



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

# MEETING OF THE PARLIAMENT

Tuesday 29 September 2015

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# Scottish Parliament

*Tuesday 29 September 2015*

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

## Time for Reflection

**The Presiding Officer (Tricia Marwick):** Good afternoon. Our first item of business today is time for reflection. Our time for reflection leader is Tim Maguire, a celebrant of the Humanist Society of Scotland.

**Tim Maguire (Humanist Society of Scotland):** Presiding Officer, thank you for inviting me to speak today.

Members of the Scottish Parliament, I hope you agree that the aims of politics and philosophy are the same: to increase happiness and wellbeing.

Happiness is a nebulous concept, but there are people who believe that they can measure it and, when the United Nations compiled its latest world happiness report, Scotland, as part of the United Kingdom, did not even make it into the top 20. That rather begs the question: would Scotland be happier in a different political landscape? You may say so; I couldn't possibly comment.

However, one Scottish city is punching well above its weight in the happiness stakes. Two years ago, a survey found that Edinburgh was the happiest city in the UK and, only two months ago, *Condé Nast Traveller* said that it was one of the friendliest cities in the world.

Something has clearly changed. For generations, we were led to believe that life was a vale of tears and earthly happiness was a snare and a delusion. Happiness might be your reward in the next life, but only if you toed the line in this.

That began to change in 1776, when Thomas Jefferson—inspired by the writings of the enlightenment philosophers Francis Hutcheson and David Hume—enshrined “the pursuit of Happiness” in the American declaration of independence.

Since then, we have come to regard happiness as a universal human right, but—it pains me to say this—we Scots were not the first to conceive that radical idea because, almost 40 years earlier, halfway across the world in the tiny Himalayan kingdom of Bhutan, the legal code decreed:

“if the Government cannot create happiness for its people, there is no purpose for the Government to exist”.

Bhutan remains one of the world's poorest states but, for 40 years now, it has inspired Governments everywhere to look beyond gross domestic

product as a measure of a nation's health. In 1977, I think, Bhutan was the first country to measure gross national happiness, and now we are all doing it. Just last week, the Office for National Statistics revealed that the happiest place in the UK is Fermanagh, while Londoners remain among the most miserable people in the country.

The paradox of happiness is that we only find it by searching for something else. The 19th century humanist philosopher Robert Ingersoll put it best:

“happiness is the only good ... and the way to be happy is to make others so.”

Members of the Scottish Parliament, may you find happiness by making the people of Scotland happy. Thank you for listening.

## Business Motion

14:03

**The Presiding Officer (Tricia Marwick):** The next item of business is consideration of business motion S4M-14410, in the name of Joe FitzPatrick, on behalf of the Parliamentary Bureau, setting out a revision to today's business programme.

*Motion moved,*

That the Parliament agrees to the following revision to the programme of business for Tuesday 29 September 2015—

delete

*followed by* Stage 1 Debate: Inquiries into Deaths (Scotland) Bill

and insert

*followed by* Scottish Government Debate: Progress on Implementing Recommendations of the Expert Review Group in New Psychoactive Substances—[Joe FitzPatrick.]

*Motion agreed to.*

## Topical Question Time

14:03

### Trading Standards Officers (Shortage)

**1. Elaine Murray (Dumfriesshire) (Lab):** To ask the Scottish Government what action it can take in relation to the reported shortage of trading standards officers in Scotland. (S4T-01128)

**The Deputy First Minister and Cabinet Secretary for Finance, Constitution and Economy (John Swinney):** The Scottish Government's vision is for a comprehensive, effective and widely respected enforcement system. The Government has set up the working group for consumer and competition policy, which is considering the most effective arrangements for delivering consumer and competition services in Scotland. It will make its recommendations to the Government in November this year. The Scottish Government will continue to work in partnership with interested groups to create an integrated consumer protection regime that puts the interests of consumers first and gives consumers greater clarity on where to turn for help and advice.

**Elaine Murray:** Trading standards officers undertake an important service in protecting both the public and legitimate businesses from rogue traders. The cabinet secretary will be aware that, in February 2013, Audit Scotland warned that trading standards had experienced greater than average staff reductions and that the long-term viability of those council services was under threat. Since that warning, a further one in eight staff have been lost. Why has it taken so long to act on Audit Scotland's concerns?

**John Swinney:** First, I agree whole-heartedly with Dr Murray about the vital role that trading standards officers undertake in Scotland, because they provide advice and guidance to members of the public who may be in a very vulnerable situation as a consequence of an experience that they have had in relation to consumer policy.

In essence, the working group that we have established is exploring many of the issues in this area of policy—in which, of course, some further responsibilities are being devolved to the Scottish Parliament—and taking into account the findings of the Audit Scotland report to ensure that we create a system in Scotland that provides the necessary assurance and support to individuals. That will be at the heart of the material that will come to the Government in November and will shape the Government's response.

The Government has addressed the issues in a pretty swift timescale. We have seen the conclusions of the Smith commission and have

adapted our approach to take that into account. We also have a very broad base of stakeholder opinion participating in the working group, which I warmly welcome.

**Elaine Murray:** The cabinet secretary will be aware that, prior to the reorganisation of local government in 1996, trading standards were the responsibility of the regional councils. I understand that there is support for a return to a regional model of service provision. Will he give serious consideration to alternatives that retain some local accountability rather than just centralising the service as a national quango?

**John Swinney:** As Elaine Murray will know, the Government is very committed to devolving services to local levels. The removal of ring fencing, which the Scottish Government undertook back in 2007, gave significantly greater flexibility to local authorities to determine their choices in their localities. If there is an appetite among local authorities to try to draw together some of the trading standards services on a wider basis in order to secure their sustainability, I would be very open to a conversation with local government to find ways in which we could do that. I am confident that there is a very good atmosphere for discussing these issues, involving the various stakeholders who have been part of our working group and the wider discussion that is taken forward by the Society of Chief Officers of Trading Standards in Scotland and the Convention of Scottish Local Authorities. Dr Murray has made a reasonable suggestion and I will ensure that it is reflected on in the Government's thinking.

**Dave Thompson (Skye, Lochaber and Badenoch) (SNP):** The cabinet secretary will be aware that I spent most of my working career as a trading standards officer. I am currently a vice-president of the United Kingdom Chartered Trading Standards Institute.

The trading standards problem started 20 years ago when the regional councils were abolished and it has got much worse in recent years. Only a very small number of people are involved in trading standards, so very small authorities cannot deal with the myriad issues across the consumer protection landscape. Would the cabinet secretary value devolution of all consumer protection to this Parliament? Currently, we are going to get advocacy and advice powers, and we will be able to look at the structures. However, would it help if the full powers in relation to consumer protection were devolved? I would certainly encourage him to go for bigger units. There have been many voluntary schemes in the past for local government services to combine, but every single one has failed, and that has been the case across the whole of the UK.

**John Swinney:** Parliament has benefited enormously from Mr Thompson's experience of the operation and development of the trading standards service over a long number of years, which he has just put on the record and I thank him very much for that very helpful contribution.

Mr Thompson has raised two points that I want to respond to, the first of which is on the additional powers that we will attract. Four pillars of competence are essential to the areas of consumer protection: advocacy and advice—which are coming to the Scottish Parliament—and enforcement and redress. Part of the way in which I approach the Scotland Bill provisions is to look at cohesive ways in which policy can be taken forward to enable us to deliver on the expectations of members of the public. The point about cohesion that Mr Thompson has made is a very strong one.

Mr Thompson's second point is on the nature of drawing local authorities together voluntarily into co-operative and collaborative units. I hear his words of caution about how successful that approach might be. However, notwithstanding what has happened in the past, such co-operation is going to become essential in the future. Local authorities are going to have to work more closely together to share services and to collaborate more widely. That will be a necessary element of how we deal with the financial challenges that we face.

If local authorities do not do that and, as a consequence, do not try to safeguard and improve services, there will be a diminution of services to people in Scotland. Dr Murray does not want that, Mr Thompson does not want that and I do not want that, so we will work with local government to achieve as much as we can in this policy area.

### **Civil Partnerships (Mixed-sex Couples)**

**2. Patrick Harvie (Glasgow) (Green):** To ask the Scottish Government what its position is on allowing mixed-sex couples to form civil partnerships. (S4T-01130)

**The Minister for Local Government and Community Empowerment (Marco Biagi):** The Government issued a consultation on the review of civil partnership on 22 September. In it, the Government indicated that we are not persuaded that mixed-sex civil partnership should be introduced in Scotland. However, the consultation invites views on that position.

**Patrick Harvie:** As the member who proposed, when civil partnerships were first being debated, that they should be created on the basis of equality and therefore open to mixed-sex couples as well as same-sex couples, I, like most members, was very happy to welcome that principle of equality being applied to marriage.

There is now no legal bar on same-sex couples marrying, and that is based on a principle of equality, to which I think most of us agree they are entitled.

It seems to me bizarre that we do not apply the same test to civil partnership. Why does the minister feel that a mixed-sex couple, whose neighbours—a same-sex couple—can choose cohabitation, civil partnership or marriage, based on their own values and priorities, should be discriminated against in law by having placed against them a legal barrier to one of those legitimate options?

**Marco Biagi:** I take a moment to join Patrick Harvie in welcoming the support that this Parliament showed for same-sex marriage, which was a landmark moment of this session that many of us were not just happy to see but personally very proud to be involved in.

The consultation sets out three options, one of which is the introduction of opposite-sex civil partnerships. The consultation carries with that the view that, having considered it, we think that there are arguments against it. There would be issues of low demand, limited recognition—particularly elsewhere in the United Kingdom—a lack of understanding about opposite-sex civil partnership and the rather liberal rights that we have around marriage in Scotland, which put the couple at the heart and give tremendous flexibility over where a marriage may be held, how it may be held and who can officiate at it.

The great challenge for this Parliament has been to legislate for same-sex marriage, and we have done so. This is another issue that we committed to considering, and we are now considering it. I would invite anybody with views on the issue to give them to the consultation.

**Patrick Harvie:** If low demand and the prospect of limited recognition overseas were legitimate reasons not to act, no country would have been the first to introduce equal marriage for same-sex couples. Countries would have anticipated both arguments and taken no action.

The minister is right to say that the three options are presented in the consultation paper. The arguments for and against option 1, of no change, and option 2, of closing down future civil partnerships, are presented. Option 3, of mixed-sex civil partnerships, does not have the arguments for and against it fairly represented. Is the minister able to confirm that, if the response to the consultation comes back showing that there is a strongly held argument in favour of mixed-sex civil partnerships, the Scottish Government remains open to the option?

**Marco Biagi:** The Scottish Government view, having looked at the evidence, is that we are not

persuaded that mixed-sex civil partnerships should be introduced. Clearly, that view is in the consultation and we are inviting comment on it.

Over the years, many consultations have stated an outset position on which comment is invited and the Government then considers those comments. The Government will fully consider every comment on this consultation. I would draw a parallel with 2011, for example, when we produced a consultation on same-sex marriage, which indicated that the Government tended towards the view that it should be introduced. The consultation signalled a view while allowing everyone to give their views. I would encourage everyone who has a strong view to submit it to the consultation.

**Margaret McCulloch (Central Scotland) (Lab):** The equal marriage pledge, which was supported by a majority of members on all side of the chamber, says:

“I pledge to support the Equal Marriage campaign to lift the ban on same-sex marriage and mixed-sex civil partnership in Scotland”.

Does the Scottish Government appreciate that, if this Parliament accepts its opposition to mixed-sex civil partnerships, we are breaking our promise to the people of Scotland?

**Marco Biagi:** The central and overriding issue of the pledge was to introduce same-sex marriage and, as I said, we are all proud to have done so. The Government, as opposed to MSPs, has been clear all along that, as part of the process, civil partnership would be reviewed. That is what we are doing. As I said, there are three options on the table. We have given an initial view. I would encourage everybody to respond to the consultation.



## Interests of Members of the Scottish Parliament (Amendment) Bill: Stage 1

**The Presiding Officer (Tricia Marwick):** The next item of business is a debate on motion S4M-14375, in the name of Stewart Stevenson, on the Interests of Members of the Scottish Parliament (Amendment) Bill. I call Stewart Stevenson to speak to and move the motion on behalf of the Standards, Procedures and Public Appointments Committee.

14:16

**Stewart Stevenson (Banffshire and Buchan Coast) (SNP):** Back in April, the Parliament agreed to the Standards, Procedures and Public Appointments Committee's proposal for a committee bill to amend the Interests of Members of the Scottish Parliament Act 2006. The bill and its accompanying documents were introduced on 27 May. I am very pleased to come to the chamber to invite the Parliament to agree to the bill's general principles.

The bill's overall aim is to amend the Interests of Members of the Scottish Parliament Act 2006 to ensure that information about MSPs' financial interests is transparent and accessible. The bill combines two existing reporting processes to assist MSPs in complying with requirements to report donations. The proposals in the bill will also strengthen the sanctions available to the Parliament to deal with any breaches of the rules set out in the legislation, widen the scope of the offence of paid advocacy and extend the length of time that the Parliament may retain members' registers of interests. I will speak about that aspect of the bill in my closing remarks.

First, I turn to the proposals to eliminate dual reporting. MSPs currently have to report financial interests to two places: to the Electoral Commission, under the Political Parties, Elections and Referendums Act 2000, otherwise known as PPERA; and to the Parliament. There is an overlap between the two regimes, which results in the dual reporting of certain financial interests. The bill makes the necessary changes to the Parliament's register so that dual reporting can be ended, bringing the reporting requirements for MSPs into a single place. That will make information about MSPs' financial interests more easily available to the public. It will also be beneficial for a number of reasons: information on MSPs' financial interests will be found in one place, on the Parliament's website, which is where one would expect to find it; MSPs will have to register in only one place, and will be able to receive advice on all their interests from

parliamentary officials; and all complaints about an MSP not meeting the reporting requirements will be dealt with in a single way, by the Commissioner for Ethical Standards in Public Life in Scotland. That will make the process easier to navigate, for the public, for MSPs and for anyone with an interest in the process. There will be a single process for all MSPs, for complaints and for compliance.

The approach in the bill has been to leave the Parliament's existing regime as undisturbed as possible while incorporating the donations and transactions that are currently reportable under PPERA. However, the changes in the bill that will bring the two regimes together in one place make the legislation much more complex.

The bill will adjust the definitions of "gift" and "overseas visit", and a new category will be added for loans and certain other transactions. The bill also provides for an additional layer of rules on the aggregation of interests with a combined value of more than £1,500. The overall approach has been to limit the proposed changes, wherever possible, to interests with a single or combined value in excess of the £1,500 threshold, which comes from PPERA.

The current framework for ending dual reporting in the Electoral Administration Act 2006 does not extend to independent MSPs. As that act stands, dual reporting can be ended only for members of registered political parties, and not for independent members. The bill will amend the Electoral Administration Act 2006 to allow dual reporting to be ended for all MSPs. The committee included such a provision so that all MSPs would be treated in the same way—I know that you feel strongly about that, Presiding Officer.

As convener of the SPPA Committee, I have talked to all members in the current parliamentary session who are affected. Indeed, my last meeting with the late Margo MacDonald MSP, when I visited her at home a month before she died, was precisely to discuss the effect of what we are proposing. I have to say that Margo was in remarkably good spirits and my three minutes on the proposal extended to a full hour of discussions of current political topics—no surprise there. It would be unfair to require independent members to continue with dual reporting when the system has been streamlined for MSPs who are members of political parties.

I move on to the bill's provisions on sanctions. The Scotland Act 2012 amended section 39 of the Scotland Act 1998 to give the Parliament greater flexibility in determining what sanctions are appropriate for breaches of the members' interests regime and the paid advocacy prohibition. The bill largely restates the existing criminal offence. The provisions on parliamentary sanctions in the

Interests of Members of the Scottish Parliament Act 2006 are currently limited to excluding a member from proceedings in the Parliament or restricting participation in proceedings on matters in relation to which there has been a breach.

The bill makes it clear that a full range of parliamentary sanctions will be available if an MSP fails to register or declare an interest or undertakes paid advocacy. It makes provision for a range of parliamentary sanctions that are broadly equivalent to some of the measures that are available to the Parliament when it withdraws a member's rights and privileges, for example in respect of a breach of the Code of Conduct. The approach ensures consistency with section 39, which envisages further provision on sanctions being made in or under an act of the Scottish Parliament.

The committee thought it vital that a wide range of sanctions should be available to the Parliament when dealing with breaches of the interests legislation and the code of conduct for MSPs. The available sanctions must be sufficiently stringent to enable the Parliament to respond effectively to breaches of the rules—and to discourage such breaches in the first place.

The bill will ensure that a broad range of sanctions is available to the Parliament, including the potential removal of all allowances or salary. That change will demonstrate that the Parliament has the tools to deal effectively with breaches of the legislation.

Paid advocacy is where an individual uses their position as an MSP to advocate for a particular matter in return for payment, including a benefit in kind, or urges any other MSP to do so. It is a criminal offence and a breach of the Interests of Members of the Scottish Parliament Act 2006 for an MSP to undertake paid advocacy, although no MSP has ever been found to have breached those rules.

The committee is very clear, given the gravity with which paid advocacy should be treated, that the criminal offence for paid advocacy is appropriate. Our consultation paper proposed that the definition of paid advocacy should be amended for greater consistency with the Bribery Act 2010. Of particular note to the committee was the incorporation of the act of agreeing to receive inducements within the offence of being bribed under section 2 of the Bribery Act 2010. The paid advocacy offence currently requires actual receipt; it does not incorporate payments or benefits in kind that a member agrees to receive. Our bill amends the definition of paid advocacy so that agreeing to receive inducements, as well as actually receiving them, will be an offence and a breach of the interests legislation.

The bill introduces a new sanction—that the Parliament should be able to agree a motion of censure. I will say more about that in my closing remarks.

I believe that the provisions of the bill will increase transparency for the public, make it easier for members to ensure that they comply with the rules and create a more robust standards regime.

I move,

That the Parliament agrees to the general principles of the Interests of Members of the Scottish Parliament (Amendment) Bill.

14:26

**The Minister for Parliamentary Business (Joe FitzPatrick):** When Parliament debated the committee report back in April, we talked about how implementation of the Scotland Act 2012 had paved the way for the committee to update the members' interests statute in full. I will not miss the opportunity that today's debate offers me to stress once again the importance and benefits of this Parliament being responsible for all matters relevant to its internal operations. It is not just a matter of ownership. It is a realisation that the Scottish public would quite reasonably expect the Parliament to be responsible for its own internal affairs.

The bill will also help to reinforce the accountability of the Parliament to the people of Scotland. It is only right that the rules under which we, as members, operate are conceived wholly in this Parliament, and that Parliament can be judged wholly on the robustness of the framework that it chooses to put in place. I therefore welcome the bill that is being promoted by the Standards, Procedures and Public Appointments Committee to amend the existing members' interests statute.

More generally, I want to reflect on the fact that the measures are being implemented by a committee bill. In total, there have been six committee bills since devolution—three in session 1, one in session 2, and two in session 3. As this one is, most have been parliamentary in nature. Such issues do not come around every week, so I want to take the opportunity to reaffirm the Government's support for committees being able to bring forward legislative proposals. That arrangement helps to characterise us as a modern, healthy and proactive legislature. The Government therefore encourages committees to consider proposals that might be suitable for promotion via the committee bill process.

I want once again to put on the record the Government's recognition that the bill's subject is clearly parliamentary in nature. The Government

does, however, wish to offer its views on the proposals in their current form.

I commend the committee on the suite of reform proposals in the bill, which delivers on three fronts. First, it seeks to establish measures to enhance members' accountability to the public, reflecting the latest views on what constitute appropriate probity standards. Secondly, it looks to standardise arrangements for reporting interests and to streamline the activity that is required of members, and it offers the public a single point of reference. Thirdly, it offers Parliament flexibility in the event that circumstances arise that necessitate enforcement activity.

I consider each of those elements to be significant in themselves. To seek to deliver them in a joined-up approach via the bill demonstrates the committee's level of ambition on and commitment to reform; the committee's members should be commended for taking that approach.

I turn to the specific reforms that the bill seeks to implement. The reduction of the financial threshold for registering gifts from 1 per cent to 0.5 per cent of a member's salary will clearly enhance transparency. I welcome the committee's consideration of the report that was published by the group of states against corruption—GRECO—which promoted a reduction in the registration threshold. I note the moves across legislatures and assemblies in the United Kingdom to reduce the gifts threshold, and think that it is appropriate for our Parliament to have the opportunity to keep in step with such changes.

The backbone of the bill is the aim to end dual reporting of members' financial interests to Parliament and to the Electoral Commission—a move that is supported by the Electoral Commission. The Government notes that the bill tackles the complex interaction of the current members' interests regime with the regime on reporting donations and loans under the Political Parties, Elections and Referendums Act 2000. The Government supports the principle that dual reporting should end. The creation of a single reporting regime will be beneficial in terms of transparency and, more generally, in terms of improved governance in Scotland.

It is right to ensure that elected members have a clear and unambiguous system for registering their interests, and it is right that such improvements can equally benefit the public through review of those interests and the seeking of assurances over the integrity of the registration scheme. I commend the committee, its clerking team and the Electoral Commission for tackling the topic and for delivering a clear reform proposal for Parliament's consideration.

The last policy strand in the bill that I will offer comment on is the proposal that Parliament be given full flexibility over the imposition of sanctions in respect of the members' interests regime. The Government sees merit in such a move. It would allow Parliament to consider any breach on its merits and to apply whatever sanction it deems appropriate in respect of that breach. In the current situation, the only sanction that is available to Parliament is exclusion of a member, which could be viewed as being disproportionate in some cases. The ability to apply a proportionate sanction could ultimately encourage more enforcement action. The proposal to add a new sanction—Parliament agreeing to a motion of censure—also seems to be sensible in that regard.

The Government welcomes the commitment that has been shown by the Standards, Procedures and Public Appointments Committee to reviewing and updating the current members' interests legislation. The benefits of conducting that review in the context of wider competence have, I believe, shone through in the significant and helpful reforms that are proposed in the bill. It should not surprise Parliament that the Government welcomes and supports this committee bill.

14:32

**Margaret McDougall (West Scotland) (Lab):** I am pleased to open the debate for Labour, having been a member of the Standards, Procedures and Public Appointments Committee while it consulted on the changes to the way in which members register outside interests, gifts and political donations, which are proposed in the bill. It is a technical bill that comes from Parliament having been given greater flexibility, through the provisions of the Scotland Act 2012, over the scheme for registering members' interests.

Members of the public want assurances that elected representatives are working in their interests. The register of members' interests is an important tool in holding members to account on that. Our system must hold the public's confidence that MSPs' activities are not being influenced by outside financial interests and that they are transparent and open. The bill contains significant amendments to the current system; they will strengthen it and lead to greater confidence in it. Although the threshold for registering a financial interest will remain the same, we welcome the important change to how we, as members, will report any financial interests and how members of the public will be able access the register.

The current system of reporting financial interests to both the Electoral Commission and Parliament means not only more administrative

duties for members, but that financial interests are recorded in two places. We welcome for two reasons the bill's proposal to end that dual reporting. Although members will still be required to register financial interests that come within the existing financial thresholds, the move to a system whereby one report is to be made to Parliament, within the current limit of 30 days that has been set by the Electoral Commission, will streamline the registration scheme for members and make it easier for us to comply with the requirements that have been set. It will also give members of the public one platform from which to seek information about members' interests that they wish to access, which will produce a more efficient system.

We also welcome the proposal to create a more robust enforcement and sanctions regime, which will increase the public's confidence in our register of interests system. It is absolutely correct that a full range of sanctions for registration breaches will be available. The current system of Parliament having the right to withdraw a member's rights and privileges over a registration breach is too limited in scope and cannot be an appropriate response in all cases. I believe that a range of options must be open to Parliament—a range that covers minor breaches and more serious cases.

As members, we should also welcome the move to have the Commissioner for Ethical Standards in Public Life in Scotland investigate all breaches. Currently, some breaches are investigated by both the commissioner and the Electoral Commission; the bill's proposal will simplify matters. The change will also allow the Crown Office and Procurator Fiscal Service to investigate all breaches: some minor breaches can currently be pursued on a civil rather than criminal basis.

That takes me to the committee's decision to retain the criminal offence part of the existing system. That is absolutely the right decision for a system that must hold the confidence of the public. It would be wrong for us in Parliament to be seen to be taking breaches of the rules on the registration of interests less seriously, so I fully support the retention of the relevant provision in the committee's bill.

We also welcome other proposals in the bill, including enactment of the recommendation of the Council of Europe group of states against corruption to lower the threshold for registering gifts to 0.5 per cent of a member's salary. We also whole-heartedly support the proposed ban on paid advocacy. Members are here to represent constituents in our constituencies and regions and should not be paid to advocate for causes on behalf of outside organisations. The bill makes important changes in that regard.

Members are often lobbied by groups, but the current system is not transparent. While we wait

for the Government to introduce the lobbying bill, which will hopefully meet the aims of my colleague Neil Findlay's proposed member's bill, the bill proposes a significant amendment to the definition of paid advocacy and will make it an offence for members of the Scottish Parliament to agree to receive financial inducement for advocacy work. That is a significant change from the current definition, whereby only receiving money for advocacy work is an offence. We are sending a clear message that accepting paid advocacy work is not acceptable conduct for any member of the Parliament. We welcome the strengthened definition of paid advocacy.

Labour members are pleased to support the proposals in the committee's bill.

14:37

**John Scott (Ayr) (Con):** I, too, am pleased to speak in support of the bill. I pay tribute to Stewart Stevenson in his role as convener of the Standards, Procedures and Public Appointments Committee. As well as introducing the bill on behalf of the committee, he has co-ordinated a considerable amount of the preparatory work that has been required to bring the bill to this stage.

I would also like to offer my appreciation to some of the others who laid the ground for the bill's introduction. In this instance, it is appropriate to consider the extensive co-operation that took place between our Parliament's officials and the Electoral Commission to create compatibility between their respective registers of interests. We thank them for their efforts in handling what the committee has recognised are complex areas of law and administration. That work will enable the ending of dual reporting and its replacement with a single register, as envisaged by the Electoral Administration Act 2006, which we hope will provide clarity—not just in reporting terms, but in making information convenient and straightforward for the public to access.

Conservative members also take note of the GRECO recommendations on gifts, which we believe have been well accommodated in the bill. That follows the taking of similar action in the House of Commons and the House of Lords in the light of GRECO's 2013 report on the UK. The committee examined the guidance to members on gifts to ensure that it is clear and compliant. It was the committee's conclusion that that area is already well covered by the information that is provided. The UK has been an active member of GRECO since 1999, so it is right that that body will continue to be an effective forum for evaluating our efforts to prevent corruption and to ensure public sector transparency.

We also support ensuring that the legislative framework that underpins the Interests of Members of the Scottish Parliament Act 2006 is sufficiently robust. Although it is a positive thing that no member has been convicted of offences in this area—that is a record that we undoubtedly hope to maintain—it is important that we have rigorous measures in place to accommodate all circumstances and to enable us to deal with them appropriately.

It is sensible to extend the prohibition of paid advocacy to better mirror the offence of bribery, as has been put in place across the UK by the Bribery Act 2010, which is itself the consequence of examination of our anti-corruption work at home and internationally. In both circumstances, it is justifiable that the requirements of the offence should relate to agreement to receive an inducement, rather than actual receipt of an inducement being necessary. In December last year, the UK Government published its wide-ranging “UK Anti-Corruption Plan”. Although the UK has always been seen as being among the least corrupt nations in the world, the plan made it clear that there is more to do. We have seen our international anti-corruption rankings improve as a consequence of our willingness to make sensible changes to our laws and practices.

Parliament should be mindful of its responsibilities and the direction of travel under that plan. The provisions of the bill will form a substantial part of our response. The bill has undergone detailed consideration before the committee and it is clear from those deliberations and from responses to the consultation that the bill's contents are sensible and reasonable proposals to ensure that Parliament remains transparent, while providing us with the tools to address situations in which we fall short of the standards that may be expected.

14:41

**Tavish Scott (Shetland Islands) (LD):** I want to make two or three points on the bill, the first of which is to acknowledge the role of the committee and the convener in its introduction.

As the convener and one or two other members mentioned, it is important to acknowledge what has not happened since 1999, which is that there have been no breaches. The tightening up of measures should be seen in that context: we are tightening up a measure that has, in large part, worked. As far as I am aware, apart from one or two issues of timescale, the reporting responsibilities of members of all political parties in this chamber have been complied with at all times.

What has come to light is an issue that the convener pointed out in his opening remarks—

dual reporting. The bill will tighten that up and deals with it—and not before time, because some of us have been caught by that. It is no one's fault. As far as I can see, it was just one of those things that needed to shake out during alterations to perfectly sensible proposals. At least in resolving that matter the bill creates a one-stop shop, as it were, which is eminently sensible in respect of the Parliament's procedures for upholding standards.

I say gently to the minister that it struck me that we should apply to ministers the same principles that we apply to members. I am sure that he will wish to point out that ministers have to comply with even higher standards in respect of financial transparency. It is very important indeed that that should be the case.

I will put two issues to the convener to deal with when he winds up. On the first issue, I may just not have seen the detail. It is, by definition, wrong and an offence for any member to be offered money for advocacy. However, similar should also apply were someone to be so stupid as to ask for money for advocacy. The convener may wish to clarify that. I am sure that no one but the lawyers has given any thought to it.

The second issue struck me when the convener was speaking about donations. He rightly set out the donation limit that all members will have to comply with and include in the register of interests. However, donations do not just come from individuals to individual politicians—they also come through political parties. The convener might want to address whether the register deals with the fact that much money that flows into politics flows into political parties and is then spent in regions and constituencies in Scotland. I genuinely do not know whether the bill does anything about transparency in that respect.

14:44

**John Scott:** This has been a welcome debate. In a democracy, it is right that there is proper scrutiny when representatives are, in essence, deliberating on how best to regulate themselves and their conduct. Given the justifiable public interest in transparency, I am pleased to see that the proposals in the bill will serve to enhance how this Parliament operates.

As has been touched on, this has been a lengthy process. The end of dual reporting was envisaged in the Electoral Administration Act 2006 and it was removed from the House of Commons in 2009. In spring 2013, the consultation for the bill that is before us now was opened. That consultation highlighted some of the benefits that members have mentioned in their speeches today. For example, the Commissioner for Ethical Standards in Public Life in Scotland pointed to the

significance of the reporting changes not only in terms of simplifying the regulatory framework but for the purposes of public transparency, too.

In its evidence, the Electoral Reform Society used the opportunity to call for a full review of all procedures in this Parliament to take place. It envisaged such a review taking place before any legislation on the content of this bill was brought forward—a proposition that must have been seen as unlikely. However, such a review is perhaps worthy of consideration for the future. We sometimes forget that this Parliament is still a young institution, although perhaps no longer a fledgling one.

It would be no bad thing for us to examine how the Parliament has evolved from what was envisaged at the outset. The Electoral Reform Society proposes that we go back to our founding principles and the reports of the consultative steering group to consider holistically where we are and what the effects have been of our reforms. That is important as this Parliament is evolving. Earlier this year, we saw Scotland's first tax levied since 1707. Income tax will follow next year, with the extensive powers of the Scotland Bill on the near horizon.

In any case, at the risk of labouring the points that I made in my opening speech about the process of bringing forward this bill, I would like to make a further observation. It is extremely positive that this Parliament is moving forward to make changes to its standards and privileges in a way that is as consensual as possible.

The bill contains a number of sensible measures that will improve how we operate and, I hope, ensure that this Parliament is seen as an open, transparent and responsible institution in the future. I hope that the proposals that are brought forward today will go some way towards satisfying those principles.

I state again my appreciation for the work of Stewart Stevenson, his fellow committee members and the officials in laying the extensive groundwork that the bill required. I am pleased to say that the bill will gain the support of this side of the chamber.

14:47

**Mary Fee (West Scotland) (Lab):** I thank Stewart Stevenson and the Standards, Procedures and Public Appointments Committee, and the clerks for the work that they have done to progress this important piece of legislation.

I am pleased that across the chamber we all agree that we need robust, accountable and transparent mechanisms for reporting members' interests. This Parliament rightly prides itself on its

openness and accountability, and the bill gives Parliament the opportunity to revisit the legislation surrounding members' interests.

The committee considers the regime to be robust, but we must maintain standards to ensure that sufficient checks and balances exist. The bill will help to increase transparency and the accessibility of information about members' financial interests, and will ensure that the Parliament has a robust set of sanctions to deal with any breaches to its rules.

Stewart Stevenson spoke of the provision that will create a new sanction, allowing the Parliament to agree a motion of censure. A motion of censure will serve as a useful middle ground if a member is found to be in breach of the rules but that breach is not serious enough to justify the removal of parliamentary privilege. A motion of censure would allow debate and would give the member in question the opportunity to explain the breach and apologise.

Another useful change is the length of time for which information on members' interests will be kept. The committee considered it more appropriate to keep register entries for 10 years instead of five. There are a number of practical reasons for that. It will assist members by ensuring that information about their previously held interests is available at the start of a session. Similarly, if a member is not returned to Parliament but returns at a subsequent election, it will be easier for them to check the interests that were previously recorded. The change will also increase transparency in relation to members' interests, as the information will be easily accessible to the public for much longer. Those changes, combined with the changes to the register, will provide an additional layer of transparency to the public seeking to access information on members' interests.

The ending of dual reporting is an important step. At the moment, information is on the Parliament's website and the Electoral Commission's website, depending on the nature of the interest. Streamlining the process will assist people in accessing the information and will help members to comply with the regime.

I am pleased that no member has been found to be in breach of the rules on paid advocacy, but we must keep those rules under review, so it is right to strengthen them through the bill. Most members of the public would expect there to be a breach if a member agreed to undertake paid advocacy, even when cash did not change hands. The bill will ensure that such behaviour will be caught.

I am pleased to close the debate for Scottish Labour and to support the motion, which seeks the Parliament's agreement to the general principles

of this committee bill. The provisions will increase transparency and strengthen the standards regime in the Scottish Parliament. Openness, transparency and accountability must be at the forefront of the way in which the Parliament operates. I am happy to support the motion in Stewart Stevenson's name.

14:51

**Joe FitzPatrick:** Margaret McDougall referred to the bill as technical. She is right about that, and I earlier put on record my thanks to the Standards, Procedures and Public Appointments Committee and its clerks for their work to introduce such a technical bill. However, I hope that the debate has made the bill a little less technical for anyone who is listening or who reads the *Official Report* so that they can understand what it is about and what we hope to do through it. It is good that we have cross-party support for the committee's proposals.

The bill sends out a strong message about the Parliament's commitment to a modern and flexible approach to the registration system that can deliver benefits for the Parliament, its members and the public.

Tavish Scott is absolutely right that we need to ensure that we are all subject to the same high standards, and that goes for ministers and other members in equal measure. We have a pretty good record, going back across the years to 1999, of having robust procedures in place. I agree that we must continue to ensure that we keep the standard as high as we can, and that is partly what the bill does.

The committee will no doubt appreciate the constructive comments from across the chamber. The proposal to end dual reporting is a significant step forward. I commend the committee for its commitment to that move, which should deliver benefits for members and the public.

It might have been easier for the committee not to tackle the specific issue of independent members, so we are all grateful that the committee took the time to introduce a bill that tackles that appropriately and to everyone's benefit.

The bill demonstrates that the committee is alert to the importance of transparency in public affairs, and that it is very much aware of the outward facing nature of the bill. The proposed reforms demonstrate how the Parliament can make better use of the greater competence that is coming to it. Under the original devolution settlement, the competence that was offered in the area was unnecessarily constraining. For example, why were limitations ever placed on the type of sanctions that the Parliament could impose in response to non-compliance? Now that such barriers have been removed, the new

arrangements that the committee proposes are better and offer more flexibility. Sanctions are more likely to be imposed if more proportionate ones are available rather than the nuclear option, which is all that exists at the moment.

It is important that our Parliament is seen as continuously willing to deliver tangible improvements in its operation—in this case, building on the robust members' interests system that is already in place. The proposals seek to further enhance the measures that play a key role in ensuring that Scotland has confidence in its MSPs and its Parliament.

It is in our collective interest to ensure that the public consider that we as MSPs are meeting the highest possible standards of probity as we undertake our parliamentary duties. These measures will above all ensure that the electorate will be left in no doubt that their elected representatives act on their behalf and in their interests.

Building public confidence—and ultimately trust—will help to reinforce the Parliament's integrity and the bill represents an important further development for this Parliament. As the Scottish Parliament grows in stature, so does public expectation. The Scottish Parliament was founded on the principles of transparency, co-operation and inclusiveness for all the people of Scotland, and the measures that are before us today will help to support and reinforce those principles.

14:55

**Stewart Stevenson:** We as a Parliament pride ourselves on openness and accountability in relation to the behaviour of all our MSPs. The question is, of course, whether we could do more to build public trust and ensure that we have a regime that is fit for purpose. Robust standards are essential to ensure that, if wrongdoing should occur, there are sufficient checks and balances to hold MSPs to account.

The bill seeks to increase transparency and accessibility. The matters that it deals with are important, and the Parliament must always keep them under review and make improvements where the opportunity arises.

I thank the Parliament for establishing a committee to take the bill forward, provided that the bill receives members' support at 5 o'clock tonight. I thank those who have participated in the debate for engaging with a topic that is so important for our future probity and reputation.

I turn to some of the points that have been raised in the debate. The minister mentioned the reduction in the gifts threshold from 1 per cent to

0.5 per cent of a member's salary. We first discussed that subject in committee on 10 October 2013; it stems from the establishment of the *groupe d'états contre la corruption*, which is a development that we are following.

The minister referred to the Electoral Commission, from which we have received a helpful briefing that makes clear that the commission is satisfied with what we are doing. In particular, the commission is satisfied that it will be able to obtain the necessary information that it requires from the Standards, Procedures and Public Appointments Committee clerks in the Parliament to meet its future publication, compliance and enforcement obligation.

I welcome the fact that Tavish Scott has come along to the debate and brought his considerable experience to bear on the subject. I will pick up a couple of the points that he made in a moment.

The minister has already indicated that ministers will be caught by the legislation—I was going to raise that point, but the bill will certainly apply in respect of their behaviour as MSPs.

Tavish Scott made an interesting point with regard to soliciting. Section 9 of the bill introduces the phrase, "or agreeing to receive". We certainly intend that provision to catch soliciting, but I will take further advice from the clerks to see whether any further amendments could be made to clarify it beyond misapprehension. It is clear that soliciting would be as unacceptable to any of us as "agreeing to receive" would be.

With regard to political parties funding members' activities in their constituencies and elsewhere, we are seeking to catch the whole issue of the funding of political activities by members with some of the amendments that we have lodged. However, in relation to elections in particular, the Electoral Commission's requirements on reporting by political parties already catch such activity, and parties' responses are published on the commission's website. Equally, the bill refers to the period of election in which financial returns must be made, and it makes provision for when money that is solicited for that purpose is not spent within 35 days of an election.

I want to say a little bit more about one or two points that have arisen. I promised that I would say something about the motion of censure. It would serve as a useful middle ground when the Standards, Procedures and Public Appointments Committee found a member to be in breach but did not consider the breach to be sufficiently serious to justify a sanction such as exclusion or removal of other parliamentary privileges. Such a motion could be debated, which would provide the MSP who was the subject of the motion with a public opportunity to apologise in person. A motion

of censure would be a useful addition to the Parliament's toolkit of sanctions.

I also mentioned the bill's provisions for the retention of members' registers and we heard a great deal about that from Mary Fee. Keeping the register for 10 years as opposed to five years will be particularly useful in general, and specifically when members have what might be termed as broken service and come back to the Parliament. There are practical reasons for extending the time period, in that it will allow members to see what they said previously. The change will also increase transparency overall. The current five-year term was set in relation to the time for which members were elected but it is reasonable to extend it. Additional transparency for the public has to be good news and keeping the register for longer will help with that by letting the public see what is going on.

At the moment, all the information that we are referring to is on the Parliament's website and held by the Electoral Commission. However, depending on the nature of the interest, the bill will mean that people will be able to come to one place much more readily. It will also help members to comply with the two regimes. Most of us have comparatively modest operations that involve the Electoral Commission but when it occurs, we will be unfamiliar with it and we do not have sources of advice in the Parliament. That will change.

As other members have said, we have never seen the rules on paid advocacy breached. The changes that we want to make today are important because they signal to everyone how important the rules are but, at the end of the day, it is down the personal probity of each and every one of us, not just to the rules that appear in the book. The provisions in the bill will ensure that we are in both places and that is a comfortable place to be.

I am delighted to close the debate and that we have had the opportunity to take the bill through stage 1. I confirm that I seek the Parliament's agreement on the general principles of this committee bill. As the minister suggested, I hope that we might see a greater number of committee bills in future sessions, not all of which will be related to our internal business.

The bill is an important one that increases transparency and ensures that our procedures will remain robust.



## New Psychoactive Substances

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

The next item of business is a debate on motion S4M-14403, in the name of Paul Wheelhouse, on progress on implementing recommendations of the expert review group on new psychoactive substances.

15:03

**The Minister for Community Safety and Legal Affairs (Paul Wheelhouse):** I am grateful for the opportunity to open a debate on a subject in which members have a continued interest. New psychoactive substances present a serious challenge to drug services, clinicians, enforcement agencies and those who manage their physical and emotional impacts and their often devastating impact on our communities.

As members have often reflected, the new substances are often misleadingly referred to as legal highs. The term “legal high” is unhelpful. Just because a substance is advertised as legal in one respect at least, it does not mean that it is safe for human consumption. Whether or not a substance is banned, it is impossible to know an NPS product’s content and the dangers that it might pose.

New psychoactive substances are substances whose sale is not restricted, perhaps because the products can be passed off as bath salts, for example. If taken by an individual, they mimic the effects of controlled drugs and can be just as harmful. Indeed, we know that they are already having fatal consequences.

The number of deaths when NPS were found to be present in the body has risen from four in 2009 to 114 in 2015, although I should stress that the presence of an NPS is not necessarily the only cause—or the main cause—of an individual’s death. We might not have seen the peak of the numbers yet.

I am sure that many members will agree that the biggest difficulty, and perhaps the biggest frustration, is that the existing legislative framework enables such substances to remain legal—albeit for an alternate use—as they do not come under the traditional radar of the Misuse of Drugs Act 1971, on which we have relied to control drugs.

That is why, at my predecessor’s request, the Scottish Government formed an expert review group in August 2014. The group’s membership was drawn from people with a range of expertise who come from legal, policy and operational backgrounds. I presented its report to the chamber

on 26 February this year and I am grateful to members for their contributions on that occasion.

The group had a deliberate and specific legal focus, but it also considered operational and practical aspects in the context of the existing legal framework. The group presented its report to me on that day in February and made six recommendations on how the existing legal framework might be strengthened, which concerned not just the current law but how it can be made to work better in practice. I am pleased to update the chamber on the progress that we are making to respond to the recommendations that were made.

One of the reasons why NPS are popular is their seemingly legitimate status. They are sold openly in our communities—on our high streets—which is not acceptable. Some head shops are highly visible to school pupils when they are travelling to and from school. The expert review group recognised that and, in combination with a range of evidence, recommended that the Scottish Government should work with the United Kingdom Government on new legislation to address the challenge that head shops pose.

We welcome the progress on bringing NPS under legal control and are working closely with the UK Government on the detail of how the Psychoactive Substances Bill can work in the best interests of Scotland and work effectively within Scotland’s legal framework and courts. The bill does not yet fully reflect the distinct and specific criminal and civil procedures that are adopted in Scottish courts, and my officials have been working with the Home Office to ensure that the bill can be implemented effectively in Scotland.

I will shortly meet Mike Penning MP, the Home Office minister who is responsible for the bill, and I will make sure that he receives our support in making the legislation effective. The bill, as proposed by the Home Office, creates new criminal offences of producing, supplying, offering to supply, possessing with intent to supply, importing and exporting psychoactive substances. It will proceed through the various parliamentary stages and, subject to parliamentary approval, it will come into force in April 2016.

I am pleased to inform members that, because of representations that were made, the Scottish Government, Police Scotland and the Crown Office have been invited to be part of a UK-wide group to support implementation. That is where much of the practical work will be done to develop guidance for the police and other agencies to support successful prosecutions. I am further reassured by plans that were agreed with the Home Office for a specific Scottish workshop to be held in February next year to hear directly from

those who will enforce the law and prepare for the changes.

I know that many members will be reassured by the fact that, in the future, those who seek to sell NPS, knowing the harms that they cause, will face the full legal consequences of their actions. Experience from the Republic of Ireland, where a similar law has been introduced, suggests that head shops have closed and NPS are less visible. However, we need to be alert to the possibility that other distribution channels, such as the internet, will become dominant. There may be only limited scope to control those, for example by banning NPS sales via UK domain names.

The expert group recommended that work be progressed to develop a common definition of NPS to guide enforcement agencies and treatment agencies, although the group recognised that that might need to vary. Further work was also suggested on data sharing and managing the flow of information about prevalence and harms between agencies. In that regard, the Scottish Government has been engaging with Scottish stakeholders, which culminated in the publishing of a questionnaire on 23 September. That enables a structured conversation with the sector that can inform our discussions with the Home Office and guide our response to the needs of those in Scotland in respect of information sharing and a common definition.

A further area that is being explored is the potential forensic capability that will be required by the proposed law to test a substance for its psychoactivity. When I meet the Home Office, I will press for a collaborative approach to creating the forensic capacity to equip us to implement the legislation and manage people in treatment effectively. That will go some way towards developing the forensic centre for excellence that the expert group recommended, and we are supporting the Scottish Police Authority to consider how it might build capacity for that.

That work sits alongside research that has been commissioned into the prevalence and harms of NPS. That work was recently awarded to a partnership between the University of Glasgow and the Scottish Drugs Forum. It is expected that the findings will be available in May next year.

The expert review group acknowledged the requirement to support trading standards services, which are considering enforcement action against people who sell NPS in our high streets, with assistance in removing any inconsistencies in approach across local authorities and widening the adoption of good practice. One of the group's recommendations was to develop a toolkit and operational guidance with the appropriate stakeholders, to assist trading standards staff to tackle NPS and learn from experience in areas

such as Angus and South Ayrshire. Following that recommendation, an NPS strategic working group was formed by the Convention of Scottish Local Authorities, trading standards Scotland and partners to progress development of the guidance, which will be a vital tool for front-line trading standards staff.

I was delighted to launch that trading standards guidance on 15 September. It will go a long way towards protecting the people of Scotland between now and the introduction of the new legislation. It will ensure that trading standards staff across Scotland are better equipped to remove some of the current barriers to tackling NPS at a practical level.

The guidance focuses on the application of consumer protection legislation to NPS and in particular on the legal rules that control the sale and supply of unsafe products. The guidance was created in the absence of a bespoke legislative response so far, and there will be a need to test and shape it based on what works in practice. In particular, it acknowledges that the best way to protect communities from the blight of NPS is to work in partnership with Police Scotland and colleagues in the national health service.

**John Finnie (Highlands and Islands) (Ind):** I am disappointed that, although the minister is seven minutes into his speech, I have not heard him refer to the important role that education plays. He may well be coming on to that, but what I am hearing from him is almost exclusively about enforcement, although I am sure that he agrees that education has a key role to play.

**Paul Wheelhouse:** I hear the member's point, but we are dealing with each of the expert review group's recommendations in turn. I commit to Mr Finnie that I will get on to education shortly.

Another of the group's recommendations related to licensing authorities attaching restrictions and conditions on the sale of NPS when issuing public entertainment and similar licences. To progress that, I and the Minister for Local Government and Community Empowerment, Mr Biagi, wrote to all the Scottish licensing boards in June this year. In our letter, we requested that local authorities amend public entertainment licences that have been issued in order to ban NPS at forthcoming festivals and that they include such conditions on licences that have not yet been issued. That is thought to be beneficial, as it assists not only in addressing availability at such events this year but in preparing local authorities ahead of the new legislation. I have asked officials to examine the extent to which local authorities are using those opportunities.

I turn now to education, which addresses the point that Mr Finnie raised. Even if displacement to

other channels is not observed, we concede that legislation alone will not solve the problem of NPS. Education is crucial, and it will continue to be a high priority for the Scottish Government. The well-established know the score information service, and choices for life, which is delivered in partnership with Police Scotland, Education Scotland and Young Scot, have been supported by the Scottish Government to develop and deliver specific NPS material. The Scottish Government continues to fund Crew, a third-sector drug service, to provide a training package and information resources on NPS and emerging trends in drug and youth services across Scotland. I am grateful to Crew for its engagement and support to me as I attempt to grapple with this important issue.

We have funded the Scottish Drugs Forum to improve the capacity for and quality of interventions around NPS and stimulant use in employment and housing services for young people. On Saturday, I was pleased to build on that engagement with young people when I attended an event that we sponsored with the Scottish Youth Parliament to raise the profile of NPS issues. At the event, young people from across Scotland discussed the best approaches to raising awareness among young people of the dangers of NPS. It was important to get their perspective on the issue. Initial findings suggest that they felt that the widespread accessibility of NPS was a “scary” thing, especially when combined with an equally widespread lack of awareness among their peer group of the risks. Young people also felt that the provision of high-quality information was an essential part of any approach to tackling the use of NPS.

Discussions focused on how a peer-led approach was an important factor in tackling the NPS issue. I say with respect to politicians in the chamber that messages from us probably do not carry as much weight as those from individuals who are identified as young people’s peers. That is an important factor, which I have very much taken on board.

The Scottish Youth Parliament will develop and submit a comprehensive findings and recommendations report to the Scottish Government and will present its findings to the NPS ministerial cross-party working group, to inform members. I thank the Scottish Youth Parliament members not only for organising the event but for their contribution. We will take the findings forward into our education and preventative messaging.

There is a significant degree of consensus across the political spectrum on NPS, as I mentioned to the members of the Scottish Youth Parliament at the weekend. To address the

challenges, we have to work together to tackle the substances that present risk to our communities, while recognising that there are no easy answers.

On the day in February when the expert review group published its report, I made a statement in the Scottish Parliament in which I invited my colleagues from across the parties to join me in a ministerial cross-party working group. I am pleased that colleagues from other parties accepted that offer and that the group is up and running. I hope that members across the chamber agree that it provides a good source of information to bring us all up to date with the latest trends.

The group has met twice and continues to examine the work that is under way, build a shared understanding of the problem, hear from experts in the field and oversee the work as it unfolds. Most recently, it heard from accident and emergency practitioners on the harms that they see, sometimes daily. I think that I speak for a number of my colleagues on the group when I say that I was genuinely taken aback at the extent to which individuals are presenting at accident and emergency with what appear to be psychotic conditions that are actually a result of a medical reaction to the effects of NPS, such as overheating following the use of stimulants.

I have been invited to spend an evening shift in an accident and emergency department to see at first hand some of the challenges that professionals face with regard to NPS and other matters—[*Interruption.*] I notice that Graeme Pearson is happy to volunteer and willing to come along and I will be delighted to take up the offer.

The group has agreed a programme of work and will meet into 2016. It intends to produce a report of its main considerations, which I will bring to the wider attention of the Parliament in due course. Although the group is not focused on making specific recommendations, I have been delighted with the ideas and insights that members across the chamber are generating, which are reflected in the work going forward. I am grateful to members of the group for their interest and for the consensual way in which we have conducted our business, and I am grateful for the openness with which the people who have contributed have engaged with us.

I commend the work that the Scottish Government is doing with others to respond to the recommendations that the expert review group made in February. I am sure that members will acknowledge all that is being done and I welcome their collaboration and support. New psychoactive substances are a hugely significant challenge to the health and wellbeing of the people of Scotland and we must focus our minds on how we can best deliver a team Scotland approach to contain and then eliminate the harms that they cause.

I move,

That the Parliament welcomes the progress being made to respond to the New Psychoactive Substances (NPS) Expert Review Group report recommendations, published on 26 February 2015, including work to bring NPS under legal control; notes that the UK Government published the Psychoactive Substances Bill on 29 May 2015, which the Scottish Government supports, and further notes that this work includes engagement with the sector on information sharing and a common definition, including on the development of forensic capacity, and production of guidance that will be a vital tool for trading standards staff on the frontline, given the serious impact that these substances are having in communities, sometimes with fatal consequences, and the challenges faced by drug treatment and health services and enforcement agencies.

15:16

**Graeme Pearson (South Scotland) (Lab):** The Government motion

"welcomes the ... Expert Review Group report recommendations".

On behalf of the Labour Party, I contribute to that welcome and thank the group for the hard work that it has done on the Parliament's behalf. Scottish Labour supports the Government motion and will vote accordingly at the end of this brief but important debate.

New psychoactive substances, which are known in some communities as legal highs but are perhaps better described as lethal highs for some families, are a scourge and a growing menace that affects our society. They can be legal or illegal and, sometimes, both together in a cocktail.

Throughout the European Union, NPS are used largely among younger age groups and particularly by those who are clubbers in our towns and cities at night. Scotland is little different. Mephedrone and synthetic cannabinoids have been the most commonly available NPS although, with a cornucopia of chemicals entering the market each month to add to the challenges that we face as a society, there is a changing fashion in the types of substances that are consumed.

Only 1 per cent of drug seizures in Scotland are identified as involving NPS. That level of recovery does not reflect the numbers of so-called head shops. There are more than 650 throughout Europe, with more than our fair share in Scotland. The number of internet outlets that retail legal highs to customers of any age and with any pre-existing medical condition further suggests that the 1 per cent seizure rate merely touches the tip of the iceberg.

The main supply emanates from China and India, but growing profits mean that laboratories around the globe are entering the market to enhance the supply. Compounds are constantly changing as the illicit chemists try to keep ahead

of the law. According to the United Nations Office on Drugs and Crime, 541 NPS chemical potions had been identified in the marketplace by December 2014.

The growing trend of injecting NPS is disturbing, given the dangers that have been identified in connection with alternative means of ingestion. Kidney failure and psychosis can be laid at the feet of NPS as identified outcomes for some patients. In addition, as the minister acknowledged, NPS have been implicated in up to 132 deaths since 2009, and NPS were identified as the sole drugs involved in 18 deaths. In those circumstances, the Scottish and UK Governments' actions to stem the growing tide of misuse and abuse of NPS are necessary and must be seen to work if we are to protect our citizens and particularly our young people.

The motion refers to the UK Government's stated commitment in May this year, which I welcome, to introduce legislation to ban new psychoactive substances. The provision of up to seven years' imprisonment for those who produce and deal in NPS is an effective deterrent, and I acknowledge the legislation's intention to avoid criminalising those who are simply caught in possession of NPS.

At the Scottish level, creating a centre of excellence for forensic analysis and a database of information and intelligence will help to fill the current knowledge gap. It would be helpful to have greater detail regarding the who and the where, how much it will cost and what success will look like after a centre of excellence is created, so that we can share that knowledge externally and create confidence that the Scottish Government has the matter in hand.

I am concerned about the abilities of local authorities across Scotland to address the NPS issue, because their trading standards departments are reported to be struggling, with smaller departments having to cope with greater demands. Coincidentally, my colleague Elaine Murray raised the issue of trading standards staffing at topical question time. That issue has implications for the Government's intention to issue guidance to assist staff to deal with the NPS challenge. The remaining staff in trading standards departments, who are on the front line, will have difficulty coping with the additional guidance. I am sure that, if information could be offered about the impact and the additional resources that might be required, that would remove doubts in the minds of staff about their ability to cope.

Information sharing and common definitions are always crucial in developing a successful plan, but I hope that the Scottish and UK Governments will act together to ensure that the UNODC and the United Nations Security Council take all steps to

encourage member states to eradicate the laboratories that are responsible for the supply of new psychoactive substances around the globe, because that is in the interests of world health and it will also deal with international crime groups, which profit greatly from the trade in NPS.

The commitment to obtaining an accurate picture about NPS is to be welcomed. It is also necessary to prepare new packs for education and for the public services front line. New treatment protocols need to be created, as do pathways to divert young people from substance abuse generally and from NPS, given the debate that we are having.

We need a commitment to the use of licensing regulations to prevent head shops from operating at festivals and concerts and to the use of planning regulations, where possible, to manage the presence of those shops in town centre estates. We also need HM Revenue and Customs to ensure that profits from such enterprises are identified and that, if they are not subject to the proceeds of crime legislation, levels of taxation are applied and taxes are collected. Such action would be highly desirable in persuading those who would take advantage of young people in that environment to adopt other business practices.

The use of NPS, particularly in the context of polypharmacy—that is, the cocktail of substances such as cocaine, heroin, prescription drugs, alcohol and tobacco—presents a troubling challenge for maintaining healthy communities that are capable of sustaining a productive lifestyle for the future. One can hope that the steps that are outlined in the Government's motion will represent a successful first step in our efforts to provide a safe and healthy environment for all for the future.

As my colleague Mr Finnie said, a concentration on clear education to provide full knowledge of the damage that such substances do is crucial to any successful outcome. I hope that the Government and those who are involved in the wider drug strategy will apply themselves with vigour to ensuring that the number of drug deaths falls and that the number of those who create problematic drug abuse is reduced as soon as possible.

15:25

**Margaret Mitchell (Central Scotland) (Con):** I hope that today's debate will serve to increase awareness of, and to help educate the public at large about, the horrors associated with taking new psychoactive substances—NPS for short. The facts that NPS are most frequently termed “legal highs” and that they are openly on sale online and in head shops throughout Scotland only serve to confuse the issue.

There is absolutely no doubt that there are huge risks in the consumption of so-called legal highs, without exception, whether taken in capsule form, snorted, smoked or injected—for a faster hit—or that there are potentially horrendous consequences. Those include incidents of confirmed deaths, multiple amputations, paranoid delusions, attempted murders, suicidal tendencies, and violent and sexual crimes.

Although they are labelled “not for consumption”, such drugs serve no other practical purpose. They come with no information on dosage, and, as a result of their accessibility, affordability and the anonymity of their purchase, they are readily available to young people well under the age of 18.

In East Kilbride, the chief inspector has warned of a frightening increase in the number of young people in the area admitted to accident and emergency departments after taking potentially fatal legal highs. The warning followed an incident last year in which a 13-year-old pupil from the town was rushed to hospital during a school break after taking a suspected legal high.

Just this month the *Falkirk Herald* reported that two children—a 12-year-old boy and a 14-year-old girl—were rushed to the emergency department at Forth Valley royal hospital after ingesting new psychoactive substances from blotter paper.

**John Finnie:** Is the member able to give comparable statistics for alcohol abuse in juveniles?

**Margaret Mitchell:** Not at this point, but I am sure that they could be found somewhere and the comparison could be made.

Louise Grant, a harm reduction worker, confirmed:

“We are finding more and more people coming through the door who are taking legal highs. People come to us and they are not engaging with an addiction service because they think the drugs they are taking are legal.”

In May, 25-year-old Jamie Donnelly died at Forth Valley royal hospital after taking legal highs. At the same time a 16-year-old girl was found having a fit in the street after allegedly buying one of the substances. Despite locals in Falkirk launching an angry campaign against a local shop they blame for peddling legal highs, and despite a special event at Denny high school just before the summer holidays at which local police gave an anti-NPS presentation to pupils, it is evident that the risks are not being hammered home.

The stark fact remains that legal highs are still out there, they are still for sale and people are still taking them in Lanarkshire, the Forth valley and throughout Scotland. Edinburgh, with as many as

15 head shops, is fast becoming the legal high capital of the UK.

Therefore I warmly welcome the developments that the minister outlined in his opening speech. According to the most recent figures on drug-related deaths in Scotland, NPS were a factor in a person's death in 60 cases in 2013, compared with 32 in 2012. With the speed and scale of the emergence of new substances showing little sign of abating, this multifaceted and escalating problem must—and can only—be eliminated by adopting a co-ordinated approach.

It is therefore encouraging that, over the past year, there has been substantial progress in tackling NPS, including the introduction of the Psychoactive Substances Bill in the UK Parliament. The draft legislation will make it an offence to produce or supply so-called legal highs, and it will introduce a maximum prison sentence of seven years for those crimes.

The new psychoactive substances expert review group's recommendations, which were reported early this year, have gone out to consultation. They include the need for a clear and practical definition of NPS, the creation of a forensic centre to lead on the detection and identification of those dangerous substances, and the need for improved data collection and information sharing among stakeholders.

It is the problems associated with data collection that I want to explore more fully. For example, although Police Scotland recognises the severity of the NPS problem, it was unable to provide a response to a straightforward request for the number of new psychoactive substances seized from persons on their arrest since 2013. That information would have at least provided a valuable snapshot of what is happening on the ground. Furthermore, when asked about NPS recovered during a consensual or statutory stop and search, Police Scotland said that it was unable to provide this information because of problems with the stop and search data.

Meanwhile, following a similar information request, the Scottish Prison Service replied:

"the information you require is not held by the Scottish Prison Service (SPS), as current SPS drug testing equipment is unable to identify New Psychoactive Substances."

However, in June, the National Offender Management Service in England and Wales highlighted that NPS have resulted in serious assaults, "disturbed and disruptive behaviour" by prisoners, and heightened levels of intimidation and increased levels of debt.

When asked in this chamber in February for information, the Solicitor General for Scotland was unable to provide figures for the number of people

supplying NPS convicted under the common law of reckless and culpable conduct.

I am therefore disappointed that the amendment in my name was not selected for debate, especially as it was intended to highlight the Scottish Government's inclusion of the expert review group's recommendations on data collection in the consultation. Those recommendations have unequivocal cross-party support. However, I confirm that the Scottish Conservatives will support the Government's motion, despite it making no mention of the crucial issue of data collection.

**The Deputy Presiding Officer:** We now turn to the open debate. Members have a generous six minutes for their speeches.

15:33

**Kevin Stewart (Aberdeen Central) (SNP):** First of all, it is incumbent on us all to ensure that we never use the terminology "legal highs" to describe new psychoactive substances, as that often creates the impression among some folk that the substances are safe because they are technically legal, which could not be further from the truth.

I am pleased that the Scottish Government has agreed to implement all the expert review group's recommendations, and I hope that that will help to tackle the availability and use of new psychoactive substances.

Many of my constituents and I have been extremely concerned about the growth in availability of the substances, and it is disturbing that shops selling new psychoactive substances have sprung up in Aberdeen and other areas right across Scotland. We have seen Aberdeen City Council secure a closure order at one shop because of

"anti-social behaviour arising from the sale of"—

NPS—

"on the premises."

Unfortunately, the owners of the shop moved quickly to establish new premises and are plying their dubious trade once again.

In recent weeks, we have seen another shop open just yards away from Skene Square primary school. It is galling that nothing can be done to stop that. Parents are rightly concerned about the presence of such a shop on their children's route to school. I share their concern, and I hope that folk will not have to put up with such situations for much longer.

Concerns have been expressed to me by the Aberdeen arts centre and theatre about the proximity of another shop to ACT's facility. ACT has a lot of young members and volunteers and is

rightly worried that young folk are being exposed to NPS on a daily basis.

It is positive that the Government has said that it will put conditions and restrictions on the sale and use of NPS into public entertainment and similar licences. Will the minister broaden the licensing regime so that any shop that sells NPS or drug paraphernalia has to be licensed by a local authority? If that happened, I think that it would stem the flow of such shops opening, which would be welcomed by my constituents in Aberdeen and people across the country.

Education is vital. At the beginning of my speech, I appealed for us to change our language to ensure that folk recognise the dangers of new psychoactive substances. I pay tribute to the police in Aberdeen and to Transition Extreme Sports, who have held seminars to warn of the dangers of NPS. Educational opportunities must be expanded, so that we ensure that every young person knows the danger of taking new psychoactive substances. NPS are not safe.

When the minister sums up the debate, will he please tell us whether guidance will be given to schools on teaching kids about the dangers of NPS? Will he also say whether resources will be made available to organisations such as Transition Extreme that are making efforts to educate young people about new psychoactive substances? Such organisations have experience that can be brought to bear in helping to educate young folk.

I acknowledge that the Scottish Government is working closely with the UK Government to ensure that the Psychoactive Substances Bill works well for Scotland. The bill will create new criminal offences of producing, supplying, offering to supply, possessing with intent to supply, importing and exporting psychoactive substances, but it is unlikely to be implemented before April 2016, which is a fair way off. I realise that the bill is complex, but I hope that legislation will be in place sooner rather than later.

Uncontrolled new psychoactive substances might pose a greater threat than some controlled drugs do. We must do all that we can to protect our young folk from these dangerous substances. I hope that the Parliament will unite to back the motion. I hope that today we will all say to the UK Government that we want the bill to be implemented as soon as possible. I hope that today we will all commit to using the right language to describe new psychoactive substances, so that folk realise that NPS are extremely dangerous and they should not buy or take them.

**The Deputy Presiding Officer:** Perhaps I should have been clearer about the generous six

minutes that I can offer; I can give members up to seven minutes.

15:39

**Dr Richard Simpson (Mid Scotland and Fife (Lab):** The history of new psychoactive substances really began with MDMA and LSD in the 1960s. By the 1980s and 1990s, MDMA, which is an amphetamine-like substance, had become such a problem that it was banned.

Of course, criminals then began changing the molecule, to get round the ban, and new synthetic semi-industrial chemicals began to appear. GHB—gamma hydroxybutyrate—was found in a cleaning fluid for alloy wheels; it got people high. Mephedrone, or meow meow, is a fertiliser.

A product can be bought and sold legally, for a legal purpose, but when its purpose is subverted and it is sold in different packaging—even it says on the package, “Not for human consumption”—it is going to be consumed. Sales are conducted through clear net websites, but also through dark side websites. There are also, of course, the estimated 250 head shops in the UK that sell those products.

The chemists search constantly for legal substances that can be subverted, and the problem with the legal highs is not that they exist—they have always existed since time immemorial and human beings, being what they are, will continue to seek highs, whether we call them legal or not. That is a real problem that we have to face, but other problems are to do with quality assurance, which is non-existent, and with the fact that we have no real idea about dosage.

A legal drug requires extensive testing, on cells in vitro, then animal studies in phase 1, then novel use in humans in phase 2, and finally condition testing for dosage and side effects in phase 3. Large trials can cost around \$1 billion to bring a drug to the market; even then, the drugs are not totally guaranteed to be safe.

If we think that we can make everything that is out there safe and in some way protect people, we are living in a fool's paradise. We have to try hard, but we also have to be very cautious. Every weekend, in pubs, clubs and bedrooms, people are engaging in what are, in effect, phase 1 trials of new psychoactive substances. They have no idea of what they are taking and no real idea of what the dosage is.

That is not a situation that is going to be improved by a rolling prohibition that makes taking the substances a criminal offence, so I welcome the fact that the bill is not going to do that for personal possession. However, the chemists will simply move on to the next product, so we are

engaged in whack-a-mole and firefighting. Moreover, alterations to chemical formulae are not that difficult to make, so we have said that, unless it is the core molecule that is being altered, a substance will continue to be illegal. That is one of the approaches that we have taken.

The temporary class drug orders have been successful and useful, and the fact that they are being extended under the UK bill is valuable. However, if any politicians think that we can get ahead of the game simply by speeding up the categorisation of new psychoactive substances under the Misuse of Drugs Act 1971, or indeed under new legislation, we are deluding ourselves. We need new approaches, but it is going to be difficult.

One strategy is to control the head shops. Ireland has been hugely successful in doing that, introducing a ban in 2010, but there has been no evaluation of its act and zero arrestable offences. The head shops have disappeared, but NPS use continues to abound in Ireland—and it now abounds entirely in the criminal area. There is no licensing, but the activity continues. I therefore caution against the suggestion that the bans that are being proposed will work and will be sufficient, much as we desire them to be.

Surveillance and information is good, but of course that is retrospective. Through the wedinos.org site in Wales, people can send a sample of an NPS to a lab anonymously and get an analysis three days later to tell them what they have been using. The drug known as sparkle is entirely mephedrone in Wales, but in Edinburgh it is a combination of mephedrone and ethylphenidate, which is a Ritalin derivative, so a drug known by the same name may be different in different places. On one occasion, sparkle produced such an effect that the person who took it was rendered unconscious for about three days. It was discovered that it was nothing to do with mephedrone or similar products, but that it was a combination of heroin and methamphetamine.

In Holland, there are tests in clubs, which is something that I would like to see. However much we want to stop them, people will continue to use NPS in clubs and at big outdoor events, so it would be useful to allow people to check whether their product is what it says on the tin. Levels of LSD use have been low and continue to be low, but the use of ecstasy, having reduced, has increased again very substantially in the past couple of years. Thousands upon thousands of youngsters are using ecstasy every weekend. We want them to be safe; I doubt that they are going to be.

The Government has its website, which is helpful, but these young people gain information mainly through the internet and increasingly

through social media, where they communicate with each other about the branded products, which come mainly from China and the far east. There has been an early warning system in place in the European Union since 2011. There was also a G8 agreement on how we should go forward and a proposed set of EU regulations, which the UK coalition Government opted out of, believing that the controls were inadequate.

The new blanket ban is described by Professor Nutt as a policy based on

“second-hand reporting of flawed data”

and

“very worrying”.

He believes that the number of deaths from NPS in 2012, which was claimed to be 97, was actually

“Less than ten. Maybe none.”

Many people are critical of the blanket ban on NPS in Ireland, of which there has been no formal evaluation.

**The Deputy Presiding Officer (John Scott):** Could you draw to a close, please?

**Dr Simpson:** A surprising number of young people use these substances. The most recent survey conducted in Europe showed that 8 per cent of young people are using them, and they will continue to experiment whether or not we try to prevent them. I suggest that we look closely at what is happening in New Zealand, where a very interesting approach is being taken. They propose to license what will become legal highs, and the producers will have to determine that the products are safe.

**The Deputy Presiding Officer:** You must close, please.

**Dr Simpson:** In the extended time that the previous Presiding Officer allowed me, I will finish on this point.

The current UK Government bill has merit, but it will need to be evaluated and the data will have to be collected carefully. Frankly, criminalising the things that we are trying to criminalise has tended to drive them into the hands of the criminal fraternity. In America, more states are now removing their ban on cannabis, and we should watch that experiment with great interest. There is a taxable, quality-assured market for it. It is not harm free, but it is likely to be a lot less harmful than it has been.

15:47

**Graeme Dey (Angus South) (SNP):** I will be pleasantly surprised if the debate commands many column inches in our newspapers tomorrow. The consensual nature of the afternoon, both in



members' speeches and in the highlighting of interagency and intergovernmental co-operation, is not the stuff to stir the interest of newspapers, but the subject is hugely important, as the cross-party commitment to working together to respond to the challenges that are posed by NPS indicates.

The briefing that members of the ministerial cross-party working group on NPS received a few weeks ago from an accident and emergency consultant laid bare for us all the nature of the impact of NPS on users and the health service in both the immediate and—regarding mental health—longer terms. I do not mind admitting, as the minister did, that I was stunned by some of what we heard. We heard about the physical challenges that are being faced by A and E staff as they attempt to restrain patients who are in a state of excited delirium in order to administer treatment to them; the fact that traditional drug-testing methods often produce negative results, leaving staff guessing what patients may have consumed; the fact that a sixth of a teaspoon of synthetic cannabinoid can put an adult in a coma for 23 hours; the fact that 2 micrograms of a particular NPS would put someone over the drink-drive limit; and the fact that the toxicity of one NPS is such that it dissolves skin tissue. There is, of course, also emerging evidence that there are profound effects on mental health.

It is important that we put all that in context. The misuse of alcohol and illegal drugs continues to impose a greater burden on our NHS and exacts a far greater toll on the population. Nevertheless, NPS are a growing problem, as is evidenced by the fact that between 2012 and 2013 the number of drug-related deaths in which NPS were present rose by 150 per cent and the number in which NPS were implicated doubled. The problem demands a wide-ranging, considered and appropriate response, which is what I believe we are seeing.

The UK Government's Psychoactive Substances Bill is a welcome contribution to tackling NPS, although there are issues to be explored around it. The joint response to the Home Affairs Committee's inquiry on the bill from Police Scotland, Trading Standards Scotland, the Scottish Police Authority and the Crown Office and Procurator Fiscal Service highlights that. However, the bill has the potential to represent a significant step forward and we should acknowledge it as such. The Scottish Government's investment in developing an appropriate forensic response to the spread of NPS is a similarly positive development. The purchase of a nuclear magnetic resonance scanner to fill the scientific void that not even mass spectrometers can fill, and the recruitment of specialist staff to deliver the comparator evidence that is presently lacking, are important.

The Government's recently issued trading standards guidance, which is based on best practice examples—some of which are drawn from the area of the country that I represent, as the minister noted—will help to direct enforcement, particularly as regards so-called head shops, until the new bill is enacted.

Education is going to be critical. We are told that, in a survey that was conducted in 2012-13, 4 per cent of 15-year-olds admitted to using NPS at least once. I suspect that the actual figure is almost certainly higher. The know the score and choices for life programmes are useful vehicles for reaching out to young people, but we need to be sure that we are reaching every group in that age range, including young carers, who can find themselves under enormous pressures. Therefore, I welcome the minister's dialogue with the Scottish Youth Parliament on the issue, and I look forward to hearing about the outcome of the work that they will take forward.

In addition, of course, we have evidence emerging of increased use among older age groups, including—amazingly—the over-65s, and not just in the most vulnerable sectors of society. Therefore, tailored messaging on the harms of NPS will have to be shaped for everyone.

There remain gaps in our knowledge around NPS—for example, on the full extent of online purchasing, on what is motivating the spread of usage, and on the scale and nature of acute and long-term health harms. We need to anticipate potential unwelcome consequences of actions that have already been taken or that are going to be taken. I have previously voiced concern in the chamber about the possibility that bans simply drive supply underground or, more accurately, on to the internet. The minister echoed that concern, and it was noted in the response to the Home Affairs Committee's inquiry on the bill, which I mentioned earlier.

In Ireland, head shops and supply through Irish domain names have been banned, but it has not been possible to control internet activity from elsewhere. Will adopting the same approach in the UK mean that we, too, might face the same difficulty? That is not to say that we should not do so—far from it. I just note that concern.

Another area in which I seek reassurance is rapid information sharing across the NHS. It is not just routine data that needs to be accessible; we also need early access to information on new and emerging trends and on best practice in responding to the fairly testing scenarios that our A and E departments are confronted with weekly. Collaboration will be everything as we seek to respond to NPS.

I therefore very much welcome the tone and the content of the consultation document that was launched earlier this month, especially section 4, which refers to the functions of the planned forensic centre for excellence. Given the scale and the nature of the challenge that NPS presents, we must avoid reinventing the wheel. NPS does not recognise national or international boundaries, and nor must the response to it, so I was pleased to see the proposal to link to other data-sharing systems, including the UK forensic early-warning system and the Welsh emerging drugs and identification of novel substances project.

There is no room for complacency, but as other members have done, I commend the work—which is supported across the chamber—that is being done here in Scotland and at Westminster to counter the menace of NPS.

15:52

**Alison McInnes (North East Scotland) (LD):**

The burgeoning use of NPS coupled with a growing understanding of their dangers has led to a greater focus on how to control these substances. The UK Government's expert panel review, which was set in train by the former Minister of State for Crime Prevention, my fellow Liberal Democrat Norman Baker, highlighted that

"after years of stable and declining drug use, the emergence of NPS has been a game changer."

That review gave us a wealth of information, which has since been augmented by the Scottish Government's later and more focused expert review of the current legal framework that is available to Scottish public authorities to govern the sale and supply of NPS in Scotland. That group had a deliberate and specific legal focus, but it also considered operational and practical aspects in the context of the existing legal framework.

Following those two reports, there has been a lot of useful activity. The UK Government has introduced a bill that will apply across all the jurisdictions of the UK. Local authorities and trading standards officers have worked with police to tackle so-called head shops, although it is worth remembering that it is not only head shops but, in some cases, corner shops and ice cream vans that are dealing in this lucrative but damaging trade.

The Minister for Community Safety and Legal Affairs has set up a ministerial cross-party working group to ensure that we all understand the scale of the problem in Scotland. I commend the minister for his inclusive approach and I agree that by sharing information and intelligence in that way we should be better able to act collectively. I have found attendance at that group to be hugely

beneficial, and I assure the minister of my support for that way of working.

I want to raise some concerns about the approach that is being taken in the Psychoactive Substances Bill, which proposes a blanket ban on all psychoactive substances with the exception of exempted items such as caffeine and alcohol. In July, the Advisory Council on the Misuse of Drugs raised a number of concerns about the bill as it is drafted, including the omission of the word "novel", which has widened the scope of the bill beyond what was originally intended. The ACMD is concerned that the psychoactivity of a substance cannot be unequivocally proven, that an impossible list of exemptions will be needed and that the bill, unhelpfully, uncouples the concept of harm from control of supply, importation and production. Those shortcomings risk derailing or delegitimising the bill.

However, since then, the ACMD has reviewed the definition in the Psychoactive Substances Bill and has proposed to the Home Secretary a revision that reads as follows:

"Psychoactive substances which are not prohibited by the United Nations Drug Conventions of 1961 and 1971, or by the Misuse of Drugs Act 1971, but which may pose a public health threat comparable to that posed by substances listed in these conventions."

That seems to me to be a much more sensible and measured approach, which could attract support.

No doubt the bill will, whatever shape it takes as it progresses, herald the end of head shops, but given the extent and reach of internet sales, it will not solve the problem. Indeed, research shows that disrupting the supply market often leads to displacement of that market, which is why education is as important as enforcement.

NPS are game changers in many ways, not least in the impact that their use is having in the public health arena. Some of the key harms that are associated with NPS use are overdose, temporary psychotic states and unpredictable behaviours; attendance at accident and emergency units; sudden increase in body temperature and heart rate; coma and risk to internal organs, sometimes with catastrophic or lethal results; hallucination; confusion leading to aggression and violence; and many longer-term issues relating to mental health issues, which are just beginning to become apparent, such as psychosis, paranoia and anxiety.

Education must target all users. As we have heard this afternoon, there is often a focus on young people. However, as Graeme Dey said, there are many different user groups. It is also crucial that education on NPS and their effects is not just targeted at potential users of those drug

variants, but extends to health professionals and other public sector workers including police, prison staff and teachers. Better understanding of the manifestations of NPS poisoning could be a lifesaver. Also, understanding that acute behavioural disturbance could be the sign of a medical emergency rather than of a mental health issue will mean more effective early intervention, and will perhaps prevent cardiac arrest or acute temperature spikes.

Understanding that the aggression that is manifested when a person is under the influence of some NPS is unlikely to respond to normal restraint methods is likely to save emergency workers from harm. Understanding of the mental health impacts will affect the shaping of psychiatric services and addiction services for the future.

I support the motion and trust that the consensual nature of the debate will mean that we can continue to make progress in minimising the risks of NPS.

15:58

**Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP):** In March this year, a young Gorebridge man, David Lewis, died after injecting a psychoactive substance called “Burst”. It took him seven weeks to die; after many operations, septicaemia took his life.

Following that, one of my local papers, the *Midlothian Advertiser*, launched a campaign to ban NPS. I joined that campaign and, in the same month, through a third party, purchased a so-called “legal high” from a shop that sells e-cigarettes in Dalkeith. That third party was a reformed drug addict who agreed to masquerade as a purchaser because he, too, is concerned at how easily such purchases can be made. The shopkeeper produced a small packet containing a white sparkly powder from under the counter for—I think—£10. The packet had printed on it “Not for human consumption” and another somewhat glamorous name. The shopkeeper would have recognised that third party and his addictive past. The actions of that shopkeeper, the subterfuge and the method and conduct of the sale leads me to conclude beyond reasonable doubt that the shopkeeper knew—notwithstanding the printed warning on the packet—that the purchase was for human consumption and was dangerous.

Although I will support legislative moves here and elsewhere across these isles, I wonder why the police and Crown Office have not made use of common law. Alison McInnes referred to the difficulties of definition in the UK legislation, which I think will persist.

I plead in my argument the precedent of prosecutions—successful ones, at that—in relation

to glue sniffing. I quote the case of *Khaliq and Anor v HM Advocate* at the High Court of Justiciary on appeal in 1983. Two shopkeepers in Glasgow were arrested and charged inter alia with supplying to children glue-sniffing kits consisting of a quantity of petroleum-based glue in a plastic bag. They gave notice of objection to the indictment when it was served on them, averring that, on the charge of supplying, the facts as libelled did not disclose a crime known to Scots law because there was nothing illegal about the items that they had supplied. Their plea was repelled at a preliminary diet and they appealed.

On appeal, the High Court took the view that, even though Evo-Stik glue and plastic bags might be perfectly legal everyday items, the two shopkeepers knew perfectly well what the children were going to use the articles for, and that the charge on the indictment should stand. The court refused to accept that there was any distinction between supply with knowledge of likely abuse and actual administration of a dangerous substance to a child. Lord Justice General Emslie said:

“There is ample authority for the view that the wilful and reckless administration of a dangerous substance to another causing injury or death is a crime at common law in Scotland.”

It seems to me that the supply of materials for ingestion or injection for purposes of a high that are known to, or are likely to, cause injury or death fits the same bill as the successful glue-sniffing prosecutions. I do not understand why, to the best of my knowledge, there have not been any prosecutions.

Annabel Goldie raised that issue in question S4O-04048 and I raised it in question S4W-25001, which was answered on 1 April 2015 thus:

“COPFS issued guidance to Police Scotland in August 2014 prior to their national day of action on 22 August 2014 under Operation Redwall. The guidance specifically covered the use of the offence of culpable and reckless conduct and the type of evidence that would be required.”

It goes on to say that the review group

“considered the use of the common law offence of culpable and reckless conduct and looked at the case of *Khaliq v HMA*. They concluded that the offence of culpable and reckless conduct could be relevant to the sale and supply of NPS in certain circumstances.”—[*Written Answers*, 1 April 2015; S4W-25001.]

I do not understand why common law has not been tried and used. That would render redundant the need for a definition, which I think will always be tricky because there are all kinds of exemptions under the bill at the House of Lords. It may be that the blockage, which is referred to on page 36 of the report of the review group, is the route that is being taken, which seems to me to come under unfair commercial practices and, in particular, the

Consumer Protection from Unfair Trading Regulations 2008, whereby the seller has to be engaging in misleading actions and/or misleading omissions. The purchasers know what they are doing. They know that what they are buying in many cases is dangerous, so that approach does not fit the bill.

However, I do not see why that is the only route that is being considered for prosecutions. The great thing about Scots common law is that it finds a way of filling gaps in the law. It is often much more flexible and less heavy handed than statutes, which can be terribly clumsy because it is so hard to define every circumstance in which they can be effective and which someone cannot rebut or defend at court.

I go back to David Lewis, the chap who regrettably and terribly died from injecting one of these substances. His father said of the shopkeepers that

“These people know what they are doing.”

Indeed they do; it is reckless and wilful conduct. I would like the minister to tell me, as nobody has so far, why on earth the Lord Advocate and the police have not taken the common-law route, as they did so successfully with glue sniffing in the 1980s.

16:04

**Sarah Boyack (Lothian) (Lab):** I will focus on local co-ordination and harm reduction. The challenges that are caused by NPS in Edinburgh are particularly distinct. At the heart of action to reduce the strain and harm that are caused to individuals and the wider community has been co-ordination on a local basis. If we want to tackle NPS use effectively and prevent harm, a one-size-fits-all approach will not work. To tackle the specific problems in each city and town, efforts must be local but supported by responsive national agencies and legislation.

The intravenous use of one substance, ethylphenidate, which members have mentioned, has been the focus of difficulties in Edinburgh. It is cheap and is considered to be purer and of better quality than street drugs. Harm reduction services report that it is frequently used in combination with street drugs. Because it gives an intense short-lived high, users reinject frequently, which has created a surge in problems for users and local communities.

In the period from April 2014 to March 2015, the Edinburgh alcohol and drug partnership recorded needle distribution growing virtually month on month. NHS Lothian found increases in infections caused by needle use, including streptococcus, while communities, the police and our council

found a wider impact. Frequent use results in users exhibiting erratic and sometimes antisocial behaviour. Residents in the south side, Tollcross and the city centre were distressed to come across people with a frequent need to reinject using their stairs and leaving behind drug-related items. We also had queues outside head shops early in the morning.

Since the Misuse of Drugs Act 1971 (Temporary Class Drug) Order 2015 banned ethylphenidate, giving police the power to patrol high street head shops and to seize and destroy any substance, there has been a marked change in Edinburgh. The incidences of infection and injecting are down and support services have been able to make progress in the way in which they respond and reduce harm. At the heart of dealing with localised NPS use is the need to ensure that the council, the police, the NHS and charities such as Comas are enabled to work together.

Support services in Edinburgh are pioneering ways in which to respond to this emerged problem by reducing usage, managing cravings and preventing relapse. Mental health and emotional support services are crucial to complement that and to support people. However, we still need more capacity building and training among staff to ensure that services are co-ordinated with the NHS, police and the council. We need a clear picture of local trends. It is crucial for accident and emergency departments to treat admissions, and to build up a bigger picture. Much-needed data gathering initiatives are under way in Edinburgh. NHS Lothian has conducted focus groups and, next month, the needle exchange surveillance initiative will gather further information on users' habits.

In tackling the local supply, trading standards officers have worked constructively with the police and retailers for whom NPS is not their traditional or main line of business. Those efforts need to be resourced. In Edinburgh, the use of existing safety regulations is being investigated. I call on the minister to commit resources to ensure that those options can be fully explored and acted on. For example, landlords, including the council, have a responsibility to ensure that commercial tenants comply with the temporary legislation and operate in an ethical manner. Again, support from the minister could help to reinforce that.

Recommendations to provide a new definition of NPS and a framework for testing will further support detection and identification and are welcome. However, the national framework must not downplay the importance of local progress and or deprioritise work that is done by local agencies. Caledonia Youth and Crew 2000 had a good track record of passing on samples of legal highs to police forensic services but, with forensic services

centralising under Police Scotland, that relationship and the local integration have been lost.

Edinburgh's experience with intravenous drug use in the 1980s was absolutely harrowing and affected a generation. We had the AIDS (Control) Act 1987, which was pioneered by Gavin Strang MP and which enabled local authorities to track the infection, provide details of infection rates and provide information on the treatment provided. That helped us to control the disease. Since those dark days of the 1980s, Edinburgh has worked hard to support those who misuse substances and to prevent harm to individuals and the wider community.

The local co-ordination of treatment, rehabilitation and public education is key to minimising harm reduction. In Wales, the WEDINOS—Welsh emerging drugs and identification of novel substances—project has shown that the NHS and justice systems can integrate well to cascade harm reduction guidance to local support services. The project was originally an informal mechanism to profile and map harm from samples of unknown and unidentified drugs analysed by Cardiff toxicology laboratories; it pioneered the use of a focused forensic operation to prevent harm.

We need to ensure through national action that resource and discretion are responsive to local demands, and we need to foster co-ordination in communities across Scotland. Local knowledge and co-ordination in our city have been crucial in achieving effective harm reduction.

Scottish Labour's amendment calls for a co-ordinated plan of action to reduce the damage that is caused by NPS. Graeme Pearson referred to the need for more effective licensing and education, which are at the heart of the way forward.

Richard Simpson spoke eloquently about the need to ensure that people of all ages, and young people in particular, are given information about the real danger that NPS can pose. We need to ensure that accurate and thought-provoking information that young people can relate to and—crucially—trust is available in our schools, colleges and universities and through social media.

NPS is a huge challenge. We need a co-ordinated response that is delivered nationally and locally, and the agencies must be capable of delivering the resource.

16:11

**Nigel Don (Angus North and Mearns) (SNP):** The debate has been interesting—it is not the first debate that we have had on the subject and, as I

think we all agreed last time round, the issue is not an easy one. If there were a simple answer, we would have come up with it by now, but we know that there is not one.

Before I turn to what we know, I suggest that we might reflect—as Sarah Boyack just did—on previous public health issues. AIDS was one such issue, and we have been dealing with the issue of drugs for generations. We must recognise that, while we can do something to help if we organise and co-ordinate, the problem does not go away. We must acknowledge that we will never finish up where we really want to be, but we will—we hope—be in a better situation than the one that we have identified at present.

I will start locally by looking at the communities that I serve, reflecting on what has worked. A petition was put together very quickly earlier in the year by folk in Forfar who heard that a head shop was going to open. They realised that they did not want a head shop, and the petition got more than 3,000 signatures—in Forfar, that represents about 40 per cent of the adult population—within weeks. Effectively, with help from the council and the police—and even, dare I say it, from some politicians—the petitioners managed to persuade those who were thinking of opening the head shop that it would not be welcome and they should not do so, and so they did not open it in the end.

I pay tribute to Adele Douglas-Spiers, Bobbie Murray and Nikki Leathley for bringing forward the petition, which I submitted to the minister, and for having an enormously valuable effect on their community. I can say simply from that one experience that communities can, where they get organised, make a point to those who might otherwise be bringing such substances on to the street.

Less than 20 miles away in Montrose, however, a head shop is still plying its trade. It is no more welcome there, but it is established and has not gone away. I pay tribute to the police and other local bodies who have done their best to make life difficult for that shop, but it is still there.

Only yesterday I spoke to a headteacher from one of my local high schools, and he reflected on his experience in two schools. One of the schools was in an area where there was a head shop, and the other had no head shop nearby. He was clear that, as far as the schoolchildren were concerned, the situation was like chalk and cheese precisely because of the local accessibility to NPS through a shop.

That is entirely consistent with what we have seen in reports, which suggest that folk tend to get started when they can physically get their hands on their first sample from somebody or some place that is local to them. The second, third and fourth

use might involve drugs that come from the internet, but there is evidence to show that people start with something that they can get locally. If they cannot get it locally, it is far less likely that they will ever start.

The UK statute will not be a panacea. I am grateful to Richard Simpson for his comments. He gave some extraordinarily useful input and I thank him. The statute will have precisely the same effect as what happened in Ireland; open sales on the high street will disappear, but internet activity will not. Presumably sales from the boot of a car down a lane at the dead of night will not stop either. The criminal world will always find a way of doing what it wants to do.

The sad part of the problem is that the criminal world is fuelled by the money that it wants to make, which brings us back to the old issue that, if something is illegal there is money in it and the criminals will actually do it. If it was not illegal, there would be no money in it and it would be easier to control. That is the general trend in all these discussions.

The UK statute will come in in April, which seems to be some distance away but is a relatively short period of time. Those who have stock will want to get rid of it, so we might see some unwelcome marketing activity during the next six months. We might want to find a way of being prepared for that, because we can see it coming.

The point has been made, properly, that people will get information about these new substances online or through social media, and that that information might or might not be good. There are sites that tell us something fairly reasonable about some of the older, more established drugs but I am a bit concerned that people will get bad information or that they will attribute an unreasonable degree of accuracy to the information that they find. I have no idea how to get the right information across, but everybody has spoken about education. Somehow, we have to get the people who are looking at NPS to realise that we do not know much about them and that the information that they think they are getting is probably guesswork.

That is one of the reasons why NPS are dangerous—we really do not know very much about them. If people finish up in accident and emergency, it is unlikely that anyone there will know much about NPS, even if they can analyse the drug, which they might not be able to do.

Kevin Stewart's comments about the words that we use were entirely appropriate, coming after a speech in which one member used the term "legal high" almost throughout. It is a fact that the word "legal" implies that something is safe. It might not

mean that to us—we know better—but it tends to suggest to folk who are looking at something that is described as legal that it is okay. We really must stop using any term that implies that NPS might be okay, because they are extraordinarily dangerous. I gently suggest that the press needs to understand that. It is irresponsible to suggest that something that is manifestly dangerous should be described as legal. That is just not the way to help our society and I would like the media to stop it, please.

If NPS are no longer visible on our high streets in a year's time, I return to where I started. What will we do next? Will we say, "That's okay then—they've gone away"? They will not have gone away and we know that. I am not sure that I have the answer. We will be in the same place that we are with controlled drugs, so what will our longer-term strategy be? We need to ask that question very soon because the longer term is not far away.

I commend everything that the Government is doing. The UK statute is a step in the right direction, because it will be a welcome break point in current activity. However, we need to recognise that the future will not be sorted out by that kind of statute. It will be sorted out only by some serious education and a resultant understanding that these things should not be meddled with because we do so at our peril. I encourage the Government to work with everybody who will get that message across.

16:19

**John Finnie (Highlands and Islands) (Ind):** I have very much enjoyed the debate and I thank the minister for bringing it to the chamber and for opening it. I wonder what the purpose of the debate is. Is it to highlight to the public a problem that they are aware of? Is it to talk up a problem? Is it to address concerns that are widely held? Is it to contribute to harm reduction?

The motion talks about progress, which of course we all welcome, as it is important. Like a number of colleagues, I am pleased to be part of the ministerial cross-party group that is looking at NPS. No harm ever comes from discussing things and I think that we have had a lot of informed discussion thus far.

The motion talks about

"engagement with the sector on information sharing".

I am grateful to the minister for taking my intervention on education, which is key to this. I do not want to give the impression that my view that there is an overemphasis on enforcement is the result of anything other than my understanding of how we will best get over the message that people need to make informed decisions. For instance,

the motion talks about the “serious impact” of the substances. Is it a serious impact? Serious compared with what? There are other comparators, and alcohol is the most obvious one. We have heard about tragic events in A and E, but those events were relatively rare, whereas we know that the use of alcohol and the mayhem that that creates in the streets of our towns and villages, in dwelling houses and in A and E have been an on-going problem.

Like others, I very much enjoyed Dr Richard Simpson’s speech, which was very informed. He talked about human nature and what it causes us to do. He talked about new approaches and about the role of social media. Importantly, he said that people will continue to use. That is the reality.

At the risk of offending my former colleague in another sphere, Mr Pearson, we could argue that drug enforcement has not led to a positive outcome in terms of cost benefit analysis. If the idea was that all that effort would reduce the availability of drugs, that has not been the case. Of course, this is outwith the realm—in some respects—of the enforcement that has taken place.

**Graeme Pearson:** I cannot let that remark go unchallenged. My colleague should consider that, in other realms of drug abuse, the so-called tenner bag that is recognised across Scotland had at one time a purity level of more than 40 per cent and now is lucky if it can achieve 10 per cent purity levels, because the supply of drugs into the country has been choked.

It is not simply a matter of enforcement; it is the proper use of all the tactics that are available to us that gives the opportunity for communities to respond better than might otherwise be the case. I am grateful to my colleague for allowing me the time to say that.

**John Finnie:** Mr Pearson makes an important point, which is that enforcement has a role as part of the whole. I would like the emphasis to be on education.

The Scottish Drugs Forum welcomed the Home Office review and said:

“One of the key issues limiting a Scottish response to NPS is the unknown prevalence of such substances, with much of the data coming from anecdotal information.”

That largely remains the case. As we heard from the expert from A and E, a considerable amount of guesswork goes on.

I will quote something else that the SDF said about the review. Its director, David Liddell, said:

“It is crucial that the review does not solely focus on supply, but also looks at why people are using these new substances and the impact they have on individuals.”

It is important that we do that.

We know that the review considered the internet and of course the internet is there. It can be beneficial, although many people talk it down, but it provides many of the challenges that we have.

The Queen’s speech talked about the new bill creating an offence in regard to

“any substance intended for human consumption that is capable of producing a psychoactive effect.”

We have had a lot of discussion about that, because that may sound definitive, but it is far from clear.

I commend one aspect of the bill, which is its inclusion of provisions for civil sanctions such as prohibition notices and premises notices, two breaches of which will be a criminal offence. Their aim is to enable the police and local authorities to adopt a graded response to supply. It is important that a proportionate response is taken.

In the minister’s letter of June this year, he said that NPS

“are therefore potentially every bit as dangerous as illicit drugs”—

no one would argue with that—

“and have been implicated in a small, but growing number of deaths.”

We heard from Mr Pearson about polydrug use. We should look at the statistics, because I do not want people to blow things completely out of proportion. Alcohol is present in the vast majority of drug-related deaths.

The minister talked about Crew 2000, which has been on the go since 1992 and was formed in response to the rapid expansion of recreational drug use.

Kevin Stewart talked about language, which is important. I understand the frustration at the use of the term “legal highs”. We have in the chamber discussed a similarly sensitive matter: female genital mutilation. The connection is that, to a lot of people, including the victims, the term “female genital mutilation” means nothing. It is right that we should not infer that “legal” means “safe”—I do not infer that anyway; it is legal to climb mountains, but it is not always safe to do so. However, it is important that we communicate with people at the level that they understand. The minister talked about peers, and I say with the greatest respect to my colleagues that people will listen not to us but to the Scottish Youth Parliament and the fine folk at the Scottish Drugs Forum and Crew 2000.

Crew 2000 says that it is underresourced and underfunded, as we have heard from Sarah Boyack and others. It also says:

"Better education is essential so citizens are well informed and can assess risk. The information provided by Government has been minimal, leaving those who take NPS to guess for themselves."

I have seen that phrase elsewhere. If we are going to say, "Don't do it," maybe we need to say why people should not do it.

Crew 2000 says:

"The least harmful substances, such as nitrous oxide, should be exempt."

I did not know what nitrous oxide was; apparently, it is laughing gas. Proportionality is needed. If the bill is passed, we need to look at what its aftereffects will be.

Crew 2000 recommends something that I have not seen recommended elsewhere, which is

"a UK wide NPS amnesty".

That would reduce the possibility of redistribution.

The consequences of a ban are not as straightforward as we might imagine. People who return to opiates from non-opiate NPS will have a reduced tolerance and therefore an increased overdose risk. Mental health problems may be exacerbated when people choose to self-medicate. Again, we will drive people who wish to continue using drugs back to dealing with people who are, after all, criminals.

I commend Sarah Boyack's comments on the use of local initiatives, which are important.

We must deal with facts. We must deal with the internet and we must work collaboratively to reduce harm and bring about informed decision making.

16:28

**Roderick Campbell (North East Fife) (SNP):** I welcome the opportunity to speak. As members will be aware, new psychoactive substances are harmful, both psychologically and physically, and present problems that range from kidney failure to psychosis. NPS were implicated in 132 deaths in Scotland from 2009 to 2013.

I heard what John Finnie said about the term "legal high", but I am with the minister. The term is best avoided, because in my view it certainly implies that the associated substances are safe. However, we know that they are not safe.

NPS are widely accessible. They can be purchased online or at head shops. As Graeme Pearson said, there are 650 head shops in Europe. They are institutions that show no sign of disappearing from our high streets. As we have heard, there is no law preventing the sale of the goods, which are often labelled and sold as plant food or bath salts, or marked as not fit for human

consumption. In addition, NPS are readily available in convenience stores and at music festivals across Scotland and the UK. Nevertheless, we must avoid treating all head shops and music festivals as places that necessarily harbour criminal activity. We need to approach matters on an evidence basis.

Concern in our communities is real. *The Courier* today reports on a Perth pensioner's concerns about two local shops and what she perceives as a lack of interest in doing anything about the problem. As members will be aware, NPS are risky and have unpredictable side effects, with many people ending up in hospital.

It is impossible for someone to tell what is in many of the drugs before consumption. In 2013, NPS were stated to be the drugs implicated in five deaths in Scotland but, when mixed with other drugs and alcohol, NPS can be even more fatal. There were 60 deaths in 2013 in which NPS were implicated at least to some extent.

There has been growth in the demand for and supply of NPS. Countries have responded to that trend in three main ways. The first is enforcement. A variety of measures can be used to place NPS under legal control. Those measures include using the European early warning system to identify NPS and place them under control. They also include adding substances to the 1961 UN Single Convention on Narcotic Drugs or the 1971 UN Convention on Psychotropic Substances.

In the UK, the British Government can use the Misuse of Drugs Act 1971 to control substances by issuing a temporary class drug order for up to 12 months. It can then investigate and recommend a classification if there is sufficient evidence to do so. However, a clear problem with that is that drug manufacturers have exploited legal loopholes in control legislation.

The second approach is education, to which Mr Finnie referred. Evidence shows that young people are the most likely to experiment with NPS. In Europe, an estimated 5 per cent of people aged 15 to 25 have done so. In 2012-13, it was estimated that 2.1 per cent of people in Scotland aged between 16 and 24 had used NPS. Therefore, it is crucial that we focus on educating our young people about the health risks that are associated with the substances.

In Scotland, we must continue to support the choices for life initiative and websites such as know the score, to which Graeme Dey referred. Education must underpin any future legislation on NPS and, indeed, NPS policy.

A third approach that some countries have taken is treatment. However, there is very limited information on what constitutes appropriate psychosocial treatment.



The number of new drugs that are available on the market is constantly changing and growing, with more than 300 NPS identified in Europe in 2013. We must seriously consider what we are dealing with and how to approach it, because there is simply no silver-bullet solution.

As members are aware, the UK Government introduced the Psychoactive Substances Bill in the Westminster Parliament in May. As the minister mentioned, the maximum sentence under that bill for people who produce, supply, offer to supply, possess with intent to supply, import or export psychoactive substances will be seven years' imprisonment. According to the bill, a psychoactive substance is any substance intended for human consumption that

"is capable of producing a psychoactive effect".

However, there are concerns about the bill, as Alison McInnes mentioned.

The Advisory Council on the Misuse of Drugs has raised concerns about the use of the term "psychoactive substances" in the bill, as it believes that it will have a disproportionately broad scope. Furthermore, the ACMD deemed the bill's impact assessment to be inappropriate. The assessment was of the impact of new psychoactive substances rather than all psychoactive substances, as laid out in the bill. That makes it problematic to list all possible desirable exemptions under the bill.

Psychoactivity cannot be defined through a biochemical test, so there are clear legal difficulties in proving it in a court of law. The only definitive way of determining psychoactivity is via human experience, which is usually not documented. The UK Government needs to continue to work with the ACMD and others to formulate advice on how to predict that a substance is likely to be psychoactive.

Christine Grahame referred to the use of the common law in Scotland. As a member of the Faculty of Advocates, I commend that—I refer to my entry in the register of interests in that respect. The expert review group's report referred to the fact that the common law could be used to control NPS, but it also referred to three main areas in which it poses problems. The group said that, to succeed in a prosecution

"for culpable and reckless conduct, evidence must be presented to show that the seller knew, or was reckless as to the fact, that the product was being purchased for human consumption."

We are well aware of attempts being made to label products as unfit for consumption.

Another issue is that harm, or potential harm, to health requires to be proved. That will require analysis of the substance and expert evidence to establish its harmful effects.

Another matter that the report refers to is that

"it should be noted that the person prosecuted ... is likely to be the shop assistant who carries out the sale"

rather than the person who takes the key decisions further up the chain of supply.

**Christine Grahame:** I know that, in one case, the shopkeeper was well aware that they were selling an NPS, which was kept under the counter in a small packet and handed over to the customer in a certain way. The whole process was one of subterfuge, and the shopkeeper knew that a so-called reformed drug user was buying the NPS—the shopkeeper was well aware of what was happening. Does the member agree that it is time that the Lord Advocate tried a case on that basis?

**Roderick Campbell:** I welcome that intervention. There are circumstances in which the common law can be used, but I was highlighting that there are circumstances in which its use would be more problematic—I suggest to the member that it is a question of a bit of both.

I welcome the expert review group's recommendation that a definition of new psychoactive substances should be developed, because it is clear that we need to ensure consistency across all areas, including research, academia, the national health service and government. Common understanding is paramount. I agree with the expert review group that consideration should be given to whether a definition should be based on the chemical compound group of NPS or on their effect, because we must be on the same page on that. I welcome the Scottish Government's work to engage on information sharing and developing a common definition.

The Scottish Government has worked hard on producing NPS guidance for trading standards staff, who were referred to earlier, and that guidance was published a couple of weeks ago. That guidance will help, because it is crucial that people are working from the same page. We have heard of the lack of recording by Police Scotland and the Scottish Prison Service of NPS use, so I would like us to get to the point where such information is recorded. We also need a joined-up national approach with local authorities. Entertainment licences provide one obvious step that could be taken, and COSLA has a key role to play in that.

I congratulate the expert review group on the work that it has done.

16:36

**Alex Johnstone (North East Scotland) (Con):**

I rise to support the motion in the name of the minister, Paul Wheelhouse, and to commend the

way in which in his ministerial responsibilities he has taken this matter forward. It is essential that we acknowledge that, as the acronym NPS indicates, we are dealing with something new that we have much to learn about.

As a father and grandfather, it breaks my heart to watch each generation that comes along find its particular mind-influencing substance of choice and to see so many young people choose to infuse that substance into their bodies. We do so much in this Parliament in other areas to reduce the effects of such substances, whether it is alcohol, tobacco or other things that have come along over the years. We see success in some statistics as we begin to win the battle, but then something else appears.

We have seen attempts over the years to bring forward new substances, and we have regulated them. However, the onslaught of the various new substances that we face at the moment is creating a level of difficulty that I do not believe we have seen before. However, the statistics show that the number of people involved in taking NPS and damaging themselves—or, on a few occasions, being killed by them—is still small, so we still have a chance to work towards success in dealing with the problem. I believe that the way in which the Government is tackling the issue and has taken to heart the NPS expert review group's report and attempted to implement its recommendations is a good way forward.

We must work on the issue at every level. All over Scotland people are doing what they can in their own communities to highlight the problems that NPS cause. For example, I was called to a meeting with people in Arbroath just under two years ago at the award-winning Arbroath CAFE project, which has done a great deal of good work with young people in that town, because a so-called head shop had opened right across the road from the project. Of course, parents were outraged by that.

I would like to commend the action that was taken by parents, particularly my good friend Derek Wann, who was instrumental in bringing that group together, for the work that they did. I also have to commend the action of local police officers who had the courage to do what few have done in other places—to raid the shop and effectively close it down. That kind of action will do a great deal of good where it can be taken but, as we have seen and heard during the course of the discussion today, it does not always happen.

A lot of work is being done within Scotland's local authorities. Problems that arose in Aberdeen were highlighted at Aberdeen City Council by my colleague Councillor Ross Thomson, who has worked closely with me in my parliamentary role to highlight the problem as it exists in the north-east.

Without the work of local individuals and active councillors in individual council areas, we would not have the level of understanding that we have today, limited though it is.

Among the issues that have been highlighted in this debate are some that we have heard before. The use of the term "legal highs" is something that we should discourage, because the simple fact that a substance is not illegal does not make it in any way harmless. We see exactly the opposite to be the case.

We have to improve data sharing to ensure that everybody has the information that they need, whether it is related to policing or to dealing with the health implications of the drugs that are on the market. At the last meeting of the ministerial cross-party working group, it was a real eye-opener, if you will excuse the expression, to hear clinicians who had experience of dealing with cases in accident and emergency units explain how difficult it is to understand the problems that they are facing. They were also able to highlight the problems that are being experienced by police officers who have to deal with people who are influenced by the substances and who find that the traditional way of dealing with people who have abused alcohol or a more traditional drug is simply not the way to treat people on some of these substances.

The inability to understand and translate the needs of those who have used the substances, and to deal with those people in a practical sense, is one reason why information and education are crucial throughout the process of dealing with the problem. Education is needed for those who are likely to use the substances and for those who will fall into using them without understanding the damage that they can do. Education is also needed for those who will be confronted in a professional capacity by someone who is influenced by a substance that we have little or no information about.

There was one disagreement during the course of this debate, which was highlighted by the positions taken by Richard Simpson and Christine Grahame. The views are not wildly different, but they expose two alternative approaches: the regulation approach, put forward by Richard Simpson—the light-touch approach, perhaps—contrasted with Christine Grahame's view that we should take a more heavy-handed approach.

I find it very hard to accept that we should not be prioritising the removal of the substances from our streets, but I also understand that, even if they are removed from our streets, we will not have removed them from the hands of the young people who are using them. That is why it is important that we also recognise, as has been said during the debate, that the countries where the raw

materials come from and the substances are manufactured—China and India—also need to be involved at some level in what we do.

I commend the work of the minister Paul Wheelhouse and the way that he has handled the issue both in this Parliament and through dealing with the passage of legislation at Westminster. I think that we are doing this the right way. Let us continue to work together toward our joint aims.

16:44

**Elaine Murray (Dumfriesshire) (Lab):** This has been an interesting debate, albeit one that was scheduled at short notice due to the withdrawal of the Inquiries into Death (Scotland) Bill. It has been an opportunity to discuss the response to the expert review group and the work, so far, of the cross-party working group on NPS, as well as the developments at UK level since we last discussed the issue in February.

Many members stressed the importance of not using the term “legal high”, because the word “legal” can be interpreted as meaning that the substances are okay and safe to use. However, John Finnie was right to say that we need to use the language of the people involved. There is no point in using terminology that we understand if the people outside do not know what we are talking about.

The minister cited the UK Government's Psychoactive Substances Bill and the offence that it will introduce. The bill excludes legitimate substances, such as food, alcohol, nicotine, caffeine and controlled drugs, which are, of course, already regulated. It also excludes certain persons, such as healthcare professionals, who may use NPS legitimately during their work.

The definition of psychoactive substances is still up for discussion. The Scottish Government is working with the UK Government, and it will be keeping the working group informed of progress.

It is generally considered that, although the UK bill will help to stop supply from head shops, other areas such as supply over the internet, although covered by the bill, will be much more difficult to control, as will the identification of the laboratories that produce NPS, particularly when they are in China and the far east.

Nigel Don said that he thought that stopping head shops might stop first use of NPS. However, if someone has tried it and they have friends who can get in on the internet, that will be more difficult to control. Richard Simpson made an important comparison with Ireland. Legislation was passed there some years ago, but it has not been assessed. There may no longer be head shops, but NPS use still goes on. Alison McInnes

highlighted reservations about the definitions in the bill.

I found the cross-party working group meeting a couple of weeks ago—it was the one meeting that I have attended—extremely interesting. It concentrated on the medical and forensic implications of NPS. We heard from Dr Richard Stevenson, an emergency consultant at Glasgow royal infirmary, on the recent history of the discovery of various psychoactive substances. He gave a graphic account of the symptoms presented in his department and what his staff were seeing. He dispelled any illusion that many of the substances are anything other than dangerous and that, taken in the wrong dosages, they can cause serious psychological damage, psychotic behaviour, and very elevated temperature.

There are no treatments. For example, there is no equivalent of naloxone, which counteracts the effects of a heroin overdose. Naloxone goes into the receptors and kicks the heroin out of the system. At the moment, we know of nothing that can do that to NPS. The sufferer basically has to be administered a general anaesthetic while attempts are made to reduce their body temperature.

Dr Stevenson also described how people took cocktails, such as taking NPS with alcohol in the hope that they could drink more. In some cases, people were also experiencing the effects of serious alcohol consumption.

Dr Hazel Torrance of the University of Glasgow's forensic toxicology department described some of the screening tests that are available. However, even when such tests are available for uncontrolled drugs, they are not included in the drug-related death statistics.

Barry James from Police Scotland's forensic department described—I think that Graeme Dey referred to this—how psychoactive substances can be detected in the laboratory using mass spectrometry and, more recently, nuclear magnetic resonance spectroscopy. I was a bit concerned to learn from him that the NMR machine, which is a large and expensive piece of kit, is not being used because of a lack of trained personnel. I have also heard that, apparently, quite a backlog of specimens is awaiting analysis at the forensic department.

Many of the techniques used to determine the structure and function of the large and complex molecules are specialised. However, I was struck that there is a lot of expertise in our academic institutions not just in Scotland but across the UK and the world, because this is a global problem.

NPS act by attachment to receptors in the brain. The way in which they do so is complicated, but comparisons of the chemical structures of

substances that exhibit similar effects could lead to a better understanding of which functional groups and molecular shapes can interact with the brain in that way. There will be other spectroscopic techniques that could assist, and I wonder to what extent chemist and biochemists in academic laboratories are being encouraged to undertake research on those topics.

There is a lot of expertise out there, and if we understand the functioning of NPS better not only will we be better able to detect what might be psychoactive and get a better handle on it but we might be able to create substances that work like naloxone and kick NPS out of the receptors.

It is serendipitous that the cross-party group on science and technology will have a meeting tonight at which the Medical Research Council will give a presentation on the value and impact of medical research in Scotland. The MRC is one of the major funders of scientific research in Scotland and throughout the UK, so I hope to get the opportunity to ask whether biochemical and chemical research into NPS and their functionality and detection is being done in our academic institutions. If there is no such research, the area could well be funded, which would help.

Graeme Pearson talked about trading standards, which came up at topical questions today. The problems in trading standards departments are not just in Scotland; I think that the situation is even worse in England. Trading standards departments will have to be resourced and perhaps restructured if they are to take on the additional responsibilities that we have been talking about. Is the Scottish Government aware of any financial resource that is attached to the UK Government's bill to enable trading standards departments to carry out the additional and extremely important work? There should be such resource.

Many members talked about the need for education. Richard Simpson said that people have always sought substances that cause a high, which is true, whether we are talking about alcohol or illegal substances. We need to appreciate and understand that.

I was interested in what Margaret Mitchell and Christine Grahame said about the possibility of prosecution under existing common law on culpable and reckless conduct. There is an opportunity in that regard. Christine Grahame reminded us that 20 or 30 years ago we were worrying about glue sniffing.

There might be opportunities for further discussion in a number of fields, which might take us forward in the fight against new psychoactive substances.

16:52

**Paul Wheelhouse:** I am grateful for the opportunity to reflect on this afternoon's debate, and I have not been disappointed by the quality and collaborative nature of speeches from members across the political divide. I think that the debate has shown our Parliament in an extremely good light, in that we have approached a serious issue in a bipartisan way, with well-thought-through speeches from all members. I am grateful to the other parties for their support for the Government's work and look forward to working with them. In particular, I thank Alex Johnstone and Alison McInnes for their very kind remarks about me.

There are perhaps few areas of public policy that bring us together in the way that NPS has done today. Members talked about the devastation that NPS can cause and the shocking effects that they can have.

Members reflected on a number of areas; I will try to do justice to them as I sum up the debate. Graeme Dey, Alex Johnstone, Elaine Murray and Alison McInnes picked up on points that have been raised in the ministerial cross-party working group on new psychoactive substances.

Members also reflected on the number of constituencies where the issue is a serious cause for concern for parents. I was struck by Margaret Mitchell's account of what happened to young Jamie Donnelly, and Christine Grahame's account of the case of David Lewis in her constituency. The tragic loss of young lives brings the issue into focus.

I take Sarah Boyack's point about the need to strike a balance between national and local approaches. I will come on to talk about resourcing, which many members mentioned.

NPS are not just the drugs of choice for rebellious young people who are naturally drawn to risky behaviour, but are being used by older and more established drug users. When I visited Crew, I heard that experienced drug users are often terrified by the impact that NPS have had on them. Even when they have been used to taking illicit drugs in similar volumes, they have found NPS far stronger than they expected, with pronounced medical effects.

In responding to the issue, the challenge is its complexity. Despite politicians' desire to find quick fixes and easy solutions, I think that we all know that in this case there is no easy solution and that even bringing NPS under legal control will not be the full answer. Elaine Murray talked about that, as did Richard Simpson. I did not agree with everything that he said, but I acknowledge the spirit in which he talked about the need to control

sales on the dark net and to consider other options.

Graeme Pearson was the first member to pick up on the trend in certain locations of injecting NPS. We are worried about that, and he was right to raise the issue. He and other members referred to poly drug use, which we must take into consideration. The combination of alcohol or illicit drugs and NPS is posing risks to people, and we clearly need to make them aware of those risks through education.

Margaret Mitchell referred to dosage variability and the availability of NPS being key considerations locally and nationally. Kevin Stewart quite rightly criticised the use of the term “legal highs”. There is a difficulty in finding an alternative term that works for the young people whom we are trying to engage with, so that we can talk about the issue in terms that they understand without giving false legitimacy to the use of NPS.

Apart from raising the issue of the dark side websites, Dr Simpson also pointed out that people are effectively engaging in phase 1 trials of substances with no idea of what impact they will have on them. We have to get that message out there.

I appreciate that a wider trading standards issue was raised earlier today, although I did not hear the responses to the question. However, I point out that we have provided some funding—I appreciated that it is limited—to Trading Standards Scotland to assist with the implementation of the guidance that we launched a couple of weeks ago. We recognise the pressures on trading standards, and the funding will assist in gathering a picture in each local authority area of NPS availability and the number of head shops. The funding will also be used to help fund forensic identification, where that is necessary, to identify the substances that are being sold. It is a modest sum of in the region of £30,000, but we hope that it will help to address a specific issue.

Kevin Stewart also referred to the NPS expert review group and to the potential for using a licensing approach, similar to that in New Zealand. The expert review group concluded that there was a real risk that, having looked at the New Zealand example, licensing the sale of NPS could be seen as a way of endorsing the products and confirming their safe use—hence the approach that we have taken. However, he went on to talk about the need to do more to look at the role of education, and I confirm that education is the next theme to be discussed by the ministerial cross-party working group on NPS. I would like to take the point about guidance for schools to that meeting, to pick up on the issue that he referred to.

Graeme Dey talked about tailoring the messages to user groups and understanding the different motivations for purchasing of different groups. The research that we have commissioned will help us to understand better the nature of the demand from different groups, whether they are older users or younger users, and I hope that that will help those who are involved in the advisory scene to tailor the messages. The work that we are doing with Education Scotland can pick up on that as well.

**Christine Grahame:** Will the minister take an intervention?

**Paul Wheelhouse:** I am sorry, but I do not have time. However, I assure Ms Grahame that I will come on to the point that she raised.

Alison McInnes mentioned the risk of displacement, which is an important point. We have to understand that the longer-term issues are largely unknown. She was right to mention that, and her points about issues such as the manifestations of poisoning and the identification of mental health risks were also well made.

On the point that Christine Grahame raised about police and Crown use of the common law, I assure members that the police and other partners are committed to tackling NPS using the powers that are available to them, including the offence of culpable and reckless behaviour, until the new legislation comes into effect in April 2016. There are a number of cases pending with the procurator fiscal. I appreciate that there is a lot of interest in the chamber in seeing whether those cases are successful, and we must clearly trust the independence of the Lord Advocate and the Crown in taking them forward. However, I will make the Parliament's views known to the Lord Advocate in due course.

Sarah Boyack and Richard Simpson mentioned the WEDINOS project in Wales, and I hope that members are reassured by the fact that that features in the consultation that we recently launched on how we can share information across the UK. We have also been studying the Welsh Government's work on the WEDINOS project to see whether there are any lessons that we can learn.

Nigel Don mentioned the Forfar petition, which shows how people power is having an impact in Forfar. However, as he said, there are still head shops in the vicinity, so the problem has not been solved, although I recognise and welcome the contribution of the local community, to which Alex Johnstone and Nigel Don drew attention. They have taken the issue, grabbed it by the horns and tackled it.

John Finnie talked about education and I very much agree with him about the importance of

education in the NPS debate. He referred to messages that tell people, “Don’t do it,” and spoke about the reasons why they should not do it. I will go further than that. The young people to whom I spoke on Saturday said something that could be seen as controversial. They said, “If you are going to do it, be aware of the risks.” We have to listen to the messages that will resonate with young people—we have to tailor the message to the audience. A different message may work better for an older audience, but I take John Finnie’s point on board.

Roderick Campbell referred to the importance of education and the impossibility of being able to tell the contents of these products. He is absolutely right. We have to get the message across to people that, even if they buy something in a packet that looks quasi-legitimate, it may not be safe because the variability of the product between one packet and another—even within the same brand—can be significant, meaning that the user may accidentally overdose.

I reiterate my personal thanks to members from across the chamber for their support in the debate and for the work of the ministerial cross-party group that I lead. I look forward to continuing that engagement with members from across the chamber and working with the Home Office to deliver legislation at a UK level.

## Decision Time

17:00

**The Presiding Officer (Tricia Marwick):** There are two questions to be put as a result of today’s business.

The first question is, that motion S4M-14375, in the name of Stewart Stevenson, on the Interests of Members of the Scottish Parliament (Amendment) Bill, be agreed to.

*Motion agreed to,*

That the Parliament agrees to the general principles of the Interests of Members of the Scottish Parliament (Amendment) Bill.

**The Presiding Officer:** The second question is, that motion S4M-14403, in the name of Paul Wheelhouse, on progress on implementing the recommendations of the expert review group in new psychoactive substances, be agreed to.

*Motion agreed to,*

That the Parliament welcomes the progress being made to respond to the New Psychoactive Substances (NPS) Expert Review Group report recommendations, published on 26 February 2015, including work to bring NPS under legal control; notes that the UK Government published the Psychoactive Substances Bill on 29 May 2015, which the Scottish Government supports, and further notes that this work includes engagement with the sector on information sharing and a common definition, including on the development of forensic capacity, and production of guidance that will be a vital tool for trading standards staff on the frontline, given the serious impact that these substances are having in communities, sometimes with fatal consequences, and the challenges faced by drug treatment and health services and enforcement agencies.

## World Health Organization (25 by 2025 Framework)

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

The final item of business tonight is a members' business debate on motion S4M-13677, in the name of Dennis Robertson, on the World Health Organization's 25 by 2025 framework. The debate will be concluded without any questions being put.

### *Motion debated,*

That the Parliament welcomes the World Health Organization's (WHO) 25 by 2025 framework for preventing global non-communicable diseases (NCDs); believes that NCDs account for nearly 75% of all premature deaths in Scotland, including in Aberdeenshire West; understands that NCDs share common risk factors as detailed by WHO in its framework; notes the view that Scotland should adopt the 25 by 2025 recommendations, and believes that 3,805 lives could be saved per year if Scotland achieves the target reductions recommended by WHO.

17:02

### Dennis Robertson (Aberdeenshire West)

(SNP): I thank all the members who signed the motion to enable the debate to take place.

In your introduction to the debate, Presiding Officer, you probably said it better than I am going to: we are debating the 25 by 2025 framework, which is a World Health Organization initiative to reduce the number of deaths from non-communicable diseases, which are generally known as NCDs. What are they? They are diseases including cardiovascular disease, chronic respiratory disease, diabetes and cancers.

Many deaths from such diseases are preventable. Some deaths occur because of our lifestyle. We have known for many years—especially in Scotland—that our lifestyle is often not in keeping with good health, despite the fact that the Scottish Government and the previous Scottish Executive, back in 2003, have undertaken initiatives to ensure our wellbeing. Despite all the messages and advice that are coming out, it appears that we are not listening. What would be achieved if we did listen? What would be achieved if the Scots decided to be healthier? We would probably reduce the number of deaths by 3,805 per year.

Is it a simple message? Well, yes and no. I say that because when I became the convener of the cross-party group on heart disease and stroke, it became evident to me that although some conditions are preventable, many require the intervention of our health professionals. Screening for bowel cancer, breast cancer and cervical cancer is very commendable and is leading to healthier lives, but high blood pressure is something that many of us suffer from. Just over a

year ago, some testing for high blood pressure was done in Parliament. Along with many colleagues, I went along and had my blood pressure tested. I found out that I had high blood pressure. It was news to me—I did not know that I had high blood pressure. I am sure that many other people out there in the community need to have more regular checks.

Are we doing enough? Well, yes and no. We are doing enough in terms of some of the Government's initiatives—for example, the walking to work initiative. If we walked 1 mile at a moderate pace every day, us men could reduce our chance of dying from prostate cancer by 30 per cent. If women became more physically active, that could reduce the number of cases of breast cancer in the UK by 9,000 a year. We have a responsibility for our own health and wellbeing.

Because of some aspects of our food intake and the fact that we enjoy many foods that are generally quite bad for us, we are asking our food manufacturers to help us a little bit by reducing the amount of salt in our processed foods and the amount of sugar in some of our fizzy drinks, because it appears that we are finding it very difficult to say no.

When should such work start? It must start at an early age. That is where the Scottish Government has got it right. We are starting in the early years—we are getting into the schools and we are looking at trying to achieve a healthy weight for everyone. That starts in the early years. That way, our young people will learn more than we did about healthy lifestyles, wellbeing and the way to a healthy life. That means becoming more physically active and doing the things that some of us do not do at the moment. Many of our children will still sit at a computer rather than go outside to play.

We need to get the education right. There have been recent initiatives to get people on their bikes and to get them to take more exercise in our rural areas. In my constituency of Aberdeenshire West, we have some fantastic outdoor initiatives to encourage people to have a healthy weight and to improve their wellbeing. However, it is necessary to say yes to that lifestyle—we must embrace it. If we do, we will meet some of the targets.

Our anti-smoking target is far more adventurous than the WHO's, because we aim to reduce the level of smoking to 5 per cent by 2034. It would be fantastic if it were reduced to nil, but we must find measures to help those who are still smoking, because there are still far too many deaths in Scotland as a result of lung cancer and smoking. With the introduction of e-cigarettes, more people are finding a route to giving up tobacco. We are not entirely sure of the long-term impact of e-cigarettes, but we are very sure that they are having an impact in reducing smoking.

Is the Government doing enough? I think that we are heading in the right direction. We hope that, through awareness and education, people will listen. I am listening, but I am not sure whether my lifestyle is following suit; I sincerely hope that it is.

17:09

**Malcolm Chisholm (Edinburgh Northern and Leith) (Lab):** I congratulate Dennis Robertson on securing this important debate. Our concern is highlighted in the line in the motion that points out that

“nearly 75% of all premature deaths in Scotland”

are caused by non-communicable diseases. That is a big challenge for us all.

Of course, we can point to improvements. For example, from 1994 to 2013, age-standardised death rates for under 75s fell by 38 per cent overall. The figure was 71 per cent for coronary heart disease, 69 per cent for stroke and 28 per cent for cancer. There has been progress throughout the years of the Scottish Parliament: we should not forget that. However, when it comes to premature mortality we are still worse than the other countries in the United Kingdom and than many other countries in Europe. Of most concern is that the problem is skewed very much towards our most disadvantaged areas.

Of course, it is not just a Scottish problem, which is why the debate is set within the context of the World Health Organization. The WHO said something rather alarming last week, which was that 59 per cent of people in Europe are overweight or obese. Following on from that, it said something even more frightening, which was that young people nowadays may not live as long as their grandparents. I was pleased to hear quite recently that half the girl babies who are born today will live to be 100, but now the WHO is warning us that there is a risk, particularly because of obesity, that young people may live less long than their grandparents.

There is a major European and global problem. The WHO’s “Global status report on non-communicable diseases 2010” highlighted four risk factors: tobacco use, physical inactivity, harmful use of alcohol and unhealthy diets. Those are exactly the four issues that we have been highlighting throughout the years of the Scottish Parliament. That report says something interesting, which is that while we emphasise the dimension of health inequalities, we should also have strategies that impact on those who are at moderate risk.

We need a twin-track approach. If we want to embody it in one phrase, we could call it

“progressive universalism”, which is what Michael Marmot, the great guru on health inequalities, has called it. We must have not only messages that go to the whole population but targeted initiatives to deal with health inequalities. Let us give clear messages. For example, Dennis Robertson talked about e-cigarettes. Tobacco is the greatest preventable risk factor for all the non-communicable diseases that we are talking about today. E-cigarettes are already weaning a lot of people off cigarettes—they are massively less harmful than traditional cigarettes—but doctors squabble about how much less harmful they are. It is better if we can give a clear message on e-cigarettes. It is also better if we can give a clear message on diet, because sometimes the public are a bit confused by the mixed messages that they get about what is healthy and what is not.

On physical exercise, two things are absolutely clear. The first is that it cannot erase the effects of a bad diet. However, the second is something that we are being told repeatedly now, which is that if a person can do one single thing to improve their health—particularly at my age, but at any age—it is to take regular exercise. That is a message that Sir Harry Burns repeated strongly—certainly in the latter years of his time as chief medical officer.

We need the general messages, but we also need the health service, and the work that general practitioners do to measure blood pressure and so on. The quality and outcomes framework that is now being discussed in relation to the GP contract will help with that. During the years of the Scottish Parliament we have seen massive improvements in the treatment of coronary heart disease, stroke and cancer. We need targeted initiatives, too, which is why we need to give extra resources to GPs who work in the most deprived areas, such as the deep-end GPs.

Most of all, when we are talking about health inequalities, we have to address the issues of life circumstances. We will never solve health inequalities just by lifestyle actions; wider social changes are absolutely necessary if we are going to deal with that.

The problem has many parts to it. However, an important part of the action is highlighted in the motion and by the WHO targets. I think that the Scottish Government is signed up to those targets, so I hope that we will all do everything that we can to ensure that the targets are delivered.

17:14

**David Torrance (Kirkcaldy) (SNP):** I thank Dennis Robertson for securing the debate. Non-communicable diseases—or NCDs—are multifaceted. However, one thing that they have in common is that they can be prevented. That



becomes evident if we have a closer look at the common risk factors, which include excessive alcohol and tobacco consumption, high blood pressure and cholesterol, physical inactivity, being overweight, obesity and unhealthy diet. According to the World Health Organization, those risk factors lead to cardiovascular diseases, cancer, respiratory diseases and diabetes, which together account for over 30 million deaths worldwide.

I want to talk about how we can significantly reduce the premature deaths that are caused by NCDs in Scotland. In aiming for that goal, we can create a healthier and ultimately more flourishing society.

NCDs are also referred to as chronic diseases. They are neither infectious nor transmittable from person to person, although it is each individual's responsibility to lower their risk of NCDs by avoiding risk factors. In that context, I strongly welcome the WHO's 25 by 2025 framework. It calls for a comprehensive approach involving a range of stakeholders from the health, education, agriculture and finance sectors.

For reasons of time, I will take a closer look at two of the nine targets, which are to reduce physical inactivity and harmful drinking by 10 per cent. First, physical inactivity has been singled out as the fourth leading risk factor for global mortality. Statistics indicate that annually 3 million deaths can be attributed to insufficient physical inactivity. Furthermore, the World Health Organization estimates that lack of physical activity is the cause of up to 25 per cent of breast and colon cancers, 27 per cent of diabetes and approximately 30 per cent of heart disease.

Having a closer look at Scotland, we can see that there is major room for improvement. In 2012, only 39 per cent of adults met physical activity guidelines, which require a minimum of 30 minutes of moderate activity on at least five days a week. In order to counteract those figures, the Scottish Government and NHS Scotland have started several initiatives encouraging people to get active. Exemplary, therefore, is active Scotland, which assists people to find opportunities to exercise in their local area.

I commend Scouts Scotland and all its members for their work in this regard. As a long-standing member of the Scout Association, I have no doubt that the organisation plays an invaluable role in promoting physical activity and a healthy lifestyle among children and young adults. I am positive that the nearly 45,000 scouts across Scotland have a great impact on their community while encouraging others to live healthier lives.

I turn to alcohol consumption and its relationship with NCDs. The WHO estimates that 3.3 million deaths annually are a result of harmful drinking. In

speaking about excessive alcohol consumption, I believe that it is crucial to mention not only its role in causing a large number of diseases but the social and economic burden that it puts on society.

We need to acknowledge that alcohol abuse is a major public health concern. Studies imply that nearly 20 per cent more alcohol per head is sold in Scotland than in England and Wales. In addition, the number of alcohol-related deaths is significantly higher in Scotland than in other parts of the UK. All in all, excessive alcohol consumption costs Scots £3.6 billion annually.

Cognisant of those statistics, we as a country are challenged to counteract them. The Scottish Government has already taken many measures to tackle alcohol abuse. Most notable of those measures is, "Changing Scotland's Relationship with Alcohol: A Framework for Action", which aims to facilitate the cultural shift required to transform our relationship with alcohol.

To achieve that goal, strategic and comprehensive solutions are necessary. They include educational measures, as well as diversionary activity, support for families and communities and preventative measures. Exemplary among the latter is the Alcohol (Minimum Pricing) (Scotland) Act 2012.

In conclusion, I return to my original statement: NCDs can be prevented. As I have indicated in the cases of physical inactivity and alcohol abuse, we are taking the first steps in the right direction. However, more can be done to fight NCDs and ultimately save lives.

17:18

**Nanette Milne (North East Scotland) (Con):** I thank Dennis Robertson for sponsoring this debate, which covers not only international issues but issues that are relevant to Scotland and indeed my region of North East Scotland. As a medic, I am familiar with the work of the World Health Organization, which was established as part of the creation of the United Nations and makes an invaluable contribution to both the developed world and the third world.

Many people will be unfamiliar with the term "non-communicable diseases", as referred to in the motion, as it perhaps does not easily describe the conditions with which they are associated. The WHO has identified the most common of those conditions as cardiovascular disease, cancer, chronic lung diseases such as chronic obstructive pulmonary disease and diabetes. However, it does not limit NCDs to those, as is shown by its work on childhood obesity, alcohol and drug abuse and encouraging and raising awareness of the dangers of smoking.

The WHO's 25 by 2025 campaign to reduce the mortality rate will be welcomed by people across the globe, and I hope that the aim will be achieved even sooner than expected.

In our country, some of the statistics are, frankly, not just alarming but frightening. As the motion states, non-communicable diseases account for nearly 75 per cent of all premature deaths in Scotland. When we look more closely at specific conditions, it is clear that more needs to be done. We cannot ignore the fact that one in five people in Scotland has or is at risk of having diabetes and that 276,000 of our population have it. Diabetes Scotland points out that 80 per cent of type 2 diabetes cases could have been prevented via healthy living. I am a co-convener of the cross-party group in the Scottish Parliament on diabetes and, no doubt, such figures will come up this evening when I host a round-table discussion that will focus on the future of care delivery for people with diabetes, in the context of the new and emerging health and social care integration bodies.

Time prevents me from going into detail regarding every disease or condition that the WHO has identified, but it is clear that the issue of smoking needs to be tackled throughout every nation. Again, the statistics for Scotland alone are staggering. Tobacco use is the single greatest preventable cause of non-communicable diseases and is the only risk factor that is common to the four main NCD categories, as was mentioned earlier. Globally, tobacco causes one in six of all NCD deaths but, in Scotland, it causes about one in four of those deaths. Action on Smoking and Health (Scotland), a well-respected charity, is committed to supporting the objectives of the WHO's campaign, particularly when it comes to supporting Scots who want to quit the habit, who amount to 67 per cent of smokers.

I will touch briefly on childhood obesity and the need for physical activity and healthier diets, which of course are all interrelated. Childhood obesity is an increasing problem and one that did not exist to any significant extent when I was a child during and after the second world war. As the WHO has stated, if we do not combat childhood obesity, it will clearly lead to heart disease, diabetes and other serious illnesses. Indeed, the odd case of type 2 diabetes has been diagnosed in childhood. I will not go into all the facts and figures but, worryingly, we have seen a rise in obesity among girls in Scotland from 14 to 18 per cent from 1998 to just last year. Sadly, the problem is more acute in deprived areas.

Increased physical activity is an obvious factor in overturning the problem. I am sure that all members would like more children to take up running or swimming rather than spend too much

time on computer games. Similarly, a healthy diet, as recommended by the WHO, encourages concentrating on fruit and vegetables and seeking to achieve the recommended five a day. I have been told anecdotally that the British diet was at its healthiest during the second world war and, as a war baby, I remember consuming the Government-provided orange juice, which I loved.

The debate has been constructive. I commend the work of the WHO in its efforts to combat these diseases and conditions. Let us hope that we see a significant improvement by 2025, if not before then. I again thank Dennis Robertson for bringing the debate to the chamber.

17:23

**Jim Hume (South Scotland) (LD):** I thank Dennis Robertson for securing the debate, especially on this day, which is world heart day. The World Health Organization's goal to reduce premature cardiovascular disease deaths by 25 per cent by 2025 is an ambitious goal whose time has come to be taken seriously. The goal sets parameters, including a 25 per cent reduction in high blood pressure, a 10 per cent increase in physical activity and a 30 per cent reduction in tobacco use. We know that all those factors contribute to diseases and conditions with the highest mortality rates in Scotland. In my region of South Scotland alone, the number of heart-related deaths every day is 1.2 in South Lanarkshire, 1.1 in the Borders and 1.5 in Dumfries and Galloway.

It is not enough to look at non-communicable diseases in isolation. We have to recognise that they often exist as comorbidities and we have to recognise the singular concern of NCDs. We know that diabetes needs a treatment other than smoking cessation, but we now have information that active and passive smoking increase the risk of type 2 diabetes. It is of course up to each person to decide whether they want to stop smoking, but we have a duty to protect children, and to support those smokers who want to stop.

The Smoking Prohibition (Children in Motor Vehicles) (Scotland) Bill, which I introduced and which we will discuss in Parliament next week, addresses the very duty that I have just mentioned. Banning smoking in cars when children are present will raise awareness among adults, and will protect children from the 60,000 journeys per week during which they are currently exposed to toxic second-hand smoke.

However, we know that diseases such as diabetes need more than legislative measures to bring about a reduction in the harm that they cause. Education in the most deprived areas in Scotland must be more active and robust. The British Heart Foundation tells us that there needs

to be a focus on prevention, and that a national strategy should be developed to achieve that, and I agree.

I note the Scottish Government's action on initiatives such as the Scottish diabetes improvement plan and on its tobacco control strategy work, both of which address individual problems. However, we have in reality seen some funding cuts, with services that work to prevent NCDs being slashed.

Scotland's most deprived areas have benefited from the keep well check-up service in recent years. It is vital that the service is kept going, but it seems from the answers that I have received to my parliamentary questions that funding is to be slashed. The preventative check-up for heart disease and diabetes is best practice: it must be rolled out to those hard-to-help communities across Scotland and not deleted.

Diabetes Scotland says that there are approximately 45,000 people living with undiagnosed type 2 diabetes. The keep well programme helps in the early diagnosis of that condition and other NCDs, and it must be retained, especially if we want to tackle inequality in care for people with diabetes.

When we discuss the 25 by 2025 framework we need to look at the issues based on the needs of our population. We know that Scotland is facing the growth of an ageing population and that we already have a shortage of GPs, with a further shortage forecast. It is therefore critical that the Scottish Government takes the World Health Organization's framework seriously and works to place the focus on prevention. The spend-to-save tactic must apply in combating NCDs.

It is our responsibility not only to care for people when they are ill, but to do everything that we can to ensure that every person leads a healthy life—no matter where they live in Scotland, or who they are—in order to reduce their risk of developing an NCD later in life.

17:27

**The Minister for Public Health (Maureen Watt):** I thank Dennis Robertson for bringing the debate to the chamber, and I thank members for their contributions. Some members present may recall that in June this year we discussed the potential for a non-communicable disease prevention strategy for Scotland at a joint meeting of the cross-party group on heart disease and stroke and the cross-party group on diabetes.

The aims of the 25 by 2025 framework focus on the right things. As with many reports that are addressed to a global audience, some of the detail relates to the challenge in Scotland, whereas in

other areas we are already more ambitious. I will set out some of the overarching policies and strategies in Scotland that will help to address many of the wider areas in which the World Health Organization's framework expects to achieve progress.

We know, as members have mentioned, that alcohol is one of the top risk factors for non-communicable disease. In order to tackle the scale of alcohol-related harm in Scotland, we have taken sustained and effective action since 2009 through our comprehensive alcohol framework.

The framework is in line with the WHO's 10 priority measures on alcohol, which include action on pricing, availability and marketing as well as drink-driving policies, community action and health service programmes such as alcohol brief interventions. A key element of the framework—which is endorsed by WHO—is minimum unit pricing. The opinion from the European Court of Justice advocate general earlier this month very much left the door open for that policy. We remain certain that it is the right measure for Scotland and that it will make a real impact in tackling alcohol-related harm.

As all members mentioned, we know that a poor diet and excessive consumption of food and drink contributes directly to the high rates of the main causes of death and poor health in Scotland. We are committed to improving the nation's diet through our work with a range of stakeholders, including retailers and caterers.

We have introduced a range of measures to improve diet and are spending more than £10 million in the four-year period between 2012 and 2016 on projects to encourage healthy eating. They include the healthy living award, the healthy living programme, the healthier Scotland cooking bus and Community Food and Health Scotland.

Last year, we launched the supporting health choices voluntary framework after a period of consultation with the food industry. The framework sets out voluntary action for the food industry, including manufacturers, retailers and caterers, to encourage and support consumers to make healthier choices.

Scotland is among the first countries in the world to have introduced an ambitious target for reducing smoking prevalence. Our ambitious target is to reduce it to 5 per cent of our population by 2034. We want to create a generation of young people and young adults who do not smoke, to create a Scotland in which young people and young adults turn away from tobacco use, and to get the health, social and economic benefits that will come from that approach. As a Government, we recognise we are taking an ambitious approach to tobacco control, but we believe that

we need to take bold and decisive action to reduce smoking prevalence in Scotland to create a tobacco-free generation.

The 5 per cent target is certainly challenging. Achieving it will require a determined effort on the part of the Government and the other agencies that have a role to play in helping to reduce smoking prevalence. The target can help to ensure that we fundamentally change the whole culture of smoking in Scotland and get the health benefits that will come from that.

We will take forward a range of measures in the five-year tobacco strategy to ensure that we take action. The strategy includes: the national campaign that was launched last year to raise awareness of the dangers that are associated with smoking in enclosed spaces; the introduction of a new target to achieve a substantial reduction in children's exposure to second-hand smoke by 2020; continued support for parents to create smoke-free homes for children; and the aim of all our NHS boards having smoke-free grounds during 2015.

Members know that a bill is undergoing stage 1 consideration that looks to build on efforts to reach our goal and that we saw a fall from 23 to 20 per cent in the rates of tobacco prevalence in Scotland from 2013-14.

Implementing all our strategies will be vitally important in addressing the risk factors that can lead to a range of long-term, cancer and cardiovascular conditions. Cancer, heart disease, stroke and diabetes remain priorities for the Scottish Government. Our substantial investment in those areas, along with our wider public health strategies, has contributed to a reduction in mortality rates for heart disease of more than 43 per cent in the past 10 years, a reduction for stroke of 34 per cent since 2007, and an overall reduction in the rate of cancer-related mortality of 11.4 per cent.

**Dennis Robertson:** The minister will welcome the forthcoming report from the British Heart Foundation and Richmond that will come out by March next year. It will look at all the figures in the 25 by 2025 framework that are pertinent to Scotland. That will help to shape the Government's objectives and forward-looking strategies.

**Maureen Watt:** We will continue to look at any evidence that will help frame and form our strategies in the coming years. Given the figures that I mentioned, I do not think that it is all doom and gloom: people are generally living longer and healthier lives. However, we must be conscious that more can be done.

Our condition-specific improvement plans, including heart disease, stroke and diabetes,

which were published last year, set out priority areas for action to improve healthcare services and ensure that people who are living with such conditions receive the best care possible. The immunisation programmes are not necessarily related to the diseases that we are talking about tonight but their uptakes are also encouraging.

It is clear that these challenges are not for the NHS or indeed Scottish Government to solve alone. Any solution requires the engagement of the whole of Scottish society. We are working to encourage people to make lifestyle changes such as adopting a healthy diet and a healthy approach to alcohol, managing their weight, increasing their physical activity and stopping smoking.

Early intervention does seem to be working. Many schools are adopting extra activity over and above the two hours of physical education, which has greatly increased under this Government.

Although a focused effort to improve people's health is essential, we also recognise that to achieve our aims for a healthier, fairer Scotland we need to focus effort towards the wider challenges of tackling health inequalities. It is not easy, but we will continue to work hard to do that.

*Meeting closed at 17:35.*

This is the final edition of the *Official Report* for this meeting. It is part of the Scottish Parliament *Official Report* archive and has been sent for legal deposit.

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