

# **MEETING OF THE PARLIAMENT**

Wednesday 7 March 2001  
(*Afternoon*)

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## Scottish Parliament

*Wednesday 7 March 2001*

*(Afternoon)*

[THE PRESIDING OFFICER *opened the meeting at 14:30*]

### Time for Reflection

**The Presiding Officer (Sir David Steel):** We welcome to lead time for reflection Mrs Ann Allen, the convener of the Church of Scotland's board of social responsibility.

**Mrs Ann Allen (Convener of the Church of Scotland's Board of Social Responsibility):** I have just returned from a visit to Chennai, formerly Madras, in south India, which I made at the invitation of the International Christian Federation for the Prevention of Alcoholism and Drug Addiction. It was my first exposure to the culture of Asia and to a developing nation. Those of you who have shared that mind-blowing experience will know just the kind of impact that it makes on one's mind, senses and presuppositions.

In the area of social care, I found that the people of India share many of the issues that confront us here. They, too, are struggling to meet the needs of an increasingly elderly population. They wrestle with the problems of drug and alcohol misuse and the abuse of children. There, too, they are seeking to implement the vision of an inclusive society.

However, in India, the caste system militates against such inclusiveness. Born a Dalit—an untouchable—you die a Dalit, and nothing you achieve can alter your caste. In Scotland, fortunately, we do not have such an ingrained cultural feature to overcome as we seek to eradicate social exclusion. In so doing, we will mirror the society that the Bible teaches God intended for his people. The creator God has stamped his image on every person, declaring in their humanity his vested interest in them and love for them.

Many people may never want to read a Bible or enter a church, but they surely want to know that they have significance and that they matter to someone. The good news of the gospel declares that they matter to God. In Jesus' life, death and resurrection, God has given the guarantee of such individual worth. In his culture, children were of least value, but Jesus said, in Matthew 18:

"See that you do not look down on one of these little ones".

In telling the now-famous parable of the 99

sheep safe in the fold and the one that was lost, Jesus emphasised:

"Your Father in heaven is not willing that one of those little ones be lost."

God's love is offered to all, without exception. Those who respond to that love and follow Christ are called to live out that love to all, their neighbour being everyone whom they meet. That pattern of social inclusion is a blueprint for a healthy, wholesome society and is the basis for the social care that is offered by the board that I represent.

Let us pray.

O God, creator, father and friend, we thank you for the dignity and value of every created person and pray that, more and more, our society will be one in which each individual has great significance and worth. When that is accomplished, O Lord, you will be glorified.

Amen.

## Regulation of Care (Scotland) Bill: Stage 1

**The Presiding Officer (Sir David Steel):** Our main item of business is a debate on motion S1M-1523, in the name of Susan Deacon, on the general principles of the Regulation of Care (Scotland) Bill, with a reasoned amendment to that motion.

14:34

**The Minister for Health and Community Care (Susan Deacon):** I am conscious that, as we gather here this afternoon, certain events south of the border may have distracted some politicians and members of the public from activities in this chamber. I hope that that will in no way detract from the importance and significance of the bill and the consideration that it has been receiving and will continue to receive in the Parliament.

The Regulation of Care (Scotland) Bill is a promise and a commitment from the Executive to make care services in Scotland the best that they can be. At their simplest, the services are about people—Mrs Allen's comments about the need for us to value all people as individuals and recognise their needs were apposite.

We should remember that care services are used by around 500,000 people every day and that they are provided by more than 100,000 people. The services include: day care; care homes; home care; early education and child care; housing support; independent health care; and nurse agencies. We often talk of the quantity and availability of those services but it is crucial that we do not lose sight of the importance of getting the right quality and standard of service as well. That is what the bill is about.

The bill represents a huge step forward for users and providers. It will mean a better experience of care services for all who use them and a more confident, effective and valued social work profession and social services work force to deliver the services.

What do we mean by quality? What are the standards to which we aspire? At the absolute least, people want services that are safe, secure and reliable. They want care that they can trust. That matters to the users of services and to their carers and families. People want privacy, dignity, independence and choice. Users of services want to be able to enjoy a full range of relationships and they want the services to be tailored to their needs. They want to be empowered to live lives that are rich in purpose, meaning and personal fulfilment. They want services that are designed

specifically to give them the best possible quality of life.

There are many excellent care services in Scotland, but we want all services to match the best. The current system of care regulation does not ensure the best possible services for those who need them and it does not guarantee independence or consistency. It lacks coverage and integration. Most important, it also lacks a user focus. We will all be aware of incidents that have shown that the system has not worked to protect users effectively.

Let us turn to what the bill does and how it will change the present situation. The bill establishes two new bodies. The Scottish commission for the regulation of care will regulate services and the Scottish social services council will regulate the work force. We are also introducing national care standards, which are being devised by a national committee that includes users, carers and professionals. The focus of that committee is entirely on the user: what the individual can expect from services; what the provider must do; and how the regulatory process can ensure that the outcomes of quality of life and quality of care have been met.

Under the bill, we will introduce a unified, consistent national system for regulating services, which will replace regulation by local authorities and health boards. We are creating a level playing field for providers, as local authority provision will be regulated for the first time. We are ensuring the regulation of all main care services, including, for the first time, care provided in people's homes. We are making the enforcement arrangements streamlined and effective for when things go wrong. We are ending the artificial and bureaucratic distinction between nursing homes and residential care homes. That means that an individual's changing care needs should be met where that individual is and that the increased care that is needed should come to them—we do not want frail and vulnerable people having to move to get appropriate care. We are also ending the increasingly artificial distinction between the regulation of early education and of child care.

For the work force, the bill introduces a regulatory body, the Scottish social services council, to raise the status and professionalism of social workers and social care staff. The new council will also ensure that education and training is of the highest quality and it will promote codes of conduct and practice.

The two new bodies will not in themselves deliver care services that are fit for the 21<sup>st</sup> century. That is a bigger, more demanding agenda, but one that, across the Executive's work, we are tackling with vigour. In order to have high-quality, 21<sup>st</sup> century care services, we must set the

standards of care that we desire. We must develop a shared vision of what we want our care services to provide, with users, purchasers and providers all working together to a common goal. Without national, independent bodies to promote the highest standards of care and a work force equipped to deliver them, it will take a great deal longer to bring about the changes that we all want.

Much work has been done to get us to this point. In taking forward our proposals for the bill, we have received a great deal of support from those who use care services, from service providers and from a wide range of interested parties and professionals. That has been as a result both of our formal consultation papers and of the work of the reference group of experts that we established. We have made changes to our proposals as a result, and they are all the better for it. That is what effective consultation is all about.

To continue to help our thinking as we advance to stage 2, Malcolm Chisholm and Nicol Stephen are meeting key stakeholder groups. There will be six meetings about the bill; that consultation will run until the end of the month. We expect to publish about 20 more consultation papers this year, on various aspects of the new arrangements. There have been four editions of a newsletter that offers regular updates on progress; we are issuing more than 10,000 copies of each edition. The regulation of care website, which we launched in January, offers up-to-date news and information. It received more than 11,000 hits in its first month and more than 50 messages have been posted on the interactive web board.

That all serves to indicate the extent of the involvement, participation and interest that there has been in the development of the bill, which stands us in good stead not just for the development of effective legislation but, crucially, and when the time comes, for the delivery of high standards.

**Nicola Sturgeon (Glasgow) (SNP):** On consultation, the minister will be aware that concern has been expressed by, I think, everybody who has given evidence to the Health and Community Care Committee on the impact of making the new commission self-funding through fees. The Executive has responded to that concern through its decision to subsidise regulation for early education and child care, but does it have any plans to respond to the widespread and overwhelming concerns that have been expressed by other care providers?

**Susan Deacon:** That is one of the issues that has arisen during early consideration of the bill. I will say more about it later in my speech, but I stress now that, at stage 1, it is important for us to focus primarily on the key principles, on which I

am pleased to say that there has been wide agreement. The essence of the consultation process that has taken place and the continuing dialogue that will take place should ensure that we can continue to consider how we move forward most effectively.

One of the main concerns to us all is how the new bodies that we are creating should operate. I am keen that as many experts as possible should be involved in the process. We have already set up working groups on developing single care homes and on inspection methods. A group to consider transition arrangements, which will involve staff and union representatives, will meet for the first time on 19 March. I take this opportunity to pay tribute to all those who have contributed in the consultation process.

I also pay tribute to the parliamentary committees for the role that they have carried out, particularly the Health and Community Care Committee, which is the lead committee on the bill. I am pleased that that committee has supported the bill's principles. Its stage 1 report is a thorough, thoughtful document, which raises a number of issues for consideration at stage 2.

Let me touch on some of the specific issues that have been raised. The Health and Community Care Committee has noted some concerns about the definitions of care services in the bill. I am sure that that is an area that will be considered further at the next stage.

I fully support the committee's view that there must be close co-operation between the Scottish social services council and the Scottish commission for the regulation of care; I look forward to hearing the committee's suggestions on how that might best be achieved.

I am pleased that the bill will introduce for the first time a statutory minimum number of inspections across all care sectors. We note that various views have been expressed on what that minimum should be and on wider operational matters relating to the inspections process. The inspection methods group that has been established will provide advice on inspection methods before the end of stage 2.

The committee has also suggested that there should be a timetable for the registration of the different parts of the work force. Again, we can consider at stage 2 how best to achieve that and when it would be realistic to expect firm plans from the council. We will also consider further how best to deal with staff who are not yet registered and who breach the code of conduct.

As we have indicated, we will introduce amendments to add the important areas of adoption and fostering to the bill. We also hope to introduce amendments to add to the care services

that can be regulated agencies that arrange adult placements and home care for children. Adult placements are where accommodation and care is provided for vulnerable adults, particularly people with learning disabilities, in the homes of specially recruited individuals. That sector is growing and is likely to continue to expand in the wake of the recent learning disability review. We have recently consulted on whether that service should be regulated; our proposal that it should be has received wide support.

**Mr Keith Raffan (Mid Scotland and Fife) (LD):** Will the minister give way?

**Susan Deacon:** In the interest of time, I will continue, if I may.

We already intend to regulate home care for children with disabilities. We now propose to extend regulation to agencies that provide care for any children in their own home where the carer is selected or employed by the agency rather than by the parent. That will mean that we will regulate sitter services, where an agency provides home-based care for families who need additional support or respite. Carers such as baby-sitters and nannies who are selected and employed by the parents will not be regulated, as that would be unreasonable and impractical. Those proposals are good news. They will mean that the bill will provide protection for even more children and vulnerable adults.

The question of fees was raised. The Health and Community Care committee has made several comments on the fees that providers will have to pay for regulation. We believe that it is important that the cost of regulation should be explicit and transparent. Everyone—users, purchasers and providers—has an interest in ensuring that the system works effectively and provides value for money. The current fee levels bring in only 17 per cent of the cost of regulating services. It is important to be clear in future about the real cost of regulation.

However, fees for regulation will constitute only a tiny proportion of the cost of providing care services. For example, under our proposals, the regulation fee of £65 per year per bed in a care home will increase to between £120 and £180 by 2004-05. That represents a maximum increase of £115 per bed over four years. That is less than 1 per cent of the overall cost of a care home place.

The Health and Community Care Committee has expressed concern that increased fees might mean that services go to the wall. Let us be clear about the fact that almost all community care services are provided or purchased by local authorities. We are negotiating with the Convention of Scottish Local Authorities to ensure that grant-aided expenditure takes into account

the cost to local authorities both of paying fees for their own provision and of meeting the slightly higher cost of commissioning care from others. As central Government grant to the commission is reduced over the coming years, there will be a corresponding increase in GAE. Therefore, there should be no reason why providers should have to bear the increased costs.

We recognise that solutions vary across the different care services that are affected. The GAE proposal would not work for child care, which is generally purchased by parents. We have already said that we will maintain a subsidy for child care so that fees do not have to rise to full cost. We have been pressed to fund everything by a direct grant to the commission, but I see no reason to set up a system whereby an independent clinic, private dentist or large private nursery is not expected to pay a fee for the regulation of its services. I stress, however, that there is nothing in the bill to prevent a subsidy for any service in the future, if needs be.

On the location of the new bodies that are being established, I am pleased to confirm that, as the First Minister announced yesterday, the headquarters of the commission and the council will be in Dundee. That decision is an operational matter and does not relate to any provision in the bill. As we have made clear, the decision is, of course, subject to the Parliament approving the bill's principles. It is good news for Dundee, and the choice of location has been widely welcomed.

I know that the Health and Community Care Committee has questioned the idea of there being five or six regional offices, although it has not said what number it would like to see. Let me make it clear that the commission will consist of no more than 500 staff. To divide its senior people among more than five or six offices would, we believe, work against its national focus and its effective management. We have already said, however, that individual staff will not necessarily be expected to work from the regional offices. Flexible working arrangements and working from local resource centres will be actively encouraged. We want to minimise the amount of time inspectors spend travelling, or on administrative duties, and therefore away from inspecting local providers. We want to build on and maximise their knowledge of particular areas.

Once the commission is established at the end of the summer, the board and the chief executive will be able to make decisions about where the organisation might need to supplement its regional offices with local resource centres. Those decisions do not have to be taken now; it is sensible to make them only when the commission has decided how it plans to inspect.

I will, of course, be interested in any specific



proposals that the Health and Community Care Committee wishes to make for the regional structure. However, I stress that we must do enough at this point to ensure that the commission will have buildings to move into in time so that the transition from local authorities and health boards goes smoothly. To wait until after stage 2 for final decisions is not realistic if we are to deliver the new system by 1 April 2002 and thus fulfil our promise to those who use care services.

**Nicola Sturgeon:** Will the minister give way?

**Susan Deacon:** I regret that, in the interest of time, I am unable to give way. The deputy minister will respond at the end of the debate and will pick up on points that have been made.

I stress that we must announce the number and location of the remaining regional offices shortly, as that will allow lease negotiations to begin and individual staff to start planning their futures. If, in due course and in the light of experience, the commission wishes to expand—or, indeed, to reduce—the regional structure, it will be able to do so.

In the time available to me today, I have endeavoured to cover some of the major points that have arisen during the early consideration of the bill. As I said, we are grateful to everyone who has contributed thus far, including many members who are present. We look forward to further considered debate as the bill progresses through the Parliament. We believe that the bill represents a significant step forward and that it will deliver real benefits for many tens of thousands of Scots. We are proud to introduce it and look forward to detailed discussions with the Health and Community Care Committee during the debate this afternoon and at stage 2 on the points that it has raised in its report.

I move,

That the Parliament agrees to the general principles of the Regulation of Care (Scotland) Bill.

**The Presiding Officer:** I call Mary Scanlon to speak to and move the amendment.

**Iain Smith (North-East Fife) (LD):** On a point of order, Presiding Officer. Will you clarify for me the reasoning behind accepting the amendment? According to rule 9.6.4 of the standing orders, the purpose of the debate is to agree to the general principles of the bill. The other options available are not to agree to the general principles or to ask for the general principles or part of the bill to be referred back to the lead committee.

I am not clear how, at the end of the debate, we could agree the general principles of the bill and yet not agree part of those general principles. This situation is similar to the one that led to our previous discussion around a stage 3 debate.

Such matters must be clarified, as I am not clear how the amendment can be competent.

**The Presiding Officer:** I commend to Iain Smith and to all members the guidance that I issued on this subject only a week or two ago. The amendment falls completely within the terms of that guidance.

14:55

**Mary Scanlon (Highlands and Islands) (Con):** Although we have lodged amendment S1M-1523.1, the Scottish Conservatives welcome the broad principles of the Regulation of Care (Scotland) Bill. We particularly welcome the principles of the bill as they were developed around and built on the proposals in the report of the working group on residential care home registration procedures, which was published in 1996 by the Conservative Government. Those proposals were pursued further in March 1999, in the white paper "Aiming for Excellence".

The amendment expresses reservations about the level of charges and consequent supply of services and fits into the new procedures that were outlined by the Presiding Officer on 9 February. We lodged the amendment simply because so many organisations expressed their concerns in submissions and evidence to the Health and Community Care Committee.

In addressing my amendment, I will raise the concerns of many organisations about the huge increases in registration and inspection fees and the likely impact of those increases on services and the provision of care. I hope that those concerns will be considered in the constructive way in which I will raise them.

Two figures highlight the point. The first is the increase from £2,600 to £7,000 in fees for a residential care home, despite the fact, as members know, that many residential care homes are struggling to stay in existence as matters stand. The second is that day care centres, most of which are funded by voluntary and charitable organisations, will eventually pay fees of between £1,400 and £1,800. Those organisations have expressed genuine concerns that I hope the minister will address.

I bring to the attention of members who are not members of the Health and Community Care Committee some of the concerns that organisations raised with the committee. In its written submission, Age Concern said:

"Age Concern believes that the imposition of Fees for registering as a care provider may have a detrimental effect on the provision of services for older people, particularly if those fees were significantly high."

I hear what the minister said about local

authorities increasing funding for services and I read what the financial memorandum said about COSLA, but many voluntary organisations have been on standstill budgets for some years while others have not received increases in funding that are in line with inflation. While I welcome the fact that the minister is addressing those concerns, I hope that there will be no diminution of services.

Age Concern's submission continues:

"In addition, we believe that any charge should relate to the size and turnover of the registered body. A flat rate fee would discriminate against smaller operations".

There are many such operations in remote and rural areas.

Capability Scotland said:

"The unintended consequences of the additional costs could be either fewer services for people who need them or greater charitable donations from members of the public."

Who should carry the financial burden of caring for the most vulnerable people in our society?

Capability Scotland might find itself caught by an inability to meet the standards—which we all support—if the local authority and the health authority that purchase its service do not provide the funding that is required to raise the quality of that service.

Capability Scotland also spoke about the ratio of staff to children with complex learning disabilities, which can be between 1:3 and 1:4 and requires greater funding than other services. The necessity of such a ratio may not be agreed on, so it may not be funded. The outcome of that could be that voluntary sector providers such as Capability Scotland will fill funding shortfalls through their own fundraising efforts. However, ultimately, a service provider's failure to meet the required standards could result in suspension or removal of registration.

The figures that Capability Scotland has suggested are: an additional £50,000 a year for payment of fees for registration and inspection after 2004; £12,000 a year for Scottish Criminal Record Office checks; £150,000 over three years for workplace assessors for Scottish vocational qualifications at levels 2 and 3; and additional training costs.

**Iain Smith:** Will the member give way?

**Mary Scanlon:** I think that Mr Smith has said enough for today and I would rather keep my contribution positive.

**Mrs Margaret Smith (Edinburgh West) (LD)** rose—

**Karen Gillon (Clydesdale) (Lab)** rose—

**Mary Scanlon:** Alzheimer Scotland does not pay registration fees—[*Interruption.*]

**The Presiding Officer:** Order. Three members are asking whether Mrs Scanlon will give way, but it is up to her to decide whether to do so.

**Mary Scanlon:** I will give way to Mrs Smith.

**Mrs Smith:** The SCRO check payments have been set aside. All parties in the chamber supported that and the Executive has listened.

**Mary Scanlon:** I am aware that, between the submission of evidence and today, there has been quite a bit of movement. That is why I say that the points that have been made are constructive. I am sure that there will be more movement at stage 2.

Alzheimer Scotland does not pay registration fees for currently registrable services such as day care or for unregistered services such as home support, so it would attempt to add any fees that are imposed to the price local authorities are charged. If local authorities refused to increase their payments, the costs would have to be absorbed by the organisation, which would have to reduce either the number of its staff or their remuneration or conditions of service. I do not think that anyone here would want that.

In Inverness, we have a centre called the Woodlands Centre for Alzheimer's patients. It is attached to a day care centre for the elderly. There seems to be confusion where two centres are side by side. Will there will be one registration fee, or will there be an additional fee because the council commissions services for Alzheimer's sufferers? I would like some clarification on that.

The Community Care Providers Scotland registration fee is likely to increase by as much as 300 per cent. In evidence to the Health and Community Care Committee, Annie Gunner said:

"we are ... concerned that the bill will give us more of the same ... except that the big difference is that we will pay a heck of a lot more."—[*Official Report, Health and Community Care Committee, 7 February 2001; c 1524.*]

That has to be a concern, especially for very vulnerable people.

The Scottish Association for Mental Health has estimated that it will need an extra £32,500. It has given evidence to the Health and Community Care Committee on the cuts in its community care service and the funding problems it faces.

Community Care Providers Scotland told the committee that although the fees per bed space were £65, the increase in fees this year for registration has been 44 per cent. The fees per bed space went up from £45 to £65. That massive increase has set a precedent for future increases, which is quite horrific. Another witness from CCPS said that the increase

"was intended to soften the blow and to bring registered care homes in line with nursing homes ... we now face another 45 per cent increase over the next three years"—

[*Official Report, Health and Community Care Committee, 7 February 2001; c 1531.*]

Those kinds of figures are frightening to many voluntary organisations.

Fees will not be a problem for local authority services as the authorities will retain £3.2 million of their current budgets for registration and inspection to retain some staff and to pay fees for regulation of the services that they provide themselves. The problem is to provide a level playing field for the private sector, the public sector and the voluntary sector.

A witness from the Carers National Association told the committee that costs would rise and that somebody would have to meet them. He added that if the money did not come from increased charges, the association would have to raise it elsewhere or limit the service. I can tell the minister that these are genuine concerns. I hope that they will be addressed at the next stage of the bill.

The written submission of Children 1<sup>st</sup> to the committee said that the organisation would

“be unable to absorb the costs of regulation or to secure the necessary funding to continue.”

It is understandable that providers should absorb some of the cost, but most voluntary organisations have minimal management structures and must budget on a shoestring. It is difficult for them to absorb additional costs without paring down their staff or the service they provide.

Paragraph 162 of the financial memorandum refers to exceptions

“where full cost recovery through fees runs counter to other policy objectives.”

Paragraph 168 states:

“Expansion of childcare is a key Scottish Executive objective and is linked to employment objectives. The Scottish Executive will therefore provide a continued subsidy ... to be held to a maximum of £250 for day care providers and £50 for childminders.”

I fully appreciate the commitment to children, but the same commitment does not apply to the mentally ill, the disabled or the elderly, although they are included in our social inclusion package and are the most likely to be affected by reductions in service.

The Leonard Cheshire homes raised another point with me, which undoubtedly needs clarification. Leonard Cheshire in Inverness has residential accommodation, a day centre, home care and flats with up to five people. It is unclear whether its home care, day care and residential care services and the flats will be registered and inspected separately.

There is also a need to define respite care,

although I heard what the minister said about care in a person's home. The definition covers residential homes, but when respite care is provided in a child's own home, which is often the case for disabled children, is it a support service or a home care service? That needs to be clarified further.

There must be further clarification of the definitions in section 2(5) of an independent clinic and an independent medical agency. The definition of personal care in section 2(20), debate in the chamber about which is well documented, is quite clear in the bill, but it is of concern that the care development group is currently reconsidering the definition of personal care, as that has the potential to be quite confusing.

The minister mentioned the focus on quality of care and quality of life, which we, undoubtedly like the rest of the chamber, support. However, there is concern that the outcomes relating to care are difficult to find in the bill. In section 24, the only references to caring for the person are in subsection (2)(e), which states that regulations may

“make provision for securing the welfare of persons provided with a care service”

and in subsection (6)(a), which refers to

“(i) the promotion; and

(ii) the protection,

of the health of the persons in question”.

I fully support what the minister said in her opening speech, but we ask that there be more positive emphasis not only on buildings, management structures, staff ratios, qualifications, training and registration, but on the quality of care and how it can be measured either by carers or others. More emphasis must be put on caring for the person.

Section 28(8)(f) refers to

“treatment using such—

(i) techniques; or

(ii) technology,

as may be specified in the regulations.”

Again we are specifying treatments or technologies that should be covered by the regulations, but the concern is that we do not know which they are. I seek further clarification of that.

This week, I was asked whether the “diet clinics” mentioned in paragraph 208 of the explanatory notes will include Weight Watchers and Scottish Slimmers, whose sessions are attended by thousands of people throughout Scotland every week. I do not think so, but the matter was raised with me and clarification must be given.

Finally, a distinction must be made between care homes and sheltered housing. It is not entirely clear what "supported accommodation" is. Is it hostels for the homeless? There has been much documented evidence on that recently. If support is given for drug and alcohol services—regarding which bad practice has recently been documented on television and in newspapers—it is important to make clear exactly what supported accommodation is. We have hostels for the homeless that may or may not provide some level of care. That is an important point about a vulnerable group.

All the points that I have raised today I received in evidence. If Labour members do not agree with them, they are not disagreeing with me: they are disagreeing with those who gave evidence.

My final point is from Children 1<sup>st</sup>, which raised concerns about the risk to children from sex offenders who systematically target children and young people and spend time building up trust in order to abuse them in care settings. I understand from the Deputy Minister for Health and Community Care that the consultation process is under way. I must ask whether we should consider the consultation process and the protection of vulnerable children in the context of this bill. Is this bill the natural place to do that, or is it wiser to legislate on that at a later date?

I move amendment S1M-1523.1, to insert at end:

"but, in so doing, expresses its reservations about the level of charges and consequential supply of services."

15:11

**Shona Robison (North-East Scotland) (SNP):**

On behalf of the Scottish National Party, I welcome the Regulation of Care (Scotland) Bill. I also welcome the fact that the headquarters of the new Scottish commission for the regulation of care and the Scottish social services council will be based in Dundee, which is an excellent choice.

There are high hopes that the bill will lead to major improvements in our care services through effective and consistent regulation as a result of the establishment of the Scottish commission for the regulation of care and the strengthening of user and carer involvement in care delivery, standards setting and regulation. Of equal importance is the establishment of the Scottish social services council to register care staff and promote high standards of conduct and practice among the work force and to ensure that they receive high standards of education and training; the quality of social work services depends greatly on the quality of staff.

Why are the changes necessary? The current system of inspecting and registering care services

is inconsistent and depends on the type of care establishment. Responsibility is divided between health boards and local authorities. Many services are not formally regulated at all. The Minister for Health and Community Care alluded to some of them. I am particularly pleased that day care and home care services will be brought into a regulatory framework. It will be interesting to see how we manage to regulate and inspect home care services with sensitivity, given that that will be done in people's homes, but I am sure that it will be achieved.

Local authorities inspect many of their own services. That is not satisfactory; a conflict of interest can arise. The lack of integration has made it difficult for residential and nursing care services to be provided in one establishment, which means upheaval for elderly people as their needs change and they have to move to another establishment. A single category of care home will end that disruption.

At present, no system is in place for the regulation of those who work in social work. That must be changed. Over the years, the vast majority of staff in social work have done a marvellous job and they should be commended, but we have seen a small number of serious incidents in all care sectors involving vulnerable children and adults. Through the effective regulation of the work force, this bill must put an end to abuse and protect the 500,000 service users in Scotland. That is quite a challenge, but we must ensure that the public has full confidence in care services and that they feel that they can speak out when things are not going well. There is no doubt that people worry when they read how one in five elderly people who are resident in care homes are malnourished. The public must believe that this bill will put an end to such scandals.

Whistleblowing is one of the most effective methods of policing poor standards or practice, but staff and service users have to be confident that the system will protect them. It has to be said that there is little confidence in the current complaints system. I hope that the bill will change that.

The commission will have a duty to promote the quality and improvement of care services through registration and inspection. An important function of the commission will be to provide the public with information and advice on the availability and quality of the care services it regulates. That fulfils a key recommendation of the Sutherland commission.

While on the subject of Sutherland, I want to draw to the minister's attention the very helpful definition of personal care in the bill. The minister will find that definition very useful in finally coming up with a definition of personal care for the full implementation of free personal care for the

elderly. When he sums up, he may wish to take the opportunity to provide a guarantee that the definition that the care development group comes up with will not be narrower than the definition in the bill.

Some areas of concern have been highlighted through the Health and Community Care Committee. I have said that the general principles of the bill have been broadly welcomed by a range of organisations, but widespread consultation and the evidence have highlighted a number of key concerns, particularly around inspection levels, maintaining local links, the transfer of staff and the funding for the commission and the council.

The registration and inspection process will provide the commission with important powers to issue improvement notices that will list what improvements must be made. If those improvements are not made, a provider's registration can be cancelled. That is a very important sanction that the commission can use to drive up standards.

A key worry that was expressed to the committee concerns the Executive's proposal to limit mandatory inspections to one per year. The National Association of Inspection and Registration Officers said:

"NAIRO strongly opposes a retreat from the Executive's own current target of two inspections per year. NAIRO believes that unannounced inspections reflect everyday service standards more accurately and rightly enjoy greater public credibility."

Real concern was expressed about any reduction in the number of statutory inspections, given that two is the present minimum. It could be argued that organisations will be expected to pay higher fees for less of a service in that respect. Reductions could also be seen as rewarding bad practice and penalising good practice.

The recent Accounts Commission report on performance indicators showed that some local authority social work departments are not even meeting the target of two inspections a year, while others are prioritising inspection to go beyond that target. We should not reduce the number of inspections to the lowest common denominator. The evidence that the committee received was overwhelmingly in favour of retaining two inspections a year for residential care homes, of which one should be announced and one unannounced. Although the minister has argued that one inspection a year is only a minimum, the danger is that the minimum becomes the norm.

It is important for public confidence that the public are reassured that care homes are being regularly and thoroughly inspected. I was struck by the comment, which appeared in a recent *Sunday Mail* article, of the daughter of an elderly man who

died in appalling circumstances in a private nursing home. She said:

"Health boards still do not go in and investigate vigorously. They give too many warnings that they're coming. So I'm not surprised that old people are still being mistreated and starved."

We must make sure that people are reassured. Reducing the level of inspections will not do that.

How staff will be transferred is a key area of concern for the 500 staff who will go to the Scottish commission for the regulation of care and the Scottish social services council. Questions have been asked about whether the Transfer of Undertakings (Protection of Employment) Regulations are sufficient to deal with those concerns, which include the location of regional offices, the difficulties of homeworking, conditions of service, pension rights and employment alternatives. I know that some reassurances have been given: my colleagues from the Local Government Committee will deal with that in more detail.

Although we now know where the headquarters will be situated, the proposal for five regional offices has generated a lot of concern. We have yet to hear a coherent argument from the Executive on why that model should be followed. The Health and Community Care Committee is of the opinion that the model should be revisited and that there should be some correlation to existing administrative boundaries.

Without doubt, fees have been the most contentious issue. The Executive proposes to fund the start-up costs but expects both bodies to be self-financing by 2004-05 through the registration fees of care providers and staff. That has been condemned as unrealistic by organisation after organisation. I quote NAIRO again:

"We as both providers and purchasers of services are very concerned about the belief that the commission can achieve self-financing through fees: we do not think that is achievable. It is clear that the imposition of fees on local authorities will draw on community care moneys. We pose the question whether that is the best use of the community care pound".

Existing registration and inspection units raise less than one fifth of their cost through income that is generated by the units, but that is expected to become 100 per cent within three years. That can be achieved only through massive increases in the level of fees. As we have heard, there is an intention to increase the fees from the current £10 to £95 by 2003 and possibly to as much as £180 by 2004. That is quite a jump. All the bodies that gave evidence to the Health and Community Care Committee roundly condemned that hike. The committee asked the deputy minister to think again about the issue. I hope that when he sums up, he will indicate that he has done so, although

the Minister for Health and Community Care's opening speech and the letter that I received this morning do not suggest that that will be the case.

I will move on to another related problem that NAIRO highlights. It is inevitable that the bulk of the increase in fees will be passed on, in the charge for the care home place, to the client. As we know, local authorities' community care budgets fund about 80 per cent of the places that private and voluntary care providers supply. Therefore, all that will happen is that community care budgets will bear the brunt of the increase in fees. The Minister for Health and Community Care looks puzzled. If she wants to ask for clarification, I will explain the position differently.

Does the minister think that it is sensible for money from one pot of public money—the community care budget—to go through a convoluted route to pay to run the commission and the council, which are public bodies? The value of the community care pound becomes less each time it is moved, because of administration costs. Do ministers think that that is best value? No doubt we will hear at the end of the debate.

In the Health and Community Care Committee and today, ministers have argued that the increased charges would be covered by increases in the total revenue grant funding to local authorities. When the deputy minister said that to the committee, everyone laughed, because we know that local authorities remain cash-strapped. More important, the money is not ring-fenced. We heard some honest evidence from social work managers, who admitted that they often use community care money for other priorities, if needs must.

Voluntary organisations fear that local authorities will not increase their funding, leaving them to find the money for registration fees by cutting staff or services. They are not reassured. The Health and Community Care Committee did not buy the deputy minister's reasoning on funding. I hope that ministers will listen to the overwhelming opposition to the self-funding model. The structure must be revisited to devise a fairer, more workable and more realistic system.

The general principle of people paying a fee to register with the council has been accepted, but the fee should be based on a person's ability to pay. It may not be fair to expect a childminder or social work student to pay the same as someone who is in well-paid employment.

Many organisations that gave evidence to the Health and Community Care Committee backed the introduction of a children's rights commissioner. Some believed that proposals should be in the bill. I have sympathy with the argument that Children 1<sup>st</sup>, Barnardos Scotland

and NCH Scotland made in evidence: that they would prefer separate legislation to create the post of children's commissioner rather than risk the role being curtailed by the bill's scope. I am relaxed about how the post is introduced—whether in the bill or through the Education, Culture and Sport Committee—but the Executive must make progress on its establishment, to afford Scotland's children the same level of protection as Welsh children will receive under the Care Standards Act 2000.

The bill is an opportunity to improve the delivery and monitoring of care for some of the most vulnerable people in society. We are all behind that aim. The committee has invested much time and energy in hearing a great deal of evidence. There is much agreement and consensus across the parties on what needs to change in the bill. I hope that when the minister meets the key stakeholder groups next week he will listen to what they have to say about the changes that are required—the bill will be all the better for them.

15:25

**Mrs Margaret Smith (Edinburgh West) (LD):** I begin by thanking the members of the Health and Community Care Committee for their work on the bill. I thank the members of all the other committees that have considered the bill and the Deputy Minister for Health and Community Care for his assistance on various points.

The Scottish Liberal Democrats and the Health and Community Care Committee—I can happily wear both hats during my speech—welcome the general principles of the bill. It is wide ranging and ambitious and it covers a number of different types and locations of care services.

The aims of improving the quality of care services for service users and their carers, and of providing registration and regulation of a properly trained professional work force—which cares for up to half a million Scots at any one time—will have universal support. The bill is a genuine attempt to improve standards and to protect the most vulnerable people in our society. The bill's key elements include the establishment of a Scottish commission for the regulation of care to provide for the regulation, inspection and registration of prescribed care services, including the setting of national care standards. The bill also includes provision for the setting up of a Scottish social services council.

I associate myself totally with the comments that have been made by colleagues to the effect that the quality of services that are delivered is fundamentally allied with the quality of the staff. We have a number of very high quality staff working in care—I hope that the bill will make their

contribution even better. The bill will fulfil the recommendation of the Sutherland commission to take a strategic overview of care and will extend it beyond care of the elderly.

Why is the bill necessary? At present, we have a fragmented system, which includes different forms of registration and inspection in different settings. Not all care services are subject to statutory regulation and much of the legislation that governs care is out of date. Some services, such as residential care homes and day care for children, seem to be within the regulation of councils, although nursing homes are regulated by health boards. Add to that the fact that council-owned residential homes do not have to register, but are inspected, and we have a dog's breakfast of care. More and more people are being cared for at home, but as things stand, the services that are delivered there are neither registered nor inspected. I welcome the fact that the bill deals with the registration and inspection of day care and home care.

There has been concern about the lack of independence in the system, as local authorities are responsible for commissioning up to 80 per cent of services, regulating residential care homes and for providing some residential care home places. The bill introduces a purchaser-provider-regulator split that is welcomed by local authorities, as well as by everybody else. There have been claims of a lack of consistency throughout the country. The bill will introduce national care standards which, I hope, will bring consistency and fairness and improve services. Those standards will also provide clear guidelines on what is acceptable to those who provide services. Providers have told me that that will also be helpful to them.

There has been a lack of integration in the past, which meant that it was more difficult for residential and nursing home services to be provided in one establishment. That has led to elderly people in particular being moved when their need for nursing care increased. Such moves can be traumatic; I have been told by staff on several occasions that such moves have contributed to earlier mortality for certain service users.

Another area of concern was that there is no comprehensive regulation of the social services work force. With more and more Scots requiring care of one kind or another, it is crucial that we have a well trained work force that provides the best care.

Everyone agrees that the bill will tackle all the existing problems and that it represents a welcome step towards improving services. However, as colleagues have said, in taking evidence and in considering the bill, the

committees has expressed some concerns. I hope that the ministers will take those concerns on board and address them at stage 2.

The bill is wide-ranging and ambitious, as I said. It seeks to close loopholes in care. However, we have been told in evidence that the scope of the bill is still not wide enough and that other areas should be added. The minister has said that adoption and fostering will be added. It has been difficult for us to conduct proper consultation on that issue, because we know that it is coming, but we do not have it in black and white in front of us. We are still concerned about nanny services and au pair services.

The British Association of Social Workers has mentioned fieldwork social work services, and other members have picked up on the point that Susan Deacon made about home care services, particularly those that are delivered in the homes of children who have disabilities. I was pleased to hear what the minister had to say about that; we will obviously get further clarification in due course. The role of hospices has also been mentioned in the Health and Community Care Committee. We feel that there is a need for greater clarification of some of the definitions of care services, and we would particularly welcome that in relation to support services, supported housing and some elements of independent health care.

The overall feeling that comes through from many organisations, particularly those that work with children, is that they want the added protection that the bill gives to be extended as widely as possible. The Health and Community Care Committee was also concerned about the amount of detail that was not contained in the bill, but which will be the subject of regulations. Our concern is about lack of scrutiny. Much of the work that will be done under those regulations concerns crucial elements of the bill, including transfer arrangements, location of staff and the number of offices, which will effect the efficacy of the legislation. The more information we have, the better we can scrutinise the bill. The committee also mentioned the need for continued parliamentary scrutiny of national care standards and of other important aspects of the bill.

One of the other key areas of concern that has been highlighted by members is the issue of funding and fees. The Health and Community Care Committee was certainly not convinced by the arguments that were put to us by the Deputy Minister for Health and Community Care on whether the proposed system would be the most effective one and whether it would be bureaucratic. The committee believes that it would be bureaucratic, and I certainly associate myself with the comments that were made by Shona

Robison about that.

The Richmond Fellowship said in evidence to the committee:

"This convoluted approach with inherent additional time and administration costs does not represent a Best Value approach in dispensing the Community Care £."

The Health and Community Care Committee is good at giving ministers a number of ways to continue to spend even more money on community care. We are trying to be extremely helpful when we say that we think that the Executive could cut spending in the system by making it less bureaucratic. The Convention of Scottish Local Authorities and other organisations also told us that they believe that it is unrealistic to think in terms of the system being

"self-financing through fees from 2004-05."

That will have a major impact on local government, and I associate myself with the comments that have been made on that point.

Almost all the groups that we have spoken to across all sectors—public, voluntary and private—have expressed grave concerns about the impact of self-financing. Capability Scotland estimates that the extra fees, when coupled with the cost of the extra training that is required by the bill, will mean an extra £100,000 in costs to that organisation by 2004. Capability Scotland, Alzheimer Scotland—Action on Dementia, Age Concern Scotland and a host of other organisations have pointed out that the likely effect of the bill will be the loss of some services. The Health and Community Care Committee is sure that that is not the Executive's intention, and urges ministers to look again at the question of the level of fees and the means of funding.

Committee members were also concerned about a possible reduction in services if the minimum number of inspections was cut from the current two per year to one per year. We heard compelling evidence that that would be a mistake. In fact, on a visit to an inspection in Lundin Links, I heard from inspectors exactly what the difference is between announced and unannounced inspections. I learned that, during an announced inspection, they may look through people's books and see a lot of the preparation that has been done, which was relevant and necessary. However, I was told that an unannounced inspection involves a different set of issues for the inspectors to examine. We ask the Executive to reconsider the matter of inspections and to expect a minimum of two inspections a year in residential settings such as children's homes—one announced inspection and one unannounced.

A number of operational and organisational issues concerned the Health and Community Care Committee. We were largely persuaded about the

argument for having two separate bodies—the commission and the council—but we feel that it is essential that those bodies communicate effectively. We are also interested in the lines of accountability to the minister from those bodies.

It is essential that service users are included in the new system as much as possible, both at local and national level. Several witnesses mentioned the need to listen to people who use the services; the case for the need to hear the voices of children in public care is especially compelling. We know from reports that we have all read that, in the past, we have too often failed some of those children. Announcements during the past few days about educational attainment show that, despite the best efforts of many good social service workers, we are still failing some children. It is essential that we listen to their voices.

The Health and Community Care Committee supports unanimously the establishment of the post of children's commissioner, but we agree with those who work in the sector who feel that to include that in the bill would restrict a commissioner's powers to help all our children. We look forward to the report of the Education, Culture and Sport Committee on the matter and we hope that the Executive will establish that post.

Whistleblowing is omitted from our report. We discussed the matter and thought that it was right to highlight the need for a robust complaints system, which worked in tandem with existing complaints procedures, but we also wanted to encourage and protect whistleblowers—whether they are members of staff or service users and carers. The nature of the services is such that people can hide abuse and poor service from the authorities and the general public; it is, however, much more difficult to hide it from colleagues.

Several witnesses said that they welcomed the bill's intention to allow for improvement notices to be followed through, rather than homes immediately being closed. That should allow members of staff greater freedom to report any service that they think is failing service users. We must protect them if they choose to do that.

We welcome the establishment of national care standards and the work that is being done by the national care standards committee. It is crucial that the standards are right—they are the standards against which the commission for the regulation of care will inspect services. The standards cover issues of quality of accommodation, quality of care and quality of life. They cover issues that range from nutrition and high staff turnover to complaints procedures, cultural considerations and privacy. However, health board chief executives and COSLA were critical of the draft standards and called for them to be "enforceable and measurable".



Everybody welcomed the proposal to set up a Scottish social services council to promote high standards of conduct and practice among social service workers through the publication of codes of practice; regulation of education; training of social workers; and the establishment of registers of relevant groups in the care work force. Several specific issues have been raised about the council, but the main point is that registration of staff must be done as quickly as possible; the Health and Community Care Committee endorses the Local Government Committee's call for a clear timetable.

Several witnesses expressed concern about the number and location of commission offices, and about the issue of staff working from home. It is essential that we strike the right balance between national standardisation of services and local interface with service users. We have asked the Executive to reconsider the number of offices and—specifically—to consider the possibility of linking that number to the number of health boards. That would link in with the new approach that is outlined in "Our National Health", and make use of existing offices.

I am running out of time, so I will not mention staff transfer. We will come back to that issue at stage 2, although I am sure that colleagues will mention it.

The Health and Community Care Committee looks forward to playing its full part, at stage 2, in taking forward a bill that is generally welcomed throughout Parliament and its committees. Work must still be done to improve the bill, but the bill will improve the lives of all Scots who receive care—wherever that care is delivered. I endorse the general principles of the bill.

15:38

**Trish Godman (West Renfrewshire) (Lab):** The Regulation of Care (Scotland) Bill is part of our modernising programme for government—and rightly so.

I say to the Tories that to suggest, even as a joke, that Weight Watchers should be regulated demeans the bill.

**Ben Wallace (North-East Scotland) (Con):** Will Trish Godman give way?

**Trish Godman:** No. I have just started my speech.

No one in any political party would disagree that we should safeguard vulnerable people. That means vulnerable people of all ages: children; young adults; middle-aged people; and older people. That is what the bill is about. It is not a bill about older people; it applies to people across the board.

No one would argue with the fact that we should raise the standards of practice; there is good practice in many areas, but it is patchy. As Shona Robison said, some services are not regulated at all.

I will talk about raising public confidence in the social services work force, which—believe me—is much maligned. If somebody who does not know a person asks that person what they do and is told that the person is a social worker, they take three steps back, give the person a peculiar look and usually do not speak to them again.

No one is interested in the thousands of people who are looked after daily in their own homes and in residential and day care settings by that service, but people are rightly concerned about bad practice. The media are right to draw our attention to the fact that sexual, physical and emotional abuse exists in homes for young children, young adults and older people—the bill goes some way towards changing that situation.

Shona Robison rightly pointed out that, until now, whistleblowing has been the most effective way of policing poor standards and bad practice. The courageous workers who report those conditions must be confident that they will be protected. As the proposed new council will oversee discipline of the most serious cases of misconduct, it is important that the council is as strong as the commission. In other words, those bodies should be seen as equals.

Training is an important element of the bill. Indeed, at some point, the Scottish Parliament needs to review the overall training of social workers. In the past, particularly in residential care, social workers were only as good as the people with whom they worked their shifts. If a new person worked their shifts with somebody who was confident and good at their job, that was how they usually continued. However, many care workers, especially in residential care, received no training at all.

The Local Government Committee is concerned that there should be appropriate levels of resourcing, training and recruiting, because the bill means that we will have to increase the number of staff. I believe sincerely that there is a need for designated training for registration and inspection staff.

I must confess that, while I was the chair of resources in Glasgow City Council, the training budget was constantly cut. I do not feel good about that, but it happened simply because training was not seen as providing a front-line service. Although that situation has changed in Glasgow and other places, it is important to ensure that the money for training is where it should be.

The Local Government Committee also agrees with the Scottish Trades Union Congress that consideration should be given to education and training for career progression from vocational to professional qualifications. However, the committee thinks that there should be a minimum of two unannounced inspection visits a year, even given the implications of that measure for staff and training. Furthermore, the commission's regional offices should be located on the basis of health board boundaries. Finally, nannies and nanny agencies should be included within the scope of the bill.

Nothing in the bill ensures a local dimension by way of advisory committees. I should declare an interest, as I was the chair of the advisory committee on inspection regulation in Glasgow City Council. Advisory committees have provided users, care service providers and locally elected members with the opportunity to contribute to the debate at local level.

The bill is potentially one of the most significant that the Parliament will consider. In order to protect vulnerable people of all ages and the staff who care for them, we must get it right. I hope that the minister will take this opportunity to listen. Standards will not be raised if we do not train, support and protect the staff who care for our vulnerable people.

15:43

**Irene McGugan (North-East Scotland) (SNP):**

I want to raise several children's issues that have been identified by the Education, Culture and Sport Committee and by the cross-party group in the Scottish Parliament on children and young people. We welcome the bill's proposals, because children and other vulnerable people should expect the highest standards of care and must be protected from all avoidable harm.

However, it is disappointing that the bill does not contain the kind of statement of the principles and values that should underpin the new regulatory system, such as the statement that we saw in the Standards in Scotland's Schools etc Act 2000. The initial consultation document was very clear that the focus of regulation and registration must be the people who use the services and that the main concern is their quality of life. I hope that the Executive can be persuaded that an introductory paragraph that expresses similar sentiments should be added to the bill.

I also want the minister to comment on the fact that the bill contains no clear definition of a child. Section 2 refers twice to service users as

"being of a young age"

without defining that age. Furthermore, in section

55, a child is defined as a

"person under the age of sixteen years".

The minister will be aware that local authorities currently provide child care and education up to the age of 18 to children who have disabilities. It is not unreasonable to suggest not only that the bill needs a clear definition of a child, but that that definition must be consistent with other legislation, especially the Children (Scotland) Act 1995.

There is concern that the bill does not include several care services that are central to the protection of children's interests. Although we welcome today's announcement concerning sitter services, nanny agencies were mentioned frequently during consultation and it is disappointing that they will not be included. I do not think that it is unreasonable to argue that nanny agencies should be registered in the same way and for the same reasons that it is proposed we should register nurse agencies. Services to adults in their homes are to be regulated—why not all such children's services? If the bill is about ensuring certain standards of service and providing reassurance to people, we need such regulation. To leave out nanny agencies would be inconsistent with the rest of the bill.

As a former social worker, I echo the concern of the British Association of Social Workers and others, that fieldwork services are omitted from the remit of the proposed commission. The argument is that care provision cannot be disassociated from the way in which people get into care. It has been announced that foster care and adoption services will be added, but case management, assessment planning and review—which are carried out by fieldwork staff, in relation to looked-after children—are not covered. If the bill is about reassuring the public that we are trying to keep children safe, those services must also be regulated.

The Education, Culture and Sport Committee heard from young people who are looked after, some of whom are very dissatisfied with their care experience and some of whom have little or no confidence in the current complaints procedure. The Scottish Throughcare and Aftercare Forum is disappointed that there is no clear reference in the policy memorandum to the needs of young people who are leaving care. It is vital—to echo Margaret Smith's point—that the views of young people are sought and listened to at an early stage in the development of the standards, complaints procedure and inspection processes. I hope that the minister can give us an assurance that that will happen, and that working arrangements for engaging young people's views will be put in place.

I conclude on the theme of children's rights. The suggestion that there should be a children's

commissioner has been mentioned and has wide support. However, to be effective, such a role needs to be inclusive and to encompass all children and young people. There is now a common view that the bill cannot adequately address that need. Under the current definitions of care services, if the role of the proposed commissioner was confined to the services that are covered by the bill, it would exclude a wide range of vulnerable children, including young carers, children on the child protection register and young people in prison. The interests of the most vulnerable will be the focus of the forthcoming inquiry of the Education, Culture and Sport Committee, and their interests would be better safeguarded by a commissioner who had a wider, more inclusive brief than can be accommodated through the bill.

15:48

**Margaret Jamieson (Kilmarnock and Loudoun) (Lab):** I declare an interest in the matter, as a member of Unison and the mother of a student nursery nurse. I do not want anything to come back to haunt me later.

The principles of the bill are welcomed by people who are involved in social care, whether they are users, providers or members of staff. It is unfortunate that so much attention has been focused on services for elderly people, although the bill covers all aspects of social care. The number of establishments that relate to services for the elderly that come within the scope of the bill is small compared to the number of establishments and settings for children and young people's services. It is right and proper that all vulnerable people should be protected. The Labour party and individual members of it, some of whom are members of the Parliament, have campaigned for a significant number of years for the regulation of services and of those who deliver them.

Throughout the evidence-taking process, it has been stated that further clarification and strengthening of the bill is needed to ensure that it meets the needs and aspirations of the Scottish people. It has also been pointed out that equal emphasis should be placed on the proposed council and commission.

I shall highlight three areas this afternoon, the first of which was highlighted by the British Association of Social Workers and the STUC. They have indicated that insufficient finance was made available in the past for the training of social care staff, as was alluded to by Trish Godman. The career structure and qualifications of staff can vary from area to area. It is right and proper that those issues are being raised today if we are serious about the quality of services that we want

to be delivered to all our vulnerable people, irrespective of their age.

The second matter—registration and inspection officers—also concerns those who provide services. The bill proposes to bring together many strands of current registration and inspection: health boards that are involved in nursing homes; local authorities that cover residential homes; and provision for children. All the officers in those areas are experts and have established networks for peer support. The suggestions that they should operate from five regional centres or that they should work from home have not found support. The need for local intelligence is an important aspect of inspection, together with links to the communities that are served by the providers. The needs of service users to access inspection officers outwith defined inspections is important to the development of quality services. I am concerned that, given the fact that the registration and inspection officers come from diverse employer bases, they will opt not to transfer if they do not have the same guarantees that were afforded to other staff during local government reorganisation. That was highlighted as a concern by the STUC, Unison, the Convention of Scottish Local Authorities and others. I urge the minister to reconsider that important matter.

My third point relates to the bill's lack of consistency and clarity in its definition of a child. Irene McGugan has already mentioned that issue.

**Mary Scanlon:** Will the member give way?

**Margaret Jamieson:** No, I am winding up.

In particular, I draw members' attention to section 2(2) of the bill, in which reference is made to somebody

"being of a young age".

At no point in the bill, however, is that phrase defined. In section 55, "child" is defined as meaning

"a person under the age of sixteen years".

That is not consistent with the definition of a child that is used by existing legislation that impacts on children and young people. Provision needs to be made in the bill to cover all circumstances that children and young people face. I draw the minister's attention to the briefing that was supplied to members by Capability Scotland.

The bill is welcome and I look forward to the Deputy Minister for Health and Community Care's comments when he winds up the debate, and to our proceeding to stage 2.

15:53

**Mr Keith Harding (Mid Scotland and Fife) (Con):** Like other members, I welcome the broad

thrust of the bill, which has the potential to make a difference to the quality of care services that are provided by the public and private sectors. That said, several concerns were expressed by witnesses who came before the Local Government Committee. Some of those concerns have already been mentioned, but another concern relates to the ability of the commission and the council to be self-funding, which I question. In his evidence to the health committee, the Deputy Minister for Health and Community Care said that additional costs would be taken into account when the GAE was allocated to local councils. From other witnesses, I understand that many councils do not spend to the limit of their GAE for community care and that, if they did, savings would have to be made in other areas of expenditure that have been cut annually in recent years.

If full funding is offered, will it be ring-fenced? Voluntary organisations that are involved in care services have already had their funding depleted as councils have struggled each year to achieve savings. In the voluntary sector, Community Care Providers Scotland estimate that additional charges will add a minimum of 3 to 4 per cent to service costs. Those providers are not confident of their ability to negotiate such increases for funding bodies and they fear that they will have to find the money by making yet more cuts. Additionally, there will be the cost of the proposed 10 per cent increase in the minimum wage, which will have a material impact on care providers in the private sector, as will the unexplained large increases in fees for the new commission. I trust that the deputy minister will address that in his summing up.

Of further concern is the implication of the application of substantial additional costs of providing staff training in all sectors. All those matters need to be addressed at stage 2.

The suggestion that there should be a minimum of only one inspection of care service providers, and that that inspection should be an announced inspection, was queried by all witnesses. It was agreed unanimously by the Local Government Committee that there should be a minimum of two inspections per year, and that those should be unannounced. In the interests of corroboration, there should be a minimum of two inspectors at each inspection, unlike under the present proposal for one inspection.

Although it understood and appreciated the difficulties, the Local Government Committee felt that nannies and nanny agencies should be subject to the provisions of the bill, and I ask the Executive to consider their inclusion in the bill at stage 2.

Several other issues were raised, which I am sure will be highlighted by other members. If they

are not, I hope that they will be addressed at stage 2.

I broadly welcome the bill, which I believe will, after further consideration of the concerns that are being outlined today, materially help to improve the quality of care in Scotland. I support the amendment in the name of Mary Scanlon.

15:56

**Karen Gillon (Clydesdale) (Lab):** I also declare an interest, as a member of Unison and, if Mary Scanlon has her way, probably also as a member of Slimming World.

The Education, Culture and Sport Committee took evidence from a wide range of agencies involved in the care of children and young people, in early-years education and child care and in adoption and fostering. We heard both from service providers and from young people themselves. Across the spectrum of the voluntary, statutory and private sectors, there was a welcome for the bill and its broad principles.

Some of vociferous advocates for the regulation of care were the young people themselves, who, at the chalkface or using adoption and fostering services, have seen both the best and worst cases in the care sector. They were making strong representations to the committee that adoption and fostering should be included under the bill. I welcome the comments of the Minister for Health and Community Care that amendments on that matter will be lodged at stage 2. There is now need for further clarification on how the registration will take place, particularly for those involved in foster care, and on the training implications for the adoption and fostering sector.

I welcome the inclusion of home care services for children with disabilities. That has been an area of concern. The extension of regulation to agencies that provide care for all children in their homes is another welcome addition. I agree with my colleague Trish Godman on nanny agency services. There is a gap in provision, and I hope that the minister will reconsider that area.

The Education, Culture and Sport Committee also welcomed the establishment of a central register of staff. One example that was raised with us was that of staff who are currently registered with the General Teaching Council for Scotland. After careful consideration, the committee concluded that everybody should be on one central register, regardless of whether they are already registered with another agency. Appropriate mechanisms could perhaps be put in place to allow for dual registration.

The committee will consider in detail the role and requirements of the children's commissioner. At this stage, I think that the Regulation of Care

(Scotland) Bill would be the wrong bill in which to include provision for a children's commissioner. I think that children throughout Scotland need protection, not just those in the care sector.

The minister might consider providing greater clarification on the definition of the day care of children, of supervised activities and of the age ranges concerned by child care services that are subject to registration.

The committee believes that guidance under section 4 should detail clear links from the commission to local child care information services, with a view to ensuring that those services are as effective as possible.

On the registration of care services, the committee believes that the Executive should consider whether it would be appropriate to lodge an amendment to clarify the definition of an appropriate registration officer for all local authority provision.

There are issues relating to fees for childminders and to fees in rural and remote areas. The question is whether a standard fee will take into account the particular difficulties in attracting staff that are faced by those who provide services to rural and island communities.

I welcome the bill and commend it to the chamber. I hope that together we can produce a bill that is strengthened by the amendments that the minister proposes and by the contribution of the committees. On behalf of the Education, Culture and Sport Committee, I look forward to working with the Health and Community Care Committee to bring this matter to a conclusion.

16:00

**Mr Keith Raffan (Mid Scotland and Fife) (LD):**

I welcome the bill, which will overhaul and modernise the regulation of care services and early education, but I think that there are some ways in which the bill could be improved. Other members and I recently met the social work advisory committee of Fife Council, which raised several concerns. I will address those briefly. I will probably echo or repeat some points that have already been made, but it is important that the minister—we know that she is a listening minister—realises that they are cross-party concerns.

My first point relates to the size and composition of the commission. Perhaps the Deputy Minister for Health and Community Care will respond to this point when he winds up. It is certainly the feeling among those to whom I have spoken that the commission should be large enough to be representative and to include both users and providers. There is also a strong feeling that there

should be regional advisory committees, to which the commission could look for information and advice and to ensure that its decisions are representative of the grass-roots users and providers.

Secondly, on funding, I echo the concern that was expressed in all parts of the chamber about the move to self-financing through fees. I am concerned not only about the precipitate rise in the cost of inspection but that the fees will discriminate against smaller operations such as childminders. I welcome the minister's announcement that child care inspections will be subsidised, but to what extent will they be subsidised? I understand that child care services will still face an increase in fees of several hundred per cent.

Thirdly, on inspections, there are serious concerns about what is seen as the reduced requirement that all care services be subject to a minimum of one inspection every 12 months. The view has strongly been expressed to me from many directions that there should be a minimum of two inspections for residential care services, one of which should be unannounced and one announced, so that relatives can be present. That would not necessarily double the costs as visits and reports on visits could be shorter.

Finally, I join in expressing concern that nanny agencies and, for want of a better phrase, independent freelance nannies are not included in the bill. It is strongly felt that they should be registered and regularly inspected. The paradox is that that is the area that is least regulated, yet it is the area that is most in need of regulation. The view of those with whom I have discussed this issue, including Fife's director of social services, Mr Mike Sawyer, and members of the Fife social work advisory committee, is that nanny agencies should be covered by the bill, even if it is difficult to include those who are not employed through agencies.

In her opening speech, the minister said that it would be "unreasonable and impractical"—which I find an odd phrase—to include nannies. I do not underestimate the practical difficulties, especially for nannies who are not employed through agencies, but I fail to understand what she meant by the word "unreasonable". I think that it is eminently reasonable and right. There have been a number of high-profile cases in recent years, both here and abroad, of abuse of young children by nannies. That clearly indicates the urgent need for registration and regulation. It is not only children who are potentially at risk; nannies themselves, especially if they are young au pairs, can be open to exploitation.

I welcome the bill, but I want to improve it and I want it to become more comprehensive. As the minister said, services should be the best that they

can be, and the standard of all services should be raised to match the best.

16:04

**Mr Kenneth Gibson (Glasgow) (SNP):** I will confine my speech to a few key sections of this welcome bill. It is interesting to note the large element of consensus that there appears to be in the debate.

As Trish Godman—and, indeed, Keith Harding—pointed out, the Local Government Committee took evidence from a number of witnesses on the issue of inspections. I think that we all came to the conclusion that we were rather perplexed as to how the bill could possibly improve public confidence with regard to some of the less salubrious care homes if the number of inspections was reduced from two to one.

Indeed, NAIRO, COSLA, the Association of Directors of Social Work, the Scottish Trades Union Congress and Unison all made clear their very strongly held concerns on the issue. As has already been stated, the committee unanimously agreed that there must be a minimum of two unannounced inspections per year. Section 21(3) of the bill indicates that the commission will not generally inspect a service in a year that Her Majesty's inspectors carry out an inspection and that the inspection could be planned in advance with the provider. I wish to emphasise that the committee believes that all inspections should be unannounced and also that they should be carried out by a minimum of two inspectors for reasons of corroboration.

Why is that important? It is important because, as was alluded to by my colleague Shona Robison, the Walker report indicated that there are a number of people in care homes who have been sadly neglected. Indeed, there are many thousands who apparently suffer from malnutrition. The committee believes, therefore, that the bill must be robust in order to deal with concerns on those specific issues.

Self-funding through fees has been alluded to by many people, as this is a cause for concern. The financial memorandum to the bill made clear that a mix of fee and central funding will be replaced entirely by fees from 2004-05. That will have enormous implications, in particular for the voluntary sector. In a few short years, as the minister has stated, fees may triple. At the same time, according to proposals that have been put forward to date, inspections could halve. The Local Government Committee believes that that is likely to impact significantly on service delivery.

I am pleased, however, that the minister has advised that GAE will be altered to minimise additional costs to local government, providing that

that is not subsumed in overall aggregated external finance, and given additional costs to local government of approximately £6 million per year by 2002-03. However, paragraph 186 of the explanatory notes to the bill appears to indicate that additional costs will be considered only beyond 2003-04. I believe that that needs clarification. As previously mentioned, the costs of registration for a care provider could impact on the provision of care by those on low incomes, for example, those who care for the elderly or childminders. The committee asks that the Executive introduce safeguards to ensure that small organisations and people on low incomes are not disadvantaged.

The unions gave evidence on the transfer of staff and highlighted issues such as: the location of offices; the appropriateness of home working; grading and conditions of service; pension rights; and employment alternatives. It is clear that the Transfer of Undertakings (Protection Of Employment) Regulations are insufficient to meet staff needs and that transfer practice should be comparable to the section 9 provisions of the Local Government etc (Scotland) Act 1994, which underpinned staff transfer during the 1996 reorganisation of local government. More detailed information is urgently required on the arrangements relating to transfer of staff.

Working from home could lead to difficulties with family care responsibilities. Homes, as the unions pointed out, might not satisfy legislation on health and safety at work. The same standards of health and safety should apply to home workers as apply to other employees.

Concerns about the resource implications for training of the social services work force have been voiced. Appropriate interim arrangements will be necessary to provide training for social care staff during the period before new arrangements have been put in place. There is also a need for designated training for registration and inspection staff and for consideration to be given to offering education and training to staff to allow career progression from a vocational to professional status. A competent, motivated, multidisciplinary, professionally qualified work force is essential. Action is needed now on a training and work force planning strategy.

It is clear that misgivings about the reduction in regional options must be addressed. At present, each council has its own inspection and registration unit, and 13 of the 15 health boards also have registration and inspection functions. If the bill as introduced is passed, it will reduce access to inspection and registration services from the current 44 centres to a proposed five. That is too drastic. It will not provide an optimum service. A happy medium is perhaps the best way forward.

16:09

**Scott Barrie (Dunfermline West) (Lab):** I did not sit on any of the five committees that studied the bill at stage 1. However, as someone who believes passionately in standards in social work practice, I will make a few observations on the bill. I should also declare an interest. I may have to register with the proposed Scottish social services council, as I might have to fall back on social work if my circumstances change at some point during the next few years.

**Kay Ullrich (West of Scotland) (SNP):** That could be arranged.

**Scott Barrie:** I say to Kay Ullrich that I would enjoy going back to social work.

Irene McGugan was quite right about the importance of a bill including principles and values, which appear to be missing from the Regulation of Care (Scotland) Bill, although some excellent definitions were contained in the Scottish Office white paper, "Aiming for Excellence".

The important role of service users cannot be overstated, and that chimes well with the comments that the minister made in her opening speech when she argued about the importance of consistency in care services and of focusing on the service user. It is important to incorporate those issues into the bill. As Irene McGugan said, that approach was taken in the Standards in Scotland's Schools etc Act 2000 and it could be taken in relation to this bill, which is an important piece of legislation.

Irene McGugan also touched on the importance for social work of fieldwork services, in which I worked before I was elected to the Scottish Parliament. Ministers said previously that they will regulate fostering and adoption services. If people are to be reassured about the quality of those services, it is equally important that those who make decisions about people who may require substitute family care are also regulated. That is why it is important to address fieldwork services, to ensure that there is consistency in the standards that operate in those services and that the standards are as high as those that operate in other care services.

In passing, I refer to the point raised by Keith Harding, who suggested that increasing the minimum wage to £4.10 would be detrimental in some way to the care that is offered to service users. I say that paying someone only £4.10 an hour for doing an absolutely essential job is detrimental. That is what we should consider, rather than condemning the fact that the minimum wage is to be increased.

It is also important to note that the proposed Scottish social services council is going to take

over the role of education and training in social work. The Central Council for Education and Training in Social Work has done an admirable job of trying to drive up standards in the social work profession. It was unfortunate that the proposed three-year diploma in social work—the basic qualification for qualified social workers—was concertina-ed by the previous Tory Government into a two-year course, despite the fact that it had always been envisaged that a three-year course was required. If we are serious about the training of social workers, we should reconsider that issue. That is another issue for the future, but it is important that the new Scottish social services council will be integrally involved in education and training in social work.

I welcome Jack McConnell's recent announcement that he is looking favourably on the proposal for a children's commissioner. However, I agree with Karen Gillon that the bill is not an appropriate vehicle for that proposal. I have campaigned for a children's commissioner for the best part of 20 years and it is important that the commissioner's remit is not made incredibly narrow. That would happen if the proposal were included in the bill, but what we need is a broad remit for a children's commissioner.

I draw the minister's attention to the definition of children, which both Irene McGugan and Margaret Jamieson touched on. The Children (Scotland) Act 1995 is a good piece of legislation that gives a clear definition of children. We ran into a similar problem during the debates over the Standards in Scotland's Schools etc Act 2000. We should be consistent, and should not have the same debate about setting different ages in different pieces of legislation, as that does nothing to make matters easy. We should look at the 1995 act for our basic definition.

16:14

**Kay Ullrich (West of Scotland) (SNP):** I will use my time to examine part 2 of the bill, which establishes the Scottish social services council. As a former social worker and Unison member, I must declare a special interest in this debate. It is fair to say that the public does not hold social workers in high regard. In fact, in the public's esteem, social workers seem to be rated somewhere below axe murderers; they are certainly down on a par with lawyers, journalists and politicians, and one cannot get much lower than that.

The establishment of the council is to be welcomed. I believe that it will not only raise standards, but go a long way towards building public confidence in the profession. Of course, the poor reputation of social workers is unjustified. It seems to reflect a lack of understanding of the work that social workers do, day in and day out,

with some of the most vulnerable and disadvantaged people in our society. If there are front-line troops in the war against poverty and discrimination, Scotland's social service workers are surely the poor bloody infantry. One problem has been the somewhat casual use of the title "social worker". I am delighted that section 35 of the bill will make it an offence for an unregistered person to call himself or herself a social worker.

However, it would be wrong of me to stand in this chamber and pretend that my profession is simply misunderstood and that everything in the garden is lovely. Like Trish Godman, I have had real concerns about the mishmash that has passed for social work training and qualifications over the past 30 years. Training has been subject to much criticism by social workers themselves. My training was when sociology was king. We were encouraged to seek a sociological answer to every problem that we encountered.

I soon found—out there in the trenches—that, when I had to help a single mum struggling on benefit in a soulless estate, I tended to draw on my own life experience and common sense more than on the thoughts of Marx or Engels. That was fine for me: I was a mature student who had already raised a family. But what of my younger colleagues, many of whom had gone straight from school into training? How well armed were they when they landed in an area team?

In residential child care—where, arguably, the task is even tougher and where workers have to deal with some of the most vulnerable and damaged children in society—training has been hit or miss. Often, residential child care staff are employed in a series of short-term contracts; often, they lack resources with which to carry out their vital work; and often, they have the feeling of being undervalued in the social work pecking order.

Is it any wonder that our society's record of caring for children shows that children who have been in care are more likely to be involved in drugs and criminal activity? They are also more likely to be homeless. Only this week, statistics have shown that some of the most vulnerable young people have not been supported by the formal education system. Some did not even have statutory care plans, which is a legal obligation on local authorities.

I welcome the bill. As we have heard, some nips and tucks are still required, but I believe that the bill is a positive step for the social work profession. More important, it is a very positive step for the users of caring services in this country.

16:18

**Mr Brian Monteith (Mid Scotland and Fife)**

**(Con):** I was very interested in Kay Ullrich's speech. It reminded me of the time when I received my sociology lectures from Dr Norman Godman. I would recommend that sociology be taught as part of all courses. If anything, it certainly helps one to firm up one's views about life out in the big real world.

I would like to concentrate on three educational aspects of this bill, in the hope of raising some genuine concerns and eliciting some responses from the Deputy Minister for Health and Community Care. I welcome the bill not only because it seeks to raise minimum standards of care, but because it deals with a number of conflicts of interest that arise in the provision of services, in their funding and in their monitoring by the state through local authorities. Any bill that seeks to put all providers—be they voluntary, private or state—on a level playing field, and that removes conflicts of interest, should be welcomed.

A number of points need to be made about the bill. During the evidence session at the Education, Culture and Sport Committee, it was acknowledged by Scottish Executive officials and Her Majesty's inspectorate of schools that HMI is not precluded from carrying out the role of care inspection under the auspices of the new commission. HMI already carries out inspection of pre-school provision, taking into account aspects of care, and has done so since 1996, since when it has carried out 1,200 inspections. HMI also takes into account aspects of care when it inspects boarding schools. Over the years, it has built up a great deal of experience in both sectors. Just today, I received an example of its work—an inspection of a boarding school in the region that I represent—but because of the embargo on it, I cannot quote from it. I can tell members that it illustrates the degree of expertise that HMI possesses.

A considerable quantity of evidence was presented to the Education, Culture and Sport Committee about the burden that education establishments could suffer under if they were to be inspected not only by HMI on educational matters, but by the care commission. I therefore advocate that HMI should carry out inspections of care in educational establishments on behalf of the care commission at the same time as it carries out its education inspections. At the Education, Culture and Sport Committee, the Association of Directors of Education in Scotland raised harmonising the two inspections. By bringing them together, we could not only achieve the harmony that ADES seeks, but keep costs down by avoiding duplication, which Mary Scanlon's reasoned amendment addresses.



I have two final points. I heard what the minister said in relation to foster carers and charges to the pre-school sector. I welcome the direction she is taking. It is important that common standards for foster carers and voluntary pre-school provision are introduced. It is absurd to have, potentially, 32 different standards. It will be crucial that charges are set at a level that does not drive out voluntary or pre-school provision or childminding. When I examine the financial memorandum, the words "scary biscuits" spring to mind.

The minister can rest assured that Conservatives will be watching to see that her actions match her words. That is why Mary Scanlon's reasoned amendment is so important and why it can be supported by members who are concerned about the financial aspects of the bill without damaging the principle of the bill. I ask members to support the amendment.

16:23

**Mr John McAllion (Dundee East) (Lab):** I begin by giving a special warm welcome to the announcement that Dundee is to be the location for the new headquarters for the commission and the council. The Minister for Health and Community Care's judgment in arriving at that decision was absolutely flawless. If I have any regrets, it is only that she allowed the First Minister to make the announcement in Dundee last Tuesday rather than my good self, which I thought would have been more appropriate in the circumstances.

I think that it was Billy Kay who once described Dundee as being the great untapped source in Scotland. He was not talking about civil service or Government jobs when he said that, but he could have been, because Dundee has long been neglected as a location for Government and civil service jobs. The decision is important for the city and begins to right the very old wrong that has been done to the people of Dundee. However, just as we will never give up our territorial ambitions for Monifieth and Invergowrie, nor will we be satisfied with the location of this new headquarters—we will be looking for more civil service and Government jobs in future.

I want to talk briefly about whistleblowing, which has been referred to in the debate, in particular in relation to the role that the council might perform in providing protection to workers. The Deputy Minister for Health and Community Care, who is here, will know that the Public Interest Disclosure Act 1998, which was passed at Westminster and came into force in July 1999, applies also to Scotland. The act promotes responsible whistleblowing by protecting workers who raise genuine concerns about things that are going on in the workplace. The act covers a number of

regulators, including the Scottish Environment Protection Agency. However, there is no prescribed regulator for care services in the act, which has been described by employment tribunals as a serious omission.

I do not know whether it would be possible for the act to cover the council and the commission, as they do not exist, but I seek assurances from the minister when he winds up that he will raise this issue with Westminster ministers, in order that the gap might be closed and the act amended by regulation to include the Scottish commission for the regulation of care and the Scottish social services council after the Regulation of Care (Scotland) Bill is passed by the Scottish Parliament.

On the issue of the commission and the council being self-funding through fees, I say to the Deputy Minister for Health and Community Care that while I hear the arguments about the need for funding to be explicit and transparent—I am one of those who believes that the whole world should be explicit and transparent as far as it can be—they do not meet the many objections to the proposal that we on the Health and Community Care Committee heard.

I will concentrate on one of the objections that was raised by a number of people who gave evidence to the Health and Community Care Committee, which is the need to increase grant-aided expenditure to local authorities to meet the cost of the increased fees levied by another public body, the Scottish commission for the regulation of care, which in a sense creates a whole new layer of bureaucracy that would not be required.

The Deputy Minister for Health and Community Care wrote to members of the Health and Community Care Committee, pointing out that he had come up with a new assessment of the likely bureaucratic cost of the system. He admitted that he does not know what the cost to local government will be of charging fees for regulation and inspection, but he had what he described as very much an estimate

"of the current cost from a small number of registration and inspection units"

which led him to believe that the cost would be £70,000. If he was trying to put a business case in a private sector concern for a price increase based on this kind of calculation, he would not get very far. A lot more work has to be done to convince members of the Health and Community Care Committee that the system of self-funding through fees that he proposes will not be extremely costly in terms of the bureaucracy that will be necessary.

The Deputy Minister for Health and Community Care is a very clever man. I will not embarrass him by paying him the compliment that was once paid

to Gordon Brown, that he has a brain the size of Canada, mainly because Canada is mostly empty, and it was not an appropriate comment to make about Gordon Brown. However, the Deputy Minister for Health and Community Care has yet to make the case for 100 per cent funding through fees. It is not a stark choice between 100 per cent direct grant or 100 per cent funding through fees, because there may be a middle way, or even a third way, which I would have thought would recommend itself to many members of this Executive.

16:27

**Dr Richard Simpson (Ochil) (Lab):** I shall begin by declaring that I provide medical advice on adoption and fostering to Clackmannanshire Council, Falkirk Council and Stirling Council. I am a member of the British Agencies for Adoption and Fostering, I have a directorship in Nursing Home Management Ltd—a company that operates in the nursing home sector in England—and that my wife works in child protection services. I hope that that covers most things. I should also say, in response to Kay Ullrich's excellent speech, that I was a lecturer in social work for 19 years, but I am not sure whether that declaration has much merit.

I will mention a few issues that have been raised by most speakers. Members are agreed that there should be two bodies and everyone is concerned that there must be close links. Having a joint headquarters is an important start, and I welcome the fact that it will be in Dundee. There should be a single support staff, which should be shared as much as possible. There should be close links between the governing bodies of the commission and council. There should be a single point of access for whistleblowing, so that people do not have to decide whether they should go to the commission or the council.

We must address the issue of identifiable local access points for the public. That issue has arisen with regard to health, which is why boards have been unified in the health service. I urge strongly that the access points should be the 12 mainland health boards plus Dundee. Such units would be an appropriate size. There is also a need for cross-expertise between health boards and inspection teams, which will need to be bought in. It is important that there are good relationships in, for example, pharmacy.

I will not return to nannies and nanny agencies because others have dealt with that issue, but I stress what Scott Barrie said: fieldwork services are important. Adoption and fostering will be considered at stage 2. I know that BAAF welcomes the fact that it has been consulted. The bill is not quite unprecedented in terms of the amount of consultation that has taken place, but

there has been a lot of consultation, particularly on the on-going discussions on care standards.

One of the important things in the bill is single-care registration. Members have already found the division between nursing home and personal care or residential care to be completely false in another debate in another context. It will be possible, in determining the dependency needs of individuals—which change over time—that appropriate resources are applied to the support of those individuals, whether they are in residential homes within the local authority, the private sector, the voluntary sector or the charitable sector.

I hope that the care commission will be in a position to comment on the contracts that are set between purchasers and providers, to ensure that the required resources to meet the desired standards—or the additional standards that may be set as things progress—are provided. The commission or Audit Scotland should be able to conduct an audit.

I support two annual inspections—one announced and one unannounced.

Governance is crucial. In the medical profession, we have seen how governance is changing quite substantially. As a result, General Medical Council costs are rising—from £30 to £180 in the past 18 years or so. That is a six-fold increase, which matches the increased and necessary work. Increased work will be necessary with the council, so I urge strongly that we consider carefully some of the lower paid workers and how much those workers will be charged. I know that the minister has taken that issue on board.

I do not think that the Finance Committee has been mentioned. In its report on the financial implications of the bill, that committee welcomed the financial aspects of the Executive's proposals as the best so far. I want to put that on record.

16:32

**Iain Smith (North-East Fife) (LD):** On behalf of the Liberal Democrats, I welcome the bill, which is long overdue. There has long been a need to modernise the regulation system for residential care and for care services in general. Nursing homes are covered by an act that goes back to 1938; residential care homes are covered in an act that goes back to 1968; and children's residential services are covered by a 1989 act.

Those acts resulted in different establishments adopting different standards, practices and approaches for the regulation of care. Indeed, different establishments have, at times, adopted artificial divisions between different types of care. For example, there is the ludicrous situation whereby local authority residential care homes

cannot provide nursing services. That has long been a nonsense, which I am pleased that the bill will address.

The bill is important because it will raise the standards of residential care in nursing homes, local authority homes, private homes and homes that are run by voluntary organisations. It is important that we provide improved protection for vulnerable residents in those establishments; the bill will do that.

Having said that, however, the bill is not perfect at this stage. That is why we have a three-stage process. Stage 1 gives the committees the opportunity to make a detailed report on the general principles of the bill and to raise any concerns. That is the appropriate way to deal with the bill, which is why I will not support Mary Scanlon's amendment. It is nonsense to give qualified support for a general principle, since that would not allow the committees to pick up matters of concern when they consider the bill in detail at stage 2. There is no logic to that approach. The Procedures Committee needs to address how we deal with such issues during the early stages of bills, because there is a lack of logic to our approach at present.

As a member of the Local Government Committee, I want to mention some of our committee's concerns, which Trish Godman and others have already raised this afternoon. We considered whether there should be one or two bodies and found that there were contradictory views. Largely, those who represented senior management, such as the Association of Directors of Social Work, thought that there should be only one body. However, it was clear that those who represented staff felt that there should be two bodies, to ensure that the rights of social workers—and all who will be covered by the Scottish social services council—will be protected.

It is also clear that the bill needs to be strengthened. The Local Government Committee has stated that

"it is important that arrangements for communication and joint working between the two bodies are clear and robust ... The Committee does not believe that this 'duty to consult' is in itself adequate to ensure satisfactory arrangements between the two bodies".

That duty to consult needs to be addressed to ensure that it is clear.

We also ought to ensure that we do not create two bureaucracies. The bodies should share not only a city, but offices and staff at their headquarters, which will allow them to provide the best value for money.

The Health and Community Care Committee and the Local Government Committee discussed the number of inspections. The Local Government

Committee strongly endorsed the views of many witnesses that there should be a minimum of two inspections a year, which I too strongly support. I hope that ministers will take that on board at stage 2 and lodge an amendment to address that. The Local Government Committee went further and suggested that there should be a minimum of two unannounced inspections, rather than one announced and one unannounced, as is present practice.

The Local Government Committee heard evidence about section 41, which allows Scottish ministers to determine the number of social workers and people who should be trained in social work. Strong concern was voiced that the Scottish social services council would not be given the same power as the commission will have to advise ministers on that. However, I have no doubt that the council would give the advice, whether or not it had that power, unless the ministers decided to delegate the function to the council. We would like the bill to be strengthened to make it clear that, if that function is not delegated to the social services council, the council will have the power to advise ministers on the issue that section 41 raises.

The location of the regional offices raised several concerns. Having local links to local communities is important, and the committee supported the case for more regional offices. The committee suggested that the health authority boundaries would be logical divisions. Such links are important for staff and those who receive the care services. Staff require a base that is close to the area where they will perform inspections and where they can meet other inspectors to share information and experiences. It is not good enough to say that staff can work from home, travel to do their inspections, return home and send a report by e-mail to the regional office. That does not give staff the opportunity to interact with their colleagues and find out information. That must be done through regular contact between staff and with people who work in the area, know what is going on there and have links with the relevant local authorities and councils.

Fees cause much concern. The public sector will meet the bulk of the cost of providing the regulation of care services that the bill will introduce, one way or another. We must ensure that we get value for that money and that we do not spend a lot of money on administering the fees system to circulate money from central Government, through local government and voluntary organisations, and back into the commission. The regulation will exist to protect those who receive the services and to raise the standard of the services. We should examine the basis of the fees regime to ensure that we achieve that important public policy objective.

16:38

**Nicola Sturgeon (Glasgow) (SNP):** This has been a good debate. I am especially pleased that all participants whole-heartedly supported the general principles of the bill. I will not rehearse the arguments for the bill, but I will repeat the SNP's support for its principles and objectives.

There is unanimous support for the principles, but as the ministers are well aware, there are concerns about some aspects of the detail, as members have said this afternoon. The speeches by members of all parties have shown remarkable consistency. That reflects the evidence that was presented to the Health and Community Care Committee and the other committees that scrutinised the bill at stage 1.

There are concerns about the funding arrangements. As others have said, the move to self-funding of the commission through fees will necessitate a dramatic increase in the level of registration fees that care service providers will pay. It is estimated that fees will increase by 10 per cent a year for the next three years. As the Minister for Health and Community Care said, care home fees will increase from £65 to between £120 and £180 a bed by 2004-05. The greatest burden of the increased fees will fall on local authorities, as significant providers of care services. If we assume that other providers in the voluntary and private sectors will pass on increased fees to the purchasers of services, that means that local authorities will also bear that burden, as they purchase 80 per cent of places in the private and voluntary sectors.

The Minister for Health and Community Care said that GAE would increase to take account of the increases. The problem is that GAE is set to rise by 15 per cent, and fees by 30 per cent, over the next three years. By anybody's reckoning, that leaves a shortfall that will require to be met from existing resources. Providers of care in the private and voluntary sectors dispute that they will simply be able to pass on the additional costs to local authorities. They assert that, instead, the increased fees will lead to more and more care homes going out of business and fewer and fewer beds being available to meet demand. Either way, those are real concerns, which were expressed by a range of organisations at stage 1. Those concerns have not yet been addressed adequately in either of the Deputy Minister for Health and Community Care's visits to the Health and Community Care Committee.

Many organisations gave evidence to the committee—Shona Robison quoted NAIRO—but many others questioned the wisdom of setting up a system that requires the bureaucracy associated with fee charging. In effect, the system will result in money being circulated around the system—

that point was made by John McAllion—and in increased GAE to local authorities, which they can pass directly or via private or voluntary providers to the commission. It is a circular system instead of a simpler one.

During stage 1, the committee asked repeatedly for an estimate from the Executive of the administrative costs of self-funding. We were provided with such an estimate only this morning, but it appears, from the terms of the minister's letter, that the figure has simply been plucked out of thin air. Of course, the Government's rationale is that the costs of regulation should be explicit and transparent, and that providers of care should have a stake in the system. In fairness to Malcolm Chisholm and Susan Deacon, that is not an unreasonable argument. However, it is equally reasonable to argue that regulation and inspection of care services are so important that the costs should be met—at least in part—by direct grant from central Government. As John McAllion said, it need not be entirely one way or the other. In agreeing to subsidise the costs for providers of early education and child care, the Executive has already accepted that argument.

The Government must accept that it is on one side of the argument and almost everyone else, including members of all parties—an important point made by Keith Raffan—the Health and Community Care Committee and a range of organisations that represent providers and users of care, are on the other side. I hope that the Executive will revisit that issue and that we can make some progress towards consensus on it during the latter stages of the bill.

I turn to other concerns, especially about the number of inspections, an aspect that was covered at length by Shona Robison. The bill will ensure a minimum of one inspection per annum. However, many witnesses—especially COSLA—pointed out that the vast majority of local authorities currently carry out at least two inspections a year. That means that the bill would, in many cases, result in less inspection rather than more—something that I do not believe was intended when the bill was framed. The Health and Community Care Committee's view is clear in respect of residential care. There should be a minimum of two inspections per year: one announced and one unannounced. As Trish Godman said, that is also the view of the Local Government Committee.

The committee's other substantial concern relates to the operational structure of the commission and the transfer of staff. Other members—most notably Margaret Jamieson—have dealt with those issues. I agree with the points that were made by Margaret Jamieson.

I have a further point on the number of offices

that the commission will have. Susan Deacon made a fair point—relax, it will not happen often—when she said that although the committee had expressed concerns about that, it had not come up with an alternative. Part of the problem is that there has been little in the way of explanation of the rationale behind the Executive's decision to propose five or six offices. That is one aspect on which I hope that there can be further discussion and progress at later stages.

Other issues were raised during the Health and Community Care Committee's scrutiny of the bill. The definition of care services was mentioned by Irene McGugan and by others. The accountability of the commission and the council was also discussed. However welcome those bodies are, they are nevertheless two new quangos and there must be assurances about their accountability to Government.

The bill is good and the intentions behind it are honourable. I believe that the bill can be made even better in the later stages and I hope that, on all the points that have been raised and aired today, progress can be made between the Executive and the various committees who have a role in considering the bill.

16:45

**Ben Wallace (North-East Scotland) (Con):** I start by saying:

"These proposals build on the Report of the Working Group on Residential Care Home *Registration Procedures* published in 1996"

by the Tory Government. Those are not my words; they are from paragraph 7 of the Executive's policy memorandum. It is important to note that the whole process, although it may not have been as quick as many of us would have liked, is based on some of the reforms that were recommended by the second Griffiths report on extended care provision in the NHS. That structure now allows us to regulate care as laid out in the bill. I hoped that that would have happened before now, but we must deal with what is now before us and I welcome the bill.

My Conservative colleagues have said that we fully support the Regulation of Care (Scotland) Bill. The 1.5 million people who will benefit from the reforms are eager for such change in the system and I recognise that they are somewhat impatient.

The present system fails in so far as it lacks independence. Often, purchaser and regulator have been one and the same person. The system is fragmented and standards vary too much across Scotland. The Scottish Conservatives recognise that the creation of the Scottish commission for the regulation of care and the Scottish social services council is the best way to solve the current failings.

We welcome the bill as part of the implementation of the Sutherland report. However, as Shona Robison pointed out, if ministers would care to glance at the definition of personal care in the bill, they would find that it provides a good framework for further reforms of long-term care for the elderly.

Our concern is that the financial arrangements lack depth and that the financial memorandum is not as detailed as perhaps it should be. There are some excessive costs. For example, the financial memorandum earmarks a £1 million annual cost for running an organisation specifically to advise ministers. I speculate that £1 million is an excessive amount of money for such a body. We are also concerned at the lack of an audit trail for the £148 million resource transfer from health boards to local authorities, which means that we cannot get an accurate picture of the regulation of care and the public money that is being spent on it at the moment. However, the welcome changes and the implementation of the Sutherland recommendations will, I hope, clear that up.

Neither the Conservatives nor anyone else in the Parliament should be afraid to question the £18 million price tag that is attached to the proposed commission. After all, the high price tag contributes to some of the high fees that will be levied. I would be grateful if, in summing up, the minister could make clear the level of subsidy that is planned for child care. If the financial memorandum can be specific about fees, I do not see why it cannot be just as specific about subsidies. I agree with John McAllion's point that the minister still has the case to prove on self-funding. We have no ideological objection to that but, under the present proposals, we do not think that it is the best option.

We recognise that, as Trish Godman said, the bill is not just about care homes. She and Margaret Jamieson pointed out that it is also about social workers, children and young offenders. I welcome the fact that many people will now benefit from the protection that the commission and the council will afford. However, we must not forget that the increased cost of residential home places will be a burden. There are many homes where there have been minimal or no fee rises over the past few years and, although many homes in the private sector operate for profit, reports have shown that they use best value and are, in some cases, more efficient and of higher quality. It would be wrong to put such homes under such short-term pressure that they might fold. We must ensure that any increased costs are matched, so that private sector homes are allowed to levy appropriate fees. Richard Simpson's point about the commission monitoring contractual arrangements is particularly important if we are to ensure that there is a fair and level playing field.

We hope that the independence of the commission and the council will lead to a better and more uniform standard, and that by making local authorities join the same market as the private providers, we will ensure a more open and transparent use of public moneys.

The Scottish Conservatives support the principles of the bill. I urge the chamber to back Mary Scanlon's amendment in recognition of the concerns about funding arrangements that have been expressed throughout the chamber and which were reflected in evidence that was submitted to the committees by a wide range of bodies.

16:50

**The Deputy Minister for Health and Community Care (Malcolm Chisholm):** This has been an excellent debate; it has shown how effectively our new committee system is working, with six committees having scrutinised the bill.

The fact bears repeating that we are discussing the general principles of the Regulation of Care (Scotland) Bill. I reaffirm that, contrary to what Mary Scanlon said when she focused on section 24, the central aim of the bill is the improvement of quality and standards.

The bill represents a huge step forward for users of care services in Scotland. It will introduce a new and better regulatory system for care and early education and put in place the structure needed to develop a better social services work force in Scotland. It has to be right that the services that deal with the most vulnerable people in our society are subject to independent scrutiny and that the work force that provides those services should be recognised as providing a key professional service that requires proper training and regulation.

Several members have highlighted the inadequacies of the current situation. Shona Robison talked about the varied and inconsistent system and pointed out that many services are not formally regulated at all. Margaret Smith reminded us that elderly people often have to move when they are in need of nursing care. That is one of the issues that will be addressed by the creation of the single-care home.

There is currently also a lack of independence, a lack of coverage and a lack of user focus. There is no body to promote the professionalism of the work force and no way of ensuring fast and effective enforcement action when concerns arise. I welcome the fact that most members have acknowledged that the bill represents a big step forward.

There has been considerable debate this afternoon about funding, especially our proposal

that the regulatory functions of the new commission should, where possible, be financed through fees paid by regulated providers. We believe that the cost of regulating services should be explicit and that providers should have a direct interest in ensuring that the system works as effectively and efficiently as possible. There would be little or no reduction in the cost of the commission if it did not have to collect fees from providers. John McAllion expressed scepticism about the figure of £70,000, but that indicates the kind of sum that we are talking about, even if it may not be correct to the last pound.

We can certainly say that the new system will be a great deal less bureaucratic than the current one. Fees will accompany applications for registration and renewals of registration and they will have to be paid before the statutory requirement for providers to be registered and to continue to be so is met. Chasing up fees should not therefore be required. I accept that, in most cases, an element of any fee increase will be passed on to the purchasers of care, but any such increase will be minimal, as it will represent an increase in overall costs of less than 1 per cent—an increase of around £100 out of a cost of about £17,000 per year for a typical care home place. I therefore do not recognise the figures to which Mary Scanlon referred.

We will ensure that local authorities have enough funding to carry out their role as both commissioners and providers of care. Contrary to what Kenny Gibson suggested, that will be covered by grant-aided expenditure beyond 2004.

**Mary Scanlon:** How will the minister ensure that local authorities pass those additional resources over to the voluntary and private sectors to enable them to pay the fees?

**The Deputy Presiding Officer (Mr George Reid):** Before Mr Chisholm replies, I inform members that the Presiding Officers have received a run of letters from the public quite rightly complaining about extraneous noise during wind-up speeches. I ask members to keep private conversations to a minimum, please.

**Malcolm Chisholm:** Mary Scanlon's question raises a wider issue about local authorities and grant-aided expenditure, which I do not have the time to go into just now.

Earlier, Mary Scanlon made another point about funding. I accept that there may be resource implications for providers in meeting the care standards. A full consultation exercise on those costs will be undertaken later this year.

Margaret Jamieson and Trish Godman mentioned staff training. We will be funding initial training for registered managers and we will also look more generally at education and training

issues across the work force. We will deal with that proposal and the financial strategy for its development when we publish a paper on the modernisation of education and training for social services staff later this year. We are advertising this week for a provider to produce a training programme for registration and inspection staff, which we hope current staff will avail themselves of in the near future.

Mary Scanlon's comment about Weight Watchers was rather unfortunate. However, although that organisation is not within the scope of the bill, her comment raises the serious issue of diet clinics, which are within its scope, along with a range of other voluntary and independent health care services. Although those proposals do not form the bulk of the bill, it is important to note that the provisions to regulate private health care represent the first overhaul of the regulation of the sector since the inception of the NHS. As Margaret Jamieson reminded us, although we are rightly concerned about the care home sector, we should remember that it represents only about 2,000 out of the 17,000 care services that the bill will regulate. The debate about the number of inspections should be seen within that context; for example, the current statutory minimum for child care is one inspection a year and there is no statutory minimum for residential care in general.

**Nicola Sturgeon:** Does the minister accept the view expressed in the Health and Community Care Committee report that particular arguments relate to residential care and that, in that area, there is a strong argument for a minimum of two inspections a year, one announced and one unannounced? That already happens in many cases; doing anything less would mean a diminution of service.

**Malcolm Chisholm:** We will certainly want to consider that issue before stage 2. As Nicola Sturgeon knows, an inspection methods group is examining both how the whole inspection process should work—the role of announced and unannounced inspections—and self-assessment. The group will focus on ensuring that the methods we develop can effectively monitor, sustain and enhance the quality of life of people who use services. Although we are continuing to examine that issue, I remind members that this is the first time ever that all care services will have a statutory minimum of one inspection.

I have only three minutes in which to cover many points. Brian Monteith mentioned HMI involvement with the commission. HMI will co-ordinate its inspections with the commission and develop links to ensure that any concerns about standards of care are dealt with appropriately. Karen Gillon mentioned dual registration. We are actively discussing that issue with nurses and

teachers and certainly intend that that should happen.

Richard Simpson and Shona Robison referred to complaints. We are considering the possibility of a complaints hotline and procedures for whistleblowing. I am sure that every member will agree that our proposals are better than what currently exists.

Margaret Jamieson talked about the terms and conditions for transferring workers. At the moment, there are many different terms and conditions for people working for a range of local authorities and health boards. Although we intend to have one set of terms and conditions, all workers will transfer on their current terms and conditions. A group will begin to discuss the issue later this month. I have met the trade unions involved, which have told me that they are comfortable with the proposed way forward.

Keith Raffan and other members raised the issue of nannies. As Susan Deacon said—and indeed announced for the first time—we will be regulating sitter services where an agency provides home-based care for families needing additional support or respite. If there is a contract with such an agency—which could be a nanny agency—it will be regulated. However, carers such as baby-sitters and nannies who are selected and employed by the parents will not be regulated, although they will of course be covered by employment legislation on nanny agencies.

I have time to deal only with the matter of location. As we announced yesterday, subject to Parliament approving the bill's principles, we propose to locate the headquarters of both the commission and the council in Dundee. I am pleased that Shona Robison, John McAllion and others have welcomed that announcement.

Shona Robison said that there was no coherent argument behind our proposals for five other centres. However, I remind her that Susan Deacon referred to a new national focus for the organisation and to the issue of effective management and the relatively small number of people involved.

We have also decided that the commission will have a number of local resource centres in which staff can hold meetings, conduct interviews and store records. Clearly, there is a problem of time scale. The local offices are to be up and running by April 2002—we all agree that that needs to happen. An announcement on the number and location of the local centres will have to be made before stage 2.

What is not in doubt is the fact that the principles of the bill are right and represent a big step forward in improving the quality of care for all people in Scotland who use care services. I

commend the bill to the Parliament. We have waited a long time for it. I debated the issue at Westminster in the one health debate that we had in the year before the 1997 general election. I said then:

"We still do not have a regulatory framework that is applied consistently throughout Scotland and seeks to provide quality and protect the vulnerable."—[*Official Report, House of Commons*, 26 February 1997; Vol 291, c 292.]

I am glad that that is being rectified today.

## Regulation of Care (Scotland) Bill: Financial Resolution

17:01

**The Presiding Officer (Sir David Steel):** The next item of business is the financial resolution in respect of the Regulation of Care (Scotland) Bill. I call Angus MacKay to move motion S1M-1638.

*Motion moved,*

That the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the Regulation of Care (Scotland) Bill, agrees to the following expenditure out of the Scottish Consolidated Fund –

(a) expenditure of the Scottish Administration in consequence of the Act; and

(b) increases attributable to the Act in the sums payable out of that Fund under any other enactment.—[*Angus MacKay*.]

## Decision Time

17:02

**The Presiding Officer (Sir David Steel):** There are three questions to put as a result of today's business.

The first question is, that amendment S1M-1523.1, in the name of Mary Scanlon, which seeks to amend motion S1M-1523, in the name of Susan Deacon, on the general principles of the Regulation of Care (Scotland) Bill, be agreed to. Are we agreed?

**Members:** No.

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

**For**

Aitken, Bill (Glasgow) (Con)  
Davidson, Mr David (North-East Scotland) (Con)  
Douglas-Hamilton, Lord James (Lothians) (Con)  
Gallie, Phil (South of Scotland) (Con)  
Goldie, Miss Annabel (West of Scotland) (Con)  
Harding, Mr Keith (Mid Scotland and Fife) (Con)  
Johnstone, Alex (North-East Scotland) (Con)  
McGrigor, Mr Jamie (Highlands and Islands) (Con)  
McIntosh, Mrs Lyndsay (Central Scotland) (Con)  
McLetchie, David (Lothians) (Con)  
Monteith, Mr Brian (Mid Scotland and Fife) (Con)  
Mundell, David (South of Scotland) (Con)  
Scanlon, Mary (Highlands and Islands) (Con)  
Scott, John (Ayr) (Con)  
Tosh, Mr Murray (South of Scotland) (Con)  
Wallace, Ben (North-East Scotland) (Con)  
Young, John (West of Scotland) (Con)

**AGAINST**

Barrie, Scott (Dunfermline West) (Lab)  
Boyack, Sarah (Edinburgh Central) (Lab)  
Brankin, Rhona (Midlothian) (Lab)  
Brown, Robert (Glasgow) (LD)  
Butler, Bill (Glasgow Anniesland) (Lab)  
Canavan, Dennis (Falkirk West)  
Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
Eadie, Helen (Dunfermline East) (Lab)  
Ferguson, Patricia (Glasgow Maryhill) (Lab)  
Finnie, Ross (West of Scotland) (LD)  
Gillon, Karen (Clydesdale) (Lab)  
Godman, Trish (West Renfrewshire) (Lab)  
Grant, Rhoda (Highlands and Islands) (Lab)  
Gray, Iain (Edinburgh Pentlands) (Lab)  
Harper, Robin (Lothians) (Green)  
Home Robertson, Mr John (East Lothian) (Lab)  
Hughes, Janis (Glasgow Rutherglen) (Lab)  
Jackson, Gordon (Glasgow Govan) (Lab)  
Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
Jenkins, Ian (Tweeddale, Ettrick and Lauderdale) (LD)  
Kerr, Mr Andy (East Kilbride) (Lab)  
Lamont, Johann (Glasgow Pollok) (Lab)  
Livingstone, Marilyn (Kirkcaldy) (Lab)  
Lyon, George (Argyll and Bute) (LD)  
Macdonald, Lewis (Aberdeen Central) (Lab)



MacKay, Angus (Edinburgh South) (Lab)  
 MacLean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 McAllion, Mr John (Dundee East) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)  
 McMahon, Mr Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Morrison, Mr Alasdair (Western Isles) (Lab)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Radcliffe, Nora (Gordon) (LD)  
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)  
 Scott, Tavish (Shetland) (LD)  
 Sheridan, Tommy (Glasgow) (SSP)  
 Simpson, Dr Richard (Ochil) (Lab)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Iain (North-East Fife) (LD)  
 Smith, Mrs Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Watson, Mike (Glasgow Cathcart) (Lab)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

#### ABSTENTIONS

Adam, Brian (North-East Scotland) (SNP)  
 Campbell, Colin (West of Scotland) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Elder, Dorothy-Grace (Glasgow) (SNP)  
 Ewing, Dr Winnie (Highlands and Islands) (SNP)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Gibson, Mr Kenneth (Glasgow) (SNP)  
 Grahame, Christine (South of Scotland) (SNP)  
 Hamilton, Mr Duncan (Highlands and Islands) (SNP)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Lochhead, Richard (North-East Scotland) (SNP)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Matheson, Michael (Central Scotland) (SNP)  
 McGugan, Irene (North-East Scotland) (SNP)  
 McLeod, Fiona (West of Scotland) (SNP)  
 Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)  
 Neil, Alex (Central Scotland) (SNP)  
 Paterson, Mr Gil (Central Scotland) (SNP)  
 Quinan, Mr Lloyd (West of Scotland) (SNP)  
 Reid, Mr George (Mid Scotland and Fife) (SNP)  
 Robison, Shona (North-East Scotland) (SNP)  
 Russell, Michael (South of Scotland) (SNP)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Ullrich, Kay (West of Scotland) (SNP)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)  
 Wilson, Andrew (Central Scotland) (SNP)

**The Presiding Officer:** The result of the division is: For 17, Against 64, Abstentions 30.

*Amendment disagreed to.*

**The Presiding Officer:** The second question is, that motion S1M-1523, in the name of Susan Deacon, on the general principles of the Regulation of Care (Scotland) Bill, be agreed to.

*Motion agreed to.*

That the Parliament agrees to the general principles of the Regulation of Care (Scotland) Bill.

**The Presiding Officer:** The third question is, that motion S1M-1638, in the name of Angus MacKay, on the financial resolution in respect of the Regulation of Care (Scotland) Bill, be agreed to.

*Motion agreed to.*

That the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the Regulation of Care (Scotland) Bill, agrees to the following expenditure out of the Scottish Consolidated Fund –

(a) expenditure of the Scottish Administration in consequence of the Act; and

(b) increases attributable to the Act in the sums payable out of that Fund under any other enactment.

## Sexual Abuse

**The Presiding Officer (Sir David Steel):** The final item of business today is a members' business debate on motion S1M-1564, in the name of Marilyn Livingstone, on a strategy to tackle sexual abuse. The debate will be concluded without any question being put. I invite members who would like to speak in this debate to indicate that now. I am glad to see that there are more than I had notice of, and I shall take that into account.

### *Motion debated,*

That the Parliament recognises the complex, devastating and long-term effects of childhood sexual abuse; acknowledges the requirement for adequately funded services and clear care pathways for survivors, and invites the Scottish Executive to set out its plans to develop and implement a national strategy to address the social, health and legal implications of sexual abuse and its impact on our society as a whole.

17:04

**Marilyn Livingstone (Kirkcaldy) (Lab):** In view of the number of members who want to speak in the debate, I shall try to keep my speech as brief as possible.

I thank the Parliament for allowing us the opportunity to debate the complex issues surrounding the long-term effects and impacts on survivors of childhood sexual abuse. The Scottish Parliament will allow us to debate this issue this evening and in future, and our cross-party group will work in partnership with the Executive to provide appropriate care pathways for yesterday's, today's and tomorrow's children. I also thank all those who have worked hard to make today's debate, and the launch of our cross-party group later this evening, a reality.

I must, however, give special thanks to Anne MacDonald from the Kingdom Abuse Survivors Project, who is in the gallery this evening. Anne first wrote to me in September last year, outlining her concerns and vision for a national strategy for Scotland that would encompass equality, parity and cohesion. Following on from the initial meetings, we felt that the next logical step would be to set up a cross-party working group to allow us to realise our vision. The cross-party working group on survivors of childhood sexual abuse was established in late September 2000 and we have been working together—MSPs and experts alike—since that time to establish a forum for debate. That debate has an agreed specific programme of targets and action on the issue of childhood sexual abuse and its long-term effects and links with mental health problems, alcohol and drug abuse, domestic violence and homelessness.

The group will ascertain the level of current

service provision nationally, identify gaps in services and ascertain the funding issues. The group will consider the requirement for care pathways for survivors as well as the need for joined-up, cohesive policies. We will seek to create greater public awareness and understanding of the issues and combat the many myths that surround sexual abuse and its impact on our society. The group will examine issues such as links with mental health. For example, 60 to 80 per cent of acute psychiatric admissions are of people who have a history of sexual abuse. Admissions are repeated and often frequent. Patients in crisis are admitted with various causes, usually associated psychologically with components of sexual abuse experience. Self-harm is prominent. The mainstream psychiatric service, working alone, is insufficient to the task. If we are to create a climate in which we can work positively and collaboratively across the disciplines, we must take a cohesive and strategic approach.

There are further crucial links with drug and alcohol abuse issues. Many have gone on to that form of self-harm after being sexually abused. Links with domestic abuse will have to be explored by the working group, as will links with male and female prostitution. We are only just beginning to understand the dreadful links between sexual abuse and the suicide of young males.

Many of my colleagues will highlight individual aspects in greater depth, but we must not underestimate the task that we have before us and the importance of working together to create greater public awareness and understanding of the issues. We must break down the barriers and allow those who need help to be able to receive that help.

We will ask those who attend this evening's launch for their support, knowledge and expertise to allow us to unpack and highlight the issues surrounding this complex subject and to develop real solutions to real problems. It is important that we make a difference to the lives of those who need our help.

We must not forget that there are many examples of good practice and good work, not least in my constituency. The commitment of the staff and the experts involved is second to none. We will ask the Executive to work with us to develop a national strategy to address the social, health and legal implications of childhood sexual abuse. Such a strategy must encompass a commitment to adequate and secure funding of existing support services and the establishment of new services to fill the gaps in Scottish service provision.

Why do we need a dedicated strategy for this issue? Because we feel that the strategies that

exist, although good, allow some of the complex issues around the subject to fall through the gap. We need the Executive to work across the departments to develop a strategy and to break down barriers between departments. We know that funding has been made available and we ask the Executive to examine the issue in the round. The issue is at the heart of the Scottish Executive's commitment to social justice and needs co-ordinated action across the board.

This is our opportunity to show that we have heard the voices of the survivors of childhood sexual abuse, that we have listened to their concerns and that we are committed to helping them to rebuild their lives. All of us who are involved in the project feel that this is the right time and the right place to address this complex issue. Let us grasp this opportunity.

**The Deputy Presiding Officer (Patricia Ferguson):** A large number of members want to take part in this evening's debate, so I ask members to restrict their speeches to the four-minute limit. If they do, I will be able to call everyone who wants to speak.

17:09

**Mr Kenneth Gibson (Glasgow) (SNP):** As a vice-convenor of the cross-party group on survivors of childhood sexual abuse, I am pleased to be able to contribute to this debate and to be the first to congratulate Marilyn Livingstone on securing it. I add my thanks to Anne MacDonald of the Kingdom Abuse Survivors Project and to Sandra Brown of the Moira Anderson Foundation, which has done phenomenal work in this area over a number of years.

We are talking about the theft of someone's childhood. That someone is not allowed to grow as other children have grown up; perhaps because of the loss of innocence, perhaps because of the personal violation that they have suffered, perhaps because of the breach of trust that many of them have endured at the hands of people whom they may know only too well. Such children, when growing up, have no voice and, as adults, often have no voice still. They are people who might grow up feeling unable to talk to people about what they have suffered over many years.

Different people react in different ways and suffer different types of abuse. Some suffer long-term abuse, others suffer short-term abuse. They suffer differing degrees of violence. Perhaps it is severe; perhaps there is no overt violence other than the actual violation. There may be the overhanging threat of blackmail. Someone in their own family might go to prison if they come forward.

Obviously, many who suffer sexual abuse suffer

ruined lives. As Marilyn Livingstone mentioned, suicide is often a side-effect of childhood sexual abuse. Self-harm is common and people can suffer a loss of self-esteem. Children and young people might run away from home to get away from sexual abuse. Mental health and relationship problems may follow. Promiscuity and prostitution are other possible side-effects.

We should understand that many people who have suffered childhood sexual abuse will go on to have happy and productive lives, but undoubtedly not as happy as they would have been if they had not suffered the abuse.

The group that has been established will be a forum for debate. It will work positively and collaboratively across party and geographical divides. The issue affects people from all social and geographical backgrounds. The individual human costs are monumental, the social and economic impact colossal.

The agencies that help people who have suffered trauma lead a fragile, hand-to-mouth existence and may have to apply or reapply for grants on a tri-annual or annual basis, never knowing whether they will be able to provide a service from one year to the next. The cross-party group believes that that must not continue.

We must secure the establishment of a comprehensive, fully funded, all-Scotland strategy to tackle the issue. From the north of Scotland to the south; from the east to the west; in urban Scotland and in rural Scotland—people who have suffered appalling abuse in childhood must have someone to whom they can turn, when they are children, but also once they are adults. We have been told of people coming forward 20 or 30 years after first suffering abuse. People should be able to do that, but they can do so only if there are agencies nearby to which they can turn.

This is an area in which the Executive must truly ensure joined-up government, with the involvement of councils, health boards, educational services, the justice system and so on. Training for those who work with survivors is vital. We must fight against taboo and explode myths such as that of the perpetrators usually being strangers, that of victims almost always being girls or that of victims themselves going on to become predators.

This is a vital issue on which Scotland can and should lead the rest of the United Kingdom. There is much more to be said, but given that I am now over my time, I leave it to colleagues to make the salient points. I look forward to the response of the Deputy Minister for Health and Community Care.

17:14

**Mrs Margaret Smith (Edinburgh West) (LD):** I welcome the opportunity to take part in this evening's debate and congratulate Marilyn Livingstone on securing it. I wish the new cross-party group on survivors of childhood sexual abuse well in trying to do what we would all want: pulling together—with the Executive and with members of all parties—a national strategy to address many of the issues that Marilyn Livingstone and Kenny Gibson have referred to.

I will outline the main point that came through from the papers that I read on this issue. I obtained some material from the Canadian equivalent of the Health Education Board for Scotland, which included suggestions on

"WHAT TO DO IF SOMEONE TELLS YOU THAT HE/SHE WAS SEXUALLY ABUSED

- Do not judge, condemn or criticize.
- Believe the person.
- Respond in a caring manner and ask them how you can help.
- Encourage the survivor to get support."

I am sure that that is good advice for one individual dealing with another. It is also good advice for dealing with all the people of Scotland who have suffered sexual abuse as children, whether they are still children or are now adults. People in the chamber must listen and respond in a caring manner. We must ensure that the resources are available to support the people who have the courage to come forward and are suffering dreadfully from the experiences of their childhood.

As Kenny Gibson said, the abuse may be happening to them right now or it may have happened to them 20 or 30 years ago. The consequences of what has happened to such people in their childhood live with them. Those consequences include mental health problems, depression leading to suicide, eating disorders, abuse of alcohol or drugs, domestic violence, cyclical problems with abuse, homelessness and entry into the sex trade. There are all sorts of different ways in which childhood abuse manifests itself in the adult victim or survivor of childhood sexual abuse.

What we require in a national strategy is joined-up government that pulls together health professionals, social work professionals and people in the prison and legal services. Also, whether we like to say so or not, we require not only resources and services for the victims but a more comprehensive approach to the perpetrators of abuse. We must ensure that services are available to ensure that people who have a history of abuse do not abuse.

I hope that there is now greater public awareness that sexual abuse is not limited by

class, gender or economic background. Unfortunately, it is going on in homes across Scotland. It is most usually perpetrated not by strangers leaping out at children in parks but by fathers, stepfathers and peers. It is mainly though not exclusively perpetrated by men. It is going on in our communities.

Care pathways are required throughout all organisations in health, social work, legal and professional fields. Also, information and counselling must be given to people.

Some of the points that were made in the debate on the Regulation of Care (Scotland) Bill, such as the need for a children's commissioner, will play a part in improving the situation. I associate the Liberal Democrats with the call for a national strategy. That will dovetail well with the Executive's work on victim support. I commend such a strategy to the minister and thank Marilyn Livingstone and the cross-party group on survivors of childhood sexual abuse for the opportunity that I have had to speak in the debate.

17:19

**Mrs Lyndsay McIntosh (Central Scotland) (Con):** I, too, add my tribute to Marilyn Livingstone for bringing her motion to the chamber. I also pay tribute to Anne MacDonald, who has helped the cross-party group on survivors of childhood sexual abuse enormously.

Some members have asked what one can do when a child comes forward to say that they have been sexually abused. I recall my experiences as a lay inspector of schools in the not too distant past. Such a situation was always a possibility for anyone visiting a school who had a friendly face and was someone in whom children thought they could confide. We were advised that there were certain steps that we had to take. We were never to make a child feel guilty.

It was not in our remit as lay inspectors to take charge of a case; we were told to refer it to the senior inspector for him or her to pursue with the headmaster. Fortunately, that never happened to me. I do not know whether my sense of shock would have enabled me to stick to the rules. I never had to deal with it but, watching a lonely child in a school, it was always at the back of my mind.

We need greater public awareness. I am not sure whether members managed to catch sight of the Michael Parkinson programme at the weekend. Esther Rantzen was one of his guests, along with Amanda Donohoe—she of Mrs Robinson fame and with a body like a sylph.

Esther Rantzen spoke about some of her experiences when she started ChildLine. One of

the things she said that struck me was about the difficulty that some young people experienced. When they eventually got through, the ChildLine operators could not understand the young people who were phoning from Scotland. We have to have a service in our own country in which the operators are not put off by accents, do not make children feel less able to put their case and in which young people do not have somebody on the line who is less than sympathetic. It was interesting to note that although both women on the programme had experience of sexual abuse in their childhood, they were able to go on to have full lives and good relationships with men. Unfortunately, that is not the case for everyone.

We need to develop a strategy that envelops all agencies, as the survivors of childhood sexual abuse who do not get help may be the perpetrators of tomorrow's abuse.

**Dorothy-Grace Elder (Glasgow) (SNP):** Will the member take an intervention?

**Mrs McIntosh:** Of course.

**Dorothy-Grace Elder:** ChildLine Scotland does have Scottish operators. The main problem with ChildLine throughout Britain is that only one child in 10 gets through on the first call, as ChildLine does not have enough telephone lines. Research conducted at the University of Glasgow has shown that it is a bit of a myth that abused children go on to abuse. In fact, the opposite was found to be the case: many were too overprotective of children.

**Mrs McIntosh:** I thank Dorothy-Grace Elder for her intervention. One thing that was said about ChildLine on the programme was that it has call centres up and down the country. Most children are able to get through, if not at their first attempt, then very swiftly thereafter.

We could also consider measures such as help for the families. They may have suspected and shut out the idea that such a thing could be happening in their family. When the child goes to confess to a parent that they have been abused, they may be shunned and the parent's back may be turned on them. Kenny Gibson mentioned that we want such children to lead happy and productive lives. If we can secure dependable, continuing funding, that will help enormously.

I have kept my comments brief because I know that others want to get in. We look forward to the minister's comments.

17:23

**Cathy Jamieson (Carrick, Cumnock and Doon Valley) (Lab):** I, too, congratulate Marilyn Livingstone and those who were involved in setting up the cross-party group. That group will be of tremendous benefit.

I know that time is short, so I will limit my comments to just a few points. I was glad that—in addition to mentioning that childhood sexual abuse can cause suicide, self-harm and mental health problems—members also acknowledged that it can create survival skills, a strong personality and a commitment to trying to change the world. Those are the qualities that I remember in many of the survivors of abuse whom I have met in my work at the sharp end. I am sure that those qualities will see many of the survivors through, as they enable us to understand the problems better.

I will talk a wee bit about some of the problems of adults who have perhaps come late to telling people about childhood abuse. That issue has been brought to me by a number of constituents and by people that I worked with in my former work in social work and on the Edinburgh child abuse inquiry.

Now, we all understand that childhood sexual abuse happens and that people will report it. However, for many who report abuse that happened 20 or 30 years ago, the legal system makes it difficult for the courts to gather enough evidence to prove beyond a shadow of a doubt that abuse took place. That has a knock-on effect on whether those adults feel that they have been believed. Many of those who have spoken to me have said that, contrary to what folk might think about them wanting compensation or litigation, they want acknowledgement that something happened and they want an apology.

I wrote recently to the Minister for Justice on the issues that we must address, such as the time-bar problems with criminal injury compensation—after the time bar expires, one cannot apply for compensation. While I was dealing with a constituent's case, I was disappointed to receive a letter from the Criminal Injuries Compensation Appeal Panel, which indicated that, because of the length of time that had elapsed since the alleged incident occurred, it would be difficult to establish what had taken place. That raises a fundamental problem; while the legal system might find it difficult to establish what happened in such cases, somebody who has been abused lives day in and day out with the memory of that abuse—probably for the rest of his or her life—even if that person is able to devise coping mechanisms. Work must be done on how survivors of abuse can get some justice. Most survivors make it perfectly clear, as they go through the compensation process, that the relatively small amounts of financial compensation that are available are not the reason why they pursue compensation—they want the abuse to be acknowledged.

I know that there are a number of other issues that the cross-party group will wish to pursue. I hope that that group will be able to consider giving

advice on the barriers that can be put in the way of preventing childhood sexual abuse. I do not have time to talk about that today, but I hope that the group will have the opportunity to consider new technology. We have all seen on television the potential dangers for young people who are drawn into networks of abuse through the internet.

My final plea is for members to get involved with the cross-party group and for the Executive to listen to the experiences not just of children—although their experiences are vital—but of those who have kept silent for many years and who have come forward with information. Many lessons can be learned from them. Adults have different needs, and we must address their needs separately from the needs of children and young people. I am sure that the Executive will take that suggestion on board.

17:27

**Robin Harper (Lothians) (Green):** I, too, thank Marilyn Livingstone for lodging her motion.

I will be brief. I have experience of teaching and of the children's panel, and I was glad to hear Dorothy-Grace Elder's intervention, which made it clear that there is a positive side to the matter. Many young people survive sexual abuse and it is not necessarily the case that a child who was abused will continue to abuse others.

However, abuse is endemic in many families in Scotland—it goes back through generation after generation and spreads throughout the extended family. Part of the strategy should investigate those extreme cases and identify the point at which we should intervene to break the cycle of abuse. The strategy should engage in and address that important area of research.

The quality of training that I received as a guidance teacher was good, but improvements could be made to teacher training for primary and secondary teachers. I would like to add to Margaret Smith's comments by saying that guidance teachers are taught that referral to the nearest appropriate trained expert must be made as quickly as possible in cases of both sexual and physical abuse.

I thank Marilyn Livingstone again for bringing this motion before the chamber and I look forward to hearing the minister's response

17:29

**Elaine Smith (Coatbridge and Chryston) (Lab):** I also congratulate Marilyn Livingstone on securing the debate and on setting up the cross-party group, which will be launched this evening.

A year ago, I was pleased to be asked to

address the launch of the Moira Anderson Foundation as a keynote speaker. The idea for forming the foundation came from a very brave and determined woman, Sandra Brown, who used the proceeds of her book, "Where There Is Evil", to start it up. Moira Anderson, a young girl from Coatbridge, disappeared in 1957. The fact that she was never seen again and the mystery never solved has hung like a shadow over my home town ever since.

The foundation was set up in Moira's memory. Its main aim is to tackle child abuse and to promote Moira's legacy—to break the silence, demolish the myths and, in doing so, to create a safer climate in which children can reveal the truth. Other aims of the foundation are to protect children from abuse, to prevent children from vanishing from our communities without trace, to support victims of abuse, and to assist families through the legal process. Sandra Brown tells me that, in its short existence, the foundation has helped almost 40 families. I think that that indicates that there is a clear need.

Until relatively recently, child abuse—in particular, sexual abuse—was not a subject that society was comfortable about admitting to, never mind addressing. As Kenny Gibson said, many myths surround the abuse of children. One of the most common is that abusers are psychopathic strangers who carry out unplanned attacks. In reality, very few sex offenders are diagnosed as having a mental disorder; most sexual offences are committed by people who are known to their victims and random attacks by strangers are rare. Most of those who offend against children are in positions of responsibility, authority and trust in relation to their victims. Many are family members.

When cases are reported and acted on, victims and their families must face the harrowing criminal justice system—a system that has become increasingly bureaucratised and professionalised. The result of that is a two-way information deficit. Victims and their families are often not told what, if anything, is happening in their cases. They are not asked what they would like to happen and they are not asked for full information about the crime and its effects on them. Support services are vital for those who are negotiating the legal process—especially for young children and their families. Many people feel lost in the system and can become further traumatised. Many cases never reach court.

Cases of child abuse have implications for child welfare, criminal justice and for many other agencies. We must ensure that all those who are involved work together, use their arrangements for responding to and sharing information about allegations of abuse, and access specialist advice or expertise.

All children have the right to expect society to protect them from abuse. That right is enshrined in the United Nations Convention on the Rights of the Child. The Children (Scotland) Act 1995 enshrined key rights in statute. The need to safeguard our children from harm and abuse is of the utmost importance. Dealing with child abuse is not the preserve of any one public or voluntary service. If we are to protect our children effectively, all agencies must collaborate closely and wider society must take ownership of the issue. Mindsets need to be changed and the mainstreaming of children's issues must become second nature. There is no room for complacency.

Like others—especially Cathy Jamieson—I have been promoting the establishment of the post of children's commissioner. Like Margaret Smith, I feel that that would help the process.

I am sure that the Moira Anderson Foundation will play a major part in breaking down the myths and barriers that surround child abuse. I also commend the Kingdom Abuse Survivors Project for the work that it does. I am confident that the cross-party group will work with both those organisations and others to ensure that the issues that surround childhood sexual abuse are firmly on the agenda in the Parliament.

17:33

**Dorothy-Grace Elder (Glasgow) (SNP):** I thank Marilyn Livingstone and, indeed, Sandra Brown, who is a remarkable woman. If only every family in which abuse was suspected had a brave person such as Sandra Brown to stand up, to accuse and to keep accusing.

I attended one of Marilyn's preliminary meetings. Can I take it that the group will deal with adult survivors of sexual abuse? The distinction is important. Adult survivors are a huge and important category.

Paedophiles are among the most long-lasting and vile categories of criminals. It is sometimes through their past victims, now adult, that we can capture the men—they are mostly men—who continue to abuse.

I am a member of ACHE—Action on Child Exploitation—and have been involved in various other groups over 20 years. Sometimes, I have had personally to track down paedophiles, which is a horrific job. Let us not forget that the police must do that every day. I had to do it over three years, which was harrowing enough.

Even a terrorist criminal gets too old to continue to plant bombs and cause horrendous damage, but a paedophile hardly ever gets too old. I have known paedophiles and got one jailed—a grandfather who had been abusing for more than

40 years.

Paedophiles abuse generations of one family or other children who they can lure. In the main, they are not caught because they have terrorised their victims so much that those victims will never tell. They have made the children feel that they are the creatures who should feel shame, rather than the abuser. Such men have the most respectable outward front that is possible.

I have worked with Esther Rantzen on programmes about such abuse. She keeps saying, "For goodness' sake. Children aren't daft. They don't go off with the funny old stranger in the long coat. The people who do this are people the children know—the enemy within the family, the neighbour or the leader of a local group." There is a grooming process, sometimes of many months or years, to lure children in. The abusers become trusted and respectable people. Sometimes innocent parents even send the kids out with those people.

If we can get adult survivors to talk—sometimes, after counselling and help, they do—and to name such men, it is a good bet that we will find that the same men are abusing little children today. That is what I found in one of the most harrowing cases of all—the Eric Cullen case. It was all too easy to believe that a famous actor was the guilty person, but because of his stunted growth, he had not only been preyed upon as a child, but he had told his parents about it because he was terrorised. Paedophiles tell children things such as that their parents will be killed if they tell. They are grotesque exaggerations, but that is the kind of thing that they say. Eric Cullen died young—his heart just gave out—as so many of those poor people do, but he named the men who had perpetrated such vile things upon him in about 60 hours of taped evidence to the police, which he gave shortly before he died. That is how we managed to round up a whole gang.

If we can gain the confidence of abuse victims, we can capture the perpetrators of today. The oldest victim that I met was a woman who was aged just over 80, who could only then bring herself to tell of what had haunted her since the age of four.

I congratulate everybody who is involved in the cross-party group. I push for a children's commissioner and for special helplines for adult abuse survivors.

**Elaine Smith:** On a point of order, Presiding Officer. I have a point of clarification.

**The Deputy Presiding Officer:** I can take a point of order, but I cannot take a point of clarification.

**Elaine Smith:** It is an important point. The cross-party group is on survivors of childhood sexual abuse rather than adult survivors.

**Marilyn Livingstone:** On a point of order, Presiding Officer. I did not want to intervene on Dorothy-Grace Elder's speech when she asked for clarification, but it is the case that the group is on all survivors, regardless of age or sex.

17:38

**Dr Richard Simpson (Ochil) (Lab):** I, too, congratulate Marilyn Livingstone. I attend a lot of members' debates, because a lot of them are on health issues. It never ceases to impress me how many of my colleagues have experience, knowledge and understanding of what are often very complex issues. This is one of the most complex. My experience and background comes from the women's prison and from running a sexual problems clinic for a significant number of years, where I became increasingly aware of sexual abuse survivors having problems in adult life.

As Cathy Jamieson said, there is a range: there are people who are intensely damaged and have severe personality problems as a result of the massive damage inflicted on them as children; others have survived, having managed to bury it deep in themselves and to carry on with a normal life, but the damage and the scars are nevertheless there.

I want to pay tribute to the survivors whom I have known over the years. They are some of the bravest people I have met. I want to describe what can happen, because this is the reality. If you are a survivor who has not raised the issue of abuse previously, and you do so within your family, the almost inevitable consequence is the disruption of that family. That is true for children—it is the threat that the abuser uses to control the child—but it is also true for adults. I have seen many families that have been completely disrupted as a result of that action. Dorothy-Grace Elder is correct that people are brave in coming out. It is important that our society is one that allows them to feel that they will be supported if they come out. That is why I support the concept of a strategy to tackle sexual abuse. We need it.

We are at the stage of development in this area where it is a topic that is now discussed. It has reached the point where it is debated in our Parliament. It is supported by many voluntary organisations of the sort mentioned in the motion. Open Secret in my area does a fantastic job. There are many groups working in this area, but we need to support them. We need to allow them to collaborate. We need to provide a national framework to allow them to continue to develop.

Help for abused individuals comes in many different forms. Abused individuals will choose the point of access, but they should be made aware of the many possible points of access. Once they are into a process it may be difficult for them, and they have to take it at a speed at which they feel comfortable in themselves. It is not for everybody to take a public stance on this issue; for some it remains a very private matter. A book that I used to recommend, called "Cry Hard and Swim", by an adult survivor, talks in moving terms about the difficult process of coming to terms with abuse.

We are moving towards a situation in which we can develop an effective strategy. I will finish by paying a compliment to the Executive on one issue. I welcome the fact that the unit at HM Prison Peterhead that treats sexual offenders will be retained, and that the prison will be rebuilt. I welcome that, because it has taken some time to get that team together. The people who are treated there are among the most difficult people to treat and manage. Indeed, it is questionable whether many of them can be treated successfully, but they can be contained. The team there is doing good work, and that has been proven. I congratulate the Executive on that, but I hope that it will look at developing a national strategy.

17:42

**The Deputy Minister for Health and Community Care (Malcolm Chisholm):** I join in congratulating Marilyn Livingstone on bringing this most serious, and tragically hidden, topic before us. I also commend the persuasive way in which she put the case for a national strategy.

Many of the issues that arise are not within my departmental brief, but I shall try to cover as many of them as I can. There are health issues, but clearly there are housing issues, social work issues, justice issues and education issues. The importance of this debate is that, as Elaine Smith said, we must break the silence on this issue, and tear the veil from the shocking fact that so much abuse takes place in families, as Robin Harper reminded us.

Girls and boys have been affected, although as Kenny Gibson pointed out, rather more females than males have been affected. I do not want to dwell on that point, but we ought to acknowledge that notwithstanding the fact that the victims are of both sexes, the perpetrators are almost always male. We ought to pay tribute to the work of the Zero Tolerance campaign, which pointed out that this is an issue of male power in general, and male abuse of power in particular.

There are several justice issues. Cathy Jamieson raised the matter of criminal injuries



compensation. That is reserved to Westminster, but I know that a piece of legislation is going through Westminster—and I hope that it will be passed before any general election is called, if such should happen—which will allow for an increase of almost 50 per cent in the minimum award for rape, and the maximum payable for sexual assault and child abuse will more than double. I am sure that we all welcome that, although I accept that there are continuing problems, as Cathy Jamieson said.

I also want to mention briefly the work that is being done within the Scottish Executive on victims. That work includes the proposed sexual offences evidence bill and the broader strategy for victims of crime, which is designed to ensure that victims are treated with compassion and respect and are given the emotional and practical support that they need to help them to recover.

I also want to mention the money that is being given to Victim Support Scotland this year. That includes not just the normal increase but a specific sum of £260,000 to raise public awareness about the impact of crime on victims and to help to provide more training for volunteers who work with victims. That should help those volunteers to be more responsive to the needs of victims of sexual abuse.

That leads on to the more general and crucial question of training to which Kenny Gibson referred. Robin Harper mentioned training teachers in particular. I hope that such training will take place within teacher education.

Marilyn Livingstone and others have referred to the relationship between sexual abuse and mental health. Marilyn referred to acute psychiatric admissions and other people mentioned suicide, drugs and self-harm. Cathy Jamieson reminded us that many survivors have come through all of the terrible things that they have suffered.

The Executive acknowledged the issue in the health plan by referring to the mental and other health needs that arise from the experience of sexual abuse. It said in the mental health section that dealing with such needs should be a priority. I am pleased that in a couple of months I will be launching some important research on the whole issue of people who have survived sexual abuse and how they are dealt with in the psychiatric system. While we should pay tribute to all the good work that goes on, we have to acknowledge that, as that research will acknowledge, the situation is not always ideal.

There have been good developments. The mental and well-being development fund has funded a local Fife project to provide services to survivors of childhood sexual abuse. We are also developing psychological therapies that ought to

be helpful because they include post-traumatic therapies for a wide range of emotional, psychological and psychiatric problems including, for example, those arising as a result of trauma, assault and childhood sexual abuse.

Work is being done on developing those areas. One of the key lessons that we must learn from children who have been abused in the past is, clearly, that it needs to be made easier for children's voices to be heard when they have been abused or have witnessed the abuse of others. That is partly why the Executive has promoted the development of a comprehensive network of children's rights officers, part of whose function will be to provide an advocacy service for young people.

Dorothy-Grace Elder and others reminded us of the issue of a children's commissioner. The Executive has clearly been sympathetic and has asked the Education, Culture and Sport Committee to examine the case for that. Schools, too, are taking positive steps to help children to protect themselves through programmes of education in health and personal safety. Such programmes should be included in nursery and primary schools, which will ensure that the content is appropriate for their pupils' age and stage of development. That reminds me of a project in Dundee, which some members may know about, called the very important person project, whose launch I attended. The VIP project has done excellent work in that area. Am I down to one minute, Presiding Officer?

**The Deputy Presiding Officer:** You are.

**Malcolm Chisholm:** Obviously, I cannot cover all the issues that I wanted to cover. Our previous debate today was the stage 1 debate on the process of setting up the Scottish commission for the regulation of care. Although I mentioned at the beginning of my speech that abuse can take place within families, it is clear that abuse also takes place in care homes and suchlike. The setting-up of that new body should also help to address the terrible problem of abuse taking place in care homes.

The index of persons unsuitable to work with children, on which we are currently consulting, will also help to address the problem of abuse.

Since my time is up, I once again congratulate Marilyn Livingstone on bringing this important topic before us today. I have shown that some action is being taken, but I am far from complacent. I acknowledge that a great deal more needs to be done. I look forward to working with the cross-party group on survivors of childhood sexual abuse and to attending its launch straight after the debate.

*Meeting closed at 17:50.*



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