline set by the UK Government for the implementation of new schemes. Therefore, I am setting out the Scottish Government's expectation that negotiating partners should use the clarity that I have provided today to reach conclusions on the terms of new pension schemes as swiftly as possible. We must recognise that we must give the many thousands of people who are affected by those reforms certainty, too, by finalising the terms of reformed schemes in Scotland.

If the Parliament had the powers of a normal, independent country, the Scottish Government would have taken a different approach, but we do not currently have those powers. It is, of course, theoretically possible that the coalition will have a change of heart. If that happens and it results in an opportunity to revisit issues that we previously signalled that we were willing to consider, we will do so. However, we must act on the certainty that is available to us now—that the UK Government will constrain scheme designs in Scotland, and we can exercise only limited flexibility—and press on to deliver the best deal that we can for the people of Scotland.

**The Deputy Presiding Officer:** The cabinet secretary will now take questions on the issues

raised in his statement. I intend to allow around 20 minutes for questions, after which we will have to move on to the next item of business.

**Ken Macintosh (Eastwood) (Lab):** I thank the minister for the advance copy of his statement.

As members will know, Labour members have strong concerns about the changes to public sector pensions that the Conservative Government has introduced, to the extent that, almost a year ago to the day, we took the unprecedented decision to stay away from Holyrood to make common cause with tens of thousands of people throughout Scotland on the day of action. I recall that the Scottish National Party Government criticised us for doing so.

Many of the changes, particularly the steep rise in contributions, have been introduced by George Osborne outwith the Public Service Pensions Bill. We oppose them and, both here and at Westminster, Labour has argued strongly that there should be no erosion or diminishing of the Scottish Parliament's powers to shape or modify Scottish public pension schemes through the introduction of the bill. That said, I am disappointed but not surprised that the finance minister makes much of who has the power to make these decisions and simply states that the Scottish Government has no choice but to match the Tory contribution changes. The Scottish Government has a choice. It may be a difficult choice and it may be a very expensive choice, but the Scottish Government has a choice nonetheless. [*Interruption.*]

**The Deputy Presiding Officer:** Order.

**Ken Macintosh:** I note the reaction from back benchers who constantly argue for power for the Scottish Parliament but who sometimes fail to live up to the responsibility that goes with that power.

**The Deputy Presiding Officer:** Mr Macintosh, I need a question.

**Ken Macintosh:** The minister cites the Treasury reduction of £8.4 million each month if the Scottish Government fails to implement the contribution increase. Has the Scottish Government explored any variation short of the full increase, including doing so within the cost ceiling, and did it discuss the choices with public sector unions and other partners? In particular, as the Scottish Government goes out for consultation and negotiation on the changes, can the minister clarify that he still has the flexibility to make arrangements for and to make a contribution to those who wish to retire earlier than at the state pensionable age, for example?

**John Swinney:** I respectfully point out to Mr Macintosh that, if members of Parliament thought that it was appropriate to take action to stay away

from Parliament, it would have been more appropriate for them to stay away from Westminster, where the decision came from, than to stay away from the Scottish Parliament. I freely confirm that I came to Parliament and thought that it was appropriate to do so on that occasion and on every other occasion.

The simple issue that we have to face is that, without the increase in employee contributions, there would be a reduction of £102 million in the Scottish Government's departmental expenditure limit budget in 2013-14. Other choices could be made, of course. Essentially, the choice could be made to take that money from general public expenditure and offset the contribution increases, but in my statement I volunteered the fact that I consider that to be too great a sum to be removed from general public expenditure, given the other pressures that we face.

On flexibility, the Government will pursue meaningful negotiations with the trade unions on enabling individuals to retire early. It has been made absolutely clear to me that we cannot design a scheme that does not establish a fixed link between the normal pension age and the state pension age. I wished to have that flexibility to utilise it in scheme design and negotiations with employees. If I were to summarise what the big issue is that I have tried to get clarity on, it has been that one. I now have that clarity and, for that reason, I came to Parliament to make my statement today.

**Mary Scanlon (Highlands and Islands) (Con):**

I, too, thank the cabinet secretary for an advance copy of the statement. I endorse the view that pensions should be affordable, fair and sustainable. I respectfully point out that no one earning less than £15,000 a year will be faced with an increase because that protection has already been put in place by the UK Government.

The Scottish Government will not impose increases on the local government scheme, but that is surely only right, given that the scheme had a surplus of £266 million last year, according to an Audit Scotland report, and the surplus is likely to be higher this year. The local government scheme is tiered by salary band and employee contributions are, generally speaking, higher than those in other major public sector pension schemes.

While Mr Finnie—I mean Mr Swinney; Mr Finnie is in the back row—complains about responsibilities that he does not have, what will he do with the responsibilities that he does have? I have a letter from the Chief Secretary to the Treasury, dated 29 October 2012, which states that, with the Public Service Pensions Bill,



“Scottish Ministers have significant flexibility in the design of their pension schemes ... Freedom to choose the rate at which pensions are built up each year, revaluation rates, and arrangements for those choosing to retire earlier or later than the normal pension age.”

Ken Macintosh referred to that latter point.

**The Deputy Presiding Officer:** Ms Scanlon, you must finish now.

**Mary Scanlon:** The letter also states that the Scottish Government can choose

“how much of their budget is devoted to public service pensions”.

Will the cabinet secretary respond on the responsibilities that he does have and say what he will do in Scotland to make pensions affordable?

**John Swinney:** I thought that Mary Scanlon took an interesting approach by highlighting the strength of the local government pension scheme, given that the Public Service Pensions Bill that is going through the United Kingdom Parliament will require the termination of that scheme because it is a final salary scheme. I found it rather unusual that Mary Scanlon lauded the scheme so highly, given that the bill that her colleagues in the House of Commons are taking through will require the scheme to be concluded and a replacement scheme to be put in its place, which will be a career average scheme or a scheme of equivalent character.

Mary Scanlon is right that we have some flexibility. We have flexibility over accrual rates and some revaluation bases. I point out to her, however, that there is a requirement for explicit Treasury consent for the Scottish secondary legislation for the teachers and NHS schemes. The idea that I could do what I like on pension schemes, unfettered by Treasury supervision or involvement, is not right.

I will add one final point to what I said in my statement to Parliament. There has been some discussion so far that, beyond the Public Service Pensions Bill, the Treasury may propose a memorandum of understanding for agreement with the Scottish Government about some of the operational practices in relation to pension provision. This point relates particularly to the point that Mr Macintosh made to me a moment ago. I have made it clear to the chief secretary that, if that memorandum of understanding in any way diminishes the existing authority of the Scottish Parliament, I will not sign it on behalf of the Parliament. It should be clearly understood that this Government will have nothing to do with any attempt to undermine the flexibilities that we have by way of a memorandum of understanding. We have to respect the right of the United Kingdom Parliament to legislate on reserved issues, but we will not go along with

memorandums of understanding that undermine our authority in this Parliament.

**The Deputy Presiding Officer:** If questions are kept short and answers are succinct, we might get through a number of members, but even at that I doubt whether we will get through everyone who wants to speak.

**Christina McKelvie (Hamilton, Larkhall and Stonehouse) (SNP):** Notwithstanding Mr Macintosh’s assertion that the cabinet secretary can fight this one with one hand tied behind his back, can he provide further detail on how he will protect the lowest-paid workers earning under £15,000 a year from the increases proposed by the UK Government?

**John Swinney:** As I made clear in my statement, in the design of the approach that we take on the matter we will expressly ensure that no one who earns the full-time equivalent of £15,000 or less will have to pay an additional contribution. That will be an implicit part of the approach that we take in implementing the measure.

**Rhoda Grant (Highlands and Islands) (Lab):** It says in the legislative consent memorandum that, without a legislative consent motion, the UK Government will remove the devolved provisions from the bill. If that happens, will the Scottish Government require to introduce a pensions bill for Scotland, or will it have the scope to retain unchanged the schemes that are in its charge?

**John Swinney:** I cannot give a definitive answer to the member’s question because, as I said in my statement, the Scottish Government will explore the financial sustainability of the schemes that are entirely devolved to the Scottish Parliament. Currently, only six schemes are devolved; we will consider their financial health and make judgments accordingly. I will advise Parliament of any conclusion of the Government’s analysis in that respect.

**Mark McDonald (North East Scotland) (SNP):** The UK Government saying that £102 million will be taken out of the budget if something is done differently is another example of our hands being tied and our pockets being picked.

The cabinet secretary mentioned the delay and confusion that there has been at UK Government level. What impact has that had on his ability to negotiate with unions and other stakeholders during the process?

**John Swinney:** As has been clear from media commentary from the Educational Institute of Scotland during the past 10 days, it has had a detrimental effect on negotiations. We embarked on negotiations in March in good faith and in a responsible fashion but, having started discussions on one basis, we found that some of

the room for manoeuvre was undermined by points of clarification that subsequently emerged in relation to the contents of the Public Service Pensions Bill.

Clearly, that has had a detrimental effect on the negotiations, but I hope that our coming to Parliament and setting out all the points for the benefit of stakeholders and members will enable us to embark on negotiations that can make progress on those questions.

**Jackie Baillie (Dumbarton) (Lab):** The cabinet secretary rightly said that, at a time of wage restraint, it is wrong to ask public employees to pay increased contributions to their pensions. Does the UK Government require additional contributions particularly from staff, or does it require an increase in pension contributions overall?

The cabinet secretary said that, where the Scottish Government can act differently, it will take the opportunity to do so. I invite him to consider NHS pension employer contributions. The Scottish Government contributes 13.5 per cent, but NHS employers in England and Wales contribute 14 per cent. Does the cabinet secretary agree that taking action on that would help to offset some of the impact on our hard-working NHS staff?

**John Swinney:** On the first point, the United Kingdom Government has set out a mechanism whereby employee contributions require to increase by 3.2 per cent, phased in at 40 per cent, 40 per cent and 20 per cent over three financial years, commencing in 2012-13. There has been slight variation in relation to the firefighters scheme, but in other respects the Treasury has simply reaffirmed the position, in essence to generate a cash contribution to the Treasury.

The cash does not flow into pension schemes but goes entirely and directly into Treasury resources. The measure does not strengthen the financial health of pension schemes; the money simply goes into deficit reduction. As I said, the application of the approach in Scotland on the 40:40:20 basis will generate £556 million of additional contributions, which will contribute not to pension scheme sustainability but to the Treasury's coffers.

Jackie Baillie's point about contributions to the NHS scheme is a point for discussion as part of the negotiations. Of course, the United Kingdom Government will specify defined cost envelopes, over which I will not have control and which will determine much of our room for manoeuvre in that respect.

**Annabelle Ewing (Mid Scotland and Fife) (SNP):** Will the cabinet secretary provide further detail on the six pension schemes that the Scottish Government intends will not be transferred to UK

control? Will he confirm that engagement will take place with the relevant trade unions on those schemes?

**John Swinney:** The six pension schemes are those for Highlands and Islands Enterprise, Scottish Enterprise, the Scottish Legal Aid Board, Highlands and Islands Airports Ltd, David MacBrayne Ltd and Caledonian Maritime Assets Ltd, which run their own schemes.

As for dialogue with trade unions, I have been at pains in the past few months to ensure full discussion with them. I met a number of trade unions last week to discuss their concerns about some of the issues. As I said, my Cabinet colleagues Mr Russell, Mr Neil and Mr MacAskill have all been involved in discussions with the relevant trade unions. We will continue to have discussions.

**Willie Rennie (Mid Scotland and Fife) (LD):** I thank the finance secretary for an advance copy of his statement. He complains endlessly that he has no choice, when he knows that he has a choice. He has powers in relation to early retirement, accrual rates, contributions, indexation of past CARE service and much more. The truth is that, when he has been faced with the same decisions as the UK Government, he has taken the same decisions as the UK Government.

**The Deputy Presiding Officer:** Mr Rennie, I need a question.

**Willie Rennie:** I am coming to that.

The cabinet secretary complains that 28 months is not long enough—

**The Deputy Presiding Officer:** Mr Rennie, there really is no time.

**Willie Rennie:** —to negotiate and implement new pensions, even though he plans to create an independent nation in 16 months.

**The Deputy Presiding Officer:** Mr Rennie, a question, please.

**Willie Rennie:** How much precisely does the cabinet secretary plan to invest in Scottish public sector pensions beyond the UK Government's proposals?

**John Swinney:** As I said to Jackie Baillie, the United Kingdom Government will specify cost envelopes. As I said in response to Ken Macintosh—I do not think that I could have been clearer—given the pressures on public finances, the Scottish Government has arrived at the judgment that we cannot at this time justify asking for a contribution of £100 million to pension funds from core public expenditure.

The Government will embark on meaningful negotiations with trade unions and stakeholders

on the basis of the available flexibility. I accept that a range of flexibilities exists, but I would rather have more flexibilities than are at our disposal. It is beyond any inquiry that we have ended up in the process with fewer flexibilities at our disposal than we started with when we opened the negotiations in March. I profoundly regret that.

**Kevin Stewart (Aberdeen Central) (SNP):** I welcome this afternoon's confirmation from the British Medical Association Scotland that its members will not strike. Will the cabinet secretary confirm that negotiations in the areas of flexibility that he has will continue and that he will do what he can to ensure that the UK Government engages with Scottish unions?

**John Swinney:** On the Scottish Government's behalf, I very much welcome the BMA's announcement that its members will not contemplate strike action as a consequence of its ballot, which will be a source of significant relief to the public. I confirm—as would have been the case whatever the strike ballot's outcome was—that the Government will embark on strong and meaningful discussions and negotiations with all the relevant stakeholders, to ensure that we create an outcome and a set of pension schemes that are in the interests of the people of Scotland.

**Neil Findlay (Lothian) (Lab):** The cabinet secretary has powers to offer teachers the same protection as people in local government. Will he do that?

**John Swinney:** I am not sure what point Mr Findlay is making. I chose not to exercise the power to require the local government pension scheme to increase employee contribution rates. I decided not to take such action last year and I have not taken it this year. However, employee contributions under the teachers scheme are required to increase, or the Scottish Government is required to find resources from its DEL budget to contribute towards the contribution rate increases, which would be a total of £36 million this year. As I have explained to Parliament on a number of occasions, the Government does not have such resources at its disposal.

**The Deputy Presiding Officer:** We must now move to the next item of business, so I apologise to the members whom I could not call. There are of course other parliamentary avenues for questioning ministers.

## Social Care (Self-directed Support) (Scotland) Bill: Stage 3

15:09

**The Deputy Presiding Officer (Elaine Smith):** The next item of business is stage 3 proceedings of the Social Care (Self-directed Support) (Scotland) Bill. In dealing with amendments, members should have the bill as amended at stage 2, the marshalled list and the groupings.

The division bell will sound and proceedings will be suspended for five minutes for the first division of the afternoon. 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.

Members who wish to speak in the debate on any group of amendments should press their request-to-speak buttons as soon as possible after I call the group. I advise members that time is very tight. Members should now refer to the marshalled list of amendments.

### Section 1—General principles

**The Deputy Presiding Officer:** Group 1 is on general principles. Amendment 30, in the name of Neil Bibby, is grouped with amendments 31 to 33 and 14 to 16.

**Neil Bibby (West Scotland) (Lab):** Amendment 30 follows my discussions with Barnardo's and the National Society for the Prevention of Cruelty to Children and reflects the concerns that those organisations raised with me. A number of other children's charities also support the amendment because of concerns that the bill and the Government's self-directed support strategy are too adult focused and do not sufficiently reflect the needs of children.

Greater evaluation of the evidence on self-directed support for children and young people is required. In the SDS pilots, only a small minority of the case studies received in the programme evaluation related to children. Very little research has been done on those aged 16 who manage their own care and the transition from children's services to adult services.

More must also be done to inform families of how the bill will affect them. Many users of Barnardo's services feel unsure about the new options, how they will work for them and what they will mean for their children. They do not believe that local authorities have the answers at present.

The bill will have a significant impact on children, young people and their families, particularly regarding the type of services available

to them. That should be specifically reflected in the bill and the regulations that are made under it. I ask the minister to make a clear statement that, following the passing of the bill, the Scottish Government will ensure that children and families are at the centre of implementation plans and that statutory guidance will include reference to the specific needs of children and how a child-centred approach can be delivered by local authorities.

I also hope that the minister will make a commitment that the proposals in the bill will be aligned with the proposals in the forthcoming children and young people bill for strategic planning of children's services by all public bodies that deliver those services, the single child's plan and the new duty on all parts of the Government to advance children's rights. Such commitments and the addressing of other concerns outlined by Barnardo's Scotland and other children's charities would strengthen the bill and clarify the type and level of support that is available to children and their families.

I move amendment 30.

**Jim Hume (South Scotland) (LD):** Amendments 31 to 33 aim to recognise fully the role of carers in the bill's general principles. There are estimated to be more than 650,000 unpaid carers in Scotland, which is one in eight of the Scottish population. They provide care that is worth around £10 billion per year.

Scotland's carers strategy, "Caring Together", states:

"Health and social care staff should have a proper appreciation of the role of carers and young carers and commit to engage with carers as equal and expert partners in the design and delivery of health and social care services."

Amendment 31 seeks to insert into section 1 a duty for local authorities to recognise carers as key partners in the assessment of the needs of the persons who are being cared for and in the provision of care services. Amendment 32 aims to ensure that, subject to the wishes of the person who is being cared for, a carer has a right to involvement in the assessment of the needs of and the provision of services or support to the cared-for person. I believe that the definition in amendment 33 is required to clarify the meaning of "carer" for the purposes of section 1.

15:15

Those changes, which have been proposed by carers organisations, would enable both the individual and their carer to discuss what care the carer is willing and able to provide and what support, if any, the individual wants from their carer. They also represent an opportunity to

ensure that carers are identified early and offered appropriate support.

I recognise that the Scottish ministers, health staff and social care staff already appreciate the role of carers and young carers. However, the bill presents an opportunity to formally recognise the role of carers and ensure that their voices are heard.

We will also support the other amendments in the group.

**The Minister for Public Health (Michael Matheson):** I will respond to the amendments proposed by Neil Bibby and Jim Hume and speak to my own.

Neil Bibby's amendment 30 would introduce a new general principle that, in carrying out its functions under the bill in relation to a child, a local authority should take a child-centred approach that reflects the needs and wishes of the child as far as is possible. I am not convinced that the amendment is necessary, as all the general principles in the bill apply to anyone—both adults and children—who receives support under its provisions.

In carrying out its functions under the bill in respect of a child, a local authority must pay due regard to the principles of involvement, informed choice and collaboration. It must also respect the dignity of the child and their desire to participate in the wider life of the community. Therefore, I do not think that amendment 30 adds to the principles that already apply to every child who receives services under the bill.

I appreciate that Neil Bibby and the organisations that have informed the amendment want to make a difference to the way in which services are delivered to children. In seeking to underpin the child-centred approach, I encourage them to engage fully in the development of the proposed children and young people bill. I also encourage them to continue to engage with our officials on the Social Care (Self-directed Support) (Scotland) Bill as we move towards its implementation, particularly through the dialogue that we can have on improving the statutory guidance in this area. However, I do not support Neil Bibby's amendment.

Jim Hume's amendments 31 to 33 seek to ensure that carers are recognised as key partners in care and that, when the person who is being cared for so wishes, the carer must be involved in the assessment for and provision of services. It is clear to the Scottish Government that carers are key partners. That principle is already enshrined in statutory and other guidance. At the request of the national carers organisations and carers, we built on that approach in the carers strategy to make it

clear that carers should be seen as equal partners.

I understand the intentions behind amendments 31 and 32. We know, from practice, that there is merit in involving carers in issues that local authorities take forward in relation to cared-for people when both the carer and the cared-for person want that. However, I am not convinced that we need to extend that provision at this stage, and we should certainly not do so without adequate consultation.

Amendment 32 proposes a greater role for carers in the assessment of the cared-for person and proposes that the local authority should collaborate with the carer, subject to the wishes of the person who is being cared for. Moreover, for the purposes of the amendment, the definition of “carer” would be broadened out to mean a regular carer rather than a carer who provides a substantial amount of care on a regular basis, as set out in statute for the purposes of eligibility for a carers assessment. That means that carers whose caring role is regular but not intensive or substantial—perhaps they do a weekly shop or monthly gardening, or they pick up prescriptions for a friend or neighbour—could be involved in decisions about the assessment and the provision of services for the person.

Amendment 32 is incomplete in that it makes no provision for persons without capacity to express their wishes. Although I am sympathetic to some of the intention behind Jim Hume’s amendments, the omission in amendment 32 is important. As a Parliament, we would need to have a wider consultation before introducing such a provision.

I propose an alternative course of action. We have awarded a contract to Carers Scotland and the Minority Ethnic Carers of People Project to provide a carers rights charter. We will ask those two organisations to explore the principles behind the amendments through the work that they will carry out on the charter. Depending on the results of that work, we will decide whether to pursue the matter further at a more suitable time.

Given what I have said about the consequences of the amendments and about the carers rights charter, I invite Jim Hume to not move his amendments 31 to 33.

My amendments 14 to 16 make further adjustments to the general principles on independent living. As members of the committee will no doubt recall, I brought forward the independent living principles in response to a recommendation from the committee, which itself was a response to the views of the independent living community in Scotland.

As members will know, the inspiration for and ultimately the source of our understanding of

independent living stem from the wider fundamental rights that are contained in the United Nations Convention on the Rights of Persons with Disabilities and the European convention on human rights.

My amendments 15 and 16 convey the importance of independent living by better reflecting the rights that are conferred on individuals by those conventions. My amendment 14 adjusts the general principles in order to strengthen them. It requires local authorities to

“take reasonable steps to facilitate”

the principles. In other words, it places an obligation on local authorities to do all that they reasonably can do to ensure that people’s rights are facilitated.

I urge the Parliament to support the amendments in my name.

**The Deputy Presiding Officer (John Scott):** I call on Neil Bibby to wind up and press or withdraw amendment 30.

**Neil Bibby:** As I said earlier, I believe that legislation that affects children should ensure that a child-centred approach is in place. Given the minister’s reassurances and comments, I seek to withdraw amendment 30.

**The Deputy Presiding Officer:** The member is seeking to withdraw his amendment. Does any member object?

**Members:** No.

*Amendment 30, by agreement, withdrawn.*

**The Deputy Presiding Officer:** Amendment 31, in the name of Jim Hume, has already been debated with amendment 30. I ask Mr Hume to move or not move his amendment.

**Jim Hume:** Am I permitted to discuss amendments 31, 32 and 33 as one?

**The Deputy Presiding Officer:** They have already been debated.

**Jim Hume:** Okay. In the light of what the minister said about amendments 31 to 33, I will not move them, but I will look for assurances in the future that the minister is standing by what he said.

*Amendments 31 to 33 not moved.*

### **Section 1A—Further general principles applicable to this Act**

*Amendments 14 to 16 moved—[Michael Matheson]—and agreed to.*

## Section 2—Support for adult carers

**The Deputy Presiding Officer:** Amendment 34, in the name of Jim Hume, is grouped with amendment 3.

**Jim Hume:** Amendment 34 seeks to strengthen the support that the bill offers to unpaid carers. As it stands, the bill provides local authorities with a discretionary power to provide services to carers to support them in their caring responsibilities following an assessment. Under the amendment, when a local authority decided to provide some form of support to a carer, they would be under a duty to offer the carer the four options of self-directed support.

I welcome the extension of self-directed support to Scotland's carers. It is right that they receive more control and choice over the support that they receive, and the bill is an important step forward in that regard. However, many carers are worried that the bill as it stands will not deliver the necessary improvements that they need in their everyday lives.

Without the valuable contribution of Scotland's carers, which is worth around £10 billion, the health and social care system would be unsustainable—and that staggering contribution will become even more apparent as Scotland's population continues to age and as the balance of health and care delivery continues to shift into our communities. It is in everyone's interest to ensure that resources are used to maximum effect.

Carers Scotland argues:

"Providing small interventions at an early stage and/or at the right time can prevent a crisis and a consequent breakdown of care, necessitating the provision of significantly more costly services. Providing support at the right time can also prevent carers from having to give up paid employment and activities that sustain their life".

I do not think that carers should have to battle to receive the support that they need to continue their caring role, and amendment 34 will give carers the right to access the support that they have been assessed as needing.

I move amendment 34.

**Jackie Baillie (Dumbarton) (Lab):** My amendment 3 seeks to remove section 16, which gives local authorities the power to charge carers for services received when seeking self-directed support. Like other elements of the bill that relate to carers, it repeats provisions in the Social Work (Scotland) Act 1968.

At the heart of the amendment is a debate about the principle of charging carers for services in the first place. In effect, section 16 highlights local authorities' ability to charge carers for services. Members should make no mistake: although the

power is discretionary, local government is shouldering 83 per cent of the Scottish Government cuts and might have no choice but to use it.

Probably without exception, we have all paid tribute to carers and acknowledged their value to society. In economic terms, they provide £10.8 billion of worth simply by caring and save the public purse a substantial amount of money; in social terms, they sustain older people in their families, homes and communities.

The question today is whether our rhetoric will be matched by action. The Community Care and Health (Scotland) Act 2002 established the principle that carers should be given the same status as care providers and acknowledged that carers required resources and support to enable them to fulfil their caring role. As Simon Hodgson, director of Carers Scotland, has said,

"the idea that health board staff have to pay to attend a course on how to lift someone safely, or local authority staff would be invoiced for taking time off in lieu because they had earnings or savings above a certain level, would be rightly considered absurd, yet that is precisely what might happen if the legislation is not amended."

Either carers are to be treated as care providers or they are not. Let us be clear: the amounts that we are talking about for training, respite and so on for carers are tiny in comparison with the £10.8 billion that they give back. The evidence backs that up.

Charging is also considered to undermine the principles of self-directed support, as it could deter carers from accessing support in the first place. Concerns have also been raised about adding to the postcode lottery of care that already exists with regard to charging, with 32 local authorities doing things in 32 different ways. Where, as a result of the 1968 act, charging exists, guidance on legislation has been interpreted in different ways. In some cases, local authorities already charge for care; in others, the carer's income is taken into account when assessing the needs of the person being cared for. There is little consistency of approach.

The key point is that section 16 is not required. As the provision already exists and as charges are already made under it, the section is effectively redundant. As the power in the 1968 act has existed for some time, I am genuinely disappointed that the minister has waited until now to announce that he will introduce regulations—although I am delighted that he intends to do so. Surely those regulations should have accompanied the bill to make the intentions with regard to charging absolutely clear. At the moment, we are facing both ways, and delay simply invites local authorities to charge.

Carers are very much an integral part of Scotland's health and social care system. They are an essential but finite resource, and they need our support to continue to care.

15:30

**Nanette Milne (North East Scotland) (Con):** I will speak to amendment 34.

I agree absolutely with the Health and Sport Committee that it is extremely important that carers' health and wellbeing be supported to ensure that they can continue to undertake their caring role. However, I also note the comment that the minister made in his response to the committee's stage 1 report that

"Introducing a duty to support carers would inevitably be linked to strict eligibility criteria where only those carers experiencing substantial need would be supported"

and that such restrictions could go against the Government's

"stated ambition to provide early, preventative support to carers."

That being the case, I am concerned that carers could be worse off under Jim Hume's amendment 34 than they are at present, and my inclination would be to resist it.

**Michael Matheson:** I will speak to the amendments from Jim Hume and Jackie Baillie.

Jim Hume's amendment 34 would remove the power in the bill to support carers and replace it with a duty to support them instead. As I made clear in previous correspondence to the lead committee, that is not, in fact, straightforward.

Introducing a duty to support carers may lead to formal national eligibility criteria and a much less flexible approach. In some cases, carer support may be narrowed to the most critical level of carer need only. I want to adopt as flexible an approach as possible. That is why the bill includes a strong power that will be supported by clear and empowering guidelines to local authorities.

I turn to the arguments that Jackie Baillie put forward for amendment 3. As she is no doubt aware, charging is a complex matter. It would be wrong to assume that, simply by removing section 16, we would strengthen the position of carers with respect to charging. In fact, the opposite is true: the position of carers with respect to charging would actually be weakened.

I will also put to rest some of the misplaced speculation that the Government intends to use the bill to widen councils' discretion to charge carers.

I plan to use the powers that are provided in section 16 to issue regulations that make it clear

that all charges for support to carers should be waived in whole. To be abundantly clear, carers will not be charged for support that they receive directly under section 2 of the bill.

**Jackie Baillie:** I welcome the minister's intentions—I have never doubted them—but the issue for me is that section 16 is not required. The power that he will exercise is in the 1968 act.

**Michael Matheson:** I will come to that point. Unfortunately, Ms Baillie is wrong on that.

Our approach, for the first time, recognises carers as providers of a service to those for whom they care. I appreciate that some members may question, as Jackie Baillie does, why we wish to retain a power to charge carers when our policy is to restrict charges on them. The answer is straightforward.

If we chose to do as Jackie Baillie suggests—to dispense with section 16—we would have no legislative basis on which to make the regulations and would be left in the position that we are in right now, in which carers do not know what they might be charged for and in which carers can be charged for different services in different parts of the country.

I make it clear that section 16 creates the provision for ministers to limit the discretion of councils to charge. In other words, it allows us to narrow councils' discretion to charge as little or as much as the Parliament wishes.

**Jackie Baillie:** It is not that we spend our time delving into the intricacies of legislation, but I refer the minister to section 87(5) of the Social Work (Scotland) Act 1968, which says that he

"may ... make regulations for modifying or adjusting the rates at which payments under this section are made, where such a course appears to him to be justified, and any such regulations may provide for the waiving of any such payment in whole or in part in such circumstances as may be specified in the regulations."

He already has the power without section 16.

**Michael Matheson:** Again, that is actually incorrect. Local authorities are using some of their financial discretion powers in order to levy charges against carers, and the way in which we can regulate that is through the use of section 16. I am afraid that Jackie Baillie is wrong on the matter.

Additionally, regulation will provide Parliament with the flexibility to respond to any effort to circumvent our restrictions. Some local authorities are using those general powers to charge carers; my approach will limit that discretion in a much more specific way. I also point out that the Scottish Government will consult carefully and fully on the draft regulations before they are brought to Parliament and that any regulations will take effect at the same time as we commence the act.

Let me now make some wider comments following on from our discussion on the amendments in this group and on those in the previous group on the general principles.

I understand the desire of carers organisations to see improvements to policy and practice with regards to carer support. That is why the regulations that I intend to bring forward are only part of a package of support that I intend for carers. I am pleased to inform Parliament today that, in addition to my commitment on charging, I will also issue directions to local authorities about the way in which they should approach the “substantial and regular” test on access to carers assessments.

Ministers do not issue directions lightly, so I hope that members will appreciate the importance of this step and the advantages that directions provide. As members will be aware, access to a carers assessment is the first step on the road to getting some support. Together with our work to support the national roll-out of carers assessments, the directions will result in the provision of greater consistency in the approach that is taken across the country on the provision of carers assessments.

Furthermore, as many in the chamber will know, some carers do not meet the threshold for a carers assessment. Carers in that situation should be supported on a preventative basis to maintain their health and wellbeing. I therefore intend to issue statutory guidance to local authorities about the benefits of intervening early to support carers and to encourage local authorities to provide such support. The support could include information, advice, signposting or directing the carer towards another organisation.

It is important that carers get the support that is right and necessary for them. I am confident that these further measures will help to address the issues that have been raised by the national carers organisations.

In conclusion, I do not support either of the amendments. I urge Jackie Baillie not to move amendment 3, which would make the situation worse, and I ask Jim Hume to withdraw amendment 34.

**Jim Hume:** I appreciate what the minister has said about guidance. I believe that integrating health and social care services so that public resources can be put to best possible use to prevent problems from occurring could also save money further down the line. Supporting carers needs to form an important part of that move to an integrated preventative approach.

I will press amendment 34.

**The Deputy Presiding Officer:** The question is, that amendment 34 be agreed to. Are we agreed?

**Members:** No.

**The Deputy Presiding Officer:** There will be a division. I suspend the proceedings for five minutes.

15:38

*Meeting suspended.*

15:43

*On resuming—*

**The Deputy Presiding Officer:** We move to the division on amendment 34.

**For**

Hume, Jim (South Scotland) (LD)  
McArthur, Liam (Orkney Islands) (LD)  
McInnes, Alison (North East Scotland) (LD)  
Rennie, Willie (Mid Scotland and Fife) (LD)  
Scott, Tavish (Shetland Islands) (LD)

**Against**

Adam, Brian (Aberdeen Donside) (SNP)  
Adam, George (Paisley) (SNP)  
Adamson, Clare (Central Scotland) (SNP)  
Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)  
Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
Biagi, Marco (Edinburgh Central) (SNP)  
Brodie, Chic (South Scotland) (SNP)  
Brown, Gavin (Lothian) (Con)  
Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
Burgess, Margaret (Cunninghame South) (SNP)  
Campbell, Aileen (Clydesdale) (SNP)  
Campbell, Roderick (North East Fife) (SNP)  
Carlaw, Jackson (West Scotland) (Con)  
Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
Crawford, Bruce (Stirling) (SNP)  
Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
Davidson, Ruth (Glasgow) (Con)  
Dey, Graeme (Angus South) (SNP)  
Don, Nigel (Angus North and Mearns) (SNP)  
Doris, Bob (Glasgow) (SNP)  
Dornan, James (Glasgow Cathcart) (SNP)  
Eadie, Jim (Edinburgh Southern) (SNP)  
Ewing, Annabelle (Mid Scotland and Fife) (SNP)  
Ewing, Fergus (Inverness and Nairn) (SNP)  
Fabiani, Linda (East Kilbride) (SNP)  
Fergusson, Alex (Galloway and West Dumfries) (Con)  
Finnie, John (Highlands and Islands) (Ind)  
FitzPatrick, Joe (Dundee City West) (SNP)  
Fraser, Murdo (Mid Scotland and Fife) (Con)  
Gibson, Kenneth (Cunninghame North) (SNP)  
Gibson, Rob (Caithness, Sutherland and Ross) (SNP)  
Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
Harvie, Patrick (Glasgow) (Green)  
Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
Hyslop, Fiona (Linlithgow) (SNP)  
Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)  
Johnstone, Alex (North East Scotland) (Con)  
Johnstone, Alison (Lothian) (Green)  
Keir, Colin (Edinburgh Western) (SNP)  
Kidd, Bill (Glasgow Anniesland) (SNP)  
Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)



Lyle, Richard (Central Scotland) (SNP)  
 MacAskill, Kenny (Edinburgh Eastern) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 MacKenzie, Mike (Highlands and Islands) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 Maxwell, Stewart (West Scotland) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McDonald, Mark (North East Scotland) (SNP)  
 McGrigor, Jamie (Highlands and Islands) (Con)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McLeod, Aileen (South Scotland) (SNP)  
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)  
 McMillan, Stuart (West Scotland) (SNP)  
 Milne, Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Neil, Alex (Airdrie and Shotts) (SNP)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Robertson, Dennis (Aberdeenshire West) (SNP)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Urquhart, Jean (Highlands and Islands) (Ind)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Yousaf, Humza (Glasgow) (SNP)

#### Abstentions

Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Baker, Richard (North East Scotland) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Boyack, Sarah (Lothian) (Lab)  
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)  
 Dugdale, Kezia (Lothian) (Lab)  
 Eadie, Helen (Cowdenbeath) (Lab)  
 Fee, Mary (West Scotland) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)  
 Findlay, Neil (Lothian) (Lab)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Griffin, Mark (Central Scotland) (Lab)  
 Henry, Hugh (Renfrewshire South) (Lab)  
 Kelly, James (Rutherglen) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Macintosh, Ken (Eastwood) (Lab)  
 Malik, Hanzala (Glasgow) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 Martin, Paul (Glasgow Provan) (Lab)  
 McCulloch, Margaret (Central Scotland) (Lab)  
 McDougall, Margaret (West Scotland) (Lab)  
 McMahan, Michael (Uddingston and Bellshill) (Lab)  
 McNeil, Duncan (Greenock and Inverclyde) (Lab)  
 McTaggart, Anne (Glasgow) (Lab)  
 Murray, Elaine (Dumfriesshire) (Lab)  
 Park, John (Mid Scotland and Fife) (Lab)  
 Pearson, Graeme (South Scotland) (Lab)  
 Pentland, John (Motherwell and Wishaw) (Lab)  
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)

Smith, Drew (Glasgow) (Lab)  
 Stewart, David (Highlands and Islands) (Lab)

**The Deputy Presiding Officer:** The result of the division is: For 5, Against 76, Abstentions 35.

*Amendment 34 disagreed to.*

#### Section 3—Options for self-directed support

15:45

**The Deputy Presiding Officer:** Group 3 is on options for self-directed support. Amendment 17, in the name of the minister, is grouped with amendments 18, 6, 7, 10 and 11.

**Michael Matheson:** I will speak first to my own amendments and then to those in Dr Simpson's name.

Section 3 defines the self-directed support options that will be available to all individuals when they are eligible for social care.

Amendments 17 and 18 are minor technical amendments to section 3. They recognise the possibility that local authorities themselves may provide services under options 2 and 4. The proposed adjustments to those options take account of the fact that where a local authority is providing such services it does not have to make a payment to itself. That is consistent with the changes that were made to option 3 at stage 2.

I will now deal with the amendments in Dr Simpson's name. Dr Simpson lodged similar amendments at stage 2. I said in committee that the Scottish Government could not support amendments that would

"restrict flexibility without a full understanding of the potential consequences of doing so."—[*Official Report, Health and Sport Committee*, 30 October 2012; c 2914.]

That is still my position.

I accept that, by proposing his amendments, Richard Simpson is attempting to address unfairness in the setting of rates between the various options, but the changes that we made at stage 2 to the provisions already ensure greater transparency in how local authorities allocate payment under the available options.

The bill as amended at stage 2 already provides for a transparent budget for all four self-directed support options. Statutory guidance, training and further implementation of the national strategy will encourage greater fairness without interfering with the bill. The guidance will fully consider issues around commissioning, procurement and finance that can lead to discrepancies in the allocation of resources.

I ask members to support amendments 17 and 18, and to reject Richard Simpson's amendments.

I move amendment 17.

**Dr Richard Simpson (Mid Scotland and Fife) (Lab):** The situation as it stands is that local authorities allocate direct payments that are frequently lower than amounts paid for support under options 2 and 3, based on the assumption that a person who is taking a direct payment will employ a personal assistant. However, individuals use direct payments to buy services from organisations—the most notable example of that arose during the Edinburgh care and support retendering exercise, when service users took direct payments in order to remain with their existing service providers, rather than move to the organisations that won the retender.

Paragraph 63 of the Scottish Government's 2007 guidance on self-directed support says:

"It is best practice for local authorities to offer an individual budget of an equivalent monetary value of a council-arranged service to allow individuals to select their chosen option."

My amendments 6 and 10 simply state that that payment should not automatically be lower. In other words, a local authority would have a duty to look at the type of care that the individual wanted under the bill—and to do so before making up its mind about whether to offer a lower rate. I absolutely reject the Government's position in rejecting my amendments, which was laid out at stage 2, that that would reduce the local authority's flexibility.

The purpose of my amendments is to ensure complete transparency about the process and that a lower amount is not offered automatically for options 2 and 3. That is a reasonable approach if we are to have an open and transparent system.

Amendments 7 and 11 ensure that reasons will be given in writing. That approach is required because, as a Parliament, we need to be absolutely clear that we audit what is going on.

Both my sets of amendments need to be agreed to, so that exactly what is happening out there is clear. The amendments do not prevent in any way the local authority from giving a lower direct payment, but it must justify and demonstrate why it is doing so. My amendments are reasonable, and I intend to press them.

**Michael Matheson:** As I have set out, we amended the bill at stage 2 to ensure greater transparency. The bill will therefore deliver that. Through statutory guidance, we will also implement further measures to ensure greater consistency in how local authorities operate in this area.

To a large extent, rather than creating any fundamental difference in relation to how the system is delivered, Richard Simpson's

amendments would create nothing more than a paper exercise. That is why it would be better and more effective to try to address some of the issues through statutory guidance.

*Amendment 17 agreed to.*

*Amendment 18 moved—[Michael Matheson]—and agreed to.*

*Amendment 6 moved—[Dr Richard Simpson].*

**The Deputy Presiding Officer:** The question is, that amendment 6 be agreed to. Are we agreed?

**Members:** No.

**The Deputy Presiding Officer:** There will be a division.

**For**

Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Baker, Richard (North East Scotland) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Boyack, Sarah (Lothian) (Lab)  
 Brown, Gavin (Lothian) (Con)  
 Carlaw, Jackson (West Scotland) (Con)  
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)  
 Davidson, Ruth (Glasgow) (Con)  
 Dugdale, Kezia (Lothian) (Lab)  
 Eadie, Helen (Cowdenbeath) (Lab)  
 Fee, Mary (West Scotland) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)  
 Fergusson, Alex (Galloway and West Dumfries) (Con)  
 Findlay, Neil (Lothian) (Lab)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Griffin, Mark (Central Scotland) (Lab)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Renfrewshire South) (Lab)  
 Hume, Jim (South Scotland) (LD)  
 Johnstone, Alex (North East Scotland) (Con)  
 Johnstone, Alison (Lothian) (Green)  
 Kelly, James (Rutherglen) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Macintosh, Ken (Eastwood) (Lab)  
 Malik, Hanzala (Glasgow) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 Martin, Paul (Glasgow Provan) (Lab)  
 McArthur, Liam (Orkney Islands) (LD)  
 McCulloch, Margaret (Central Scotland) (Lab)  
 McGrigor, Jamie (Highlands and Islands) (Con)  
 McInnes, Alison (North East Scotland) (LD)  
 McMahan, Michael (Uddingston and Bellshill) (Lab)  
 McNeil, Duncan (Greenock and Inverclyde) (Lab)  
 McTaggart, Anne (Glasgow) (Lab)  
 Milne, Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Murray, Elaine (Dumfriesshire) (Lab)  
 Park, John (Mid Scotland and Fife) (Lab)  
 Pearson, Graeme (South Scotland) (Lab)  
 Pentland, John (Motherwell and Wishaw) (Lab)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, Tavish (Shetland Islands) (LD)  
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)  
 Smith, Drew (Glasgow) (Lab)

Smith, Liz (Mid Scotland and Fife) (Con)  
Stewart, David (Highlands and Islands) (Lab)

#### Against

Adam, Brian (Aberdeen Donside) (SNP)  
Adam, George (Paisley) (SNP)  
Adamson, Clare (Central Scotland) (SNP)  
Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)  
Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
Biagi, Marco (Edinburgh Central) (SNP)  
Brodie, Chic (South Scotland) (SNP)  
Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
Burgess, Margaret (Cunninghame South) (SNP)  
Campbell, Aileen (Clydesdale) (SNP)  
Campbell, Roderick (North East Fife) (SNP)  
Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
Crawford, Bruce (Stirling) (SNP)  
Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
Dey, Graeme (Angus South) (SNP)  
Don, Nigel (Angus North and Mearns) (SNP)  
Doris, Bob (Glasgow) (SNP)  
Dornan, James (Glasgow Cathcart) (SNP)  
Eadie, Jim (Edinburgh Southern) (SNP)  
Ewing, Annabelle (Mid Scotland and Fife) (SNP)  
Ewing, Fergus (Inverness and Nairn) (SNP)  
Fabiani, Linda (East Kilbride) (SNP)  
Finnie, John (Highlands and Islands) (Ind)  
FitzPatrick, Joe (Dundee City West) (SNP)  
Gibson, Kenneth (Cunninghame North) (SNP)  
Gibson, Rob (Caithness, Sutherland and Ross) (SNP)  
Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
Hyslop, Fiona (Linlithgow) (SNP)  
Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)  
Keir, Colin (Edinburgh Western) (SNP)  
Kidd, Bill (Glasgow Anniesland) (SNP)  
Lyle, Richard (Central Scotland) (SNP)  
MacAskill, Kenny (Edinburgh Eastern) (SNP)  
MacDonald, Angus (Falkirk East) (SNP)  
MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
Mackay, Derek (Renfrewshire North and West) (SNP)  
MacKenzie, Mike (Highlands and Islands) (SNP)  
Mason, John (Glasgow Shettleston) (SNP)  
Matheson, Michael (Falkirk West) (SNP)  
Maxwell, Stewart (West Scotland) (SNP)  
McAlpine, Joan (South Scotland) (SNP)  
McDonald, Mark (North East Scotland) (SNP)  
McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
McLeod, Aileen (South Scotland) (SNP)  
McLeod, Fiona (Strathkelvin and Bearsden) (SNP)  
McMillan, Stuart (West Scotland) (SNP)  
Neil, Alex (Airdrie and Shotts) (SNP)  
Robertson, Dennis (Aberdeenshire West) (SNP)  
Russell, Michael (Argyll and Bute) (SNP)  
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
Stewart, Kevin (Aberdeen Central) (SNP)  
Sturgeon, Nicola (Glasgow Southside) (SNP)  
Swinney, John (Perthshire North) (SNP)  
Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)  
Torrance, David (Kirkcaldy) (SNP)  
Walker, Bill (Dunfermline) (Ind)  
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
Wheelhouse, Paul (South Scotland) (SNP)  
White, Sandra (Glasgow Kelvin) (SNP)  
Yousaf, Humza (Glasgow) (SNP)

**The Deputy Presiding Officer:** The result of the division is: For 52, Against 61, Abstentions 0.

*Amendment 6 disagreed to.*

#### Section 4—Choice of options: adults

*Amendment 7 moved—[Dr Richard Simpson].*

**The Deputy Presiding Officer:** The question is, that amendment 7 be agreed to. Are we agreed?

**Members:** No.

**The Deputy Presiding Officer:** There will be a division.

#### For

Baillie, Jackie (Dumbarton) (Lab)  
Baker, Claire (Mid Scotland and Fife) (Lab)  
Baker, Richard (North East Scotland) (Lab)  
Beamish, Claudia (South Scotland) (Lab)  
Bibby, Neil (West Scotland) (Lab)  
Boyack, Sarah (Lothian) (Lab)  
Brown, Gavin (Lothian) (Con)  
Carlaw, Jackson (West Scotland) (Con)  
Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)  
Davidson, Ruth (Glasgow) (Con)  
Dugdale, Kezia (Lothian) (Lab)  
Eadie, Helen (Cowdenbeath) (Lab)  
Fee, Mary (West Scotland) (Lab)  
Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)  
Fergusson, Alex (Galloway and West Dumfries) (Con)  
Findlay, Neil (Lothian) (Lab)  
Fraser, Murdo (Mid Scotland and Fife) (Con)  
Grant, Rhoda (Highlands and Islands) (Lab)  
Gray, Iain (East Lothian) (Lab)  
Griffin, Mark (Central Scotland) (Lab)  
Harvie, Patrick (Glasgow) (Green)  
Henry, Hugh (Renfrewshire South) (Lab)  
Hume, Jim (South Scotland) (LD)  
Johnstone, Alex (North East Scotland) (Con)  
Johnstone, Alison (Lothian) (Green)  
Kelly, James (Rutherglen) (Lab)  
Lamont, Johann (Glasgow Pollok) (Lab)  
Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)  
Macdonald, Lewis (North East Scotland) (Lab)  
Macintosh, Ken (Eastwood) (Lab)  
Malik, Hanzala (Glasgow) (Lab)  
Marra, Jenny (North East Scotland) (Lab)  
Martin, Paul (Glasgow Provan) (Lab)  
McArthur, Liam (Orkney Islands) (LD)  
McCulloch, Margaret (Central Scotland) (Lab)  
McDougall, Margaret (West Scotland) (Lab)  
McGrigor, Jamie (Highlands and Islands) (Con)  
McInnes, Alison (North East Scotland) (LD)  
McMahon, Michael (Uddingston and Bellshill) (Lab)  
McNeil, Duncan (Greenock and Inverclyde) (Lab)  
McTaggart, Anne (Glasgow) (Lab)  
Milne, Nanette (North East Scotland) (Con)  
Mitchell, Margaret (Central Scotland) (Con)  
Murray, Elaine (Dumfriesshire) (Lab)  
Park, John (Mid Scotland and Fife) (Lab)  
Pearson, Graeme (South Scotland) (Lab)  
Pentland, John (Motherwell and Wishaw) (Lab)  
Scanlon, Mary (Highlands and Islands) (Con)  
Scott, Tavish (Shetland Islands) (LD)  
Simpson, Dr Richard (Mid Scotland and Fife) (Lab)  
Smith, Drew (Glasgow) (Lab)  
Smith, Liz (Mid Scotland and Fife) (Con)  
Stewart, David (Highlands and Islands) (Lab)

#### Against

Adam, Brian (Aberdeen Donside) (SNP)  
Adam, George (Paisley) (SNP)

Adamson, Clare (Central Scotland) (SNP)  
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Biagi, Marco (Edinburgh Central) (SNP)  
 Brodie, Chic (South Scotland) (SNP)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Burgess, Margaret (Cunninghame South) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Campbell, Roderick (North East Fife) (SNP)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Don, Nigel (Angus North and Mearns) (SNP)  
 Doris, Bob (Glasgow) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Eadie, Jim (Edinburgh Southern) (SNP)  
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Finnie, John (Highlands and Islands) (Ind)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)  
 Keir, Colin (Edinburgh Western) (SNP)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lyle, Richard (Central Scotland) (SNP)  
 MacAskill, Kenny (Edinburgh Eastern) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 MacKenzie, Mike (Highlands and Islands) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 Maxwell, Stewart (West Scotland) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McDonald, Mark (North East Scotland) (SNP)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McLeod, Aileen (South Scotland) (SNP)  
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)  
 McMillan, Stuart (West Scotland) (SNP)  
 Neil, Alex (Airdrie and Shotts) (SNP)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Robertson, Dennis (Aberdeenshire West) (SNP)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Urquhart, Jean (Highlands and Islands) (Ind)  
 Walker, Bill (Dunfermline) (Ind)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Yousaf, Humza (Glasgow) (SNP)

**The Deputy Presiding Officer:** The result of the division is: For 53, Against 63, Abstentions 0.

*Amendment 7 disagreed to.*

## **Section 5—Choice of options under section 4: assistance**

**The Deputy Presiding Officer:** Amendment 19, in the name of Bob Doris, is grouped with amendments 20, 21, 8, 22, 9, 25 to 27, 12, 28 and 13.

**Bob Doris (Glasgow) (SNP):** The bill is founded on the principle that every person in receipt of social care has the right to make their own choice about how they receive that care and support. Sections 5 and 15 of the bill build on that.

Section 5 requires the local authority to “take reasonable steps to enable the supported person” to choose their self-directed support option. It also requires the local authority to take “reasonable steps” to identify people who are able to assist a supported person who has a mental disorder or who has communication difficulties due to a physical disability.

Section 15 imposes a similar duty on the local authority to identify people who are able to assist at an earlier stage, when a person’s needs are being assessed under section 12A of the Social Work (Scotland) Act 1968.

My amendments are concerned with the assistance provided by the people identified by the local authorities. Amendments 21 and 27 remove the qualification that the persons assisting need to have a prior interest in the care of a supported person. That is an unnecessary limitation on the people who may be able to help.

My other amendments deal with the type of assistance that may be provided by such persons. As members will appreciate, there is a subtle but important distinction between making a decision and communicating a decision. Some people may have a mental disorder that makes it particularly difficult for them to understand and make decisions, whereas others may have a physical disability that makes it particularly difficult for them to communicate decisions.

Capability Scotland has approached me with a view to making that distinction clearer in sections 5 and 15, and that is what my amendments seek to do. Their effect would be to make sections 5 and 15 clearly reflect the two distinct types of assistance that a person may give: assistance to someone with a mental disorder in relation to assessments and making decisions about self-directed support; and communication assistance in relation to those matters for someone with a physical disability that affects their communication abilities.

I am grateful to Capability Scotland for informing me that those amendments would be beneficial. I

commend them and my other amendments to the Parliament and invite members to support them.

I move amendment 19.

**Dr Simpson:** I will deal first with the amendments in the group that are not in my name. We welcome and support Bob Doris's amendments 19 to 22 and 25 to 28, which arose from earlier discussions.

My amendments in this group relate to issues that the Law Society of Scotland has raised with us. It is concerned that the bill does not provide the necessary safeguards, or place any obligation on an authority, to protect against undue influence being exerted over the assisted person.

My first pair of amendments—amendments 8 and 12—would require reasonable steps to be taken to ensure that any person who was appointed to assist would be suitable in accordance with proposed new section 5(5).

Amendments 9 and 13 seek to provide a definition of how the assisted person should be looked at. The intention is to ensure that we have a situation in which those who do not qualify under the Adults with Incapacity (Scotland) Act 2000 or the vulnerable adults legislation, but who might be vulnerable and whose position in having a disability is not completely robust, are protected from undue influence from individuals who might be unsuitable. We know that such unsatisfactory cases have been reported in the press. My amendments would provide protection that the Law Society thinks that it would be appropriate to include in the bill.

**Michael Matheson:** I will respond to Bob Doris's and Richard Simpson's amendments.

As Bob Doris said, his amendments address a point of clarity that was raised by Capability Scotland. I consider that sections 5 and 15 would benefit from the small adjustments proposed, so I recommend that the Parliament supports Bob Doris's amendments.

Richard Simpson lodged similar amendments at stage 2. I recommended then that the committee should reject them, and that remains my view. His amendments would require any person who provided assistance to an individual in undertaking their assessment or making their choices to be "suitable" in the view of the local authority. They would place a duty on the local authority to be satisfied that the supported person would not come under undue influence from the person who provided them with assistance in agreeing to that assistance and in selecting an option for SDS.

In addition, Richard Simpson's amendments would require the local authority to have regard to the accessibility of the person to the supported person, the ability of the person to assist the

supported person in the decision-making process, any likely conflict of interest between the person and the supported person, and any likely undue concentration in the person of power over the supported person.

Richard Simpson's amendments are well intentioned. He stated at stage 2 that some relatives can act in a manner that is overly restrictive of individuals who have capacity. As I understand his position, he is seeking to place on the face of the bill formal tests that would have to be gone through before an individual would be allowed to provide assistance.

However, we must return to the purpose of the provisions, which is to enable and encourage local authorities to maximise individuals' capability to understand, make decisions and communicate decisions, and to identify persons who, with the agreement of the supported person, can assist. The challenge in that respect is to define and articulate in statutory guidance appropriate and inappropriate forms of assistance. I intend to elaborate on that in the statutory guidance that will accompany the bill.

I recommend that Parliament supports Bob Doris's amendments and rejects Richard Simpson's amendments.

16:00

**Bob Doris:** I thank the minister for accepting the amendments in my name.

*Amendment 19 agreed to.*

*Amendments 20 and 21 moved—[Bob Doris]—and agreed to.*

*Amendment 8 moved—[Dr Richard Simpson].*

**The Deputy Presiding Officer:** The question is, that amendment 8 be agreed to. Are we agreed?

**Members:** No.

**The Deputy Presiding Officer:** There will be a division.

**For**

Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Baker, Richard (North East Scotland) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Boyack, Sarah (Lothian) (Lab)  
 Brown, Gavin (Lothian) (Con)  
 Carlaw, Jackson (West Scotland) (Con)  
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)  
 Davidson, Ruth (Glasgow) (Con)  
 Dugdale, Kezia (Lothian) (Lab)  
 Eadie, Helen (Cowdenbeath) (Lab)  
 Fee, Mary (West Scotland) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)  
 Fergusson, Alex (Galloway and West Dumfries) (Con)  
 Findlay, Neil (Lothian) (Lab)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)

Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Griffin, Mark (Central Scotland) (Lab)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Renfrewshire South) (Lab)  
 Hume, Jim (South Scotland) (LD)  
 Johnstone, Alex (North East Scotland) (Con)  
 Johnstone, Alison (Lothian) (Green)  
 Kelly, James (Rutherglen) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Macintosh, Ken (Eastwood) (Lab)  
 Malik, Hanzala (Glasgow) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 Martin, Paul (Glasgow Provan) (Lab)  
 McArthur, Liam (Orkney Islands) (LD)  
 McCulloch, Margaret (Central Scotland) (Lab)  
 McDougall, Margaret (West Scotland) (Lab)  
 McGrigor, Jamie (Highlands and Islands) (Con)  
 McInnes, Alison (North East Scotland) (LD)  
 McMahan, Michael (Uddingston and Bellshill) (Lab)  
 McNeil, Duncan (Greenock and Inverclyde) (Lab)  
 McTaggart, Anne (Glasgow) (Lab)  
 Milne, Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Murray, Elaine (Dumfriesshire) (Lab)  
 Park, John (Mid Scotland and Fife) (Lab)  
 Pearson, Graeme (South Scotland) (Lab)  
 Pentland, John (Motherwell and Wishaw) (Lab)  
 Rennie, Willie (Mid Scotland and Fife) (LD)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, Tavish (Shetland Islands) (LD)  
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)  
 Smith, Drew (Glasgow) (Lab)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Stewart, David (Highlands and Islands) (Lab)

#### Against

Adam, Brian (Aberdeen Donside) (SNP)  
 Adam, George (Paisley) (SNP)  
 Adamson, Clare (Central Scotland) (SNP)  
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Biagi, Marco (Edinburgh Central) (SNP)  
 Brodie, Chic (South Scotland) (SNP)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Burgess, Margaret (Cunninghame South) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Campbell, Roderick (North East Fife) (SNP)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Don, Nigel (Angus North and Mearns) (SNP)  
 Doris, Bob (Glasgow) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Eadie, Jim (Edinburgh Southern) (SNP)  
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Finnie, John (Highlands and Islands) (Ind)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)  
 Keir, Colin (Edinburgh Western) (SNP)

Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lyle, Richard (Central Scotland) (SNP)  
 MacAskill, Kenny (Edinburgh Eastern) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 MacKenzie, Mike (Highlands and Islands) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 Maxwell, Stewart (West Scotland) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McDonald, Mark (North East Scotland) (SNP)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McLeod, Aileen (South Scotland) (SNP)  
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)  
 McMillan, Stuart (West Scotland) (SNP)  
 Neil, Alex (Airdrie and Shotts) (SNP)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Robertson, Dennis (Aberdeenshire West) (SNP)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Urquhart, Jean (Highlands and Islands) (Ind)  
 Walker, Bill (Dunfermline) (Ind)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Yousaf, Humza (Glasgow) (SNP)

**The Deputy Presiding Officer:** The result of the division is: For 54, Against 63, Abstentions 0.

*Amendment 8 disagreed to.*

*Amendment 22 moved—[Bob Doris]—and agreed to.*

*Amendment 9 not moved.*

#### Section 6—Choice of options: adult carers

*Amendment 10 not moved.*

#### Section 7—Choice of options: children and family members

*Amendment 11 not moved.*

#### Section 8—Provision of information about self-directed support

**The Deputy Presiding Officer:** Group 5 is on independent advocacy. Amendment 23, in the name of Michael Matheson, is grouped with amendment 1.

**Michael Matheson:** During the stage 1 debate I told Parliament that I would give full consideration to how we could enhance section 8 with regard to advocacy. Amendment 23 makes explicit the Scottish Government's position that local authorities should provide information on how to access advocacy services to anyone who would benefit from that type of support.

The amendment builds on existing legislation in the form of the Mental Health (Care and Treatment) (Scotland) Act 2003, which already provides a right to advocacy for everyone—adults and children—with a mental disorder, as defined in the act, including people with learning disabilities and mental ill health.

On Drew Smith's amendment 1, we must ensure that advocacy support is targeted at those who will benefit from it. Not everyone will want or require an independent advocate in every instance and I am not convinced that providing a right to advocacy to everyone who receives social care, as Drew Smith proposes, would be a proportionate measure.

I am aware that many people will want to access support from a range of sources, such as carers organisations and user-led support organisations. Indeed, people will want to access a variety of support at different points on their SDS journey. We need a solution that promotes the sustainable development of advocacy services and recognises their important place within a wider framework of support services.

I hope that Drew Smith will support my amendment 23. Accompanied by statutory guidance, it will support social work professionals in using their professional judgment to consider whether advocacy is required each time that they have a discussion with or assess an individual.

I ask Drew Smith not to move his amendment 1. If it is pressed to a vote, I ask members to reject it.

I move amendment 23.

**Drew Smith (Glasgow) (Lab):** I welcome the minister's amendment 23, which puts the term "independent advocacy" in the bill. I withdrew a previous amendment following the debate at stage 2, in which the minister indicated that he would be willing to think again about the matter. I thank him for his and his officials' time in meeting me to discuss the amendments last week.

The issue of independent advocacy goes to the heart of the values that underpin the bill. As I said at stages 1 and 2, our intention is that those who use the services have choice and control, but that choice and control must be exercised meaningfully. The service users' needs, frustrations and aspirations must be heard loud and clear during the needs assessment process, which underpins the move to greater self-direction. Amendment 23 will considerably improve the bill as drafted, and the minister has moved some way.

I turn to my amendment 1. I will briefly set out the difference between the minister's approach and the approach that I have taken.

The purpose of my amendment 1 is to ensure not only that independent advocacy is enshrined in

the bill in name, but that a right of access to it is established for everyone who might need it. Currently, health boards and local authorities throughout Scotland have a duty to ensure that independent advocacy is available in their area. Infrastructure is already in place, but only half the local authorities have advocacy services that are available to service users with a physical but not a mental disability. If the right and the corresponding duty that my amendment proposes do not exist, it is likely that, in half the local authorities, people who think that their voice is not being heard will not be able to find an independent advocate to help them articulate their views in the process.

I recognise that not everyone who gave evidence to the committee thought that there was an absolute need for a right to advocacy if there was a clear commitment to the services being in place. At stage 2, some members expressed concern that a right was going too far and that it would place a greater burden on authorities to provide services that would not be necessary for the majority. To be clear again, that would not be the effect of amendment 1. There would be no need for people to see an advocate in order to determine that one was not needed.

I said that I valued the minister's time and I welcomed the progress that we have made. I have carefully considered whether to not move amendment 1 in favour of supporting amendment 23, but my view remains that a principle is being debated. Amendment 23 puts a duty on local authorities to provide information about independent advocacy wherever the council considers it appropriate to do so. I have spoken about the issue to other members who have been contacted by their constituents, and I continue to believe that information about advocacy should be readily available to all and that a right of access to advocacy should exist for all who consider that they need it.

**The Deputy Presiding Officer:** We are tight for time and three other members wish to speak to this group of amendments. I can allow them one minute each.

**Mark McDonald (North East Scotland) (SNP):** I rise to speak to Drew Smith's amendment 1.

In the committee, I made it clear that I thought that the amendment that Drew Smith lodged at stage 2 involved an element of putting the cart before the horse, and I still think that that is the case with amendment 1. Paragraphs 2(a) and 2(b) of the new section that the amendment would insert clearly state that the securing of the availability of advocacy services comes ahead of any determination of whether the individual requires or wishes the advocacy service to be provided. The minister's amendment 23 will strengthen the bill, but I ask Drew Smith not to

move his amendment, as he has not provided the clarity that I asked for in the committee.

**Nanette Milne:** The Scottish Independent Advocacy Alliance has pointed out that, as it stands, the bill would lead to discrimination against some individuals because the provision of independent advocacy for anyone who does not have a mental disorder is not universally available. Half of Scotland's local authorities have no provision available beyond the statutory duties provided for in the Mental Health (Care and Treatment) (Scotland) Act 2003, and the SIAA reckons that 56 per cent of SDS claimants in those areas will have no right of access to independent advocacy. Although not everyone will want or need independent advocacy support, without a right of access, those who want or need such support will not always be able to access it. Therefore, I am happy to support Drew Smith's amendment 1. I also support the minister's amendment 23.

**Malcolm Chisholm (Edinburgh Northern and Leith) (Lab):** I support Drew Smith's amendment 1. Including in the bill a right of access to independent advocacy would not mean that everyone applying for self-directed support would be required to use independent advocacy services, but I believe that the decision to access such a service should be made by service users and not by professionals, as the minister suggested. That principle would genuinely build on the Mental Health (Care and Treatment) (Scotland) Act 2003.

The minister claims to be building on the 2003 act, but the problem is availability, as Nanette Milne and Drew Smith have indicated. We know that in 50 per cent of local authorities, only those who have a statutory right under the 2003 act can access advocacy. What will that 50 per cent of local authorities say? They have an obligation to give information, but what information will they give? Will they say that, because their advocacy service is for mental health users, others cannot access that service? That does not seem to me to take us much further forward.

**The Deputy Presiding Officer:** Under rule 9.8.4A, I will allow the debate on this group to continue beyond the time limit in order to avoid unnecessarily constraining debate.

**Michael Matheson:** I have listened carefully to members' comments, but I go back to the committee's stage 1 report, which highlighted that not everyone would require access to independent advocacy and that people may wish to make use of other services. I believe that my amendment 23 strikes the right balance, and I ask the Parliament to support it.

*Amendment 23 agreed to.*

### After section 8

**The Deputy Presiding Officer:** Group 6 is on provision of information to children. Amendment 24, in the name of the minister, is the only amendment in the group.

**Michael Matheson:** There is considerable scope to extend the benefits of self-directed support to children, and I am pleased both that section 7 will give children the opportunity to express their views about their support and that those views must be considered by the local authority, in so far as that is reasonably practicable.

My amendment 24 complements those provisions by placing a duty on the local authority to give a child an explanation of, and information relating to, the options for self-directed support in a form that is appropriate to the child and which takes into account their maturity and needs. In practice, that means that when a child is given the opportunity to express a view on his or her support, they will receive information in a way that will genuinely help them to understand the implications of any views that they might express. That will allow children under 16 an appropriate degree of informed choice and control over their support. I am grateful to Barnardo's Scotland and the National Society for the Prevention of Cruelty to Children for bringing this important matter of detail to my attention.

I move amendment 24.

**The Deputy Presiding Officer:** As no one has asked to speak on amendment 24, would you like to wind up now as well, please?

**Michael Matheson:** I ask members to agree to amendment 24.

*Amendment 24 agreed to.*

*Amendment 1 moved—[Drew Smith].*

**The Deputy Presiding Officer:** The question is, that amendment 1 be agreed to. Are we agreed?

**Members:** No.

**The Deputy Presiding Officer:** There will be a division.

### For

Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Baker, Richard (North East Scotland) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Boyack, Sarah (Lothian) (Lab)  
 Brown, Gavin (Lothian) (Con)  
 Carlaw, Jackson (West Scotland) (Con)  
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)  
 Davidson, Ruth (Glasgow) (Con)  
 Dugdale, Kezia (Lothian) (Lab)  
 Eadie, Helen (Cowdenbeath) (Lab)  
 Fee, Mary (West Scotland) (Lab)



Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)  
 Fergusson, Alex (Galloway and West Dumfries) (Con)  
 Findlay, Neil (Lothian) (Lab)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Griffin, Mark (Central Scotland) (Lab)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Renfrewshire South) (Lab)  
 Hume, Jim (South Scotland) (LD)  
 Johnstone, Alex (North East Scotland) (Con)  
 Johnstone, Alison (Lothian) (Green)  
 Kelly, James (Rutherglen) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Macintosh, Ken (Eastwood) (Lab)  
 Malik, Hanzala (Glasgow) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 Martin, Paul (Glasgow Provan) (Lab)  
 McArthur, Liam (Orkney Islands) (LD)  
 McCulloch, Margaret (Central Scotland) (Lab)  
 McDougall, Margaret (West Scotland) (Lab)  
 McGrigor, Jamie (Highlands and Islands) (Con)  
 McInnes, Alison (North East Scotland) (LD)  
 McMahan, Michael (Uddingston and Bellshill) (Lab)  
 McNeil, Duncan (Greenock and Inverclyde) (Lab)  
 McTaggart, Anne (Glasgow) (Lab)  
 Milne, Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Murray, Elaine (Dumfriesshire) (Lab)  
 Park, John (Mid Scotland and Fife) (Lab)  
 Pearson, Graeme (South Scotland) (Lab)  
 Pentland, John (Motherwell and Wishaw) (Lab)  
 Rennie, Willie (Mid Scotland and Fife) (LD)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, Tavish (Shetland Islands) (LD)  
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)  
 Smith, Drew (Glasgow) (Lab)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Stewart, David (Highlands and Islands) (Lab)

#### Against

Adam, Brian (Aberdeen Donside) (SNP)  
 Adam, George (Paisley) (SNP)  
 Adamson, Clare (Central Scotland) (SNP)  
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Biagi, Marco (Edinburgh Central) (SNP)  
 Brodie, Chic (South Scotland) (SNP)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Burgess, Margaret (Cunninghame South) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Campbell, Roderick (North East Fife) (SNP)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Don, Nigel (Angus North and Mearns) (SNP)  
 Doris, Bob (Glasgow) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Eadie, Jim (Edinburgh Southern) (SNP)  
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Finnie, John (Highlands and Islands) (Ind)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)

Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)  
 Keir, Colin (Edinburgh Western) (SNP)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lyle, Richard (Central Scotland) (SNP)  
 MacAskill, Kenny (Edinburgh Eastern) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 MacKenzie, Mike (Highlands and Islands) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 Maxwell, Stewart (West Scotland) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McDonald, Mark (North East Scotland) (SNP)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McLeod, Aileen (South Scotland) (SNP)  
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)  
 McMillan, Stuart (West Scotland) (SNP)  
 Neil, Alex (Airdrie and Shotts) (SNP)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Robertson, Dennis (Aberdeenshire West) (SNP)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Urquhart, Jean (Highlands and Islands) (Ind)  
 Walker, Bill (Dunfermline) (Ind)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Yousaf, Humza (Glasgow) (SNP)

**The Deputy Presiding Officer:** The result of the division is: For 54, Against 63, Abstentions 0.

*Amendment 1 disagreed to.*

#### Section 13—Power to make further provision about direct payments

**The Deputy Presiding Officer:** Group 7 is on a scheme for regulation of quality of support. Amendment 2, in the name of Jackie Baillie, is amended with amendments 4 and 5.

16:15

**Jackie Baillie:** Amendment 2 is about regulation of personal assistants. The issue has, rightly, been the subject of much interest and debate in the committee and beyond. The intention behind amendment 2 is that we achieve a balance between the disabled people who will be empowered and able to choose their own personal assistants and the people who might have complex conditions and who would be considered to be more vulnerable.

I celebrate the fact that the bill is about empowering people who are cared for to have more choice, more flexibility and more control over their lives. The fact that a person is in a wheelchair

does not mean that he or she cannot exercise control and decide whom to employ as a personal assistant, just as any employer would do. I do not think that any member has a problem with that.

I accept that disability organisations and disabled people themselves do not want regulation. Rather than rely on legislation, they want training and support to become good employers and to recruit safely. Indeed, some disabled people do not need any of that support.

My concern is about people who have very complex needs, who might be deemed to be very vulnerable. Such people want the flexibility that self-directed support gives them and they want to exercise choice about how and when their care is provided. That is absolutely right. However, there might be a need for additional safeguards, which afford a degree of protection when it comes to employing staff.

There is no doubt that the relationship with personal assistants is critical and is based on trust. It is unfortunate that history is littered with examples of that trust being breached. I am thankful that such cases are in the minority, but they happen. The question is, therefore, whether sufficient safeguards are in place to enable us to feel confident that a balance has been struck between preserving the empowerment that the bill will give to the majority, and protecting the small group of people who might be considered to be vulnerable.

It is for Parliament to weigh up potential risks. We have received correspondence from concerned parents who are worried about the safeguards that are in place and who want the reassurance of registration to give them peace of mind about their son's or daughter's wellbeing. We need to acknowledge that there have been incidences of abuse that have shocked us all. Such cases have not been confined to residential care homes.

I am struck that the Government agency that is responsible for regulation and registration, the Scottish Social Services Council, thinks that we need a system of regulation. In its submission to the Health and Sport Committee, the SSSC argued for registration and "minimum induction training", and for distinguishing

"complex care and care for particularly vulnerable service users",

to enable that area to be regulated without limiting personal choice for everyone else. In effect, there would be regulation for a small proportion of personal assistants.

The minister does not want to overprofessionalise personal assistants—I agree with that view. However, the Health and Sport

Committee and I think that more could be done to reduce risk. Amendment 2 would not set out a scheme of regulation in the bill. That would be entirely inappropriate, because there are complex considerations, which are best left to professionals and disabled people to work through. Rather, amendment 2 attempts to offer a proportionate approach, by giving the minister the power to make regulations, should they be required.

Amendments 4 and 5 relate to amendment 2 and are technical; they would ensure that regulations would be subject to affirmative procedure, in order to ensure greater scrutiny. I hope that the Government and Parliament will accept the need for a balanced approach and support the amendments.

I move amendment 2.

**Nanette Milne:** I agree with Jackie Baillie; amendment 2 would provide a safeguard for the most vulnerable groups, as has been highlighted by Barnardo's and parents of severely disabled people who have complex needs. I know that some disability groups are quite against regulation of personal assistants and I agree that many people do not need the protection that is envisaged. However, the safeguard is needed for the most vulnerable people.

**Michael Matheson:** The Scottish Government does not support the amendments. Amendment 2 would introduce a regulation-making power to enable ministers to establish a scheme that would regulate the quality of support that is provided by personal assistants who are employed through a direct payment. I did not support similar amendments at stage 2 and I do not support these amendments at stage 3.

A number of disabled people's organisations have made it clear that a scheme to require registration of personal assistants would remove from individuals decision-making power over whom they employ to meet their support needs. The bill and current direct payment practice do not function on their own, but are part of a wider legal framework.

A framework of protection already exists to provide proportionate safeguards to protect people who employ or receive support from a personal assistant without restricting their choice. A personal employer who chooses to employ a PA who is a member of the protecting vulnerable groups scheme is entitled to see that person's scheme membership statement to confirm that they are not barred from doing regulated work with adults or children. Social workers have clear adult and child protection duties, including a responsibility to ensure that a personal employer—whether they are the supported adult, the parent of a supported child or the guardian of

an adult who lacks capacity—understands the importance of PVG scheme membership.

It is true that taking on the role of a personal employer brings with it significant responsibility. Social workers need to be confident that the person who chooses that route understands the safeguards that the PVG scheme brings, which include rules on seeking and sharing information, and understands the risks of employing an unsuitable person. The update to our guidance on self-directed support last year addressed those matters. The framework that I have outlined strikes an appropriate balance that keeps people safe while respecting their right to make decisions about their care.

In any case, if a future Government changed the policy, it would already have the mechanism to do what Jackie Baillie wants via its regulation-making powers under the Regulation of Care (Scotland) Act 2001, which contains powers to provide for registration and regulation of different types of social service workers. I stress again that we have no plans to use such a power—for the clear policy reasons that I have outlined—but, if it was necessary in the future, that other power could be used to enable the Scottish Social Services Council to regulate personal assistants.

It would be unnecessary—and, more important, it would be undesirable—to include in the bill a regulation-making power that was intended to be used to regulate PAs, for the good policy reasons that I have outlined. As I do not support Jackie Baillie's first amendment in the group, which is clearly not required, I do not support her other amendments in the group, either.

**Jackie Baillie:** I listened carefully to the minister's comments. Social workers might have a responsibility to advise people about the protecting vulnerable groups scheme, but the duty does not extend to ensuring that disabled people employ only personal assistants who are part of that scheme. If we are being frank, social workers already have huge case loads. Given all their other responsibilities, it is not realistic or reasonable to lay such a burden on them.

The bill is—rightly—about ensuring choice and flexibility for the majority, but we in Parliament have a responsibility to balance the undoubted opportunity that the bill presents with the risk. We need to strike a balance and recognise disabled people's legitimate view that they should be able to make their own choices about personal assistants. However, we have an equal responsibility to safeguard people who might be vulnerable.

I draw members' attention again to the clear view of the Scottish Social Services Council—the Government's agency for regulation. It has not

said that we already have sufficient powers; it has said that regulation is needed in limited circumstances.

We do not have a monopoly on wisdom. We should listen carefully to what the regulators tell us. I intend to press amendment 2.

**The Deputy Presiding Officer:** The question is, that amendment 2 be agreed to. Are we agreed?

**Members:** No.

**The Deputy Presiding Officer:** There will be a division.

#### For

Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Baker, Richard (North East Scotland) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Boyack, Sarah (Lothian) (Lab)  
 Brown, Gavin (Lothian) (Con)  
 Carlaw, Jackson (West Scotland) (Con)  
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)  
 Davidson, Ruth (Glasgow) (Con)  
 Dugdale, Kezia (Lothian) (Lab)  
 Eadie, Helen (Cowdenbeath) (Lab)  
 Fee, Mary (West Scotland) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)  
 Fergusson, Alex (Galloway and West Dumfries) (Con)  
 Findlay, Neil (Lothian) (Lab)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Griffin, Mark (Central Scotland) (Lab)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Renfrewshire South) (Lab)  
 Johnstone, Alex (North East Scotland) (Con)  
 Johnstone, Alison (Lothian) (Green)  
 Kelly, James (Rutherglen) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Malik, Hanzala (Glasgow) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 Martin, Paul (Glasgow Provan) (Lab)  
 McCulloch, Margaret (Central Scotland) (Lab)  
 McDougall, Margaret (West Scotland) (Lab)  
 McGrigor, Jamie (Highlands and Islands) (Con)  
 McMahon, Michael (Uddingston and Bellshill) (Lab)  
 McNeil, Duncan (Greenock and Inverclyde) (Lab)  
 McTaggart, Anne (Glasgow) (Lab)  
 Milne, Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Murray, Elaine (Dumfriesshire) (Lab)  
 Park, John (Mid Scotland and Fife) (Lab)  
 Pearson, Graeme (South Scotland) (Lab)  
 Pentland, John (Motherwell and Wishaw) (Lab)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)  
 Smith, Drew (Glasgow) (Lab)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Stewart, David (Highlands and Islands) (Lab)

#### Against

Adam, Brian (Aberdeen Donside) (SNP)  
 Adam, George (Paisley) (SNP)  
 Adamson, Clare (Central Scotland) (SNP)  
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)

Biagi, Marco (Edinburgh Central) (SNP)  
 Brodie, Chic (South Scotland) (SNP)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Burgess, Margaret (Cunninghame South) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Campbell, Roderick (North East Fife) (SNP)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Don, Nigel (Angus North and Mearns) (SNP)  
 Doris, Bob (Glasgow) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Eadie, Jim (Edinburgh Southern) (SNP)  
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Finnie, John (Highlands and Islands) (Ind)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hume, Jim (South Scotland) (LD)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)  
 Keir, Colin (Edinburgh Western) (SNP)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lyle, Richard (Central Scotland) (SNP)  
 MacAskill, Kenny (Edinburgh Eastern) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 MacKenzie, Mike (Highlands and Islands) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 Maxwell, Stewart (West Scotland) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McArthur, Liam (Orkney Islands) (LD)  
 McDonald, Mark (North East Scotland) (SNP)  
 McInnes, Alison (North East Scotland) (LD)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McLeod, Aileen (South Scotland) (SNP)  
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)  
 McMillan, Stuart (West Scotland) (SNP)  
 Neil, Alex (Airdrie and Shotts) (SNP)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Rennie, Willie (Mid Scotland and Fife) (LD)  
 Robertson, Dennis (Aberdeenshire West) (SNP)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Scott, Tavish (Shetland Islands) (LD)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Urquhart, Jean (Highlands and Islands) (Ind)  
 Walker, Bill (Dunfermline) (Ind)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Yousaf, Humza (Glasgow) (SNP)

**The Deputy Presiding Officer:** The result of the division is: For 48, Against 68, Abstentions 0.

*Amendment 2 disagreed to.*

### **Section 15—Assessments under section 12A of 1968 Act: assistance**

*Amendments 25 to 27 moved—[Bob Doris]—and agreed to.*

*Amendment 12 not moved.*

*Amendment 28 moved—[Bob Doris]—and agreed to.*

*Amendment 13 not moved.*

### **Section 16—Power to charge for services provided under section 2**

*Amendment 3 moved—[Jackie Baillie].*

**The Deputy Presiding Officer:** The question is, that amendment 3 be agreed to. Are we agreed?

**Members:** No.

**The Deputy Presiding Officer:** There will be a division.

#### **For**

Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Baker, Richard (North East Scotland) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Boyack, Sarah (Lothian) (Lab)  
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)  
 Dugdale, Kezia (Lothian) (Lab)  
 Eadie, Helen (Cowdenbeath) (Lab)  
 Fee, Mary (West Scotland) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)  
 Findlay, Neil (Lothian) (Lab)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Griffin, Mark (Central Scotland) (Lab)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Renfrewshire South) (Lab)  
 Hume, Jim (South Scotland) (LD)  
 Johnstone, Alison (Lothian) (Green)  
 Kelly, James (Rutherglen) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Macintosh, Ken (Eastwood) (Lab)  
 Malik, Hanzala (Glasgow) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 Martin, Paul (Glasgow Provan) (Lab)  
 McArthur, Liam (Orkney Islands) (LD)  
 McCulloch, Margaret (Central Scotland) (Lab)  
 McDougall, Margaret (West Scotland) (Lab)  
 McInnes, Alison (North East Scotland) (LD)  
 McMahan, Michael (Uddingston and Bellshill) (Lab)  
 McNeil, Duncan (Greenock and Inverclyde) (Lab)  
 McTaggart, Anne (Glasgow) (Lab)  
 Murray, Elaine (Dumfriesshire) (Lab)  
 Park, John (Mid Scotland and Fife) (Lab)  
 Pearson, Graeme (South Scotland) (Lab)  
 Pentland, John (Motherwell and Wishaw) (Lab)  
 Rennie, Willie (Mid Scotland and Fife) (LD)  
 Scott, Tavish (Shetland Islands) (LD)  
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)  
 Smith, Drew (Glasgow) (Lab)  
 Stewart, David (Highlands and Islands) (Lab)

**Against**

Adam, Brian (Aberdeen Donside) (SNP)  
 Adam, George (Paisley) (SNP)  
 Adamson, Clare (Central Scotland) (SNP)  
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Biagi, Marco (Edinburgh Central) (SNP)  
 Brodie, Chic (South Scotland) (SNP)  
 Brown, Gavin (Lothian) (Con)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Burgess, Margaret (Cunninghame South) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Campbell, Roderick (North East Fife) (SNP)  
 Carlaw, Jackson (West Scotland) (Con)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Davidson, Ruth (Glasgow) (Con)  
 Dey, Graeme (Angus South) (SNP)  
 Don, Nigel (Angus North and Mearns) (SNP)  
 Doris, Bob (Glasgow) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Eadie, Jim (Edinburgh Southern) (SNP)  
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Fergusson, Alex (Galloway and West Dumfries) (Con)  
 Finnie, John (Highlands and Islands) (Ind)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)  
 Johnstone, Alex (North East Scotland) (Con)  
 Keir, Colin (Edinburgh Western) (SNP)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)  
 Lyle, Richard (Central Scotland) (SNP)  
 MacAskill, Kenny (Edinburgh Eastern) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 MacKenzie, Mike (Highlands and Islands) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 Maxwell, Stewart (West Scotland) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McDonald, Mark (North East Scotland) (SNP)  
 McGrigor, Jamie (Highlands and Islands) (Con)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McLeod, Aileen (South Scotland) (SNP)  
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)  
 McMillan, Stuart (West Scotland) (SNP)  
 Milne, Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Neil, Alex (Airdrie and Shotts) (SNP)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Robertson, Dennis (Aberdeenshire West) (SNP)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)

Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Urquhart, Jean (Highlands and Islands) (Ind)  
 Walker, Bill (Dunfermline) (Ind)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Yousaf, Humza (Glasgow) (SNP)

**The Deputy Presiding Officer:** The result of the division is: For 42, Against 75, Abstentions 0.

*Amendment 3 disagreed to.*

### **Section 17—Promotion of options for self-directed support**

**The Deputy Presiding Officer:** Group 8 is on the duty on local authorities to promote variety of providers and support. Amendment 29 is the only amendment in the group.

**Nanette Milne:** Amendment 29 would place a duty on local authorities to promote diversity of provision of social care in their areas. Members of the lead committee will recall that I lodged a similar amendment at stage 2, which sought to place a duty on local authorities in relation to providing a suitable variety of providers. I withdrew my amendment on the basis that I would have further discussions with the minister prior to today's stage 3 debate; amendment 29 follows on from those discussions.

As it stands, section 17 will impose a duty on authorities

“to promote the availability of the options for self-directed support.”

Local authorities have a key role to play in using the information and resources that are available to them to shape the range of choices in line with the desires of social care users. In short, local authorities must base their approach to commissioning on the diverse needs of individuals.

Amendment 29 would add a further and specific duty in that respect, to promote diversity in the providers that are available to provide support and promote diversity in the range of support that is provided by authorities and other relevant organisations.

The amendment will encourage genuine choice for individuals by encouraging a proactive approach to commissioning that is based on the diverse needs and desires of populations.

I move amendment 29.

16:30

**Michael Matheson:** I welcome amendment 29. The bill is about choice and, to deliver real choice, local authorities must strive to encourage suitable

diversity in the choices that are available to people. Nanette Milne lodged an amendment on the topic at stage 2. However, as members of the Health and Sport Committee will recall, although I agreed with aspects of that amendment I had difficulty with others. I was glad to meet her to discuss a way forward, which has found us with the amendment that is before us today. I am happy to support amendment 29 and urge Parliament to do likewise.

**Nanette Milne:** I think that the amendment will give genuine choice to people, which is a main function of the bill.

*Amendment 29 agreed to.*

### **Section 20—Regulations: general**

*Amendments 4 and 5 not moved.*

**The Deputy Presiding Officer:** That ends consideration of amendments—with five seconds to spare.

## **Social Care (Self-directed Support) (Scotland) Bill**

### **The Deputy Presiding Officer (John Scott):**

The next item of business is a debate on motion S4M-04995, in the name of Michael Matheson, on the Social Care (Self-directed Support) (Scotland) Bill. I invite members who are leaving the chamber to do so quickly and quietly. When you are ready, minister, you have 10 minutes.

16:31

**The Minister for Public Health (Michael Matheson):** I am pleased to open the debate on the Social Care (Self-directed Support) (Scotland) Bill. I thank the conveners and members of the various committees—in particular, the Health and Sport Committee—for their scrutiny of the bill. I also thank the members who lodged amendments to the bill at stages 2 and 3. The committee took great care in considering every aspect of the bill and in challenging, probing and questioning every provision.

In many respects, we have followed the bill's principles in adopting a truly collaborative approach to framing the legislation. I am sure that Parliament will join me in acknowledging the considerable contributions that have been made by disabled people's organisations, carers' organisations, provider organisations and the many others who have played a crucial role in developing and informing the bill.

Perhaps more than most legislation, the bill is a testament to the conviction and detailed work of individuals and groups who work every day to make a real difference to people's lives. It is their bill as much as it is Parliament's bill. We are debating legislation that is very close to the hearts of citizens and professionals who are involved in the health and social care sector.

Scotland is a diverse place and we have a diverse people. We should not be surprised when we hear that people want a rich and varied range of options, that they have higher expectations and that they want to shape their own support and lives. In 21st century Scotland, we must adopt a more collaborative approach to delivering our public services. The Christie commission set the benchmark, and self-directed support is one of the many reforms that will help to deliver against that benchmark.

We should consider what the bill means for public services as a whole. In my opinion, it means that we should challenge our services to become much more flexible and creative. It means that public services should have confidence in sharing control and should, when a person wants it, pass

control to that citizen—in short, they should respond to people's desire to shape their own lives.

We should also acknowledge the roots of the bill, which go back to the activism of disabled people who claimed their support to be their own and not a service to which they must adapt.

Independent living is at the heart of the bill. That is why disabled people's organisations approached the committee to include a general principle on independent living, and it is why I was happy to make further adjustments to that principle at stage 3. However, collaboration involves more than one party, and this is about professionals as well as citizens. The Scottish Association of Social Workers has stated that its profession

“promotes social change, problem solving in human relationships and the empowerment and liberation of people to enhance well-being.”

Self-directed support helps to deliver the core values and principles of the profession—to work alongside individuals and to develop creative solutions to the problems that people face. Indeed, in some respects, the bill helps us to return to the original principles of the Social Work (Scotland) Act 1968—the principles of promoting social welfare and taking a broad and flexible interpretation of what it means.

I move on to the bill's content. The general principles within it set out the aspirations for care and support and the basis for the collaborative approach between the professional and the citizen. The bill contains a variety of options for individuals to choose, it places a clear duty on councils to give effect to people's choice, and it imposes further duties on councils to facilitate that choice through information, advice and support. In some respects, that might sound fairly straightforward, but too often that approach has been sidelined as being too difficult and having too many challenges. However, a number of social work professionals, adults, children and carers have proved that it can be done, and the bill enshrines such an approach for all.

We should take a few minutes to reflect on some of the challenges that lie ahead for the sector as it is called upon to implement the legislation. Our regulations and statutory guidance will help in that respect. The guidance framework will help to clarify the limits of choice, and where it is simply not appropriate for choice to be offered. It will seek to provide reassurance to professionals in balancing their duties on protection with their duties to enable and to support. It will also encourage; it will provide practical examples that demonstrate instances in which self-directed support works, which will help professionals to overcome barriers, be they real or imagined.

Of course, the legislation on its own will only go so far. That is why we will develop and issue further regulations and statutory guidance. In addition, the Scottish Government intends to provide a robust and comprehensive framework for monitoring and evaluating the legislation—an aspect that will become more important as we move towards implementation.

We must also remember that self-directed support, important though it is, is only one part of the solution to the challenges that we face in health and social care. In the not-too-distant future, Parliament will consider proposals for greater integration of health and social care. We are implementing a number of strategies across a diverse range of user groups, including strategies relating to people with mental health problems, people with dementia, carers and young carers, people with learning disabilities and people with autism. The legislation forms one part of a much wider strategy to deal with the challenges of an ageing population, increased expectations and pressure on resources.

In choosing to pass the bill, Parliament will play its part in delivering choice and control for people and ensure that there is greater flexibility and creativity across the sector. In short, the bill marks a significant step towards meeting the expectations of those who receive social care now and into the future. I look forward to the debate.

It gives me great pleasure to move,

That the Parliament agrees that the Social Care (Self-directed Support) (Scotland) Bill be passed.

16:40

**Jackie Baillie (Dumbarton) (Lab):** I associate myself with the minister's remarks and thank the Health and Sport Committee, which is so ably led by Duncan McNeil, the committee clerks, the bill team and, indeed, the minister himself. Having been on that side of the fence myself, I know the effort that will have gone into the bill. Last but by no means least, I thank the organisations and individuals who helped to shape the bill. We are grateful to organisations for disabled people, carers, children and many more besides for taking a direct and considerable interest in the bill, because it has strengthened the end product.

The bill itself has been a long time coming but, in fairness, the minister has created a degree of momentum in the past year. At its heart, the bill is about choice, flexibility and empowerment and rightly enshrines principles of independent living for adults and children who receive social care services.

As we know, those who exercise choice and control over the services that they receive and how they are delivered get better outcomes—

nowhere more so than in terms of provision of social care. At stage 1, I cited the example of a tuck-in service that was provided to an older constituent, who was to be tucked up in bed by care workers between 7 pm and 8 pm. With the exception of Jackson Carlaw, who at stage 1 told us that he went to bed that early, I know of no other adult who goes to bed at that time. That was perhaps more an illustration of the needs of the service being the determining factor, rather than the needs of the individual and how they want to live their lives. Self-directed support turns that experience on its head—and rightly so.

Of course, as the minister made clear, the local authority will offer four choices: receiving direct payments, where people will be given the money from which they can meet their needs directly; directing how the local authority arranges services on a person's behalf; continuing with current local authority support; and a mixture of all three. Although direct payments have been available for a while, take-up remains low. In 2001, only 207 people accessed them; by 2011, the figure was 4,392. There is clearly scope for many more direct payments to be made.

I also want to look wider than social care. After all, self-directed support sits in the wider context of the personalisation of services—a concept that was first advanced by the previous United Kingdom Labour Government very much in consultation and partnership with disabled people. Essentially, personalisation recognises that different things shape people's lives. We are not simply defined by our condition or by the care that we receive; education, housing, employment and transport all contribute to how we live our lives. The Scottish Government itself recognised as much when it set up the direct payment pilots in the national health service for that small group of people with health and social care needs. Although I understand that the Government is reluctant to go down that road at this stage, the issue will undoubtedly return with the advent of the integration of health and social care.

If we honestly believe that outcomes benefit as a result of direct support in social care services, we must surely believe that similar benefits can be gained in the limited circumstances in which people's health and social care needs merge. I hope that the minister will discuss the issue further with all of us in the chamber to ensure that we can truly create transformational change for people.

A number of amendments were moved this afternoon with varying degrees of success. Some were supported by the Government; others were not. Nevertheless, I recognise that the Government has moved the bill on since its introduction, and I am grateful to the minister for that.

Touching briefly on certain amendments, I think that, with regard to the debate about whether to charge carers for services, Parliament needs to decide whether we believe that carers should be treated in the same way as care providers. Of course, the second test is whether there is evidence to suggest that spending our money in such a way has a clear benefit. All of us, including the Government, regularly state that carers save the state £10.8 billion each year simply by caring. By comparison, the amount that we would spend on them for respite and training would be absolutely tiny. We should invest in order to save, and to enable carers to do the job of caring that they do so well.

I welcome the minister's commitment to introduce regulations that will waive charges for carers. He has come to the process slightly late, if I may say so, but I am delighted that he has. Although I believe that the power to charge and the power to introduce regulations lies in the 1968 act, and that there is no need for section 16, the bottom line is that the minister will create those regulations and create change.

However, I urge the minister to be quick. As matters stand, local authorities currently charge; section 16 tells them that they can charge if they want to and, as local government is genuinely shouldering a burden of cuts, authorities may be forced into the position of having to apply charges. Speed is therefore essential.

I ask the minister to bring some clarity to the issue in his closing speech. Is he simply limiting the waiving of charges to those who are in receipt of self-directed support for carers, or will it apply more widely? I welcome the wider debate about the role of carers and charging, and I am clear that the power that the 1968 act gives the minister allows him to direct local authorities in all charging that is associated with social care—not just direct payments. Can he therefore advise members on the scope of his intentions with regard to future regulations? He will be aware that there are still concerns about the postcode lottery in care charging, which must be addressed.

I will touch briefly on advocacy. Although the bill extends choice and control so that there is greater direction over how support is provided, there remains a need for independent advocacy. I recognise that that will not be required for all, but it is nevertheless essential for some if we want the bill's provisions to be realised.

On regulation of personal assistants, it is incumbent on Parliament to recognise the needs of all and to balance the opportunities that the bill presents with the risks. Those risks may be small, but if the Government's own agency believes that in limited circumstances personal assistants require to be regulated, we must consider that.



There is much to welcome in the bill, and overall it is a good piece of legislation. If it has the transformational effect that we believe it can have, we will have positively changed the landscape of social care in Scotland. For that reason, I am happy to support the bill.

16:47

**Nanette Milne (North East Scotland) (Con):** I place on record my thanks to the Health and Sport Committee clerks, the bill team and the Scottish Parliament information centre for their advice and support to committee members throughout the bill's progress. I acknowledge the valuable input from the city council carers and users of social care services in Glasgow, whom we met during our informal visit to the city in the early stages of our information gathering, and I thank all the many witnesses who gave written and/or oral evidence to the committee.

I pay tribute to the various organisations and individuals who suggested at stages 2 and 3 amendments that they believed would strengthen and improve the bill, some of which will be included in the final version of the bill that we will vote on at 5.30.

The bill is popular and its general principles have been widely accepted throughout Scotland. It will introduce legislation that, if it is properly implemented, will embody the principles of independent living for everyone, giving all citizens the same freedom, choice, dignity and control in their lives at home, at work or in the community, and empowering those who use self-directed support to participate in society and live a full and ordinary life.

The bill's essence is the intention that people should achieve true independent living, and the focus must be on what the system enables the individual to achieve, not on the system of support. There are high expectations that the bill will allow individuals who require social care to maintain a good quality of life and to fulfil their potential.

Today we have set out the framework, which will have to be fleshed out by guidance and regulation. The key to success will be how the bill's provisions are implemented across local authority areas by councils and by independent and voluntary sector providers.

We heard as a committee that the changes that are required to ensure the policy's success will be seismic. Some local authorities will be well prepared in areas such as creating individual budgets around packages, decommissioning group services and embedding the concept of self-directed support in their procedures. However, a culture change will be required, which some councils will find more difficult than others.

It will therefore be important to oversee the implementation of the policy and to impose sanctions on any councils that are deemed to be failing. There will be tensions, as a public sector that is used to providing services for users must accept that council-run facilities may not be what the user wants, and that, as an alternative marketing service develops, it must give more choice to service users. The commonly cited example is that facilities such as council-run day centres might wither on the vine if they are not what service users want and they therefore become financially unviable.

Undoubtedly, there are still concerns about the funding of social care packages. For example, where direct payments are made, they may attract less money, while those who opt for local authority provision of social care receive more. At a conference on taking the next steps in delivering self-directed support, which I attended last week, the local authority representatives were in no doubt that that happens in a number of council areas. They felt that the bill does not go far enough to put a stop to that, and I know that they will be disappointed that Richard Simpson's amendments on that were not accepted by the Parliament today.

There are also concerns about the failure to include in the bill a right to independent advocacy, and I am not sure that the Government has that one right. Children's welfare organisations, such as Barnardo's and Children 1st, are concerned that the bill focuses much more on adults than on children, even though it will have a significant impact on the type and kind of services available to many children and their families. The children's welfare organisations were particularly keen to ensure child protection and safeguarding by seeking a system of registration and regulation of those who might be working either directly with children or with adults who live with children under 16 in the home. That was one reason why I supported Jackie Baillie's amendment on personal assistants, even though the amendment was not popular with a number of the disability groups.

I do not think that the bill is perfect—legislation never is—but I think that, overall, it will be of significant benefit to those who are assessed as requiring social care. Provided that self-directed support is perceived by councils not as a cost-cutting opportunity but as a chance to provide greater independence and a better quality of life to service users, I think that the bill will be warmly welcomed across Scotland. However, its implementation will need to be carefully monitored. With that, I can say that the Conservative group will vote for the bill at decision time.

**The Deputy Presiding Officer (Elaine Smith):** We now turn to the open debate. Time is very

tight, so members have four minutes maximum. If members can speak for a shorter time, I might get everyone in.

16:51

**Bob Doris (Glasgow) (SNP):** I echo the thanks to the minister, his team, my fellow committee members and all those who gave evidence to the committee, who have helped to shape and improve the bill.

I will reiterate what was said during the stage 1 debate about empowering those in need of care. A few of us mentioned then the evidence that Margaret Cassidy gave to the Health and Sport Committee. In the limited time available to me, I want to ensure that I put her views on the record again, because what she said is so powerful. When asked what life was like before personalisation and before she could direct her own budget, she said:

"It was so-so. I will tell you a wee thing. One time I wanted milk and the woman who was helping me said that that was not her job. I was only asking for a pint of milk, but she said, 'By the way, that's not my job.' I said to her, 'What is your job?' We had a falling out and I told her, 'There's the door. Don't come back.'"—[*Official Report, Health and Sport Committee, 29 May 2012; c 2358.*]

Margaret Cassidy now has a personal assistant and is doing wonderfully because she is directing the resource for her care that best meets her needs. That is what self-directed support is all about.

Following today's stage 3 consideration, during which we had constructive engagement—and some disagreements—on the best way to improve the bill, it is important to remind ourselves that we are all travelling in the same direction. The bill has been improved—not always in the direction that some would have wanted—but I think that we can agree that it has been improved. Putting to one side my amendments, which were agreed to, I listened with interest to what Jackie Baillie said about charging. I think, however, that we all welcome the proposed regulations. If the minister is correct—and I believe that he is—we will be in a far superior position on charging when the bill is passed than we were beforehand. That is what legislating in this place is all about.

We have reinforced the principle of independent living and we now have greater transparency on the cost of the various options for self-directed support and the cash that follows that cost. That may not be in the way in which Richard Simpson proposed, but the Government has moved to improve the process. At every step of the way, the Parliament has come together to improve matters.

However, we will need to ensure that the changes that we are proposing sweep through

every local authority in the country and that we back the culture change that will be needed in local authorities to make the bill work. For example, in my local authority—I do not always agree with what Glasgow City Council is doing, but in making this point I am talking about not self-directed support, but the local debate on the best way in which services should be delivered—the personalisation budget for those who would receive a resource allocation under self-directed support has been cut by 20 per cent. I have consistently disagreed with that, but it was a local political choice; it is not connected to the principles of self-directed support.

If members do not like what is happening in their local authority areas, they should challenge that and fight to improve the situation to make self-directed support work. However, no action that a local authority takes will undermine the principle of empowering people through self-directed support.

The other night, I promised a constituent who came to my surgery that I would mention the reform of day centres for adults with learning difficulties that is taking place in Glasgow. The reform will reduce the number of day centres from seven to four. That is a move away from the traditional service, but my understanding is that there was no consultation at any point with the clients who use the day centres and that the centres are to be closed, possibly as early as January. If self-directed support is to mean anything in service redesign, there must be consultation with service users to find out what type of service they want.

To return to the bill—

**The Deputy Presiding Officer:** I am afraid that you must close.

**Bob Doris:** In my last six seconds, I will just say that the bill will be a step change in empowering people across Scotland.

16:55

**Claudia Beamish (South Scotland) (Lab):** As convener of the Scottish Parliament cross-party group on carers, I am glad to have the opportunity to speak about this important bill. I hope that I will shed some light on the carers' perspective and put down some markers for the future.

I have listened carefully to the views of kinship carers, carers and young carers through, for example, the Midlothian kinship carers group. This Friday is carers rights day 2012, the theme for which is getting help in tough times. The Princess Royal Trust Lanarkshire Carers Centre is holding a drop-in day in my regional office, and I know that other members will support the theme that carers should know what their rights are. That is only part

of the story; the other part is ensuring that carers have rights and respect across Scotland.

As highlighted in "Caring Together: The Carers Strategy for Scotland 2010-2015", carers should be seen as "equal and expert partners" in the provision of care. The cross-party group on carers has talked through and fought on many issues. Many members have supported carers' concerns, not least Bill Kidd and Johann Lamont, who are previous conveners of the cross-party group.

The bill will provide local authorities with the power to provide such support, rather than a statutory duty to do so. At present, a discretionary power is the only workable option, because of the uncertainty over costs and many other issues. However, it is disappointing that the Scottish Government has had years to cost the implications of a duty. I ask the minister to consider bringing the issue back in future and to address the possibility of that in his closing remarks. As convener of the cross-party group on carers, I challenge all local authorities to provide the high-quality services that are needed without a specific duty to do so in the bill.

There is already good practice in some local authorities. One key recommendation of the 2010 Carers Scotland report, "Sick, tired and caring: The impact of unpaid caring on health and long term conditions", was for free or concessionary access to leisure services, as many carers found the cost prohibitive. Not all local authorities specify the carers allowance in the range of eligible benefits. Glasgow does so, whereas North Lanarkshire does not. That simple and not very costly support for carers should surely be available Scotland-wide.

I turn to the issue of carers employment and associated training. In many situations, people want only small amounts of care, such as two hours a week to drive a person for whom they care to an activity and home again. As it can be difficult to employ someone for such a small number of hours, particularly in isolated, rural or island communities, I am sure that members will agree that in many circumstances close relatives are ideally placed to do that type of work. With high-level disabilities such as autism, the advantages of having close relatives as carers can be valuable. People with autism require their carers to show consistency and understanding of their routines, and family members can be well placed to provide that. I hope that members will join me in welcoming the provision on that in the bill.

Training for unpaid carers should be supported by local authorities. I look forward to hearing from the minister what the clear guidance will be on the issue. Can the minister also confirm that any provision of self-directed support to an individual carer will be kept separate from the provision to

the person whom they care for, as that is crucial for the wellbeing of carers?

My colleague Jackie Baillie's amendment to leave out section 16 did not receive the required support but I, along with many carers organisations, will look carefully at what seems to be a rather last-minute agreement by the minister to introduce regulations on the issue. I hope that the consultation on that will be produced in the near future.

17:00

**Gil Paterson (Clydebank and Milngavie) (SNP):** It has been just over two months since we debated the bill at stage 1. I am pleased that, over that period, the Scottish Government has taken on board a number of the issues that were raised during that debate and the subsequent stage 2 proceedings.

The bill's main aim is to give more of those who need to be cared for the independence that able-bodied persons take for granted. By ensuring that that principle is adhered to, it is hoped that those with disabilities can be better included in society and that they can have greater responsibility for securing the care that they require to function. Giving them control over the financial side of the equation allows them such responsibility.

There are currently two options for receiving support that are available to people with disabilities. Direct payment involves the local authority paying the supported person directly, who then spends the money on the support that they require. We also have the more traditional method, in which local authorities are given the responsibility for selecting the required support and make payment without the direct involvement of the supported person.

The bill aims to strengthen both those methods while offering further options. In some cases, people would generally feel more confident if they could choose the support that they receive, without being burdened with having to deal with the financial side of the equation. The bill offers that possibility to people while recognising that individuals have different support needs, which is why I am pleased that the fourth option is a mixture of the three options that have already been set out.

My main concern during stage 1 was that a situation could arise in which those in receipt of support could face the prospect of having undue pressure put on them to employ a family member. That could, of course, result in the removal of a better qualified individual who already offers support in place of an unqualified family member. A further concern was the emotional stress that someone may come under were they to feel that

they needed to replace a family member with someone who is qualified, which is something that could cause a great deal of stress to the individual.

I particularly thank the Government for taking those concerns into consideration and for producing legislation that has the right balance. The bill offers support to unpaid carers across Scotland. Those unsung heroes in our country must be praised for the work that they put in. The Government is approaching the matter in the right way.

There has been some concern about the charges for carers that local authorities would be able to levy under section 16 of the bill. The Government's proposals will be clear about restricting charges that can be levied on carers. I am pleased that the Government will issue regulations that will make it clear that all charges for support to carers should be waived in full. Crucially, that recognises carers as providers of services to those they care for. If the Government did not retain section 16, there would be no legal basis on which to make such regulations, and carers would be left in the same position as they are in right now.

I beg members to support the bill.

17:04

**Malcolm Chisholm (Edinburgh Northern and Leith) (Lab):** I thank the Health and Sport Committee for its useful report and the interesting discussions at stage 2. Most of all, I pay tribute to the many organisations that gave written or oral evidence and that also sent us very helpful briefings.

As the minister said, independent living is at the heart of the bill, and the principles of freedom, choice, dignity and control underlie that. I therefore particularly welcome the minister's additional amendment to section 1A to facilitate the principle of the person's right to participate in the life of the community. Many organisations already aim to do that. I pay particular tribute to the Lothian Centre for Inclusive Living, which I visited recently and which has supported people to take control of their lives and live independently. I saw LCIL's living and work choices course in action, and took part in it. LCIL illustrates in practical terms the principle that underlies the bill. I am pleased that local authorities are being obliged to facilitate that principle.

Although the bill is absolutely right at the highest level, there are still concerns. In particular, there are concerns that the policy could be used as a cost-cutting exercise. That was the reason for some of Richard Simpson's amendments this afternoon.

There were, of course, disappointments around some of the amendments that failed this afternoon. I spoke in the advocacy debate, so I will not repeat the points that I made then, except to say that I believe that the minister's amendment is particularly weak, given that 50 per cent of local authorities provide a service only to those statutorily entitled to it under the Mental Health (Care and Treatment) (Scotland) Act 2003. I hope that some action will be taken to ensure that local authorities expand that provision.

I will not rerun the debate on charging carers, although I was struck by the way in which the minister gave detailed explanations that were not produced at stage 2. I have some concerns about that, because it is difficult for members, at the very last stage of a bill, to judge what a minister is saying in such technical detail. I urge the minister and his colleagues to ensure that that level of technical information is presented at stage 2 in future, so that members can consult the details of the 1968 act—or whatever else it is—and see whether what the minister is saying is convincing. In the stage 2 debate the minister said:

"Section 16 is largely a technical provision".—[*Official Report, Health and Sport Committee*, 30 October 2012; c 2943.]

That is certainly not what he said today, so I was quite unprepared for the information that he provided, and in that sense was forced to vote blind, although obviously I was guided by my able front-bench colleagues, who were very persuasive in their contributions.

The issue of regulation was quite contentious. What struck me was the common ground between proposals from the Scottish Social Services Council—which I was attracted to for most of the time that I was looking at the bill—and what organisations representing disabled people in particular are saying, such as, "Let's have training of personal assistants," and, "Let's support personal assistant employers to recruit safely." There is a lot of common ground on the issue of training. I hope that a great deal of emphasis will be put on that because it is quite important, and is central to making the legislation work well.

I welcome the legislation and will follow closely how it works out in practice.

**The Deputy Presiding Officer:** I apologise. I can give the next two members only two minutes each.

17:08

**Jim Hume (South Scotland) (LD):** The bill presents an important step forward in providing adults and children, including carers and young carers, with more choice and control over how their social care needs are met. Informed choice

and collaboration are two of the key principles behind the bill, which will allow individuals to decide exactly how much control they want and will remove the current default in which local authority-arranged services are assumed to be the norm.

The bill will also enable care packages to be tailored more closely to individual needs and will, I hope, address the low and varied take-up of direct payments that we have seen over the past few years. The Christie commission was right to highlight that further action is needed to increase uptake of self-directed support. The bill is important, but Christie also emphasised the need to build awareness to encourage participation.

I welcome the new right for carers to receive self-directed support, which will allow carers to exercise the same control and choice as other service users in directing their own support in whatever way they wish. However, as I argued earlier when I moved my amendments, that right will apply only if a local authority decides to provide carers with the support that they have been assessed as needing. I hope that the Government's decision to oppose my amendment 34 will not result in inequality of service provision across the country—perhaps a postcode lottery.

At stage 2, my colleague Alison McInnes raised concerns about the provision in the bill to allow the supported person to change their choice of self-directed support. Since stage 2, that issue has been looked at closely and will now be addressed through statutory guidance.

Although I believe that my amendments would have strengthened the bill and supported carers even more, the Liberal Democrats will support the bill at decision time.

17:10

**Mark McDonald (North East Scotland) (SNP):** I thank all the organisations that took the time to meet me or to contact me through email, Twitter or Facebook to give me their thoughts and concerns on the bill. It is clear that there is major interest in self-directed support, and I was pleased to be able to make a small but not insignificant change to the bill at stage 2. I thank Barnardo's very much for its help in drafting the amendment that was successful.

As my time is limited—for fully understandable reasons—I will focus on the issue of carers. I, too, am a member of the cross-party group on carers and believe that carers have a vital role to play. The bill puts the individual very much at the centre of the process and allows for a much greater degree of personal independence, but we should not forget the important role that carers play, often in situations in which the individuals whom they

help may not be able to exercise their choices. It is clear from everything that the Government has said in its strategies that carers are a fundamental part of the process.

I have seen at first hand the experience of carers prior to and following this Government coming to power, and I think that the shift in the prioritisation of carers has been quite dramatic. I look forward to the minister bringing forward the regulations, and I welcome the assurances that he has provided on charging in relation to carers. The regulations will be of critical importance, and I and my colleagues—and, indeed, carer organisations and individual carers—look forward to scrutinising them and discussing them in more detail.

**The Deputy Presiding Officer:** We come to closing speeches.

17:12

**Nanette Milne:** This has been a well-informed debate on a bill that has commanded widespread support across the country. It is generally accepted that genuine independent living for every citizen is a goal that we should be aiming for in a fair 21st century Scotland, and that the Social Care (Self-directed Support) (Scotland) Bill provides the legislative framework for that to happen.

No voices were raised against the principles of the bill, and the amendments that were lodged in the later stages of its parliamentary progress were aimed at strengthening some of its provisions to ensure its robustness as a piece of legislation. Not all those amendments were accepted, but they were given a fair hearing, and the Scottish Government appears confident that their aims can be satisfied within guidance and regulation.

There are high expectations that the bill will bring greater freedom, choice, dignity and control to individuals who require social care to maintain a good quality of life and to fulfil their potential. The system of direct payments that has been in force in recent years has not had in Scotland the success that was hoped for when it was introduced, with some local authorities preferring to continue with their traditional role of provision, rather than to free up users to purchase the care services that they feel would be best suited to their needs.

I remember when I was a councillor in Aberdeen that there was a degree of reluctance in the social work department to encourage the use of direct payments, and a slightly paternalistic attitude that the professionals knew best what was in the best interests of their clients. However, time moves on, and there is now a recognition that recipients of care know best what suits their lifestyle needs and that, with appropriate assistance, they can live a

pretty normal life, earn a living, contribute to their local community and have a social life like other people. Whether that assistance is blow-drying their hair, which Pam Duncan of the independent living in Scotland project finds very useful, filling in job application forms or helping with bus travel, which Omar Haq's personal assistant does for him, or even being an escort and companion at a football match, which was a commonly cited example, the freedom to purchase care that suits personal needs is supremely liberating for many people with assessed social care needs.

Achieving the goals of the bill will undoubtedly require a change in culture in our local authorities, and that will be difficult and will take some time. It will take more time for some councils than it will for those that have already set out on the road to freeing up their clients, but in the interests of the many people who would benefit from the provisions of the bill, it is important that those local authorities that are lagging behind catch up, and that the implementation of the legislation is carefully monitored.

As we have heard, there is an enthusiasm to make the bill achieve its goals—within councils and within the voluntary, private and third sectors—to try to secure genuine choice of provision for those who are assessed as requiring social care, as well as their carers and families.

Like other members of the Health and Sport Committee, I have enjoyed engaging with the many people who have shown an interest in the bill and I am full of admiration for how they have communicated freely and openly with committee members—particularly the service users and carers I mentioned previously who took the time to speak to us in Glasgow.

I am sure that there will be issues along the way as the legislation beds in but the will is there to make it work and I hope that we have strengthened the bill, to some extent at least, as it has gone through Parliament. I have felt from the outset that it will not reach its full potential until we have integration of health and social care in Scotland and I look forward to seeing the details of the proposed legislation on that.

I look forward to the bill being approved this evening, to its implementation in the months and years to come, and to the freedom of choice that it should make possible for all those who require social care.

17:15

**Dr Richard Simpson (Mid Scotland and Fife) (Lab):** I thank colleagues, the minister, the bill team and, crucially, the many organisations involved across Scotland, for the critical but

collaborative approach that has been taken to the bill.

Self-directed support is not new, but the bill moves us further down a pathway of respect and dignity for those who require support, giving them control in so far as they may wish to take it. Supporting independent living should reflect the principle that a partnership of collaboration between the user and the professional is central to how we wish to take things forward.

Self-directed support has been in place for a number of years—since about 1996. However, as Jackie Baillie said, the number of people who have availed themselves of that option in Scotland has been quite small; uptake has been about half of that in England. There has been a perception that some Scottish local authorities and some social workers have been quite reluctant to encourage SDS.

The bill will not in itself change the culture; many subtle and some not-so-subtle pressures to retain direct local authority services could remain. The not-so-subtle pressures should be transparent—as my amendment tried to make clear—to ensure that any discrepancy between payments under the various options is justifiable and, more important, can be monitored. I hope that the Government will require local authorities to record the variations and that the inspectorate will be rigorous in examining why there are differences.

The bill has been amended with regard to children and young people and the minister's amendments in that respect have been welcome.

We have not been able to reach agreement on independent advocacy. We all believe that it is important. The minister clearly believes that the provision of information is sufficient, but as many members have pointed out—Nanette Milne, Malcolm Chisholm and others—availability of independent advocacy services is patchy. It will fall to the minister to ensure that the wishes that he has clearly expressed are followed through in every local authority.

Carers remain critical to all aspects of support for those with disability and, as Claudia Beamish said, they should be equal partners. The fact that carers are still not assessed in large numbers is worrying, but the minister's announcement that he will take forward a number of aspects of that is welcome—particularly his comments about promoting preventative work because the threshold for support is often far too high. However, there is a continuing need to ensure that where carers play a significant role, detailed emergency plans are in place so that care continues without additional stress in the event of a carer being incapacitated.

The issues around charging have been debated and we await with interest what the minister brings forward. I would be grateful if he would give us some indication of a timetable for what he proposes with regard to charges because the unfairness that already exists in community charging, with huge variations across councils, is—for us, at least—a worry. The charging of carers for some aspects of their work would be important. There clearly needs to be a balance between localism and national aspirations, which will not be easy. I look forward to further enlightenment on that from the minister in his closing speech.

One of the problems with individuals is that they do not always fall into neat categories. Those who have a defined incapacity within the Adults with Incapacity (Scotland) Act 2000 or the Adult Support and Protection (Scotland) Act 2007 should be protected. However, those who are not vulnerable should be given the freedom to act to maintain their independence within the requirement of prudent expenditure of public money. That prudence should not be prescriptive and many members have given examples of what can help.

A holiday may sufficiently improve a person's mental health and wellbeing to make a big difference. Unorthodox measures can improve self-confidence and be a highly effective use of public money. Riding for the disabled in my constituency is just one example, and gym membership is another. Other members have given other examples. We need to support the individual's wishes about how they want to use their money. That is important.

The Law Society of Scotland's concerns about the risk assessment of those who are involved in providing assistance remain. The amendment on that was rejected today by the Government party, but we need to look at that, perhaps in terms of regulation. The minister also declined to take the powers to regulate on personal assistants. It should be remembered that we did not say that he should do so immediately; we said that he should take the powers to do so in the future. The minister suggested that they are already available, but I am not sure that they are. It will be interesting to see how the organisations respond in the debate on that. I hope that he is correct.

As Malcolm Chisholm said, many organisations that represent disabled persons think that things such as the training of personal assistants are desirable. That part of regulation is important. After all, protecting vulnerable groups schemes are not compulsory, and people may be persuaded not to proceed down that line by someone who is overinfluencing.

To conclude, the bill will help to ensure that the legitimate aspirations for flexible support of those with a disability are achieved. The independent living movement has been very supportive in helping us to get a useful bill, which is a further step in a continuing journey that began with the Social Work (Scotland) Act 1968 and the Disability Discrimination Act 1995, and which will progress the changes in society's attitudes to disability. Those changes were given glorious expression in the support for the Paralympics.

We commend the bill and look forward to the post-legislative scrutiny, which may be particularly important to ensure that all our hopes are fully realised.

17:22

**Michael Matheson:** I thank all members for their contributions in the debate, which has been considered and thoughtful. There is a clear sense of cross-party support for this important piece of legislation. From stage 1, when the bill's scrutiny process started in the Health and Sport Committee, right through stages 2 and 3, there has been a real and genuine desire across the parties to make further improvements to it, and the bill that we have at the end of the process is better than that which was introduced in Parliament in February this year.

I started out in my career in a health and social care setting around 20 years ago. I know that many people will be looking at me and thinking that I could not have started my career then. *[Interruption.]* I hear noises of approval from Jackie Baillie, which I am particularly surprised about. There was a culture that we should give people much greater choice about how their care should be provided, but the choice was very constrained. It was defined by the local authority and the professionals.

Direct payments were introduced, but uptake of them has been very slow over 20 years. I think that there has been resistance at times, which professionals and local authorities can often create, to encouraging people to take up direct payments; that resistance is unhelpful, given the way in which direct payments give individuals much greater choice. The bill is crucial to changing that environment and giving people much greater choice and opportunities to make decisions for themselves and to take more control over their lives. We should not underestimate the direction of travel over the past 20 years to get to this point with the bill, where that level of personal control will be provided in a way that simply has not been provided universally before.

The bill is relatively short, but I see it as one that will create considerable change in the way in

which care will be delivered to people in the future. It is much more about doing things with people rather than to them, and it is much more based on the co-production model of working with people to find the best solutions for them in managing their care. It is often said that the people who are the experts in knowing what their care needs are are the cared-for people themselves, who know more than anyone else in that regard.

Jackie Baillie raised a point about the use of self-directed support for health. We have had health pilots in Lothian, which have thrown up a number of issues around the way in which self-directed support can be used in that field. We now have a group working on statutory guidance for that area and on how we can take that forward with the integration of health and social care, and how the joint budgets can be used much more effectively. Some of the findings from the Lothian pilots are informing that discussion on how we can shape matters.

**The Deputy Presiding Officer:** Minister, may I stop you for a second? There is an awful lot of chatting in the chamber, and I remind members not to stand with their backs to the chair for any length of time.

**Michael Matheson:** A number of members raised the issue of carers charges. I recognise the importance of that issue. The technical provision in section 16 is to provide us with the route to regulate in that area. As it stands, it relates to specific pieces of legislation—Jackie Baillie referred to the provisions of the Social Work (Scotland) Act 1968—that allow us to regulate on areas of charging. Section 2 creates a new area that allows us to regulate in the area of charging in a way that is not available at present. That is why removing section 16 would have left us with the status quo, which is that local authorities could charge if they chose to do so. However, by creating a system, we can regulate the process. It is for that reason that the provision in section 16 was largely technical.

**Malcolm Chisholm:** The minister was looking at me throughout that contribution. My point was that that should have been explained at stage 2, because it was all new to us today and we could not judge whether the minister was talking sense or not. [*Laughter.*]

**Michael Matheson:** I do not think that Mr Chisholm was at the committee meeting at which, because of time constraints, we had an abbreviated discussion on the issue. However, in the discussion that I had with Jackie Baillie I intimated that there would be regulations in that area. When it is recognised that someone is wrong, they should just admit that they are wrong. I know that that is hard for Jackie Baillie, but in this

instance she is simply wrong. That is why we are taking forward the regulations in this area.

**Jackie Baillie:** Will the minister take an intervention?

**Michael Matheson:** I give way to Jackie Baillie because she has been wrong today and I am sure that she wants to correct the record on that matter.

**Jackie Baillie:** The minister invites me to be bad, but I shall resist. Does the minister not agree that bringing forward his proposal at this late stage indicates that previously he was not thinking in those terms at all and that the issue was not raised? I welcome the outcome today, but does he recognise that he was encouraged to get there?

**Michael Matheson:** No, that is simply not the case. We were always going to regulate in this area. We had to create the provision that would allow us to do so. Today, carers are in a much better position as a result of the actions that we have taken rather than following Jackie Baillie into a situation that would have created greater uncertainty and the possibility of carers being subject to charges.

It is important to recognise that carers have often been dealt with piecemeal, in that issues have been dealt with here and there. As a society, we must look at how we can deal with carers issues much more comprehensively and effectively. I intend to discuss that with the national carers organisations to explore the best way in which to address some of the fundamental issues more effectively in the future.

A point that has not been touched on during the debate is that we intend to make greater provision for individuals to be able to employ a member of their family as a personal assistant. There has been a real barrier to people taking direct payments because of the thresholds that are set around employing a family member only in exceptional circumstances. We intend to produce statutory guidance to allow us to increase the numbers of people who can employ a relative. On the regulation of personal assistants, we already have the powers that allow us to do that, hence there was no reason to agree to the amendment that Jackie Baillie proposed in that regard.

There is strong support for the bill's general principles and for its aims and objectives. I believe that the bill will command support across the chamber today, because it will make a real change in people's lives by giving them the power to make decisions and to arrange care in a way that best suits them. I call on members to support the bill at decision time.



## Business Motion

17:30

### The Deputy Presiding Officer (Elaine Smith):

The next item of business is consideration of business motion S4M-05021, in the name of Joe FitzPatrick, on behalf of the Parliamentary Bureau, setting out a business programme.

#### *Motion moved,*

That the Parliament agrees the following programme of business—

Tuesday 4 December 2012

2.00 pm Time for Reflection

*followed by* Parliamentary Bureau Motions

*followed by* Topical Questions (if selected)

*followed by* Scottish Government Debate: Annual EU Fisheries Negotiations

*followed by* Business Motions

*followed by* Parliamentary Bureau Motions

5.00 pm Decision Time

*followed by* Members' Business

Wednesday 5 December 2012

2.00 pm Parliamentary Bureau Motions

2.00 pm Portfolio Questions  
Finance, Employment and Sustainable Growth

*followed by* Scottish Labour Party Business

*followed by* Business Motions

*followed by* Parliamentary Bureau Motions

5.00 pm Decision Time

*followed by* Members' Business

Thursday 6 December 2012

11.40 am Parliamentary Bureau Motions

11.40 am General Questions

12.00 pm First Minister's Questions

12.30 pm Members' Business

2.30 pm Parliamentary Bureau Motions

2.30 pm Scottish Government Debate: The Modernisation of Scotland's Career Services

*followed by* Parliamentary Bureau Motions

5.00 pm Decision Time

Tuesday 11 December 2012

2.00 pm Time for Reflection

*followed by* Parliamentary Bureau Motions

*followed by* Topical Questions (if selected)

*followed by* Scottish Government Business

*followed by* Business Motions

*followed by* Parliamentary Bureau Motions

5.00 pm Decision Time

*followed by* Members' Business

Wednesday 12 December 2012

2.00 pm Parliamentary Bureau Motions

2.00 pm Portfolio Questions  
Justice and the Law Officers;  
Rural Affairs and the Environment

*followed by* Scottish Government Business

*followed by* Business Motions

*followed by* Parliamentary Bureau Motions

5.00 pm Decision Time

*followed by* Members' Business

Thursday 13 December 2012

11.40 am Parliamentary Bureau Motions

11.40 am General Questions

12.00 pm First Minister's Questions

12.30 pm Members' Business

2.30 pm Parliamentary Bureau Motions

2.30 pm Scottish Government Business

*followed by* Parliamentary Bureau Motions

5.00 pm Decision Time - *Joe Fitzpatrick*

*Motion agreed to.*

## Decision Time

17:30

**The Deputy Presiding Officer (Elaine Smith):** There is one question to be put as a result of today's business.

The question is, that motion S4M-04995, in the name of Michael Matheson, on the Social Care (Self-directed Support) (Scotland) Bill, be agreed to.

*Motion agreed to,*

That the Parliament agrees that the Social Care (Self-directed Support) (Scotland) Bill be passed.

## Music Tuition

**The Deputy Presiding Officer (John Scott):** The final item of business today is a members' business debate on motion S4M-04051, in the name of Iain Gray, on the value of instrumental music tuition. The debate will be concluded without any question being put.

*Motion debated,*

That the Parliament recognises the key role that music can play in children's academic and social development; notes that a five year study by researchers from Harvard Medical School and Boston College, published in 2008, concluded that children who play a musical instrument display better motor, auditory, vocabulary and non-verbal reasoning skills; notes that children in 24 of Scotland's 32 local authorities are charged up to £340 per year for instrumental music tuition; believes that every child in Scotland should have the opportunity to learn a musical instrument; welcomes *Scotland on Sunday's* Let the Children Play campaign; shares the concern of the Educational Institute for Scotland that music tuition charges may deny children from poorer backgrounds the chance to develop their musical talents, and commends the eight local authorities in Scotland, including East Lothian, that make no charge for instrumental music tuition in schools.

17:32

**Iain Gray (East Lothian) (Lab):** This evening's debate, on the value of instrumental music tuition, is prompted by research that was undertaken by the Educational Institute of Scotland, which established that 24 out of 32 councils charge up to £340 per year for instrument tuition in schools. Five councils even charge for tuition for pupils who are required to learn an instrument as part of study for music exams. Eleven authorities have raised fees during the past year. I record my pride that my council, East Lothian Council, is one of the eight authorities that do not charge for music tuition.

I congratulate *Scotland on Sunday* on its let the children play campaign, which calls for instrument tuition to be free, especially for those who are studying music, and calls on the Scottish Government to take a lead in making that happen. There is a precedent for that in Jack McConnell's youth music initiative, which ensures that every pupil has the chance to try a year of instrumental tuition by primary 6. Thousands of youngsters have benefited from the scheme and the Scottish National Party Government has continued the scheme since 2007 and deserves full credit for doing so. In most of Scotland, however, pupils who are inspired by the initiative to continue with their instrument have to pay. That means, for many, that the opportunity is lost.

My motion was prompted by all that, but was driven by personal experience; all three of my daughters benefited from free music tuition in

schools. One learned violin, one the clarinet and one the bassoon. All of them participated in school bands or wind bands, and two of them participated in the Edinburgh secondary schools orchestra. One is now an instrument teacher herself, but all three were challenged, enriched and inspired by music. I am sure that they are better, broader-minded and happier adults for it.

That view is supported by research such as that which my motion cites from Harvard medical school, which shows that pupils who play an instrument demonstrate

“better motor, auditory, vocabulary and non-verbal reasoning skills”.

Such evidence is part of the answer to the rather obvious criticism that, given Labour’s argument that we must debate carefully what benefits can be provided free, this is not the time to argue for free instrument tuition. That criticism misses the point, just as the Convention of Scottish Local Authorities does when it says:

“let’s be clear, what we are talking about here is extracurricular music tuition.”

Even if we set aside the fact that we are talking about Scottish Qualifications Authority exam courses in five council areas, the crux is that instrument tuition should be part of the core provision of our schools and should therefore be provided without charge. If we think that schools are just about getting pupils through exams, our aspiration is narrow and our ambition limited, indeed.

The benefits of music participation at its most intense are seen in El Sistema, which engages a whole community. It was pioneered in Venezuela and is transforming the Raploch in Stirling. I spent midsummer’s evening watching the children of the Raploch sit in the midst of an orchestra from Venezuela, thousands of miles away, and play with it a Beethoven overture from hundreds of years ago. No one there needed to be told that music has the power to transcend distance, time and culture and to transform the lives of those whom it touches, because that truth shone transparently in the faces of the children of the big noise. We cannot have that everywhere, but we can have music tuition. We have all seen some of that when we have seen parents at school concerts watch their children conjure beauty, no matter how falteringly, from thin air.

When I taught in Mozambique, my class’s timetable included mandatory singing—not from me, fortunately. In a country that was torn by war and ravaged by famine, people sang. The children sang everywhere, all the time, in heartbreakingly perfect harmonies. Just as young men tied together rags to play football, they constructed

guitars from any disused boxes that they could find, so that they could make music.

In Cambodia—a country rebuilding from nothing with nothing—I have seen the establishment of a school of music and dance being prioritised. That was because people there understood music’s magic in bringing people together and raising them up, and because they knew that the Khmer Rouge killed the musicians first because it, too, understood that.

Nearer home, when I lived in Wester Hailes, the whole community—which had little—clubbed together to buy a saxophone for one Tommy Smith, so that he could take up his place at Berklee College of Music. He learned through the kind of tuition that we are debating, and people in that community understood that the glory of his jazz enriched them all. If people who have little can find the time and resource to sing, play and learn, why do we have to debate whether we can let our children play? A lack of money need not hold us back, but a lack of vision surely will.

Nicola Benedetti told *Scotland on Sunday*:

“Learning an instrument is ... about understanding the creative, spiritual thing that goes on inside of us. It goes to the heart of who we are as human beings.

How can it possibly be separated by something as superficial as whether you can pay for your lesson or not?”

I know that it is not practical to suggest that anyone can learn any instrument anywhere, on demand, but the Scottish Government can take a lead in pushing open a door that is closing in the faces of too many young Scots across our country. It goes to the heart of who we are as human beings and to the heart of what we want to be as a country.

17:39

**Clare Adamson (Central Scotland) (SNP):** I congratulate Iain Gray on bringing this very important debate to Parliament. His passion was evident in his speech.

I will open my speech by almost overtaking George Adam on the number of mentions a member can give of their hometown. I must mention that I am from Lanarkshire and am Motherwell born. While I was growing up in the area and taking my first steps as a budding clarinettist I was very aware of the renowned musician and conductor, Sir Alexander Gibson. My ambition was very much an endeavour of enthusiasm over talent, so I am unlike my colleague Stuart McMillan, who is a very talented piper, and Nigel Don, who is a brass instrumentalist. He is very disappointed that he is unable to speak in the debate.

Earlier this year, I was lucky enough to attend a concert in Glasgow to celebrate Scottish Opera's 50th anniversary. Sir Alexander Gibson founded Scottish Opera in 1962 and was its music director until 1986. He opened up the world of opera for Scotland. I particularly remember the "Opera go Round" programme, which gave me my lifetime love of the genre when I saw "Madama Butterfly". Scottish Opera is truly an opera company for the nation and Alexander Gibson enriched our lives and the art form itself with what were often world-acclaimed productions.

Of course, Alexander Gibson was also a native of Motherwell, so it is no surprise that North Lanarkshire Council has continued the tradition that nurtured his talent at Dalziel high school. Many have benefited from the wonderful legacy and there is excellent music provision in North Lanarkshire's schools. Every Friday evening, pupils who participate in North Lanarkshire schools' music groups are given the opportunity to attend Coatbridge high school where an incredible array of talent is brought together in their wind ensemble, chorus, symphony orchestra, junior and senior string orchestras, jazz orchestra, wind band, prep band, pipe band and traditional music group. I have no doubt that pupils are benefiting from music tuition and opportunities to participate in ensembles and music groups.

Iain Gray mentioned charging, which is a very complicated area with many variations across Scotland. Perhaps we could address that with COSLA and look into the variations. North Lanarkshire Council does not charge SQA students or those whose families or carers are in receipt of benefits, but it is a complicated situation across the country. From my research, I believe that only five councils charge for SQA activity. That must be looked at.

As we move forward with curriculum for excellence, we must consider the possible impacts of the two plus two plus two and three plus three models of teaching in schools. The point at which a student chooses music must be considered, because if that happens later in their progression through school, it could lead to a year's extra cost in the three plus three model.

We must consider access to the whole area of music. The issue is much more complicated than being just about charging for tuition; we must also consider access to instruments. They may have to be sourced privately by parents, which adds to costs and could disenfranchise some pupils. I note that Sistema Scotland provides instruments in the Raploch.

**Hanzala Malik (Glasgow) (Lab):** I believe that Scottish people are going through a renaissance in terms of searching for and finding their identity. Music for children is vital to that. I totally agree

with what Clare Adamson says, but I think that the call for the Scottish Government to assist in this process is important. We should look for ways to encourage our young people to come forward and develop their skills, so that they can identify with their nation and not be Americanised or anglicised, but be Scottish.

**Clare Adamson:** There is much that we can do, but what the Scottish Government does in its youth music initiative is possibly the most important thing, because it is there to ignite the fire in our young people, and to inspire them to participate in music throughout their school careers.

**The Deputy Presiding Officer:** I would be grateful if you could draw to a close, please.

**Clare Adamson:** The Government's initiative should not be conflated with curricular delivery, which is the responsibility of local authorities and something that COSLA and local authorities have to resolve.

17:44

**Jenny Marra (North East Scotland) (Lab):** Why is music tuition important? It is for the simple reason that music and sport give children options. On a recent visit to my old high school in Dundee, I was told by one teacher that it is music and sport that our kids need. For some who will not achieve academically and for those who do not want to, sport and music provide the chance to find a path, and they open up a myriad of opportunities.

Anyone who has played in a band, orchestra or sports team will know how much of a leveller music—or sport—can be. People who were born with privilege and wealth occupy a level playing field with those who were born without, because as soon as they lift their bow to their fiddle or have the ball at their feet, all that matters is what they do with it—the sound that they produce or the pass that they make. Everything else pales.

That is why such chances are so important and why, in a time of recession when 100,000 young Scots of working age are sitting at home today, wise investment would be to equip children with the skills that they will use to forge their own paths, make their own money and create new and different careers for themselves. The Government should consider that as much an economic argument as a cultural one.

As Iain Gray said, our education is for equipping children with the skills that they need to go out and make their way in the world. From the young Dundonian who paid for his trip round Venezuela by beating old men at chess for money in pavement cafes, having learned chess in his Dundee primary school, to the inimitable Gary

Clark, the lead singer of the Dundee band Danny Wilson, who learned music in his community of Douglas, in Dundee, and is now a songwriter in Los Angeles for the likes of Natalie Imbruglia, the economic and life opportunities that are offered by those so-called extracurricular activities know no bounds.

When our children's commissioner conducted his "right blether" throughout Scotland recently, he heard the same message from children the length and breadth of the country. They said that chances always go to children from families with money. That came from the mouths of under-10-year-olds. It is enough to make you weep. They know that educational opportunities are not blind. In Dundee, in Sidlaw View primary school in Kirkton, four children are learning to play musical instruments. Down the road, in the affluent area of Broughty Ferry, 83 children in Forthill primary school are learning to play instruments. In other areas of deprivation, the story is the same; in Charleston primary school, six children get instrumental tuition and in Lochee primary school, the number is eight.

The cost of lessons is not the only barrier, although it is a significant one. In Dundee, the council charges pupils £132 per year for lessons and another £83 to hire their instrument. Children who qualify for free school meals or a clothing grant are exempt from those charges but face other barriers. At a time when an increasing number of school children in Dundee are turning up at school without having been fed, when the number of people seeking help from food banks is on the rise and as fuel bills go up and people are having to make the choice between heating and eating, instrumental fees are about the last thing that families can afford to pay.

A couple of weeks ago, we had a debate about universalism. Labour argued that a mixture of universalism and targeted benefits or spending priorities should be based on evidence. Here, the evidence is overwhelming and has been very well articulated by the *Scotland on Sunday* campaign. The Scottish Government has accepted the evidence of the big noise intense music instruction programme in Stirling's Raploch to the extent that it has given more than £1 million to another big noise project in Govanhill.

For music tuition in all our schools to resemble a map of deprivation, as it does in Dundee, is not good enough for an ambitious, cultured and civilised Scotland. Let us be bold and ambitious; let us feel the incredible inspiration of the musical heritage of our country, and let all our children play.

17:49

**Liz Smith (Mid Scotland and Fife) (Con):** Iain Gray has selected one of the most important topics in our schools today and I commend him for the powerful speech with which he introduced the debate. As he said, music—in whatever capacity—should be at the heart of any curriculum, not just because of the educational and social benefits that it brings but because of its power to transform lives, which he described. We have seen that on a grand scale with El Sistema, which is thankfully to be expanded across Scotland. However, another important factor is that music provides an important self-discipline and, often, the ambition for pupils to do well in other subjects. Music is definitely not to be treated as an optional extra. As Nicola Benedetti has said, that would do untold damage to the cultural fabric of Scotland.

We know that music is, in principle, firmly embedded in curriculum for excellence, but we also know that its provision is patchy, particularly when it comes to instrumental tuition, and that that situation relates largely to costs, as both Clare Adamson and Jenny Marra said. In particular, our concerns relate to the wide variations between local authorities. Just a few months ago, the Education and Culture Committee was presented with the stark reality of the statistics. Three quarters of the 32 local authorities in Scotland are charging for instrumental music tuition, and the annual charge varies from £95 to £340. In many cases, the costs have continued to rise over the past two or three years, and in the past year 11 local authorities have announced increases that are well above the rate of inflation.

It is just as important to note that five councils—it was six, so it is good to hear that one has changed its mind—are still charging students for entering SQA exams. Notwithstanding the fact that we know that budgets are tight—again, the Education and Culture Committee was told about the effect of that—it is simply unacceptable that some councils see music as an easy target when it comes to budget cuts, and there is sometimes a hint that they see it as a means of generating additional income. That is a situation about which we should all feel distinctly uncomfortable.

There is also variation between primary schools and secondary schools. We should accept that that needs to be dealt with quickly. If music is to be treated as an important part of curriculum for excellence—I am sure that we have a unanimous view on that—it is difficult to square that with the fact that families are having to pay high fees, and parents will rightly be confused and angry if they have to face more increases in that regard. Given that parents are already paying taxes to local

authorities, they find the additional charges reprehensible.

We have been told that it might not be possible to avoid additional charges altogether. I can accept that up to a point, given the nature of some of the tuition that is required. However, if there have to be some charges, I suggest that local authorities be more imaginative about possible sources of additional income. Some of them have been interested in the concept of trusts when it comes to sport, and I wonder whether something can be done on the same basis for music. It might also be possible to involve local businesses if we have to find some additional funds.

I finish by commending Iain Gray again, because this is an important debate and he spoke with considerable passion on the subject. It is something for all of us to take on board.

17:53

**Tavish Scott (Shetland Islands) (LD):** Tonight, I should go home to an ailing wife via the childminder—or I could incur the wrath of that spouse by going to a concert: Kevin Henderson's new band, Aamos, is mixing all that is good about Shetland and Norwegian music, and I can commend a good night to the Parliament.

I should probably start by agreeing wholeheartedly with Iain Gray's central contention that music is a central part of schooling. It is not an add-on but is at a school's core.

The playing of the traditional fiddle is part of Shetland's DNA. The islands' international reputation rests on the playing of reels and slow airs—on the playing of something that is uniquely Shetland. However, generations of local fiddlers have stretched Shetland's musical expertise by listening to, learning from and adapting to the local genre the moods and swings of international music. Aly Bain, Chris Stout and Maggie Adamson—a two-time winner of the Glenfiddich fiddler of the year award—are widely known and admired.

There are few better nights than the Shetland folk festival, Shetland night at Celtic Connections in Glasgow—indeed, every night is Shetland night at Celtic Connections—or the recent Anderson high school centenary concert at Mareel, which featured pupils past and present in a musical tour de force. The stars that night were Vair. Jonny Polson, Lewie Peterson, Ryan Couper and Erik Peterson all have music in their blood, but the point is that they all came through the Shetland school system.

As an international supporter of Shetland fiddle music has observed,

“There is no other island community in the world that can boast of such a high concentration of musicians grounded in a tradition that captivates all who hear it.”

Much of that starts in Shetland's schools. Musical abilities learned at a young age are retained through life; people keep playing. Thousands of Shetland bairns have learned the fiddle—although, thankfully, I am an example of a much-needed quality control check in primary school.

Today, 200 pupils take traditional fiddle lessons in Shetland, but the sort of financial pressures that colleagues have already explained exist and I am very concerned that the limits applied in many other local authority areas—aptitude tests, cutting the ratio of children receiving musical tuition and, indeed, cutting everything other than fiddle and piano—could happen at home as well. Such a move would affect 280 Shetland pupils who are being taught cello, accordion, drums, trumpet and other instruments. Fees for lessons are difficult enough for many parents but, as many pupils and music teachers have made clear, a lesson lasting only 25 minutes does not work. Overall, even with the financial challenges that Shetland Islands Council faces, I trust that the current review of music tuition—the second in two years—will create a bedrock of support for music in Shetland's schools.

A letter from the adjudicators to the Shetland young musician of the year and indeed the schools festival held every year on the island best proves the case. It says:

“In Shetland today you have a very high standard of musical achievement that enhances the life and culture of the islands.”

In that respect, Iain Gray's comments and observations about Scotland hold for individual parts of Scotland such as the island.

With regard to the schools festival, I ask the minister to clarify the funding situation with regard to Creative Scotland's very welcome youth music initiative, which, as Iain Gray rightly pointed out, was introduced by a previous Government. I understand that the funding has been cut for the future, which will certainly have an effect in Shetland. I must point out that the benefit of the schools festival is that it involves children from across the islands. Playing before a large audience at primary school is about self-confidence and ability; it should also be about fun, although try telling that to yourself before walking on to a stage in front of 600 parents. The event builds Shetland itself, not just its musical future.

As Iain Gray said in the context of Scotland, this is about our culture, our place in the world and showing what we are. It is not just about fiddle but about instruments that are central to an outward-looking vision. All I can do is urge my council at

home to make responsible decisions that reflect music's role in 21st century Shetland and, in that, I am with everyone in the chamber who wants the same for Scotland.

17:57

**Stuart McMillan (West Scotland) (SNP):** I, too, congratulate Iain Gray on securing this members' business debate. As his speech showed, he obviously has a great deal of passion for and commitment to the subject, and I commend him for that.

I thank Clare Adamson for her plug for piping and certainly whole-heartedly agree with at least the first half of Jenny Marra's speech. However, although I agree with the general thrust of Iain Gray's motion, I am not too sure how the aims of *Scotland on Sunday's* let the children play campaign can be fully implemented.

As members will know, I play the bagpipes. However, I was not taught them at school; I actually learned them as a member of 1st Port Glasgow Boys Brigade. Tuition was free, but we paid for it by playing at gala days and functions throughout the year.

Like many musical instruments, pipes are not cheap; in fact, they are pretty expensive. Members of pipe bands have to pay for their uniforms, their pipes, their drums, their drumskins, their drone reeds and their pipe reeds as well as for their transport and their accommodation when playing at a function. An important point that we will all take away from the debate is that the vast majority of parents, bands and schools do not have an unlimited pot of money to draw on. Although it is vital to ensure that music tuition is affordable, certainly for our younger people, it is also imperative to recognise that such tuition does not happen only in schools.

Before I talk about local authorities, I want to highlight an organisation that does a tremendous amount of work and which I believe I and Hanzala Malik have discussed in the past: the College of Piping in Glasgow. On average, the college takes more than 500 piping students a year, and on a Monday evening it provides free tuition. It supplies equipment such as pipes and drums, and some of the uniforms, for younger people who come from disadvantaged areas.

A further example of the college's excellent work is that it paid for a set of pipes that cost approximately £1,000 and gave them to a young boy to aid him in his piping efforts. A set of pipes is not cheap—in fact, that was a cheap set at £1,000. We should all congratulate the college on the tremendous amount of work that it does for the piping community and for the local communities that it serves.

I will touch briefly on the work of local authorities. I congratulate the eight council areas that have no charge for music tuition—I warmly welcome that. I hope that the other 24 areas in Scotland can have a look at their charging regimes and see whether they can make the charges a bit smaller.

As members know, I stay in Inverclyde, where the council charges £95 a year for tuition. That is not a lot of money in the grand scheme of things, but for some families it will be a lot. However, that is the lowest sum among the authorities that charge for tuition; in comparison, Aberdeen City Council charges approximately £340.

My key point is that I do not believe that we can tell local authorities what to do. At a recent Local Government and Regeneration Committee meeting, Councillor Michael Cook, the vice-president of COSLA, was clear about our councils' powers and responsibilities. He stated:

"We need to recognise that when it comes to a whole range of factors, there is legitimate variation based on local democracy. It is up to councillors, who are the local democratic agents within councils, to make a policy judgment about some of those things ... It may also partly be a consequence of policy determinations that those elected members have made and that is absolutely right. Sometimes we hear complaints about the postcode lottery. Sometimes the postcode lottery is local democracy in action."—[*Official Report, Local Government and Regeneration Committee*, 31 October 2012; c 1343-44.]

That is a very powerful argument.

**Jenny Marra:** Will the member give way?

**The Deputy Presiding Officer:** The member is in his last minute.

**Stuart McMillan:** I can talk to Jenny Marra about her point later; I am just concluding now.

There is so much more that we could highlight and discuss tonight, but time is short. I know how beneficial playing an instrument is, as it has certainly benefited me. However, we must recognise that music tuition does not happen only in schools, and we must acknowledge Councillor Michael Cook's comments.

18:02

**Patricia Ferguson (Glasgow Maryhill and Springburn) (Lab):** I congratulate Iain Gray on bringing the debate to the chamber, and on raising the profile of the issue as he has done for many months. *Scotland on Sunday* also deserves credit for its championing of the issue.

Like many colleagues who are speaking in the debate, I have a deep and abiding love of music, and a great admiration for those who can play an instrument proficiently. I persevered at violin and guitar lessons for more years than I would like to

admit to, before eventually deciding that I simply did not have a talent for it. I still have my violin, however, and if there is no one else at home and the house is quiet I have been known to bring it out of its cupboard and play a little. Every time I do that, I remember just how much I enjoy it—although I am not sure that anyone else does.

I do not regret in any way the lessons that I took or the time that I spent in trying to master those instruments, because I have benefited so much from it. My world was expanded, and not just musically. Playing an instrument gave me an interest in a fairly eclectic mix of music. It taught me that music, like so many other things, is influenced by our environment, history and society. It helped me to become a more confident person, and playing in the school orchestra taught me the real value of teamwork and the importance of the individual's contribution to the team.

The Harvard research that Iain Gray mentioned bears that out, but so too should our intuition. My experience tells me that the opportunity to play a musical instrument should not be regarded as an extra. It should be recognised as an important—indeed vital—part of the curriculum, and should be available to all children. It cannot simply be the preserve of those who can pay for their child's tuition, because talent does not recognise social class. We could be missing out on our next Nicola Benedetti if we limit the opportunities that our young people have.

Like other colleagues, I was very concerned to read about the local authorities that have decided to charge for musical tuition. I know that budgets are tight, but for too long now the arts—and sometimes sport—have been seen as an easy hit when cuts have to be made. That is one reason why the youth music initiative was introduced in the first place. I gently point out to Stuart McMillan that the youth music initiative is an example of Government telling local authorities that this is a sensible thing to do but then leaving them democratically to decide how they go about delivering it in a way that reflects their own areas and interests.

My concern was further piqued by hearing that some young people who are sitting standard grades and other qualifications in music are being asked to pay for their tuition. The idea of an aptitude test is, frankly, unacceptable because the tuition is about not just the student's ability to play but the enjoyment, the experience and the life-expanding opportunities that come from contributing.

The youth music initiative is an excellent first step on the ladder for many young people, but it was never intended to end there. Frankly, it is cruel to give children a taste of what might be possible but then to suggest that anyone who

wants to pursue their talent or interest will have to pay. We can all be inspired by El Sistema and what the big noise orchestra has achieved in the Raploch. Like my colleague Jenny Marra, I am working hard with partners in my constituency to try to bring El Sistema to my area. I know that El Sistema cannot be replicated in every community in Scotland, but I think that its success shows that, if enough young people have the opportunity to take up music, we can do great things.

On a visit to Malawi, I was intrigued and moved to be greeted by the school band, whose instruments were made of oil cans and string but were capable of being tuned and producing music. They valued their music and their ability was recognised and valued by their communities. I very much hope that the Scottish Government will take the opportunity to consider how it might better support young people in Scotland who wish to be involved in music and music making. If we do not take action soon, we could end up losing an entire generation of music makers.

18:07

**Alison Johnstone (Lothian) (Green):** I, too, thank Iain Gray for securing this evening's debate and welcome the opportunity to discuss this important issue. I whole-heartedly support the motion, which notes the many widely acknowledged benefits to learning that instrumental music tuition provides. The confidence, self-esteem and enjoyment gained from developing such life-enhancing—indeed, sometimes life-changing—skills are worthy of note, too.

I highlight the excellent work that goes on in the City of Edinburgh music school, whose work paves the way for its students to secure positions in world-renowned colleges, ensembles and orchestras across the globe.

As we have heard, an EIS investigation earlier this year reported that across the country there is a mixed picture for instrumental music tuition outwith core teaching hours. The report showed that several local authorities charge pupils for SQA-accredited courses and sometimes charge more than necessary to cover the costs of music tuition. The curriculum for excellence states:

“Performing and creating music will be the prominent activities for all learners.”

That will not be the case where the ability to pay is a factor in the pupil's selection of subjects.

The “EIS Charter for Instrumental Music” explains the many benefits that music provision gives us as a society and how current cuts to instrumental music tuition must be challenged if we are seriously committed to a curriculum that makes instrumental music provision a core part of



our young learners' education. In one case study in the charter, a musician tells us:

"At school I was non-academic, I failed in most subjects."

However, through guitar lessons in secondary school, the learner discovered a world that is described as

"non-discriminatory, enjoyable, something that fitted me like Cinderella's slipper."

The learner describes musical instrument tuition as "vital" to enabling her to find a

"positive path to follow through education."

As Jenny Marra rightly highlighted, one-size education does not fit all; variety is essential.

In some local authorities where curriculum-time provision is free, budgetary constraints still mean that it is limited to the few chosen individuals who have shown an aptitude when tested and, although the tuition is free, instrument hire or purchase is still at the expense of parents or carers. That approach means that many children are persuaded of a relative lack of talent at a young age, and some might be unable to take up the offer, should the instrument cost be beyond the family budget.

Instrumental music tuition makes an important contribution to the four capacities that are outlined in the curriculum for excellence. It is delivered by dedicated, highly skilled and qualified professionals, and it should play an important role in the education of the rounded citizens that the curriculum for excellence strives to develop. We have yet to achieve delivery of sufficient physical education to all pupils. If we are serious about a holistic curriculum, we must stop seeing certain subjects as less worthy of funding than others.

I am sure that we all want Scottish education to encourage creativity and to value that creativity and place it at the heart of the curriculum. For many pupils whose parents and carers have work schedules, shifts or siblings to care for, and for those on tight budgets, access to music tuition outside schools, even if it is affordable, might sometimes be simply inaccessible. That is why it is vital that the importance of music is recognised and embedded totally within the curriculum.

I support the aims of the "EIS Charter for Instrumental Music", and I would welcome the minister's comments on the entitlement or right of every school-age child to receive instrumental tuition, and not only for a period of several weeks. In response to a question in September, the minister advised me that the Government had been in touch with local authorities with a view to levelling the playing field across Scotland. I would be grateful if the minister provided an update on that in his speech.

**The Deputy Presiding Officer:** As the debate is heavily subscribed, I am prepared to accept a motion under rule 8.14, to extend the debate.

*Motion moved,*

That, under Rule 8.14.3, the debate be extended by up to 30 minutes.—[*Iain Gray.*]

*Motion agreed to.*

18:12

**Malcolm Chisholm (Edinburgh Northern and Leith) (Lab):** It is probably my fault that the debate has been extended, because I did not intend to speak in it, but I have found several of the speeches to be inspiring and the debate has raised many significant issues.

Much of the debate might be couched in terms of what can be directed from central Government and what local government decides. It also leads us to the debate that we have been having about what should be free and what should be charged for. I do not want to prejudge the minister's speech, but I suspect that some in Government will say that we cannot tell local authorities what to do and we cannot have any more free services, because of the financial difficulties. That would be a wrong approach, which is why we have suggested that we should open up the debate about the basic principles of free entitlements.

From this debate, I have concluded two things. The first is that music education is extremely important. Iain Gray, in a powerful speech, indicated the many reasons why it is so important. The motion refers to the evidence about the general effects on people's development, but we also know about the great pleasure that people get from music and the way in which it contributes to their happiness and wellbeing.

The second issue that I started thinking about during the debate was the main theme of Jenny Marra's speech, which was about the inequalities that exist on the issue. We all know that, in many areas, young people do not have equal opportunities. However, it behoves us in this Parliament to do all that we can to redress those inequalities. Traditionally, some aspects of culture have been very class based. Those with money have been able to develop their talents in many areas, whereas others have not. Music is one such area. The figures that Jenny Marra gave on schools in different areas of Dundee illustrated that powerfully. We have an obligation to address that problem and to regard it as a national priority. It is scandalous that people in some more disadvantaged areas should lack the opportunities that their neighbours in wealthier areas have to develop their musical talents.

We must regard the issue as one on which the Parliament needs to take action. We cannot just leave it up to local authorities to make up their minds. That is why, as Patricia Ferguson reminded us, a previous Government took some initiatives in the area, through the youth music initiative and the creation of cultural co-ordinators, to try to democratise culture and give opportunities to as wide a range of people as possible to develop their talents in what are generally regarded as cultural areas.

We were right to do that when we were in government, and the current Government should rise to that challenge and realise the importance of music. It does that, for example, through the money that it gave to Sistema Scotland to set up a big noise orchestra in Glasgow a week or so ago, which illustrates that it recognises the value of instrumental music tuition. However, it is not good enough to give that opportunity to just a small number of people; we must give that opportunity to the widest range of people possible, because that seems to be what justice and equity require.

In general, the Government deserves credit for shifting some of the balance of policy discussion to the early years. Music tuition is an important aspect of giving people opportunities in the early years to develop their talents, personalities and their abilities more generally.

I strongly support Iain Gray's motion, and I commend *Scotland on Sunday* for taking up the music campaign. That illustrates that it should not get caught up in the general argument about what is free and what is not. *Scotland on Sunday* would perhaps not support universal entitlements in quite a few of the areas that the Government may support, but it has recognised that music is a key area in which charges should not be imposed. It is incumbent on us to act on that principle and address the problem.

18:16

**The Minister for Learning, Science and Scotland's Languages (Dr Alasdair Allan):** I thank Iain Gray for lodging the motion that we are debating. I certainly welcome this opportunity to listen to the thoughts and views expressed by members.

Like all members here, I am passionate about children and young people experiencing all aspects of the broad general education that they are entitled to under curriculum for excellence and in my view that includes the opportunity to play a range of musical instruments.

One of the benefits of my job is that I get to visit schools and see at first hand what is being achieved in our classrooms every day. I never cease to be amazed by the innovative examples of

teaching and learning that I witness. I concur with Mr Gray, Patricia Ferguson and other members about the liberating power that music has for many communities within Scotland and worldwide. That is why I absolutely agree that music—and learning to play a musical instrument—can play a key role in a child's education, benefiting their academic and social development and, as Liz Smith mentioned, inspiring them in other areas of the curriculum, too.

It never pleases me more than when I attend—and occasionally sing at—national events such as the Mod, where I am able to listen to youngsters from around the country giving expert vocal and traditional instrumental performances. I saw that at first hand when I was compering the Barra local mod earlier this year.

This debate is ultimately about the value of instrumental music tuition and our shared belief that every child should have the opportunity to learn to play a musical instrument. That being agreed, it is necessary to clarify what Mr Gray requested in his motion:

"That ... Parliament ... notes that ... 24 of Scotland's 32 local authorities are charging up to £340 per year for instrumental music tuition".

I stress that the charges are applied to instrumental music tuition provided via the authority's instrumental tuition service; the charges are not applied to classroom music lessons as part of the child's curriculum learning. I appreciate that there is an issue in some authorities about classroom teachers being able to provide tuition in only three or four instruments themselves, and a debate then emerging about what other musical instruments should be free. That is an important debate to have, not least because of Tavish Scott's point about the importance of some instruments to local musical traditions.

I think that we all agree that local authorities are under a great deal of pressure to deliver the services that are required of them, and the issue of charging for instrumental music tuition is not straightforward. If Liz Smith or others have evidence of local authorities that are profiting from any charges applied for accessing such provision, I would be pleased to look at that. I do not have such evidence at present. Out of all the authorities that apply charges for their instrumental tuition service, it should be said, in the interests of fairness, that only one does not offer concessions. All other authorities offer a range of concessionary rates dependent upon local policy and family circumstances.

I agree with Mr Gray, Clare Adamson, Jenny Marra and many others that no child should be denied the chance to develop their musical talent. There is—and there should be—systems in place

to ensure that no child is ever denied an opportunity because of their background.

This Government is committed to working with local authorities and COSLA to find a way forward on this matter. We need to establish greater clarity regarding the position around the country on charging for instrumental music tuition. Our first priority is to examine the position for pupils undertaking SQA national qualifications.

*Scotland on Sunday's* let the children play campaign raises a number of issues, some of which have been echoed by members in the chamber tonight, and not least of which is the array of different charging practices throughout the country. I am committed to finding solutions to the issues raised by the campaign. We are working with our colleagues in local government to find a way forward, in tough financial times, so that we maximise access to music tuition.

Other members mentioned the youth music initiative. I have met my colleague the Cabinet Secretary for Culture and External Affairs about the initiative's contribution to the debate. The initiative has received wide recognition for providing high-quality music-making opportunities for all young people—not just schoolchildren—and particularly for those who may not otherwise have had opportunities to participate. That is an important factor, given the cost of individual instruments, to which Stuart McMillan and others referred. Without a doubt, part of the increasing pressure that we face for instrumental music tuition in schools comes from the continued success of the youth music initiative. I was pleased to hear that the Scottish Brass Band Association has attributed the dramatic increase in the number of brass bands in Scotland to youth music initiative funding.

Funding projects and creating opportunities for young people to get involved in all types of music are a continued commitment from this Government.

To conclude, and to respond briefly to issues raised by Alison Johnstone and others, the provision of instrumental music tuition in schools varies widely across Scotland and is a complicated matter. However, it is a matter that the Government is committed to examining in detail.

I will pick up on Malcolm Chisholm's point about the need to begin with principles and say that the Scottish Government begins with the principle that no child should be excluded from developing their musical talent because of financial pressure or their background.

Learning in music and the wider expressive arts plays a role in supporting young people to

recognise and value the variety and vitality of our culture locally, nationally and globally.

**Iain Gray:** Will the minister give way?

**Dr Allan:** I am just concluding, but I will give way.

**Iain Gray:** I am very pleased that the review of the current circumstances and discussions on how we could move forward are under way. Will the minister give us a specific date for when he might report back on the outcome of those discussions?

**Dr Allan:** I can certainly undertake to report back to the Parliament soon. By soon, I do not mean in glacial time. I would like to be able to report back on some of the progress of those discussions early in the new year. For those reasons, I commit the Scottish Government to helping to address the issue of instrumental music tuition in schools. I express my support for the sentiments of the motion.

*Meeting closed at 18:24.*



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